

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS, LLC,
Petitioner,

v.

VIRTUAL CREATIVE ARTISTS, LLC,
Patent Owner.

IPR2022-01263
Patent 10,339,576 B2

Before KEVIN W. CHERRY, MICHAEL L. WOODS, and
PAUL J. KORNICZKY, *Administrative Patent Judges*.

KORNICZKY, *Administrative Patent Judge*.

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

I. INTRODUCTION

Unified Patents, LLC (“Petitioner”) filed a Petition requesting an *inter partes* review of claims 1, 2, 4–7, 10–12, 15, 16, 21, and 22 of U.S. Patent No. 10,339,576 B2 (Ex. 1001, “the ’576 patent”). Paper 1 (“Pet.”). Virtual Creative Artists, LLC (“Patent Owner”) did not file a Preliminary Response opposing institution.

Under 35 U.S.C. §§ 6(b)(4), 314(a) and 37 C.F.R. § 42.4(a), we have authority to institute an *inter partes* review if “the information presented in the petition . . . and any response . . . shows that 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) (2018).

After considering the Petition and other evidence of record, we determine that Petitioner has demonstrated a reasonable likelihood of showing the unpatentability of at least one of the challenged claims. Thus, we institute an *inter partes* review on all challenged claims on all asserted grounds. 37 C.F.R. § 42.108(a). Specifically, we grant Petitioner’s request to institute an *inter partes* review of claims 1, 2, 4–7, 10, 12, 15, 16, 21, and 22 of the ’576 patent.

II. BACKGROUND

A. *Real Parties-in-Interest*

As required by 37 C.F.R. § 42.8(b)(1), Petitioner identifies itself as a real party-in-interest. Pet. 89.

B. Related Proceedings

As required by 37 C.F.R. § 42.8(b)(2), Petitioner identifies the judicial or administrative matters that would affect or be affected by a decision in this proceeding. Petitioner states the '576 patent is the subject of *Virtual Creative Artists, LLC v. Meta Platforms, Inc. f/k/a Facebook, Inc.*, 6:22-CV-00265 (W.D. Tex.). Pet. 89.

C. Overview of the '576 Patent (Ex. 1001)

The '576 patent is titled “Revenue-Generating Electronic Multi-Media Exchange and Process of Operating Same.” Ex. 1001, code (54). The '576 patent relates to a distributed process for creating media content based upon submissions received on an electronic multimedia exchange. *Id.* at 1:22–25. The '576 patent states “the scope of the invention is applicable to all forms of media whether printed, broadcast, projected or performed.” *Id.* at 6:14–16; 1:20–22.

The '576 patent states that it solves the following problems: the need for media end users to interact with media creators to develop creative submissions which may be used in media content; and the need for an open exchange where submitted media works can be searched and viewed for use and purchase by third parties. Ex. 1001, 3:3–15.

Specifically, the challenged claims are directed to a computer-based system for generating multimedia content using three distributed processing subsystems. Ex. 1001, 39:22–41:6. These three subsystems are a submissions subsystem, a creator subsystem, and a release subsystem, which are operatively coupled together. *Id.* The submission subsystem receives content — for example, based on fill-in-the-blank submission forms —

“which may be transformed in the same form or adapted into multi-media content for distribution.” *Id.* at 3:26–30, 4:5–11. The creator subsystem allows a user to search for submitted content, select a submission, and modify and develop the submission. *Id.* at 4:27–41. The release subsystem allows a user to view the final, developed submission. *Id.* at 4:42–45.

D. Illustrative Claim

As mentioned above, Petitioner challenges claims 1, 2, 4–7, 10–12, 15, 16, 21, and 22 of the ’576 patent. Pet. 1. Claim 1, the only independent claim, is reproduced below.¹ Ex. 1001, 39:23–67.

1. [1(P)] A computer-based system for generating multimedia content comprising:

[1(a)] an electronic media submissions server subsystem including:

[1(a)(1)] one or more data processing apparatus,

[1(a)(2)] one or more database stored on a non-transitory medium;

[1(a)(3)] a submissions electronic interface configured to receive a first electronic media submission from a first user of a plurality of users over a public network and store said first electronic media submission in said one or more database with at least a second electronic media submission received from a second user of the plurality of users, where the second user is not the first user,

[1(a)(3)(i)] wherein the first electronic media submission includes: data identifying the first user,

¹ For ease of reference, we use Petitioner’s claim numbering scheme as indicated by the bracketed numbers.

[1(a)(3)(ii)] data identifying the date and time associated with receipt of the first electronic media submission, and

[1(a)(3)(iii)] data indicating content of the first electronic media submission

[1(b)] the one or more databases comprising criteria associated with one or more users of the plurality of users stored therein;

[1(c)] an electronic multimedia creator server subsystem operatively coupled to the electronic media submissions server subsystem, including:

[1(c)(1)] one or more second data processing apparatus, and

[1(c)(2)] an electronic content filter configured to apply criteria associated with at least one user of the plurality of users to obtain a plurality of electronic media submissions from the one or more database and to develop multimedia content to be electronically available for viewing on at least one user device associated with the first user,

[1(c)(3)] wherein data identifying a respective user is maintained for each electronic media submission within the multimedia content; and

[1(d)] an electronic release subsystem operatively coupled to the electronic multimedia creator server subsystem, including one or more third data processing apparatus and configured to make the multimedia content electronically available for viewing on a plurality of user devices.

E. Evidence and Asserted Grounds

Petitioner relies upon the following evidence:²

- (1) US 6,557,013 B1, issued April 29, 2003 (“Ziff,” Ex. 1004)³;
- (2) US 5,845,116, issued December 1, 1998 (“Saito,” Ex. 1005); and
- (3) US 5,907,837, issued May 25, 1999 (“Ferrel,” Ex. 1006).

Petitioner submits a declaration from Dr. Clifford Neuman (Ex. 1003).

Petitioner challenges the patentability of the ’576 patent claims based on the following ground (Pet. 1):

Ground	Claim(s) Challenged	35 U.S.C. § ⁴	Reference(s)/Basis
1	1, 2, 4–7, 10–12, 15, 16, 21, 22	103	Ziff, Saito, Ferrel

III. ANALYSIS

A. Legal Standards

Petitioner bears the burden of persuasion to prove unpatentability, by a preponderance of the evidence, of the claims challenged in the Petition. 35 U.S.C. § 316(e). Except in limited circumstances not present here, this burden of persuasion does not shift to Patent Owner. *Dynamic Drinkware, LLC v. Nat’l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015). The Board may authorize an *inter partes* review if we determine that the

² Petitioner asserts the earliest priority date for the challenged claims is May 5, 2000. Pet. 9.

³ Petitioner asserts Ziff is entitled to a March 24, 1999, filing date. Pet. 11.

⁴ The relevant sections of the Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112–29, 125 Stat. 284 (Sept. 16, 2011), took effect on March 16, 2013. Because the ’576 patent claims priority to an application filed before this date, our citations to 35 U.S.C. § 103 in this Decision are to the pre-AIA version. Our decision is not impacted, however, by which version of the statute applies.

information presented in the Petition and Patent Owner's Preliminary Response, if any, shows that there is a reasonable likelihood that Petitioner will prevail with respect to at least one of the claims challenged in the Petition. 35 U.S.C. § 314(a).

As mentioned above, Petitioner's challenge is based on obviousness. Pet. 1. A claim is unpatentable under 35 U.S.C. § 103 if the differences between the claimed invention and the prior art are such that the claimed invention as a whole would have been obvious before the effective filing date of the claimed invention to a person having ordinary skill in the art to which the claimed invention pertains. *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved based on underlying factual determinations including: (1) the scope and content of the prior art; (2) any differences between the claimed subject matter and the prior art; (3) the level of ordinary skill in the art; and (4) when in the record, objective evidence of nonobviousness.⁵ *Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966).

B. Level of Ordinary Skill in the Art

The level of ordinary skill in the art is “a prism or lens” through which we view the prior art and the claimed invention. *Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001). The person of ordinary skill in the art is a hypothetical person presumed to have known the relevant art at the time of the invention. *In re GPAC Inc.*, 57 F.3d 1573, 1579 (Fed. Cir. 1995). In determining the level of ordinary skill in the art, we may consider certain

⁵ At this stage of the proceeding, the parties have not directed us to any objective evidence of non-obviousness.

factors, including the “type of problems encountered in the art; prior art solutions to those problems; rapidity with which innovations are made; sophistication of the technology; and educational level of active workers in the field.” *Id.*

Petitioner states a person of ordinary skill in the art would have had (1) at least an undergraduate degree in electrical engineering, computer science, a closely related scientific field, or similar advanced post-graduate education in this area; (2) a working knowledge of electronic content distribution systems; and (3) at least two years of experience with such systems. Additional education may substitute for lesser work experience and vice-versa.

Pet. 10 (citing Ex. 1003 ¶¶ 71–74).

We adopt Petitioner’s definition of the level of ordinary skill for the purposes of institution.

C. *Claim Construction*

In an *inter partes* review, the claims are 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). *See* 37 C.F.R. § 42.100(b) (2021). This claim construction standard includes construing the claim in accordance with the ordinary and customary meaning of such claims as would have been understood by one of ordinary skill in the art. *Id.*; *see Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–13 (Fed. Cir. 2005). In construing claims in accordance with their ordinary and customary meaning, we consider intrinsic evidence such as the specification and the prosecution history of the patent. *Phillips*, 415 F.3d at 1315–17. Extrinsic evidence, including expert and inventor testimony, dictionaries, and treatises, may also be used but is

less significant than the intrinsic record. *Id.* at 1315. Usually, the specification is dispositive, and it is the single best guide to the meaning of a disputed term. *Id.* Any special definitions for claim terms must be set forth in the specification with reasonable clarity, deliberateness, and precision. *See In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994).

In its Petition, Petitioner proposes that the “claim terms of the ’576 Patent [should] be given their ordinary and accustomed meaning.” Pet. 10–11.

For purposes of institution, we determine that we do not need to expressly construe any claim terms. *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.’”).

D. Asserted Obviousness of Claims 1, 2, 4–7, 10–12, 15, 16, 21, and 22 Over Ziff, Saito, and Ferrel

Petitioner asserts that claims 1, 2, 4–7, 10–12, 15, 16, 21, and 22 are unpatentable under 35 U.S.C. § 103 as being obvious over Ziff (Ex. 1004), Saito (Ex. 1005), and Ferrel (Ex. 1006). Pet. 33–88. Based on the present record, and for the reasons identified below, we determine Petitioner has shown a reasonable likelihood of prevailing on its obviousness challenge at least as to claim 1.

Below, we present a brief overview of Ziff, Saito, and Ferrel and then we address Petitioner’s contentions.

1. Overview of Ziff (Ex. 1004)

Ziff is a U.S. patent titled “Story Workflow Management System and Method.” Ex. 1004, code (54). Ziff describes a story creation workflow

management system. *Id.* at code (57). By providing the steps of the story creation process in a single integrated system, Ziff's system permits the users of the system to work at different times of the day and in different geographic locations. *Id.* The system also permits the users of the system to rapidly determine the current status of any story in the system. *Id.*

Figure 1 of Ziff is reproduced below.

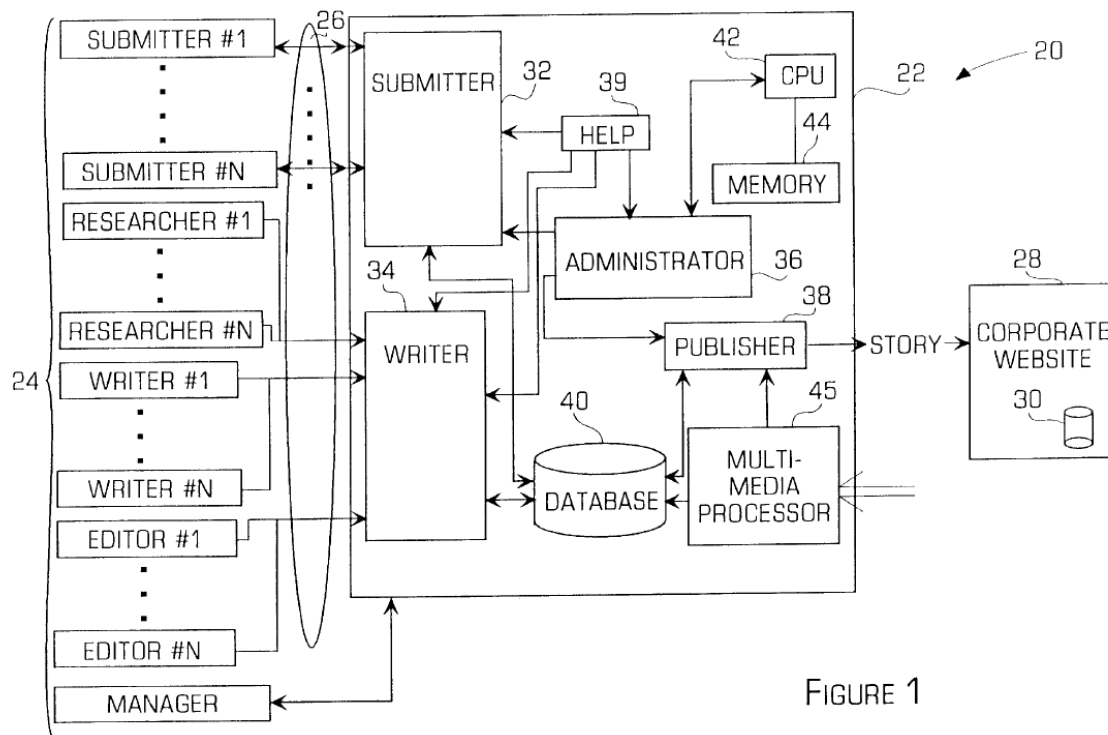


Figure 1 illustrates a block diagram showing a story workflow management system 20. Ex. 1004, 4:31–32. As part of Ziff's system and method for creating media from the initial lead submission phase to creation to final publication, Ziff's system 20 contains separate subsystems which include submission application system 32, writer system 34, and publisher system 38, as shown by Figure 1. *Id.* at 2:45–60, 5:19–24, 6:29–33. Submission application system 32 generates a user interface to gather information from a user about a story. *Id.* at 6:45–48. The submission

information and data is stored in database 40 by submission application system 32. *Id.* at 6:48–50. Writer system 34 uses the stored data to create media, and publisher 38 releases finalized media. *Id.* at 6:65–7:12, 7:32–37. Ziff’s subsystems, in the disclosed embodiment, are different software applications executed by CPU 42. *Id.* at 5:45–47, 6:13–17, 6:37–41.

2. *Overview of Saito (Ex. 1005)*

Saito is a U.S. patent titled “Distributed Computing System.” Ex. 1005, code (54). Saito describes a distributed computing system having a plurality of computers for managing priority schemes. *Id.* at code (57). Specifically, Saito describes a distributed computing system connected to a network for cooperatively executing a plurality of programs. *Id.* at 1:4–6. Saito’s distributed computing system has a plurality of computers that differ from each other in terms of performance, load, and type, and uniformly manages local priority schemes adapted in the respective computers by utilizing the concept of “urgency” or “time limit.” *Id.* at code (57). “Each of the computers includes a priority level conversion procedure for performing a conversion between an urgency level and a priority level of processing in accordance with the performance and the load of the computer. *Id.*

3. *Overview of Ferrel (Ex. 1006)*

Ferrel is a U.S. patent titled “Information Retrieval System in an On-Line Network Including Separate Content and Layout of Published Titles.” Ex. 1006, code (54). Ferrel generally relates to a system for searching and retrieving desired media content. *Id.* at code (57). Specifically, Ferrel

teaches a retrieval server which searches for media content and stores published content. *Id.* at 4:2–34, 5:33–40. It uses an information retrieval server to index and search stories in titles. *Id.* at code (57).

4. *Claim 1*

Petitioner, relying on Dr. Neuman’s testimony, provides a limitation-by-limitation comparison of Ziff, Saito, and Ferrel to independent claim 1. Pet. 33–73.

a) *[1(P)] A computer-based system for generating multimedia content*

Petitioner contends that, to the extent the preamble is limiting, Ziff teaches, or at least renders obvious, the preamble by disclosing “*a computer-based system (e.g., server 22) for generating multimedia content (e.g., multimedia processed with a story)*” and “*a story workflow management system and method [] in which each step of the story creation process from initial lead generation to final publication of the story is tracked[.]*” Pet. 33 (citing Ex. 1004, 2:45–49). Petitioner explains that Ziff’s “invention relates generally to a system and method for managing the workflow associated with a story and in particular to a system and method for managing the workflow associated with the preparation, editing and creation of a story.” *Id.* at 35 (citing Ex. 1004, 1:8–14, 1:67–2:1).

We encourage the parties to address whether the preamble should be treated as limiting.

b) [1(a)] an electronic media submissions server subsystem

Petitioner contends that Ziff's submission application system 32 corresponds to the recited "electronic media submissions subsystem." Pet. 36–37 (citing Ex. 1004, 5:19–30, 6:29–33, Fig. 1; Ex. 1003 ¶¶ 127–28).

c) [1(a)(1)] one or more data processing apparatus

Petitioner contends that the combined teachings of Ziff and Saito teach, or at least render obvious, this limitation by disclosing "an *electronic media submissions server subsystem* (e.g., Ziff's submission application system 32) that includes its own *one or more data processing apparatus* (e.g., Saito's first distributed processor)." Pet. 37 (citing Ex. 1003 ¶¶ 129–131).

According to Petitioner, because Ziff's CPU 42 executes its software applications and Saito teaches a distributed processor system for cooperatively executing a plurality of disparate programs, a skilled artisan would have been motivated to make the simple modification allowing Ziff's non-distributed subsystems to execute on distributed processors as taught by Saito. *Id.* at 37. Petitioner explains that "Ziff's various software components are subsystems in a cooperative system, but Ziff does not expressly teach that each software application—which perform the respective functions of Ziff's story creation subsystems—are implemented on separate processors." *Id.* at 20. Petitioner states that, while Ziff expressly teaches its distinct subsystems are executed on the same CPU, a person of ordinary skill in the art would have been motivated to utilize the well-known benefits of Saito's distributed processing architecture to implement Ziff's subsystems. *Id.* at 20–21 (citing Ex. 1003 ¶¶ 104–114; Ex.

1004, 6:37–41). Petitioner further explains that Saito expressly teaches the benefit in distributed computer systems of being able to utilize distributed processors to take advantage of different computers’ “performance, load, and type.” *Id.* at 22 (citing Ex. 1005, 3:36–49; Ex. 1003 ¶ 112). According to Petitioner, a person of ordinary skill in the art would have understood that it would have been an obvious design choice to use either distributed or non-distributed processors to execute Ziff’s subsystems, and this skilled artisan would have understood that implementing a distributed system with multiple processors, as in Saito, would enhance Ziff’s goals of improving speed as well as efficiency. *Id.* at 21–22 (citing Ex. 1004, 2:45–60; Ex. 1003 ¶¶ 107–110).

d) [1(a)(2)] one or more database stored on a non-transitory medium

Petitioner contends that Ziff teaches, or at least renders obvious, this limitation by disclosing that “*electronic media submissions server subsystem* (e.g., submission application system 32) includes *one or more databases* (e.g., database 40)” and Ziff has “a database for storing information about each submission and each completed story” and “submission application system 32 automatically store[s] the gathered information in the database 40.” Pet. 38 (citing Ex. 1004, 3:38–40, 6:48–50). Petitioner further contends that Ziff teaches that “database 40 is *stored on a non-transitory medium.*” *Id.* (citing Ex. 1003 ¶¶ 132–136).

- e) *[1(a)(3)] a submissions electronic interface configured to receive a first electronic media submission from a first user of a plurality of users over a public network and store said first electronic media submission in said one or more database with at least a second electronic media submission received from a second user of the plurality of users, where the second user is not the first user*

Petitioner contends that Ziff teaches, or at least renders obvious, this limitation by disclosing that its “*electronic media submissions server subsystem* (e.g., submission application system 32) includes *a submissions electronic interface* (e.g., submission application system 32’s user interface) *configured to receive a first electronic media submission* (e.g., a submission) *from a first user* (e.g., Submitter#1) *of a plurality of user* (e.g., Submitter#1–Submitter#N) *over a public network* (e.g., the Internet).” Pet. 39 (citing Ex. 1003 ¶¶ 137–143). Petitioner explains that Ziff’s “submission application system 32 may generate a **user interface**, as described in . . . FIGS. 2A–2C, to gather information from a user about a possible story idea (**a submission**).” *Id.* (citing Ex. 1004, 6:45–48).

Petitioner also contends that Ziff teaches, or at least renders obvious, *submissions electronic interface* (e.g., submission application system 32’s user interface) is *configured to store said first electronic media submission* (e.g., a submission) in said one or more database (e.g., database 40) *with at least a second electronic media submission received from a second user of a plurality of users, where the second user is not the first user* (e.g., submissions from Submitter#1–Submitter#N). Pet. 43 (citing Ex. 1003 ¶ 141). Petitioner explains that Ziff’s submission application system 32’s user interface is configured to receive multiple users’ submissions and “automatically store the gathered information in the database 40.” *Id.* at 44 (citing Ex. 1004, 5:33–35, 6:48–51).

f) [1(a)(3)(i)] wherein the first electronic media submission includes: data identifying the first user

Petitioner contends that Ziff teaches, or at least renders obvious, this limitation by disclosing “*the first electronic media submission* (e.g., a submission) *includes data identifying the first user* (e.g., first name and last name).” Pet. 44. Petitioner explains that Ziff’s “database 40 may store various pieces of information about each story including . . . information about the person who submitted the story” and Ziff’s “submission form 50 gathers ‘contact information about the submitter’ (e.g., first name and last name as shown in Figure 2A).” *Id.* (citing Ex. 1004, 7:40–44, 6:45–64, 8:13–36, Figures 2A–2C).

g) [1(a)(3)(ii)] data identifying the date and time associated with receipt of the first electronic media submission

Petitioner contends that Ziff teaches, or at least renders obvious, this limitation by disclosing that Ziff’s “*first electronic media submission* (e.g., a submission) includes *data identifying the **date** associated with the receipt of the first electronic media submission* (e.g., submission date).” Pet. 46. Petitioner explains that Figure 4A, which illustrates an exemplary status page of a submitted story, shows that the “Submission Date” of a story is stored along with the associated submission. *Id.* at 47 (citing Ex. 1004, 4:37–39, 9:6–29, Fig. 4A; Ex. 1003 ¶ 146).

Petitioner further contends that Ziff does not expressly teach the submission includes data identifying the **time** associated with receipt of the first electronic media submission but Ferrel teaches a timestamp which stores both the time and date, and a skilled artisan would have been

motivated to modify the *Ziff-Saito* system to utilize Ferrel's enhanced timestamp. Pet. 47–48 (citing Ex. 1006, 22:39–62, 40:43–53; Ex. 1003 ¶¶ 146–151).

h) [1(a)(3)(iii)] data indicating content of the first electronic media submission

Petitioner contends that Ziff teaches, or at least renders obvious, this limitation by disclosing that Ziff's "*first electronic media submission* (e.g., a submission) includes *data indicating content of the first electronic media submission* (e.g., submitted description text of the project)." Pet. 49.

Petitioner explains that Ziff's submission form 50 includes fields allowing the submitter to input information describing the content of a submission as shown in Figures 2A–2C, including, for example, the "tell us your story" field. *Id.* (citing Ex. 1004, Figs. 2B, 5A). According to Petitioner, a person of ordinary skill in the art would have understood that Ziff's "submitted description text of the project is included in the electronic submission and indicates the content of a submission" and this data "indicates the content of a submission is automatically stored in database 40 along with other gathered submission information and data." *Id.* at 51 (citing Ex. 1003 ¶¶ 152–55 (citing Ex. 1004, 6:45–50)).

i) [1(b)] the one or more databases comprising criteria associated with one or more users of the plurality of users stored therein

Petitioner contends that Ziff teaches, or at least renders obvious, this limitation by disclosing that Ziff's "*one or more databases* (e.g., database 40) *comprising criteria* (e.g., criteria which may be used for

purposes of searching the database—such as key words in the title, text about the submitter’s story, or categorical information). Pet. 51. According to Petitioner,

the claimed *criteria* here is different from the submitted description text of the project that indicates the content above in limitation 1(a)(3)(iii). There, the submitted description text of the project is data submitted as part of a submission. *Criteria* here is data that is already stored in the database for the purpose of searching and filtering. Accordingly, submitted description text of the project and *criteria* serve two different functions and are distinct concepts that teach the respective limitations in 1(a)(3)(iii) and 1(b).

Id. at 52. Petitioner contends that Ziff’s criteria, including keywords, are shown in Figures 11A–11B. *Id.* at 52–55.

Petitioner also contends that Ziff teaches, or at least renders obvious, this limitation by disclosing the Ziff’s “*criteria are associated with one or more users of a plurality of users stored therein* because *criteria* data is stored in database 40 as part of the same record as the first name and last name of the submitter, and there may be a plurality of submissions from a plurality of submitters.” Pet. 60. Petitioner explains that Ziff’s “database 40 stores information about the story at the various stages of the story generation process, including submission data, in a story record with a unique numeric identifier.” *Id.* (citing Ex. 1004, 6:48–51, 7:8–11). “As shown in form 50 of Figures 2A–2C, the stored submission data specifically includes information about the submitter and text describing the submission from the submission.” *Id.* (citing Ex. 1004, 3:38–40, 6:45–51, Figs. 2A–2C). “Figure 5B also teaches that the associated project title is stored along with the story data.” *Id.* at 60–61 (citing Ex. 1004, 6:48–51, 7:8–11, Fig. 5B). According to Petitioner, a person of ordinary skill in the art would

have understood that Ziff’s “sole database stores all story data in a unique record, which includes the above identified *criteria* as well as submitter information, therefore associating the *criteria* with the user.” *Id.* at 61 (citing Ex. 1003 ¶¶ 156–161).

j) [1(c)] *an electronic multimedia creator server subsystem operatively coupled to the electronic media submissions server subsystem, including*

Petitioner contends that the combined Ziff-Saito system teaches, or at least renders obvious, this limitation and limitations 1(c)(1)–1(c)(3) by disclosing “*an electronic multimedia creator server subsystem (e.g., Ziff’s writer system 34) operatively coupled (e.g., allows for data communication) to the electronic media submissions server subsystem (e.g., submission application system 32).*” Pet. 61. Petitioner explains that Ziff teaches “writer system 34 comprises user interface pages ‘which manage the story creation process’” and writer system 34’s “user interface pages include a search page (shown in Figures 11A–11B) to filter submissions based on *criteria* and additional pages (shown in Figures 4–10) to manage the story creation process, ‘such as a page for managing multimedia components and multimedia production’ (not shown in Figures).” *Id.* at 61–62 (citing Ex. 1004, 8:67–9:28).

According to Petitioner, a person of ordinary skill in the art would have understood that “computer components *operatively coupled* together simply require data communication between components” and “Ziff teaches its subsystems relay data between each other as a user interacts with Ziff’s subsystems.” Pet. 62 (citing Ex. 1003 ¶¶ 165–167; Ex. 1004, 5:44–61, 6:29–33, 7:8–11, 7:56–59, Fig. 1). Petitioner also explains that this skilled artisan

would have further understood that “in the combined *Ziff-Saito* system that uses distributed processors for *Ziff*’s submission application system 32 and *Ziff*’s writer system 32, the subsystems would still be *operatively coupled* to each other because the subsystems are connected over the network and distributed systems were well-known at the time to be interconnected in order to relay data for proper functioning.” *Id.* (citing Ex. 1003 ¶ 168).

k) [1(c)(1)] *one or more second data processing apparatus*

Petitioner contends the combined teachings of *Ziff* and *Saito* teach, or render obvious, this limitation. Pet. 62. As explained above, Petitioner contends *Ziff*’s “subsystems are software applications cooperatively executed by CPU 42, *Saito* teaches a distributed processor system for cooperatively executing a plurality of programs,” and a person of ordinary skill in the art would have been motivated “to make the simple modification allowing *Ziff*’s non-distributed subsystems to execute on distributed processors as taught by *Saito*—resulting in the *Ziff-Saito* System.” *Id.* at 62–63. Thus, Petitioner contends that “the combination of *Ziff* and *Saito* teach, or at least render obvious, *electronic multimedia creator server subsystem* (e.g., writer system 32) includes *one or more second data processing apparatus* (e.g., *Saito*’s second distributed processor).” *Id.* at 63.

- l) *[1(c)(2)] an electronic content filter configured to apply criteria associated with at least one user of the plurality of users to obtain a plurality of electronic media submissions from the one or more database and to develop multimedia content to be electronically available for viewing on at least one user device associated with the first user*

Petitioner contends that Ziff teaches, or at least renders obvious, this limitation. Pet. 63. Petitioner explains that, as discussed above in connection with limitation 1(a)(3)–1(a)(3)(i), a person of ordinary skill in the art would have understood that “*criteria are associated with at least one user of the plurality of users* because criteria data are stored in records in database 40 along with the first name and last name of the submitter, and there may be a plurality of submissions from a plurality of submitters.” *Id.* at 66–67 (citing Ex. 1003 ¶ 175). Thus, Petitioner explains that

Ziff’s electronic content filter (e.g., writer system 34’s user interface pages) is configured to apply criteria (e.g., criteria associated with at least one user of the plurality of users (e.g., submission data stored and associated with Submitter#1–Submitter#N) to obtain a plurality of electronic media submissions (e.g., one or more stories which match the search criteria) from the one or more database (e.g., database 40).

Id. at 67.

Petitioner also contends that Ziff teaches, or at least renders obvious, this limitation by disclosing that “writer system 34’s user interface pages are *configured to develop multimedia content (e.g., the pre-publication processes) to be electronically available for viewing on at least one user device associated with the first user (e.g., viewable on a submitter’s computer).*” Pet. 67. Petitioner also explains that the submitter may be the user. *Id.* at 68–69 (citing in part Ex. 1003, 2:33–37, 2:61–65).

- m) *[1(c)(3)] wherein data identifying a respective user is maintained for each electronic media submission within the multimedia content*

Petitioner contends Ziff teaches, or at least renders obvious, this limitation by disclosing “*data identifying a respective user (e.g., access level information about a writer) is maintained for each electronic media submission within the multimedia content (e.g., stored in database 40 with all submission data, including associated multimedia).*” Pet. 69–70. Petitioner explains that Ziff teaches “different types of users (for example a submitter, writer, or editor) may access different user interface pages of writer system 34.” *Id.* at 70 (citing Ex. 1004, 6:65–7:12). According to Petitioner, a person of ordinary skill in the art would have understood that Ziff’s “system stores a writer’s access level to different submissions” and that “storing a writer’s access level for different submissions would require data that identifies both the writer and which submissions a writer has access to—allowing the writer to access the user interface pages of writer system 34.” *Id.* at 70–71 (citing Ex. 1003 ¶¶ 179–80).

- n) *[1(d)] an electronic release subsystem operatively coupled to the electronic multimedia creator server subsystem, including one or more third data processing apparatus and configured to make the multimedia content electronically available for viewing on a plurality of user devices*

Petitioner contends that the combined Ziff-Saito system teaches, or at least renders obvious, this limitation by disclosing “*an electronic release subsystem (e.g., publisher system 38) operatively coupled (e.g., allows for data communication) to the electronic multimedia creator server subsystem (e.g., writer system 34).*” Pet. 71. Petitioner explains that Ziff teaches its

(1) server-based system “house[s] one or more sub-systems” including “publisher system 38” (citing Ex. 1004, 5:19–24, 6:29–33) and
(2) “publisher system 38 is *operatively coupled* (e.g., allows data communication) *to the electronic multimedia creator server subsystem* (e.g., writer system 34)” (citing Ex. 1004, Figure 1). Pet. 71. According to Petitioner, a person of ordinary skill in the art would have understood that, “in the combined *Ziff-Saito* system using distributed processors for *Ziff*’s publisher system 38 and *Ziff*’s writer system 32, the subsystems would still be *operatively coupled* to each other because the subsystem are connected over the network” and “distributed systems were well-known at the time to be interconnected in order to relay data for proper functioning.” *Id.* at 72 (citing Ex. 1003 ¶¶ 184–187).

Petitioner contends that, while *Ziff* “does not expressly teach the *release subsystem* includes *one or more third data processing apparatus*,” *Ziff*’s subsystems, as explained above, “are software applications cooperatively executed by CPU 42, *Saito* teaches a distributed processor system for cooperatively executing a plurality of programs,” and a person of ordinary skill in the art would have been motivated “to make the simple modification allowing *Ziff*’s non-distributed subsystems to execute on distributed processors as taught by *Saito*—resulting in the *Ziff-Saito* system.” Pet. 72. Petitioner, thus, contends that “the combination of *Ziff* and *Saito* teach, or at least render obvious, the *electronic release subsystem* (e.g., publisher system 38) includes *one or more third data processing apparatus* (e.g., *Saito*’s third distributed processor).” *Id.*

Finally, Petitioner contends that *Ziff* teaches, or at least renders obvious, this limitation by disclosing that *Ziff*’s “publisher system 38 is

configured to make the multimedia content electronically available for viewing on a plurality of user devices (e.g., client computers 24 in Figure 1)." Pet. 73. Petitioner explains that, because Ziff teaches "publisher 38 may generate a downloadable version of the generated success story" and "may also forward the completed, read-to-be-published success story to the corporate website 28," a person of ordinary skill in the art would have understood "the finalized content is available for viewing on multiple electronic devices. *Id.* (citing Ex. 1004, 7:32–37; Ex. 1003 ¶ 190).

o) Conclusion

Petitioner's contentions for each limitation and the preamble of independent claim 1 is supported by Dr. Neuman's testimony and the cited disclosures in the applied references. Based on the record before us, we determine Petitioner demonstrates a reasonable likelihood of prevailing in showing that the subject matter of independent claim 1 would have been obvious over the combination of Ziff, Saito, and Ferrel.

5. Dependent Claims 2, 4–7, 10–12, 15, 16, 21, and 22

Claims 2, 4–7, 10–12, 15, 16, 21, and 22 depend directly from independent claim 1. *See* Ex. 1001, 40:1–41:6. We have reviewed Petitioner's contentions and cited supporting evidence addressing how the combination of Ziff, Saito, and Ferrel teaches or suggests each of the additional limitations recited in these dependent claims. *See* Pet. 74–88. As we preliminarily conclude that Petitioner demonstrates a reasonable likelihood of prevailing with respect to its obviousness challenge to independent claim 1, we institute review on all challenged claims on all

grounds set forth in the Petition, including Petitioner's challenge to dependent claims 2, 4–7, 10–12, 15, 16, 21, and 22 as unpatentable over Ziff, Saito, and Ferrel. 37 C.F.R. § 42.108(a).

E. Conclusion

After considering the evidence and arguments presented in the current record, we determine that Petitioner demonstrates a reasonable likelihood of prevailing in establishing that at least one of the challenged claims of the '576 patent is unpatentable. We, therefore, institute trial on all challenged claims and all grounds raised in the Petition.

At this stage of the proceeding, we have not made a final determination as to the patentability of any challenged claim or as to the construction of any claim term. Any final determination will be based on the record developed during trial. We place Patent Owner on express notice that any argument not asserted in a timely-filed Response to the Petition, or in another manner permitted during trial, shall be deemed waived. Similarly, if the parties do not present their proposed claim constructions in their briefs, or in another manner permitted during trial, they will be precluded from presenting such arguments and their arguments shall be deemed waived.

IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that, *inter partes* review of claims 1, 2, 4–7, 10–12, 15, 16, 21, and 22 of U.S. Patent No. 10,339,576 B2 is instituted on all grounds raised in the Petition; and

FURTHER ORDERED that pursuant to 35 U.S.C. § 314(c) and 37 C.F.R. § 42.4, notice is hereby given of the institution of a trial; the trial will commence on the entry date of this decision.

IPR2022-01263
Patent 10,339,576 B2

FOR PETITIONER:

Eric Buresh
ERISE IP, P.A.
Eric.buresh@eriseip.com

David Seastrunk
Roshan mansinghani
UNIFIED PATENTS, LLC
david@unifiedpatents.com
roshan@unifiedpatents.com

FOR PATENT OWNER:

ONE LLP
23 Corporate Plaza
Suite 150
Newport Beach, CA 92660

Email:

IPDOCKETIN@ONELLP.COM
PAIRGROUP@ONELLP.COM
ONELLPDOCKETING@ONELLP.COM