

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ATLASSIAN, INC.,
Petitioner,

v.

PHOJI, INC.,
Patent Owner.

IPR2022-00210
Patent 9,565,149 B2

Before GARTH D. BAER, CHRISTOPHER L. OGDEN, and
SCOTT RAEVSKY, *Administrative Patent Judges*.

BAER, *Administrative Patent Judge*.

JUDGMENT

Final Written Decision

Determining All Challenged Claims Unpatentable

35 U.S.C. § 318(a)

Denying as Moot Patent Owner's and Petitioner's Motions to Exclude

37 C.F.R. § 42.64

I. INTRODUCTION

A. BACKGROUND

Atlassian, Inc. (“Petitioner”) filed a Petition (Paper 1, “Pet.”), requesting an *inter partes* review of claims 1–13 of U.S. Patent No. 9,565,149 B2 (Ex. 1001, “the ’149 patent”). Pursuant to 35 U.S.C. § 314, we instituted this *inter partes* review as to all challenged claims and all grounds raised in the Petition. Paper 6.

Following institution, Phoji Inc. (“Patent Owner”) filed a Response. Paper 8 (“PO Resp.”). Subsequently, Petitioner filed a Reply to Patent Owner’s Response (Paper 12, “Pet. Reply”), and Patent Owner filed a Sur-reply (Paper 17, “PO Sur-reply”). Patent Owner filed a Motion to Exclude (Paper 23), which Petitioner opposes (Paper 26). Petitioner filed a Motion to Exclude (Paper 24), which Patent Owner opposes (Paper 25). On March 3, 2023, we held an oral hearing. A transcript of the hearing is included in the record. Paper 33.

We have jurisdiction under 35 U.S.C. § 6. This decision is a Final Written Decision issued pursuant to 35 U.S.C. § 318(a). For the reasons we discuss below, we determine that Petitioner has proven by a preponderance of the evidence that claims 1–13 are unpatentable.

B. RELATED PROCEEDINGS

The ’149 patent is at issue in *Phoji, LLC v. Atlassian, Inc.*, Case No. 6:21-cv-00888-ADA (W.D. Tex. filed Aug. 26, 2021). Pet. xi, Paper 4, 1.

C. REAL PARTIES IN INTEREST

Petitioner identifies itself, Atlassian (UK) Limited, Atlassian (UK) Holdings Limited, and Atlassian Corporation Plc. as real parties in interest.

Pet. xi. Patent Owner identifies itself as the only real party in interest.
Paper 4, 1.

D. THE '149 PATENT

The '149 patent is titled "Media Messaging Methods, Systems, and Devices." Ex. 1001, code (54). It is directed to "the sending of a text message or email whereby the sender is able to include photographs, graphs, pie charts and the like within the flow of the actual word by word texting or email writing process, without depending on the traditional necessary step to 'attach' the photograph." *Id.* at code (57). Figure 14 is reproduced below.

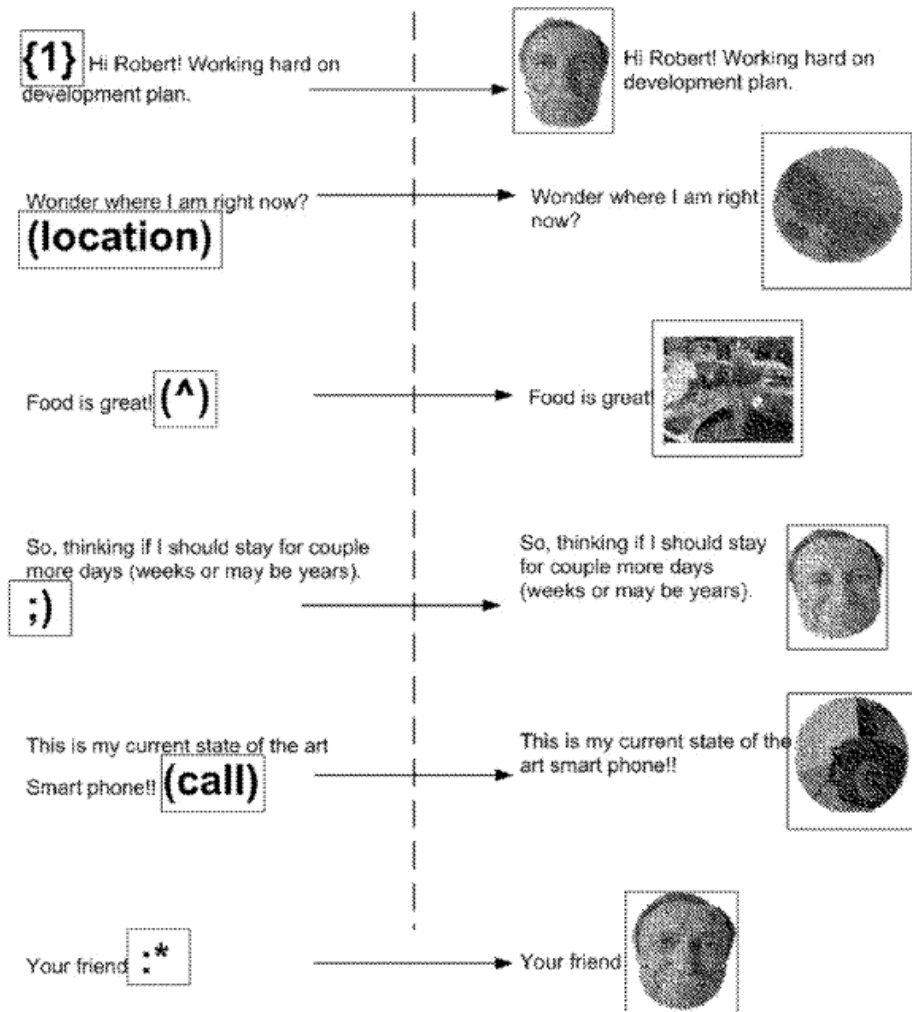


Fig. 14

Figure 14 depicts “plain text message[s] and subsequent conversion of the parsed and rendered message[s] incorporating Photocons.” *Id.* at 9:30–32.

E. CHALLENGED CLAIMS

Of the challenged claims, claims 1 and 10 are independent. Claim 1 is reproduced below:

1. A communications system comprising:
 - a first user device presenting a first user interface;
 - a second user device presenting a second user interface;
 - a messaging cloud including:
 - at least one database of rich media data, and a semantic model, the semantic model configured to:
 - categorize a personalized image library based on contact data and emotional state data;
 - receive a contact data input from the first user device;
 - receive an emotional state data input from the first user device;
 - and
 - automatically select an image for insertion into a message from a plurality of images in the personalized image library based on the received contact data and received emotional state data, and
- wherein the database is a Media Messaging Platform,
 - a messaging service configured to:
 - receive a message, the message including a rich media data request from the first user device,
 - retrieve the requested rich media data from the at least one database of rich media data, insert the retrieved rich media data into the message while maintaining text flow, and
 - present the message to the second user device via the second user interface; and

a network operably coupling the first user device, the second user device, and the messaging cloud,

wherein the message is originally formatted on the first user device via the first user interface such that the rich media data request is within the message.

Ex. 1001, 11:32–61.

F. ASSERTED GROUNDS OF UNPATENTABILITY

Petitioner asserts the following grounds of unpatentability. Pet. 1.

Claim(s) Challenged	35 U.S.C. §¹	Reference(s)/Basis
1–13	103	Gura ²
1–13	103	Gura, Jensen ³
1–13	103	Gura, Fifield ⁴
7	103	Gura, Le Bodic ⁵
7	103	Gura, Jensen, Le Bodic
7	103	Gura, Fifield, Le Bodic

Petitioner also relies on a declaration from Dr. Rajeev Surati (Ex. 1003).

¹ Because the parties agree that the challenged claims have an effective filing date before March 16, 2013, we apply the pre-AIA (“America Invents Act”) version of § 103. Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112-29, 125 Stat. 284, 285–88 (2011).

² WO 2007/080570 A1, Pub. July 19, 2007 (Ex. 1004, “Gura”).

³ Jensen, et al., “Multidimensional Databases and Data Warehousing” 2010 (Ex. 1005, “Jensen”).

⁴ US 2007/0033212 A1, Pub. Feb. 8, 2007 (Ex. 1006, “Fifield”).

⁵ Le Bodic, “Mobile Messaging Technologies and Services: SMS, EMS and MMS” 2d ed. 2005, (Ex. 1007, “Le Bodic”).

II. PRELIMINARY MATTERS

A. LEVEL OF ORDINARY SKILL

Petitioner contends a person of ordinary skill in the art “would have had (i) an undergraduate degree (or equivalent) in electrical engineering, computer science, or a comparable subject and approximately three years of work experience in the field of mobile communication networks and applications, or (ii) an advanced degree (or equivalent) in electrical engineering, computer science, or a comparable subject and approximately one year of postgraduate research or work experience in the field.” Pet. 8 (citing Ex. 1003 ¶¶ 99–102). Patent Owner does not dispute Petitioner’s formulation. PO Resp. 20–21. We adopt Petitioner’s description as it is consistent with the prior art and patent specification before us and supported by credible expert testimony. *See Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001) (prior art itself may reflect an appropriate level of skill).

B. CLAIM CONSTRUCTION

1. Legal Standard

In an *inter partes* review proceeding, a claim of a patent is construed using the same standard used in a civil action under 35 U.S.C. § 282(b), including construing the claim in accordance with the ordinary and customary meaning of the claim as understood by one of ordinary skill in the art and the prosecution history pertaining to the patent. 37 C.F.R. § 42.100(b). “[O]nly those terms need be construed that are in controversy, and only to the extent necessary to resolve the controversy.” *Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999).

2. “while maintaining text flow”

Independent claims 1 and 10 require “insert[ing] the retrieved rich media data into the message while maintaining text flow.”⁶ Patent Owner proposes construing this phrase to require that “the retrieved rich media data is inserted into the message at the requested point of insertion while the first user is composing the message.” PO Resp. 32. We disagree with Patent Owner’s construction.

First, the claim language contradicts Patent Owner’s construction. Rather than requiring rich media to be inserted while the user is composing the message, the challenged independent claims require that a cloud-based system receives a plain-text message from the user, retrieves and inserts rich media into the received message, and then delivers the modified message to the recipient. *See* Ex. 1001, 11:48–56, 12:34–60. In short, as Petitioner notes, “the original message is sent to the cloud-based messaging system ***before the images are inserted.***” Pet. Reply 4–5.

The specification also undermines Patent Owner’s proposed requirement that the image must be inserted while the user is still composing a message. Figure 14, for example, shows that the user types the entire plain text message before the cloud-based system retrieves and inserts an image into the message. *See* Ex. 1001, Fig. 14. Figure 14 is reproduced in part below.

⁶ Independent claim 10 recites “media” instead of “rich media data.”

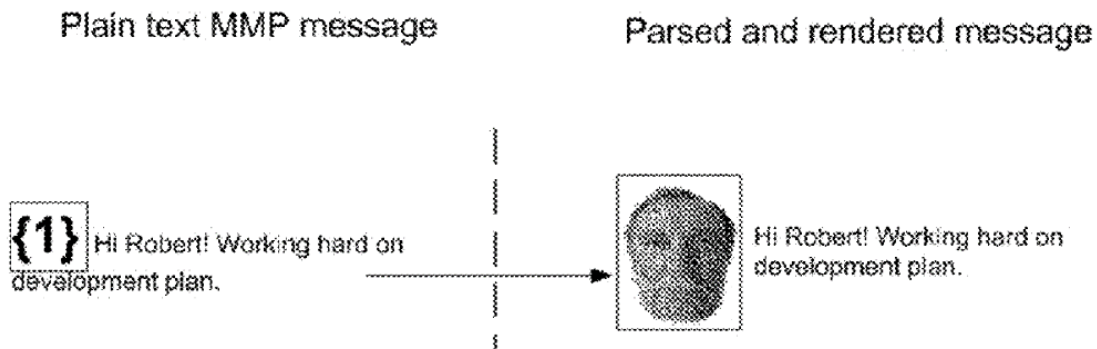


Figure 14, above, shows the entire plain text message completed (as seen on the left) before the system inserts a rich media image (as seen on the right). Further, as Petitioner notes, the specification “never describes rich media data being inserted ‘while the first user is composing the message,’” but instead repeatedly ties maintaining text flow to eliminating the need to separately attach an image. *See* Pet. Reply 7–8 (citing Ex. 1001, 1:38–46, 1:22–27, 1:64–2:5, 2:49–52); *see also, e.g.*, Ex. 1001, 1:64–25 (explaining that “the sender is able to include photographs, graphs, pie charts and the like within the flow of the actual word by word texting or email writing process, without depending on the traditional necessary step to ‘attach’ said photograph . . . as is currently experienced with all existing texting and email platforms”); *id.* at 1:38–46 (asserting that the invention allows users to integrate rich media data “without having to interrupt the mobile user’s texting flow skipping the laborious ‘step’ of ‘attaching’ such rich media data into a mobile user’s message”).

In sum, we disagree with Patent Owner’s construction requiring inserting media into the message while the first user is composing the message. Instead, we agree with Petitioner that the ordinary and customary meaning of “while maintaining text flow” reads on automatically replacing a character string with an image located where the characters were typed in the

message, even if that replacement happens after the user composes the message. *See* Pet. 43–44.

We agree with the parties that no additional claim constructions are necessary to resolve the parties’ disputes. *See* PO Resp. 21; 24 Pet. Reply 1, 2.

III. UNPATENTABILITY ANALYSIS

A. SUMMARY OF PRIMARY ASSERTED PRIOR ART REFERENCE

Gura is titled “Image Insertion for Text Messaging.” Ex. 1004, code (54). Gura’s Figure 1a is reproduced below.

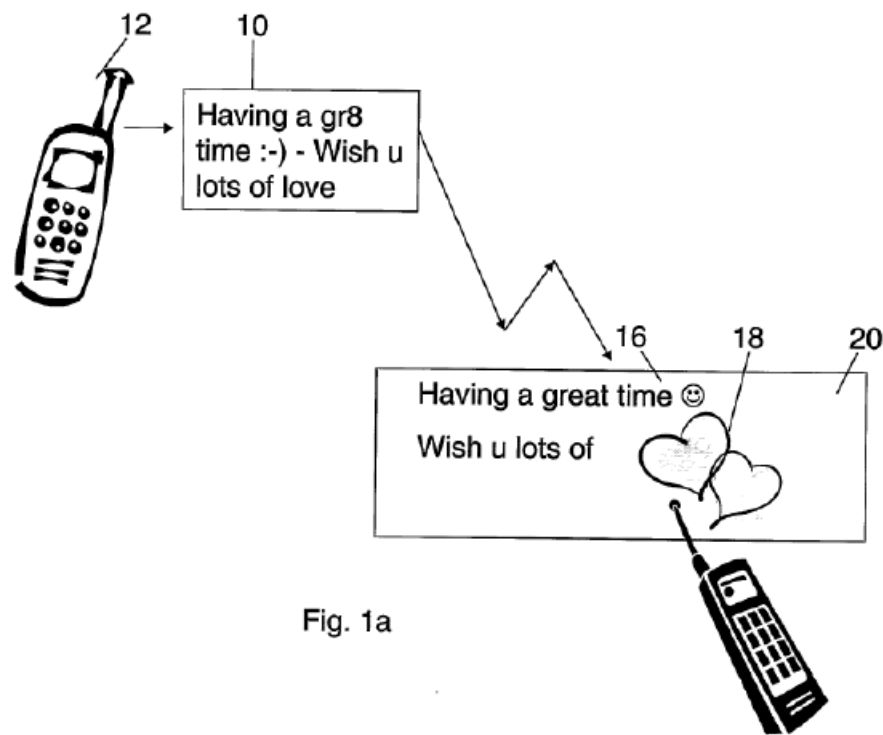


Fig. 1a

Figure 1a illustrates an enhanced text message. *Id.* at 4:1. In Figure 1a, “text message 10” is “enhanced by the addition of images 16 and 18 to form enhanced message 20.” *Id.* at 5:17–19.

B. OBVIOUSNESS OF CLAIM 1 BASED ON GURA

Petitioner argues that claim 1 would have been obvious over Gura. Pet. 20–47. For the reasons explained below, we determine Petitioner has shown by a preponderance of evidence that claim 1 would have been obvious over Gura.

1. “while maintaining text flow”

Claim 1 requires “insert[ing] the retrieved rich media data into the message while maintaining text flow.” Ex. 1001, 11:52–54. Petitioner argues that Gura teaches this feature because Gura’s “enhanced messaging system inserts the selected media items into the message to create an enhanced message,” as depicted in step 4 of Gura’s Figure 3. Pet. 41–42 (citing Ex. 1004, 5:17–20, 7:21–22). Petitioner further explains that Gura’s media insertion occurs “while maintaining text flow” because “Gura automatically replaces the character string ‘:-)’ with an image located where the characters were typed in the message.” *Id.* at 43 (citing Ex. 1004, Fig. 1a). We agree with Petitioner that Gura teaches “insert[ing] the retrieved rich media data into the message while maintaining text flow.”

Patent Owner’s only argument related to this limitation is that Gura does not teach inserting media while maintaining text flow because Gura’s media insertion happens after a user completes a message, rather than while the user composes it. PO Resp. 33–38. We disagree with Patent Owner’s argument because it relies on Patent Owner’s proposed construction of the term “while maintaining text flow,” which we do not adopt. That is, for the reasons discussed above, we disagree with Patent Owner that the phrase “insert[ing] the retrieved rich media data into the message while maintaining text flow” requires inserting media while the first user is composing the

message. Thus, for the reasons stated in the Petition, we find that Petitioner has persuasively shown that Gura teaches claim 1's media insertion while maintaining text flow.

2. "the message"

Claim 1 requires "receiv[ing] a message" and then "insert[ing] the retrieved rich media data into the message." Ex. 1001, 11:49–54. Petitioner argues that Gura teaches receiving a message and then inserting rich media data into "the message" before presenting the message to the second user interface. *See* Pet. 41–42 (citing Ex. 1004, 5:17–20, 7:21–22, Fig. 3; Ex. 1003 ¶¶ 211–213). We agree with Petitioner that Gura teaches the claimed "message."

Patent Owner argues that Petitioner's obviousness challenge fails because the claims refer to a single message (i.e., "the message"), while Gura discloses two messages—an SMS plain-text message and a different MMS enhanced message. PO Resp. 38–45.

We disagree with Patent Owner's argument. Although claim 1 refers to "the message," it does so when referring both to the plain-text message with the media data request (i.e., before the media is inserted) and to the enhanced message with the requested rich media data (i.e., after the media is inserted). *See* Pet. Reply 13 (citing Ex. 1001, 11:49–56). In Figure 14 of the challenged patent's specification, the claimed message is shown in two different formats—initially including the rich media data request and later including the requested rich media data. *See* Ex. 1001, 4:4–5, Fig. 14. Just as in the '149 patent's claims and specification, Gura depicts one message in two different formats—initially with a rich media data request, and later with the requested rich media data. *See* Ex. 1004, 5:19–20 ("*The message* as sent

is an SMS message. However *the message* as received is an MMS message, since it includes multimedia attachments.”) (emphasis added). Thus, we agree with Petitioner that Gura teaches “the message” as claim 1 requires. See Pet. Reply 12–15.

3. “personalized image library”

Independent claim 1 requires a “personalized image library.”

Ex. 1001, 11:38. Petitioner argues that Gura’s image database is “personalized” because Gura teaches that a “user is ‘provided with a personalized web site to manage his accounts, set up new preferences for new recipients etc.’” Pet. 28 (quoting Ex. 1004, 9:20–21); *see id.* at 24–30 (further describing Gura’s personalization features including the ability to set preferences for “images/video/music . . . to be added to a text”). We agree with Petitioner that Gura’s teaches a personalized image library.

Patent Owner argues that Gura’s media library is not personalized because “Gura does not disclose that [] users can upload their own photographs.” PO Resp. 47. We disagree with Patent Owner’s argument. Nothing in claim 1’s language requires that the user must be able to upload photographs. In addition, although the ’149 patent’s specification describes an embodiment in which users “can” add personalized photos, it also teaches an “alternative[]” in which “the user can assign additional text symbols, numbers and letters to associated photographs for future ‘easy insert.’” Ex. 1001, 4:54–58. We agree instead with Petitioner that Gura’s image database is “personalized” because Gura teaches that a “user is ‘provided with a personalized web site to manage his accounts, set up new preferences for new recipients etc.’” Pet. 28 (quoting Ex. 1004, 9:20–21); *see id.* at 24–

30 (further describing Gura’s personalization features including the ability to set preferences for “images/video/music . . . to be added to a text”).

4. Reasonable Expectation of Success

Patent Owner argues that Petitioner’s obviousness challenge fails because Petitioner does not establish that a skilled artisan would have had a reasonable expectation of successfully producing the claimed invention. PO Resp. 50–52. Specifically, Patent Owner criticizes the Petition because “[t]he obviousness requirement of a reasonable expectation of success is not mentioned anywhere.” *Id.* at 51. According to Patent Owner, “the requirement to show a reasonable expectation of success remains an indispensable element to demonstrate obviousness,” including when, as here, “a challenger relies upon just one prior art reference.” *Id.* at 52 (citing *In re Stepan*, 868 F.3d 1342, 1345–46 (Fed. Cir. 2017)).

Petitioner asserts there would have been a reasonable expectation of success because Gura, the sole reference under this ground, teaches or suggests every limitation of claim 1 without combining elements from multiple embodiments, and thus to succeed in implementing the claimed invention, a person of ordinary skill in the art would simply have to implement Gura’s disclosure. *See* Pet. Reply 18, 20–22.

We find Petitioner’s arguments persuasive and we disagree with Patent Owner’s argument. The court in *In re Stepan* recognized that, even in a single reference obviousness rejection, an examiner may be required to show a reasonable expectation of success when “combining multiple embodiments from a single reference, or selecting from large lists of elements in a single reference.” *In re Stepan*, 868 F.3d at 1346 n.1. Here, however, Petitioner’s arguments do not rely on combining elements from multiple embodiments of

Gura. As we discuss above and below, Petitioner has persuasively shown that it would have been within the level of ordinary skill in the art to implement the teachings of Gura to successfully achieve the claimed invention. That is, by asserting that a single, unaltered embodiment in Gura teaches all of claim 1's limitations, Petitioner has met its burden to show a reasonable expectation of success.

5. Additional Undisputed Elements in Claim 1

Petitioner asserts that Gura teaches the additional undisputed elements in claim 1. Pet. 20–47. Specifically, Petitioner corresponds the two telephones in Gura's figure 1 to claim 1's first and second user devices. *Id.* at 20–23 (citing Ex. 1004, 4:1–2, 5:15–25, 6:5–9, Figs. 1a, 1b). According to Petitioner, Gura's figure 2 “illustrates . . . the [claimed] *messaging cloud*” because it depicts a “text message enhancement apparatus connected with the SMSC [Short Message Service Center] and MMSC [Multimedia Service Center] in the cellular network.” *Id.* at 24. Next, Petitioner explains that Gura teaches claim 1's “database of rich media data” because Gura's “Figure 2 illustrates an ‘image database 30,’ which ‘stores images for insertion into the message.’” *Id.* at 25 (quoting Ex. 1004, 7:16). According to Petitioner, Gura also teaches the claimed “semantic model” because “Gura's image database is indexed in a manner that associates keywords, key phrases, and the message's context with images based, at least in part, on meaning—just as in the '149 Patent.” *Id.* at 26.

Petitioner further explains that Gura teaches claim 1's “receiv[ing] a contact data input from the first user device” because “[i]n Gura, a ‘message interpreter 24 receives the SMS message’ from the first cellular telephone (i.e., *first user device*) and analyzes it for keywords and the ‘context of the

message,’ which includes ‘the identity of the recipient’ (i.e., *contact data*).” *Id.* at 30 (quoting Ex. 1004, 6:15–21). Gura also teaches the claimed “receiv[ing] an emotional state data input from the first user device” because, as Petitioner explains, “Gura explains that ‘[t]ext message users are well known for using emoticons, short combinations of punctuation marks that **indicate emotion** in a message.’” *Id.* at 31 (quoting Ex. 1004, 1:15–17).

Next, Petitioner explains that Gura includes claim 1’s automatic image selection/insertion feature because in Gura “a ‘simple text message is personalized by **automatically** including content reflecting the text meaning, based on an analysis of the message text, context, and user preferences.”” *Id.* at 32–33 (quoting Ex. 1004, 5:25–27). In addition, Petitioner notes, Gura’s text message enhancement apparatus 100 is the claimed “Media Messaging Platform” because it is “a cloud-based platform for modifying messaging or texting services by personalizing messages or texts with multimedia inserts.” *Id.* at 36; *see id.* at 34–37.

Petitioner goes on to explain that Gura’s messaging service receives a message from the first user device, retrieves/inserts requested rich media into the message, and presents the message to the second user device as claim 1 requires because “Gura’s enhanced messaging system uses keywords, key phrases, and the message’s context to identify and retrieve media items in the image database to enhance the received text message,” as depicted in Gura’s figures 2 and 3. *Id.* at 40; *see id.* at 38–40.

Petitioner asserts Gura teaches claim 1’s “network” coupling the user devices and messaging cloud because “Gura’s *messaging cloud* (i.e., text message enhancement apparatus, SMSC, and MMSC in the Fig. 2 embodiment) resides in the *network* connecting the message sender . . . and

the message receiver.” *Id.* at 45 (citing Ex. 1004, code (57), 4:30–5:1, 5:17–19, 5:23–25; 6:10–15).

For claim 1’s terminal wherein clause—“wherein the message is originally formatted on the first user device via the first user interface such that the rich media data request is within the message”—Petitioner again relies on Gura’s figure 1a, which shows a message (i.e., text message 10) that is formatted on the first user’s device such that the rich media data request (i.e., “:-)”) is within the message. *Id.* at 46–47.

Other than the arguments addressed above, Patent Owner does not additionally challenge Petitioner’s showing. We have reviewed Petitioner’s arguments and evidence and, based on Petitioner’s analysis outlined above, we agree with Petitioner that Gura teaches each element in claim 1.

6. Objective Indicia of Nonobviousness

Patent Owner asserts that objective evidence of nonobviousness demonstrates that the challenged claims were not obvious. *See* PO Resp. 56–60. We address Patent Owner’s arguments below.

a. Commercial Success

Patent Owner suggests that evidence of commercial success supports that the challenged claims are not obvious. Specifically, according to Patent Owner, the claimed features were commercially successful because Patent Owner licensed the ’149 patent to one company and “is in the advanced stages of negotiating additional non-exclusive licenses with at least two additional licensees.” PO Resp. 57–58.

We find Patent Owner’s licensing evidence unconvincing. As for its existing license, as Petitioner notes, Patent Owner amended an existing agreement during trial to include the ’149 patent, but it did so without

requiring any additional fee from the licensee. Pet. Reply 26–27 (citing Ex. 1046, 1047). Further, the license specifies that the licensee “will only pay a license fee if it eventually implements [Patent Owner’s] software, which it has not done.” *Id.* at 27 (citing Ex. 1046). Patent Owner does not dispute these facts. *See* PO Sur-reply 27. We also decline to accord significant weight to Patent Owner’s alleged additional licenses, because they do not yet exist. In short, we agree with Petitioner that licensing that has generated no revenue is not persuasive evidence of commercial success. *Id.*

b. Industry Praise

Patent Owner also suggests that evidence of industry praise supports that the challenged claims are not obvious because an article in the Minneapolis Star Tribune “recognized the value of ‘personalized’ and ‘customizable emojis’” and quoted one of one of Patent Owner’s own investors as saying that the invention was “really unique.” PO Resp. 59 (citing Ex. 2002, Ex. A). We find Patent Owner’s industry-praise evidence unconvincing. First, as Petitioner notes, “Patent Owner makes no effort to establish the required nexus between the product discussed in the article and the merits of the challenged claims.” Pet. Reply 28 (citing *Bosch Auto. Serv. Sols., LLC v. Matal*, 878 F.3d 1027, 1038 (Fed. Cir. 2017)). In addition, even if Patent Owner had established a nexus between the article and the challenged claims, we agree with Petitioner that, aside from self-serving statements from one of Patent-Owner’s investors, the article “merely describes Patent Owner’s business” rather than praising its invention. Pet. Reply 28.

In sum, we have reviewed Patent Owner’s arguments and evidence regarding objective evidence of non-obviousness and, for the reasons

outlined above, do not find them persuasive enough to outweigh Petitioner's evidence that the challenged claims would have been obvious.

7. Claim 1 Conclusion

Other than the arguments addressed above, Patent Owner does not additionally challenge Petitioner's showing. We have reviewed Petitioner's arguments and evidence and, based on Petitioner's analysis outlined above, we find that Petitioner has shown by a preponderance of the evidence that claim 1 would have been obvious over Gura.

C. OBVIOUSNESS OF CLAIMS 2–13 BASED ON GURA

Independent claim 10 recites limitations similar to those discussed above for claim 1. Dependent claims 2–9 and 11–13 depend from claims 1 or 10. Petitioner presents evidence that Gura teaches the limitations of claims 2–13. Pet. 47–68. Other than the arguments discussed above for claim 1, Patent Owner does not additionally challenge Petitioner's obviousness showing. Having reviewed the arguments and weighed the evidence, we find that Petitioner has shown by a preponderance of the evidence that claims 2–13 would have been obvious over Gura.

D. ADDITIONAL OBVIOUSNESS GROUNDS

Petitioner argues that claims 1–13 also would have been obvious over Gura and Jensen (Pet. 68–71) and over Gura and Fifield (*Id.* at 71–76). Petitioner also adds alternative grounds that add an additional reference, Le Bodic, for teaching a limitation in dependent claim 7. *Id.* at 76–78. Because Petitioner has shown these same claims would have been obvious over Gura, we do not address these alternative grounds.

IV. MOTIONS TO EXCLUDE EVIDENCE

Patent Owner filed a Motion (Paper 23) seeking to exclude “certain portions of Ex. 1043,” which is a declaration from Dr. Surati in support of Petitioner’s Reply to Patent Owner’s Response. Paper 23, 2. Because this decision does not rely on the supplemental declaration or arguments based on the declaration in question, we deny Patent Owner’s motion as moot.

Petitioner filed a Motion (Paper 24) seeking to exclude certain portions of Exhibit 2002, which is a declaration from Patent Owner’s CEO, Jon Christensen. Paper 24, 1. Because we find that Petitioner has shown the challenged claims are unpatentable even taking Ex. 2002 into consideration, we deny Petitioner’s motion as moot.

V. CONCLUSION

For the foregoing reasons, we determine Petitioner has demonstrated by a preponderance of the evidence that claims 1–13 of the '149 patent are unpatentable.⁷ Our conclusions are summarized in the following table.

Claim(s)	35 U.S.C. §	Reference(s)/Basis	Claims Shown Unpatentable	Claims Not shown Unpatentable
1–13	103	Gura	1–13	
1–13	103	Gura, Jensen ⁸		
1–13	103	Gura, Fifield ⁹		
7	103	Gura, Le Bodic ¹⁰		
7	103	Gura, Jensen, Le Bodic ¹¹		
7	103	Gura, Fifield, Le Bodic ¹²		

⁷ Should Patent Owner wish to pursue amendment of the challenged claims in a reissue or reexamination proceeding subsequent to the issuance of this decision, we draw Patent Owner's attention to the April 2019 *Notice Regarding Options for Amendments by Patent Owner Through Reissue or Reexamination During a Pending AIA Trial Proceeding*. See 84 Fed. Reg. 16,654 (Apr. 22, 2019). If Patent Owner chooses to file a reissue application or a request for reexamination of the challenged patent, we remind Patent Owner of its continuing obligation to notify the Board of any such related matters in updated mandatory notices. See 37 C.F.R. § 42.8(a)(3), (b)(2).

⁸ We do not reach this ground because it would not change the outcome of this case.

⁹ We do not reach this ground because it would not change the outcome of this case.

¹⁰ We do not reach this ground because it would not change the outcome of this case.

¹¹ We do not reach this ground because it would not change the outcome of this case.

¹² We do not reach this ground because it would not change the outcome of this case.

Overall Outcome			1–13	
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VI. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that claims 1–13 of the '149 patent are unpatentable; and

FURTHER ORDERED that, because this is a Final Written Decision, parties to the proceeding seeking judicial review of the decision must comply with the notice and service requirements of 37 C.F.R. § 90.2;

FURTHER ORDERED that Patent Owner's Motion to Exclude is DENIED as moot;

FURTHER ORDERED that Petitioner's Motion to Exclude is DENIED as moot.

PETITIONER:

James L. Day
Winston Liaw
FARELLA BRAUN + MARTEL LLP
jday@fbm.com
wliaw@fbm.com

For PATENT OWNER:

Bradley J. Thorson
Eric H. Chadwick
Joseph T. Miotke
DEWITT LLP
bjtptab@dewittllp.com
ehc@dewittllp.com
jtm@dewittllp.com