

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PNC BANK, N.A.,
Petitioner,

v.

UNITED SERVICES AUTOMOBILE ASSOCIATION,
Patent Owner.

IPR2021-01074
Patent 10,482,432 B1

Before KRISTEN L. DROESCH, TERRENCE W. McMILLIN, and
JULIET MITCHELL DIRBA, *Administrative Patent Judges*.

McMILLIN, *Administrative Patent Judge*.

DECISION

Denying Institution of *Inter Partes* Review

35 U.S.C. § 314

Granting Motions to Seal and Entering Protective Order

37 C.F.R. §§ 42.14, 42.54

I. INTRODUCTION

A. *Background and Summary*

PNC Bank, N.A. (“Petitioner”) filed a Petition to institute an *inter partes* review of claims 1–7, 10–21, and 23 of U.S. Patent No. 10,482,432 B1 (Ex. 1101, “the ’432 patent”) pursuant to 35 U.S.C. § 311 *et seq.* Paper 4 (“Petition” or “Pet.”). United Services Automobile Association (“Patent Owner”) filed a Preliminary Response. Paper 8 (“Preliminary Response” or “Prelim. Resp.”). Pursuant to our authorization (Paper 12, 2), Petitioner filed a Reply, Paper 13 (“Reply”), and Patent Owner filed a Sur-reply, Paper 17 (“Sur-reply”).¹

We have authority under 35 U.S.C. § 314, which provides that an *inter partes* review may not be instituted unless the information presented in the Petition and the Preliminary Response shows that “there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a) (2018). After considering the Petition, the Preliminary Response, the Reply, the Sur-reply, and the evidence of record, we do not institute an *inter partes* review of the ’432 patent.

B. *Related Proceedings*

The parties identify *United Services Automobile Association v. PNC Bank N.A.*, No. 2:20-CV-00319-JRG (E.D. Tex.) (“the District Court litigation”) as a related proceeding in which the ’432 patent is asserted. Pet. 2; Paper 6, 2. The parties also identify *United Services Automobile*

¹ Papers 8, 13, and 17 were filed under seal, and Papers 11, 16, and 20, respectively, are the corresponding public versions. This Decision does not refer to any information that was redacted from the public documents.

Association v. PNC Bank N.A., No. 2:21-CV-00110-JRG (E.D. Tex.) as a related proceeding in which U.S. Patent No. 10,013,681, a parent of the '432 patent is asserted. Pet. 2; Paper 6, 2–3.

The parties further identify IPR2021-01071, an additional *inter partes* proceeding challenging the '432 patent, that was filed concurrently with this proceeding. Pet. 3; Paper 6, 3. The parties additionally identify post-grant proceedings involving patents in the '432 patent's family: CBM2019-00027 (institution denied (Paper 13)) (challenging U.S. 9,224,136); and IPR2020-01650 (institution denied (Paper 21)) and CBM2019-00028 (institution denied (Paper 14)) (challenging U.S. 10,013,681). Pet. 3; Paper 6, 3. And, although not identified by the parties, there are four other post-grant proceedings filed by Petitioner challenging patents in the '432 patent's family: IPR2021-01076 and IPR2021-01077 (challenging U.S. 10,621,559), IPR2021-01381 (challenging U.S. 10,013,681), and IPR2022-00075 (challenging U.S. 9,224,136).

C. *The '432 Patent*

The '432 patent is titled “Systems and Methods for Remote Deposit of Checks.” Ex. 1101, code (54). The '432 patent explains that “[c]hecks typically provide a safe and convenient method for an individual to purchase goods and/or services” but “receiving a check may put certain burdens on the payee, such as the time and effort required to deposit the check. For example, depositing a check typically involves going to a local bank branch and physically presenting the check to a bank teller.” *Id.* at 1:22–24, 2:1–6. In addition, traditional check deposit and clearing do not provide quick access to the funds from the check. *Id.* at 2:1–27. Thus, the '432 patent explains, “there is a need for a convenient method of remotely depositing a

check while enabling the payee to quickly access the funds from the check.” *Id.* at 2:27–30. The ’432 patent addresses this need by systems and methods for remote deposit of checks facilitated by a financial institution, whereby “[a] customer’s general purpose computer and image capture device may be leveraged to capture an image of a check and deliver the image to financial institution electronics” such that a “[check deposit] transaction can be automatically accomplished utilizing the images and data thus acquired.” *Id.*, code (57) (Abstract).

Figure 1 of the ’432 patent is reproduced below.

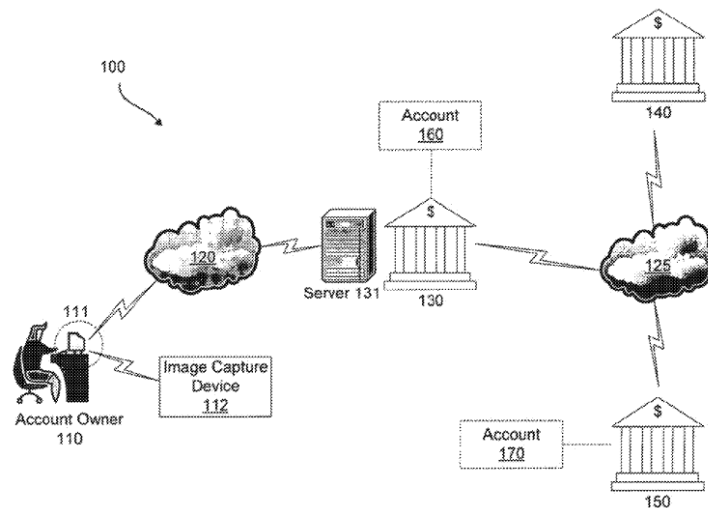


FIGURE 1

Figure 1 depicts a system in which the ’432 patent’s remote deposit systems and methods may be employed. *Id.* at 3:15–16, 46–47. Figure 1 illustrates a system 100 including: (i) a “customer-controlled, general purpose computer 111” used by an account owner 110, e.g., a bank customer located at the customer’s private residence; (ii) an “image capture device 112 [that] may be communicatively coupled to the computer”; and (iii) financial institutions 130, 140, and 150, which are retail banks, investment banks, investment companies, or other type of entities capable of processing a

transaction involving a negotiable instrument. *Id.* at 3:46–4:64, 5:4–14. Account owner 110 owns an account 160 held at financial institution 130. *Id.* at 5:26–31. When account owner 110 wishes to deposit a check into the account, “[a]ccount owner 110 may deposit the check into account 160 by converting the check into electronic data and sending the data to financial institution 130.” *Id.* at 5:62–65. “[A]ccount owner 110 may convert the check into a digital image by scanning the front and/or back of the check using image capture device 112.” *Id.* at 6:4–7. Account owner 110 then sends the image to financial institution 130. *Id.* at 6:6–9. Upon receiving the image, financial institution 130 communicates with other financial institutions (e.g., 140 and 150) to clear the check and credit the funds to account 160. *Id.* at 6:12–49.

Figure 2 of the '432 patent is reproduced below.

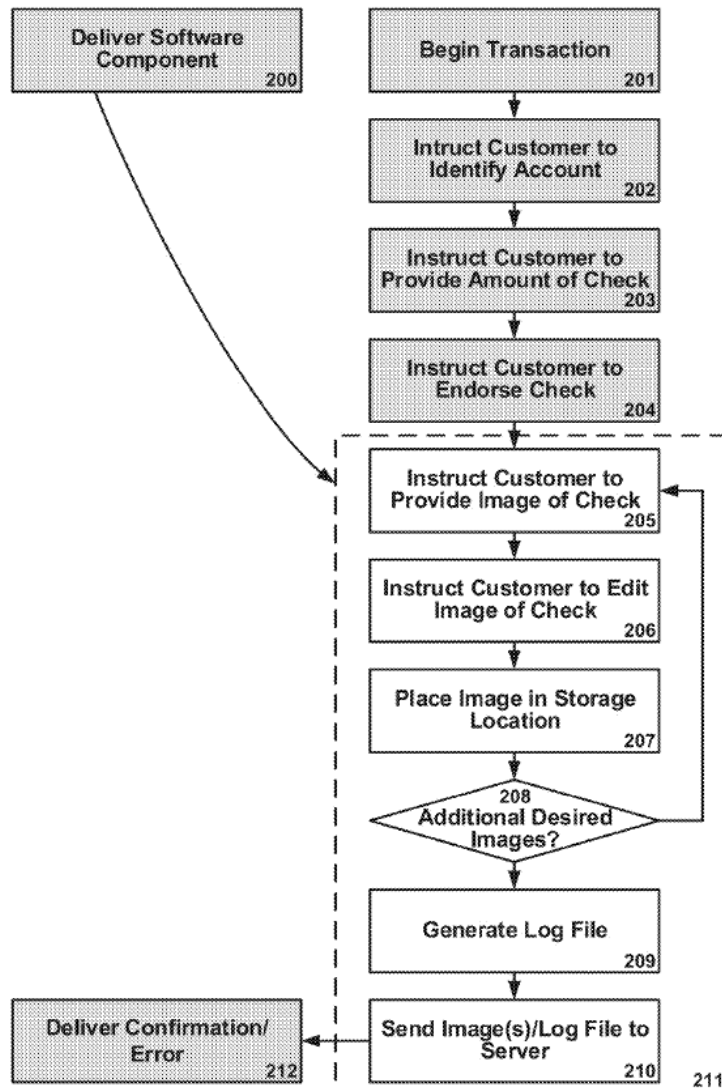


FIGURE 2

Figure 2 illustrates a method for facilitating deposit of a check from the customer-controlled general purpose computer. *Id.* at 3:17–19, 6:50–53. The '432 patent explains that the steps in Figure 2 “may be viewed as performed by a server computer associated with a financial institution, in conjunction with a software component that operates from a customer-controlled general purpose computer.” *Id.* at 6:52–58. More particularly, “the darker boxes [in Figure 2] indicate steps that are performed by the

server, for example by delivering information to the user through the user's browser application," while "[the] lighter boxes inside 211 indicate steps that are performed by the software component, as it executes on the customer computer," with "alternative configurations . . . readily achievable by moving functions from server to software component or vice-versa." *Id.* at 6:59–7:2. As shown in Figure 2, after downloading or otherwise accepting a software component (e.g., from a financial institution's server) to be installed on the customer-controlled general purpose computer 200, the customer has the capability to make deposits from his general purpose computer. *Id.* at 7:3–42. After identifying a deposit account, identifying an amount of a check or other negotiable instrument the customer wishes to deposit, and endorsing the check (steps 201–204 in Figure 2), "[t]he customer may next be instructed to provide an image of a front side of a check 205, for example, by using an image capture device." *Id.* at 7:47–8:7. For example, "the customer may be instructed to place the check face down on a flatbed scanner, and may further be instructed as to the location and orientation of the check on the scanner," or "the customer is instructed to take a digital photograph of the check using a digital camera . . . [and] instructed as to the position and orientation of the check, lighting, angle of camera, distance and focal length (zoom) of camera, and so forth." *Id.* at 8:5–21. The software component on the customer's device may guide the customer by providing a graphical illustration of how the customer should provide the image. *Id.*

The software component on the customer's device "may next cause the image of the check to be presented to the customer for editing, e.g. by asking the customer to crop and/or rotate the check image to a

predetermined orientation 206.” *Id.* at 8:45–48. The customer may also be asked to indicate the bottom right corner of the check image, and the image may be cropped to contain only the check image, thereby removing a portion of the originally obtained image. *Id.* at 8:51–55. After obtaining and storing (in a storage location, step 207) images of front and back sides of the check, a log file may be generated 209 to collect data for processing or troubleshooting the deposit transaction. *Id.* at 8:56–64. Once the desired images are collected and edited, they are delivered to the bank server for processing the deposit 210. *Id.* at 9:1–3. If the bank’s (or other financial institution’s) server determines that the delivered images and any corresponding data are sufficient to go forward with the deposit, the customer’s account is provisionally credited, and a confirmation page is delivered to the customer via customer’s browser application 212. *Id.* at 9:3–11.

D. Challenged Claims

Petitioner challenges claims 1–7, 10–21, and 23 of the ’432 patent.² Pet. 6–7. Of the challenged claims, claim 1 is the only independent claim. Ex. 1101, 14:23–48. Claim 1 recites:

1. A system comprising:
a customer’s mobile device including a downloaded app, the
downloaded app provided by a bank to control check
deposit by causing the customer’s mobile device to
perform:
instructing the customer to have a digital camera take
a photo of a check;

² The ’432 patent has 23 claims. Ex. 1101, 14:23–16:20. Petitioner challenges all the claims of the ’432 patent except claims 8, 9, and 22. *See, e.g.*, Pet. 6–7.

giving an instruction to assist the customer in placing the digital camera at a proper distance away from the check for taking the photo;
presenting the photo of the check to the customer after the photo is taken with the digital camera;
using a wireless network, transmitting a copy of the photo from the customer's mobile device and submitting the check for mobile check deposit in the bank after presenting the photo of the check to the customer; and
a bank computer programmed to update a balance of an account to reflect an amount of the check submitted for mobile check deposit by the customer's mobile device;
wherein the downloaded app causes the customer's mobile device to perform additional steps including:
confirming that the mobile check deposit can go forward after optical character recognition is performed on the check in the photo; and
checking for errors before the submitting step.

Id. at 14:23–48. Our decision not to institute trial is based on our analysis of the arguments and evidence related to independent claim 1.

E. The Asserted Grounds

Petitioner challenges claims 1–7, 10–21, and 23 of the '432 patent based on the grounds set forth in the table below.

Claims Challenged	35 U.S.C. § ³	Reference(s)
1–3, 6, 7, 10–15, 19–21	103	Garcia, ⁴ Byrne, ⁵ Lev ⁶

³ The Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112-29, 125 Stat. 284, 285–88 (2011), revised 35 U.S.C. § 103 effective March 16, 2013. Because the challenged patent claims priority to applications filed before March 16, 2013, we refer to the pre-AIA version of §103.

⁴ WO 2005/043857 A1, published May 12, 2005 (Ex. 1103).

⁵ US 2006/0249567 A1, published Nov. 9, 2006 (Ex. 1104).

⁶ US 2006/0164682 A1, published July 27, 2006 (Ex. 1105).

Claims Challenged	35 U.S.C. § ³	Reference(s)
3	103	Garcia, Byrne, Lev, Slater ⁷
4	103	Garcia, Byrne, Lev, Lugg ⁸
5, 16–18	103	Garcia, Byrne, Lev, Davis ⁹
23	103	Garcia, Byrne, Lev, Dance ¹⁰

Pet. 6–7. Petitioner supports its contentions of unpatentability of the challenged claims of the '432 patent with the Declaration of Brian Noble, Ph.D. (Ex. 1102).

II. ANALYSIS

A. *Legal Standards*

A patent claim is unpatentable as obvious if the differences between the claimed subject matter and the prior art are such that the subject matter, as a whole, would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of underlying factual determinations including: (1) the scope and content of the prior art; (2) any differences between the claimed subject matter and the prior art; (3) the level of ordinary skill in the art; and (4) objective evidence of non-obviousness. *Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966).

“In an [*inter partes* review], the petitioner has the burden from the onset to show with particularity why the patent it challenges is unpatentable.” *Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1363 (Fed. Cir. 2016) (citing 35 U.S.C. § 312(a)(3) (requiring *inter partes* review

⁷ EP 0 984 410 A1, published March 8, 2000 (Ex. 1106).

⁸ US 2005/0281448 A1, published Dec. 22, 2005 (Ex. 1128).

⁹ US 2005/0216410 A1, published Sept. 29, 2005 (Ex. 1107).

¹⁰ US 2003/0086615 A1, published May 8, 2003 (Ex. 1108).

petitions to identify “with particularity . . . the evidence that supports the grounds for the challenge to each claim”). Petitioner cannot satisfy its burden of proving obviousness by employing “mere conclusory statements.” *In re Magnum Oil Tools Int’l, Ltd.*, 829 F.3d 1364, 1380 (Fed. Cir. 2016).

B. Level of Ordinary Skill in the Art

Petitioner contends that:

A person of ordinary skill in the relevant field or art (“POSITA”) as of the claimed priority date of the ’432 patent would have had a Bachelor’s degree in electrical engineering, computer science, computer engineering, or equivalent field, and at least two years of experience with image capturing/scanning technology, involving transferring and processing of image data to and at a server. Less work experience may be compensated by a higher level of education, and vice versa.

Pet. 15 (citing Ex. 1102 ¶ 47). Patent Owner does not dispute Petitioner’s contention as to the level of ordinary skill in the art. Prelim. Resp. 13–14 (“For the purposes of this Preliminary Response only, Patent Owner applies the skill level of a person of ordinary skill in the art (‘POSA’) proposed by Petitioner.”). For purposes of this decision, we adopt Petitioner’s definition of the level of ordinary skill in the art because it is consistent with the ’432 patent and the asserted art and applied by both parties.

C. Claim 1: Consideration of Alleged Obviousness in View of Garcia, Byrne, and Lev

As noted above, Petitioner contends that sole independent claim 1 of the ’432 patent would have been obvious in view of a combination of the teachings of Garcia, Byrne, and Lev. Pet. 6, 19–46. In this combination, Petitioner argues, “Garcia teaches using a customer’s mobile device to capture a check image and transmit the image to a bank for processing” and

for “certain implementation details recited in the challenged claims [that] are not expressly described in Garcia, these details would have been obvious in view of analogous art, including Byrne and Lev.” *Id.* at 19. Specifically, Petitioner asserts that, although these features are not disclosed by Garcia, a skilled artisan would be motivated to combine the teachings of the cited references so:

When Garcia’s system is implemented . . . in view of Byrne and Lev, the resulting “Garcia/Byrne/Lev” combination provides that Garcia’s mobile device includes a computer application that: (1) is implemented as a downloaded app provided by a bank per Byrne; (2) checks for errors before transmitting/submitting the check to a bank per Byrne; and (3) instructs the customers to take a photo of a check, and to do so at a particular distance from the check per Lev.

Id. at 29. The Petition includes separate sections to support modifying Garcia to include (1) a downloaded app in view of Byrne (*id.* at 19–23), (2) checking for errors in view of Byrne (*id.* at 24–26), and (3) providing interactive instructions and assistance to the customer in view of Lev (*id.* at 26–29).

Patent Owner argues that the challenge to the ’432 patent in this proceeding “employ[s] the identical strategy” “from each of . . . four past challenges” to patents in the same family as the ’432 patent by “combin[ing] references that involve the use of specialized bank check scanners that perform the critical image evaluation and error checking functions necessary to determine if an image of a check is sufficient for deposit with systems that involve digital cameras and lack these image quality and error checking analysis functions.” Prelim. Resp. 1. And, Patent Owner argues that, “[t]his same tension, of mixing and matching systems with specialized check

scanners and systems with digital cameras when it is clear that a POSA would not view them as comparable, infects the latest collateral attack against [Patent Owner]’s patents.” *Id.* at 2–3. Patent Owner provides quotations from two Board decisions denying institution of *inter partes* review of related patents owned by Patent Owner in support of this argument. *Id.* at 2, 19–20 (quoting IPR2020-01650, Paper 21, 26; IPR2020-01742, Paper 21, 24). Patent Owner points out that the Board in one of these earlier decisions said: “[a]t best, [the Petitioner in IPR2020-01650]’s argument in this regard explains that Dance’s digital camera 12 with image capture assistance for extracting data from check images via OCR could interface or integrate with Singfield’s PDA, but it fails to identify a specific reason why a person of ordinary skill in the art would have combined these features in the manner required.” IPR2020-01650, Paper 21, 25.

Patent Owner also asserts the Petition “wholly fails to explain why a POSA would have been motivated, without the benefit of hindsight, to combine the references to create the claimed invention” and “relies on entirely conclusory statements, lacking any explanation how the modifications would be carried out, much less why a POSA would have perceived the benefits of such changes to outweigh the risks.” Prelim. Resp. 19.

Having considered the relevant portions of the Petition, we determine that Petitioner has not shown a reasonable likelihood of establishing that a skilled artisan would be motivated to combine the teachings of Garcia and Byrne to arrive at the last recited limitation of claim 1, “checking for errors before the submitting step.”

Petitioner acknowledges that Garcia does not teach this limitation. Pet. 24 (“Garcia does not expressly teach that the mobile device checks for errors before transmitting /submitting a check image to the bank server.”). In presenting its case on this limitation, the only reference cited by Petitioner is Byrne (Ex. 1104). *Id.* at 45–46. And, Petitioner argues that “a POSITA would have found it obvious to incorporate Byrne’s ‘checking for errors before the submitting step’ into Garcia’s computer application that carries out the interactive session.” *Id.* at 46; *see also id.* at 24–26.

Petitioner relies on paragraphs 174–180 of Byrne as teaching this limitation. Pet. 24 (“Byrne teaches that, before the check image is transmitted/submitted to the bank server, the user’s device ‘detect[s] whether the check is endorsed,’ and ‘check[s] ... that the check had been properly scanned.’”) (citing Ex. 1104 ¶¶ 174–180), 45 (“During Byrne’s check deposit process, the user’s device ‘detect[s] whether the check is endorsed,’ and ‘uses a checking means, such as checking for an imprint image, a scanned serial number, and the like, to indicate that the check had been properly scanned.’”) (citing Ex. 1104 ¶¶ 174–180).

With regard to incorporating these teachings of Byrne into the mobile device of Garcia, the Petition provides:

A POSITA would have been motivated to combine Garcia with Byrne so that Garcia’s mobile device checks for errors before transmitting/submitting. Garcia sends images by “a mobile telephone communications network, for example a GSM/GPRS network.” EX1103, 11:21-12:1. A POSITA would have known that such networks are bandwidth and resource-constrained, and that communications over such networks takes time. Accordingly, a POSITA would have been motivated to address errors at Garcia’s mobile device, before the check image is transmitted/submitted to *avoid wasting*

communications resources and adding delays. A POSITA would have understood that Byrne provides the requisite solution to this problem—checking for errors before the check image is sent. EX1104, [0174]-[0183]. Byrne’s checking steps would have improved Garcia’s overall functionality and experience by helping reduce the number of useless transactions. The combination would have merely amounted to using a known technique (checking for errors before submitting the check image) to improve similar devices (Garcia’s mobile device for check deposit) in the same way (***avoid wasting resources and adding delays***). EX1102, ¶80.

A POSITA would have had a reasonable expectation of success in combining Garcia with Byrne so that Garcia’s mobile device checks for errors before transmitting/submitting. ***First***, it was well-known that mobile devices can analyze check images for certain information or error. *See* EX1118, 8:23-46 (explaining that a “portable terminal” may “scan[] and read[] written indicia,” which “may include the signature of an authorized user,” to be reproduced on the portable terminal’s display “for purposes of identifying the authorized user or the authenticity of a transaction”). ***Second***, Byrne’s error checking would have simply been another step in Garcia’s check deposit process to provide predictable results of identifying checks with errors before they are submitted to the bank. A POSITA would have understood that the checking step would not have affected the overall functionality of Garcia’s mobile device, particularly because Byrne teaches that its checking step occurs during a check deposit process similar to Garcia’s check deposit process. *Compare* EX1104, [0173]-[0186] *with* EX1103, 10:10-17. EX1102, ¶81.

Combining Garcia’s computer application with Byrne’s teaching would have merely amounted to applying a known technique (Byrne’s checking for errors before submitting) to a known device (Garcia’s computer application) ready for improvement (ready for ***reducing wasteful network transmission and delays***) to yield predictable results of reducing time/cost of sending check images and the number of rejected transactions. EX1102, ¶82.

Pet. 24–26 (emphasis added). Although this passage is somewhat lengthy, the only reasons provided for combining the relevant teachings of Garcia and Byrne are “to avoid wasting communications resources and adding delays,” “avoid wasting resources and adding delays,” and “reducing wasteful network transmission and delays.” *See id.* However, the only argument as to the existence of the alleged motivating waste and delay is: “Garcia sends images by ‘a mobile telephone communications network, for example a GSM/GPRS network.’ A POSITA would have known that such networks are bandwidth and resource-constrained, and that communications over such networks take time.” *Id.* at 24 (quoting Ex. 1103, 11:21–12:1). In the Petition, there is no explanation or reasoning to support concluding, based on Garcia’s statement that images are sent using a mobile telephone communications network, that a skilled artisan would recognize waste and delay even if such networks are bandwidth and resource-constrained and that communications over such networks take time.¹¹ *See id.* And, there is no explanation or reasoning for concluding that a skilled artisan would recognize that “checking for errors before the submitting step” in the manner taught by Byrne would help alleviate waste and delay in Garcia’s system. Stated another way, Petitioner’s argument is premised on an alleged problem with Garcia’s system, but Petitioner fails to sufficiently show that an ordinary artisan would recognize Garcia to have such a problem. Therefore, we are not persuaded by the Petition that a skilled artisan would have been

¹¹ We believe a skilled artisan would appreciate that all networks are bandwidth and resource-constrained and all communications over all networks take time.

motivated to combine the relevant teachings of Garcia and Byrne in the manner proposed in the Petition.

Accordingly, we determine that Petitioner has not presented adequate and persuasive reasoning to combine the cited references to establish that the “checking for errors before the submitting step” limitation would have been obvious in the context of claim 1 of the ’432 patent.

D. Additional Claims and Grounds

As noted above, Petitioner also challenges dependent claims 2, 3, 6, 7, 10–15, and 19–21. *See* Pet. 6. Petitioner sets forth additional grounds, supported by arguments and evidence, challenging claim 3 based on Garcia, Byrne, Lev, and Slater, claim 4 based on Garcia, Byrne, Lev, and Lugg, claims 5 and 16–18 based on Garcia, Byrne, Lev, and Davis, and claim 23 based on Garcia, Byrne, Lev, and Dance. *See id.* at 6–7, 46–73.

With regard to the challenged dependent claims, Patent Owner does not raise arguments separate from those discussed above with respect to claim 1. More particularly, Patent Owner submits that “[s]ince Garcia/Byrne/Lev fails to teach the system of claim 1 for the reasons described above,” the challenges with regard to dependent claims “also fail for at least the same reasons.” Prelim. Resp. 41. For the reasons discussed above with regard to claim 1 (*see supra* Part II.C), we determine that the Petition does not show a reasonable likelihood of establishing the unpatentability of any challenged dependent claim.

III. MOTIONS TO SEAL

There are three joint motions to seal pending: Paper 9 (relating to the Preliminary Response and Exhibit 2006); Paper 14 (relating to the Reply); and Paper 19 (relating to the Sur-reply). In each of these motions, the

parties seek to protect as confidential certain information that relates to the issue of whether Petitioner has properly identified all the real parties in interest in its Petition. *See* 35 U.S.C. § 312(a)(2). As we deny the Petition on the merits and do not grant the request to institute an *inter partes* review, the issue of identification of the real parties in interest to this proceeding is moot. Therefore, we do not reach the arguments and evidence of the parties relating to whether the Petitioner identified all the real parties in interest in its Petition and we make no reference in this decision to the documents and information that the parties seek to protect as confidential.

In the first Joint Motion to Seal, the parties request entry of a Protective Order that is substantially the same as the Board’s Default Protective Order (*see* Consolidated Trial Practice Guide¹² at 107–122 (App. B, Protective Order Guidelines and Default Protective Order)). Paper 9, 2.¹³ The parties also request sealing of Exhibit 2006 and sealing of portions of the Preliminary Response relating to that exhibit. *Id.* at 2–3. The portions of the Preliminary Response (Paper 8) requested to be sealed can be identified from the redacted version of the Preliminary Response filed as Paper 11. Based on the representations in the Joint Motion to Seal (Paper 9), the parties have shown good cause for entering the Protective Order and for sealing Exhibit 2006 and the identified portions of the Preliminary Response.

¹² Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

¹³ The pages in Paper 9 are not numbered accurately. Pages 1 and 2 are not numbered. Pages 3–11 are numbered 2–10, respectively. We refer to the actual page numbers.

Paper 14 (Joint Motion to Seal the Reply) and Paper 19 (Joint Motion to Seal the Sur-reply) request sealing of the portions of the Reply and Sur-reply relating to Exhibit 2006. The portions of the Reply (Paper 13) and Sur-reply (Paper 17) requested to be sealed can be identified from the redacted version of the Reply filed as Paper 16 and from the redacted version of the Sur-reply filed as Paper 20. Based on the representations in these two Joint Motion to Seal (Papers 14 and 19), the parties have shown good cause for sealing the identified portions of the Reply and Sur-reply.

For these reasons, we grant the three joint motions to seal (Papers 9, 14, 19).

IV. CONCLUSION

The Petitioner has not persuasively established that a skilled artisan would have been motivated to combine the cited references so as to render any of the challenged claims unpatentable. Accordingly, we determine that Petitioner has not demonstrated a reasonable likelihood of showing at least one of the claims challenged in the Petition would have been obvious.

V. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that, pursuant to 35 U.S.C. § 314(a), no *inter partes* review as to any claim of the '432 patent is instituted; and

FURTHER ORDERED that the motions to seal (Papers 9, 14, 19) are granted; a Protective Order in the form of Attachment A to Paper 9 is

entered; and Exhibit 2006 and the portions of the Preliminary Response, Reply, and Sur-reply requested to be sealed are sealed until further order.¹⁴

¹⁴ The attention of the parties is directed to 37 C.F.R. § 42.56 (“After denial of a petition to institute a trial or after final judgment in a trial, a party may file a motion to expunge confidential information from the record.”).

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