

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WEBINAR.NET, INC.,
Petitioner,

v.

ON24, INC.,
Patent Owner.

IPR2022-00826
Patent 9,148,480

Before GREGG I. ANDERSON, KEVIN C. TROCK, and
RUSSELL E. CASS, *Administrative Patent Judges*.

ANDERSON, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

Petitioner, webinar.net, Inc., filed a Petition requesting *inter partes* review of claims 1–20 of U.S. Patent No. 9,148,480 (Ex. 1001, “the ’480 patent”). Paper 1 (“Pet.”). ON24, Inc. (“Patent Owner”) filed a Preliminary Response. Paper 9 (“Prelim. Resp.”).

We have jurisdiction under 35 U.S.C. § 314. Upon considering the record developed thus far, for reasons discussed below, we do not institute *inter partes* review.

II. BACKGROUND

A. Real Parties in Interest

Petitioner alleges it is the real party-in-interest. Pet. 5. Patent Owner alleges it is the real party in interest. Paper 4 (“Patent Owner Mandatory Notice Information”).

B. Related Matters

The ’480 Patent has been asserted by Patent Owner against Petitioner in *ON24, Inc. v. webinar.net, Inc.*, Case No. 3:21-cv-07721-EMC/JSC (NDCA). Pet. 5 (EMC); Paper 4 (JSC).

C. Overview of the ’480 Patent

The application for the ’480 patent was filed on April 21, 2014, as U.S. Patent Application Ser. No. 14/257,914, which is a continuation of Ser. No. 12/755,849, filed on April 7, 2010, now U.S. Patent No. 8,706,812 (“the ’812 patent”). Ex. 1001, codes (21), (22), (63). The ’812 patent is incorporated by reference. *Id.* at 1:6–10.

1. Technical Background

The ’480 patent relates to “direct online communications,” such as a webcast. Ex. 1001, 1:19–20. According to the ’480 patent, “current direct online applications limit flexibility by restricting the amount of

customization that can be achieved within an individual communications component.” *Id.* at 1:27–30. “None of the existing direct online platforms use a completely separate, encapsulated architecture for implementing communications component customization per webcast, and none of them allow an audience member to set up and view a webcast per their own interests.” *Id.* at 1:31–35.

The ’480 patent explains that other systems exist having executable installed applications that use a component model, but these systems require users to “download, execute, and install a desktop executable application in a client computer.” Ex. 1001, 1:47–50. The applications are therefore “less secure and more cumbersome from an initial use perspective.” *Id.* at 1:50–53. Thus, “[n]one of the existing applications function in a context that is fully-online, without a downloaded desktop application.” *Id.* at 1:52–54.

2. *The ’480 Patent*

The ’480 patent addresses the problem of customizing webcast presentations by being “fully online” without the need for a separate downloaded desktop application. Ex. 1001, 1:52–54. Figure 1 of the ’480 patent is reproduced below.

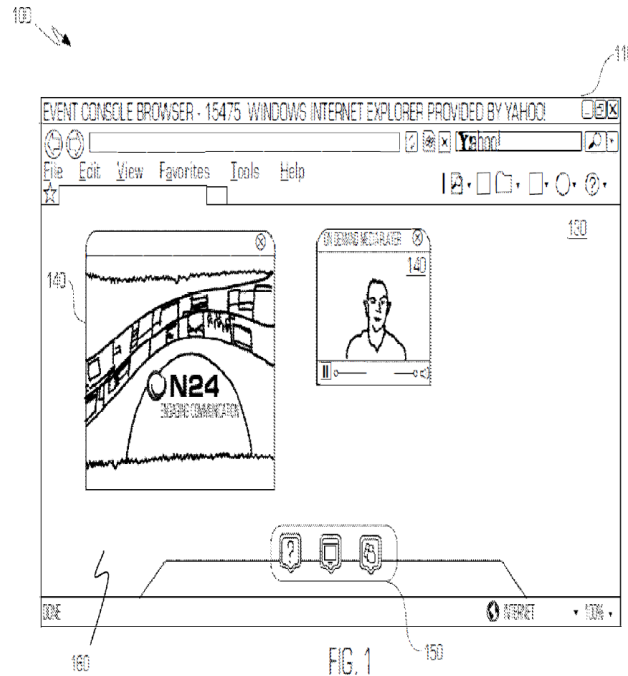


Figure 1 illustrates an event console made up of a collection of communication components.

Ex. 1001, 2:64–67. As shown in Figure 1, the communication components aggregated into the event console include “slide communications component 120^[1], media communications component 130, and menu ribbon component 150.” *Id.*

The event console 100 “functions only within the internet browser 110 of a computing system, such Windows Internet Explorer™.” Ex. 1001, 3:4–6. In addition, the event console uses “browser plugins in conjunction with a

¹ The number “120” for the slide communications component does not appear in Figure 1. Two “140” numbers do appear, one of which we understand to be incorrectly labeled as “140” instead of “120.” *See* Ex. 1001, 3:2–3 (“display background component 140”). We cannot tell from the Specification which one of the two “140” references is an error. The only other specific reference to “120” does not resolve the question. *See* Ex. 1001, 4:2. Regardless, whether there is an error does not impact our analysis.

standardized plugin system such as Adobe Flash™ or Microsoft Silverlight™ as an enabler.” *Id.* at 3:6–9. “This allows console 100 to function in many standardized environments without the need to download and install a desktop application, with the console 100 functioning inside the browser 110, and components 120–150 functioning inside console 100.” *Id.* at 3:12–16.

“The complex interaction within the various components is managed by a central ‘Communications Manager’ object, which registers events or requests from individual components, identifies the priority of each event, and determines the callback mechanism to deliver information back to the calling component.” Ex. 1001, 4:24–29. Security filters verify the calling component has permission to access the requested resources in order to implement the call. *Id.* at 4:29–32. “Once all these filters are passed and the Communications Manager determines that the event or method being called can in fact be acted on—the event or method is allowed to proceed in a metered and organized way.” *Id.* at 4:33–36.

D. Illustrative Claim

Claims 1, 10, 11, 16, 17, and 20 are independent. Claims 1 and 10 claim an “audience computing device.” Claims 11 and 16 claim a “system for providing an online presentation.” Claims 17 and 20 claim “a method for providing an online presentation.” Claims 2–9 depend directly or indirectly from claim 1. Claims 12–14 depend directly or indirectly from claim 11. Claims 18–19 depend directly or indirectly from claim 17. Claim 1 is reproduced below as illustrative.

- [1.Pre]² An audience computing device comprising:
- [1.1] a processing device;
 - [1.2] a memory device;
 - [1.3] an application framework that receives a communication manager object via a network connectivity device and executes the communication manager object within the application framework;
 - [1.4] wherein the application framework receives and executes at least two communications components and a presentation component within the application framework using the communication manager object and each component exchanges data with the communication manager object within the application framework during a presentation to present the presentation to a user of the audience computing device without downloading and installing an application, and the communication manager object manages interface and display of the presentation via the application framework; and
 - [1.5] wherein the communication components are at least two of a slide communications component, a media communications component and a menu ribbon component, each of the communication components comprises graphical interface information, and the communication manager object automatically modifies

² We adopt Petitioner's format in identifying claim limitations separately by claim number followed by a number representing a corresponding claim element or limitation. *See, e.g.,* Pet. 21 ("Element 1.1: a processing device").

the graphical interface information to a standardized interface format.

Ex. 1001, 9:17–41.

E. Evidence

This proceeding relies on the following prior art references and witness testimony:

Deutscher, US 2003/0174160 A1, published Sep. 18, 2003 (Ex. 1004, “Deutscher”);

Marchon, US 2005/0015719 A1, published Jan. 20, 2005 (Ex. 1005, “Marchon”);

Dunlap, US Pat. No. 6,560,637 B1, issued May 6, 2003 (Ex. 1006, “Dunlap”);

Welch, WO 01/35056 A1, published May 17, 2002 (Ex. 1007, “Welch”); and

Declaration of Jeff Pryhuber (Ex. 1002, “Pryhuber Declaration”).

F. Prior Art and Asserted Grounds

Petitioner asserts that claims 1–20 would have been unpatentable on the following grounds:

Claim(s) Challenged	35 U.S.C. §³	Reference(s)/Basis
1–20	102	Deutscher
1	102	Marchon
1	102	Dunlap
1–3, 5, 7–20	102	Welch

³ The Leahy-Smith America Invents Act (AIA), Pub. L. No. 112-29, 125 Stat. 284, 285–88 (2011) revised 35 U.S.C. § 102, effective March 16, 2013. The ’480 patent has an effective filing date prior to March 16, 2013 (*see* Section II.C). Thus, the grounds asserted are under the pre-AIA version of 35 U.S.C. § 102.

III. ANALYSIS

A. Level of Ordinary Skill in the Art

Relying on the Pryhuber Declaration, Petitioner alleges a person of ordinary skill in the art as of “the claimed priority date of April 07, 2010 of the ’480 Patent”

would have at least 5–6 years of web application developer experience. Having a degree in a particular engineering field is not necessary, as the skills and understanding for the subject matter of the ’480 Patent would have been gained by the person having ordinary skill in the art from practical experience. Such experience includes, for example, work in internet-based programming, and polling through a browser and/or Flash Shared Object technology. It could also include experience in online videoconferencing, network communications, programming Microsoft Windows with Message Dispatch Queues and related fields.

Pet. 9 (citing Ex. 1002 ¶ 9). Patent Owner “does not take a position on the level of ordinary skill in the art.” Prelim. Resp. 13.

We disagree with the Pryhuber Declaration’s opinion that an engineering degree is not needed to meet the level of ordinary skill in the art. Ex. 2009 ¶ 9. Further, the equivalent level of “practical experience” is stated without reference to the years of experience required. Accordingly, we give the Pryhuber Declaration little weight in this regard.

Among the factors relevant to finding the appropriate level of skill in the art, is the prior art of record. *See Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001) (Proposed definition along with the prior art of record, reflects an appropriate skill level.); *see also Daiichi Sankyo Co. v. Apotex, Inc.*, 501 F.3d 1254, 1256 (Fed. Cir. 2007) (listing five factors). The patent’s purpose can also be informative. *DyStar Textilfarben GmbH & Co.*

Deutschland KG v. C.H. Patrick Co., 464 F.3d 1356, 1362–63 (Fed. Cir. 2006).

Deutscher is prior art of record relevant to the overall subject matter claimed in the '480 patent, an “interactive, multimedia presentation viewing system,” including various aspects of streaming media explained with technical block diagrams. *See* Ex. 1004, code (57), Fig. 1. The purpose of the invention is to provide the presentation system with the ability to function in a context that “is fully-online, without a downloaded desktop application.” Ex. 1001, 1:52–54. Both citations require a computer science or computer engineering background. We find that a person of ordinary skill would require a computer science or computer engineering degree in addition to work in internet-based programming, and polling through a browser and/or Flash Shared Object technology.

B. Claim Construction

In an *inter partes* review for a petition filed on or after November 13, 2018, a claim “shall be construed using the same claim construction standard that would be used to construe the claim in a civil action under 35 U.S.C. 282(b).”⁴ *See* “Changes to the Claim Construction Standard for Interpreting Claims in Trial Proceedings Before the Patent Trial and Appeal Board, 83 Fed. Reg. 51,340, 51,340, 51,358 (Oct. 11, 2018). This standard involves construing the claim in accordance with the ordinary and customary meaning of such claim as understood by one of ordinary skill in the art and

⁴ Petitioner erroneously refers to the previous “broadest reasonable interpretation” (“BRI”) standard for claim construction in an *inter partes* review proceeding. Pet. 9; *see also* Prelim. Resp. 14 (quoting the correct standard).

the prosecution history pertaining to the patent. 37 C.F.R. § 42.100(b) (2019). The Petition was accorded a filing date of April 7, 2022. Paper 6. Thus, we apply the claim construction standard as set forth in *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc).

Petitioner does not propose any term as requiring express construction, instead proceeding on “the ordinary and customary meaning of the claim terms.” Pet. 9–13. Petitioner provides an “outline of claim terms and limitations lacking a specific and explicit definition in the ‘480 Patent and therefore subject to BRI on a claim-by-claim basis.” *Id.* at 10. Petitioner refers to the “Merriam-Webster’s dictionary” definitions for “component,” “object,” “framework,” and “device.” *Id.* at 13. No version of the “Merriam-Webster’s dictionary” is made of record nor is any definition provided.

Patent Owner does not propose any term for construction. *See* Prelim. Resp. 14–15. As to the terms “component,” “object,” “framework,” and “device,” Patent Owner argues the terms should “be given their ordinary and customary meaning as understood by one of ordinary skill in the art and in light of the prosecution history.” *Id.* (citing *Phillips*, 415 F.3d at 1312–1313).

Patent Owner argues several terms of claim 1 are not shown by any reference relied on by Petitioner. For example, Deutscher is alleged to not disclose several terms from claim 1, including “communication manager object.” Prelim. Resp. 22–23. Patent Owner also alleges none of Marchon, Dunlap or Welch disclose a “communication manager object.” *Id.* at 28 (Marchon), 31 (Dunlap), 33–34 (Welch). We determine that the meaning of “communication manager object” is in dispute and construction is required in order to determine whether to institute trial. *See Vivid Techs., Inc. v. Am.*

Sci. & Eng'g, Inc., 200 F.3d 795, 803 (Fed. Cir. 1999) (“[O]nly those terms need be construed that are in controversy, and only to the extent necessary to resolve the controversy.”). The claimed “communications component” is related to the “communication manager object,” and is also construed.

Our constructions are based on the intrinsic evidence of record. The “use of a term within the claim provides a firm basis for construing the term.” *Phillips*, 415 F.3d at 1314. The specification “is always highly relevant to the claim construction analysis.” *Id.* at 1315.

The “prosecution history provides evidence of how the PTO and the inventor understood the patent.” *Id.* at 1317.

1. “*communication manager object*”

We begin with the use of the term “communication manager object” in the claims. “Communication manager object” appears in all the independent claims. Illustrative is device claim 1, which recites that

the application framework receives and executes at least two *communications components* . . . the *communication manager object* and *each component exchanges data with the communication manager object* within the application framework

Ex. 1001, 9:24–29 (emphases added). Device and system claims 10, 11, and 16 all recite “at least two communications components” and that “each component exchanges data with the communication manager object.” *Id.* at 10:12–16 (claim 10), 10:40–44 (claim 11), 11:23–27 (claim 16). Method claims 17 and 20 similarly recite the method as including “exchanging data between the communication manager object and the one or more communication components.” *Id.* at 12:5–6 (claim 17), 12:41–42 (claim 20).

The Specification discloses that the “communication manager object” interacts with the “various components.”

The complex *interaction within the various components is managed by a central “Communications Manager” object*, which registers events or requests from individual components, identifies the priority of each event, and determines the callback mechanism to deliver information back to the calling component. . . . Registered event listeners or method calls return the information to the component via a callback method, including the requested information, if any, and status of the original request. In this way the platform enables the limited resources available on the browser to be allocated with the appropriate priority and rationing so as to allow for a smooth, seamless, and integrated user experience.

Ex. 1001, 4:24–39 (emphasis added). Beyond the preceding, the Specification does not expressly discuss the “communication manager object” until the claims. The Specification does state generally that the “communication components” are aggregated within console 100 shown in Figure 1. *Id.* at 3:16–18.

The prosecution history is of record as Exhibit 2001. In allowing the application to issue, the Examiner identified the “Allowable Subject Matter” as “an application framework” which “executes at least two communications components.” Ex. 2001, 13.⁵ The Examiner further determined that the allowable subject matter included that “each component *exchanges data* with the communication manager object.” *Id.* (emphasis added). The “exchange data” limitation was a part of the original application claim 1. *Id.* at 131.

⁵ Page numbers are to the “EXHIBIT PAGE” as filed.

All the intrinsic evidence is consistent in requiring the “communication components” to “exchange data” with the “communication manager object.” We therefore determine that “communication manager object” exchanges data with the communication components.

2. “*communications component*”

As discussed in connection with our construction of the “communication manager object,” the claims recite that the “communications components” exchange data with the “communication manager object.” The Specification explains that “communication components” include a “slide communications component,” “media communications component,” and a “menu ribbon component.” Ex. 1001, 2:64–67. As already discussed, the Examiner determined Allowable Subject Matter included the “communication components” exchanging data with the “communication manager object.” Ex. 2001, 13.

All the intrinsic evidence is consistent in identifying the “communication components” as “exchanging data” with the “communication manager object.” We therefore determine that “communication components” include components including, but not limited to, slide communications components, media communications components, and menu ribbon components which exchange data with the communication manager object.

C. Legal Standard for Anticipation

In order for a prior art reference to serve as an anticipatory reference, it must disclose every limitation of the claimed invention, either explicitly or inherently. *In re Schreiber*, 128 F.3d 1473, 1477 (Fed. Cir. 1997). We must analyze prior art references as a skilled artisan would. *See Scripps Clinic & Res. Found. v. Genentech, Inc.*, 927 F.2d 1565, 1576 (Fed. Cir. 1991),

overruled on other grounds by Abbott Labs. v. Sandoz, Inc., 566 F.3d 1282 (Fed. Cir. 2009) (to anticipate, “[t]here must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention”).

D. Anticipation of Claims 1–20 by Deutscher

Petitioner alleges claims 1–20 would have been anticipated by Deutscher. Pet. 8, 21–41.

1. Deutscher (Ex. 1004)

Deutscher is entitled “Interactive Presentation Viewing System Employing Multi-Media Components.” Ex. 1004 code (54). Deutscher discloses an “interactive, multi-media presentation viewing system that integrates presentation graphics in the form of presentation slides, video, audio, text and other streaming media into a powerfully coordinated viewing experience for the end user.” Ex. 1004 ¶ 6. Deutscher’s viewing system includes “synchronized presentation graphics, video, and text displays employing a graphical user interface to control all aspects of media playback including location of playback, scrolling, view control, audio volume, thumbnails, search/file toolbox, language selection, bookmarks, internal/external links, and the like.” *Id.* Deutscher’s viewing system “displays a window to the user having a presentation video sector that plays a video or audio program, a presentation slide sector that displays presentation slides associated with different parts of the program, and a content sector.” *Id.* ¶ 7.

2. Claim 1

Claim 1 is an independent apparatus claim illustrative of the claimed subject matter. *See supra* Section II.D. The construction of

“communication manager object” is dispositive of this ground, as well as the other asserted grounds. Accordingly, we analyze it first.

a. “communication manager object”

We construed “communication manager object” as exchanging data with the communication components. *See supra* Section III.B.1. The term “communication manager object” appears in limitations 1.3, 1.4, and 1.5. *See supra* Section II.D. The term first appears in limitation 1.3, which recites

an application framework that receives a *communication manager object* via a network connectivity device and executes the communication manager object within the application framework.

Ex. 1001, 9:20–23 (emphasis added).

Petitioner argues that a “communications manager object” as recited in limitation 1.3 is disclosed in paragraph 6 of Deutscher. Pet. 22 (citing Ex. 1004 ¶ 6); *see also supra* Section III.D.1 (reproducing Deutscher paragraph 6). The entirety of Petitioner’s showing regarding limitation 1.3, the first recitation of “communication manager object,” is the following:

Communication manager object is therefore a module that provides “synchronized presentation graphics, video, and text displays employing a graphical user interface to control all aspects of media playback” as described in paragraph [0006] that is received via network interface 170 and/or modem 172 (network connectivity device) and executed within the application framework. (Exh. 1004.)

Pet. 23.

Patent Owner disputes that Petitioner has shown Deutscher discloses “at least two *communications components* and a presentation component within the application framework using the communication manager object

and *each component exchanges data with the communication manager object* within the application framework during a presentation.” Prelim. Resp. 22–23 (emphases added). The claim language Patent Owner identifies is part of limitation 1.4. *See supra* Section II.D.

Based upon our construction of “communication manager object” Petitioner has failed to show that Deutscher discloses the element. Patent Owner’s argument above is consistent with our construction of the term, which is found in claim 1 and the other independent claims. Petitioner’s showing lacks any discussion of the “exchange of data” between the “communication components” and the “communication manager object.” We find this exchange of data is used to achieve the invention’s purpose of eliminating the “need to download and install a desktop application, with the console 100 functioning inside the browser 110, and components 120–150 functioning inside console 100.” Ex. 1001, 3:12–16.

We do not find that, standing alone, Deutscher’s description of “synchronized presentation graphics, video, and text displays employing a graphical user interface to control all aspects of media playback” discloses an “exchange of data” between a “communication manager object” and “communication components.” Petitioner makes no argument that “synchronization” would be understood by a person of ordinary skill in the art at the relevant time to require an “exchange of data.” Neither does the Pryhuber Declaration include any such analysis. Indeed, the Pryhuber Declaration lacks any discussion of any of the asserted prior art, or any analysis of patentability. *See* Ex. 1002 ¶¶ 1–13.

The Petition must identify:

How the construed claim is unpatentable under the statutory grounds identified in paragraph (b)(2) of this section. The

petition must specify where each element of the claim is found in the prior art patents or printed publications relied upon.

37 C.F.R. § 42.104(b)(4). We are not tasked with divining where the prior art might possibly disclose the claim element at issue. The Petition fails to specify where the “exchange of data” element is found in Deutscher and fails to meet the requirements of our rule.

On this record, Petitioner has not sufficiently shown that Deutscher discloses the claimed “communication manager object” or the exchange of data with the recited “communication components” of claim 1. Specifically, Petitioner has not shown that limitations 1.3, 1.4, or 1.5 are disclosed by Deutscher.

3. Claims 10, 11, 16, 17, and 20

As previously discussed, independent claims 10, 11, 16, 17, and 20 all recite a “communication manager object.” *See supra* Section III.B.1 above. Petitioner’s argument that Deutscher discloses the “communication manager object” all rely on the same paragraph 6 of Deutscher analyzed above in connection with claim 1. *See* Pet. 27 (claim 10, limitation 10.3), 28–29 (claim 11, limitation 11.1), 32–33 (claim 16, limitation 16.1), 35 (claim 17, limitation 17.1), 39–40 (claim 20, limitation 20.1). For the same reasons cited for claim 1, Petitioner has not shown Deutscher anticipates claims 10, 11, 16, 17, or 20.

On this record, Petitioner has not sufficiently shown that Deutscher discloses the claimed “communication manager object,” or the exchange of data with the recited “communication components.” Accordingly, Petitioner has not shown that all the elements of claims 10, 11, 16, 17, or 20 are disclosed by Deutscher.

4. Claims 2–9, 12–15, and 18–19

Claims 2–9, 12–15, and 18–19 all depend directly or indirectly from claims 1, 10, 11, 16, 17, or 20. Having failed to sufficiently show the unpatentability of claims 1, 10, 11, 16, 17, or 20, Petitioner has also failed to show the unpatentability of claims 2–9, 12–15, and 18–19.

On this record, Petitioner has not sufficiently shown that Deutscher discloses claims 2–9, 12–15, and 18–19.

5. Deutscher Conclusion

Petitioner has not shown a reasonable likelihood that Deutscher anticipates claims 1–20.

E. Anticipation of Claim 1 by Marchon

Petitioner alleges “at least” claim 1 would have been anticipated by Marchon. Pet. 8, 41–43. The Petition makes no showing for any claim other than claim 1 and we limit our analysis to claim 1. *Id.* at 41–43.

1. Marchon (Ex. 1005)

Marchon discloses

a system may include a user device to transmit a Web page request a server to transmit a Web page to the user device in response to the request, and a remote video source to receive a request for video data from the user device and to transmit the video data directly to the user device. The request may be transmitted by the user device using code of the Web page.

Ex. 1005, Abs.

2. Claim 1

Petitioner argues that Marchon discloses limitations 1.3, 1.4, and 1.5, each of which recite in part the “communication manager object.” Pet. 42–43.

a. “communication manager object”

As was the case with the *Deutscher* ground, the Petition’s showing regarding the communication manager object is insufficient. Pet. 42–43. The entirety of the showing for each of limitations 1.3, 1.4, and 1.5 is reproduced below.

Given its BRI, *Marchon* teaches an application framework in the form of a web page (inter alia, see paragraph [0092] and FIG. 12 showing web page in web browser). Paragraph [0095] describes transmitting meeting web page. (Exh. 1005.)

Pet. 42 (showing for limitation 1.3).

Given their BRI in view of later limitations in the claim, *Marchon* teaches communication components video in element 1110, buttons 1230 are a menu ribbon. (Exh. 1005.) Given its BRI, *Marchon* teaches a presentation component – any of a number of buttons in FIG. 12 showing web page in web browser without downloading and installing an application. (Exh. 1005.)

Id. (showing for limitation 1.4).

Given their BRI in view of later limitations in the claim, *Marchon* teaches communication components video in element 1110, buttons 1230 are a menu ribbon. (Exh. 1005.)

Id. at 42–43 (showing for limitation 1.5).

We agree with Patent Owner that “Petitioner alleges certain disclosures of *Marchon* constitute communication components and a presentation component, but . . . Petitioner fails to identify a communication manager object.” Prelim. Resp. 28 (citing Pet. 42). Further, the Petition fails to identify where the “exchange of data” element is found in *Marchon* and fails to meet the requirements of our rule. *See* 37 C.F.R. § 42.104(b)(4).

On this record, Petitioner has not sufficiently shown that Marchon discloses the claimed “communication manager object” or the exchange of data with the recited “communication components” of claim 1. Petitioner, therefore, has not shown a reasonable likelihood that Marchon anticipates claim 1.

F. Anticipation of Claim 1 by Dunlap

Petitioner alleges “at least” claim 1 would have been anticipated by Dunlap. Pet. 9, 43–46. The Petition makes no showing for any claim other than claim 1 and we limit our analysis to claim 1. *Id.* at 43–46.

1. Dunlap (Ex. 1006)

Dunlap discloses:

A presentation device includes an embedded web server for transmitting images representative of presentation information to network-connected terminals concurrently with the display of such presentation information at the presentation site. The images may be viewed at the terminals by pointing a conventional web browser to a DNS name or IP address associated with the presentation device. Certain of the terminals may be given presenter privileges, wherein the users of the presenter terminals may control aspects of the presentation such as slide sequencing by engaging the appropriate controls displayed within the browser window. In this manner, presentations may be viewed and controlled remotely using a conventional browser interface.

Ex. 1006, Abs.

2. Claim 1

Petitioner argues that Dunlap discloses limitations 1.3, 1.4, and 1.5, each of which recite in part the “communication manager object.” Pet. 44–45.

a. “communication manager object”

As was the case with the Deutscher and Marchon grounds, the Petition lacks any showing of the “communication manager object.” *See* Pet. 44–45. The Petition does not mention “communication object manager” or “exchanging data” with the “communication components.” *Id.* Petitioner does not mention, or make a showing, that “communication components” are disclosed in Dunlap. *Id.* Petitioner also makes a conclusory allegation that element 792 of Dunlap’s Figure 7 is a “presentation of showing web page in web browser without downloading and installing an application.” *Id.* at 44.

We agree with Patent Owner that “Petitioner alleges certain disclosures of Dunlap constitute communication components and a presentation component, but . . . Petitioner fails to identify a communication manager object.” Prelim. Resp. 31 (citing Pet. 42). Further, the Petition fails to identify where the “exchange of data” element is found in Dunlap and fails to meet the requirements of our rule. *See* 37 C.F.R. § 42.104(b)(4).

On this record, Petitioner has not sufficiently shown that Dunlap discloses the claimed “communication manager object” or the exchange of data with the recited “communication components” of claim 1. Petitioner, therefore, has not shown a reasonable likelihood that Dunlap anticipates claim 1.

G. Anticipation of Claims 1–3, 5, and 7–20 by Welch

Petitioner alleges “at least” claims 1–3, 5, and 7–20 would have been anticipated by Welch. Pet. 9, 45–62. The Petition makes no showing for any claim other than claims 1–3, 5, and 7–20 and we limit our analysis to those claims. *Id.* at 45–62.

1. Welch (Ex. 1007)

Welch discloses:

A coordinated multi-media presentation is provided by utilizing a system and process which merges presentation files with at least one presentation template. The presentation template is a predetermined outline for a portion of the presentation which has taken into account all pre-loading and processing necessary to achieve a seamless display of graphical images, audio files, and/or video displays. Further, the presentation file has been prepared to provide coordination of all timing and pre-loading for the seamless display of the multi-media presentation. The coordinated use of the template and its associated file from a presentation database ensures against unnecessary delays during processing. File size control along with pre-coordination allows the multi-media presentation to be displayed within a browser on a computer connected to the internet.

Ex. 1007, Abs. (reference numerals omitted).

Figure 1B of Welch is reproduced below.

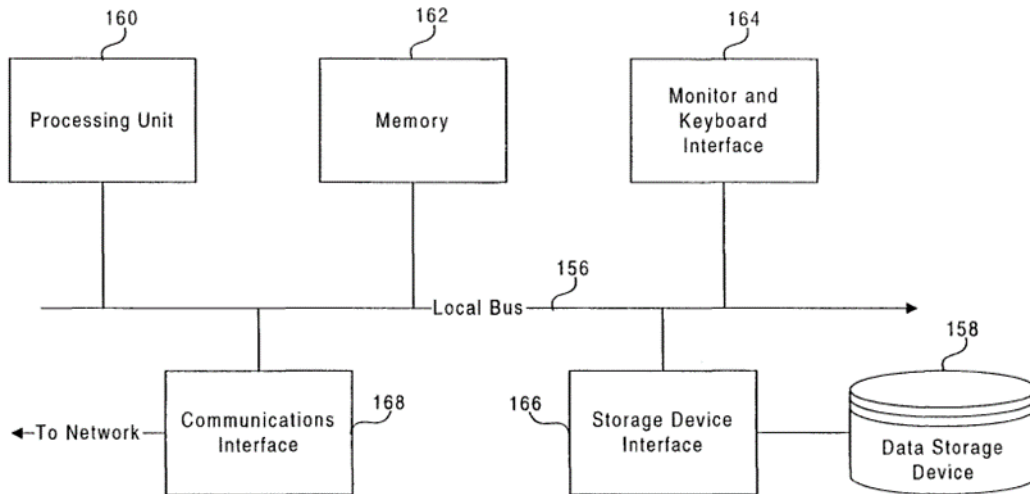


FIG. 1B

Figure 1B shows a computer system representative of a server or client computer.

Ex. 1007, 5:15. Figure 1B illustrates a computer system in which “[c]onnected to local bus 156 are a processing unit 160, memory unit 162, monitor and keyboard unit 164, storage device interface unit for operating data storage device 158, and communications interface unit 168.” *Id.* at 7:20–22.

2. Claim 1

Petitioner argues that Welch discloses limitations 1.3, 1.4, and 1.5, each of which recite in part the “communication manager object.” Pet. 45–47.

a. “communication manager object”

For limitation 1.3, Petitioner argues “Welch teaches an application framework in the form of a viewer program and/or document viewer.” Pet.

45 (citing Ex. 1007, 3:24–33 (“Summary of the Invention”)). Petitioner does not make any additional arguments regarding “communication manager object” in connection with limitations 1.4 or 1.5, both of which also recite the “communication manager object.” *Id.* at 46–47. Petitioner fails to address the “exchange of data” between the “communication manager object” and the “communication components” recited in limitation 1.4, which is required by our construction of “communication manager object.” *See supra* Section III.B.1.

Petitioner further asserts the Welch’s Summary of the Invention, describing “a document replacement function,” would have been understood by a person of ordinary skill in the art to have been “a communication manager object.” Pet. 45. Petitioner argues “[c]ommunications interface 168 of Welch’s FIG. 1B receives data via the Internet network and executes in multi-media presentation 151 of FIG. 1.” *Id.* at 46 (citing Ex. 1007). This assertion includes no additional argument that might be understood to relate to the “communication manager object” as we have construed the term. Further, Petitioner does not cite the Pryhuber Declaration, presumably a person of ordinary skill in the art, for support.

As previously discussed, the Pryhuber Declaration lacks any discussion of any asserted prior art reference nor is it cited anywhere in the Petition beyond support for the level of ordinary skill in the art. *See* Ex. 1002 ¶¶ 1–13. The only substantive opinion in the Pryhuber Declaration is an unsupported conclusion that: “message routing technology was very prevalent in browsers prior to the 2010 date;” and “browser-based multiplayer games, chat rooms and our INXPO virtual events technology used this type structure to retrieve messages from a central server and perform actions based on the content of those message commands.” *Id.*

¶ 11. We afford no weight to this testimony. *See* 37 C.F.R. § 42.65(a) (“Expert testimony that does not disclose the underlying facts or data on which the opinion is based is entitled to little or no weight.”). Regardless, the testimony is not relied upon in the Petition.

Patent Owner contends the “document replacement function does not constitute a communication manager object.” Prelim. Resp 34. Patent Owner further asserts “the document replacement function of Welch is not managing events and requests from communication components, but rather is simply fitting a presentation into a predetermined playback outline.” *Id.* at 35 (citing Ex. 1007, 8:6–9:6).

We agree with Patent Owner. Patent Owner’s assertion about Welch’s disclosure of “managing events and requests from communication components” is equivalent to the “exchange of data” element. The Petition fails to identify where the “exchange of data” element is found in Welch and fails to meet the requirements of our rule. *See* 37 C.F.R. § 42.104(b)(4).

On this record, Petitioner has not sufficiently shown that Welch discloses the claimed “communication manager object” or the exchange of data with the recited “communication components” of claim 1.

3. Claims 10, 11, 16, 17, and 20

As previously discussed, independent claims 10, 11, 16, 17, and 20 all recite a “communication manager object.” *See supra* Section III.B.1. Petitioner’s argument that Welch discloses the “communication manager object” all rely on the same Summary of the Invention from Welch analyzed above in connection with claim 1. *See* Pet. 49–50 (claim 10, limitation 10.3), 51 (claim 11, limitation 11.1), 55 (claim 16, limitation 16.2), 57 (claim 17, limitation 17.1), 60 (claim 20, limitation 20.1). For the same

reasons cited for claim 1, Petitioner has not shown Welch anticipates claims 10, 11, 16, 17, or 20.

On this record, Petitioner has not sufficiently shown that Welch discloses the claimed “communication manager object” or the exchange of data with the recited “communication components.” Accordingly, Petitioner has not shown all the elements of claims 10, 11, 16, 17, or 20 are disclosed by Welch.

4. Claims 2–3, 5, 7–9, 12–15, and 18–19

Claims 2–3, 5, 7–9, 12–15, and 18–19 all depend directly or indirectly from claims 1, 10, 11, 16, 17, or 20. Having failed to sufficiently show unpatentability for claims 1, 10, 11, 16, 17, or 20, Petitioner has also failed to show unpatentability of claims 2–3, 5, 7–9, 12–15, and 18–19.

On this record, Petitioner has not sufficiently shown that Welch discloses claims 2–3, 5, 7–9, 12–15, and 18–19.

5. Welch Conclusion

Petitioner has not shown a reasonable likelihood that Welch anticipates claims 1–3, 5, and 7–20.

IV. CONCLUSION

Petitioner has failed to demonstrate a reasonable likelihood that Deutscher, Marchon, Dunlap, or Welch anticipates any claim of the ’480 patent. Specifically, the Petition fails to identify where any prior art reference discloses the “communication manager object,” or the exchange of data with the recited “communication components,” which are elements in all of challenged claims 1–20. The Pryhuber Declaration also lacks any testimony relevant to the issues presented.

V. ORDER

In consideration of the foregoing, it is hereby

ORDERED that *inter partes* review of the '480 patent is not instituted with respect to all claims and all grounds of unpatentability raised in the Petition.

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