

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EVERI PAYMENTS INC.,
Petitioner,

v.

SIGHTLINE PAYMENTS LLC,
Patent Owner.

IPR2022-00696
Patent 8,998,708 B2

Before SCOTT C. MOORE, MITCHELL G. WEATHERLY, and
CARL M. DEFRANCO, *Administrative Patent Judges*.

DEFRANCO, *Administrative Patent Judge*.

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

Sightline Payments, LLC (“Sightline”) is the owner of U.S. Patent No. 8,998,708 B2 (Ex. 1002, “the ’708 patent”). Everi Payments Inc. (“Everi”) filed a Petition requesting *inter partes* review of claims 1, 2, 6, 8–12, and 15–20 of the ’708 patent. Paper 1 (“Pet.”). We instituted *inter partes* review of all the claims as challenged in the Petition. Paper 8 (“Inst. Dec.”). Sightline filed a response (Paper 11, “PO Resp.”), Everi filed a reply (Paper 16, “Pet. Reply”), and Sightline followed with a sur-reply (Paper 18, “PO Sur-Reply”). We held an oral hearing on June 14, 2023, a transcript of which is in the record. Paper 25 (“Hrg. Tr.”).

We have jurisdiction under 35 U.S.C. § 6. This Final Written Decision is entered pursuant to 35 U.S.C. § 318(a). For the reasons below, we determine that Everi demonstrates by a preponderance of the evidence that challenged claims 1, 2, 6, 8–12, and 15–20 are unpatentable as obvious under 35 U.S.C. § 103.

I. BACKGROUND

A. Related Matters

Everi challenges four patents that are related to the ’708 patent in the following *inter partes* review proceedings—IPR2022-00614 (U.S. Patent 8,708,809 B2), IPR2022-00663 (U.S. Patent 9,196,123 B2), IPR2022-00706 (U.S. Patent 9,466,176 B2), and IPR2022-00707 (U.S. Patent 9,785,926 B2). *See* Pet. 1; Paper 4 at 2. Those patents, along with the ’708 patent at issue here, were the subject of an infringement action in *Sightline Payments LLC v. Everi Holdings Inc.*, No. 6:21-cv-01015 (W.D. Tex.), filed September 30, 2021, and subsequently dismissed on June 1, 2022. *See* Paper 7 at 1 (citing Ex. 1032).

B. The '708 Patent

The '708 patent is directed to a computer-based system and method for performing electronic transactions between various accounts associated with a gaming establishment, such as a casino. Ex. 1002, 2:7–24. As described, the system allows a player wanting to play a casino game to selectively transfer funds from the player's personal account at a financial institution to the player's gaming account at the casino. *Id.* at 4:50–60. The system also allows the casino to track the player's gaming and purchase activity inside and outside the casino so as to associate such transactions with a player's loyalty profile. *Id.* at 3:5–62.

C. The Asserted Challenges

Claims Challenged	35 U.S.C. §	Basis
1, 2, 6, 8, 9, 11, 12, 15, 16, 18–20	103	Smith ¹
1, 2, 6, 8–12, 15–20	103	Sommer ²

In support of these challenges, Everi submits initial and supplemental declarations from Dwight Crevelt. *See* Exs. 1001, 1039. Sightline submits a declaration from Michael Shamos, Ph.D., J.D. *See* Ex. 2001.

D. The Challenged Claims

Three of the challenged claims are independent—claims 1, 11, and 18. Claim 1 recites a “computer-based method of transferring funds between a stored value account and a gaming account,” claim 11 recites a “computed-based method of funding an account,” and claim 18 recites a “a system for a

¹ US 2013/0073447 A1, published March 21, 2013 (Ex. 1005, “Smith”).

² US 2008/0113776 A1, published May 15, 2008 (Ex. 1006, “Sommer”).

gaming environment” that executes a method similar to that of claim 1. *See* Ex. 1002, 21:17–18, 22:29–30, 23:15, respectively.

Claim 1 is representative and recites:

[1.0] A computer-based method of transferring funds between a stored value account and a gaming account, the method comprising:

[1.1] receiving, by one or more computing devices, a player identifier of a player, [1.2] wherein the player identifier is associated with a gaming account having a balance maintained by a casino computing system;

[1.3] identifying, by any of the one or more computing devices, a stored value account based at least partially on the player identifier, [1.4] wherein the stored value account is associated with a stored value payment vehicle issued to the player, and [1.5] wherein a balance of the stored value account is maintained by an issuer processor computing system;

[1.6] instructing, by any of the one or more computing devices, the issuer processor computing system to decrease the balance of the stored value account; and instructing, by any of the one or more computing devices, the casino computing system to increase the balance of the gaming account.

Id. at 21:17–36 (bracketed references added).

II. ANALYSIS

A. Burden of Proof

To prevail in its challenges, Everi must prove unpatentability by a preponderance of the evidence. 35 U.S.C. § 316(e) (2018); 37 C.F.R. § 42.1(d) (2018); *see also Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1363 (Fed. Cir. 2016) (“In an [*inter partes* review], the petitioner has the burden from the onset to show with particularity why the patent it challenges is unpatentable.”). This burden of persuasion never shifts to Sightline as the

patent owner.³ *See Dynamic Drinkware, LLC v. Nat’l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015) (discussing the burdens of proof in an *inter partes* review).

B. Level of Ordinary Skill in the Art

Everi argues, with support from its declarant, that one skilled in the art during the relevant time frame “would have a Bachelor’s degree in Computer Engineering or Computer Science, or an equivalent degree, with at least two years of experience in casino or gaming transaction facilitation, or related technologies.” Pet. 9–10 (citing Ex. 1001 ¶ 37). Sightline does not dispute Everi’s definition of the level of skill in the art, but asserts that it should also include “familiarity with gaming and financial regulations. PO Resp. 9–10 (citing Ex. 2001 ¶¶ 27–28).

Everi replies that Sightline’s additional qualification for the level of skill in the art is “implied and unnecessary” because “[t]he agreed-upon level of skill in the art . . . *already includes* ‘familiarity with gaming and financial regulations.’” Pet. Reply 1 (quoting PO Resp. 10). According to Everi, “a person having at least two years of experience in casino or gaming transaction facilitation will necessarily become familiar with gaming and financial regulations as part of their experience implementing gaming systems into an actual casino environment.” *Id.* (citing Ex. 1039 ¶¶ 1–3).

Both Everi and Sightline agree that one skilled in the art of gaming transaction facilitation would have familiarity with gaming and financial

³ Although occasionally we may focus on Sightline’s arguments, we do not shift the ultimate burden from Everi. We focus on Sightline’s arguments merely to identify issues in dispute, many if not all of which we find unpersuasive in view of the record as a whole.

regulations—whether such familiarity is implied per Everi or stated outright per Sightline. Thus, we adopt Everi’s definition of the level of skill in the art with Sightline’s additional modification of that definition.

C. Claim Construction

We generally give the words of a claim their ordinary and customary meaning. *See Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc); 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.” *Id.* at 1313. “[T]he person of ordinary skill in the art is deemed to read the claim term not only in the context of the particular claim in which the disputed term appears, but in the context of the entire patent, including the specification.” *Id.*

Everi and Sightline disagree over the construction of the claim term “gaming account” as recited in the independent claims 1, 8, and 14. *See* PO Resp. 11–18; Pet. Reply 1–4. Sightline contends that “gaming account” should be construed as “a financial account associated with a player and that may be used in a gaming or *non-gaming* environment of a casino.” PO Resp. 15 (emphasis added). Despite using the disjunctive “or” in its proposed construction, Sightline argues that we should construe “gaming account” in a way that requires the account be capable of use in *both* gaming *and* non-gaming environments because “[t]he specification [of the ’708 patent] also discloses the gaming account is used in non-gaming environments,” such as “a retailer on casino property or at an online merchant, both of which are examples of non-gaming environments.” *Id.* at 16 (citing Ex. 1002, 8:5–13, 10:62–67).

Sightline also points to an embodiment in Figure 8 of the '708 patent, which “*aims to capture patron spending behavior that occurs in non-gaming environments of a casino, such as in the restaurants, hotels, retail establishments, ATM’s a[s] well as spending behavior that occurs in non-casino environments, such as in the restaurants, hotels, retail establishments, ATMs.*” *Id.* at 17 (quoting Ex. 1002, 14:22–33). Based on that disclosure, Sightline argues that Everi’s proposed construction seeks to “exclude the primary embodiment of using the gaming account in both gaming or non-gaming environment.” *Id.* at 17–18.

Everi replies that the specification of the '708 patent explicitly defines the term “gaming account”—

As used herein, a gaming account can be any type of financial account (i.e., electronic ledger) that is associated with a player, or collection of financial accounts that are associated with a player, and maintained by a casino, or at least on behalf of a casino.

Pet. Reply 2 (citing Ex. 1002, 8:26–30) (second emphasis added). As such, Everi argues, “that definition controls,” and Sightline’s proposed construction improperly attempts to avoid that explicit definition by “mandat[ing] that the term ‘gaming account’ *must* have the capability of being used in non-gaming environments.” *Id.* at 2, 4, respectively. In particular, Everi contends that Sightline’s proposed construction improperly captures “financial accounts that have nothing to do with gaming,” such as “[a]ny generic debit card account that could be used to make wagers, buy dinner or stay at a hotel in a casino,” including “a player’s Starbucks account . . . when used at Starbucks in a casino.” *Id.* at 3. And, while Sightline may rely on Figure 8 and its description to show one objective of the '708 patent

(i.e., “capturing patron spending behavior” in non-gaming environments), Everi notes that “these are mere *examples*, not *requirements*.” *Id.* at 3. Indeed, as Everi also notes, neither Figure 8 nor its description ever mentions using the gaming account to accomplish that objective. *Id.* at 4 (citing Ex. 1002, 14:22–16:3).

On this record, we determine that the claim term “gaming account” has the meaning explicitly set forth in the specification of the ’708 patent—“any type of financial account (i.e., electronic ledger) that is associated with a player, or collection of financial accounts that are associated with a player, and maintained by a casino, or at least on behalf of a casino.” Ex. 1002, 8:26–30. Sightline does not identify any portion of the specification that evidences an express intent to limit the scope of the term “gaming account” to an account that requires the capability of being used in *both* gaming *and* non-gaming environments, and we reject Sightline’s attempt to import concepts from the embodiment of Figure 8 into the meaning of “gaming account.”

D. The Credibility of Everi’s Expert

As a preliminary matter, Sightline argues that the testimony of Everi’s expert, Mr. Crevelt, is “flawed and should be accorded no weight” because Mr. Crevelt “did not consider the impact of any [gaming] regulations when preparing his declaration,” despite admitting that one skilled in the art would have done so. PO Resp. 18–19 (citing Ex. 2006, 53:9–55:8). According to Sightline, “[w]ithout its flawed expert testimony,” Everi’s evidence of obviousness consists only of “attorney argument,” and, thus, Everi “has failed to carry its burden” of proving that the challenged claims are unpatentable. *Id.* at 20.

At the outset, we note that Sightline’s arguments relate to the weight, rather than the admissibility, of Mr. Crevelt’s testimony.⁴ We also note that Sightline does not identify any particular gaming regulation that would have been relevant to Mr. Crevelt’s analysis of the prior art. *See* PO Resp. 18–20. So, to the extent Sightline contends we should disregard Mr. Crevelt’s declarations for purportedly failing to consider gaming regulations *in general*, we disagree. In our view, Mr. Crevelt intrinsically would have applied his general knowledge of gaming regulations in opining on how one skilled in the art would have understood the disclosures in the prior art, despite not citing to any particular regulation.

As stated in the “[q]ualifications” section of his declaration, Mr. Crevelt formed his opinions based on his expertise in “the field of design and operation of gaming machines and systems for the casino industry.” Ex. 1001 ¶ 3. That expertise includes knowledge of gaming regulations, as shown by his work as a “technical gaming control liaison” to the “Nevada Gaming Control Board, [which] regulates the gaming industry in Nevada, overseeing the licensing and compliance of casinos as well as manufacturers and the equipment used in gaming.”⁵ *Id.* ¶ 9. Mr. Crevelt’s declaration also refers to his experience with “regulators in New South Wales, Australia and the state of Mississippi” in analyzing various gaming devices. *Id.* ¶ 15.

⁴ Sightline acknowledged as much during the oral hearing. *See* Hrg. Tr. 40:16–23.

⁵ Sightline’s own expert, Dr. Shamos, similarly states that, “[o]ver time,” he was familiar with “the Nevada Gaming Control Board regulations,” while also acknowledging that citing those specific regulations in his declaration was unnecessary in order to offer his opinions. Ex. 1040, 32:12–34:12.

Importantly, Mr. Crevelt explains in his declaration that, “[i]n formulating [his] opinions,” he relied upon his knowledge and work in the casino gaming industry (*id.* ¶¶ 23, 26), which, as discussed above, includes gaming regulations (*id.* ¶¶ 3, 9). In our view, Mr. Crevelt’s opinions intrinsically would have accounted for gaming regulations in assessing Smith’s disclosure.⁶ Any other view takes a blind eye to the way the casino industry operates, as Mr. Crevelt makes clear in detailing his qualifications. Thus, we reject the notion that Mr. Crevelt’s declarations should be accorded no weight and disregarded, as Sightline mistakenly believes.

E. Everi’s Reliance on the “Immediately Envisage” Standard

As another overarching matter, Sightline faults the Petition for “repeatedly fill[ing] in gaps in the prior art teachings with reference to what a person of skill in the art would ‘immediately envisage.’” PO Resp. 20 (quoting Pet. 14). According to Sightline, Everi’s use of expert testimony to discern what one skilled in the art might “immediately envisage” from the prior art “is akin to relying on common sense to fill in missing claim limitations,” and this “shortcut fails to meet the heightened standard for relying on common sense.” *Id.* at 21–22.

⁶ Nor are we persuaded by Sightline’s argument that Mr. Crevelt “admits” in his deposition that he did not consider “the impact of any regulations” when looking at Smith. PO Resp. 18–19 (citing Ex. 2006, 53:9–54:4). That is because Sightline’s line of questioning implied Mr. Crevelt’s consideration of a *particular* regulation, which Sightline never identified. Indeed, in answering Sightline’s inquiries, Mr. Crevelt made clear that he did not look to any regulations associated specifically with “producing something” or “implementing Smith in an actual casino environment,” which is a different question than whether knowledge of gaming regulations generally is needed to understand Smith’s teachings as a whole. Ex. 2006, 53:9–23.

We disagree. Nowhere do we discern that Everi fills in a gap in either Smith or Sommer by relying solely on the testimony of its expert, Mr. Crevelt. Rather, Everi relies on its expert to show what one skilled in the art “would understand and immediately envisage” from *specific disclosures* in those prior art references. *See, e.g.*, Pet. 18, 22, 27, 28. In other words, Everi does not proffer expert testimony to supplement something missing in the prior art reference, but rather to help us understand something already disclosed in the reference that meets the disputed claim limitation, albeit using different language. That is the backbone of any anticipation or obviousness analysis, and we see nothing wrong with Everi’s approach.

Indeed, using expert testimony to show what one skilled in the art would “at once envisage” from an express disclosure in the prior art finds ample support in a long line of cases, thus, we are not persuaded by Sightline’s argument to the contrary. *See, e.g., Kennametal, Inc. v. Ingersoll Cutting Tool Co.*, 780 F.3d 1376, 1381 (Fed. Cir. 2015) (holding that “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.”) (alteration in original) (citation omitted); *Chamberlain Grp., Inc. v. Techtronic Indus. Co.*, 935 F.3d 1341, 1350 (Fed. Cir. 2019) (“[E]ven when a reference discloses elements in different locations in the disclosure, the relevant question is whether the reference is sufficiently clear in disclosing the combinability of those elements such that a skilled artisan would ‘at once envisage’ the claimed combination.”); *BlephEx, LLC v. Myco Indus., Inc.*, 24 F.4th 1391, 1401 (Fed. Cir. 2022)

(applying the “at once envisage” test to analyze “generic statements” in a prior art reference).

In any event, to the extent Sightline identifies any instances where Everi purportedly relies *solely* on Mr. Crevelt’s testimony to supply a missing claim limitation, we account for it in our analysis of Everi’s contentions. As discussed below, we determine that Everi’s contentions are adequately supported by the evidence of record, which includes specific disclosures in the prior art and supporting testimony from Mr. Crevelt.

F. Obviousness Over Smith

Everi challenges claims 1, 2, 6, 8, 9, 11, 12, 15, 16, and 18–20 as obvious over Smith. *See* Pet. 10–49. Sightline responds that Everi’s challenge falls short in four ways—*first*, Smith fails to teach the “gaming account” limitation of independent claims 1 and 18; *second*, Smith fails to teach the “casino computing system” limitation of claim 1; *third*, Smith fails to disclose that the increase and decrease of funds “occurs in substantially real-time,” as required by dependent claim 8; and, *fourth*, Smith fails to disclose “receiving, by the transaction facilitator computing system, player funds information, wherein the player funds information comprises at least a total value of the player funds,” as recited in claim 11. PO Resp. 27–42.

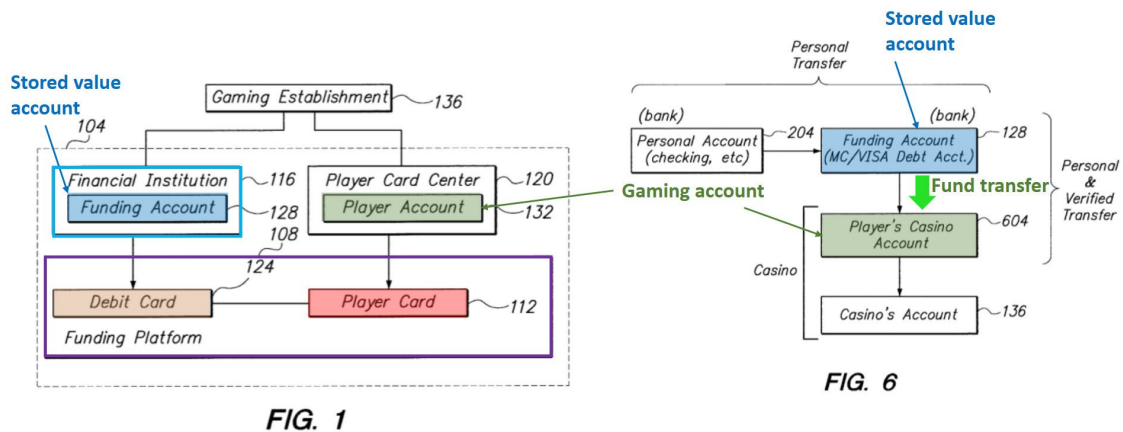
We address each argument in turn.

1. Claims 1 and 18

a. “gaming account”

We begin with claim 1. Everi divides claim 1 into seven parts and explains how Smith meets each of the recited claim limitations. *See* Pet. 13–24 (citing Ex. 1001 ¶¶ 99–130). To show how Smith meets the disputed

“gaming account” limitation, Everi submits annotated versions of Smith’s Figures 1 and 6, as reproduced below. *See id.* 14, 17.



Everi contends that player account 132 in Smith’s Figure 1 (above left in green) and player casino account 604 in Figure 6 (above right in green) meet the claimed “gaming account” element of claim 1. Pet. 13–14, 17–18. According to Everi, player account 132 and player casino account 604 are “the same account.” *Id.* at 11 n.2. Everi also explains that Smith’s funding account 128 (blue) meets the claimed “stored value account” and that funding platform 108 (purple), which corresponds to the claimed “computing device,” is used to transfer funds between stored value account 128 and gaming account 132/604—

Smith’s funding platform 108 (purple), shown in Fig. 1 above . . . , functions “as a hub to orchestrate fund transfers between a player, various accounts, and the gaming establishment 136” — such as between a stored value account 128 and gaming account 604/132. (E1005, [0039], [0036].) Funding platform 108 (Fig. 3) is a server having a processor 304 . . . and communication device 316 that collectively execute instructions and communicate fund transfers to and from a gaming establishment. (*Id.*, [0043], [0045].) Smith thus discloses a computer-based method of transferring funds between a stored value account and a gaming account. (*Id.*, [0092]; E1001, ¶¶ 99–102.)

Id. at 14.

Sightline disputes that Smith’s player account 132/604 is a “gaming account,” as required by claim 1. *See* PO Resp. 27–33; PO Sur-Reply 8–14. In doing so, Sightline contends that Everi’s reliance on Smith’s player account 132 (Figure 1) and player casino account 604 (Figure 6) is “premised on the mistaken belief” that these two accounts “are to the same account.” PO Resp. 29 (citing Pet. 18). According to Sightline, “these two accounts [in Smith] are provided for *different purposes* and can be provided by *different entities*.” *Id.* at 29–30 (emphases added); *see also* PO Sur-Reply 10 (“these two accounts have different purposes”).

We are not persuaded by Sightline’s attempt to paint Smith’s player accounts 132 and 604 as being “different.” Although we agree with Sightline that Smith’s Figure 1 depicts player account 132 as “its own entity” outside of gaming establishment 136, we note that Smith’s Figure 6 nonetheless depicts player account 604 within the gaming establishment, i.e., the “[c]asino.” Ex. 1005, Figs. 1, 6. But looking at the figures alone tells only half the story. What Sightline and its declarant, Dr. Shamos, ignore is that, in describing the funding system of Figure 1, Smith begins with the premise that player card center 120, which maintains player account 132, “may be its own entity *or may be part of a gaming establishment*.” *Id.* ¶ 34 (emphasis added). That disclosure by Smith expressly contemplates that, although shown outside of gaming establishment 136 in Figure 1, player account 132 may also be maintained *within* gaming establishment 136. Indeed, immediately after describing that alternative configuration, Smith states unequivocally that player card center 120 may be “use[d] by players in accessing *their player accounts at a gaming establishment*.” *Id.* (emphasis added).

In arguing otherwise, Sightline ignores the overall purpose of Smith’s funding system—to electronically link a funding account at a financial institution with a player account at a gaming establishment “for the purpose of making one or more wagers.” Ex. 1005 ¶ 29. As described in more detail,

FIG. 1 is a block diagram illustrating an arrangement of components or parts of the funding system. As can be seen, the funding system 104 may utilize various currency and other accounts held at various institutions. The funding system 104 may also provide *a facility to link such accounts such that funds may be transferred from a funding account via another account, such as a player card account or trust account at a gaming establishment or the gaming establishment’s financial institution.*

* * *

As described . . . with regard to FIG. 1, the transferred funds may be held in a funding account at the financial institution 116. The funding account generally holds funds *transferrable to a gaming establishment 136 for the purpose of wagering at one or more wagering games.*

Ex. 1005 ¶¶ 32, 41 (emphases added). That description of Figure 1 as depicting the transfer of funds from a funding account to a “player card account or trust account at a gaming establishment or [its] financial institution” is essentially identical to the way Smith describes what is depicted in Figure 6—“the transfer of funds would typically occur between a player's funding account 128 and a player's casino or trust account 604, such as facilitated by the gaming establishment or its financial institution.”

Compare Ex. 1005 ¶ 41, *with id.* ¶ 85.

Nothing prohibits a prior art reference from “be[ing] considered for everything it teaches by way of technology,” rather than being limited to a particular embodiment or invention. *Belden Inc. v. Berk-Tek LLC*, 805 F.3d

1064, 1076 (Fed. Cir. 2015); *see also Hayward Industries, Inc. v. Pentair Water Pool and Spa, Inc.*, 814 Fed. Appx. 592, 596 (Fed. Cir. 2020) (essentially same). Thus, we reject the notion that player account 132 in Figure 1 cannot be a casino-level account in the same manner as the player casino account 604 in Figure 6. Far from being a different account, player account 604 in Figure 6 simply illustrates the alternative configuration described in the context of Smith’s Figure 1, i.e., where the player account “may be part of a gaming establishment” as opposed to being “its own entity” outside the gaming establishment. Ex. 1005 ¶ 34. Indeed, by describing Figure 1 as “illustrating an exemplary funding system,” while describing Figure 6 as “illustrating an exemplary funds transfer via the funding system,” Smith suggests that Figure 6 is simply an example of the type of transfer possible with the funding system in Figure 1. *Id.* ¶¶ 22, 27.

We also are not persuaded by Sightline’s argument that Smith’s player account 132 is a “tracking account” rather than a financial account. PO Resp. 28; PO Sur-Reply 10–11. According to Sightline, because Smith describes player account 132 in conjunction with tracking card 112, it is used solely for tracking the identity of a player rather than holding funds for wagering by the player. *See id.* Again, Sightline loses sight of Smith’s disclosure as a whole. In fact, Smith draws a clear distinction between tracking card 112 and player account 132 in describing the funding system of Figure 1—

[T]he player card center 120 may issue *player tracking cards 112 for use by players in accessing their player accounts* at a gaming establishment.

* * *

The player tracker card 112 . . . may have information stored thereon or which is otherwise associated therewith that identifies a player's account at a gaming establishment.

* * *

[A]s shown in FIG. 1, a funding account 128 and *player card account 132 are associated via their respective associated debit card 124 and player tracking card 112.*

Ex. 1005 ¶¶ 34–36, respectively. In other words, Smith's tracking card 112 is simply a separate means of identifying the player's account at the gaming establishment, it is not the account itself. And, although tracking card 112 may be associated with player account 132, that association does not somehow transform the player account into one that is used solely for tracking a player's identity.

In a further attempt to show that Smith's player account 132 is not a financial account, Sightline argues that it “holds reward points *instead of money.*” PO Resp. 28 (emphasis added); *see also id.* at 29 (“A critical distinction is that account 604 holds player funds while account 132 holds points.”). The evidence says otherwise, however. The fact that Smith's “player account” may hold funds for wagering is made abundantly clear by the overall objective of Smith's funding system—

The funding system provides a number of benefits. For instance, the funding system may utilize a funding account that is owned by the player to transfer funds to a gaming establishment. The player's funds may be first transferred to this funding account from another personal account, and then from their personal account *to a player's trust org or casino account.* *The player may then make wagers using funds in their casino account.* The funding system also provides a verification process that verifies player intent to transfer and player authorization prior to the transfer of funds between those accounts.

Since these transfers (from a player’s personal banking account to their funding account and then from their funding account *to their casino account*) are between a player’s own accounts, and because the transfers must be verified by the player, it is unlikely that the transfer can be deemed improper or unauthorized. In addition, chargebacks are reduced or eliminated because the player’s transfers of funds to their funding account and then *to their casino account* are between the player’s own accounts (and do not comprise merchant transfers).

Ex. 1005 ¶¶ 9–10 (emphases added). And, later, in describing the purpose of player card center 120 (which includes player account 132), Smith explains that it is used not only for the player to access “points” but also to “access a *funding account*”—

[T]he player card center 120 may issue player tracking cards 112 for use by players in accessing their player accounts at a gaming establishment. For example, players may accumulate rewards such as player points and redeem such points via their player tracking card 112. . . . *In addition, it is contemplated that a player may access a funding account he or she has at the gaming establishment using the player tracking card.*

Ex. 1005 ¶ 34 (emphases added).

Those disclosures, when read in the context of Figure 1, clearly support that Smith’s player account 132 holds funds for wagering by the player at a gaming establishment. As such, we find that player account 132 is a “gaming account” as properly construed—“financial account . . . that is associated with a player . . . and maintained by a casino.” To the extent Sightline’s declarant opines otherwise, we do not find that testimony credible or persuasive, as it is clearly inconsistent with Smith’s express teachings. *See, e.g.*, Ex. 2001 ¶¶ 32–41. More persuasive is the testimony of Everi’s declarant, Mr. Crevelt, that player card account 132 is a financial account that holds funds for use by a player in wagering at a casino or other

gaming establishment. *See, e.g.*, Ex. 1001 ¶¶ 102, 106, 109, 115; Ex. 1039 ¶¶ 14–16. Also, to the extent Sightline faults Smith for not disclosing that player account 132 or player casino account 604 “are used in a non-gaming environment” of a casino (PO Resp. 31–33), we are not persuaded for the simple reason that it is premised on an improper claim construction, namely, a construction proposed by Sightline but rejected by us, as discussed above in Section II.C.

Having considered the evidence of record and the parties’ arguments, we find that Smith teaches the “gaming account” limitation of claim 1. Sightline raises the same argument with respect to the “gaming account” limitation in independent claim 18 as it does for claim 1. *See* PO Resp. 41–42. Thus, for the same reasons as claim 1, we find that Smith meets the “gaming account” limitation of claim 18. *See* Pet. 40–41.

b. “casino computing system”

Claim 1 recites that the gaming account is “maintained by a casino computing system.” Everi contends that one skilled in the art would have understood that Smith’s disclosure of “a kiosk, gaming machine computer, or other access terminal” corresponds to the claimed “casino computing system.” *See* Pet. 18–19 (citing Ex. 1001 ¶ 111; Ex. 1005 ¶ 77, Fig. 3 (annotated)). Sightline responds that Smith’s “access terminal” cannot be considered part of a “casino computing system” because the ’708 patent only describes embodiments in which the gaming device and the casino computing system “are separate components.” PO Resp. 35–37 (citing Ex. 2001 ¶¶ 42–49; Ex. 1001, 6:10–36, 11:3–58, 13:21–47, Fig. 7).

We disagree. Sightline’s argument that the ’708 patent only shows the gaming device outside of the casino computing system is negated by the

'708 patent itself. In particular, Figure 9 of the '708 patent depicts casino computing system 920 as including a kiosk and slot machine, which are gaming devices. *See* Ex. 1002, Fig. 9. Indeed, the '708 Patent explains that “[t]he computing system 920 may be, for example . . . an unattended computing system (such as at a kiosk)” or “part of a gaming device.” Ex. 1002, 16:16–36. Thus, contrary to Sightline’s argument, the '708 patent clearly contemplates that the computing system be part of the gaming device.

In addition, we note that the '708 patent does not further define or limit the scope of the claimed “casino computing system,” despite its repeated usage of that term. Instead, the '708 patent simply refers to the casino computing system in general terms, for example, “a casino computing system that is associated with a casino” (*id.* at 2:27–33), “casino management system, which generally may be referred to as a casino computing system” (*id.* at 6:10–15), “casino computing system 720,” which “can execute the slot management system and the casino management system” (*id.* at 13:21–23, 13:36–38), and “computing system 1012 can query the appropriate casino computing systems to verify the validity of the jackpot” (*id.* at 18:14–17). Given the general breadth of the term “casino computing system” as used in the '708 patent, and Sightline’s failure to identify any disclaimer or lexicographic definition that limits its scope to a particular embodiment, we find that the claimed “casino computing system” encompasses the types of access terminals disclosed in Smith. In so finding, we credit the testimony of Everi’s declarant, Mr. Crevelt, who testifies that one skilled in the art would have understood Smith’s disclosure of a kiosk,

gaming machine computer, or other access terminal to be part of a casino computing system. *See* Ex. 1001 ¶¶ 111–113, Ex. 1039 ¶¶ 20–23.

2. *Dependent Claim 8—“occurs in substantially real-time”*

Dependent claim 8 recites “wherein decreasing the balance of the stored value account and increasing the balance of the gaming account *occurs in substantially real-time.*” Ex. 1002, 22:16–19 (emphasis added). Although neither party requests that we construe the claim term “substantially real time,” the ’708 patent provides that “[a]s used herein, substantially real-time means generally less than about 20 minutes . . .” *Id.* at 6:45–49. And Sightline concedes that this claim term encompasses transfers taking “less than about 20 minutes.” PO Resp. 37.

Everi contends that one skilled in the art would have understood that, because Smith discloses that its funding platform is configured to send confirmations of fund transfers in real-time, it is also configured to perform these fund transfers in real-time. *See* Pet. 28–29 (citing Ex. 1005 ¶ 95); Pet. Reply 15–16 (citing Ex. 1001 ¶¶ 138–141). More specifically, as described in Smith,

if a player requests that funds be transferred from their funds account to their player tracking account, the funds platform may send a confirmation of the transaction by email, text message or the like, to the player’s cell phone, PDA, computer or the like. *This confirmation may be sent when a transaction request is received and/or completed, whereby the player is provided real-time confirmation information.*

Ex. 1005 ¶ 95 (emphasis added). Everi’s expert, Mr. Crevelt, points to Smith’s additional disclosures that “a player can swipe his or her card at a gaming machine to request a fund transfer,” and “[t]hen, while the player is still at the gaming machine, the player can provide some verification

information (e.g., ‘mother’s maiden name, name of his or her first pet, his or her father’s middle name, etc.’) to allow the funds to be transferred.”

Ex. 1001 ¶ 140 (citing Ex. 1005 ¶¶ 77, 79–80). With Smith’s disclosures in mind, Mr. Crevelt testifies that one skilled in the art—

would therefore understand that the player would want his or her funds to be transferred while still at that gaming machine such that the funds can be gambled while still at the gaming machine. Otherwise, there would be no particular benefit to being able to perform such a transaction while at the gaming machine as opposed to walking to an attendant at the casino cage, for example. If the player had to sit and wait at the gaming machine for an extended period of time . . . until his or her funds were transferred, the player would be frustrated and the entire purpose of being able to fund the player’s casino account from the gaming machine would be lost.

Id. Mr. Crevelt further explains that electronic fund transfers in the gaming industry were widely known and available in substantially real-time at the time of filing the ’708 patent. *Id.* ¶ 141.

Sightline argues that “Smith provides no details on how quickly funds are transferred to the gaming account.” PO Resp. 37. According to Sightline, real-time transfer “is contrary to [the] core teaching in Smith where the ‘verified transfer involves one or more verification steps or processes whereby a fund transfer is verified and confirmed before it is effectuated.’” *Id.* at 38 (citing Ex. 1005 ¶ 87). Sightlines also argues that the Petition “wrongly focuses on the desire of the player while ignoring the motivation of casino and gaming regulations to provide responsible gaming environments.” *Id.*

We do not find Sightline’s arguments persuasive. Sightline fails to adequately explain how Smith’s verification steps—which presumably are

performed *before* Smith’s funding platform issues an instruction to transfer funds—would somehow prevent a *subsequent* transfer from being executed in substantially real time. Nor does Sightline identify any particular regulation that would be violated by a real-time transfer of funds in Smith or otherwise explain why such a real-time funds transfer would conflict with the vague notion of “responsible gaming.”

More persuasive is Everi’s explanation, as buttressed by the testimony of Mr. Crevelt, that Smith’s teaching of sending a player “real-time confirmation” of a fund transfer by email or text to the player’s cell phone or PDA, while at the gaming machine, would have been understood by one skilled in the art to mean that the funding platform performs the fund transfer in real-time in order to carry out Smith’s stated objective of making funds immediately available to a player. *See* Ex. 1001 ¶ 140. We also find persuasive Mr. Crevelt’s testimony that it was well known in the gaming industry that electronic fund transfers could be conducted in substantially real time, and that a casino would desire to make transferred funds immediately available for gaming. *See id.* ¶ 141. On this record, we are persuaded that Smith teaches or suggests decreasing the balance of a stored value account, and increasing the balance of a gaming account, in substantially real time, i.e., in less than about 20 minutes, as required by dependent claim 8.

3. *Independent Claim 11—“receiving, by the transaction facilitator computing system, player funds information . . . [that] comprises at least a total value of the player funds”*

Claim 11 recites “receiving, by the transaction facilitator computing system, player funds information from the casino computing system, wherein the player funds information comprises at least a total value of the

player funds.” Ex. 1002, 22:77–40. Everi contends Smith discloses that “when a player transfers winnings from their player casino/gaming account 604/132 to their stored value account 128, the player can transfer *all* of those winnings.” Pet. 33. Using an example at paragraphs 93–94 of Smith, Everi contends the “amount to be transferred (\$1000 in this example) is *player funds information*, including the *total value of the player funds* to be transferred.” *Id.* (citing Ex. 1001 ¶ 159).

Sightline argues that “[t]he amount of funds to be transferred is different from the total value of the player’s funds,” because the total value of the player’s funds “could be much greater than the amount of funds being transferred.” PO Resp. 41 (citing Ex. 2001 ¶¶ 51–52).

Everi replies that, as recited in claim 11, “[t]he ‘total value of player funds’ refers to the total of the amount of funds being *loaded*, not the total amount of funds in a player’s account.” Pet. Reply 17 (citing Ex. 1002, 17:54–58; Ex. 1039 ¶ 26).

We find that Everi has the more persuasive position. The first step of claim 11 recites that “the load request comprises a request to load player funds to a stored value account.” The second step of claim 11 recites “receiving . . . player funds information from the casino computing system, wherein the player funds information comprises at least a total value of the player funds.” The recitation of “player funds” in the first step of claim 11 provides the antecedent basis for the subsequent recitation of “the player funds.” Thus, the “total value of the player funds” in the second step of claim 11 necessarily refers to the total amount of player funds that are specified in the load request recited in the first step of claim 11. In other words, the claim limitation “total value of the player funds” *does not* refer to

the total balance of the player's available funds. Rather, "total value of the player funds" refers to the value of the funds that are to be loaded to the stored value account. Because a player need not transfer all available funds, the "total value of the player funds" recited in claim 11 (i.e., the total value of funds to be loaded) may well be less than the value of all of the player's funds.

We are not persuaded by Sightline's arguments because they wrongly equate the claimed "total value of the player funds" to the value of all of a player's funds. More persuasive is the testimony of Everi's declarant that Smith teaches or suggests receiving player funds information that "comprises at least a total value of the player funds" (i.e., at least the total amount of player funds to be loaded to a stored value account). *See* Ex. 1001 ¶¶ 158–159; Ex. 1039 ¶ 26.

4. Conclusion

As discussed above, Everi persuasively shows that Smith teaches or suggests the disputed limitations of independent claims 1, 11, and 18, as well as that of dependent claim 8. Sightline does not otherwise dispute Everi's showing of how Smith teaches the remaining limitations of the independent claims. *See* PO Resp. 27–42. Nor does Sightline dispute Everi's showing that Smith teaches the limitations of dependent claims 2, 6, 9, 12, 15, 16, and 19, and 20. *See id.* at 37, 41 (arguing separately only dependent claim 8, while asserting that the remaining dependent claims are not obvious for the "same reasons" as their respective independent claims). Thus, we need not address the sufficiency of Everi's showing as to any undisputed limitations. *See In re NuVasive, Inc.*, 841 F.3d 966, 974 (Fed. Cir. 2016) ("The Board, having found the only disputed limitations together in one reference, was not

required to address undisputed matters.”); *see also* Paper 9 at 8 (emphasizing that “any arguments not raised in the response may be deemed waived”). In any event, based on our review, we find that the record fully supports Everi’s showing that Smith discloses all the limitations of claims 1, 8, and 14, as well as all the limitations of the dependent claims. *See* Pet. 14–47.

In sum, after weighing all relevant factual findings, including the level of ordinary skill in the art, the scope and content of Smith, and any differences between Smith and the claimed invention,⁷ we conclude that Everi demonstrates by a preponderance of the evidence that claims 1, 2, 6, 8, 9, 11, 12, 15, 16, and 18–20 of the ’708 patent are unpatentable as obvious over Smith under 35 U.S.C. § 103(a).

G. Obviousness Over Sommer

Everi challenges claims 1, 2, 6, 8–12, and 15–20 as obvious over Sommer. *See* Pet. 3, 50–85. Unlike the Smith-based challenge discussed above, Everi’s challenge based on Sommer includes dependent claims 10 and 17. Thus, we will only address dependent claims 10 and 17 (and their respective base claims) given that the remaining claims of this challenge already have been found unpatentable over Smith. *See SAS Inst. Inc. v. Iancu*, 138 S. Ct. 1348, 1359 (2018) (holding that petitioner “is entitled to a final written decision addressing all of the claims it has challenged”) (emphasis added); *Boston Scientific 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, has “discretion to decline to decide additional

⁷ Sightline does not proffer any objective indicia of nonobviousness.

instituted grounds once the petitioner has prevailed on all its challenged claims”).

We begin with Everi’s challenge of claims 1 and 10, and, afterward, address the challenge of claims 11 and 17.

1. Claims 1 and 10—“gaming account” and “instructing. . . the casino computing system to increase the balance of the gaming account”

Everi contends that Sommer teaches or suggests all the limitations of claims 1 and 10, and supports its contentions with the expert testimony of Mr. Crevelt. *See* Pet. 53–63, 68–69 (citing Ex. 1001 ¶¶ 211–236, 252–255); Pet. Reply 18–21 (citing Ex. 1039 ¶¶ 27–29, 33, 34). Sightline responds that Sommer fails to disclose two limitations of claim 1—“gaming account” and “instructing, by any of the one or more computing devices, the casino computing system to increase the balance of the gaming account.” PO Resp. 45–49. Notably, Sightline does not dispute Everi’s showing for dependent claim 10, except to assert it is not obvious for the “same reasons” as claim 1. *See id.* at 49.

a. “gaming account”

For the “gaming account” limitation, Everi points to Sommer’s disclosure of a “player account” at a gaming establishment from which a player can wager money. Pet. 56–57 (citing Ex. 1006 ¶¶ 25, 35, Fig. 2). Sightline responds that “Sommer does not teach a gaming account” because “[t]here is no disclosure in Sommer the alleged gaming account could be used in a non-gaming environment of a casino.” PO Resp. 47. That argument fails because it is premised on an incorrect construction of “gaming account.” As discussed above in Section II.C, we rejected a construction of “gaming account” that requires the capability of being used

in non-gaming environments, as Sightlines argues. Instead, we agreed with Everi that, properly interpreted, “gaming account” need only have the capability of being used in gaming environments. And, indisputably, Sommer discloses “various embodiments of transferring funds between multiple accounts at financial institutions and a player account in a *gaming environment*.” Ex. 1006 ¶ 25 (emphasis added); *see also id.* ¶¶ 13, 18, 30, 35, Fig. 2. Thus, based on the proper interpretation of “gaming account,” Everi persuades us that Sommer discloses a “gaming account” in the manner claimed.

b. *“instructing, by any of the one or more computing devices, the casino computing system to increase the balance of the gaming account”*

Everi contends that, in Sommer, a player provides their player identifier at a gaming device to request the withdrawal of funds from one or more stored value accounts at a financial institution. Pet. 61 (citing Ex. 1006 ¶ 30). According to Everi, Sommer’s “Power Bank” gaming server, as shown in Figure 1A, communicates with the financial institution’s computing system to initiate the withdrawal request, and, upon approval, the funds are transferred from the financial institution to the player’s account at the gaming establishment, as shown in Figure 2. *Id.* at 61–63 (citing Ex. 1006 ¶¶ 34–35; Ex. 1001 ¶¶ 233–236). Everi’s declarant, Mr. Crevelt, explains that the funds transfer is performed by the Power Bank gaming server instructing “the casino computing system” to update and increase the value of the player’s gaming account on the casino’s “databases.” Ex. 1001 ¶ 236.

Sightline responds that Everi’s description of Sommer would require the casino computing system to “instruct itself” to perform the requested

funds transfer because the “[Power Bank] gaming server is shown within the casino computing system” and the request from the gaming device also “occurs within” that same system. PO Resp. 48 (citing Ex. 2001 ¶ 62).

We find that Everi has the better position. The fact that Sommer depicts the gaming server within the casino computing system does not mean the gaming server cannot request the casino computing system to perform the transfer. See Ex. 1001 ¶ 236; Ex. 1039 ¶ 32. Indeed, nowhere does claim 1 require that the request to transfer funds be sent from *outside* the casino computing system. It simply requires that an instruction derive from “one or more computing devices” and be sent to the casino computing system. In that regard, Sommer discloses that “at the gaming device, the player can request funds to be transferred from one or more accounts at one or more financial institutions to their player account.” Ex. 1006 ¶ 30. Then, “the gaming server initiates withdrawal transactions with each of the financial institutions, pursuant to the multi-account withdrawal request.” *Id.* ¶ 34. These disclosures in Sommer—that when a player makes a request on a gaming device, the “gaming server” initiates the transfer with the financial institution—directly contradict Sightline’s argument that Sommer’s gaming device cannot communicate with its gaming server. Thus, on this record, we are persuaded that Sommer meets the claim limitation of “instructing, by any of the one or more computing devices, the casino computing system to increase the balance of the gaming account.”

c. Conclusion

Sightline does not dispute Everi’s showing that Sommer teaches or suggests the remaining limitations of claim 1. See PO Resp. 45–49. Nor does Sightline dispute Everi’s showing that Smith teaches the limitations of

dependent claim 10, which depends from claim 1 and is not part of Sightline’s earlier challenge based on Smith. *See id.* at 49 (arguing simply that claim 10 is not obvious for the “same reasons” as claim 1). Thus, we need not address the sufficiency of Everi’s showing as to the undisputed limitations of claims 1 and 10. *See In re NuVasive*, 841 F.3d at 974. In any event, based on our review, we find that the record fully supports Everi’s showing that Sommer discloses all the limitations of claims 1 and 10. *See* Pet. 53–63.

In sum, after weighing all relevant factual findings, including the level of ordinary skill in the art, the scope and content of Sommer, and any differences between Sommer and the claimed invention,⁸ we conclude that Everi demonstrates by a preponderance of the evidence that claims 1 and 10 of the ’708 patent are unpatentable as obvious over Sommer under 35 U.S.C. § 103(a).

2. *Dependent Claim 17*

Everi contends that Sommer teaches or suggests all the limitations of dependent claim 17, as well as its base claims 11 and 16, and supports its contentions with the expert testimony of Mr. Crevelt. *See* Pet. 69–74, 76–78 (citing Ex. 1001 ¶¶ 256–267, 273–277); Pet. Reply 22–23. Sightline does not dispute Everi’s showing for base claims 11 and 16, from which claim 17 depends, and argues only that Everi fails to adequately explain how Sommer disclosure of the player identifier processing a jackpot equates to a “jackpot identifier,” as required by claim 17. *See* PO Resp. 52–53. According to Sightline, as claimed, “the jackpot identifier is used to verify the validity of a

⁸ Sightline does not proffer any objective indicia of nonobviousness.

jackpot,” and one skilled in the art would understand that Sommer’s use of a player identifier to identify a player that won “does not verify that a jackpot is valid.” *Id.* at 53 (citing Ex. 1002, 18:13–17; Ex. 2001 ¶ 64). We disagree.

Sightline improperly attempts to import a limitation from the specification of the ’708 patent into the claim. Claim 17 is not directed to verifying the validity of a jackpot; it simply requires that “a jackpot identifier” be received “by the transaction facilitator computing system.” As described in the specification, merely “receiving the jackpot ID” is a separate and distinct step from the computing system “query[ing] the appropriate casino computing systems to verify the validity of the jackpot.” Ex. 1002, 18:14–17. Sightline improperly reads claim 17 as requiring both steps when, plainly, it only requires the former and not the latter.

Indisputably, Sommer discloses using a player identifier to identify and process a jackpot in order to send funds from the jackpot to the player’s financial institution. *See* Ex. 1006 ¶¶ 73–74. Thus, in our view, those disclosures by Sommer meet “jackpot identifier” limitation of claim 17.

We need not address the sufficiency of Everi’s showing as to the undisputed limitations of base claims 11 and 16 from which claim 17 depends. *See In re NuVasive*, 841 F.3d at 974. In any event, based on review, the record fully supports not only Sommer’s disclosure of claim 17, but also base claims 11 and 16. *See* Pet. 69–74, 76–78.

In sum, after weighing all relevant factual findings, including the level of ordinary skill in the art, the scope and content of Sommer, and any differences between Sommer and the claimed invention, we conclude that Everi demonstrates by a preponderance of the evidence that dependent

claim 17 of the '708 patent, as well as the claims from which it depends, are unpatentable as obvious over Sommer under 35 U.S.C. § 103(a).

III. CONCLUSION

Claims	35 U.S.C. §	Basis	Claims Shown Unpatentable	Claims Not Shown Unpatentable
1, 2, 6, 8, 9, 11, 12, 15, 16, 18–20	103	Smith	1, 2, 6, 8, 9, 11, 12, 15, 16, 18–20	
1, 2, 6, 8–12, 15– 20	103	Sommer	1, 10, 11, 16, 17 ⁹	
Overall Outcome			1, 2, 6, 8–12, and 15–20	

IV. ORDER¹⁰

Accordingly, it is hereby:

ORDERED that claims 1, 2, 4–9, 11–17, 19, 20 of the '708 patent are determined to be unpatentable; and

⁹ As noted above, because we find that claims 2, 6, 8, 9, 12, 15, and 18–20 are unpatentable over Smith, we do not reach whether those same claims would have been unpatentable over Sommer.

¹⁰ Should Sightline wish to pursue amendment of the challenged claims in a reissue or reexamination proceeding subsequent to the issuance of this decision, we draw Sightline's attention to the April 2019 Notice Regarding Options for Amendments by Patent Owner Through Reissue or Reexamination During a Pending AIA Trial Proceeding, 84 Fed. Reg. 16,654 (Apr. 22, 2019). If Sightline chooses to file a reissue application or a request for reexamination of the challenged patent, we remind Sightline 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).

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.

For PETITIONER:

John S. Artz
Michael N. MacCallum
James K. Cleland
Michael D. Saunders
Steven A. Caloiaro
DICKINSON WRIGHT PLLC
jsartz@dickinson-wright.com
mmacallum@dickinson-wright.com
jcleland@dickinson-wright.com
msaunders@dickinson-wright.com
scaloiaro@dickinson-wright.com

For PATENT OWNER:

James Murphy
Tam Thanh Pham
POLSINELLI PC
jpmurphy@polsinelli.com
tpham@polsinelli.com