

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,
Petitioner,

v.

PARUS HOLDINGS, INC.,
Patent Owner.

IPR2022-00358
Patent 7,881,941 B2

Before DAVID C. McKONE, PATRICK M. BOUCHER, and
STACEY G. WHITE, *Administrative Patent Judges*.

BOUCHER, *Administrative Patent Judge*.

JUDGMENT
Final Written Decision
Determining All Challenged Claims Unpatentable
35 U.S.C. § 318(a)

In response to a Petition (Paper 1, “Pet.”) filed by Google LLC (“Petitioner”), we instituted an *inter partes* review of claims 1–15 of U.S. Patent No. 7,881,941 B2 (Ex. 1001, “the ’941 patent”). Paper 7 (“Dec.”). During the trial, Parus Holdings, Inc. (“Patent Owner”) filed a Response

(Paper 12, “PO Resp.”), to which Petitioner filed a Reply (Paper 18, “Reply”) and Patent Owner filed a Sur-reply (Paper 21, “Sur-reply”). An oral hearing was held with the parties, and a copy of the transcript was entered into the record. Paper 30 (“Tr.”).

We have jurisdiction under 35 U.S.C. § 6. This Decision is a Final Written Decision under 35 U.S.C. § 318(a) as to the patentability of the claims on which we instituted trial. Based on the record before us, Petitioner has shown, by a preponderance of the evidence, that claims 1–15 are unpatentable.

I. BACKGROUND

A. The '941 Patent

The '941 patent relates to a “system that allows users to browse web sites and retrieve information by using conversational voice commands.” Ex. 1001, 1:24–27. Figure 1 of the '941 patent is reproduced below.

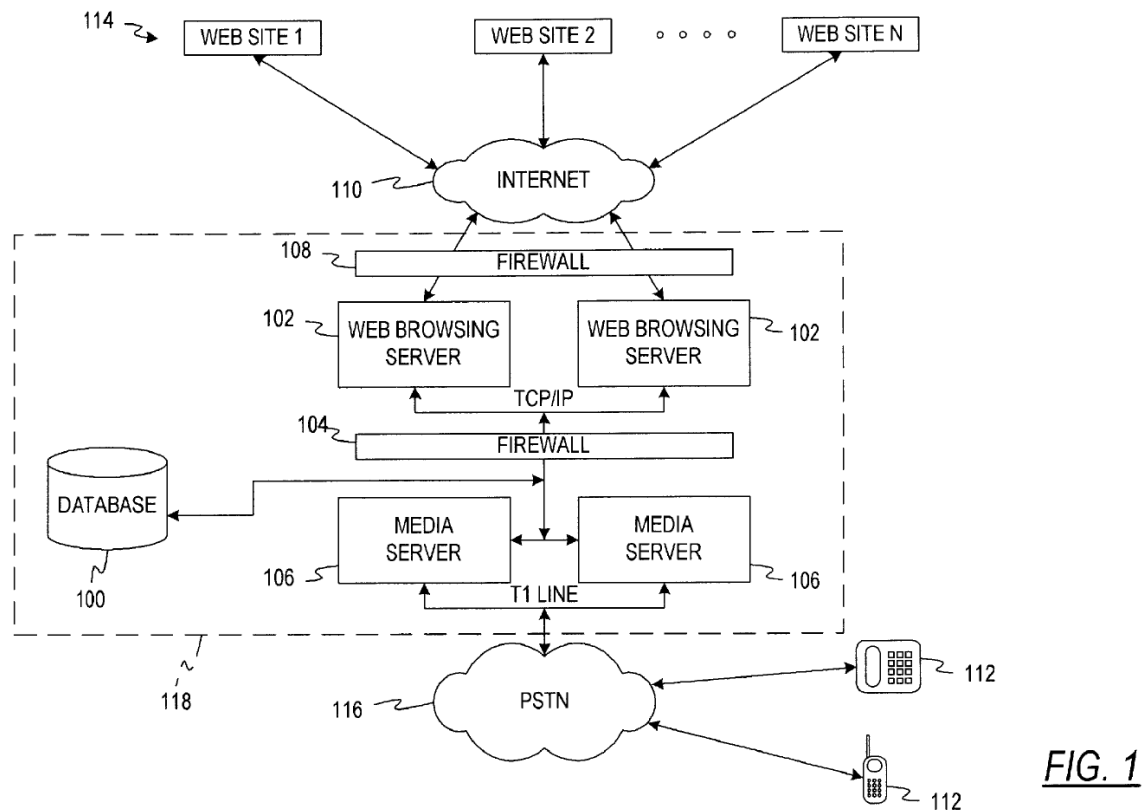


Figure 1 is a block diagram depicting a “voice browsing system.” *Id.* at 4:14–15. The system includes database 100 connected to web browsing servers 102 and media servers 106. *Id.* at 4:62–65. Web browsing servers 102 provide access to a network like Internet 110, via which web sites 114 may be accessed. *Id.* at 6:59–65.

Voice commands may be provided by a user to voice-browsing system 118 using public switched telephone network (“PSTN”) 116 and establishing a connection between the user’s voice enabled device 112 and media server 106. *Id.* at 15:23–28. Once the connection is established, media server 106 initiates an interactive voice response application that presents the user with a list of options based on the available web-site categories, from which the user makes selections by speaking into voice enabled device 112. *Id.* at 15:28–36. The user’s speech commands are

converted into data messages that are sent to a “network interface system,” such as a “web browsing server” that “then accesses the appropriate information source, such as a web site, to gather information requested by the user.” *Id.* at 4:51–56.

“A preferred embodiment of the voice browser system and method uses a web site polling and ranking methodology that allows the system to detect changes in web sites and adapt to those changes in real-time.” *Id.* at 3:56–59. Thus, database 100 contains a separate set of records for each web site accessible by the system, with each web site record containing (1) a “rank number” of the web site, (2) the associated uniform resource locator (“URL”) for the web site, (3) a timestamp indicating the last time the web site was accessed, and (4) a command that enables format-specific communication with the web site. *Id.* at 5:1–10. In addition, database 100 categorizes each database record according to the “type” (and perhaps subtype) of information provided by each web site, such as “weather” or “stock” information. *Id.* at 5:10–27. In responding to a user voice command, media server 106 uses recognition results generated by a speech-recognition engine to retrieve a web site record from database 100 that can provide responsive information, particularly the highest-ranked web site record in the appropriate category. *Id.* at 6:39–50.

A “polling mechanism continually polls or ‘pings’ each of the sites listed in the database 100.” *Id.* at 16:40–51. Web browsing server 102 sends brief data requests to each site listed in database 100 and monitors the response to determine whether it is complete and in the expected format. *Id.* at 16:42–48. Polled web sites that provide a complete response in the expected format “have their ranking established based on their ‘response

time” so that web sites with faster response times are ranked higher than those with slower response times. *Id.* at 16:48–53. “If the web browsing server 102 receives no response from the polled web site or if the response received is not in the expected format, then the rank of that web site is lowered.” *Id.* at 16:53–56.

B. Illustrative Claim

Challenged independent claim 1 recites a method, with claims 2–8 dependent therefrom, and challenged independent claim 9 recites a corresponding system, with claims 10–15 depending therefrom. Claim 1 is reproduced below as representative.

1. A method for retrieving information from pre-selected web sites by uttering speech commands into a voice enabled device and for providing to users retrieved information in an audio form via said voice enabled device, said method comprising the steps of:

providing a computer operatively connected to the internet, said computer further being operatively connected to at least one speaker-independent speech recognition engine and to at least one speech synthesis engine;

providing a voice enabled device operatively connected to said computer, said voice enabled device configured to receive speech commands from users;

providing at least one instruction set stored in a database operatively connected to said computer, said instruction set comprising:

a plurality of pre-selected web site addresses, each said web site address identifying a web site containing said information to be retrieved;

providing a speech command to said speaker-independent speech recognition engine, said speech command corresponding to said instruction set;

said speaker-independent speech recognition engine assigning said speech command to a recognition grammar, said speech command and said recognition grammar corresponding to said instruction set;

transmitting said speech command to said speaker-independent speech recognition engine;

said speaker-independent speech recognition engine receiving said speech command and selecting the corresponding recognition grammar upon receiving said speech command;

said computer retrieving said instruction set corresponding to said recognition grammar selected by said speaker-independent speech recognition engine;

said computer accessing at least one of said plurality of web sites identified by said instruction set to obtain said information to be retrieved, said computer first accessing said first web site of said plurality of web sites and, if said information to be retrieved is not found at said first web site, said computer sequentially accessing said plurality of web sites until said information to be retrieved is found or until said plurality of web sites has been accessed;

said speech synthesis engine producing an audio message containing any retrieved information from said pre-selected web sites; and

said speech synthesis engine transmitting said audio message to said users via said voice enabled device.

Id. at 19:30–20:10.

C. Evidence

Petitioner relies on the following references:

Kovatch	WO 01/50453 A2	July 12, 2001	Ex. 1004
Burrows	US 5,765,149	June 9, 1998	Ex. 1006
Wise	US 5,884,262	Mar. 16, 1999	Ex. 1007
Neal	US 6,324,534	Nov. 27, 2001	Ex. 1010
Shaffer	US 5,950,165	Sept. 7, 1999	Ex. 1011

In addition, Petitioner relies on Declarations by Stuart J. Lipoff, P.E. Exs. 1002, 1050. Mr. Lipoff was cross-examined by Patent Owner, and a transcript of his deposition was entered into the record. Ex. 2061. Patent Owner relies on a Declaration by Randy Winters. Ex. 2063. Mr. Winters was cross-examined by Petitioner, and a transcript of his deposition was entered into the record. Ex. 1052.¹

D. Instituted Grounds of Unpatentability

We instituted review of claims 1–15 on the following grounds.
Dec. 8, 46; *see* Pet. 1–2.

Claim(s) Challenged	35 U.S.C. §²	References
1–5, 9, 10, 13, 14	103(a)	Kovatch, Neal
6–8, 11, 12, 15	103(a)	Kovatch, Neal, Burrows
1, 2	103(a)	Wise, Shaffer
3–15	103(a)	Wise, Shaffer, Burrows

¹ The parties also filed evidence related to Patent Owner’s arguments for antedating Kovatch. This includes Declarations by Hal Poel and Alex Kurganov, filed by Patent Owner, Exs. 2043, 2052; cross-examination testimony of Messrs. Poel and Kurganov, filed by Petitioner, Exs. 1051, 1053; a Declaration by Martin G. Walker, Ph.D., filed by Petitioner, Ex. 1048; and cross-examination testimony of Dr. Walker, filed by Patent Owner, Ex. 2065. As we explain below, we do not reach Patent Owner’s antedating arguments, and therefore do not consider this additional testimonial evidence in detail.

² The Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112-29, 125 Stat. 284, 287–88 (2011), amended 35 U.S.C § 103(a). The ’941 patent was filed on February 13, 2008, and claims the benefit of the filing date, through a series of continuation applications, of February 5, 2001, as well as the benefit of even earlier provisional applications. Ex. 1001 at codes (22), (60), (63). We accordingly apply the pre-AIA version of § 103(a) herein.

E. Real Parties in Interest

The parties identify only themselves as real parties in interest. Pet. 14 (as numbered for introductory material); Paper 4, 2.

F. Related Matters

Both parties identify *Parus Holdings, Inc. v. Google, LLC*, No. 5:22-cv-7830 (N.D. Cal.) (formerly 6:21-cv-00571 (W.D. Tex.)) as a related matter. Pet. 14 (as numbered for introductory material); Paper 4, 2; Paper 29, 1. Petitioner additionally identifies the following district court matters (all of which have been dismissed) as related: (1) *Parus Holdings, Inc. v. Microsoft Corp.*, No. 2:22-cv-1700 (W.D. Wash.) (formerly 6:21-cv-00570 (W.D. Tex.)); (2) *Parus Holdings, Inc. v. Apple Inc.*, No. 3:22-cv-07514 (N.D. Cal.) (formerly 6:21-cv-00968 (W.D. Tex.)); and (3) *Parus Holdings, Inc. v. Samsung Electronics America, Inc.*, No. 6:21-cv-01073 (W.D. Tex.). Pet. 14 (as numbered for introductory material); Paper 29, 1.

Petitioner additionally identifies the following *inter partes* reviews as involving patents related to the '941 patent: IPR2020-00686, IPR2020-00687, IPR2020-00846, IPR2020-00847, IPR2022-00137, IPR2022-00279, IPR2022-00355; IPR2022-00523. Pet. 14–16 (as numbered for introductory material); Paper 29, 2–3.

II. ANALYSIS

A. Legal Principles

A claim is unpatentable for obviousness under 35 U.S.C. § 103(a) 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 skill in the art; and (4) when in evidence, objective indicia of nonobviousness, i.e., secondary considerations.³ *Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966).

Additionally, the obviousness inquiry typically requires an analysis of “whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue.” *KSR*, 550 U.S. at 418 (citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006) (requiring “articulated reasoning with some rational underpinning to support the legal conclusion of obviousness”)); see *In re Warsaw Orthopedic, Inc.*, 832 F.3d 1327, 1333 (Fed. Cir. 2016) (citing *DyStar Textilfarben GmbH & Co. Deutschland KG v. C.H. Patrick Co.*, 464 F.3d 1356, 1360 (Fed. Cir. 2006)).

B. Level of Ordinary Skill in the Art

In determining whether an invention would have been obvious at the time it was made, we consider the level of ordinary skill in the pertinent art at the time of the invention. *Graham*, 383 U.S. at 17. “The importance of resolving the level of ordinary skill in the art lies in the necessity of maintaining objectivity in the obviousness inquiry.” *Ryko Mfg. Co. v. Nu-Star, Inc.*, 950 F.2d 714, 718 (Fed. Cir. 1991). The “person of ordinary

³ The parties do not address objective indicia of nonobviousness, which accordingly do not form part of our analysis.

skill in the art” is a hypothetical construct, from whose vantage point obviousness is assessed. *In re Rouffet*, 149 F.3d 1350, 1357 (Fed. Cir. 1998). “This legal construct is akin to the ‘reasonable person’ used as a reference in negligence determinations” and “also presumes that all prior art references in the field of the invention are available to this hypothetical skilled artisan.” *Id.* (citing *In re Carlson*, 983 F.2d 1032, 1038 (Fed. Cir. 1992)).

Petitioner proposes that a person of ordinary skill in the art “would have had a Bachelor’s degree in electrical engineering, computer science or a related field, and at least two years of experience with voice interfaces and information processing.” Pet. 4–5. Petitioner adds that “[m]ore education could substitute for less experience, and vice versa.” *Id.* Mr. Lipoff supports this articulation, and neither Patent Owner nor Mr. Winters proposes any different articulation. *See* Ex. 1002 ¶ 74; Ex. 2063 ¶ 41 (Mr. Winters stating factors considered in defining a person of ordinary skill in the art, without stating the education or experience held by such a person).

Because we find Petitioner’s proposal reasonable, uncontroverted, consistent with the level of skill reflected by the prior art, and supported by Mr. Lipoff’s testimony, we adopt it for purposes of this Decision. *See Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001) (the prior art may reflect an appropriate level of skill in the art).

C. Claim Construction

The Board uses “the same claim construction standard that would be used to construe the claim in a civil action under 35 U.S.C. 282(b), including construing the claim in accordance with the ordinary and customary

meaning of such 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) (2019); *see Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–13 (Fed. Cir. 2005) (en banc). Neither party proposes any express construction of any term. Pet. 5 (“Petitioner does not believe that any express constructions are necessary to resolve the invalidity issues presented in this petition”); PO Resp. 1 (“Patent Owner believes that claim construction is unnecessary and all terms of the Challenged Claims should be given their plain and ordinary meanings.”).

On the record before us, we do not find it necessary to construe any term for purposes of this Decision. *See Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017) (“[W]e need only construe terms ‘that are in controversy, and only to the extent necessary to resolve the controversy.’” (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999))).

D. Challenges Based on Wise and Shaffer

Petitioner challenges claims 1 and 2 as unpatentable under 35 U.S.C. § 103(a) over Wise and Shaffer; and challenges claims 3–15 as unpatentable under 35 U.S.C. § 103(a) over Wise, Shaffer, and Burrows. Pet. 40–66.

1. Overview of the Prior Art

a. Wise

Wise “relates to accessing information from a computer network via a telephone . . . or other audio device.” Ex. 1007, 1:6–9. Figure 2 of Wise is reproduced below.

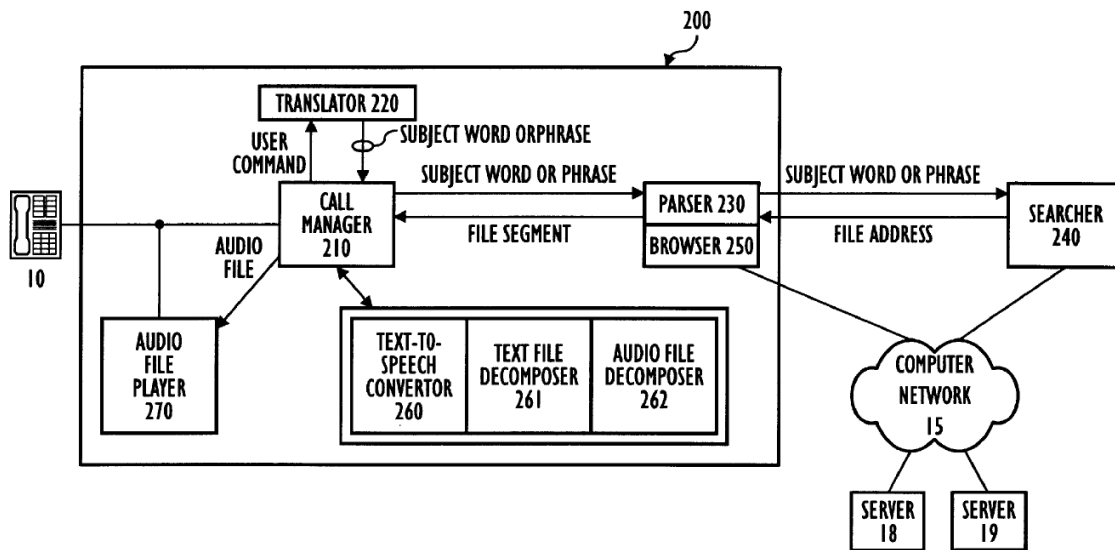


FIG. 2

Figure 2 is a block diagram illustrating a system architecture in which telephone 10 is connected via a telephone line to system 200, which is connected through computer network 15 to various servers 18, 19. *Id.* at 3:55–58, 5:38–45. Network 15 may be the Internet, and servers 18, 19 may be web servers. *Id.* at 3:55–58. User voice commands from telephone 10 may be captured by Call Manager 210 and translated by a speech-to-text engine embodied by translator 220. *Id.* at 6:14–30. “Generally, the system will attempt to interpret the user command and then attempt to navigate based on the command.” *Id.* at 6:31–33.

A subject word or phrase derived from the user command is passed to Call Manager 210, which routes the information to Parser 230, which may send the subject word or phrase to Searcher 240 to find addresses of files on target computer network 15. *Id.* at 6:33–46. Parser 230 passes an address to Browser 250, which establishes a connection to appropriate server 18 through network 15 so that Browser 250 may download a requested file to be returned to Parser 230. *Id.* at 7:7–13. Parser 230 dynamically analyzes

the structure and contents of the downloaded file, and passes the structure type and associated text or audio content to Call Manager 210, which routes it for creation of an audio file to be played by audio file player 270. *Id.* at 7:13–37.

Wise describes how “a network search engine may be provided to investigate documents located on a relatively unconstrained network such as the World Wide Web in order to locate documents which are highly compatible with audio presentation of even documents which are specifically labeled to be compatible.” *Id.* at 9:56–61. To do so, the search engine may be a “worm type searcher or other robotic search engine,” allowing the document search to be automated “along with the process of indexing such documents.” *Id.* at 9:61–66. Parser 230 and Call Manager 210 may interrogate found documents to determine whether they reach a threshold level of audio compatibility. *Id.* at 10:2–6. Compatible documents may be indexed, with the index “stored as one or more documents preferably in a hierarchical order.” *Id.* at 10:7–9. “The user may use the navigation commands to traverse the index and invoke a link to a source document.” *Id.* at 10:9–10.

b. Shaffer

Shaffer “relates to methods and systems for using directory assistance inquiries,” particularly with “voice navigation through queued options using voice response units.” Ex. 1011, 1:8–11. Figure 5 of Shaffer is reproduced below.

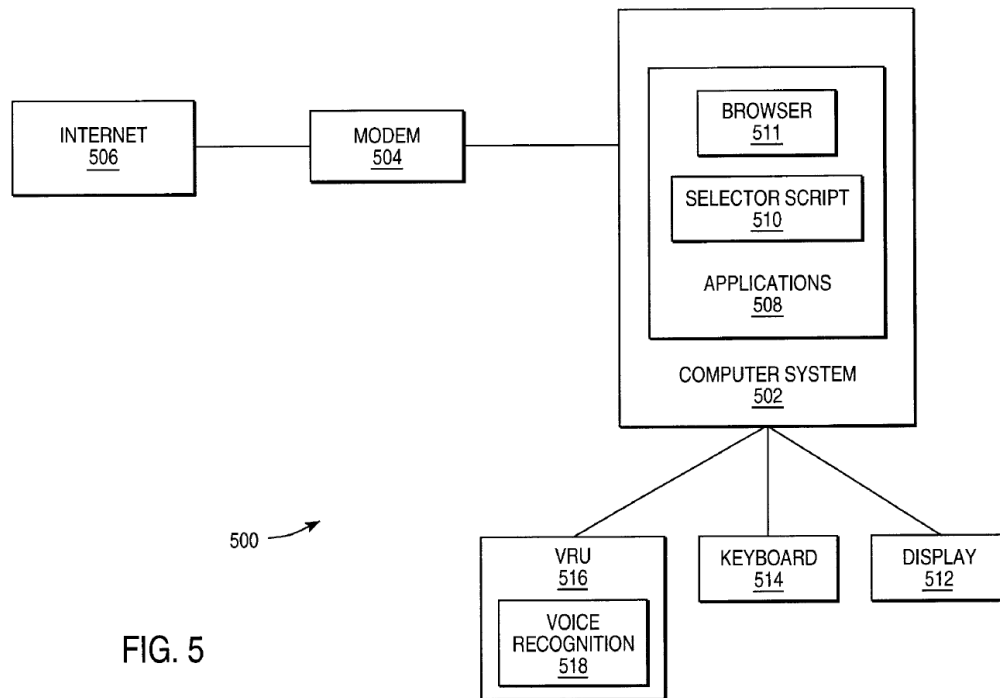


FIG. 5

Figure 5 is a block diagram illustrating a system for use on the Internet. *Id.* at 2:4–5, 5:26. Computer system 502 connects via modem 504 to Internet 506, and runs applications 508 that include selector script 510 and browser 511. *Id.* at 5:27–29. Computer system 502 also connects to display 512, keyboard 514, and voice response unit 516, which includes voice recognition unit 518. *Id.* at 5:30–32.

Shaffer explains that, when a “user inquires about web sites,” such as with a “voice search request” or “saved from a previous session,” browser 511 supplies a list of sites that can be recited or displayed on display 512. *Id.* at 5:34–39. After an opportunity to pare the list, the system proceeds through the list, providing the user with an opportunity to visit each site. *Id.* at 5:39–6:29 (“[T]he method . . . inquires of the user . . . whether he wishes to visit the next site”). At each substep, the user is asked whether he is satisfied and, if not, whether the user wishes to visit the next site on the list. *Id.* at 6:6–12. This is repeated as the user proceeds through the list,

until the user is satisfied or the end of the list is reached. *Id.* at 6:3–6, 6:25–29.

c. Burrows

Burrows relates to “ranking records of a database which have been located by searching an index to the database, and more particularly to ranking the records for presentation based on the content of the records.” Ex. 1006, 1:5–8. Burrows particularly describes applications in which the database records are Internet web pages and in which a search engine identifies pages of interest. *Id.* at 3:29–44, 56–61. Because of the large number of web pages that can be qualified by search queries, Burrows expresses a “desire[] to present search results in a usable manner so that users are not burdened with perusing all qualifying records.” *Id.* at 1:47–49.

Figure 2 of Burrows is reproduced below.

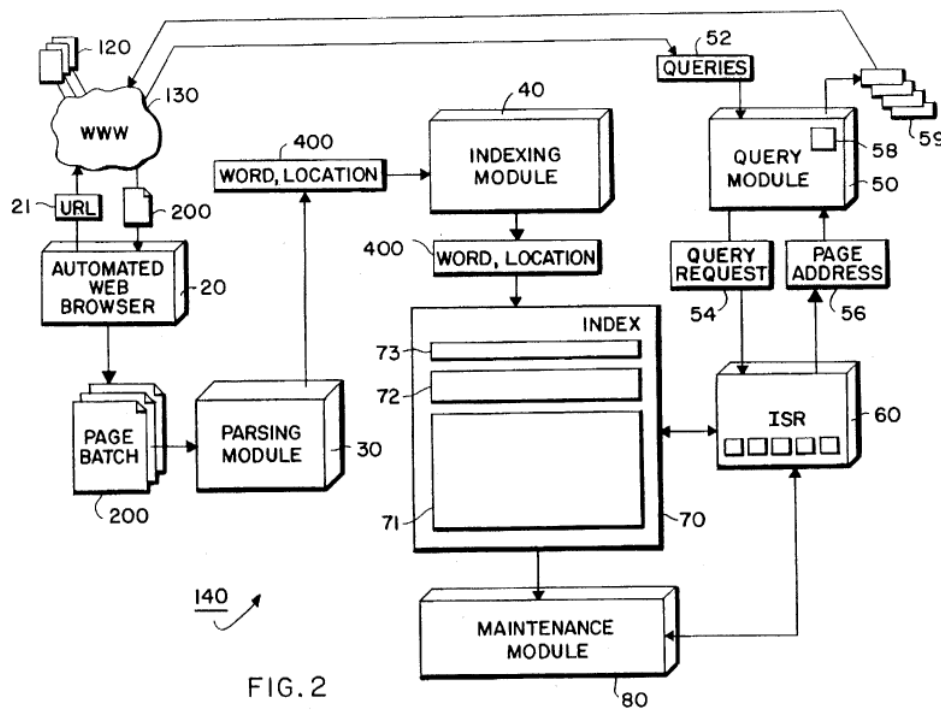


Figure 2 is a block diagram of a search engine, including an index. *Id.* at 2:27–28. Search engine 140 includes automated web browser 20, parsing module 30, indexing module 40, query module 50, index stream readers 60, index 70, and maintenance module 80. *Id.* at 4:9–13. Automatic web browser 20 periodically sends out requests 21 over network 130 so that sites 120 return records or pages 200. *Id.* at 4:16–20. Parsing module 30 breaks down portions of information of pages 200 into fundamental indexable elements or atomic pairs 400. *Id.* at 4:31–33. Indexing module 50 sorts pairs 400 to generate index 70. *Id.* at 4:46–48.

Query module 50 analyzes queries 52 provided by users to generate query requests 54, which invoke index stream readers 60 to sequentially scan data structures 71–73 within index 70. *Id.* at 5:15–16, 5:25–31. Addresses 56 of pages qualified by the queries are thereby identified so that information 59 about the qualifying pages may be delivered to users by presentation module 58. *Id.* at 5:32–35.

Because the number of pages indexed by search engine 140 may be large, “there needs to be a way to rank order the list in a meaningful manner.” *Id.* at 27:23–29. Ranking may be performed by assigning a weight w to each indexed word, with a score W for a page being equal to the sum of the weight w for each occurrence of a word specified in the query (or absence of the word if an exclusionary query was used). *Id.* at 27:35–39. Figure 22 of Burrows is reproduced below.

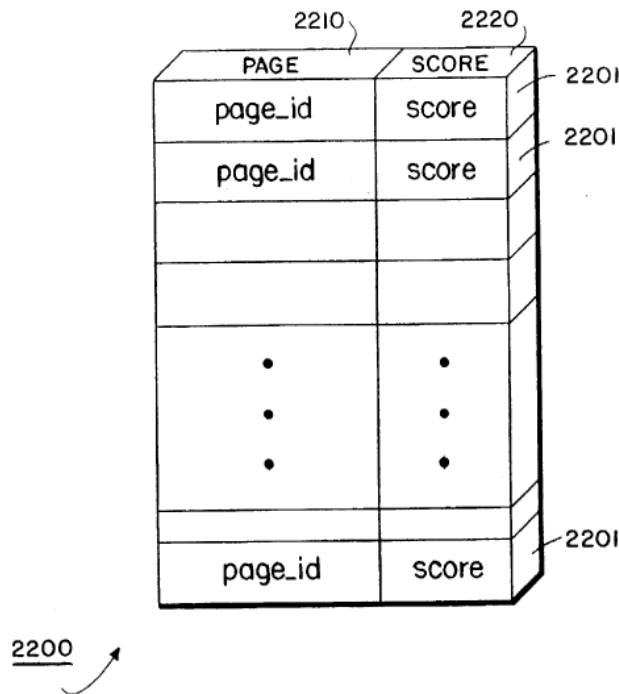


Figure 22 is a block diagram that illustrates a ranking list of qualified pages, with each entry 2201 including identification 2210 of a qualified page and score 2220 associated with that qualified page. *Id.* at 2:66, 28:19–24. Entries 2201 are maintained in rank order according to scores 2220.

2. Summary of Challenges

Petitioner’s challenges on these grounds rely primarily on Wise, which Petitioner characterizes as disclosing a “system [that] accesses websites to retrieve user-requested information.” *Id.* at 42. Nevertheless, Petitioner acknowledges that Wise “does not disclose sequentially/ subsequently accessing websites until information is found,” and relies on Shaffer for limitations related to such a feature. *Id.* Petitioner also acknowledges that the combination of Wise and Shaffer “does not explicitly disclose adjusting ranking and polling,” which are features related to limitations of all claims except claims 1 and 2. *Id.* at 58; *see* Ex. 1001,

19:30–22:28 (claims of the '941 patent). For such features, Petitioner further relies on Burrows, which Petitioner describes as “disclos[ing] polling.” Pet. 58.

With respect to combining the teachings of Shaffer with those of Wise, Petitioner specifically contends that an ordinarily skilled artisan “would have been motivated to apply Shaffer’s sequential search technique when retrieving information from websites in Wise’s ranked index, to maximize the likelihood of finding the desired information and efficiently use computing resources by searching in the most likely sources first.” *Id.* at 44–45 (citing Ex. 1002 ¶ 214). With respect to further adding the teachings of Burrows to such a combined system, Petitioner contends that such an ordinarily skilled artisan “would have found it obvious to apply Burrows’s teachings of presenting ‘higher rank[ed]’ pages to the user first, adjusting rank, and periodically polling websites to check for updated information to Wise/Shaffer’s sequentially searched index to better identify and keep updated the records of the most interest to the user.” *Id.* at 59 (citing Ex. 1006, 1:47–49, 3:56–58, 27:22–32; Ex. 1002 ¶ 251). Petitioner supports its reasoning for effecting the combination of teachings of Shaffer with those of Wise, and for further effecting the combination of teachings of Burrows with the Wise-Shaffer combination, with Mr. Lipoff’s testimony. Ex. 1002 ¶¶ 214, 251. That reasoning is supported with rational underpinning, and is not disputed by Patent Owner. We accordingly determine that Petitioner sets forth sufficient rationale to support the combinations underlying its analysis of each of the challenged claims.

3. *Independent Claim 1*

Petitioner provides an element-by-element analysis to support its contention that independent claim 1 is unpatentable under 35 U.S.C. § 103(a) over Wise and Shaffer, and supports that analysis with Mr. Lipoff's testimony. Pet. 45–57; Ex. 1002 ¶¶ 216–245. Petitioner relies on Wise's architecture, particularly its speech-to-text and text-to-speech converters, and its ability to receive audio commands from users and to retrieve information from web sites that can be provided as audio responses to those commands. *See generally* Pet. 45–57. As part of that analysis, Petitioner relies on Mr. Lipoff's testimony that a person of ordinary skill in the art “would have understood that Wise teaches assigning a speech command to a recognition grammar because it determines what the user is saying based on a received command, recognizes that it applies to one of the many potential grammars, and assigns the corresponding entry in the recognition grammar database to the command.” *Id.* at 52 (citing Ex. 1002 ¶ 233). To address the claim's requirements for sequentially accessing web sites until the information to be retrieved is found, Petitioner relies on Shaffer's disclosure of sequential access of multiple web sites. *Id.* at 55–56. For these requirements, Petitioner also relies on Mr. Lipoff's testimony to support its position that a person of ordinary skill in the art would have been motivated to combine the teachings of Wise and Shaffer in a manner that meets the corresponding limitations. *Id.* (citing Ex. 1002 ¶ 243).

Patent Owner disputes two aspects of Petitioner's analysis, which we address in detail below.

a. “*pre-selected web sites*” and “*pre-selected web site addresses*”

The preamble of independent claim 1 recites “[a] method for retrieving information from *pre-selected web sites* by uttering speech commands into a voice enabled device and for providing to users retrieved information in an audio form via said voice enabled device.” Ex. 1001, 19:30–33 (emphasis added). And the body of the claim further recites “*a plurality of pre-selected web site addresses*, each said web site address identifying a web site containing information to be retrieved.” *Id.* at 19:45–47 (emphasis added). The parties’ dispute, for both the preamble recitation and the body limitation, is whether Wise discloses a plurality of preselected web sites (or web site addresses) from which the recited information is retrieved. *See* Pet. 45–46, 51; PO Resp. 74–77; Reply 2–6; Sur-reply 1–4.

The parties broadly agree on the relevant functionality of Wise. *See* Reply 2 (Petitioner summarizing areas of agreement). Specifically, Wise has two modes for website retrieval, one that relies on memory storage and one that relies on searching:

Generally, the system will attempt to interpret the user command and then attempt to navigate based on the command. Once the numeric, alphanumeric, or voice command information from the telephone 10 is translated, the subject word or phrase is passed to the Call Manager 210. At this point, the user may choose to invoke a search for related file addresses on the computer network. Otherwise, a predetermined audio-compatible address is selected by the system. The Call Manager 210 then routes this information to the Parser 230, which is a sophisticated software program. The Parser may either match a predetermined file address, stored in memory, to the subject word or phrase or send the subject word or phrase to Searcher 240, which could be a computer program such as LycosTM or Web CrawlerTM, to find addresses of files

on a target computer network 15 relating to the subject word or phrase.

Ex. 1007, 6:31–46 (emphasis added). According to Patent Owner, in the first mode (memory storage), “Wise discloses a clear **one-to-one relationship** between a subject word or phrase (speech command) and a predetermined file address.” PO Resp. 75 (citing Ex. 2063 ¶ 306). Patent Owner’s expert, Mr. Winters, similarly asserts that such a one-to-one relationship is “clear.” Ex. 2063 ¶ 306. We do not find Wise’s disclosure to be clearly limited to such a one-to-one relationship, and neither Patent Owner nor Mr. Winters elaborates on how their inference is “clear.” *See* 37 C.F.R. § 42.65(a) (“Expert testimony that does not disclose the underlying facts or data on which the opinion is based is entitled to little or no weight.”).

Petitioner disagrees that Wise’s first mode is limited to a one-to-one relationship between the speech command and a predetermined file address, and points to multiple pieces of evidence to support its position. In particular, Petitioner notes that Wise’s claim 8 explicitly uses the plural in reciting “a computer memory connected to the parser for storing predetermined file addresses.” Pet. 51; Reply 3; Ex. 1007, 10:66–11:2. According to Petitioner, “Wise thus plainly discloses that there may be more than one predetermined website address in the Parser.” Reply 3. Mr. Lipoff’s direct testimony supports this understanding of Wise. Ex. 1002 ¶ 230 (“Wise’s disclosures indicate that a plurality of predetermined web addresses are stored and ranked in the system.”). In addition, Petitioner directs our attention to Patent Owner’s statement in another *inter partes*

review involving Wise that “Wise does disclose predetermined file addresses stored in a computer memory that is connected to the Parser.” *Id.*; Ex. 1054, 33.

Patent Owner counters that Petitioner’s argument “is made in isolation from the other claim limitations of Claims 1 and 9 [of the ’941 patent].”

Sur-reply 1. According to Patent Owner, “[w]hen considering Claims 1 and 9 [of the ’941 patent] in full, each one of the websites identified by each address in the ‘plurality of pre-selected web site addresses’ is identified by an instruction set **as a site that includes the information of interest.**” *Id.*

Patent Owner elaborates that claims 1 and 9 of the ’941 patent require accessing web sites until it is determined that “said information to be retrieved” is found, such that “each of the websites may be accessed to obtain the **same** ‘said information to be retrieved.’” *Id.* at 2. Although we agree with this characterization of the ’941 patent’s independent claims, we disagree with Patent Owner’s assertion that Petitioner’s reliance on Wise’s claim 8 “fails to consider these aspects, and indeed the full scope, of Claims 1 and 9 and instead considers only specific elements in isolation.” *See id.* at 3.

Petitioner’s reliance on Wise’s claim 8 bears specifically on Petitioner’s contention that Wise “plainly discloses that there may be more than one predetermined website address in the Parser,” and is not inconsistent with Patent Owner’s characterization of the ’941 patent’s independent claims. *See Reply 3.* Petitioner’s position is directly contrary to Patent Owner’s regarding Wise’s disclosure, and Petitioner relies on Wise’s claim 8 to support its position. *See Sur-reply 3* (Patent Owner

reiterating its presumption that “Wise discloses a one-to-one match between a ‘subject word or phrase’ and a file address”).

Mr. Lipoff’s testimony is instructive on this point. Mr. Lipoff described Wise’s functionality on cross-examination as storing websites previously found by the searcher as “preselected websites” in local memory. *See* Ex. 2061, 147:18–148:19.⁴ According to Mr. Lipoff, this allows Wise’s system to attempt to select one of such preselected websites from local memory with its first mode. *Id.* at 147:18–148:1 (“So the capability within Wise that’s disclosed where I point to a [*sic*] preselected websites which are stored, would be in the memory of the parser without a need to invoke going to the search, which would return websites, but the preselected ones would be stored in the memory of the parser.”).

Patent Owner discounts Petitioner’s position as an attempt to “blend” Wise’s first and second modes using hindsight, and seeks to capitalize on a statement by Mr. Lipoff during cross-examination that Patent Owner characterizes as “Mr. Lipoff stat[ing] that he only relies on the Wise option 1 and **does not rely** on the Wise option 2 (the index search).” PO Resp. 76–77; *see* Ex. 2061, 144:17–145:5 (Mr. Lipoff testifying: “No. I -- I would not agree, because you’re talking about a part of the Wise embodiment that I did not rely upon. The Wise embodiment, as described in the text, but I’ll refer to figure 2, includes two different places in which web addresses could reside. And what I’m relying upon is a disclosure in Wise that the parser has

⁴ Mr. Lipoff added that “it’s not clear that that’s the only way in which the preselected websites may get in the parser,” but speculative alternative ways of adding preselected websites to local memory are not germane to the issues before us. *See* Ex. 2061, 148:7–9.

memory that can have a list of a [*sic*] web addresses, not relying upon anything that happens between box 200 in figure 2 and the searcher.”).

We have reviewed Mr. Lipoff’s deposition testimony, and do not find that Mr. Lipoff recanted his direct-testimony reliance on both of Wise’s modes in forming his opinions. Rather, we agree with Petitioner that Mr. Lipoff’s testimony “is that, how the preselected websites are stored into the Parser memory in the first place, whether from the Searcher or otherwise, is not important to his opinion regarding Wise’s teachings of ‘preselected websites.’” Reply 5 (citing Ex. 1007, 5:32–33; Ex. 1050 ¶¶ 9–10). Furthermore, Mr. Lipoff clarified his opinions in a Reply Declaration that Patent Owner declined to cross-examine. Ex. 1050 ¶¶ 7–11 (Mr. Lipoff testifying to Wise’s functionality); Tr. 43:5–18 (Patent Owner’s counsel confirming at oral argument that Patent Owner did not cross-examine Mr. Lipoff on his Reply Declaration).

Weighing the evidence, we determine that Petitioner sufficiently shows that Wise discloses, through at least its first mode (memory storage), “[a] method for retrieving information from pre-selected web sites by uttering speech commands into a voice enabled device and for providing to users retrieved information in an audio form via said voice enabled device,” as recited in the preamble of independent claim 1. *See* Pet. 45–46; Ex. 1001, 19:30–33. Because we determine that Petitioner sufficiently shows that Wise meets the preamble recitation, we need not determine whether the preamble is limiting. We also determine that Petitioner sufficiently shows that Wise discloses, through at least its first mode (memory storage), “a plurality of pre-selected web site addresses, each said web site address

identifying a web site containing said information to be retrieved,” as recited in the body of independent claim 1. *See* Pet. 51; Ex. 1001, 19:45–47.

b. Sequential Access

Independent claim 1 recites

said computer accessing at least one of said plurality of web sites identified by said instruction set to obtain said information to be retrieved, said computer first accessing said first web site of said plurality of web sites and, if said information to be retrieved is not found at said first web site, said computer sequentially accessing said plurality of web sites until said information to be retrieved is found or until said plurality of web sites has been accessed.

Ex. 1001, 19:64–20:5. For this “sequential access” limitation, Petitioner relies on Shaffer’s disclosure of sequentially accessing websites according to a list, until a user is satisfied with what has been returned or the list is exhausted. Pet. 55–56. Supported by Mr. Lipoff’s testimony, Petitioner reasons that a person of ordinary skill in the art would combine Shaffer’s sequential access technique with Wise’s system “because it would have been beneficial to maximize the likelihood of finding the desired information more quickly and efficiently use computing resources, by searching in the most likely sources first, and proceeding through Wise’s index list until the user is satisfied or the list is exhausted.” *Id.* at 56 (citing Ex. 1002 ¶ 243).

Patent Owner does not specifically dispute Petitioner’s reasons for effecting the combination of teachings from Wise and Shaffer, which we find sufficiently articulated and supported; instead, Patent Owner contends that the combination does not meet the sequential access limitation. *See* PO Resp. 78 (“Assuming, *arguendo*, this is a combination a [person of

ordinary skill in the art] would consider, this combination does not disclose this claim limitation.”). Patent Owner makes two points in this respect.

First, Patent Owner reiterates its contention, addressed above, that “Mr. Lipoff expressly **does not rely** on the Wise search index (option 1) for his opinion of the Wise disclosure of a plurality of websites.” PO Resp. 78. For the reasons we discuss in the preceding subsection, we agree with Petitioner that Patent Owner’s argument relies on “a misinterpretation of out-of-context deposition testimony.” Reply 6. As Petitioner adds, Wise discloses that an “index may be stored as one or more documents preferably in a hierarchical order” and “[t]he user may use the navigation commands to traverse the index and invoke a link to a source document.” *Id.* at 8; Ex. 1007, 10:7–10.

Second, Patent Owner takes the position that the claim language precludes user interaction or instructions during the process of the sequential search. *See* PO Resp. 80. But Patent Owner provides insufficient evidentiary support for that position, and we agree with Petitioner that Patent Owner’s interpretation invokes a negative limitation that is unsupported by the plain and ordinary meaning of the claim language. *See* Reply 8. “While a negative limitation need not be recited in the specification *in haec verba*, there generally must be something in the specification that conveys to a skilled artisan that the inventor intended the exclusion.” *Novartis Pharm. Corp. v. Accord Healthcare, Inc.*, 38 F.4th 1013, 1017 (Fed. Cir. 2022). In this instance, both parties and both experts agree that the specification of the ’941 patent is silent with respect to user participation during sequential access. PO Resp. 81 (Patent Owner asserting that “[t]he ’941 patent is silent as to the participation of a user in the sequential search process”); Ex. 2063 ¶

315 (Mr. Winters making same assertion); Reply 9 (Petitioner asserting that “[i]mporting a requirement that user interaction is precluded by the claims—a negative limitation, when the specification is wholly silent on it, would impermissibly narrow the scope of the claims, contrary to fundamental principles of claim interpretation”); Ex. 2061, 107:15–22 (Mr. Lipoff agreeing that “there’s no specific mention of the user interacting” in the portion of the specification related to “the sequential search”).⁵

Based on these facts, we find insufficient reason to exclude user interaction from the plain and ordinary meaning of the sequential access limitation. We thus determine that Shaffer—which clearly involves user interaction, *see* Ex. 1011, 6:3–29—meets the limitation. We also determine that Petitioner articulates sufficient reason, supported by rational underpinning, to achieve the combination of teachings it proposes. We accordingly determine that Petitioner makes a sufficient showing for the sequential access limitation.

⁵ In its Sur-reply, Patent Owner asserts that “[a]s discussed in the [Patent Owner Response], the ’941 specification teaches **against** the notion of user interaction in the claim limitations involving sequentially accessing.” Sur-Reply 6 (citing PO Resp. 80–81). We disagree with this characterization of the Patent Owner Response, and treat this assertion as a new argument impermissibly raised for the first time in the Sur-reply. *See* 37 C.F.R. § 42.23(b) (“A sur-reply may only respond to arguments raised in the corresponding reply”). Regardless, even if we considered this argument, we would find it unpersuasive. Based on our independent review of the specification of the ’941 patent, in agreement with both experts, and in agreement with other statements of both parties, we find the specification to be “silent” on user interaction. *See also* Tr. 48:25–49:23 (Patent Owner conceding at oral hearing that the specification “is silent” on this issue).

c. Summary

Petitioner’s element-by-element analysis addresses all aspects of independent claim 1. Upon reviewing the entire record, including the evidence and arguments cited by both Petitioner and Patent Owner, we find Petitioner sufficiently demonstrates how the proposed combination teaches all of the limitations of independent claim 1. We conclude that Petitioner shows, by a preponderance of the evidence, that independent claim 1 is unpatentable under 35 U.S.C. § 103(a) over Wise and Shaffer.

4. Dependent Claim 2

Claim 2 depends from independent claim 1 and recites that “said instruction set further comprises a content descriptor associated with each said web site address, said content descriptor pre-defining a portion of said web site containing said information to be retrieved.” Ex. 1001, 20:11–15. Petitioner challenges claim 2 as unpatentable under 35 U.S.C. § 103(a) over Wise and Shaffer. Pet. 57–58.

For the recited content descriptor, Petitioner points to “Wise[’s] disclos[ure] that ‘documents may contain content which is useful for navigation’ such as ‘tags’ that ‘designat[e] links or portions of a document,’ like a webpage, for the system to ‘attempt to navigate to a location corresponding to a user command and effect any action possible at that location.’” *Id.* at 57 (quoting Ex. 1007, 2:61–66). Mr. Lipoff supports Petitioner’s contention that a person of ordinary skill in the art would have understood that software residing on the server IP uses Wise’s documents with tags to execute the functionality of the recited “content descriptor.” Ex. 1002 ¶ 246; *see* Pet. 58. With this evidence, Petitioner makes a

sufficient showing, and Patent Owner does not dispute these aspects of Petitioner's showing outside of its arguments directed at underlying independent claim 1.

We conclude that Petitioner shows, by a preponderance of the evidence, that dependent claim 2 is unpatentable under 35 U.S.C. § 103(a) over Wise and Shaffer.

5. Dependent Claims 3–5

Claim 3 depends from independent claim 1 and recites that “said instruction set further comprises a ranking from highest to lowest associated with each said web site, said ranking indicating the order in which the plurality of pre-selected web sites are accessed.” Ex. 1001, 20:16–19. Claim 4 depends from claim 3 and adds that “said computer accesses said plurality of web sites based on said ranking, said computer first accessing said web site having the highest ranking.” *Id.* at 20:20–22. Claim 5 depends from claim 4 and further adds “the step of adjusting said rankings associated with said plurality of web sites such that said web site having said information to be retrieved is assigned the highest ranking and any web sites not having said information to be retrieved are assigned lower rankings.” *Id.* at 20:23–28. These three dependent claims are thus directed to features involving ranking of pre-selected web sites, and Petitioner challenges them as unpatentable under 35 U.S.C. § 103(a) over Wise, Shaffer, and Burrows. Pet. 63.

For these ranking features, Petitioner relies on Burrows. *Id.* at 55–56 (claim 4), 60–61 (claim 3), 62 (claim 5), 63 (referring to analysis of similar limitations recited in independent claims 1 or 9). Specifically, for claim 3,

Petitioner reasons that “[a]n obvious implementation of the Wise/Shaffer combination would have been to include a ranking indicating the order in which the websites in Wise’s ordered index are accessed, as Burrows teaches.” *Id.* at 61. For claim 4, Petitioner relies on its analysis of the sequential access limitation discussed above in the context of independent claim 1. *Id.* at 55–56. And for claim 5, Petitioner notes that “Burrows discloses a system for ranking database records (e.g., webpages) that ‘are presented to the users in a rank order where the pages having a higher rank are presented first.’” *Id.* at 62 (citing Ex. 1006, 3:39–33, 27:28–32, 32:14–47). Petitioner supports its analyses of these ranking dependent claims with testimony by Mr. Lipoff, and Patent Owner does not dispute these analyses outside of its arguments directed at underlying independent claim 1. Ex. 1002 ¶¶ 240–243, 258–259, 264–266.

Petitioner’s analyses are sufficient, and we conclude that Petitioner shows, by a preponderance of the evidence, that dependent claims 3–5 are unpatentable under 35 U.S.C. § 103(a) over Wise, Shaffer, and Burrows.

6. Dependent Claims 6 and 7

Claim 6 depends from independent claim 1 and recites the additional “step of periodically polling each said web site to determine whether said web site contains said information to be retrieved.” Ex. 1001, 20:30–32. Claim 7 depends from claim 6 and recites that “the computer periodically polls each said web site without being instructed by said user to determine the availability of each said web site, the duration of time for each said web site to respond to a request from said computer, and changes to the location of said information to be retrieved from each said web site, said computer

creating a ranking of said plurality of web sites based on said periodic polling.” *Id.* at 20:33–40. These claims are thus directed to features involving polling of web sites, and Petitioner challenges both claims as unpatentable under 35 U.S.C. § 103(a) over Wise, Shaffer, and Burrows. Pet. 63–64.

For these polling features, Petitioner relies on Burrows. *Id.* at 34–35 (claim 6), 35–37 (claim 7), 63–64 (referring to discussion of Burrows in analysis of Kovatch-Neal-Burrows combination). In particular, for claim 6, Petitioner points to Burrows’s disclosure of its automated browser periodically sending requests over a network, with sites returning records or pages in response to those requests. *Id.* at 34 (citing Ex. 1006, 4:16–20). Petitioner further observes that Burrows states that “it may periodically be necessary to admit modified or new entries,” and that “[m]odified pages can be handled as a delete and add operation.” *Id.* (quoting Ex. 1006, 5:43–44, 13:43–45). Supported by Mr. Lipoff’s testimony, Petitioner reasons that, in light of these disclosures, a person of ordinary skill in the art would have understood that “Burrows’s automated browser ‘polls’ (checks) websites in the index to determine whether they still contain the information to be retrieved or have been modified such that they do not.” *Id.* at 34–35 (citing Ex. 1002 ¶¶ 190–191).

For claim 7, Petitioner identifies the following functions performed by Burrows, without being instructed by the user: (1) periodically searching the Web to determine whether a previously indexed page is still active, i.e. “determin[ing] the availability of each web site”; (2) using a maintenance module to add and delete information from an index, i.e. “determin[ing] changes to the location of said information to be retrieved from each web

site”; and (3) logging the processing cost of each page, i.e. “determin[ing] the duration of time for each said web site to respond to a request.” *Id.* at 35–37. Petitioner additionally reasons that inactive-page or location-of-information response would impact a ranking hierarchy because they involve “delete and add” operations, such as by decreasing the rank of an inactive website or adjusting the rank of a polled website based on changes to the location of information retrieved from each website. *Id.* at 36. Petitioner supports such reasoning with testimony by Mr. Lipoff. Ex. 1002 ¶¶ 193–196.

Petitioner’s analyses for both claims 6 and 7 are sufficient, and are not disputed by Patent Owner outside of its arguments directed at underlying independent claim 1. We accordingly conclude that Petitioner shows, by a preponderance of the evidence, that dependent claims 6 and 7 are unpatentable under 35 U.S.C. § 103(a) over Wise, Shaffer, and Burrows.

7. Dependent Claim 8

Claim 8 depends from independent claim 1 and recites the additional “step of periodically searching said internet to find new web sites containing said information to be retrieved, and adding said new web sites to said plurality of web sites.” Ex. 1001, 20:41–44. Petitioner challenges claim 8 as unpatentable under 35 U.S.C. § 103(a) over Wise, Shaffer, and Burrows. Pet. 65.

For this feature, Petitioner again relies on Burrows. *Id.* at 37–38, 65 (referring to discussion of Burrows in analysis of Kovatch-Neal-Burrows combination). Again noting that Burrows discloses a maintenance module that may be used to add and delete information, Petitioner reasons that a

person of ordinary skill in the art “would have understood that web crawling to periodically search the Internet to identify new web sites and add them to a listing of websites (or index) was well-known and conventional.” *Id.* at 38. Petitioner supports this reasoning with testimony by Mr. Lipoff, as well as corroborating support from U.S. Patent No. 6,418,433 B1. Ex. 1002 ¶¶ 197–200; Ex. 1032, 1:22–64. Petitioner’s reasoning is sufficient, and is not disputed by Patent Owner outside of its arguments directed at underlying independent claim 1.

We accordingly conclude that Petitioner shows, by a preponderance of the evidence, that claim 8 is unpatentable under 35 U.S.C. § 103(a) over Wise, Shaffer, and Burrows.

8. Independent Claim 9

Independent claim 9 is a system claim that generally parallels the method recited in independent claim 1, but includes additional features that are recited in some of the dependent method claims, i.e. claims 2–. *Compare* Ex. 1001, 20:45–22:8 *with id.* at 19:30–20:28. Petitioner challenges independent claim 9 as unpatentable under 35 U.S.C. § 103(a) over Wise, Shaffer, and Burrows. Pet. 60–63. In doing so, Petitioner relies on the same analysis discussed above for claims 1–5. *Id.* Patent Owner disputes that analysis only for the same reasons discussed above in connection with independent claim 1. *See* PO Resp. 74–81. For the same reasons discussed above in connection with claims 1–5, we determine that Petitioner makes a sufficient showing with respect to all limitations of independent claim 9.

We accordingly conclude that Petitioner shows, by a preponderance of the evidence, that independent claim 9 is unpatentable under 35 U.S.C. § 103(a) over Wise, Shaffer, and Burrows.

9. Dependent Claim 10

Claim 10 depends from independent claim 9 and recites that “said phone comprises a standard telephone, a cellular phone, or an IP phone.” Ex. 1001, 22:9–10. In challenging this claim under 35 U.S.C. § 103(a) over Wise, Shaffer, and Burrows, Petitioner identifies Wise’s disclosure of “[a] standard telephone” that may be connected to its architecture. Pet. 65 (citing Ex. 1007, 3:51–61). Because this clearly meets the limitation, and is not disputed by Patent Owner outside of its arguments directed at underlying independent claim 9, we determine that Petitioner makes a sufficient showing.

We conclude that Petitioner shows, by a preponderance of the evidence, that dependent claim 10 is unpatentable under 35 U.S.C. § 103(a) over Wise, Burrows, and Shaffer.

10. Dependent Claims 11–13

Each of claims 11–13 depends from independent claim 9, respectively reciting that “said internet” is “a local area network,” “a wide area network,” and “the Internet.” Ex. 1001, 22:11–16. Petitioner challenges each of these claims as unpatentable under 35 U.S.C. § 103(a) over Wise, Shaffer, and Burrows. Pet. 65–66.

For these limitations, Petitioner observes that Wise teaches connecting its architecture through “the Internet,” as well as wide-area and local-area

networks, and that Burrows discloses that “other wide or local area networks” may be “used for locating and indexing information.” *Id.* at 65 (citing Ex. 1006, 40–42; Ex. 1007, 3:51–61). Patent Owner does not dispute Petitioner’s analysis outside of its arguments directed at underlying independent claim 9, and we determine that Petitioner makes a sufficient showing for each claim.

We conclude that Petitioner shows, by a preponderance of the evidence, that dependent claims 11–13 are unpatentable under 35 U.S.C. § 103(a) over Wise, Shaffer, and Burrows.

11. Dependent Claims 14 and 15

Claim 14 depends from independent claim 9 and recites that “said computer is configured to establish or adjust said rankings associated with said plurality of web sites when instructed by said user to access said plurality of web sites to retrieve said information.” Ex. 1001, 22:17–20.

Claim 15 depends from independent claim 9 and recites that

said computer is configured to establish or adjust said rankings associated with said plurality of web sites without being instructed by said user to determine the availability of each said web site, the duration of time for each said web site to respond to a request from said computer, and changes to the location of said information to be retrieved from each said web site.

Id. at 22:21–28. The limitations of these claims generally parallel those recited in corresponding method claims 5 and 7, and Petitioner relies on the same analysis in challenging claims 14 and 15 as unpatentable under 35 U.S.C. § 103(a) over Wise, Shaffer, and Burrows. Pet. 66. Patent Owner

does not dispute Petitioner’s analysis for these claims, and Petitioner’s showing is sufficient for the reasons we discuss above.

We accordingly conclude that Petitioner shows, by a preponderance of the evidence, that claims 14 and 15 are unpatentable under 35 U.S.C. § 103(a) over Wise, Shaffer, and Burrows.

E. Challenges Based on Kovatch and Neal

Petitioner challenges claims 1–5, 9, 10, 13, and 14 as unpatentable under 35 U.S.C. § 103(a) over Kovatch and Neal; and challenges claims 6–8, 11, 12, and 15 as unpatentable under 35 U.S.C. § 103(a) over Kovatch, Neal, and Burrows. Pet. 5–40. As we discuss above, Petitioner shows, by a preponderance of the evidence, that each of these challenged claims is unpatentable for obviousness over a combination of Wise and Shaffer, alone or in combination with Burrows. We accordingly need not reach the issues raised by Petitioner’s additional challenges for obviousness over a combination of Kovatch and Neal, alone or in combination with Burrows, and we decline to do so. *See* Tr. 6:17–20 (Petitioner stating at oral hearing that “if Your Honors were to agree that the Wise grounds invalidate the claims, then the Kovatch grounds and the inventorship do not need to be decided”).

III. CONCLUSION⁶

The table below summarizes our conclusions as to the challenged claims.

⁶ Should Patent Owner wish to pursue amendment of the challenged claims in a reissue or reexamination proceeding subsequent to the issuance of this

Claims	35 U.S.C. §	References	Claims Shown Unpatentable	Claims Not Shown Unpatentable
1–5, 9, 10, 13, 14	103(a)	Kovatch, Neal ⁷		
6–8, 11, 12, 15	103(a)	Kovatch, Neal, Burrows ⁷		
1, 2	103(a)	Wise, Shaffer	1, 2	
3–15	103(a)	Wise, Shaffer, Burrows	3–15	
Overall Outcome			1–15	

IV. ORDER

In consideration of the foregoing, it is

ORDERED that claims 1–15 of U.S. Patent No. 7,881,941 B2 have been shown, by a preponderance of the evidence, to be unpatentable; and

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

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).

⁷ We decline to reach Petitioner’s allegations based on Kovatch and Neal, or Kovatch, Neal, and Burrows, for the reasons given above.

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