

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS, LLC,
Petitioner,

v.

INTELLECTUAL VENTURES II, LLC,
Patent Owner.

IPR2022-00429
Patent 9,291,475 B2

Before SCOTT A. DANIELS, FREDERICK C. LANEY, and
MATTHEW S. MEYERS, *Administrative Patent Judges*.

MEYERS, *Administrative Patent Judge*.

DECISION
Final Written Decision
Determining All Challenged Claims Unpatentable
35 U.S.C. § 318(a)
Granting Petitioner's Motion to Seal
37 C.F.R. § 42.14

I. INTRODUCTION

A. *Background and Summary*

Unified Patents, LLC (“Petitioner”) filed a Petition to institute an *inter partes* review of claims 1–20 (the “challenged claims”) of U.S. Patent 9,291,475 B2 (Ex. 1001, the “’475 patent”) pursuant to 35 U.S.C. § 311 *et seq.* Paper 1 (“Petition” or “Pet.”). Intellectual Ventures II, LLC (“Patent Owner”) filed a Preliminary Response. Paper 7 (“Prelim. Resp.”). After receiving authorization, Petitioner filed a Reply to Patent Owner’s Preliminary Response (Paper 10), and Patent Owner filed a Sur-reply in support of the Preliminary Response (Paper 11). On August 11, 2022, we instituted an *inter partes* review of the challenged claims on all grounds raised in the Petition. Paper 12 (“Institution Decision” or “Inst. Dec.”), 42.

Subsequent to institution, Patent Owner filed a Patent Owner Response¹ (Paper 18, “PO Resp.”), Petitioner filed a Confidential Reply to the Patent Owner Response (Paper 22, “Pet. Reply”)², and Patent Owner filed a Confidential Sur-reply to Petitioner’s Reply (Paper 26, “Confidential PO Sur-reply”).^{3, 4}

Petitioner filed an unopposed Motion to Seal (Paper 9 (relating to Exhibits 1029 and 1031); Paper 19 (relating to Patent Owner’s Response and Exhibit 2019); Paper 24 (relating to Petitioner’s Reply); Paper 17 (relating to Patent Owner’s Sur-reply)), and a request that a default Protective Order be entered (Paper 9, Appendix A). An oral hearing was held on May 16, 2023.

¹ Petitioner filed a redacted version of Patent Owner’s Response (Ex. 1037).

² Petitioner filed a redacted Reply to the Patent Owner Response (Paper 25).

³ Petitioner filed a redacted version of Patent Owner’s Sur-Reply (Ex. 1044).

⁴ We refer to the confidential versions of documents herein, but note that redacted versions of many of the documents have also been filed.

Transcripts of the confidential and non-confidential portions of the hearing, respectively, are included in the record. Papers 34, 35

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 complete record, we determine that Petitioner has shown, by a preponderance of the evidence, that the Challenged Claims are unpatentable.

B. Real Parties-in-Interest

Petitioner and Patent Owner identify themselves, respectively as the real parties-in-interest. Pet. 1; Paper 4, 2.

C. Related Proceedings

Petitioner and Patent Owner each state that the '475 patent is involved in (1) *Intellectual Ventures I LLC et al. v. Toyota Motor Corp. et al.*, 2:21-cv00389 (E.D. Tex. October 19, 2021) (“Toyota case”); (2) *Intellectual Ventures I LLC et al. v. Honda Motor Company, Ltd. et al.*, 2:21-cv-00390 (N.D. Tex. April 4, 2022); and (3) *Intellectual Ventures I LLC et al. v. General Motors Company*, 6:21-cv01088 (W.D. Tex. October 19, 2021) (“GM case”). Pet. 1–2; Paper 4, 2.

D. The '475 Patent

The '475 patent is titled “Device, System and Method for Controlling Speed of a Vehicle Using a Positional Information Device.” Ex. 1001, code (54). The '475 patent discloses that the position information device can “alert a user if they are violating a local speeding limit,” and also “communicat[es] a subject vehicle’s speed to a central server where it can be utilized to analyze traffic congestion patterns or notify selected companies or

individuals.” *Id.* at 2:16–22. The ’475 patent explains that this enables the driver to be alerted to the vehicle’s speed, and optionally permits the vehicle to be controlled to operate at the speed limit, as well as alerting an employer “if his employee is speeding in the company car,” or alert “a parent who wants to know if their child is obeying (or breaking) the speed limits.” *Id.* at 8:2–4, 8:15–19, 10:28–31.

The ’475 patent discloses that the positional information device can be hand-held global positioning system (GPS) device 100 or any type of navigation or positional information device, including a vehicle-mounted device. Ex. 1001, 3:26–33, Fig. 1. The ’475 patent discloses that, when device 100 is powered on and functioning, the device will obtain positional information (from the overhead satellites) to allow processing module 120 contained within device 100 to determine the device’s location. *Id.* at 3:57–58, 7:28–31. Processing module 120 determines the vehicle’s speed by, for example, measuring the time elapsed and distance between two specific points, and the user’s speed can then be displayed on a display module. *Id.* at 7:42–47.

Processing module 120 may be configured to “compare the determined speed limit to the current rate of speed of the vehicle, and will generate an alert if the user is moving the vehicle in excess of the posted limit.” Ex. 1001, 7:59–62. The ’475 patent also discloses that processing module 120 may be configured to send the vehicle speed, location, and the time and date of the speed reading to remote computer server 504. *Id.* at 9:4–9. “[R]emote server 504 can set up notification alarms plotted against the posted speed limit of a selected location so that if cars are traveling under or over the posted speed limits, the server 504 can alert any requested

party.” *Id.* at 9:30–34. The remote server can receive various “information, including a location of GPS device 100, time of location, speed of vehicle at a specific time, violation notice of any posted speed limit, and any other information that the device 100 may have or be able to calculate internally.” *Id.* at 10:18–22. “This information could then be seen instantly by a recipient on a terminal 510 coupled to the communications network 502 or stored and later viewed by the recipient 510 by accessing the information at the server 504 via a conventional Internet browser.” *Id.* at 10:23–27.

E. The Challenged Claims

Petitioner challenges claims 1–20 of the ’475 patent. Pet. 3. Challenged claims 1, 8, and 15 are independent. Claim 1 is illustrative, and is reproduced below.

1. A method of notifying a recipient of a violation by a driver of a vehicle, the method comprising:

determining, by a computing device located within a vehicle, information about the vehicle:

determining, by the computing device located within the vehicle, that the vehicle committed a violation based on the information about the vehicle; and

sending, from the computing device located in the vehicle to a remote computing system⁵, an indication of the violation;

⁵ The parties agree that “a remote computing system” is a typographical error that should recite “a remote computing device,” which provides antecedent basis to “the remote computing device” in the penultimate line. See Pet. 18–19; *see also* Ex. 2015, 89:8–9 (“I understand there has been agreement that there is a typo.”). Since there is no dispute as to this term, we will treat “a remote computing system” as a typographical error for purposes of institution and treat it as if it recites “a remote computing device.”

wherein the remote computing device is configured to notify a recipient about the violation committed by the vehicle.

Ex. 1001, 10:46–58.

Independent claim 8 is substantially similar to claim 1 except that claim 8 is directed to a non-transitory computer-readable medium having instructions that when executed cause a computing device to perform similar steps to the above-noted determining, sending and notifying steps. Ex. 1001, 11:14–28. Independent device claim 15 is substantially similar to claim 1 except that claim 15 includes various modules configured to perform similar steps to the above-noted determining, sending and notifying steps. *Id.* at 12:11–25.

F. Instituted Grounds of Unpatentability

We instituted trial based on all asserted claims and grounds of unpatentability as follows:

Claim(s) Challenged	35 U.S.C. §⁶	Reference(s)/Basis
1–3, 5–10, 12–17, 19, 20	102	Mardirossian ⁷
1–20	103	Mardirossian
4, 11, 18	103	Mardirossian, Calva ⁸
1–5, 7–12, 14–20	102	Chowdhary ⁹
1–5, 7–12, 14–20	103	Chowdhary

⁶ The Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112-29, 125 Stat. 284 (2011), amended 35 U.S.C. §§ 102 and 103 effective March 16, 2013. Because the ’475 patent’s effective filing date predates the AIA’s amendments to §§ 102 and 103, this decision refers to the pre AIA versions of §§ 102 and 103. *See* Ex. 1001, code (63)

⁷ US 5,952,941, issued Sept. 14, 1999 (Ex. 1003, “Mardirossian”).

⁸ WO 02/31729 A1, published Apr. 18, 2002 (Ex. 1004, “Calva”).

⁹ US 2004/0236476 A1, published Nov. 25, 2004 (Ex. 1005, “Chowdhary”).

Claim(s) Challenged	35 U.S.C. §⁶	Reference(s)/Basis
1–20	103	Chowdhary, Tobey ¹⁰

Pet. 4; Inst. Dec. 42.

Petitioner submits a declaration of Mr. Christopher K. Wilson (Ex. 1002, “Wilson Decl.”) and Kevin Jakel (Ex. 1009, “Jakel Decl.”) in support of its contentions. Patent Owner submits a declaration of Dr. Steven Goldberg (Ex. 2017, “Goldberg Decl.”) and Mr. Mark S. Dunston (Ex. 2018, “Dunston Decl.”) in support of its Response. Mr. Wilson was cross-examined. *See* Ex. 2015 (deposition transcript of Mr. Wilson). Mr. Jakel was cross-examined. *See* Ex. 1037 (redacted deposition transcript of Mr. Jakel); Ex. 2019 (confidential deposition transcript of Mr. Jakel). Dr. Goldberg was also cross-examined. *See* Ex. 1039 (deposition transcript of Dr. Goldberg).

II. PATENT OWNER’S REAL PARTIES-IN-INTEREST DISPUTE

Patent Owner argues that Toyota should be named as a Real-Party-in-Interest (RPI) in this proceeding and the Board must decide this issue. PO Resp. 31–50; PO Sur-reply 16–23. More particularly, Patent Owner argues, that, “[a]s part of the Final Written Decision, the Board has a statutory duty to decide whether Toyota is an RPI in this matter.” *Id.* at 50 (citing *RPX Corporation v. Applications in Internet Time, LLC*, IPR2015-01750, Paper 128 at 32 (PTAB October 2, 2020) (precedential)).

Petitioner responds that it is the sole RPI and Patent Owner’s “RPI arguments are based on mischaracterizations of Mr. Jakel’s testimony and

¹⁰ US 6,714,894 B1, issued Mar. 30, 2004 (Ex. 1006, “Tobey”).

[Petitioner]’s membership agreement.” Pet. Reply 17. Petitioner disagrees with Patent Owner’s argument “that the Board has a duty to determine RPI.” *Id.* at 26 (citing PO Resp. 50–51). Instead, Petitioner argues that there is no need to address whether Toyota should be named as an RPI because “neither the time bar nor estoppel provisions of 35 U.S.C. § 315 are implicated in this case.” *Id.* at 26–27 (citing *Unified Patents LLC v. Monarch Networking Solutions LLC*, IPR2020-01708, Paper 61, 9 (May 27, 2022) (citing *Sharkninja Operating LLC v. iRobot Corp.*, IPR2020-00734, Paper 11, 18 (Oct. 6, 2020) (precedential)); *Lumentum Holdings, Inc. v. Capella Photonics, Inc.*, IPR2015-00739, Paper 38, 5 (PTAB Mar. 4, 2016) (precedential)).

On this record, we determine that we need not address whether Toyota was improperly excluded as an RPI because, “even if it were, it would not create a time bar or estoppel under 35 U.S.C. § 315.” *See SharkNinja*, Paper 11 at 18. Other than asserting that “estoppel provisions are implicated by this case” (PO Sur-reply 23¹¹), there is no allegation or evidence that Toyota or any other RPI is barred or estopped from this proceeding, or that

¹¹ Patent Owner asserts without explaining that the ’475 patent “is currently being asserted by Patent Owner against Toyota, as well as GM (another paying Member of Unified similarly situated to Toyota.). PO Sur-reply 23. However, the record indicates that the Toyota case has been dismissed and the GM case stayed. *See* Paper 32, 1 (*Intellectual Ventures I LLC et al. v. Toyota Motor Corp. et al.*, 2:21-cv00389 (E.D. Tex. October 19, 2021) **stipulated dismissal without prejudice on March 20, 2023**); *see also id.* at 2 (*Intellectual Ventures I LLC et al. v. General Motors Company*, 6:21-cv01088 (W.D. Tex. October 19, 2021) (**stayed pending settlement on April 6, 2023**)). And, upon further inquiry, PACER Case Locator indicates that the GM case was dismissed in an order granting joint motion to dismiss entered on June 20, 2023. *See* GM case, Document 116.

Petitioner purposefully omitted any other RPI to gain some advantage in our forum. *See Unified Patent, LLC v. MemoryWeb, LLC*, IPR2021-01413, Paper 76 at 5 (PTAB May 22, 2023) (Director Review Decision) (“The Board can and should make a determination of the real parties in interest or privity in any proceeding in which that determination may impact the underlying proceeding, for example, but not limited to, a time bar under 35 U.S.C. § 315(b) or an estoppel under 35 U.S.C. § 315(e) that might apply. That is not the situation here.”).

Because we determine that neither the time bar nor estoppel provisions of 35 U.S.C. § 315 are implicated in this case, “we need not address whether [Toyota] is an unnamed RPI.” *See Unified Patent*, Paper 76 at 5 (“The Board should not have determined whether [there were additional] RPIs in this proceeding given that determination was not necessary to resolve the proceeding.”).

III. ANALYSIS

A. *Principles of Law*

“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 petitions to identify “with particularity . . . the evidence that supports the grounds for the challenge to each claim”)). Petitioner bears the burden of persuasion to prove unpatentability of each challenged claim by a preponderance of the evidence. 35 U.S.C. § 316(e). This burden never shifts to Patent Owner. *Dynamic Drinkware, LLC v. Nat’l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015).

1. *Anticipation*

A prior art reference can only anticipate a claim if it discloses all the claimed limitations “arranged or combined in the same way as in the claim.” *Wm. Wrigley Jr. Co. v. Cadbury Adams USA LLC*, 683 F.3d 1356, 1361 (Fed. Cir. 2012) (quoting *Net MoneyIN, Inc. v. VeriSign, Inc.*, 545 F.3d 1359, 1370 (Fed. Cir. 2008)). “However, a reference can anticipate a claim even if it ‘d[oes] not expressly spell out’ all the limitations arranged or combined as in the claim, if a person of skill in the art, reading the reference, would ‘at once envisage’ the claimed arrangement or combination.” *Kennametal, Inc. v. Ingersoll Cutting Tool Co.*, 780 F.3d 1376, 1381 (Fed. Cir. 2015) (quoting *In re Petering*, 301 F.2d 676, 681 (CCPA 1962)); see also *Blue Calypso, LLC v. Groupon, Inc.*, 815 F.3d 1331, 1343 (Fed. Cir. 2016) (distinguishing *Net MoneyIN* when the reference in question explicitly contemplated the combination of the disclosed functionalities).

2. *Obviousness*

A patent claim is unpatentable under 35 U.S.C. § 103 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, any objective

evidence of obviousness or non-obviousness.¹² *Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966). “While the sequence of these questions might be reordered in any particular case” (*KSR*, 550 U.S. at 407), the Federal Circuit has explained that an obviousness determination can be made only after consideration of all of the *Graham* factors. *See, e.g., Kinetic Concepts, Inc. v. Smith & Nephew, Inc.*, 688 F.3d 1342, 1360 (Fed. Cir. 2012).

In analyzing the obviousness of a combination of prior art elements, it can be important to identify a reason that would have prompted one of skill in the art “to combine . . . known elements in the fashion claimed by the patent at issue.” *KSR*, 550 U.S. at 418. A precise teaching directed to the specific subject matter of a challenged claim is not necessary to establish obviousness. *Id.* Rather, “any need or problem known in the field of endeavor at the time of invention and addressed by the patent can provide a reason for combining the elements in the manner claimed.” *Id.* at 420. Accordingly, a party who petitions the Board for a determination of unpatentability based on obviousness must show that “a skilled artisan would have been motivated to combine the teachings of the prior art references to achieve the claimed invention, and that the skilled artisan would have had a reasonable expectation of success in doing so.” *In re Magnum Oil Tools Int’l, Ltd.*, 829 F.3d 1364, 1381 (Fed. Cir. 2016) (quotations and citations omitted).

B. Level of Ordinary Skill in the Art

We review the grounds of unpatentability in view of the understanding of a person of ordinary skill in the art at the time of invention.

¹² The parties do not present objective evidence of non-obviousness.

Graham, 383 U.S. at 17. Factors pertinent to determining the level of ordinary skill in the art include (1) the educational level of the inventor; (2) the type of problems encountered in the art; (3) prior-art solutions to those problems; (4) the rapidity with which innovations are made; (5) the sophistication of the technology; and (6) the educational level of workers active in the field. *Envtl. Designs, Ltd. v. Union Oil Co.*, 713 F.2d 693, 696–97 (Fed. Cir. 1983). Not all factors may exist in every case, and one or more of these or other factors may predominate in a particular case. *Id.* Moreover, these factors are not exhaustive, but merely a guide to determining the level of ordinary skill in the art. *Daiichi Sankyo Co. v. Apotex, Inc.*, 501 F.3d 1254, 1256 (Fed. Cir. 2007). Further, the prior art itself may reflect an appropriate skill level. *Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001).

Petitioner asserts that at the time of the invention, one of ordinary skill in the art “would have had a bachelor’s degree in electrical engineering, computer science, computer engineering, physics, or a related subject, and two to three years of work experience in vehicle telematics.” Pet. 6–7 (citing Ex. 1002 ¶¶ 37–40). Petitioner asserts that “[a] lack of experience can be remedied with additional education (e.g., a Master’s degree), and likewise, a lack of education can be remedied with additional work experience (e.g., 5–6 years).” *Id.* Patent Owner essentially agrees with Petitioner’s assertion, but contends that the work experience should more broadly be in “mobile communications.” PO Resp. 16 (citing Ex. 2017 ¶ 27).

In our Institution Decision, we determined that there was “not much difference between Petitioner’s and Patent Owner’s assertions, but noted that

“we find that Patent Owner’s broader definition of a person of ordinary skill in the art is more consistent with the scope and content of the ’475 [p]atent.” Inst. Dec. 16–17 (citing Ex. 1001, 8:53–54; Ex. 1003, 3:15–18, Fig. 1). In its Reply, “Petitioner accepts the level of skill definition adopted in the Institution Decision,” and notes that “[n]either party contends that the differences in the proposed definitions affect the patentability of the challenged claims.” Pet. Reply 7.

Based on this record, we apply Patent Owner’s definition of the level of skill, which also was applied in our Institution Decision, because it is consistent with the level of ordinary skill in the art at the time of the invention as reflected in the prior art of record. *See Okajima*, 261 F.3d at 1355.

C. Claim Construction

In an *inter partes* review, claims are construed using the same claim construction standard that would be used to construe the claims in a civil action under 35 U.S.C. § 282(b), including construing the claims in accordance with the ordinary and customary meaning of such claims 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). “[T]he ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention” and “after reading the entire patent.” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1313, 1321 (Fed. Cir. 2005) (en banc). In addition to the specification and prosecution history, we also consider use of the terms in other claims and extrinsic evidence including expert and inventor testimony, dictionaries, and learned treatises, although extrinsic evidence is less

significant than the intrinsic record. *Id.* at 1312–17. Usually, the specification is dispositive, and it is the single best guide to the meaning of a disputed term. *Id.* at 1315.

Petitioner asserts that claim terms should be given “their ordinary and customary meaning as understood by a POSITA in light” of ’475 patent’s Specification. Pet. 8.¹³ Patent Owner proposes constructions for the phrase “configured to notify a recipient,” the term “a communication,” and the terms “recipient” and “driver.” PO Resp. 12–16; PO Sur-reply 2–11. We address only the construction of the phrase “configured to notify a recipient,” as recited by independent claims 1, 8, and 15, below. It is unnecessary to construe the terms “a communication,” “recipient,” and “driver” in this Decision because none of the parties’ disputes turn on the meaning of these terms. *See, e.g., Nidec Motor Corp.*, 868 F.3d at 1017.¹⁴

1. *Configured to Notify a Recipient*

Patent Owner asserts that the challenged claims require an “active notification” such that “[i]n response to receiving the determination of the violation from the device, the remote server sends an active notification to a selected individual, such as an employer or a parent.” PO Resp. 3 (citing Ex. 1001, 2:19–22, 10:15–37). More particularly, Patent Owner argues that claim 1’s recitation that “the computing device be ‘configured to notify a

¹³ Petitioner also proposed constructions for three claim terms that it identified may require construction under 35 U.S.C. § 112, ¶ 6. Pet. 8–10. We do not address Petitioner’s proposed constructions of these terms because they are not necessary to resolve this matter. *Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017).

¹⁴ The parties agree that construction of the terms “recipient” and “driver” “is not pertinent to these proceedings.” PO Sur-reply 11 (citing Pet. Reply 6).

recipient about the violation’ can only mean actively notifying the recipient soon after the violation, as described in the [S]pecification (e.g., via an e-mail message, an instant message, a recorded phone call).” *Id.* at 9. Patent Owner contends that Petitioner’s declarant, Mr. Wilson, “agreed that, in the context of the ’475 [p]atent, the notifications would be understood to be ‘active’ notifications.” *Id.* at 4 (citing Ex. 2015, 95:9–98:15), 9, 13 (citing Ex. 2017 ¶ 42(c); Ex. 2015, 96:14–97:25).

According to Patent Owner,

[t]he active notification includes information regarding the violation (e.g., speed, time, and location), and may be sent via e-mail, instant message, or a recorded phone call. Ex. 1001, 10:23–37. Subsequent to the active notification, information about the violation may be stored and later retrieved by the recipient for analysis.

PO Resp. 5–6 (citing Ex. 1001, 10:35–37; Ex. 2017 ¶ 33). Patent Owner takes the position that the ’475 patent “distinguishes between the active notification itself (information provided soon to the recipient, e.g., via an e-mail message, an instant message, a recorded phone call), and the subsequent storage and retrieval of the information included in the notification for analysis purposes.” *Id.* at 6 (citing Ex. 1001, 10:15–38). Patent Owner points out that “all the examples of this limitation in the [S]pecification correspond to active notifications that are provided instantly.” *Id.* at 12 (citing Ex. 1001, 10:32–34; Ex. 2017 ¶ 42(b)). Patent Owner last asserts that its proposed construction is consistent with the dictionary definition. *Id.* (citing Ex. 2016 (“[T]he dictionary defines the verb ‘to notify’ as meaning: ‘to give formal notice to; to give notice of or report the occurrence of.’”)). Thus, Patent Owner asserts that “[a] person of ordinary skill in the art, reading the claims of the ’475 [p]atent in light of the

[S]pecification, would have understood “configured to notify a recipient about the violation” in the [c]hallenged [c]laims to mean “configured to actively notify the recipient soon after the violation.” *Id.* at 12; PO Sur-reply 2.

In response, Petitioner asserts Patent Owner’s proposed construction is unsupported by the claims and the ’475 patent’s Specification. Reply Br. 1. More particularly, Petitioner asserts that “[n]either the claims nor the [S]pecification uses the terms ‘active’ or ‘passive’ or even reference those concepts for notifications.” *Id.* (citing Ex. 1001). However, Petitioner contends that even if Patent Owner’s “artificial distinction is accepted,” Patent Owner’s proposed construction “improperly excludes described embodiments,” and is not broad enough to “cover both later-accessed ‘passive’ and directly transmitted ‘active’ notification[s].” *Id.* at 2–3 (citing *Anchor Wall Sys., Inc. v. Rockwood Retaining Walls, Inc.*, 340 F.3d 1298, 1308 (Fed. Cir. 2003)); *see also id.* (characterizing Patent Owner’s position that dependent claim 4 is directed to a “passive” notification and dependent claim 5 is directed to an “active” notification).

Petitioner further argues that Patent Owner “mischaracterizes Petitioner’s expert to support its construction.” Pet. Reply 3. According to Petitioner, the portions of Mr. Wilson’s testimony cited by Patent Owner refer to dependent claims 4 and 5. *Id.* at 3–4 (citing Ex. 2015, 91:14–19, 97:4–8, 97:22–98:3, 122:12–124:4). Petitioner also asserts that the dictionary definition provided by Patent Owner fails to provide any support that would suggest “distinguish[ing] between passive and active” notifications and “provides no time limit for notification.” *Id.* at 4 (citing PO Resp. 12). Petitioner last asserts that Patent Owner’s “addition of ‘soon’

adds ambiguity” and “[t]he bounds of ‘soon’ are unclear.” *Id.*; *see also id.* (citing Ex. 1039, 23:13–24:3, 50:16–52:13 (Dr. Goldberg “was unable to add additional clarity to what ‘soon’ requires.”)). Thus, Petitioner argues that Patent Owner’s “attempt to improperly add ‘active’ and ‘soon’ limitations to the claim should fail.” *Id.* at 5.

In response, Patent Owner argues that the ’475 patent does discuss the “‘concepts’ of active and passive notifications.” PO Sur-reply 3 (citing Pet. Reply 1). Patent Owner explains that the ’475 patent’s “[S]pecification states, ‘the recipient may receive notifications or warnings of violations through the communications network instantly via an e-mail message, an instant message, a recorded phone call, etc.’” *Id.* (quoting Ex. 1001, 10:32–34). Patent Owner disagrees with Petitioner’s argument that Patent Owner’s proposed construction is inconsistent with the subject matter of dependent claim 4. *Id.* Patent Owner also argues that it did not mischaracterize Mr. Wilson’s testimony. PO Sur-reply 4. Contrary to Petitioner’s assertion that the portions of Mr. Wilson’s testimony cited by Patent Owner refer to dependent claims 4 and 5, Patent Owner contends that “Mr. Wilson’s remarks concerning active notifications applied to the ’475 [p]atent in general.” *Id.* (citing Ex. 2015, 96:24–98:15). Patent Owner last argues that “there is no material dispute that ‘configured to notify’ requires an active notification” because both experts agree. *Id.* at 9 (citing Ex. 2015, 96:14–97:25).

Having reviewed and considered the record presented, we are not persuaded by Patent Owner’s arguments and evidence that the phrase “configured to notify a recipient about the violation,” as recited by independent claims 1, 8, and 15, should be construed to mean “configured to

actively notify the recipient soon after the violation.” PO Resp. 12; PO Sur-reply 2. As discussed in greater detail below, we find Patent Owner’s proposed construction to be unsupported by, and inconsistent with, the ’475 patent’s claims and Specification.

We begin our analysis by considering the language of the claims. At the outset, we note that none of independent claims 1, 8, and 15 require “actively notify[ing] the recipient soon after the violation,” as Patent Owner proposes. Independent claim 1 requires that if the computing device located within the vehicle determines that the vehicle committed a violation, the computing device located in the vehicle sends an indication of the violation to a remote computing system. Ex. 1001, 10:55–55. Independent claim 1 further recites “wherein the remote computing device is configured to notify a recipient about the violation committed by the vehicle.” *Id.* at 10:56–58. Independent claims 8 and 15 includes substantially similar limitations. *Id.* at 11:14–28, 12:11–25. Thus, the independent claims broadly recite “notify[ing] a recipient about the violation” without reference to any type, i.e., “active” or “passive,” or timing of the notification.

Turning to dependent claims 4 and 5, claims 4 and 5 both begin by reciting “[t]he method of claim 1, wherein the remote computing device is configured to notify the recipient about the violation committed by the vehicle by.” Ex. 1001, 10:66–67:1, 11:3–5. Claim 4 further limits independent claim 1 “by permitting the recipient to view the indication of the violation via a browser” (*id.* at 10:67–11:2) and claim 5 further limits claim 1 “by sending a communication to the recipient in response to receiving the indication of the violation from the computing device” (*id.* at 11:4–6). Thus, we understand the recitation of “configured to notify a

recipient” in claim 1 as being broad enough to cover both the notification recited in claim 4 that “permit[s] the recipient to view . . . via a browser” and the notification recited in claim 5 that “send[s] a communication to the recipient in response to receiving the indication of the violation from the computing device.” *Id.* at 10:66–11:7.

We also see nothing in the ’475 patent’s Specification that would require Patent Owner’s proposed construction. In light of the ’475 patent’s Specification, Patent Owner suggests that notifications would need to be “actively” sent to recipients “soon” because of safety concerns of an employer or a parent. PO Resp. 9–13; PO Sur-reply 2–4. However, the ’475 patent simply discloses that once information, e.g., “location of GPS device 100, time of location, speed of vehicle at a specific time, violation notice of any posted speed limit” (Ex. 1001, 10:19–21) is transmitted to server 504 (*id.* at 10:15–21), the “information could then be seen instantly by a recipient on a terminal 510 coupled to the communications network 502 or later stored or stored and later viewed by the recipient 510 by accessing the information at the server 504 via a conventional Internet browser.” *Id.* at 10:23–28. The ’475 patent then discloses that “[t]his would apply to an employer who, for instance, wants to be alerted if his employee is speeding in the company car” and to “a parent who wants to know if their child is obeying (or breaking) the speed limits.” *Id.* at 10:28–31. However, only after suggesting that an employer or a parent may want to be alerted to this information and that “[t]his information could then be seen instantly by a recipient on a terminal 510” or accessed later via Internet browser does the ’475 patent disclose that “[o]ptionally, the recipient may receive notifications or warnings of violations through the communications network

instantly via an e-mail message, an instant message, a recorded phone call, etc.” *Id.* at 10:31–34. The ’475 patent also discloses that “this information may be encrypted and stored locally in the storage module to be later retrieved by the recipient for analysis.” *Id.* at 10:34–37.

Patent Owner’s proposed construction would require us to import the terms “active” and “soon” into the construction of the phrase “configured to notify” based on exemplary and optional language in the ’475 patent’s Specification, i.e., “the recipient may receive notifications . . . instantly via an e-mail message, an instant message.” Ex. 1001, 10:31–34. While the embodiment cited by Patent Owner may inform the meaning of one manner of notifying a recipient, “a particular embodiment appearing in the written description may not be read into a claim when the claim language is broader than the embodiment.” *Personalized Media Communications, LLC v. Apple Inc.*, 952 F.3d 1336, 1343 (Fed. Cir. 2020) (citing *Resonate Inc. v. Alteon Websystems, Inc.*, 338 F.3d 1360, 1364–65 (Fed. Cir. 2003)). We do not find Patent Owner’s arguments persuasive because its proposed construction would exclude other types of disclosed notifications, i.e., notifications that are “stored and later viewed by the recipient 510 by accessing the information at the server 504 via a conventional Internet browser events” (*id.* at 10:25–27) or “encrypted and stored locally in the storage module to be later retrieved by the recipient for analysis” (*id.* at 10:34–37), and “there is a strong presumption against a claim construction that excludes a disclosed embodiment.” *See In re Katz Interactive Call Processing Patent Litig.*, 639 F.3d 1303, 1324 (Fed. Cir. 2011); *Oatey Co. v. IPS Corp.*, 514 F.3d 1271, 1277 (Fed. Cir. 2008) (“[W]here claims can reasonably [be] interpreted to include a specific embodiment, it is incorrect to construe the

claims to exclude that embodiment, absent probative evidence on the contrary.”).

We also do not find Patent Owner’s arguments regarding its proposed construction persuasive because they attempt to import a temporal requirement into the claims when no such requirement is recited. *See E-Pass Techs., Inc. v. 3Com Corp.*, 343 F.3d 1364, 1369 (Fed. Cir. 2003) (Claims must be interpreted “‘in view of the specification’ without unnecessarily importing limitations from the specification into the claims.” (citing *Texas Digital Sys., Inc. v. Telegenix, Inc.*, 308 F.3d 1193, 1203–04 (Fed. Cir. 2002))). In this regard, we find Patent Owner’s proposed construction would require us to impermissibly import a requirement that the recipient be notified soon after the violation into construction of the phrase “configured to notify” based on exemplary language in the ’475 patent’s Specification. Here, we credit the deposition testimony of Mr. Wilson, who, when asked “[i]n the context of the ’475 patent, is it your understanding that this is important information that a recipient will want to know about right away” (Ex. 2015, 97:16–19), Mr. Wilson responded “I also don’t perceive that it is required to be right away by the claims” (*id.* at 98:2–3).

Patent Owner’s proposed construction is also inconsistent with the language of claim 4. As discussed above, claim 4, which depends from claim 1, recites “[t]he method of claim 1, wherein the remote computing device is configured to notify the recipient about the violation committed by the vehicle by permitting the recipient to view the indication of the violation via a browser.” Ex. 1001, 10:66–11:2. Patent Owner argues that claim 4 may be distinguished from claim 1 because

Claim 4 refers back to the “indication of the violation” (sent from the vehicle to the remote computing system) referenced in Claim 1. Claim 4 permits the recipient of the notification to “view the indication of the violation” (e.g., details such as location, time of location, speed of a vehicle at a specific time, violation notice, etc.) via a browser. For example, an email or text message (e.g., the active notification “about the violation”) could include a link to a web page that the recipient can click on to access additional information included in the “indication of the violation.”

PO Sur-reply 3–4. At least one difficulty with Patent Owner’s argument, however, is that such a distinction is not disclosed in the ’475 patent’s Specification or reflected in the claims. Although a recipient could be permitted to view the indication of the violation by an email or text with a link, the ’475 patent’s Specification more broadly discloses that after being transferred to server 504, the “information could then be seen instantly by a recipient on a terminal 510 coupled to the communications network 502.”

Ex. 1001, 10:23–25. Here, we credit the deposition testimony of Mr. Wilson who opines:

I think there would be notification to the extent that -- an example I would use, if I log onto, you know, Kaiser, my medical provider’s website, there is, you know, my home page and it will have on it notifications that I have a new message from my doctor or it is time to get my annual physical or something. So those would constitute notifications.

Ex. 2015, 93:16–23. We note that the dictionary definition of the verb “to notify” provided by Patent Owner does not alter our determination. PO Resp. 12 (citing Ex. 2016). From this, one of ordinary skill in the art would understand that the phrase “configured to notify,” as used in claim 1, is not so limited as to exclude “permitting the recipient to view the indication of the violation via a browser.” Therefore, we find that Patent Owner’s

proposed construction for “configured to notify” is not supported by the claim language of the ’475 patent.

Patent Owner argues that Mr. Wilson’s deposition testimony supports Patent Owner’s proposed construction, i.e., “there is no material dispute that ‘configured to notify’ requires an active notification.” PO Sur-reply 9 (citing Ex. 2015, 96:14–97:25). We disagree. Instead, we agree with Petitioner that Patent Owner “mischaracterizes [Mr. Wilson’s deposition testimony] to support its construction.” Pet. Reply 3. At the outset, it appears that the deposition testimony, relied upon by Patent Owner, is directed to a line of questioning regarding dependent claim 5. *See, e.g.*, Ex. 2015, 91:19 (“Q. Can we look at claim 5?”), 92:3 (“In dependent claim 5”), 92:6 (“Claim five could I believe also refer to the or include the steps I just cited to in that the notification of claim five could be through this process.”). However, setting this aside, when read in its full context, we do not understand Mr. Wilson’s deposition testimony to support Patent Owner’s position for additional reasons. For example, when asked whether he “view[s] [the] notification within the patent as an active notification because it is important information” (*id.* at 96:24–97:1), Mr. Wilson replied that he “[didn’t] know that notification as the plain and ordinary meaning used in the patent requires this sort of active notification as opposed to just a, let’s call it, passive notification” (*id.* at 97:4–8). And, when asked whether “the claims require some kind of communication beyond simply what happens when a user logs onto a database and sees that it has had a field updated” (*id.* at 98:5–8), Mr. Wilson responded that

[a]gain, I would say, I don’t believe those sorts of communications are contemplated here, so I didn’t really form an opinion on exactly where the extent of notification extends to

because I do believe in the examples of the '475 [patent] and the cited prior art, these notifications are clearly in the sort of active notification category.

Id. at 98:9–15. Therefore, while Mr. Wilson acknowledges that there are examples in the '475 patent and prior art that “are clearly in the sort of active notification category” (*id.* at 98:12–15), we do not understand Mr. Wilson’s deposition testimony to support Patent Owner’s contention that the recitation “‘configured to notify’ requires an active notification.” PO Sur-reply 9 (citing Ex. 2015, 96:14–97:25).

Accordingly, for these reasons, we decline to adopt Patent Owner’s proposed construction that the phrase “configured to notify a recipient” requires “actively notify[ing] the recipient soon after the violation,” as being overly narrow. Instead, we construe the phrase “configured to notify a recipient” only to the extent that it is broad enough to cover both the notifications recited by dependent claims 4 and 5 and provides no limitation on the timing of the notification. We need not provide further express construction of this claim language to resolve the issues before us.

*D. Anticipation by or Obviousness over Mardirossian
(Grounds 1 and 2)*

Petitioner asserts that claims 1–3, 5–10, 11–17, 19, and 20 would have been anticipated by Mardirossian or that claims 1–20 would have been obvious over Mardirossian. Pet. 11–39. Patent Owner disputes whether Mardirossian “disclose[s] a ‘remote computing device [that] is configured to notify a recipient about the violation committed by the vehicle’” (PO Resp. 19), but much of Patent Owner’s argument is premised on its proposed claim construction of the phrase “configured to notify a recipient,” which we do not adopt. *See* § III.C.1; *see also* PO Resp. 19–21 (“In independent claims

1, 8 and 15, this limitation requires the remote computer device ‘to actively notify the recipient soon after the violation.’”); PO Sur-reply 14 (arguing that Mardirossian fails to disclose the challenged claims based on its proposed claim construction). Patent Owner also argues that Grounds 1 and 2 are deficient because one of ordinary skill in the art “reading Mardirossian would have understood the basic legal requirements for issuing traffic tickets” (PO Resp. 17 (citing Ex. 2017 ¶ 48)), and as such, “appreciated that a valid speeding ticket cannot be instantly delivered to a remote recipient using Mardirossian’s system, and would not have been motivated to modify Mardirossian’s ticket issuing system because doing so would have resulted in a ticket issuing system issuing invalid speeding tickets.” *Id.* at 22; *see also* PO Sur-reply 12 (citing Ex. 2018) (arguing that the tickets in Mardirossian “did not issue in real time, as they required a manual signature from a law enforcement officer).

Since we find that other grounds demonstrate unpatentability of all challenged claims, we find it unnecessary to address these issues or grounds in this Final Written Decision in order to resolve the dispute between the parties. *SAS Institute Inc. v. Iancu*, 138 S. Ct. 1348 (2018) (holding that a petitioner “is entitled to a final written decision addressing all of the claims it has challenged”); *Bos. Sci. Scimed, Inc. v. Cook Grp. Inc.*, 809 F. App’x 984, 990 (Fed. Cir. 2020) (non-precedential) (recognizing that the “Board need not address issues that are not necessary to the resolution of the proceeding” and, thus, agreeing that the Board has “discretion to decline to decide additional instituted grounds once the petitioner has prevailed on all its challenged claims”).

*E. Obviousness over Mardirossian and Calva
(Ground 3)*

Petitioner alternatively challenges claims 4, 11, and 18 as obvious over Mardirossian and Calva. Pet. 11–39. Patent Owner contends that “Calva is not offered to address the shortcomings of Mardirossian.” PO Resp. 22. As such, Patent Owner argues that “Calva in combination with Mardirossian, fails to teach or suggest every feature recited in the [c]hallenged [c]laims.” *Id.* at 22–23. Since we find that other grounds demonstrate unpatentability of all challenged claims, we find it unnecessary to address this issue or ground in this Final Written Decision in order to resolve the dispute between the parties. *See SAS*, 138 S. Ct. at 1348.

*F. Anticipation by, or Obviousness over Chowdhary
(Grounds 4 and 5)*

Petitioner asserts that claims 1–5, 7–12, and 14–20 are anticipated by or obvious over Chowdhary. Pet. 39–68. Petitioner also relies on the testimony of Mr. Wilson to support its arguments. *Id.* Patent Owner responds to Petitioner’s assertions. *See* PO Resp. 23–28; PO Sur-reply 15–16. Patent Owner relies on the testimony of Dr. Goldberg to support its arguments. PO Resp. 27–31 (citing Ex. 2017).

1. Overview of Chowdhary (Ex. 1005)

Chowdhary is directed to a system for monitoring driving behavior, including detecting driving violations. Ex. 1005, code (57). In particular, Chowdhary discloses a vehicle safety management system (“VSM”) for monitoring vehicles to detect a variety of event types, such as “tailgating, frequent lane changes at high speeds, driving above the rated speed limit, speeding on a curved road segment, rapid acceleration from a stop, and rapid

deceleration to a stop.” *Id.* ¶¶ 45–46. One embodiment of a VSM system is depicted in Figure 1, reproduced below.

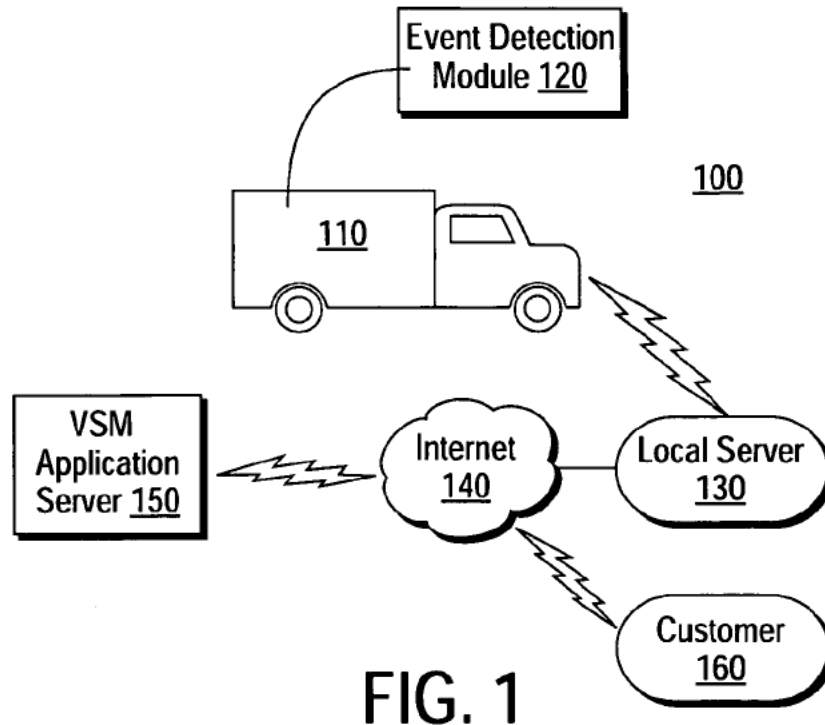


Figure 1 is a block diagram illustrating one embodiment of the VSM system. Ex. 1005 ¶ 9. Figure 1 depicts vehicle 110 having event detection module 120 that detects events, such as driving violations. *Id.* ¶ 47. In certain embodiments, event data is transmitted over Internet 140 to VSM system application server 150, which processes the event data. *Id.* The event detection module includes microcontroller 210, static random access memory (SRAM) 220, and non-volatile memory 230. *Id.* ¶ 49. Non-volatile memory 230 stores data and computer-readable instructions for operating microcontroller 210. *Id.* The event detection module also includes GPS receiver 250 for providing data about the vehicle, such as position, vehicle speed, and vehicle heading. *Id.*

The event detection module uses the location information from the GPS receiver to determine the road segment that the vehicle is traveling on and uses information stored in a digital map database to determine the speed limit for that road segment. Ex. 1005 ¶¶ 76–77. The event detection module then compares the current speed of the vehicle with the speed limit to determine if the vehicle is speeding. *Id.* When a driving violation is detected, the event detection module transmits the event to VSM system application server 150/360 which processes the event data and generates reports for a fleet manager. *Id.* ¶¶ 47, 51. The fleet manager uses a web site to obtain “Alerts/Notifications” and “Messages” about the vehicles being tracked and view the generated reports. *Id.* ¶¶ 96–97, 114, Fig. 30.

2. Claim 1

We begin by reproducing, for context, Petitioner’s assertions regarding the limitations of claim 1 as set forth in the Petition. Pet. 39–53 (citing Exs. 1001, 1002, 1005). We use Petitioner’s notations to identify the claim limitations.

- i. *Preamble [1.0] A method for notifying a recipient of a violation by a driver of a vehicle, the method comprising:*¹⁵

Petitioner asserts that if the preamble is limiting, Chowdhary discloses its contents. Pet. 44. In particular, Petitioner asserts that “Chowdhary discloses a method for providing an alert/notification including an event report notifying a fleet manager that a driver committed a violation, such as

¹⁵ The issue of whether the preamble is limiting needs not be resolved because, regardless of whether the preamble is limiting, Petitioner has sufficiently shown that the cited art teaches the preamble.

speeding, when driving a vehicle in the fleet.” *Id.* (citing Ex. 1005 ¶¶ 47–51, Abstract).

Patent Owner does not present arguments in its Response or Sur-reply addressing the merits of Petitioner’s assertions with respect to this claim limitation. *See generally* PO Resp.; PO Sur-reply. Based on our review and consideration of the current record, we determine that Petitioner has shown that Chowdhary teaches this limitation.

- ii. *[1.1] determining, by a computing device located within a vehicle, information about the vehicle*

Petitioner asserts that Chowdhary discloses event detection module 200, which is a computing device located in vehicle 110 because it includes microcontroller 210, static random access memory (SRAM) 220, and non-volatile memory 230. Pet. 44 (citing Ex. 1005 ¶¶ 47–49). Petitioner asserts that Chowdhary’s event detection module also includes a GPS receiver for providing data about the vehicle, such as position, vehicle speed, and vehicle heading (information about the vehicle). *Id.* (citing Ex. 1005 ¶ 49).

Patent Owner does not present arguments in its Response or Sur-reply addressing the merits of Petitioner’s assertions with respect to this claim limitation. *See generally* PO Resp.; PO Sur-reply. Based on our review and consideration of the current record, we determine that Petitioner has shown that Chowdhary teaches this limitation.

- iii. *[1.2] determining, by the computing device located within the vehicle, that the vehicle committed a violation based on the information about the vehicle;*

Petitioner asserts that Chowdhary’s “event detection module uses the location information (e.g., information about the vehicle) from the GPS receiver to determine the road segment that the vehicle is traveling on and

uses information stored in a digital map database to determine the speed limit for that road segment.” Pet. 46 (citing Ex. 1005 ¶¶ 6–8, 76–77). According to Petitioner, Chowdhary’s “event detection module then compares the current speed of the vehicle (e.g., information about the vehicle) with the speed limit of the road segment that the vehicle is traveling along to determine if the vehicle is speeding (e.g., committed a violation).” *Id.*

Patent Owner does not present arguments in its Response or Sur-reply addressing the merits of Petitioner’s assertions with respect to this claim limitation. *See generally* PO Resp.; PO Sur-reply. Based on our review and consideration of the current record, we determine that Petitioner has shown that Chowdhary teaches this limitation.

- iv. *[1.3] sending, from the computing device located in the vehicle to a remote computing system, an indication of the violation;*

Petitioner asserts that when Chowdhary’s event detection module determines a speeding violation occurs, it uses a “communication module, such as a transceiver, to transmit the speeding event (e.g., indication of the violation) to local server 130/352 or directly to VSM system application server 150/360 (e.g., remote computing system) which processes the event data and generates reports for a fleet manager.” Pet. 47 (citing Ex. 1005 ¶¶ 47–51, Abstract).

Patent Owner does not present arguments in its Response or Sur-reply addressing the merits of Petitioner’s assertions with respect to this claim limitation. *See generally* PO Resp.; PO Sur-reply. Based on our review and consideration of the current record, we determine that Petitioner has shown that Chowdhary teaches this limitation.

- v. [1.4] wherein the remote computing device is configured to notify a recipient about the violation committed by the vehicle.

Petitioner asserts that Chowdhary's "VSM application server prepares reports, such as a speeding report, based on the received event data." Pet. 49 (citing Ex. 1005 ¶¶ 47, 48, 96, 97, 114, Abstract). Petitioner asserts that the fleet manager is notified of new reports through a website that includes an "Alerts/Notifications" and "Messages" screen, including a speed limit violation report. *Id.* Thus, according to Petitioner, the processor of Chowdhary's VSM application server is a remote computing device that notifies a recipient about the violation committed by the vehicle, because it "provides an Alert/Notification to a fleet manager through a website that a new speed limit violation report is available." *Id.* at 50.

Patent Owner argues that the Petition fails to establish that Chowdhary discloses or renders obvious the subject matter recited by limitation [1.4]. PO Resp. 23–28; PO Sur-reply 15. According to Patent Owner, Chowdhary only "teaches a system where a fleet manager can run reports by logging into a website," and then, "[o]nce the fleet manager is logged into the website, the fleet manager can configure or select from a plurality of reports to generate." PO Resp. 23 (citing Ex. 1005). However, Patent Owner asserts that Chowdhary "is wholly silent with regard to anything that is configured to actively notify someone about a violation." *Id.* at 24 (citing Ex. 2017 ¶ 57). Instead, Patent Owner contends that "Chowdhary is like what Petitioner's expert, Christopher Wilson, referred to as one of those 'if-you-go-looking-for-it types of' systems – rather than an active notification system as claimed in the '475 [p]atent." *Id.* at 25 (citing Ex. 2015, 96:14–23); PO Sur-reply 15.

In response, Petitioner argues that Patent Owner’s “sole argument distinguishing Chowdhary relies on its improper construction requiring ‘active’ notification.” Pet. Reply 11 (citing PO Resp. 27–28). According to Petitioner, Patent Owner “mischaracterizes Chowdhary when arguing that Chowdhary is ‘wholly silent’ about a new report being available.” *Id.* at 13 (citing PO Resp. 23–28; Ex. 2017 ¶ 60).

After considering both parties’ arguments, we are persuaded that the arguments and evidence provided by Petitioner demonstrate the unpatentability of claim 1 by a preponderance of the evidence.

At the outset, we agree with Petitioner that Patent Owner’s arguments are all premised upon its proposed construction of the phrase “configured to notify a recipient,” which, we do not adopt. *See* § III.C.1. As discussed above, we are not persuaded that the phrase “configured to notify a recipient,” as it appears in the context of claim 1, requires any type of active notification, as Patent Owner proposes. Consequently, Patent Owner’s argument that Chowdhary fails to teach the limitation at issue because Chowdhary “is wholly silent with regard to anything that is configured to actively notify someone about a violation” is unavailing. PO Resp. 24 (citing Ex. 2017 ¶ 57); *see also id.* at 27 (“[N]either the shortcuts to the reports shown in Figure 10 . . . or any other disclosure in Chowd[h]ary, actively notifies the fleet manager that a violation has been committed by the driver of the vehicle.”).

Notwithstanding, to address this limitation, Petitioner directs us to Chowdhary’s disclosure that its “VSM application server automatically generates reports when new event data is received based on previously set criteria.” *Id.* (citing Ex. 1005 ¶¶ 7, 47–51, 96–97, 102–103, 114, Figs.

10–30; Ex. 1002 ¶¶ 84–87). Petitioner provides the following copy of Figure 10 of Chowdhary, annotated to identify, among several items, icon 1102 and icon 1104.

Alerts/Notifications		Messages		1100	
S. No	Name	Date/Time	1102	1104	
1	FleetHistory	2004-02-10 10:00:00			
2	FleetHistory	2004-02-11 10:00:00			
3	FleetHistory	2004-02-12 10:00:00			
4	FleetHistory	2004-02-13 10:00:00			

FIG. 10

Figure 10 illustrates “an example screen display for one embodiment of the VSM user interface” that includes “an ‘Alert/Notifications’ and ‘Messages’ screen.” Ex. 1005 ¶¶ 19, 97. Petitioner explains that Chowdhary discloses

VSM application server receives speeding event data and prepares speeding reports based on the received event data. [Ex. 1005 ¶¶ 7, 47–51, 96–97, 114, Figs. 10–30]. An administrator sets alerts and/or notifications for reports that are of particular interest to the administrator so that an Alert/Notification is posted providing the title of the report (orange), the date/time the report was created (green), a link (via icon 1102, blue) to access the report each time a new speed limit violation report is created, and an icon 1104 (red) to remove reports so only new Alerts/Notifications are shown. [Ex. 1005 ¶¶ 97–98, 120, Fig. 10].

Pet. Reply 12–13. Relying on the deposition testimony of Mr. Wilson, Petitioner asserts that “Mr. Wilson testified that a clear notification would occur when a user logs in to a website, and there is an indication that a new message is available for the user to view.” Pet. Reply 13 (citing Ex. 2015,

93:16–23, 98:9–15). We also credit Mr. Wilson’s declaration testimony where Mr. Wilson offers his opinion that this type of notification

is consistent with the disclosure in the ’475 patent. [Ex. 1001], 10:23–28, claim 4. The ’475 patent describes that the information may be “stored and later viewed by the recipient 510 by accessing the information at the server 504 via a conventional browser, e.g., Microsoft™ Internet Explorer.” *Id.* That is, in the ’475 patent, the user is permitted to use the browser to check to see if there are any new indications of violation posted.

Ex. 1002 ¶ 85. Thus, we determine that Petitioner has shown that Chowdhary discloses this limitation.

To the extent Patent Owner argues that its position is supported by the deposition testimony of Mr. Wilson, i.e., “Chowd[h]ary is like what Petitioner’s expert, Christopher Wilson, referred to as one of those ‘if-you-go-looking-for-it types of’ systems – rather than an active notification system as claimed in the ’475 [p]atent” (PO Resp. 25 (citing Ex. 2015, 96:14–23); PO Sur-reply 15), we disagree, and find Patent Owner’s argument mischaracterizes Mr. Wilson deposition testimony. In this regard, when asked in a follow-up question whether Mr. Wilson “view[s the] notification within the [’475] patent as an active notification because it is important” (Ex. 2015, 96:24–97:1), Mr. Wilson responds “I don’t know that notification as the plain and ordinary meaning used in the [’475] patent requires this sort of active notification as opposed to just a, let’s call it, passive notification (*id.* at 97:4–8). As such, we find Patent Owner’s argument regarding Mr. Wilson’s deposition testimony to be unpersuasive.

With respect to Ground 5, Patent Owner argues that Chowdhary does not render claim 1 obvious because “the Petition fails to provide any motivation to modify Chowdhary with the omitted elements.” PO Resp.

27–28 (citing Ex. 2017 ¶ 62); *see also* PO Sur-reply 15 (“[N]either the Petition nor the Reply provides any motivation to modify Chowdhary with the omitted claim elements.”). However, we are not persuaded by Patent Owner’s argument at least because anticipation is the epitome of obviousness and, if a claim is anticipated, it is also obvious. *See Realtime Data, LLC v. Iancu*, 912 F.3d 1368, 1373 (Fed. Cir. 2019) (“[I]t is well settled that a disclosure that anticipates under § 102 also renders the claim invalid under § 103, for anticipation is the epitome of obviousness.” (citations and internal quotations omitted)).

For the reasons given by Petitioner and summarized above, we find that Chowdhary discloses the argued limitation. In addition, Petitioner has shown by a preponderance of the evidence that Chowdhary discloses all of the elements of claim 1. Therefore, we are persuaded that Petitioner has established by a preponderance of the evidence that claim 1 is unpatentable under §§ 102 and 103 over Chowdhary.

3. *Dependent Claims 2–5 and 7*

Petitioner contends that the additional limitations of dependent claims 2–5 and 7 are disclosed by Chowdhary. Pet. 53–59.

- i. [2.0] *The method of claim 1, wherein the information about the vehicle comprises one or more of a location of the vehicle, a time that the vehicle was at a location, or a speed of the vehicle.*

Petitioner asserts that Chowdhary discloses or renders obvious limitation [2.0]. Pet. 53. More particularly, Petitioner asserts that Chowdhary discloses that “*the information about the vehicle includes at least a location of the vehicle and a speed of the vehicle.*” *Id.* (citing Ex. 1005 ¶ 49, Fig. 30).

- ii. *[3.0] The method of claim 1, wherein the violation committed by the vehicle comprises a speed of the vehicle exceeding a posted speed limit.*

Petitioner asserts that Chowdhary discloses or renders obvious limitation [3.0]. Pet. 54. More particularly, Petitioner asserts that Chowdhary discloses that its “event detection module determines whether the vehicle committed a speeding violation by determining if the vehicle’s speed exceeds the speed limit (e.g., *posted speed limit*).” *Id.* (citing Ex. 1005 ¶¶ 46, 76–77, Figs. 8a–8b; Ex. 1002 ¶ 60).

- iii. *[4.0] The method of claim 1, wherein the remote computing device is configured to notify the recipient about the violation committed by the vehicle by permitting the recipient to view the indication of the violation via a browser.*

Petitioner asserts that Chowdhary discloses or renders obvious limitation [4.0]. Pet. 54–55. More particularly, Petitioner asserts that “Chowdhary discloses that discloses that its VSM application server prepares reports, such as a speeding report, based on the received event data.” *Id.* (citing Ex. 1005 (citing Abstract, ¶¶ 47–48, 96–97, 114, Figs. 10, 30). Petitioner explains that, in Chowdhary, “the fleet manager (e.g., recipient) is notified of new reports through a website that includes an ‘Alerts/Notifications’ and ‘Messages’ screen.” *Id.* at 55 (citing Ex. 1005 ¶ 97, Fig. 10). According to Petitioner, one of ordinary skill in the art “would have understood, or at least found obvious, that the website would have been a set of HTML documents accessed and viewed through a browser.” *Id.* (citing Ex. 1002 ¶ 83).

- iv. *[5.0] The method of claim 1, wherein the remote computing device is configured to notify the recipient about the violation committed by the vehicle by sending a communication to the recipient in*

response to receiving the indication of the violation from the computing device.

Petitioner asserts that Chowdhary discloses or renders obvious limitation [5.0]. Pet. 56–57. More particularly, Petitioner asserts that Chowdhary discloses that its

fleet manager (e.g., recipient) is notified of new reports through a website that includes an indication of the violation that was committed such as an alert (e.g., communication to the recipient) that an event report (e.g., another communication to the recipient) detailing a speed limit violation is ready to be viewed.

Id. at 56 (citing Ex. 1005 ¶¶ 97–98, 111, 114, Figs. 29–31). According to Petitioner, in Chowdhary, “[a] ‘Messages’ screen may also be viewed by the fleet manager, and it would have been obvious to [one of ordinary skill in the art] that the messages (e.g., communication) provide information about reports that are ready to be viewed.” *Id.* (citing Ex. 1005 ¶¶ 97–98, 111, 114, Figs. 10, 29–31). Relying on the declaration testimony of Mr. Wilson, Petitioner asserts that one of ordinary skill in the art “would have understood that it would have been beneficial to give information regarding the contents of the report so that the recipient can decide whether it is desirable to review the report.” *Id.* (citing Ex. 1002 ¶ 86).

Petitioner further asserts that the Chowdhary’s VSM application server prepares “speeding report, and notifies the fleet manager that the report is available (e.g., *sending a communication to the recipient*) based on the received event data (e.g., *in response to receiving the indication of the violation from*) from the event detection module (e.g., *computing device*).”

Pet. 56–57 (citing Ex. 1005 Abstract, ¶¶ 47–48, 96–97, 114, Figs. 10, 30).

According to Petitioner,

“[E]vent data is transmitted over Internet 140 to VSM application server 150,” and then “VSM application server 150 processes the event data and generates reports useful for the fleet manager.” [Ex. 1055 ¶ 47]. Once the desired report is created, the “Alert/Notification” is created. [*Id.* ¶¶ 47, 97]. The “Alert/Notification” and/or “Message” (e.g., *communication to the recipient*) is sent *in response to* receiving the event data via the vehicle’s communication module.

Id. at 57.

- v. [7.0] *The method of claim 1, wherein the computing device is configured to send the indication of the violation in response to determining that the vehicle committed the violation.*

Petitioner asserts that Chowdhary discloses or renders obvious limitation [7.0]. Pet. 58. More particularly, Petitioner asserts that Chowdhary discloses

when the event detection module determines that a speeding violation has occurred, the event detection module uses the communication module, such as a transceiver, to transmit the speeding event (e.g., *indication of the violation*) to local server 130/352 or directly to VSM system application server 150/360, which processes the event data and generates reports for a fleet manager.

Id. (citing Ex. 1005 Abstract, ¶¶ 6–8, 46–51, 76–77, 120, Figs. 8a–8b).

- vi. *Conclusion for Dependent Claims 2–5 and 7*

Patent Owner does not challenge Petitioner’s contentions with respect to these limitations, and Petitioner’s contentions are supported by the cited evidence. For the reasons given by Petitioner and summarized above, we are persuaded that Petitioner has shown by a preponderance of the evidence that the limitations of each of claims 2–5 and 7 are taught or suggested by

Chowdhary. Therefore, we are persuaded that Petitioner has established by a preponderance of the evidence that claims 2–5 and 7 are unpatentable under §§ 102 and 103 over Chowdhary.

4. Independent claim 8

As discussed above, independent claim 8 is substantially similar to claim 1 except that claim 8 is directed to a non-transitory computer-readable medium having instructions that when executed cause a computing device to perform similar steps to those of claim 1.

Petitioner asserts that Chowdhary’s non-volatile memory 230 is a non-transitory computer-readable medium that stores computer-readable instructions to operate microcontroller 210, which controls the event detection module, and thus, executes the instructions by a computing device. Pet. 59 (citing Ex. 1005 ¶¶ 47, 49). For the remaining limitations of claim 8, Petitioner asserts that “Chowdhary discloses, or at least renders obvious” limitations [8.1]–[8.4] “for the same reasons discussed for” limitations [1.1]–[1.4]. *Id.* at 60.

Although Patent Owner argues claims 1, 8, and 15 as a group, Patent Owner does not specifically challenge Petitioner’s contentions with respect to these limitations for claim 8. For the reasons given by Petitioner and summarized above with respect to claim 1, we are persuaded that Petitioner has shown by a preponderance of the evidence that the limitations of claim 8 are taught or suggested by Chowdhary. Therefore, we are persuaded that Petitioner has established by a preponderance of the evidence that claim 8 is unpatentable under §§ 102 and 103 over Chowdhary.

5. Dependent Claims 9–12 and 14

Petitioner asserts that Chowdhary discloses or renders obvious the additional limitations of dependent claims 9–12 and 14 for the same reasons discussed for claims 2–5, 7, and 8, i.e., limitations [2.0]–[5.0], [7.0] and [8.0]. Pet. 60–62.

Patent Owner does not challenge Petitioner’s contentions with respect to these limitations, and Petitioner’s contentions are supported by the cited evidence. For the reasons given by Petitioner and summarized above, we are persuaded that Petitioner has shown by a preponderance of the evidence that the limitations of each of claims 9–12 and 14 are taught or suggested by Chowdhary. Therefore, we are persuaded that Petitioner has established by a preponderance of the evidence that claims 9–12 and 14 are unpatentable under §§ 102 and 103 over Chowdhary.

6. Independent Claim 15

As discussed above, independent device claim 15 is substantially similar to claim 1 except that claim 15 includes various modules configured to perform similar steps to claim 1.

Petitioner asserts that Chowdhary discloses or renders obvious the limitations of claim 15 for the same reasons discussed by limitations [1.0]–[1.4]. Pet. 63–67. Although Patent Owner argues claims 1, 8, and 15 as a group, Patent Owner does not specifically challenge Petitioner’s contentions with respect to these limitations for claim 15. For the reasons given by Petitioner and summarized above with respect to claim 1, we are persuaded that Petitioner has shown by a preponderance of the evidence that the limitations of claim 15 are taught or suggested by Chowdhary. Therefore, we are persuaded that Petitioner has established by a preponderance of the

evidence that claim 15 is unpatentable under §§ 102 and 103 over Chowdhary.

7. Dependent Claims 16–20

Petitioner asserts that Chowdhary discloses or renders obvious the additional limitations of dependent claims 16–20 for the same reasons discussed for claims 2–5, 7, and 15. Pet. 67–68.

Patent Owner does not challenge Petitioner’s contentions with respect to these limitations, and Petitioner’s contentions are supported by the cited evidence. For the reasons given by Petitioner and summarized above, we are persuaded that Petitioner has shown by a preponderance of the evidence that the limitations of each of claims 16–20 are taught or suggested by Chowdhary. Therefore, we are persuaded that Petitioner has established by a preponderance of the evidence that claims 16–20 are unpatentable under §§ 102 and 103 over Chowdhary.

8. Conclusion for Petitioner’s Fourth and Fifth Grounds

For the foregoing reasons, we conclude that Petitioner has shown by a preponderance of the evidence that claims 1–5, 7–12, and 14–20 are unpatentable under §§ 102 and 103 over Chowdhary.

*G. Obviousness over Chowdhary and Tobey
(Ground 6)*

Petitioner asserts that claims 1–20 are obvious over Chowdhary and Tobey. Pet. 39–68. Petitioner also relies on the testimony of Mr. Wilson to support its arguments. *Id.* Patent Owner responds to Petitioner’s assertions. See PO Resp. 28–31; PO Sur-reply 15–16. Patent Owner relies on the testimony of Dr. Goldberg to support its arguments. PO Resp. 28–31 (citing Ex. 2017).

1. *Overview of Tobey (Ex. 1006)*

Tobey is directed to “automation of driver monitoring to facilitate the process of aggregating, processing, and displaying driver safety information in an effort to promote safe driving.” Ex. 1006, 1:18–21. Tobey discloses an embodiment wherein traffic violation information is input through driving safety information system 300 “to generate reports for distribution to participating administrators.” *Id.* at 13:57–14:15. The administrator “would be able to observe various information resulting from the traffic violation, including, the nature of the event (i.e. that the offending driver ran a red light)”. *Id.* at 14:21–25. Tobey explains that embodiments include “Web-based computing application having specific areas dedicated for content and interface features offered to drivers and specific areas dedicated for content and interface features offered to administrators.” *Id.* at 5:13–16, Figs. 5, 5A. Tobey discloses that for other embodiments, the information is communicated to the recipient through “e-mail, pager notification, instant messaging, short message services, or other equivalent and available electronic communication means” when, for example, “the driver’s risk level has changed.” *Id.* at 14:12–29, 15:65–67.

2. *Petitioner’s Assertions*

Petitioner asserts the Chowdhary discloses or renders obvious limitations [1.0]–[1.3]. Pet. 44–48 (citing Exs. 1001, 1002, 1005).

With respect to limitation [1.4], Petitioner asserts that “*Chowdhary* alone discloses, or at least renders obvious, [1.4], or, in the alternative *Chowdhary* in view of *Tobey* renders obvious [1.4].” Pet. 48. As discussed above with respect to Ground 4, Petitioner asserts that Chowdhary’s fleet manager may “set the Alerts/Notifications to generate various reports of

particular concern to that user” and discloses that one report is a speed limit violation report. Pet. 49 (citing Ex. 1005 ¶¶ 97, 111, 114, Fig. 30). According to Petitioner, “[w]hen the fleet manager sees a notification that a new report is available, the fleet manager clicks on an icon on the website to view the report.” *Id.* (citing Ex. 1005 ¶¶ 97–98). Petitioner explains that Chowdhary’s disclosure regarding accessing a report “is consistent with the ’475 patent describing that the information may be ‘stored and later viewed by the recipient.’” *Id.* at 50. Petitioner asserts that to the extent that accessing a report upon notification that the report is available is insufficient to meet the claims, Tobey also discloses a fleet manager accessing an event report provided through a web browser, and alternatively “discloses sending, for example, an e-mail or instant message to the fleet administrator providing information regarding the nature of the traffic violation.” *Id.* (citing Ex. 1006, 6:59–61, 13:29–36, 14:12–29, 14:52–15:8, Figs. 5, 5A).

Relying on the declaration testimony of Mr. Wilson, Petitioner asserts that one of ordinary skill in the art “would have been motivated to combine the teachings of *Chowdhary* with those of *Tobey* with a reasonable expectation of success.” Pet. 51–53 (citing Ex. 1002 ¶¶ 88–93). Also relying on the declaration testimony of Mr. Wilson, Petitioner provides several reasons why one of ordinary skill in the art “would have been motivated to implement *Tobey*’s use of e-mails and/or instant messages with *Chowdhary*’s browser system to create a more efficient solution for real-time notification of traffic violations.” *Id.* at 52 (citing Ex. 1002 ¶ 91).

3. *The Parties’ Arguments*

Patent Owner argues that the Petition fails to establish that the combination of Chowdhary and Tobey discloses or renders obvious “a

“remote computing device [that] is configured to notify a recipient about the violation committed by the vehicle,” as recited by limitation [1.4]. PO Resp. 28–31; PO Sur-reply 15–16. Patent Owner asserts that “[t]he addition of Tobey does not cure the deficiencies of Chowdhary” because “Tobey is directed to a system of performing a *post hoc* analysis on driver data. PO Resp. 28 (citing Ex. 2017 ¶ 64). More particularly, Patent Owner argues

Tobey teaches a system where a message is sent to participating administrators when the post hoc analysis of the collected data reveals that the driver has violated a defined business rule. Tobey is wholly silent with regard to sending any form of active notification when the driver commits a violation. Instead, Tobey waits for the post hoc analysis to be performed in order to send a message to the administrator. Tobey is wholly silent with regard to sending any sort of message when the violation is committed.

Id. at 30 (citing Ex. 2017 ¶¶ 65–66). With reference to Mr. Wilson’s declaration testimony regarding the background of the art, Patent Owner asserts that one of ordinary skill in the art would not have been motivated to combine Chowdhary and Tobey because “systems like Tobey – which stored electronic records of speeding violations -- were *against* the conventional wisdom.” *Id.* at 28–29 (citing Ex. 1002 ¶ 27). Thus, Patent Owner asserts that “the combination of Chowdhary and Tobey, at most, results in a system where a fleet manager can generate historical reports and receive alerts when the post hoc analysis indicates that the driver violated a business rule.” *Id.* at 30–31.

In response, Petitioner argues that Patent Owner’s arguments rely “on its improper construction requiring ‘active’ notification” (Pet. 11 (citing PO Resp. 27–28)), but “under either construction, Chowdhary as modified by

Tobey renders this claim element obvious.” Pet. Reply 14. According to Petitioner,

[L]ike Chowdhary, Tobey discloses allowing a fleet administrator to access an event report providing details of a traffic violation through a web browser. [Ex. 1006], Abstract, 6:59–61, 13:29–36, 14:52–15:8, Figs. 5, 5A. In conjunction with the web browser, Tobey discloses sending, for example, an e-mail or instant message to the fleet administrator providing information regarding the nature of the traffic violation to ensure that the administrator knows a new event report is available. [*Id.* at 11:33–38, 14:12–29, 15:65–67. There is no dispute that the sending of an e-mail or instant message constitutes an “active” notification. [PO Resp.] 5.

Id.

Petitioner asserts that Patent Owner’s argument that one of ordinary skill in the art “would not be motivated to modify Chowdhary in view of Tobey solely on the premise that Tobey’s storage of electronic records of speeding violations was “*against* the conventional wisdom” (Pet. Reply 14 (citing PO Resp. 28–29)), is unpersuasive at least because “Chowdhary already discloses having stored electronic records of speeding violations.” *Id.* (citing Ex. 1005 ¶ 50, Fig. 30; Ex. 2017 ¶¶ 57–60). Petitioner further asserts that Patent Owner’s arguments regarding “Tobey’s ‘post-hoc analysis’ of the ‘raw data indicative of driver and/or vehicle event’ prevents Tobey’s message from being sent ‘when the violation is committed’” is unpersuasive at least because “Chowdhary is not being modified by Tobey to include Tobey’s analysis.” *Id.* at 15 (citing Pet. 51–53, 57). Petitioner explains that “Chowdhary is only being modified to include Tobey’s e-mail or instant message notification method to notify the recipient about the violation (e.g., generation of the new report) instead of requiring the

recipient to view the notification/alert through a web browser.” *Id.* (citing Pet. 51–53, 57).

In its Sur-reply, Patent Owner argues that “Petitioner does not dispute that Tobey (Ex. 1006) fails to teach an active notification in response to an indication of a violation. In this regard, Petitioner does not dispute that Tobey is directed to a system of performing a *post hoc* analysis on driver data.” PO Sur-reply 15–16 (citing Ex. 2017 ¶ 64). And, because Tobey “plainly lacks the sending of an active notification in response to an indication of a violation, as claimed,” Patent Owner contends that Tobey’s “focus on *post-hoc* analysis” “cannot remedy the same deficiency in Chowdary.” *Id.* at 16.

4. *Our Analysis*

After considering both parties’ arguments, we are persuaded that the arguments and evidence provided by Petitioner demonstrate the unpatentability of claim 1 by a preponderance of the evidence.

At the outset, we agree with Petitioner that Patent Owner’s arguments are all premised upon its proposed construction of the phrase “configured to notify a recipient,” which, we do not adopt. *See* § III.C.1. As discussed above, we are not persuaded that the phrase “configured to notify a recipient,” as it appears in the context of claim 1, requires any type of active notification or additional limitation on the timing of the notification, as Patent Owner proposes. Thus, Patent Owner’s argument that Tobey cannot remedy the alleged deficiency in Chowdhary because Tobey is “focus[ed] on *post-hoc* analysis,” as such, “plainly lacks the sending of an active notification in response to an indication of a violation” (PO Sur-reply 16) is unavailing.

We also do not agree with Patent Owner that “[t]he addition of Tobey does not cure the deficiencies of Chowdhary” because “Tobey is wholly silent with regard to sending any sort of message when the violation is committed.” PO Resp. 30 (citing Ex. 2017 ¶¶ 65–66). Instead, we agree with Petitioner that “Chowdhary is only being modified to include Tobey’s e-mail or instant message notification method to notify the recipient about the violation (e.g., generation of the new report) instead of requiring the recipient to view the notification/alert through a web browser.” Pet. Reply 15 (citing Pet. 51–53, 57).

We credit the declaration testimony of Mr. Wilson that one of ordinary skill in the art “reading *Chowdhary* would have looked for known ways to effectively notify a fleet administrator of traffic violations by the vehicles in the fleet so that the fleet administrator gets the notification in a timely manner.” Pet. 51 (citing Ex. 1002 ¶ 91). As Mr. Wilson testified, one of ordinary skill in the art

would have understood that using *Tobey*’s e-mail and/or instant message would have been a beneficial modification to *Chowdhary*’s browser system because *Tobey* describes that using a browser in conjunction with an e-mail and/or instant message to ensure that the fleet manager knows a new event report is available to be viewed through the browser interface.

Id. (citing Ex. 1002 ¶ 91; Ex. 1006, 11:33–38, 14:12–29, 15:65–67).

Given Petitioner’s analysis, Petitioner has articulated sufficient reasoning with rational underpinning to support its assertion that it would have been obvious to combine “*Tobey*’s use of e-mails and/or instant messages with *Chowdhary*’s browser system to create a more efficient solution for real-time notification of traffic violations.” Pet. 52 (citing Ex. 1002 ¶ 91). In that combination, Chowdhary is only being modified to

include notifying the recipient about the violation via Tobey’s e-mail or instant message notification instead of viewing Chowdhary’s notification/alert through a web browser. Pet. 50–53; Pet. Reply 15.

Having reviewed all of Petitioner’s assertions regarding these limitations, as well as all supporting evidence, we determine on this complete record presented that Petitioner has persuasively shown that the combination of Chowdhary and Tobey teaches or suggests “a “remote computing device [that] is configured to notify a recipient about the violation committed by the vehicle,” as recited by limitation [1.4]. Therefore, we are persuaded that Petitioner has established by a preponderance of the evidence that claim 1 is unpatentable under § 103 over the combination of Chowdhary and Tobey.

5. *Dependent Claims 2–7*

Petitioner asserts that the combination of Chowdhary and Tobey discloses or renders obvious the additional limitations of dependent claims 2–5 and 7 for the same reasons discussed for above, in Grounds 4 and 5 for claims 2–5 and 7. Pet. 53–59. With respect to claim 5, however, Petitioner adds

[t]o the extent [Patent Owner] argues that Chowdhary alone is insufficient to render obvious *notify[ing] the recipient about the violation committed by the vehicle by sending a communication to the recipient in response to receiving the indication of the violation from the computing device*, this element would have been rendered obvious over *Chowdhary* as modified by *Tobey* to send an e-mail and/or an instant message that includes information about the violation as discussed in [1.4].

Id. at 57 (citing Ex. 1006, 11:33–38, 14:12–29, 15:65–67; Ex. 1002 ¶¶ 88–93).

Claim 6 depends from claim 5 and further recites “wherein the communication comprises one or more of an e-mail message, an instant message, or a phone call.” Ex. 1001, 11:8–10. Petitioner asserts that the combination discloses or renders obvious limitation [6.0] for the same reasons discussed for limitations [1.4] and [5.0]. Pet. 58.

Patent Owner does not specifically challenge Petitioner’s contentions with respect to these limitations other than its arguments with respect to claim 1. For the reasons given by Petitioner and summarized above with respect to claim 1, we are persuaded that Petitioner has shown by a preponderance of the evidence that the limitations of claims 1–6 are taught or suggested by the combination of Chowdhary and Tobey. Therefore, we are persuaded that Petitioner has established by a preponderance of the evidence that claims 1–6 are unpatentable under § 103 over the combination of Chowdhary and Tobey.

6. *Independent Claim 8*

As discussed above, independent claim 8 is substantially similar to claim 1.

Petitioner asserts that Chowdhary’s non-volatile memory 230 is a non-transitory computer-readable medium that stores computer-readable instructions to operate microcontroller 210, which controls the event detection module, and thus, executes the instructions by a computing device. Pet. 59 (citing Ex. 1005 ¶¶ 47, 49). Petitioner asserts further that “*Chowdhary* discloses, or at least renders obvious, [8.1]–[8.3] for the same reasons discussed for [1.1]– [1.3].” Pet. 60. And, with respect to limitation [8.4], Petitioner asserts that “*Chowdhary* in view of *Tobey* renders obvious [8.4].” *Id.*

Although Patent Owner argues claims 1, 8, and 15 as a group, Patent Owner does not specifically challenge Petitioner's contentions with respect to these limitations for claim 8. For the reasons given by Petitioner and summarized above with respect to claim 1, we are persuaded that Petitioner has shown by a preponderance of the evidence that the limitations of claim 8 are taught or suggested by the combination of Chowdhary and Tobey. Therefore, we are persuaded that Petitioner has established by a preponderance of the evidence that claim 8 is unpatentable under § 103 over the combination of Chowdhary and Tobey.

7. Dependent Claims 9–14

Petitioner asserts that Chowdhary discloses or renders obvious the additional limitations of dependent claims 9–12 for the same reasons discussed for claims 2–5 and 8. Pet. 60–61. Petitioner asserts that the combination of Chowdhary and Tobey renders obvious claim 13 “for the same reasons discussed for” claims 6, 8, and 12. *Id.* at 61. Petitioner further asserts that the combination of Chowdhary and Tobey renders obvious claim 14 “for the same reasons discussed for” claims 7 and 8. *Id.* at 61–62.

Patent Owner does not specifically challenge Petitioner's contentions with respect to these limitations other than its arguments with respect to claim 1. For the reasons given by Petitioner and summarized above with respect to claim 1, we are persuaded that Petitioner has shown by a preponderance of the evidence that the limitations of claims 9–14 are taught or suggested by the combination of Chowdhary and Tobey. Therefore, we are persuaded that Petitioner has established by a preponderance of the evidence that claims 9–14 are unpatentable under § 103 over the combination of Chowdhary and Tobey.

8. *Independent Claim 15*

As discussed above, independent device claim 15 is substantially similar to claim 1 except that claim 15 includes various modules configured to perform similar steps to claim 1.

Petitioner asserts that Chowdhary discloses or renders obvious the limitations of claim 15 for the same reasons discussed by limitations [1.0]–[1.4]. Pet. 63–67. And, with respect to limitation [15.4], Petitioner asserts that “*Chowdhary* in view of *Tobey* renders obvious [15.4] for the same reasons discussed for [1.4].” *Id.* at 67.

Although Patent Owner argues claims 1, 8, and 15 as a group, Patent Owner does not specifically challenge Petitioner’s contentions with respect to these limitations for claim 15. For the reasons given by Petitioner and summarized above with respect to claim 1, we are persuaded that Petitioner has shown by a preponderance of the evidence that the limitations of claim 15 are taught or suggested by the combination of Chowdhary and Tobey. Therefore, we are persuaded that Petitioner has established by a preponderance of the evidence that claim 15 is unpatentable under § 103 over the combination of Chowdhary and Tobey.

9. *Dependent Claims 16–20*

Petitioner asserts that that the combination of Chowdhary and Tobey discloses or renders obvious the additional limitations of claims 16–20 for the same reasons discussed for claims 2–5, 7, and 15. Pet. 67–68.

Patent Owner does not challenge Petitioner’s contentions with respect to these limitations, and Petitioner’s contentions are supported by the cited evidence. For the reasons given by Petitioner and summarized above, we are persuaded that Petitioner has shown by a preponderance of the evidence

that the limitations of each of claims 16–20 are taught or suggested by the combination of Chowdhary and Tobey. Therefore, we are persuaded that Petitioner has established by a preponderance of the evidence that claims 16–20 are unpatentable under § 103 over the combination of Chowdhary and Tobey.

IV. MOTIONS TO SEAL

Petitioner filed a Motion to Seal and for entry of a Protective Order. Paper 9 (“First Motion” or “First Mot.”). Petitioner represents that the parties have agreed to use the default protective order set forth in the Office Patent Trial Practice Guide. *Id.* at 6, Appendix A. The Protective Order is hereby entered. *See* First Mot., Appendix A. It shall govern the treatment of confidential information that has been submitted in this proceeding.

In its First Motion, Petitioner seeks to seal “certain material relating to [Petitioner]’s members and business operations (EX1029 and 1031).” First Mot. 2. Petitioner explains that “Exhibit 1029 is the Supplemental Declaration of Kevin Jakel” and “Exhibit 1031 is a Unified membership agreement.” *Id.* Petitioner asserts that these exhibits contain “sensitive business information which Petitioner asserts has not been published or otherwise been made public.” *Id.* According to Petitioner, these exhibits include “non-public proprietary information” and “potential harm[] would occur if this highly confidential Information were to be disclosed.” *Id.* at 2–3. Petitioner has filed a redacted version of Exhibit 1029 as Exhibit 1032, but contends that it “cannot meaningfully provide a redacted version of [Exhibit 1031], and requests that it remains sealed in its entirety.” *Id.* at 4–5.

Petitioner represents that Patent Owner “takes no position on the motion to seal at this time.” *Id.* at 1.¹⁶

Petitioner filed a second Motion to Seal. Paper 19 (“Second Motion” or “Second Mot.”). Petitioner seeks to seal the Patent Owner Response (Paper 18) and Exhibit 2019. Petitioner explains that “Exhibit 2019 is the deposition transcript of Kevin Jakel” and the Patent Owner Response “includes confidential information from this deposition transcript.” *Id.* at 2. Petitioner asserts that these documents contain non-public proprietary information based on “deposition testimony regarding a confidential member agreement and information regarding [Petitioner]’s business operations—that Petitioner maintains as confidential trade secrets.” *Id.* According to Petitioner, “potential harms would occur if this highly confidential Information were to be disclosed.” *Id.* at 3. Petitioner has filed a redacted version of Exhibit 2019 as Exhibit 1037 and a redacted version of the Patent Owner Response as Exhibit 1038. *Id.* at 4. Petitioner represents that “Patent Owner does not oppose the motion to seal.” *Id.* at 1.

Petitioner filed a third Motion to Seal. Paper 24 (“Third Motion” or “Third Mot.”). Petitioner seeks to seal the Petitioner Reply to the Patent Owner Response (Paper 22). Petitioner explains that Petitioner’s Reply “includes confidential information from previously filed confidential exhibits including the Deposition of Kevin Jakel and [Petitioner]’s membership agreement.” *Id.* at 2. Petitioner asserts that this document contains non-public proprietary information based on “deposition testimony regarding a confidential member agreement and information regarding

¹⁶ The record does show Patent Owner to have ever opposed Petitioner’s First Motion.

[Petitioner]’s business operations—that Petitioner maintains as confidential trade secrets.” *Id.* According to Petitioner, “potential harms would occur if this highly confidential Information were to be disclosed.” *Id.* Petitioner has filed a redacted version of Petitioner’s Reply as Paper 25. *Id.* at 4. Petitioner represents that “Patent Owner does not oppose the motion to seal.” *Id.* at 1.

Petitioner filed a fourth Motion to Seal. Paper 27 (“Fourth Motion” or “Fourth Mot.”). Petitioner seeks to seal Patent Owner’s Sur-Reply in Support of Patent Owner’s Response (Paper 26). Petitioner explains that Patent Owner’s Sur-Reply “includes confidential information from previously filed confidential exhibits including the Deposition of Kevin Jakel and [Petitioner]’s membership agreement.” *Id.* at 2. Petitioner asserts that this document contains non-public proprietary information based on “deposition testimony regarding a confidential member agreement and information regarding [Petitioner]’s business operations—that Petitioner maintains as confidential trade secrets.” *Id.* According to Petitioner, “potential harms would occur if this highly confidential Information were to be disclosed.” *Id.* Petitioner has filed a redacted version of Patent Owner’s Sur-Reply as Exhibit 1044. *Id.* at 4. Petitioner represents that “Patent Owner does not oppose the motion to seal.” *Id.* at 1.

Upon considering the content of the Papers and Exhibits Petitioner seeks to seal, along with Petitioner’s representations as to the confidentiality of the information, we conclude that Petitioner has established sufficiently good cause to grant the Motions to Seal that are before us. Therefore, we grant each of Petitioner’s Motions to Seal and the associated request to enter the Board’s default Protective Order. First Mot., Appendix A.

V. CONCLUSION

In summary:

Claims	35 U.S.C. §	Reference(s)	Claims Shown Unpatentable	Claims Not Shown Unpatentable
1–3, 5–10, 12–17, 19, 20	102 ¹⁷	Mardirossian		
1–20	103 ¹⁸	Mardirossian		
4, 11, 18	103 ¹⁹	Mardirossian, Calva		
1–5, 7–12, 14–20	102	Chowdhary	1–5, 7–12, 14–20	
1–5, 7–12, 14–20	103	Chowdhary	1–5, 7–12, 14–20	
1–20	103	Chowdhary, Tobey	1–20	
Overall Outcome			1–20	

VI. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that Petitioner has established based on a preponderance of evidence that claims 1–20 of the '475 patent are unpatentable as set forth above;

FURTHER ORDERED that the Board's default Protective Order (Paper 9, Appendix A) is hereby entered;

FURTHER ORDERED that Petitioner's Motions to Seal are granted;
and

¹⁷ We do not reach this ground for the reasons discussed in Section III.D.

¹⁸ We do not reach this ground for the reasons discussed in Section III.D.

¹⁹ We do not reach this ground for the reasons discussed in Section III.E.

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. § 90.2.²⁰

²⁰ 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).

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