

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UBER TECHNOLOGIES INC.,
Petitioner,

v.

LBT IP II LLC,
Patent Owner.

IPR2022-00927
Patent 8,224,355 B2

Before CHARLES J. BOUDREAU, JOHN A. HUDALLA, and
STEPHEN E. BELISLE, *Administrative Patent Judges*.

Opinion of the Board filed by *Administrative Patent Judge* BOUDREAU.

Opinion Dissenting filed by *Administrative Patent Judge* HUDALLA.

BOUDREAU, *Administrative Patent Judge*.

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

I. INTRODUCTION

Uber Technologies Inc. (“Petitioner”) filed a Petition requesting *inter partes* review of claim 1 of U.S. Patent No. 8,224,355 B2 (Ex. 1001, “the ’355 patent”). Paper 1 (“Pet.”). Petitioner filed a Declaration of Scott Andrews (Ex. 1002) with the Petition. LBT IP II LLC (“Patent Owner”) filed a Preliminary Response. Paper 8 (“Prelim. Resp.”). Patent Owner filed a Declaration of Dr. Eric Koskinen (Ex. 2001) with the Preliminary Response.

We have authority to determine whether to institute an *inter partes* review. 35 U.S.C. § 314(b) (2018); 37 C.F.R. § 42.4(a) (2022). We may not institute an *inter partes* review “unless . . . there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a).

Applying that standard, and upon consideration of the arguments and evidence presented by the parties, we determine that Petitioner has not demonstrated a reasonable likelihood of prevailing with respect to the challenged claim. Accordingly, we deny institution of an *inter partes* review of the ’355 patent.

II. BACKGROUND

A. *Real Parties in Interest*

Petitioner and Patent Owner identify themselves as the real parties in interest. Pet. 2; Paper 4, 1 (Patent Owner’s Mandatory Notices); Paper 6, 1 (Petitioner’s Updated Mandatory Notices).

B. *Related Matters*

The parties advise us that the ’355 patent is involved in district court litigation between the parties, captioned as *LBT IP II LLC v. Uber Techs., Inc.*, No. 6:21-cv-01210-ADA (W.D. Tex.). Pet. 2; Paper 4, 1. Petitioner

reports that the litigation was transferred on July 7, 2022, to the Northern District of California, where it is now pending as *LBT IP II LLC v. Uber Techs., Inc.*, No. 3:22-cv-03985 (N.D. Cal.). Paper 6, 1.

C. The '355 Patent

The '355 patent, titled “System and Method for Improved Communication Bandwidth Utilization When Monitoring Location Information,” issued July 17, 2012, from an application filed June 20, 2008, which was filed as a continuation-in-part of an application filed November 6, 2007. Ex. 1001, codes (22), (45), (54), (63). The '355 patent relates generally to a system and method for creation and deployment of personalized, dynamic web services to access location information on individuals and objects,” and “[b]roadly, . . . provides a system and method for monitoring, locating and tracking an individual or an object.” *Id.* at 1:23–26, 8:59–61.

According to the '355 patent, conventional communication systems were known in the prior art that allowed location information of individuals, animals, or objects to be monitored, such as by using Global Positioning System (“GPS”) technology, and such systems in many instances used a map to display icons representative of the tracked subjects on a user terminal. Ex. 1001, 1:33–2:30; *see also id.* at 2:53–3:62 (citing various representative prior art systems). However, according to the '355 patent, the prior art systems provided users “limited flexibility to adjust a controlled monitoring area about an object” and “limited flexibility . . . for choosing and creating custom maps for viewing and locating objects,” “limited ability [to] calculat[e] positional data of objects when GPS signaling is unavailable,” and “limited flexibility in providing graphical displays that better utilize available system bandwidth and/or minimizing data transfer

and data overhead requirements.” *Id.* at 3:63–4:5. Thus, according to the ’355 patent,

what is needed are apparatus and methods for wireless data transfer and/or wireless location and tracking systems that provide additional advantages over conventional systems. These advantages would include, inter alia, positional data and location coordinates of tracking devices when GPS signaling is unavailable, providing graphical displays for subscribers which aid monitoring and tracking objects and/or individuals, providing security measures when monitoring tracking devices to prevent unauthorized detection and spying on individuals, and/or improving utilization of computer bandwidth and improved mapping graphical display capabilities over conventional systems.

Id. at 4:6–17.

The ’355 patent “discloses a location tracking method and system, to provide a web interface to display location information associated with tracking devices, back-end systems, and to direct monitoring, displaying, and calculating, inter alia, location coordinates of a tracking device.”

Ex. 1001, 8:19–24. “In one embodiment, the system generates a personalized user profile to organize, control, and store location of one or more tracking devices associated with one or more groups of objects or individuals,” where “[t]he personalized user profile may include one or more user selectable icons . . . to monitor on a map display.” *Id.* at 8:24–30.

“Upon successful user logon authentication, the system performs a status check and generates one or more alert messages associated with one or more groups of tracking devices to display on a location management dashboard module” that “depicts a listing of one or more groups of tracking devices capable of a user monitoring or requesting monitoring information.” *Id.* at 8:30–36. The ’355 patent further discloses a “graphical mapping

module . . . to provide mapping tiles from multiple mapping service providers in response to user request for location information of a tracking device associated with an object or an individual.” *Id.* at 8:47–51.

“A wizard menu enables the user to reorient an initial request for mapping tiles in a different layout or view format without requiring access to a mapping service provider website.” *Id.* at 8:51–54.

Figure 23 of the '355 patent, reproduced below, is illustrative of mapping tile inputs and database acquisition principles in accordance with an embodiment of the invention.

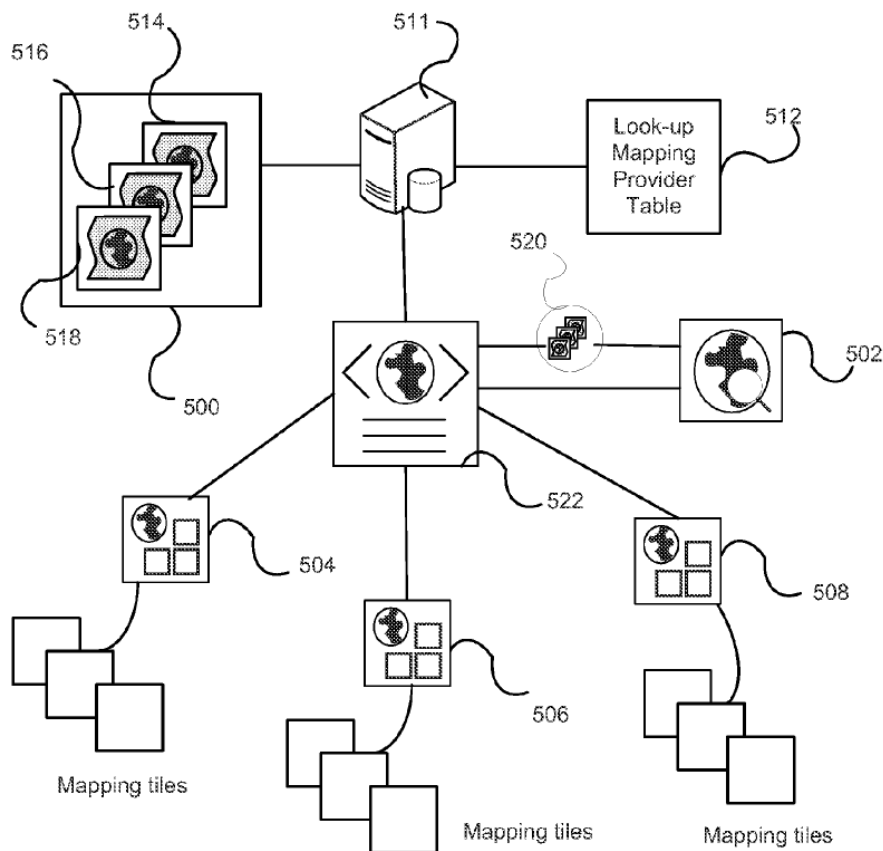


Figure 23

Figure 23, above, “illustrates a Location and Tracking Service System illustrating mapping tile inputs and database acquisition principles in

accordance with an embodiment of the . . . invention” of the ’355 patent.
Ex. 1001, 6:20–23.

In Figure 23, module 500 includes a location coordinate mapping application, and, in one embodiment, “integrates viewable location coordinate mapping tiles from one or more mapping service providers, e.g., which may be Google 504, Yahoo 506, and Virtual Earth 508, into a seamlessly dynamic interactive user display that may be accessible by location management dashboard module 189.” Ex. 1001, 14:65–15:10. Module 500 can “advantageously switch[] between one or more sources of mapping service providers substantially with little or no user awareness or user knowledge and/or user inputs.” *Id.* at 15:10–14.

“In one embodiment, receipt of and source of mapping tiles is in accordance with requested information, features, or map details custom tailored to their individual (or group) mapping needs.” Ex. 1001, 15:19–22. “For instance, module 500 monitors a user’s account, e.g., which may be incorporated as part of look-up mapping service provider table 512, and determined if overspent, for instance, for one or more mapping service providers, e.g., a user billing account may be over-budget with a first mapping service provider,” in which case “module 500 automatically switches to another account, e.g., a user billing account that is under budget or underutilized with a second mapping service provider.” *Id.* at 15:22–30. “In one instance, pocketfinder server/database 511 incorporates look-up mapping service provider table 512 (including user billing account information) and module 500.” *Id.* at 15:31–34. “In another embodiment, the user billing account information may be part of or associated with an overlay object in an FLA file, . . . which may be downloaded to a user’s Internet browser 502.” *Id.* at 15:34–37.

Further, “[i]n one variant, module 500 using look-up mapping service provider table 512, which is updated on a regular or semi-periodic basis, determines from which mapping service provider one or more groups of mapping tiles include more robust mapping features (e.g., recently updated geographical satellite mapping was zoomed in and zoomed out).” Ex. 1001, 15:47–52. “In one embodiment, after recent mapping updating, second mapping service provider 506 may more fully meet a user’s coordinate information needs than a current, e.g., first mapping service provider.” *Id.* at 15:52–56. “For example, a second mapping service provider may have better mapping coverage along the West Coast of North America than a first mapping service provider coverage based mainly in the East Coast of North America.” *Id.* at 15:56–59. “Furthermore, a second mapping service provider may be, for instance, currently updating their mapping service tile(s) and be momentarily inaccessible (temporarily even though total website outages are rare) while a first mapping service provider may be currently available; thus, user’s location coordinate request switched between mapping service providers maintains substantially, continuous contact with location coordinate information of a tracking device.” *Id.* at 15:59–67.

Figure 24 of the '335 patent is reproduced below.



Figure 24

Figure 24, above, “illustrates an example of a Subscriber Location Coordinate Request for several children and pets in accordance with an embodiment of the . . . invention,” in which a “summer camp instructor’s

(e.g., user 550) mapping needs are evaluated.” Ex. 1001, 6:24–26, 16:48–49. With reference to Figures 23 and 24, the ’355 patent explains, *inter alia*:

After successful verification of logon, user 550 requests location coordinate information on a map 552 of, for instance, children or pets having a tracking device In one variant, children include first child 554 located near a public swimming pool 556, second child 558 located across from a middle school 560, third child 564 located in wooded area 562. . . . In the above variants, each child and each pet based on their current or last known or projected location coordinate information or based on tracking device group information may require a customized procedure to assemble or overlay mapping tiles as well as tiles from one or more mapping service providers to optimize mapping tile usage as well as obtain requested mapping details associated with requested location coordinate information.

In contrast to conventional mapping service provider systems and websites, the present invention mapping system (in one embodiment) stores, for instance, in a look-up mapping service provider table 512, variables and updatable information associated with one or multiple mapping service provider(s), e.g., a first, second, third ... mapping service providers 504, 506, and 508 (see FIG. 23). In one exemplary embodiment, look-up mapping service provider table 512 includes information that a first mapping service provider provides better detailed mapping coverage for a desired mapping region where first child 554 is located. In one variant, look-up mapping service provider table 512 includes real-time updated or historical information about, for instance, a second mapping service provider. The information may include a second mapping service provider has high speed bandwidth location services available for monitoring second child 558 during rush hour while a first mapping service provider is overutilized during this period.

In another variant, the look-up mapping service provider table 512 includes information that a third mapping service provider provides more complete or detailed mapping coverage for child 566 moving through high terrain or wooded regions or, in yet another variant, if child 566 traveled outside an immediate

mapping tile or mapping tile coverage area. In another variant, the mapping tiles are reoriented (e.g., repositioned or switched in orientation) in response to a user request. In response to this user request, one mapping service provider may be contacted before another mapping service provider based upon a priority scheme, e.g., stored in look-up mapping service provider table 512.

Ex. 1001, 17:5–34.

D. The Challenged Claim

Challenged claim 1 reads as follows, with element references used by the parties added:

1. [1.Pre] A method to provide location information on a webpage for a user in a personalized user format comprising:
 - [1[A](i)] providing user access to a location management dashboard module in response to detection of a successful user login,
 - [1[A](ii)] the location management dashboard module comprising a listing of one or more groups of tracking devices the user is capable of monitoring;
 - [1[B](i)] providing a graphical mapping module comprising menu options in the personalized user format, [1[B](ii)] the menu options comprising one or more tile mapping controls as part of a wizard menu enabling the user to reposition graphical mapping tiles for the one or more groups of tracking devices from multiple mapping service providers, [1[B](iii)] the graphical mapping tiles initially requested by the user on at least one tracking device of the listing of one or more groups of tracking devices, whereby the user repositions the graphical mapping tiles received as part of the initial request without re-accessing the websites of the mapping service providers;
 - [1[C]] providing an alert message associated with the at least one tracking device in response to detection of the successful user login;
 - [1[D]] providing a request signal to obtain location coordinates of the at least one tracking device of the listing of one or more groups of tracking devices;

[1[E]] providing by the at least one tracking device a first reply signal that comprises a first identification code to identify the at least one tracking device; and

[1[F]] displaying the location coordinates of the at least one tracking device to the user in response to the request signal.

Ex. 1001, 24:16–43.

E. Prior Art

Petitioner relies on the following prior art patents and published patent applications:

Girerd et al., US 6,661,372 B1, issued Dec. 9, 2003 (“Girerd”; Ex. 1011);

Altman et al., US 2007/0281689 A1, published Dec. 6, 2007 (“Altman”; Ex. 1014);

Bliss et al., US 2007/0176796 A1, published Aug. 2, 2007 (“Bliss; Ex. 1015);

Rasmussen et al., US 2005/0270311 A1, published Dec. 8, 2005 (“Rasmussen”; Ex. 1016); and

Steenstra et al., US 2006/0047825 A1, published Mar. 2, 2006 (“Steenstra; Ex. 1017).

F. Asserted Grounds

Petitioner asserts that claim 1 is unpatentable on the following grounds:

Claim(s) Challenged	35 U.S.C. §¹	Reference(s)/Basis
1	103	Altman, Bliss
1	103	Girerd, Rasmussen, Steenstra

Pet. 4, 20–75.

III. ANALYSIS

A. Legal Standards

“In an [*inter partes* review], the petitioner has the burden from the onset to show with particularity why the patent it challenges is unpatentable.” *Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1363 (Fed. Cir. 2016) (citing 35 U.S.C. § 312(a)(3) (2012) (requiring *inter partes* review petitions to identify “with particularity . . . the evidence that supports the grounds for the challenge to each claim”)).

A patent claim is unpatentable for obviousness if the differences between the claimed subject matter and the prior art are “such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.” 35 U.S.C. § 103(a).

The ultimate determination of obviousness is a question of law, but that determination is based on underlying factual findings. . . . The underlying factual findings include (1) “the

¹ The Leahy-Smith America Invents Act, Pub. L. No. 112-29, 125 Stat. 284 (September 16, 2011) (“AIA”), included revisions to 35 U.S.C. § 103 that became effective on March 16, 2013. Because the ’355 patent issued from an application filed before March 16, 2013, we apply the pre-AIA version of the statutory basis for unpatentability.

scope and content of the prior art,” (2) “differences between the prior art and the claims at issue,” (3) “the level of ordinary skill in the pertinent art,” and (4) the presence of secondary considerations of nonobviousness such “as commercial success, long felt but unsolved needs, failure of others,” and unexpected results.

In re Nuvasive, Inc., 842 F.3d 1376, 1381 (Fed. Cir. 2016) (citing *inter alia Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966)).

“To satisfy its burden of proving obviousness, a petitioner cannot employ mere conclusory statements. The petitioner must instead articulate specific reasoning, based on evidence of record, to support the legal conclusion of obviousness.” *In re Magnum Oil Tools Int’l, Ltd.*, 829 F.3d 1364, 1380 (Fed. Cir. 2016). Furthermore, in assessing the prior art, the Board must consider whether a person of ordinary skill would have been motivated to combine the prior art to achieve the claimed invention.

Nuvasive, 842 F.3d at 1381.

As the Supreme Court has held,

because inventions in most, if not all, instances rely upon building blocks long since uncovered, and claimed discoveries almost of necessity will be combinations of what, in some sense, is already known, . . . it can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does.

KSR Int’l Co. v. Teleflex Inc., 550 U.S. 398, 418–19 (2007).

B. Level of Ordinary Skill in the Art

Petitioner proposes:

One of ordinary skill in the art would have had a bachelor’s degree in electrical engineering, computer engineering, computer science, or a related field, and at least two years of experience in the research, design, development, and/or testing of GPS and related location tracking techniques, or the

equivalent, with additional education substituting for experience and vice versa.

Pet. 8 (citing Ex. 1002 ¶ 28). Patent Owner “does not agree that two years of research, design, development, and/or testing experience specific to GPS or related location tracking techniques is a necessary requirement” to be a person of ordinary skill in the art, but contends, nonetheless, that “that distinction is not meaningful or determinative with respect to the issues raised in the Petition, and thus [is] not addressed.” Prelim. Resp. 8 (citing Ex. 2001 ¶ 38).

For purposes of this Decision, we adopt Petitioner’s definition of the level of ordinary skill in the art without the phrase “at least,” which we find introduces ambiguity. On the present record, we are satisfied that this definition comports with the level of skill necessary to understand and implement the teachings of the ’355 patent and the asserted prior art.

C. Claim Construction

We interpret claim terms 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), including construing the claim in accordance with the ordinary and customary meaning of such claim as understood by one of ordinary skill in the art and the prosecution history pertaining to the patent.” 37 C.F.R. § 42.100(b); *see also Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc).

In this context, claim terms “are generally given their ordinary and customary meaning” as understood by a person of ordinary skill in the art in question at the time of the invention. *Phillips*, 415 F.3d at 1312–13; *see CCS Fitness, Inc. v. Brunswick Corp.*, 288 F.3d 1359, 1366 (Fed. Cir. 2002) (There is “a ‘heavy presumption’ that a claim term carries its

ordinary and customary meaning.”). “In determining the meaning of the disputed claim limitation, we look principally to the intrinsic evidence of record, examining the claim language itself, the written description, and the prosecution history, if in evidence.” *DePuy Spine, Inc. v. Medtronic Sofamor Danek, Inc.*, 469 F.3d 1005, 1014 (Fed. Cir. 2006) (citing *Phillips*, 415 F.3d at 1312–17). Extrinsic evidence is “less significant than the intrinsic record in determining ‘the legally operative meaning of claim language.’” *Phillips*, 415 F.3d at 1317.

Neither party proposes specific claim constructions for any terms. Pet. 10–11 (“Petitioner does not believe that any term requires explicit construction to resolve the grounds presented.”); Prelim. Resp. 18 (Patent Owner “agrees with Petitioner that no terms require explicit construction”). On the present record, we agree with the parties that no claim terms or phrases require express construction for us to determine whether Petitioner has demonstrated a reasonable likelihood of establishing unpatentability of the challenged claim. *See Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017) (“[W]e need only construe terms ‘that are in controversy, and only to the extent necessary to resolve the controversy’” (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999))).

D. Obviousness of Claim 1 over Altman and Bliss

Petitioner alleges claim 1 is unpatentable under 35 U.S.C. § 103 as obvious over Altman and Bliss. Pet. 4, 20–47. Patent Owner responds, arguing that the Petition fails to establish a reasonable likelihood that Petitioner will prevail. Prelim. Resp. 20–31. Neither party alleges or presents evidence regarding secondary considerations.

We begin our analysis with a brief overview of Altman, Bliss, and Rasmussen, which is incorporated by reference in Bliss, and then we address the parties' contentions relevant to our determination that Petitioner has not demonstrated a reasonable likelihood that it would prevail in showing that claim 1 is unpatentable as obvious over Altman and Bliss.

1. Altman

Altman, titled "Displaying the Location of Individuals on an Interactive Map Display on a Mobile Communication Device," is a published patent application that describes "[e]mbodiments of a location-based social network manager process" that is "executed on a server computer coupled to a plurality of mobile communication devices over a wireless network." Ex. 1014, codes (54), (57), ¶¶ 27–28. The process "displays a map representation of the area around the mobile communication device on a graphical user interface of the mobile communication device, and superimposes on the map the respective locations of one or more other users of mobile communication devices coupled to the mobile communication device over the network." *Id.* ¶ 5. "The user can build a database of friends among the one or more other users whose location can be displayed on each respective mobile communication device," and "[m]essaging and alert functions using the communications capability of the mobile device can incorporate the location information resulting in interaction among users based on user identity as well as relative position to one another." *Id.*

Figure 1 of Altman is reproduced below:

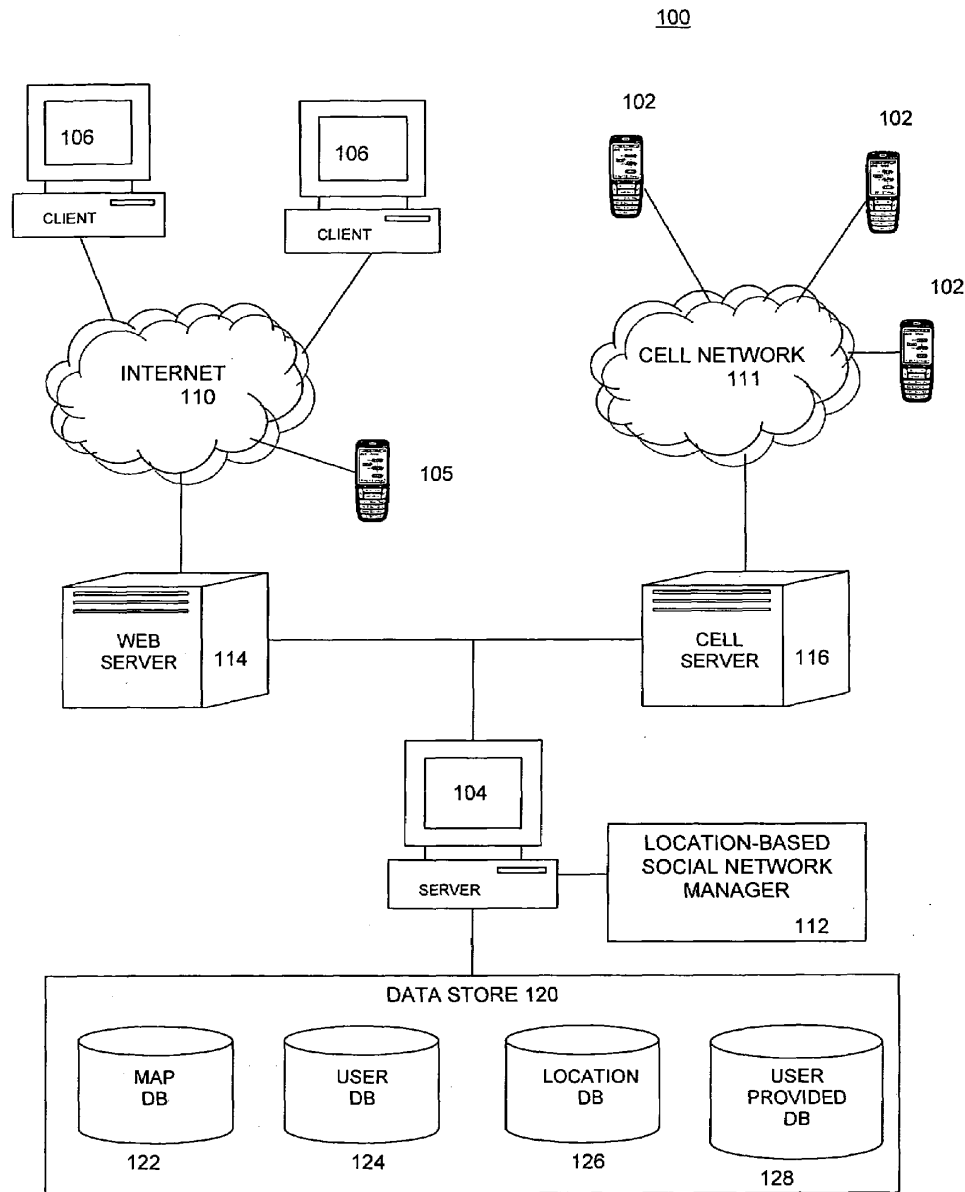


FIGURE 1

Figure 1, above, is “a block diagram of a mobile communication and computer network that implements embodiments of a location-based social network system.” Ex. 1014 ¶ 7. More particularly, Figure 1 “illustrates a communication and computer network system 100,” in which “a plurality of mobile communication devices, such as cell phones or similar devices 102

are coupled to a communication network, such as cell network 111.” *Id.*

¶ 27. In one embodiment, server computer 104 runs location-based social network manager process 112, which controls various data objects relating to one or more social parameters of characteristics of the users of mobile devices 102. *Id.* ¶ 28. In the embodiment of Figure 1, “the data objects are stored in . . . data store 120 and are organized in databases for user profiles 124, user locations 126, user provided data 128, and map tiles 122,” and “mobile network 111 supporting . . . mobile devices 102 are coupled to the server computer through an intermediate server computer, such as cell server 116.” *Id.*

Altman discloses that mobile-device users can “form a group or number of subgroups of people who desire to interact with one another on a social level by communicating with one another, participating in activities, sharing information or experiences, or other types of social or professional interaction based on their location.” Ex. 1014 ¶ 28. “In one embodiment, each user of a mobile device 102 maintains an account on . . . server computer 104 that is set up and maintained through a subscription or similar membership mechanism,” allowing the user “to define their own profile and preference data and define the boundaries of interaction with the other users in the system.” *Id.* ¶ 34. “[P]rocess 112 utilizes the user profile and preference information to allow the user to define networks of friends . . . and then locate these friends on maps that are displayed on the mobile device itself.” *Id.* ¶ 35.

“In one embodiment, each mobile communication device runs local client versions of . . . map generator and database manager components.” Ex. 1014 ¶ 36. “The client side map generator displays a map of an area (provided by map database 122) around the user on the display screen of the

mobile communication device,” and “[a]s the user moves, the position of his location on the displayed map is updated in real-time or near real-time.” *Id.* According to Altman, “map database 122 . . . provides the background maps that are displayed on each user’s mobile device and correspond to an area or region around the user at the time the user invokes the process.” *Id.* ¶ 33. In one embodiment, Altman explains,

the map images comprise map tiles that are image files of maps with varying degrees of granularity. For example, a map tile of the United States may provide an image of the continental U.S. that can be zoomed to display a regional street level map for any area in the U.S. The maps may be stored locally within the data store 120 to be provided by the server 104 to the appropriate mobile device 102, or they may be provided by a third party map provider.

Id. Further, “[t]he map image information is configurable depending upon the location of the user, and can be provided by the server computer 104, a separate map provider service, or it can be programmed into the mobile device itself.” *Id.* ¶ 36.

2. *Bliss*

Bliss, titled “Local Search and Mapping for Mobile Devices,” is a published patent application that describes a computer-implemented mapping method that includes displaying first map view of a geographic area on a display of a computing device, generating a zoom box in response to a voice or key-press zoom command, and displaying a second map view of a zoomed geographic area corresponding to the zoom box. Ex. 1015, codes (54), (57).

Figure 1 of Bliss is reproduced below:

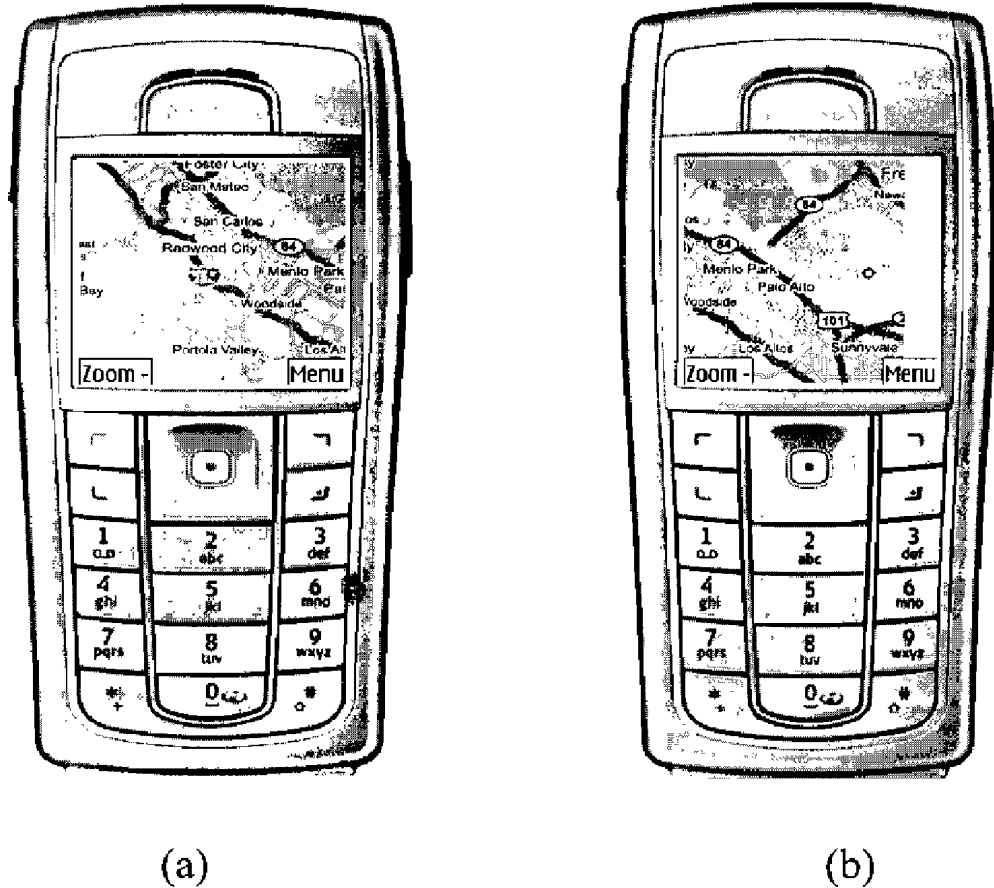


Figure 1

Figure 1, above, provides two displays illustrating a map panning operation on a mobile device. Ex. 1015 ¶¶ 13, 28. A first display, labeled as “(a),” shows a device having a map displayed on it at a certain level of zoom of a geographic area. *Id.* ¶ 28. With reference to view (a), Bliss explains that “[a] user may pan on the map by using a multi-direction selection key, such as that shown in the middle of the device . . . in the Figure,” where “the key can operate much like a flat joystick.” *Id.* Alternatively, Bliss explains,

“[n]umeric keys on the device may also be used for moving, such as the 6 key to move right, the 4 key to move left, etc.,” or “[o]ther input mechanisms for panning, including voice input, may also be used as appropriate.” *Id.* Bliss discloses that the map may be regenerated in a number of ways when a user selects to pan the map, including by using pre-composed map tiles that extend somewhat beyond the display, such that they can be moved in unison to allow the full map image to move smoothly when the user requests to pan. *Id.* ¶ 29. If the user pans beyond the extent of available tiles, the map may be temporarily displayed with the area for those tiles blank. Ex. 1015 ¶ 30. Bliss illustrates this in the second display of Figure 1, labeled as “(b),” which shows a blank area along the right edge of the display, where the user has panned to the right from view (a). *Id.* According to Bliss, the missing tiles may be acquired by downloading from a remote server or loading from a cache in local memory. *Id.* ¶¶ 30, 31, 33. Bliss further explains that the display can be generated using dynamic download of map tiles and caching of tile information. *Id.* ¶ 35. According to Bliss, such an approach is disclosed more fully in Rasmussen, which is incorporated by Bliss in its entirety. *Id.*

Figure 7 of Bliss is reproduced below:

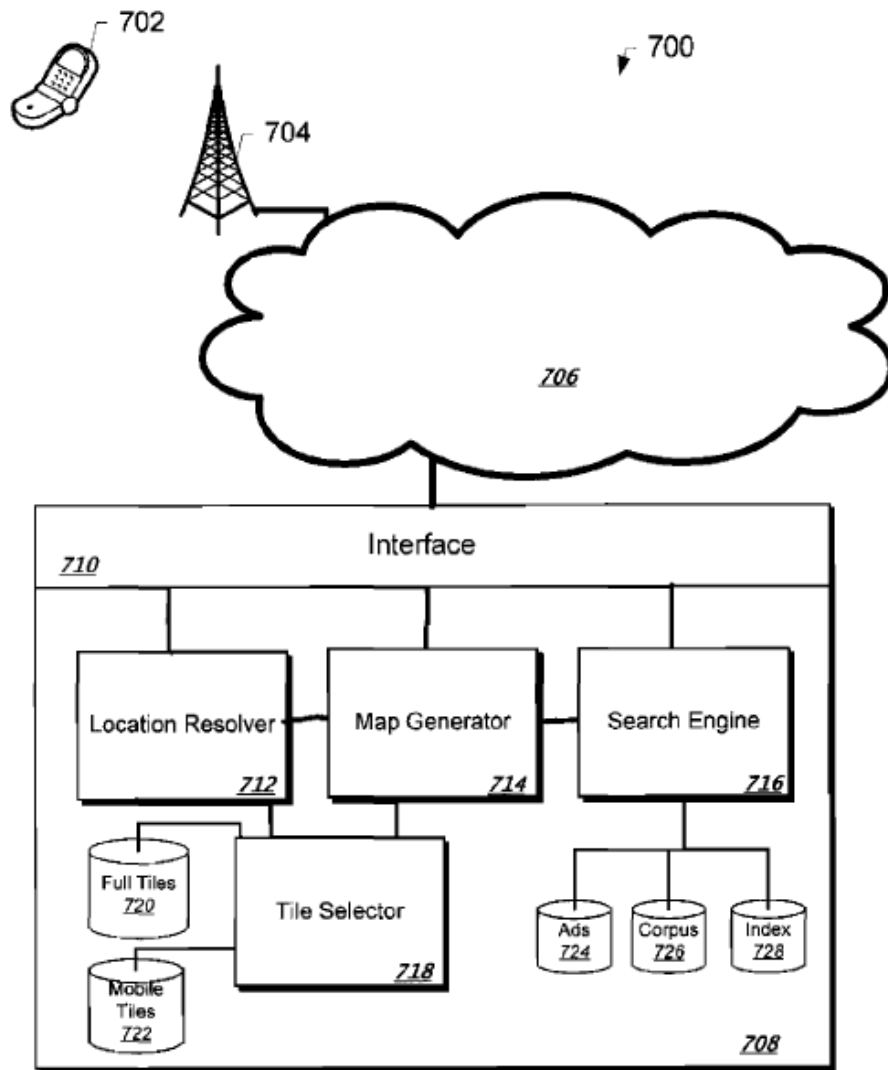


Figure 7

Figure 7, above, is a schematic diagram of a system, 700, for providing mapping information. Ex. 1015 ¶¶ 22, 84. According to Bliss, system 700 may include mapping server 708 in communication with remote mobile device such as mobile device 702. *Id.* ¶ 84. Mapping server 708 may communicate through interface 710, which may include one or more servers. *Id.* Location resolver 712 in mapping server 708 may receive and parse

information such as addresses and convert the addresses to GPS coordinates or other common formats. *Id.* ¶ 85. Location resolver 712 may then communicate with map generator 714, which may be configured to determine which tiles, of various tiles stored by system 700, are to be displayed by device 702. *Id.* For example, map generator 714 may determine an appropriate zoom level for a map and may determine which tiles associated with that zoom level are needed for a proper display of the map. *Id.* Map generator 714 may then make a request to tile selector 718 for the needed tiles, which may be stored, for example, in full tiles database 720 and mobile tiles database 722. *Id.* According to Bliss, such storage may allow the various components of mapping server 708 to serve both mobile and desktop clients as needed. *Id.*

3. *Rasmussen*

Rasmussen, titled “Digital Mapping System,” is a published patent application that describes methods, systems, and apparatus for implementing a digital mapping system. Ex. 1016, codes (54), (57). One such method includes sending a location request from a client-side computing device to a map tile server, receiving a set of map tiles in response to the location request, assembling the received map tiles into a tile grid, aligning the tile grid relative to a clipping shape, and displaying the result as a map image. *Id.* at code (57), ¶ 13. According to Rasmussen, the use of tiles may overcome certain problems of conventional digital mapping systems. *Id.* ¶¶ 5–12.

In one embodiment, according to Rasmussen, maps are displayed by stitching together in a browser a set of pre-rendered tiles produced in an off-line phase by drawing very large maps of the entire geographic area to be covered and cutting those maps into tiles. Ex. 1016 ¶¶ 68, 69, 72.

Rasmussen explains, “[i]nstead of drawing a map image from the underlying data on demand, the entire map is pre-drawn in sections (tiles), and the appropriate tiles are sent to the client when they are needed,” and “[t]hus, in general, a given map tile need only be transmitted to the client once.” *Id.*

¶ 68 According to Rasmussen, “[t]his approach is more reliable, faster, and requires lower bandwidth than conventional systems.” *Id.*

Figure 14 of Rasmussen is reproduced below.

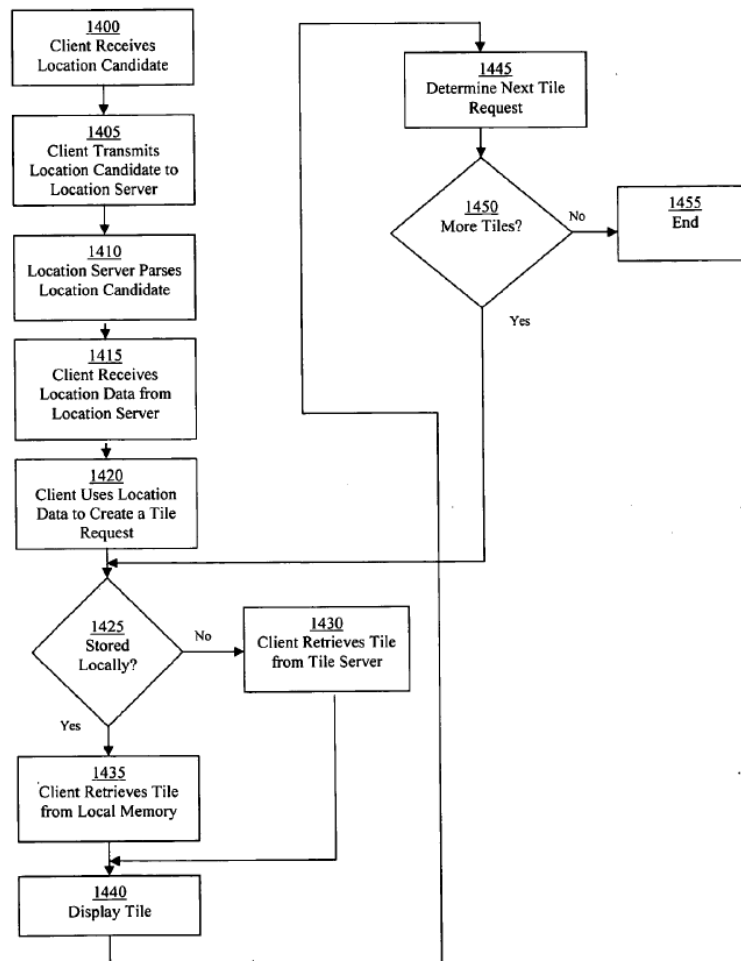


FIG. 14

Figure 14, above, illustrates a flowchart of an embodiment of Rasmussen for transmitting map tiles to a web browser and caching the tiles locally at the

web browser. *Id.* ¶¶ 28, 105. With reference to Figure 14, a client receives a location candidate, or location to be mapped, at step 1400. *Id.* ¶ 105. At step 1405, a client computing device transmits the location candidate to a location server, which then parses the location candidate at step 1410, resulting in the generation of location data. *Id.* At steps 1415 and 1420, respectively, the client receives the location data and uses it to create a tile request. *Id.* The client then determines whether the requested tile is already stored locally (step 1425), and if so, retrieves the tile from local memory (step 1435). *Id.* ¶¶ 105, 106. If the tile is not already stored locally, the client retrieves the tile from a tile server at step 1430. *Id.* ¶ 106. Once the tile is retrieved from local or remote tile storage, it is displayed at step 1440. *Id.* ¶ 106. Determinations are then made as to whether additional tiles are needed (steps 1445, 1450), either looping back to step 1425 or ending at step 1455. *Id.*

4. Claim 1

Petitioner contends that claim 1 is unpatentable over Altman in view of Bliss, with disclosures of Rasmussen incorporated by reference therein attributed to Bliss. Pet. 20–47 & 20 n.7. In the proposed combination, Petitioner relies on Altman alone as teaching all elements of claim 1, with the exception of “menu options comprising one or more tile mapping controls as part of a wizard menu enabling the user to reposition graphical mapping tiles for the one or more groups of tracking devices from multiple mapping service providers” (i.e., element 1[B](ii)) and “the graphical mapping tiles initially requested by the user on at least one tracking device . . . , whereby the user repositions the graphical mapping tiles received as part of the initial request without re-accessing the websites of the mapping service providers” (i.e., element 1[B](iii)), for which elements

Petitioner relies on the combined teachings of Altman and Bliss. *Id.* at 22–47.

The parties dispute, *inter alia*, whether Petitioner’s cited evidence adequately supports Petitioner’s contention that Altman and Bliss teach or suggest element 1[B](ii). *See, e.g.*, Prelim. Resp. 27–31; Pet. 29–37. With respect specifically to that element, Petitioner contends, first, that Altman includes tile mapping controls that enable a user to reposition graphical mapping tiles for one or more groups of tracking devices. Pet. 29 (citing Ex. 1014 ¶ 33, Fig. 3). According to Petitioner, Altman also teaches a “zoom and pan circuit” and that the zoom and pan controls shown in Figure 3 of Altman, like the mapping wizard menu of the ’355 patent, orient or reposition mapping tiles in response the user’s “scrolling and scaling” requests. *Id.* at 30 (citing Ex. 1014 ¶ 59, Fig. 3, claim 20; Ex. 1001, 8:51–53; Ex. 1002 ¶ 118. Petitioner further contends that, “to the extent that the term ‘wizard menu’ is understood as including a series of steps or submenus guiding a user through input,” “Altman discloses such a wizard menu in Figures 8A . . . and 8B . . . , guiding the user through an ‘event manager function,’” that shows “the same tile mapping controls discussed above . . . , to position or reposition map tiles if necessary as one of the steps in setting up [an] event.” *Id.* at 30–31 (citing Ex. 1014 ¶¶ 19–20, 50, 51, Figs. 8A, 8B).

Petitioner next contends that Altman teaches that its map comprises map tiles from multiple sources, citing disclosure in Altman that “map image information . . . can be provided by the server computer 104, a separate map provider service, or it can be programmed into the mobile device itself” and that maps “may be provided by a third party map provider.” Pet. 32 (emphasis omitted) (quoting Ex. 1014 ¶¶ 33, 36). As

such, Petitioner contends, a person of ordinary skill in the art would have recognized that the map tiles come from multiple sources. *Id.* (citing Ex. 1002 ¶ 121). Petitioner further contends that, “[t]o the extent that Altman does not explicitly disclose using ‘multiple mapping service providers,’ a [person of ordinary skill in the art] would have found it obvious to do so,” citing disclosure in Altman of “data store 120” storing information regarding “places of interest” provided “by ‘the server or third party providers.’” *Id.* at 33 (emphasis omitted) (quoting Ex. 1014 ¶ 53) (citing Ex. 1002 ¶ 122). “In other words,” Petitioner alleges, “Altman explicitly contemplates receiving mapping-related information from multiple additional third party providers for use in generating and displaying maps, and map tiles are simply another type of mapping-related information that would be so retrieved and used.” *Id.* at 33–34 (citing Ex. 1002 ¶ 122; Ex. 1014 ¶¶ 37–39).

Petitioner further contends that, “[t]o the extent that this simple implementation detail is not expressly disclosed by Altman, it would have been obvious since such third party service providers were well-known and provided the exact features that Altman seeks to include in its maps.” Pet. 34 (citing Ex. 1002 ¶ 122). For example, Petitioner alleges, a person of ordinary skill in the art “would have known of and used any of a number of well-known third party map service providers to acquire Altman’s map data, as a matter of simple design choice.” *Id.* (citing Ex. 1002 ¶ 122; Ex. 1016 ¶¶ 12, 73; Ex. 1041 ¶ 76;² Ex. 1042, 12:4–7³).

² Nachman et al., US 2007/0130153 A1, published June 7, 2007.

³ Diem, WO 2007/073470 A2, published June 28, 2007.

Still further, Petitioner contends that a person of ordinary skill “would have been motivated to also include this feature as taught by Bliss,” which, according to Petitioner, “[l]ike Altman, . . . relates to display of maps and location information on mobile phones” and “teaches maps using map tiles from multiple sources.” Pet. 35 (citing Ex. 1002 ¶ 123; Ex. 1015, code (57), ¶ 28, 84–85, Fig. 7). Referring to Figure 7 of Bliss, Petitioner argues that Bliss uses servers included within its mapping server 708 (e.g., full tiles database 720 and mobile tiles database 722) to provide tiles to user devices from different databases. *Id.* (citing Ex. 1015 ¶¶ 84, 85). Petitioner alleges that “Bliss thus teaches a map that may include map tiles provided as needed from one or more servers” and that a person of ordinary skill in the art “would have understood, and it would have been obvious, that these multiple servers may be hosted by one or more service providers.” *Id.* (citing Ex. 1002 ¶ 124, Ex. 1016 ¶¶ 12, 73; Ex. 1041 ¶ 76; Ex. 1042, 12:4–7). Repeating its contention that Altman discloses providing map image information from various sources, Petitioner further alleges that “it would have been obvious to implement Altman’s ‘server 104’ as ‘one or more servers’ taught by Bliss as a routing design choice to improve server efficiency and reliability,” postulating that, “[f]or example, in such a combined system, if one of the multiple mapping servers or databases were down or otherwise unavailable, maps would still be retrievable from another provider’s database or server.” *Id.* at 36–37 (citing Ex. 1002 ¶ 125; Ex. 1014 ¶ 36; 1041 ¶ 76).

In response to Petitioner’s contentions, Patent Owner contends that the combination of Altman and Bliss (including Rasmussen, as incorporated by reference in Bliss) fails to teach or suggest graphical mapping tiles from multiple mapping service providers, as recited in claim 1, “let alone the

claimed method step of enabling a user to reposition graphical mapping tiles from multiple mapping service providers.” Prelim. Resp. 27.

First, Patent Owner argues, although “Altman provides that map data from a single provider may be stored in one of three places: . . . in the system’s server computer, remotely in in a separate map provider service, or in the mobile device itself,” “[n]othing in Altman teaches or suggests a system that receives map information from multiple providers.” Prelim. Resp. 27 (citing Ex. 1014 ¶¶ 33, 36; Ex. 2001 ¶¶ 65–67). Importantly, Patent Owner argues, “Petitioner argues that Altman discloses that the map tiles may come from ‘multiple sources,’ which is not the language of the claim . . . , and instead improperly conflates the physical source of the information (such as whether it comes from a local or remote server) with mapping service provider, such as Google or NavTech.” *Id.* at 27–28 (citing Pet 34; Ex. 1002 ¶ 122). Responding to Petitioner’s contention that it nonetheless “would have been obvious” to use multiple mapping providers because Altman discloses that information on places of interest may be provided by the Altman system “or third party providers,” Patent Owner contends that gathering information on multiple places of interest is a “much different disclosure” than using maps from multiple mapping providers, let alone teaching how to reconcile the different information they provide. *Id.* at 28 (citing Ex. 2001 ¶¶ 68–71). In contrast with the different considerations required to use maps from multiple providers, Patent Owner argues, “points of interest require only latitude and longitude fields for placement on an existing map image.” *Id.* (citing Ex. 2001 ¶ 68).

Second, Patent Owner contends that “Rasmussen . . . does not disclose or suggest that a single system can or should receive mapping tiles from multiple different map providers, and instead discloses only that there are

multiple map providers that a system could use.” Prelim. Resp. 29 (citing Ex. 1016 ¶¶ 12, 73; Ex. 2001 ¶¶ 72–73). Likewise, Patent Owner argues, Nachman and Diem, which should not be considered because they are not part of Petitioner’s proposed combinations and Petitioner has not provided any reason why a person of ordinary skill in the art would have considered them in connection with Altman and Bliss, have disclosures similar to Rasmussen, insofar as multiple potential providers are disclosed but only a single provider is actually contemplated and used to provide the map data. *Id.* at 29–30 (citing Pet. 34–37; Ex. 1041; Ex. 1042; Ex. 2001 ¶¶ 73–75). According to Patent Owner, “[t]hat is divergent from Claim 1, which requires enabling a user to reposition graphical mapping tiles from multiple mapping service providers.” *Id.* at 30 (citing Ex. 2001 ¶¶ 74–75).

Third, Patent Owner argues that in relying on Bliss to provide a motivation for combination with Altman, “Petitioner improperly conflates *servers* (i.e., the physical device on which map data is stored) with *providers* (i.e., the ultimate source of the map information).” Prelim. Resp. 30. For example, Patent Owner contends, whereas “Bliss provides an example where ‘full tiles’ 720 (for desktop clients) and ‘mobile tiles’ 722 (for mobile clients) are stored on different servers,” “Bliss . . . does not teach or suggest that these map tiles should come from multiple providers.” *Id.* citing Ex. 1015 ¶ 85; Ex. 2001 ¶¶ 76–77). That is in contrast with the ’355 patent, Patent Owner argues, which “include express disclosure on how to integrate mapping tiles from different providers; a disclosure that is absent from the prior art.” *Id.* (citing Ex. 1001, 14:65–16:13, Fig. 23).

Finally, Patent Owner argues, “[t]he remainder of Petitioner’s argument is based on conclusory expert opinion (that just repeats Petitioner’s argument) and unsupported extrapolation of references as

‘obvious’ and ‘routine’ design choices.” Prelim. Resp. 30–31 (citing Ex. 2001 ¶¶ 78–80; Ex. 2006, 9–12 (comparison of excerpted sections of the Petition and Mr. Andrews’s declaration). Patent Owner contends that type of generic, unsupported argument is routinely rejected as insufficient by the Board and the United States Court of Appeals for the Federal Circuit. *Id.* at 31 (citing 37 C.F.R. § 42.65(a); *Xerox Corp. v. Bytemark, Inc.*, IPR2022-00624, Paper 9 at 16 (PTAB Aug. 24, 2022); *Content Square SAS v. Medallia*, IPR2022-00316, Paper 13 at 37–38 (PTAB July 14, 2022); *One World Techs., Inc. v. Chervon (HK) Ltd.*, IPR2020-00884, Paper 55 at 35 (PTAB Nov. 3, 2021)).

Having reviewed the parties’ filings and evidence, we agree with Patent Owner that Petitioner has not shown that the combination of Altman and Bliss teaches or suggests claim element 1[B](ii), and accordingly, we conclude that Petitioner has not demonstrated a reasonable likelihood of prevailing in showing that claim 1 is unpatentable over the proffered combination. Claim element 1[B](ii), in relevant part, recites “providing a graphical mapping module comprising menu options . . . comprising one or more tile mapping controls as part of a wizard menu enabling [a] user to reposition graphical mapping tiles . . . from multiple mapping service providers.” Ex. 1001, 24:21–27. We agree with Patent Owner that the prior art cited by Petitioner (including not only Altman and Bliss—and by incorporation, Rasmussen—that are express members of the asserted ground, but also the tertiary Nachman and Diem references not identified by Petitioner as being part of the asserted combination) does not teach or suggest “reposition[ing] graphical mapping tiles . . . from multiple mapping service providers.” Prelim. Resp. 27–30. This deficiency is fatal to the asserted ground.

In particular, as Patent Owner argues, Petitioner’s allegations improperly conflate Altman’s and Bliss’s disclosure of multiple potential storage locations for map data with the multiple providers recited in claim 1, and similarly conflate Rasmussen’s, Nachman’s, and Diem’s disclosure of the mere existence of multiple providers with enabling a user to reposition graphical mapping tiles from multiple mapping service providers, as recited in claim 1. *Id.* As Patent Owner points out, for example (*see* Prelim. Resp. 29), one of the two paragraphs of Rasmussen cited by Petitioner, taken from the “Background” section of the application, merely states, in relevant part, that Microsoft’s “TerraServer USA site” was, at the time of Rasmussen’s disclosure, using “a tiling approach for displaying satellite images” (Ex. 1016 ¶ 12), while the second cited paragraph, in an entirely separate section of the reference, describing an embodiment of Rasmussen’s own alleged invention with no indication of any connection to the Microsoft TerraServer USA site mentioned in the Background, discloses the use of “commercially available NavTech data that has been compiled by Telcontar . . . into RMF (Rich Map Format) files” that can in a subsequent step be used to make map tiles (*id.* ¶ 73). Petitioner cites and we find no disclosure in Rasmussen of any additional provider’s data being used along with the cited NavTech data to make map tiles, let alone “reposition[ing] graphical mapping tiles . . . from multiple mapping service providers,” as recited in claim 1.

Notwithstanding Petitioner’s and Mr. Andrews’s conclusory characterizations of “using ‘multiple mapping service providers’” as a “simple implementation detail” that “would have been obvious since such third party service providers were well-known and provided the exact features that Altman seeks to include in its maps” (Pet. 33–34; Ex. 1002

¶ 122), Petitioner’s evidence does not demonstrate that the cited prior art would have taught or suggested the claimed method in which a user is enabled to reposition map tiles from multiple service providers, absent hindsight knowledge provided by the ’355 patent itself. *See, e.g., InTouch Techs., Inc. v. VGO Commc’ns, Inc.*, 751 F.3d 1327, 1351 (Fed. Cir. 2014) (“It appears that [the expert] relied on the [] patent itself as her roadmap for putting what she referred to as pieces of a ‘jigsaw puzzle’ together.”); *Sensonics, Inc. v. Aerosonic Corp.*, 81 F.3d 1566, 1570 (Fed. Cir. 1996) (citing *W.L. Gore & Assocs. v. Garlock, Inc.*, 721 F.2d 1540, 1553 (Fed. Cir. 1983)) (“To draw on hindsight knowledge of the patented invention, when the prior art does not contain or suggest that knowledge, is to use the invention as a template for its own reconstruction—an illogical and inappropriate process by which to determine patentability.”).

Notably, Petitioner acknowledges that the very portion of element 1[B](ii) that we find the asserted prior art fails to teach or suggest, i.e., the recitation of a wizard menu enabling the user to reposition “graphical mapping tiles . . . from multiple mapping service providers,” was added by Patent Owner during prosecution of the underlying patent application claims and that such addition resulted in allowance and issuance of independent claim 1. Pet. 6–7 (citing Ex. 1004, 355–70, 397–411, 422–88 (prosecution history of the ’355 patent)), 82 (contending that “Altman and Bliss specifically disclose the claim element ***that was added to the challenged claims during prosecution to distinguish the prior art, which was a basis for the examiner’s allowance of the claims***” and specifically acknowledging that “[f]or example, ***the applicant’s final claim amendment added the limitation specifying that ‘graphical mapping tiles for the one or more groups of tracking devices’ are ‘from multiple mapping service***

providers.’ Ex-1004, 397.” (emphasis added)); *see also* Prelim. Resp. 1–2 (arguing, *inter alia*, that “Petitioner . . . curiously curtails its assessment of the critical aspect of the prosecution history to a single generic sentence: ‘[a]fter additional actions and responses, Ex-1004, 0422-0488, the examiner subsequently issued a notice of allowance’ (Pet., 7)”), 5–6 (“The Petition correctly recognizes that the ’355 Patent initially received a rejection based on both obviousness-type double patenting and obviousness under §103(a) (Pet., 6-7). While Petitioner acknowledges that the Applicant amended challenged Claim 1 in response to that rejection, it mischaracterizes that amendment as directed ‘to overcome the double-patenting rejection’ (*id.*, 7). Much later, however, Petitioner acknowledges its first representation was incorrect, and instead asserts that this the multiple mapping provider element ‘as added to the challenged claims during prosecution to distinguish the prior art’ (*id.*, 82).”), 9–16. Our review of the prosecution history of the ’355 patent confirms that, like Altman and Bliss, the Busch patent application⁴ over which claim 1 was rejected during prosecution specifically named multiple map providers (including “e.g., MapQuest, Google Maps, NavTeq, Geographical Information Systems (GIS), etc.”), and that the examiner allowed claim 1 in view of Patent Owner’s arguments related to the “from multiple mapping service providers” limitation. Ex. 1004, 425–27, 465–73, 481, 485–88; Ex. 2005 ¶¶ 351, 379.

We also agree with Patent Owner that the portion of Mr. Andrews’s declaration regarding element 1[B](ii) is entitled to little weight, given that they merely repeat nearly verbatim the corresponding section of the Petition and are no less conclusory. *See* Prelim. Resp. 30–31; 37 C.F.R. § 42.65(a);

⁴ Busch, US 2008/0248815 A1, published Oct. 9, 2008 (Ex. 2005).

compare Ex. 1002 ¶¶ 116–125, *with* Pet. 29–37. In this regard, the only non-trivial difference we find between Mr. Andrews’s declaration and the Petition is that, in paragraph 125 of the declaration, Mr. Andrews offers testimony that “different map providers have different geographic areas of emphasis, so as the user moved from place to place the system may obtain maps tile data from providers who specialize in maps for that geographic area, and this would necessitate obtaining map data from different providers for different geographic areas.” Ex. 1002 ¶ 125. The only support Mr. Andrews provides for that testimony, however, is a citation to the same disclosure in Nachman as cited in the Petition and discussed above that fails to teach or suggest mapping tiles from multiple mapping service providers. *See id.* (citing Ex. 1041 ¶ 76).

Therefore, based on the current record, we determine that Petitioner has not shown a reasonable likelihood of demonstrating that independent claim 1 would have been obvious over Altman and Bliss.

E. Obviousness of Claim 1 over Girerd, Rasmussen, and Steenstra

Petitioner alleges claim 1 would have been obvious over Girerd, Rasmussen, and Steenstra. Pet. 4, 47–75. Patent Owner responds, arguing that the Petition fails to establish a reasonable likelihood that Petitioner will prevail. Prelim. Resp. 31–40. Neither party alleges or presents evidence regarding secondary considerations.

We begin our analysis with a brief overview of Girerd and Steenstra, and then we address the parties’ contentions relevant to our determination that Petitioner has not demonstrated a reasonable likelihood that it would prevail in showing that claim 1 is unpatentable as obvious over Girerd, Rasmussen, and Steenstra.

1. Girerd

Girerd, titled “Client-server Based Remote Locator Device,” is a patent that describes client-server computer networks and the use thereof to access remote sensors having associated position determination sensors. Ex. 1011, code (54), 1:17–19. Figure 1A of Girerd is reproduced below.

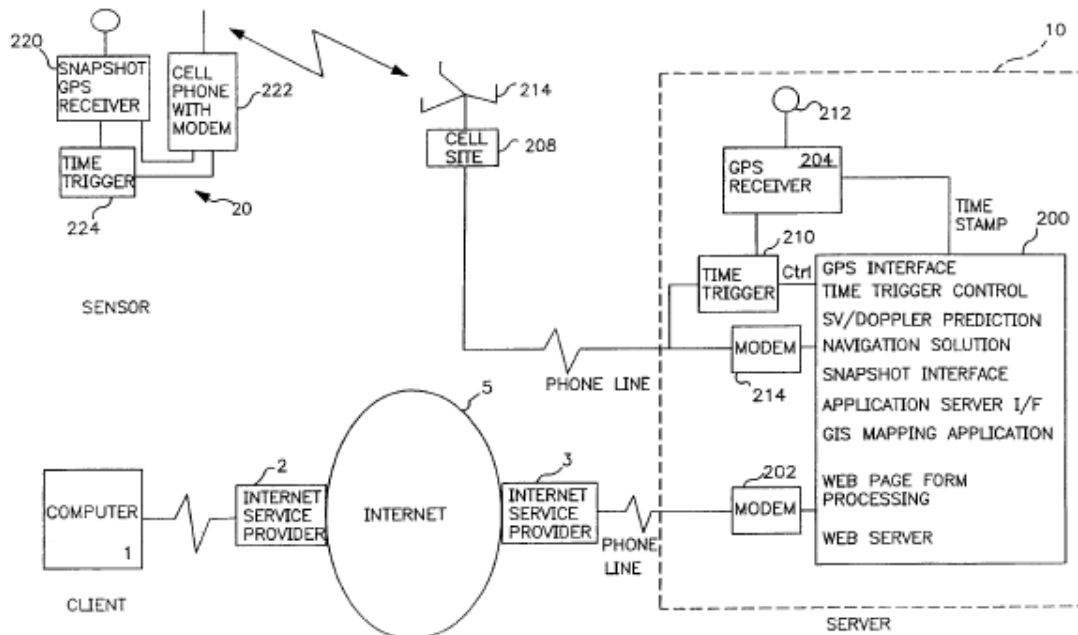


FIG. 1A

Figure 1A, above, is a block diagram of a system for determining the location of a remote sensor. *Id.* at 3:1–4. With reference to Figure 1A, user computer 1 and base station 10 are connected to Internet 5. *Id.* at 3:33–46. Base station 10 includes server 200, which is a Web Server that can be accessed by user computer 1. *Id.* at 3:45–46, 3:53–55. Base station 10 also includes GPS receiver 204 and a connection to cellular telephone transmitter site 208 via modem 214. *Id.* at 3:66–67, 4:16–17. Remote sensor 20 includes conventional cellular telephone 222 connected to GPS receiver 220. *Id.* at 4:27–29. GPS receiver 220 responds to commands from server 200 to take a position fix from GPS satellites. *Id.* at 4:30–34. Server 200 interrogates remote sensor 20, which is identified based on an identification

code provided at user computer 1. *Id.* at 5:32–33. Server 200 responds by transmitting positioning data to server 200, where it is analyzed to derive the location of remote sensor 20. *Id.* at 5:33–36. The location of remote sensor 20 is transmitted from server 200 to computer 1 for display. *Id.* at 5:25–28.

2. *Steenstra*

Steenstra, titled “Location Based Service (LBS) System and Method for Creating a Social Network,” is a published patent application that describes “[a] system and method for providing a location based service to create a social network.” Ex. 1017, codes (54), (57). Steenstra discloses that a user can register from a wireless terminal with a location based service associated with a feature (e.g., an “instant date” feature of an online dating service, “activity maps,” or other “interest group” features). *Id.* ¶¶ 7, 32, 34, 42–57. A user profile can be created, including personalized information, such as the user’s age, height, hobby(s), or user-defined features, and the user may define a desired profile to match. *Id.* ¶¶ 40, 41. Match candidates may be displayed (e.g., on a user’s handset) based on the profile and their geographic location. *Id.* ¶ 7, Figs. 4, 5. The geographic location of the candidates may be determined, for example, using a GPS, and the candidates displayed may be based on those represented on an activity map associated with the particular feature. *Id.* ¶¶ 8, 42–45, Fig. 5.

3. *Claim 1*

Petitioner contends that claim 1 is unpatentable over Girerd, Rasmussen, and Steenstra. Pet. 47–75. The parties dispute, *inter alia*, whether Petitioner’s cited evidence adequately supports Petitioner’s contention that the cited references teach or suggest element 1[B](ii). *See* Prelim. Resp. 39–40; Pet. 60–65. With respect specifically to that element,

Petitioner relies on the teachings of Rasmussen, conceding that “Girerd teaches to use maps to graphically display the position of its remote sensors, but does not expressly describe how those maps are controlled by users of the system,” but arguing that “Rasmussen expressly teaches tile mapping controls that allow a user to reposition map tiles.” Pet. 60. Like for the asserted ground based on Altman and Bliss, Petitioner cites paragraphs 12 and 73 of Rasmussen as allegedly teaching graphical mapping tiles “from multiple mapping service providers.” *Compare id.* at 64–65 (arguing that “Rasmussen . . . specifically names several providers of mapping information, such as ‘Microsoft’s Tera Server USA’ ([Ex. 1016] ¶ 12) and ‘commercially available NavTech data that has been compiled by Telcontar (a commercial provider of digital map and navigation information)’ (*Id.*, ¶73.)” and that “Rasmussen explains that these commercially available data sets are loaded and stored into map data storage elements 920 of Figure 9. *Id.*, ¶73.”), *with id.* at 34 (citing Ex. 1016 ¶¶ 12, 73 (“Rasmussen, incorporated by reference in Bliss, . . . disclosing ‘Google Maps beta,’ ‘Microsoft’s Tera Server USA’ and ‘commercially available NavTech data that has been compiled by Telcontar’ as known commercial map service providers.”)). Petitioner additionally cites Rasmussen as “explain[ing] that its mapping system collects map usage information and uses it ‘for contractual purposes ***with commercial providers of map information.***’” *Id.* at 64 (quoting Ex. 1016 ¶ 91). Finally, Petitioner argues that a person of ordinary skill in the art “would have found it obvious to fill the map data storage with map data from the multiple map data service providers disclosed by Rasmussen for much the same reasons as described above [for the Altman/Bliss ground], for example regarding usability and availability of

map data in the event of one provider's unexpected unavailability.” *Id.* at 65 (citing Ex. 1002 ¶ 168).

In response to Petitioner's contentions, Patent Owner argues that the Petition and corresponding portion of Mr. Andrews's declaration “rely on the same conclusory hindsight-driven argument that it would have been obvious to improve server efficiency and reliability” as for the Altman/Bliss ground discussed above and that “[a]gain, that argument should be rejected.” Prelim. Resp. 39–40 (citing, *inter alia*, Pet. 37, 65; Ex. 1002 ¶¶ 125, 168; Ex. 2001 ¶¶ 106, 107; 37 C.F.R. § 42.65(a)).

Having reviewed the parties' filings and evidence, we again conclude, for the same reasons as provided in Section III.D.4 above, that Rasmussen does not teach or suggest “a wizard menu enabling the user to reposition graphical mapping tiles for the one or more groups of tracking devices *from multiple mapping service providers*,” as recited in claim 1. Moreover, Petitioner does not contend that either Girerd or Steenstra cures this deficiency. *See* Pet. 64–65. Therefore, based on the current record, we determine that Petitioner has not shown a reasonable likelihood of demonstrating that independent claim 1 would have been obvious over Girerd, Rasmussen, and Steenstra.

F. Discretionary Denial Under 35 U.S.C. § 325(d)

Patent Owner contends the Board should exercise its discretion to deny institution under 35 U.S.C. § 325(d), arguing, *inter alia*, that “the Examiner considered substantially the same argument Petitioner advances on the multiple mapping service provider element,” and “Petitioner does not address, much less show, why the Examiner erred in a manner that was material to patentability.” Prelim. Resp. 9–18.

Because we deny institution of *inter partes* review based on the merits of the Petition in this case, we need not and do not address the discretionary denial contention of Patent Owner.

IV. CONCLUSION

For the foregoing reasons, Petitioner has not demonstrated a reasonable likelihood of prevailing on either of the asserted grounds, and we deny institution of *inter partes* review.

V. ORDER

In consideration of the foregoing, it is hereby
ORDERED that the Petition is *denied*, and no trial is instituted.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UBER TECHNOLOGIES INC.,
Petitioner,

v.

LBT IP II LLC,
Patent Owner.

IPR2022-00927
Patent 8,224,355 B2

Before CHARLES J. BOUDREAU, JOHN A. HUDALLA, and
STEPHEN E. BELISLE, *Administrative Patent Judges*.

HUDALLA, *Administrative Patent Judge*, dissenting.

I respectfully dissent from my colleagues’ decision not to institute *inter partes* review in this case. The majority determines that Petitioner has not shown sufficiently that the combination of Altman and Bliss—and by incorporation, Rasmussen—teaches claim element 1[B](ii), which recites “providing a graphical mapping module comprising menu options . . . comprising one or more tile mapping controls as part of a wizard menu enabling [a] user to reposition graphical mapping tiles . . . from multiple mapping service providers.” Ex. 1001, 24:21–27. In particular, the majority

faults Petitioner’s contention that the asserted references teach or suggest repositioning map tiles from multiple service providers. The majority also is not persuaded by the testimony of Mr. Andrews, who testifies that, in light of Altman’s teaching of receiving mapping-related information from multiple sources, using “multiple mapping service providers” is a “simple implementation detail” that “would have been obvious since such third party service providers were well-known and provided the exact features that Altman seeks to include in its maps.” Ex. 1002 ¶ 122 (citing, *inter alia*, Ex. 1014 ¶¶ 37–39).

I find Mr. Andrews’s testimony sufficient for institution and supported by the record. In particular, Petitioner cites Altman’s teaching that “map image information . . . can be provided by the server computer 104, a separate map provider service, or it can be programmed into the mobile device itself” and that maps “may be provided by a third party map provider.” Pet. 32 (quoting Ex. 1014 ¶¶ 33, 36) (emphasis omitted). Petitioner also cites, *inter alia*, Rasmussen’s teaching of multiple different commercially availability mapping sources. Pet. 16–17 (citing Ex. 1016, Fig. 8), 34 (citing Ex. 1016 ¶¶ 12, 73). In my view, this supports Petitioner’s contention that, in light of Altman’s teaching of receiving mapping-related information from multiple sources (e.g., friend status/location information and places/events of interest (*see* Ex. 1014 ¶¶ 37–39)) for display on a map, an ordinarily skilled artisan would have found it obvious to implement multiple map service providers as a source for the mapping tiles that are repositioned. Pet. 32–34; Ex. 1002 ¶ 122. As further support for the combination, Petitioner cites Bliss’s teaching of multiple mapping servers and multiple map tile databases. Pet. 35 (citing Ex. 1015 ¶¶ 85–85). For similar reasons to those mentioned with respect to

Altman and Bliss, I also am persuaded preliminarily that it would have been obvious to implement multiple map service providers, as taught by Rasmussen, for Bliss's multiple map servers and databases. Pet. 35; Ex. 1002 ¶ 124.

I additionally have considered the testimony of Patent Owner's declarant, Dr. Koskinen, but I do not agree with it in light of the present record. He testifies that "the physical location where map data is stored (and whether it comes from different databases)" is a "different concern" from "whether the map data comes from multiple mapping service providers." Ex. 2001 ¶ 77. He further testifies that an ordinarily skilled artisan "would consider it to be irrelevant for [element 1[B](ii)] whether map data could be stored in different servers or databases, and instead would focus on whether map information from multiple providers was used and how it was integrated." *Id.* Yet element 1[B](ii) recites nothing about how map data from different service providers is integrated. Nor does the Specification suggest that element 1[B](ii) should be interpreted to require integration of tiles from multiple service providers in a particular way. Given Altman's and Bliss's teachings of using different databases and servers for providing mapping-related information, and based on the present record, I am persuaded preliminarily that Petitioner's proposed combination of these references at least suggests repositioning mapping tiles from two different service providers in view of the knowledge of a person of ordinary skill in the art. *See* Ex. 1002 ¶¶ 122–125.

I acknowledge Patent Owner's arguments about how element 1[B](ii) was added by the patentees during prosecution to overcome a prior art rejection and gain allowance of what eventually became claim 1. Prelim. Resp. 1–2, 5–18. Notwithstanding, I do not believe that the instant case

implicates 35 U.S.C. § 325(d) at least because the Altman, Bliss, and Rasmussen individually and in combination were not considered by the Examiner.

Regarding the other limitations of claim 1, I find that Petitioner has shown sufficiently that the combination of Altman and Bliss (with Rasmussen incorporated) teaches these limitations for the reasons discussed in the Petition. *See* Pet. 22–29, 37–47. For example, regarding element 1[A](i), Petitioner puts forth evidence that Altman teaches both establishing and maintaining a user profile account and a member login for server access to the account. *Id.* at 23–24; Ex. 1014 ¶¶ 34, 80. I also am persuaded preliminarily that an ordinarily skilled artisan considering these teachings would know to allow access to an interface in response to a successful login. Ex. 1002 ¶ 108. I do not agree with Patent Owner’s arguments (Prelim. Resp. 21–23) that this showing is insufficient because it is based on different portions of Altman. Regarding element 1[c], Petitioner cites Altman’s teaching of sending messages and alerts to a particular group. Pet. 41; Ex. 1014 ¶ 42. Petitioner further cites Altman’s teaching of sending alerts for any user activity and contends that an ordinarily skilled artisan would have known user activity to include a user logging into the system. Pet. 41–43; Ex. 1002 ¶ 135; Ex. 1014 ¶¶ 70–71. Although Patent Owner argues “Petitioner’s analysis uses hindsight to isolate soundbites from Altman, devoid of context” (Prelim. Resp. 25–26), Petitioner bases its contentions about sending alerts after a user login on Altman’s teaching of holding messages at a server until a user is active. Pet. 41; Ex. 1014 ¶¶ 70–71. In my opinion, this supports Petitioner’s analysis and is sufficient for institution. I also am persuaded preliminarily by Petitioner’s stated

motivation for the combination and showing on reasonable expectation of success. *See* Pet. 20–21.

Based on the present record, I would determine that Petitioner has established a reasonable likelihood that it would prevail in showing that the subject matter of claim 1 would have been obvious over the combination of Altman and Bliss (with Rasmussen incorporated by reference). Thus, I would institute an *inter partes* review of claim 1 of the '355 patent on both asserted grounds. For these reasons, I respectfully dissent.

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Patent 8,224,355 B2

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