

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS INC.,
Petitioner,

v.

CUICA, LLC,
Patent Owner.

IPR2016-01644
U.S. Patent 6,466,983 B1

Before MATTHEW R. CLEMENTS, JENNIFER MEYER CHAGNON, and
SHEILA F. McSHANE, *Administrative Patent Judges*.

McSHANE, *Administrative Patent Judge*.

DECISION

Denying Institution of *Inter Partes* Review
35 U.S.C. § 314(a) and 37 C.F.R. § 42.108

I. INTRODUCTION

Unified Patents Inc. (hereafter “Unified” filed a Petition (“Pet.”) requesting an *inter partes* review of claims 1–4, 6, 7, 9, and 10 of U.S. Patent No. 6,466,983 B1 (“the ’983 patent,” Ex. 1001). Paper 2. The Petition identified Plano Encryption Technologies, LLC as the owner of the ’983 patent according to the assignment records of the United States Patent and Trademark Office. Pet. 1. On January 18, 2017, we were informed subsequently by Mr. Bradley D. Liddle, of Plano Encryption Technologies, that there had been a later assignment of the ’983 patent of all rights from Plano Encryption Technologies to Cuica, LLC (“Cuica”), and that the associated assignment was recorded on January 17, 2017. *See* Paper 14; Ex. 3001, 3002¹. We ordered Cuica to file a Mandatory Notice pursuant to 37 C.F.R. § 42.08(a)(2) and § 42.08(b). Paper 15. At this time, Cuica has not filed a Preliminary Response or a Mandatory Notice.

Under 35 U.S.C. § 314(a), an *inter partes* review may not be instituted unless the information presented in the Petition shows “there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” For the reasons that follow, we conclude that the information presented in the Petition does not establish that there is a reasonable likelihood that Unified would prevail in challenging claims 1–4, 6, 7, 9, and 10 of the ’983 patent as unpatentable under 35 U.S.C § 103(a). Pursuant to 35 U.S.C. § 314, we hereby decline to institute an *inter partes* review of the ’983 patent.

¹ The assignment shown in Ex. 3002 has been assigned Assignment Number 504181762, recorded January 17, 2017, Reel 040995, Frame 0179.

II. BACKGROUND

A. *Related Matters*

Unified does not identify any pending matters related to the '983 patent. Pet. 1.

B. *The '983 Patent*

The '983 patent, titled “Systems and Methods for Controlling Access to Data Maintained in a Repository,” issued October 15, 2002, from U.S. Patent Application No. 09/406,196, filed on September 30, 1999. Ex. 1001, at [54], [45], [21], [22]. The '983 patent expired on October 15, 2014 due to non-payment of maintenance fees under 37 C.F.R. § 1.362. See Ex. 1010, 217; Pet 13.

The '983 patent is directed to controlling access, assemblage, and presentation of data maintained in a computer system repository. Ex. 1001, 3:22–24. The invention is intended to address deficiencies in prior methods of controlling content dissemination by using the data repository to dynamically construct responses. *Id.* at 3:29–30. This is done by the use of a “forresta”² contained in a user’s request. *Id.* at 3:33–35. Figure 2, reproduced below, shows the configuration of the invention of the '983 patent.

² The term “forresta” appears to be a term coined by the inventor of the '983 patent. The meaning of this term is discussed in more detail in our claim construction, *infra* Section III.A.

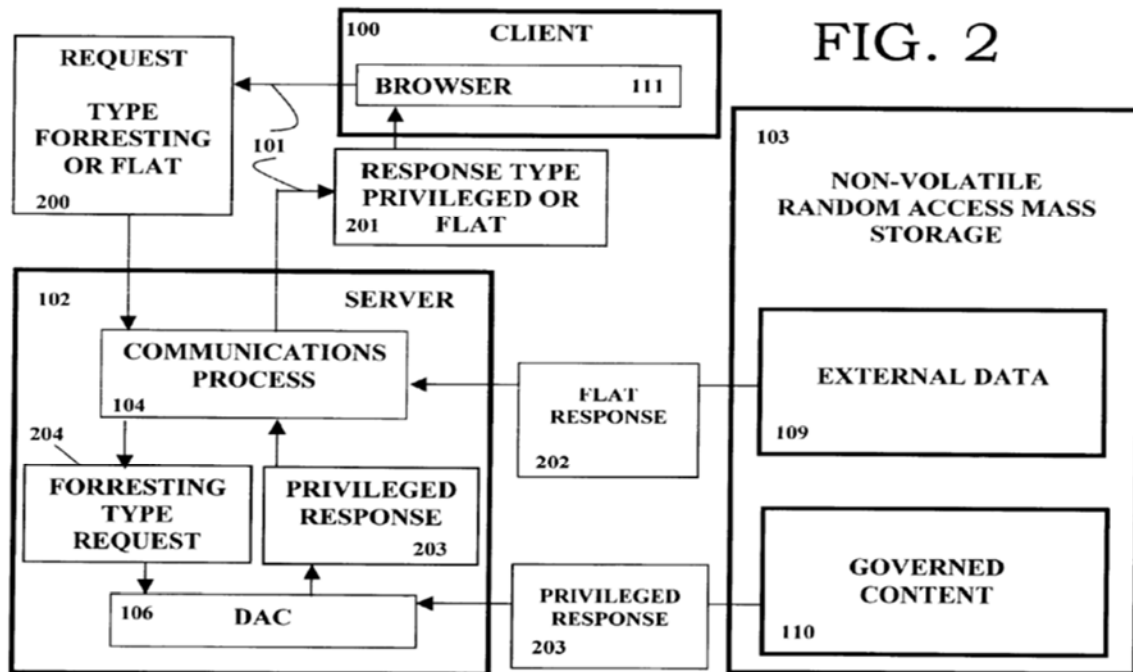


Figure 2 illustrates a block diagram of the request/response relationships for a client (user) with storage (content repository). Ex. 1001, 3:56–57.

Client 100 may make one or more requests 200 of server 102 to have data returned in a response. Ex. 1001, 5:16–21. A request 200 that does not specify data access control process (“DAC”) 106 as the recipient is referred to in the ’983 patent as a “flat request,” and it always receives external data 109 as the content of response 201 from repository server 102. *Id.* at 5:19–21, 5:66–6:5. A request 200 that is directed to DAC 106 is referred to in the ’983 patent as a “forrestring type request,” which must be executed before any governed content 110 can be delivered in “privileged response 203.” *Id.* at 5:17–19, 6:5–7–. DAC 106 is subdivided into three sub-processes: access module 300, session module 301, and form module 302. *Id.* at 6:60–64. The modules of DAC 106 are depicted in Figure 3, reproduced below.

FIG. 3

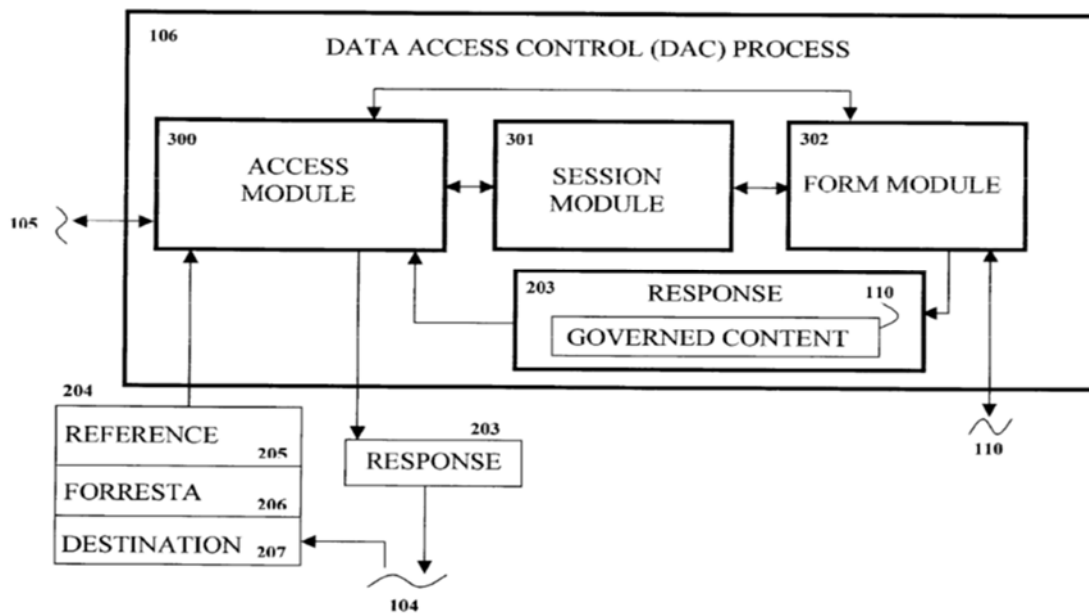


Figure 3 illustrates a block diagram of the major components of DAC 106, including the input and output of a request and response. Ex. 1001, 3:61–64.

Access module 300 is the recipient of a forresting type request and contains methods implementing interfacing to communications and authentication processes. Ex. 1001, 6:63–7:3. Session module 301 maintains and processes information about each client 100. *Id.* at 7:3–4. Form module 302 constructs privileged response 203 to client 100 based on values of forresta arguments 206 and destination arguments 207. *Id.* at 7:12–14.

Figure 10, which depicts session node 1000, is reproduced below.

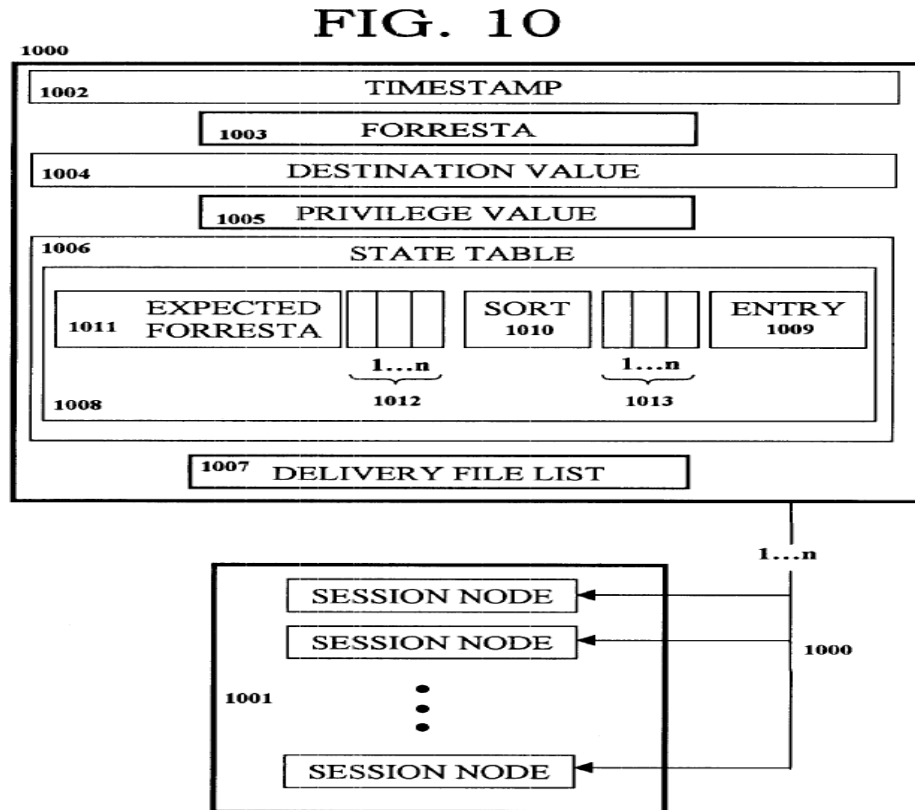


Figure 10 illustrates a block diagram of the data structures of session node 1000. Ex. 1001, 3:61–64.

As forresting type requests 204 are delivered to access module 300, each is reformatted by access module 300 into session node 1000. Ex. 1001, 14:36–39. Session node 1000 is forwarded as the input argument to a process call to session module 301. *Id.* at 14:40–42. Session nodes 1000 are maintained as a set in a data structure known as session list 1001. *Id.* at 14:45–46. When forresting type request 204 is received, a specific session node is identified by matching forresta argument value 206 with the contents of forresta field 1003 contained within session node 1000. *Id.* at 18:1–5. With the receipt of a valid session node 1000, form module 302 begins assemblage of privileged response 203. *Id.* at 18:28–30. If the required

permission is satisfied by privilege value 1005, form module 302 will include corresponding fragments and process them into a privileged response. *Id.* at 19:3–9, 19:41–48. Governed objects within a fragment may be modified with substitution phrases when form module 302 is building the privileged response. *See id.* at 11:3–6.

C. Illustrative Claims

Of the challenged claims, claims 1 and 9 are independent claims. Claims 2–4, 6, and 7 depend directly or indirectly from claim 1, and claim 10 depends from claim 9. Claims 1 and 9 are reproduced below:

1. In a computer system having means for allowing access to a repository of data by a plurality of clients over at least one communications link connected to said computer system, data access control means comprising:

means for interpreting the format of a data transmission occurring between said computer system and each of said clients wherein the transmission itself contains and is identified by one or more forresta identities, each of said forresta identities may be acted upon independently; and each of which is unique and unrelated to any means used to identify the parties receiving or sending such transmission;

means for creating said forresta identity as an n-byte character sequence having no conflicting meaning within the coding constructs of a transmission;

means for creating a unique session node managed by the data access control method, wherein said session node exists to identify and validate recognized forresta identities contained within each such transmission; and

means for creating a construction sequence for each new transmission, said sequence identifying the components and forresta identities used to form the transmission and where said sequence results from interpreting forresta identities.

9. In a computer system allowing access to a repository of data wherein access of the repository by a plurality of clients is permitted over a network communications link that may be connected to a server computer that is the custodian of the data repository, comprising in combination:

a source of data that comprises the content of the repository, said data being eligible to be returned to a client as a result of an access request made by the client;

means for organizing data into groups of one or more elements through a user interface based on criteria established by the designer of the repository;

means for using said groups individually or in combination in the formation of a response to a client based on the access made by the client;

means for controlling an access that may be executed by a client, said access being included as a component of group content;

means for the selective assignment of a permission value to said group through a user interface, said permission value specifying the access and combination scope of the group to which it is assigned;

means for determining when the intent of an access is to retrieve data held by the repository;

means for determining when an access or sequence of accesses is invalid for the repository;

means for control of accesses that may be executed by a client, said accesses being components of a named data input stream, comprising means for examining the content of a fragment file to identify embedded constructs that act as an access of data held by the repository when said constructs are executed by a client; means for identifying the data that is the object of the access; display means by which the content of fragment files is presented to the repository designer with said constructs displayed uniquely from other content; means for permitting the retention, deletion or alteration of said constructs

by the repository designer through a user interface; and means for substituting said constructs with a placeholder value;

means for parsing and substituting constructs that are components of fragment files; further including means for accessing a substitution table containing a set of substitution records, said substitution records including one each of a parse phrase, a substitution index and a substitution phrase;

means for examining the content of a fragment file, said parse phrases are used in comparison with the content of the fragment file to identify constructs;

means wherein said substitution index is paired with the object of the construct, said object being a reference to tangible data held by the repository and contained within the syntax of the construct, said pairing used as the placeholder value for the syntax of said construct; and

means wherein within said means of identifying placeholders said substitution phrase is used as a replacement for a substitution index and object pair.

Ex. 1001, 20:39–63, 22:43–23:35.

D. Prior Art Relied Upon

Unified relies upon the following prior art references:

Patent Reference	Identifier	Filing Date	Exhibit No.
He	U.S. Patent No. 6,088,451	June 28, 1996	1003
Cragun	U.S. Patent No. 5,823,212	April 19, 1996	1004
Shannon	U.S. Patent No. 6,233,618 B1	March 31, 1998	1006

E. Alleged Grounds of Unpatentability

Unified challenges claims 1–4, 6, 7, 9, and 10 of the '983 patent based on the alleged grounds of unpatentability set forth in the table below.

Pet. 19, 36.

Reference(s)	Basis	Claim(s) Challenged
Shannon and He	§ 103(a)	1
Shannon, He, and Cragun	§ 103(a)	2–4, 6, 7, 9, and 10

III. ANALYSIS

A. Claim Interpretation

The '983 patent has expired. *See* Ex. 1010, 217. Our review of the “claims of an expired patent is similar to that of a district court’s review.” *In re Rambus, Inc.*, 694 F.3d 42, 46 (Fed. Cir. 2012). Because the expired claims of a patent are not subject to amendment, we apply the principles set forth in *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc) (quoting *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996)), that “words of a claim ‘are generally given their ordinary and customary meaning,’” as would be understood by a person of ordinary skill in the art in question at the time of the invention. A claim term, however, “will not receive its ordinary meaning if the patentee acted as his own lexicographer and clearly set forth a definition of the disputed claim term in either the specification or prosecution history.” *CCS Fitness, Inc. v. Brunswick Corp.*, 288 F.3d 1359, 1366 (Fed. Cir. 2002). If an inventor acts as his or her own lexicographer, the definition must be set forth in the specification with reasonable clarity, deliberateness, and precision.

Renishaw PLC v. Marposs Societa' per Azioni, 158 F.3d 1243, 1249 (Fed. Cir. 1998).

Unified proposes claim constructions for several terms of the claims at issue. We address these terms below.

“forresta”

Unified contends that the term “forresta” has no ordinary meaning. Pet. 14. Unified states that “[a]fter a diligent search,” it was unable to find any use of the term in common language. *Id.* Unified refers to the Specification’s description of “forresta” as passive information included within a user’s request as the basis of its proposed construction of the term to mean “any passive data which can be used to identify the user’s level of access to a repository of data.” *Id.* at 15 (citing Ex. 1001, 3:31–34; Ex. 1002 ¶ 21).

We agree with Unified’s view that the term “forresta” does not have ordinary meaning because the Specification indicates that the inventor intended to act as a lexicographer for the term based upon the use of quotation marks for identification of the term therein, and referring to “forresta” as “a set of values herein named” and “herein labeled.” Ex. 1001, Abstract, 3:31–33. The Specification states that the invention “overcomes the deficiencies of prior schemes for controlling content dissemination,” by using a “forresta” as “passive information” that is included “within the user’s request,” and that by “[u]sing the functionality provided by the forresta, each of the client requests and each of the server responses are individualized.” *Id.* at 3:28–34. On this record, we agree that the Specification supports Unified’s proposed construction of the term “forresta” as “any passive data which can be used to identify the user’s level

of access to a repository of data,” and we adopt this construction for purposes of this Decision.

means-plus-function terms

Independent claims 1 and 9 include several recitations of “means” or “means for” limitations. *See* Ex. 1001, 20:39–63, 22:43–23:35. Unified advocates that 35 U.S.C. § 112 ¶ 6 applies to the “means for allowing access” term of claim 1 and “means for organizing data” of claim 9 because the claim language does not provide sufficient structure to perform the claimed function.³ Pet. 16–18. We agree with Unified on this issue because the use of the word “means” in a claim element creates a rebuttable presumption that § 112 ¶ 6 applies, and there is no structure identified in the claims. *Personalized Media Comm’s, LLC v. ITC*, 161 F.3d 696, 703–04 (Fed. Cir. 1998). Unified identifies the “server computer 102 [that] contains . . . data access control (‘DAC’) process 106 of the present invention” as the structure for the “means for allowing access” term of claim 1, and the “reference tool 500,” depicted in Figure 5, as the structure of the “means for organizing data” of claim 9. Pet. 16–18 (citing Ex. 1001, 4:60–67, 7:57–8:5, Figs. 1, 2, 5; Ex. 1002 ¶¶ 25, 27).

Unified also asserts that the remaining “means for” limitations of claim 1, and those of dependent claims 2–4, 6, and 7, only “further define the claimed ‘data access control means’ of claim 1” (i.e., the recited “means for allowing access”), and the corresponding structure is therefore also

³ Section 4(c) of the AIA re-designated 35 U.S.C. § 112 ¶ 6 as 35 U.S.C. § 112(f). Because the ’983 patent has a filing date before September 16, 2012 (the effective date of AIA § 4(c)), we will henceforth refer to the pre-AIA version of 35 U.S.C. § 112.

server computer 102 containing DAC process 106. *Id.* at 18. Similarly, Unified advocates that for other means-plus-function terms of claims 9 and 10, the corresponding structure is the “server computer 102 [that] contains . . . data access control (‘DAC’) process 106.” *Id.* at 19.

When construing a means-plus-function limitation under 35 U.S.C. § 112 ¶ 6, we first must consider the claimed function, and then we look to the specification for the corresponding structure that actually performs the claimed function. *Med. Instrumentation & Diagnostics Corp. v. Elekta AB*, 344 F.3d 1205, 1210 (Fed. Cir. 2003); *Cardiac Pacemakers, Inc. v. St. Jude Med., Inc.*, 296 F.3d 1106, 1119 (Fed. Cir. 2002). The corresponding structure of a means-plus-function limitation must be more than simply a general purpose computer or microprocessor to avoid pure functional claiming. *Aristocrat Techs. Austl. Pty Ltd. v. Int’l Game Tech.*, 521 F.3d 1328, 1333 (Fed. Cir. 2008). That is, the specification must disclose “enough of an algorithm to provide the necessary structure under § 112, ¶ 6.” *Finisar Corp. v. The DirectTV Group*, 523 F.3d 1323, 1340 (Fed. Cir. 2008). The disclosed algorithm may be expressed in any understandable terms, e.g., a mathematical formula, in prose, or as a flowchart. *Id.* Simply disclosing software, however, “without providing some detail about the means to accomplish the function[,] is not enough.” *Id.* at 1340–41.

Under 37 C.F.R. § 42.104(b)(3), a Petition is required to provide an identification of the portions of the specification that describe the structure, material, or acts corresponding to the claimed functions of the means-plus-function limitations that are necessary to be construed. This information assists us in assessing the challenges and prior art presented in a Petition. Here, server computer 102 that runs DAC process 106 is not identified as a

special purpose computer, and therefore identification of algorithms or other terms disclosed in the Specification that describe the function of the structure is required. Unified states that for the majority of the means-plus-function limitations, the corresponding structure that performs the claimed functions is server computer 102 performing DAC process 106. However, as discussed further below, there are also specific algorithms and/or additional means included in the Specification of the '983 patent that accomplish the specific functions of the means-plus-function limitations of the claims. The general term “DAC process,” as discussed *supra* Section II.B, includes three sub-processes—access module 300, session module 301, and form module 302—each of which is discussed at some length in the Specification. See Ex. 1001, Figs. 3–11, cols. 5–20. In fact, Unified fails to address the majority of the means-plus-function limitations by identifying associated portions of the Specification that disclose the algorithms or means to accomplish specific DAC processes corresponding to those limitations of the claim.⁴

Not every limitation of a challenged claim requires explicit or full construction, but for means-plus-function limitations in which the corresponding structure is a general purpose computer, 37 C.F.R. § 42.104(b)(3) requires some identification of the algorithms disclosed for performing the claimed function. For instance, as discussed in greater detail

⁴ Here, we are not addressing whether there is, in fact, sufficient support in the Specification to support all the mean-plus-function limitations of the claims at issue. Rather, the issue under discussion is the sufficiency of the Petition’s identification of portions of the Specification pursuant to 37 C.F.R. § 42.104(b)(3).

infra Section III.B.4, in order to allow us to assess the obviousness challenges, we consider the claim 1 limitation of “means for creating said forresta identity as an n-byte character sequence,” which is a mean-plus-function limitation, having the function of creating the forresta identity as an n-byte character sequence, and with the corresponding structure of general purpose server computer 102, running the only disclosed algorithm for the function, i.e., fcode process 900. *See infra* Section III.B.4. For claim 9, we consider the limitation “means for determining when an access or sequence of accesses is invalid for the repository,” which is a mean-plus-function limitation, having the function of determining when access is invalid for the repository of data, with the corresponding structure being a general purpose server computer 102, running the only disclosed algorithm for the function, i.e., determining that no session node is found in a search, determining that the destination value fails to match any sorted order field entry, and comparing a forresta value to determine a failure to match an expected forresta field. *See infra* Section III.B.4. As discussed in greater detail below, the prior art teachings identified in the Petition are deficient as to these limitations, and, thus, the Petition fails to demonstrate a reasonable likelihood that Unified would succeed in demonstrating the obviousness of the claims at issue. We, therefore, need not further address the sufficiency of the Petition’s § 112 ¶ 6 analysis.

Remaining Claim Terms or Phrases

Unified also proposes a construction for the claim term “fragments.” Pet. 15–16 (citing Ex. 1001, 7:20–26). It is not necessary to construe this term, or other terms of the claims, however, to resolve the issues discussed below. *See, e.g., Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795,

803 (Fed. Cir. 1999) (explaining that only those claim terms or phrases that are in controversy need to be construed, and only to the extent necessary to resolve the controversy).

B. Alleged Obviousness of Claim 1 Over Shannon and He and of Claims 2–4, 6, 7, 9, and 10 Over Shannon, He, and Cragun

Unified contends that independent claim 1 of the '983 patent would have been obvious over the combination of Shannon and He. Pet. 19–35. Unified also alleges that claims 2–4, 6, 7, 9, and 10 would have been obvious over the combination of Shannon, He, and Cragun. *Id.* at 36–60. To support its contentions, Unified provides explanations as to how the combination of the prior art purportedly teaches each claim limitation. *Id.* at 19–60. Unified also relies upon the Declaration of Herbert Cohen (“Cohen Declaration”) (Ex. 1002) to support its contentions. On this record, we are not persuaded that Unified has demonstrated a reasonable likelihood of prevailing on its obviousness challenges.

We begin our discussion with a brief summary of Shannon, He, and Cragun, and then address Unified’s challenges to the claims.

1. Shannon (Ex. 1006)

Shannon generally discloses access control to limit access to information content, such as that found on the Internet. Ex. 1006, Abstract, 3:46–50. Shannon discloses providing “access control not based only upon content, but rather, based primarily upon the identity of the computers or users making the requests.” *Id.*, Abstract. Access control is determined “by comparing client source information against a database of Uniform Resource Locators (URLs), IP addresses, or other resource identification data

specifying the data requested by the client.” *Id.* Shannon uses a network device 100 that acts as a “gateway,” “configured . . . to monitor the data communications that pass between clients connected to the LAN 40 and servers connected to the WAN 45,” as depicted in Figure 1 below. *Id.* at 6:5–9, Fig. 1; Ex. 1002 ¶ 32.

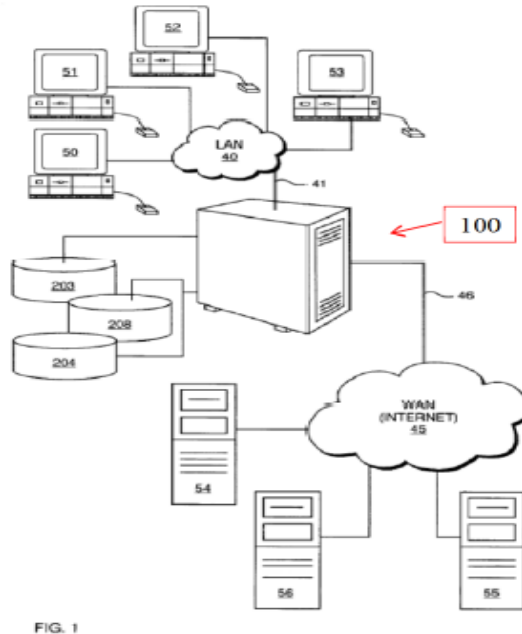


Figure 1 depicts an example of the networked computer environment of Shannon. Ex. 1006, 4:62–63 (annotated by Unified).

Shannon uses systems that control user access to information by identifying the users seeking the information. Ex. 1006, 7:26–40. The system then determines whether the identified user may view the information, and to what extent the user may access, download, or manipulate the information. *Id.* at 6:48–60.

2. He (Ex. 1003)

He is directed to connecting a network security server to a network “to control access to the network elements and protect network resources and

information.” Ex. 1003, Abstract. The network is depicted in Figure 2, which is reproduced below.

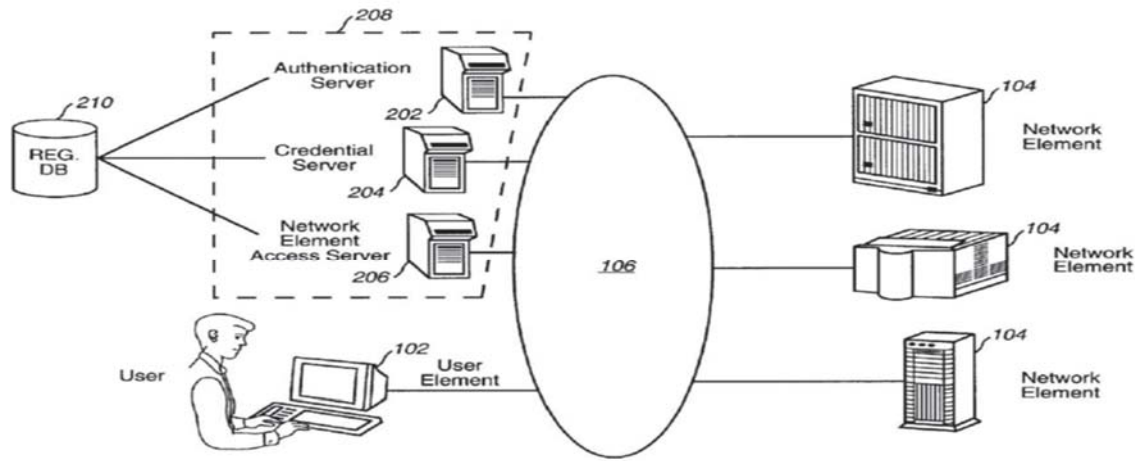


FIG. 2

Figure 2 depicts a block diagram of the network that includes network security server 208. Ex. 1003, 3:23–25.

He discloses the use of network security server 208 that includes “network authentication 202, user credential control 204 and network element access control 206.” Ex. 1003, 11:34–40. He also discloses the use of a general ticket that is provided to each user at login to facilitate future access requests. *Id.* at 2:36–37. The “general ticket is used by the network security server to authenticate access requests without having to verify user credentials for each access request.” *Id.* at 2:39–42.

3. Cragun (Ex. 1004)

Cragun discloses a censoring browser used for internet viewing. Ex. 1004, Abstract. The system of Cragun allows for tailoring objectionable content, allowing users to select censoring parameters, including “words and word fragments, user selected categories, and user selected super categories.” *Id.* at 2:35–38; Ex. 1002 ¶ 50. Cragun discloses that, prior to

any text being displayed, the system “searches for and marks any words and words containing any word fragments on a user-defined unwanted-word list stored in a user profile.” Ex. 1004, 3:55–58. Any words on the user censoring list “are removed and replaced by user selected substitutes for display of the processed text in accordance with user selected censoring rules stored in a user profile.” *Id.* at 3:59–61.

4. Analysis

Of the challenged claims, claims 1 and 9 are independent. Claims 2–4, 6, and 7 depend directly or indirectly from claim 1, and claim 10 depends from claim 9. We first address independent claim 1, and the claims which depend therefrom, and then address independent claim 9, and claim 10 which depends therefrom.

a. Claims 1–4, 6, and 7

Unified alleges that the combination of Shannon and He teaches all the limitations of independent claim 1. See Pet. 19–35. There are several mean-plus-function elements that comprise the “access control means” of claim 1. Claim 1 recites, in part, “means for creating said forresta identity as an n-byte character sequence having no conflicting meaning within the coding constructs of a transmission.” Ex. 1001, 20:51–54. The ’983 patent describes this creation of the n-byte sequence as follows:

All forresta values, except the anonymous user value, are generated utilizing a time and memory based routine that uses multiple random values. In this preferred embodiment of the present invention, the resulting format of a forresta value is an “n”-byte character sequence that has no conflicting meaning within the coding constructs of a response 201. *To create a forresta value sequence requires use of the following algorithm. This algorithm is defined by the current preferred embodiment of*

the present invention and is referred to herein as the “fcode process” 900 (Fig. 9).

Ex. 1001, 12:13–23 (emphasis added). Figure 9, referenced above, is reproduced below.

FIG. 9

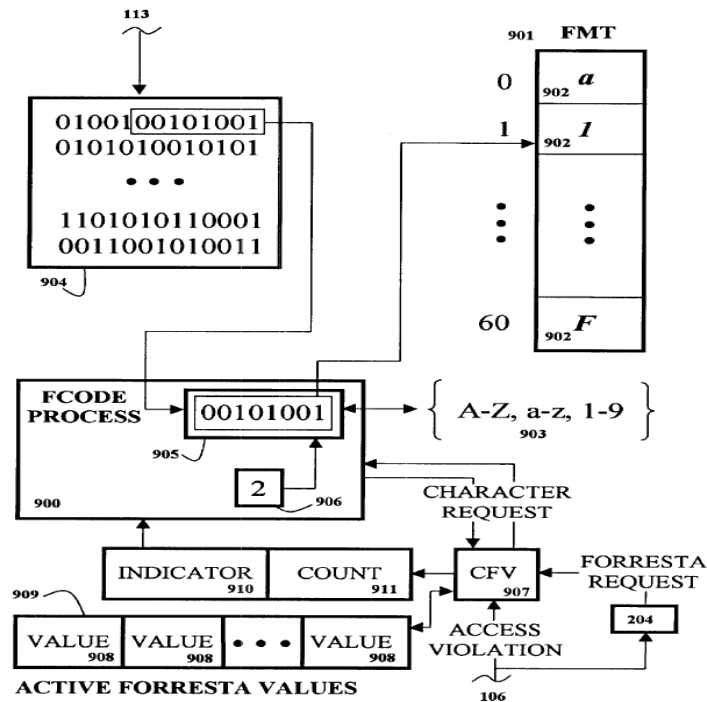


Figure 9 depicts a block diagram illustrating the required manipulation of values in order to form a forresta value. Ex. 1001, 4:22–23.

The '983 patent contains additional, detailed descriptions of the algorithm for fcode process 900, i.e., the programming used to accomplish the claimed function of creating the n-byte character sequence. Ex. 1001, 12:25–13:42. The '983 patent does not include discussion of any other algorithm or corresponding structure for accomplishing this function of the claim.

Unified relies upon the following portion of Shannon as teaching a “means for creating said forresta identity as an n-byte character sequence”:

In the example shown in Table 1, client computer numbers are used. In a preferred embodiment, the computer numbers used by the group/source database 203 are preferably machine address (i.e., Internet Protocol (“IP”) or Media Access Control (“MAC”) addresses, as will be described below) to identify sources, or sources may be broken down even further to the username level, such that no matter which client computer a specific user logs in at, that user will always be associated with his or her respective group. In such a case, groups would have sources containing usernames, instead of hostnames, or sources may be username/hostname pairs. As will be explained, the group/source database 203 will be used to determine who is requesting the information over the network, such as web page data for example, and what their level of access is.

Ex. 1006, 7:27–41; *see* Pet. 32.⁵ Unified appears to rely upon Shannon’s client computer number or machine addresses such as Internet Protocol (“IP”), Media Access Control (“MAC”) addresses, and/or usernames as teaching the claimed n-byte character sequence. Pet. 32. The claim limitation, however, requires the *creation* of a forresta identity as an n-byte character sequence, and Shannon merely discloses that there are different identifiers of a computer or of a user of a computer that may be associated with different groups and have different assigned levels of access. *See* Ex. 1006, 7:11–26. Even assuming the identifiers in Shannon are “an n-byte character sequence,” as recited by the claim, Shannon still fails to teach any “creating” because the computer numbers taught by Shannon—e.g., IP

⁵ In the Petition, Unified cites to Exhibit 1006 at 7:11–26 (Pet. 32), but the text quoted by Unified, and reproduced above, is at 7:27–41. The erroneous citation appears to be inadvertent error, and we rely on the textual portion of Shannon quoted in the Petition.

address or MAC address—already exist and, therefore, are not “creat[ed]” by Shannon’s group/source database 203. Moreover, even assuming that Shannon teaches “creating” computer numbers, we still would not be persuaded that Shannon teaches the recited “means for creating said forresta identity” because Unified does not identify, and we cannot find, any teaching in Shannon of the use of the algorithm disclosed in the ’983 patent “for creating a forresta identity,” i.e., fcode process 900. Unified also does not argue that Shannon’s process is equivalent to fcode process 900, or that He teaches this limitation.

We are, therefore, not persuaded that the asserted combination of Shannon and He teaches or suggests the limitation of “means for creating said forresta identity as an n-byte character sequence” of the “access control means” of claim 1. Because claims 2–4, 6, and 7 depend from independent claim 1, and because Unified cites no additional evidence in discussing these claims that would remedy the deficiency of the prior art discussed above with respect to claim 1, the obviousness challenge to dependent claims 2–4, 6, and 7 also is not persuasive.

b. Claims 9 and 10

Unified alleges that the combination of Shannon, He, and Cragun teaches all the limitations of claims 9 and 10. Pet. 36–39, 51–60. There are several mean-plus-function limitations in independent claim 9. Claim 9 recites, in part, “means for determining when an access or sequence of accesses is invalid for the repository.” See Ex. 1001, 23:1–2. The ’983 patent describes the means for accomplishing the recited function as:

When a forresting type request 204 (Fig. 2) is received, a specific session node 1000 (Fig. 10) is identified by the matching

the forresta argument value 206 (Fig. 2A) with the contents of a forresta field 1003 contained within a session node 1000. Once found, the destination field 1004 is updated using the value of the destination argument 207. Alternatively, the session node 1000 may be located by matching both forresta 206 and destination 207 arguments before updating the destination field 1004. If a session node 1000 is not found using this search, the access module 300 (Fig. 3) generates an access violation condition. Upon a successful match, the destination value 1004 is compared against sorted order field entries 1013. If the destination value 1004 fails to match any sorted order field entry 1013, an access violation is returned. Next, the forresta value 1003 is compared against entries 1012 within the expected forresta field 1011. If no match is found, an access violation is returned. If the expected forresta field entry 1012 has already been marked as being matched against a request 204 without an intervening update of the state table 1006, an access violation is returned. If the position value of the expected forresta field entry 1012 does not match the position value of the sorted order field entry 1013, an access violation is returned. If there is no access violation, the session node 1000 is marked as “valid”. A valid session node 1000 may use the value of the list entry 1009 to retrieve a build code list entry 701 (Fig. 7).

Ex. 1001, 18:1–28.

The ’983 patent does not include discussion of any other algorithm or corresponding structure for accomplishing this function of the claim. The corresponding algorithm for performing the recited function of “determining when an access or sequence of accesses is invalid . . .” therefore requires a determination that no session node is found in a search, the destination value fails to match any sorted order field entry, and a forresta value is compared to determine a failure to match an expected forresta field. Unified refers back to the portions of Shannon and He it relied upon for teaching the limitations of claims 1–3, and relies also upon Cragun’s disclosure that “[i]f

the user password fails, then the sequential operations return to block 202 to receive a user function selection.” Pet. 56 (citing Ex. 1004, 4:20–23). None of the cited evidence however, teaches the algorithm necessary to meet this limitation. Specifically, the Petition does not identify teachings in the prior art of a general purpose processor performing the algorithm disclosed in the ’983 patent—i.e., the failure to find a session node, the failure to match a destination value, the comparison of forresta values—or any explanation of equivalence of alleged prior art disclosures.

We, therefore, are not persuaded that the asserted combination of Shannon, He, and Cragun teaches or suggests “means for determining when an access or sequence of accesses is invalid for the repository,” as recited in independent claim 9 and claim 10, which depends therefrom.

IV. CONCLUSION

For the foregoing reasons, the information presented in the Petition does not demonstrate that there is a reasonable likelihood that Unified would prevail in challenging claim 1 as unpatentable under 35 U.S.C § 103(a) over Shannon and He, and claims 2–4, 6, 7, 9, and 10 as unpatentable under 35 U.S.C § 103(a) over Shannon, He, and Cragun.

V. ORDER

Accordingly, it is:

ORDERED that the Petition is denied as to claims 1–4, 6, 7, 9, and 10 of the ’983 patent; and

FURTHER ORDERED that no *inter partes* review is instituted.

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