

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GO1 PTY, LTD.,
Petitioner,

v.

OPENSESAME, INC.,
Patent Owner.

IPR2022-01439
Patent 8,784,113 B2

Before DEBRA K. STEPHENS, KEVIN C. TROCK, and
STACY B. MARGOLIES, *Administrative Patent Judges*.

MARGOLIES, *Administrative Patent Judge*.

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

I. INTRODUCTION

GO1 Pty, Ltd. (“Petitioner”) filed a petition for *inter partes* review of claims 1–16 of U.S. Patent No. 8,784,113 B2 (Ex. 1001, “the ’113 patent”). Paper 1 (“Pet.”). OpenSesame, Inc. (“Patent Owner”) filed a Preliminary Response. Paper 5 (“Prelim. Resp.”).

Institution of an *inter partes* review is authorized by statute when “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); *see* 37 C.F.R. § 42.108. Upon consideration of the Petition and Preliminary Response, we conclude that the information presented shows that there is a reasonable likelihood that Petitioner would prevail in establishing the unpatentability of at least one challenged claim of the ’113 patent.

A. Related Matters

The parties identify the following judicial proceeding in which the ’113 patent is asserted and which may affect, or be affected by, a decision in this proceeding: *OpenSesame, Inc. v. GO1 Pty, Ltd.*, Case No. 3:21-cv-01258-SB (D. Oregon). Pet. 2; Paper 4, 2; *see* 37 C.F.R. § 42.8(b)(2).

B. Real Parties in Interest

The parties identify only themselves as real parties in interest. Pet. 2; Paper 4, 2.

C. The ’113 Patent

The ’113 patent is titled “Open and Interactive E-Learning System and Method.” Ex. 1001, code (54). The ’113 patent describes as background that learning management systems (LMSs) conventionally are “closed learning systems” in which access is “one-way rather than

interactive, i.e., individual students each review the teaching content in its ‘canned’ form.” *Id.* at 1:23–36. The ’113 patent notes that “[t]he Sharable Content Object Reference Model (SCORM) and Aviation Industry Computer-Based Training Committee (AICC) standards claim to offer . . . an interoperable e-learning content standard [but] do not guarantee interoperability.” *Id.* at 1:59–62. The ’113 patent adds that vendors use AICC to “centrally host and manage content” but “do not provide for secure but distributable central storage of a broad range of content.” *Id.* at 2:7–14.

The ’113 patent describes a system (called “OPENSESAME”) to solve the above problems by “abstracting the actual courseware (e.g., e-learning course content) from the LMS via a proxy SCORM package (called ‘SESAMESEED’).” *Id.* at 2:49–62. The proxy “enforce[s] access control,” “provide[s] access to the latest version(s) of the content,” “provide[s] status updates to the LMS system,” and “relieve[s] the LMS system of the burden of hosting and playing the content.” *Id.* at 2:52–62.

Figure 3 of the '113 patent is shown below.

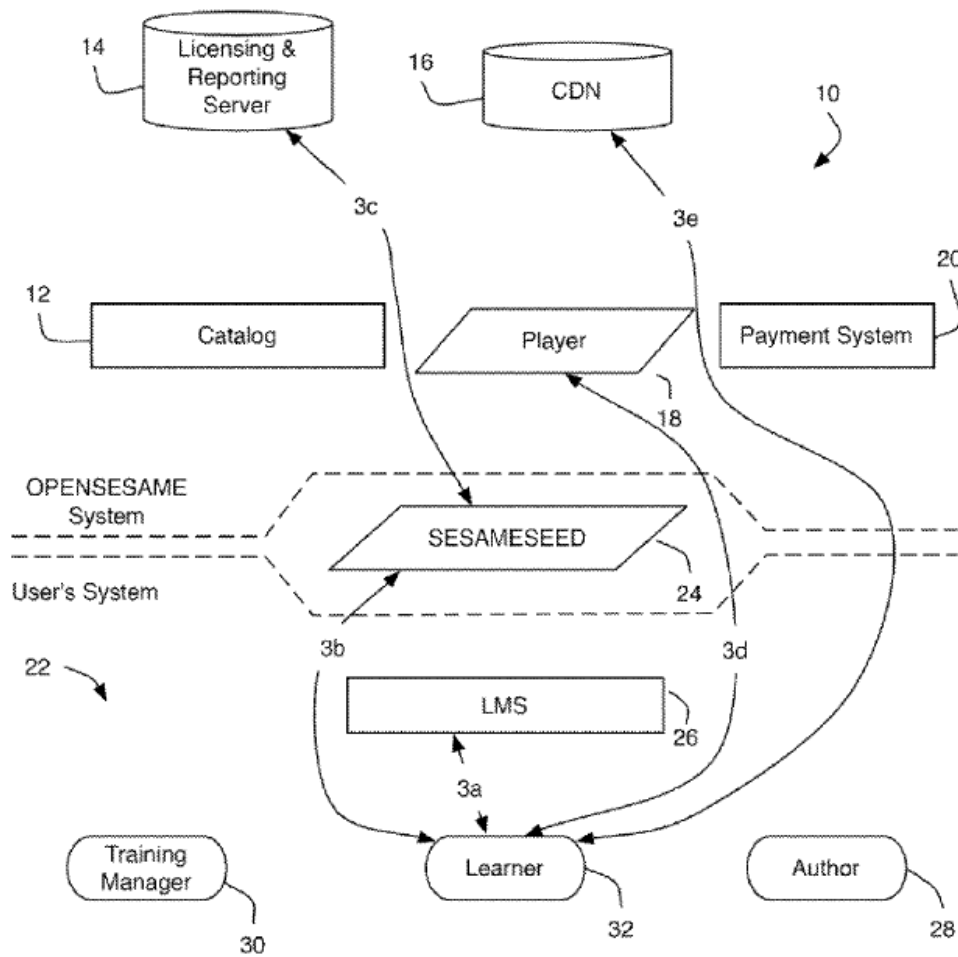


Figure 3

Learner launches course from his/her LMS

Figure 3, above, illustrates the OPENSESAME system architecture and highlights how a learner would use the system. *Id.* at 2:19–30, 3:14–23. OPENSESAME system 10 includes OPENSESAME catalog (e.g., e-learning course catalog) 12, OPENSESAME licensing and reporting server (e.g., a digital rights management server) 14, content delivery network (CDN) 16, OPENSESAME player (e.g., content player) 18, and payment

system 20. *Id.* at 3:17–23. User system 22 includes SESAMESEED proxy 24, LMS 26, author 28, training manager 30, and learner 32. *Id.* at 3:23–26.

The '113 patent discloses that “the SESAMESEED proxy bridges the network-side and the client-side, originating and interacting with the network-side, but being stored and executed during operation at the client side.” *Id.* at 7:8–11. According to the patent, “this dual nature” of the proxy “enables several of the enhanced capabilities of the invented system and method.” *Id.* at 7:11–13. In Figure 3 above, “the SESAMESEED exists both in the LMS (at 3a) and in the learner’s browser (3b), acting as the link between the invented System 10, the learner 32, and the LMS 26.” *Id.* at 8:58–63.

As illustrated in Figure 3, at 3a, the learner requests a course from his or her LMS and the LMS responds with the location of the course. *Id.* at 8:64–67. At 3b, the learner requests the course, and the learner’s browser loads the course, which is “actually a SESAMESEED proxy provided from the LMS.” *Id.* at 9:1–4. At 3c, the proxy makes a licensing request to the licensing/reporting server, which returns either a script containing a player URL or a signal indicating that access is denied. *Id.* at 9:5–11. At 3d, if authorization succeeds, the proxy instructs the learner’s web browser to load the player URL, and, once loaded, the player instructs the learner’s browser to load the course content from the CDN. *Id.* at 9:18–22. At 3e, the learner’s browser requests content from the CDN and the content is loaded from the CDN into the user’s browser. *Id.* at 9:28–30.

D. Illustrative Claim

Among the challenged claims (claims 1–16), claims 1, 5, and 11 are independent. Claim 1 reads as follows:

1. An e-learning delivery system, comprising:
 - a licensing/reporting server;
 - a network-side content player operably coupled with each of the licensing/reporting server and a content delivery network comprising stored e-learning content; and
 - a proxy comprising coded instructions stored on a non-transitional computing device-readable medium at the network-side, wherein the proxy instructions identify a specific instance of licensed content, and wherein the proxy instructions are configured when executed on a client-side computing device to enable a user to access and interact with the licensed content via a browser of the computing device and are further configured to report a status of the user's interaction with the content to one or both of the licensing/reporting server and a learning management system (LMS);
- wherein the licensing/reporting server includes coded instructions configured when executed to cause the licensing/reporting server to verify a validity status of the user license to the specific instance of content, and upon verifying the validity of the license, the instructions are further configured to cause the licensing/reporting server to provide to the proxy a location designator for accessing the content player
- wherein the proxy instructions are further configured, when executed on the client-side computing device in response to a request for access to the specific instance of content, to:
 - cause the client-side computing device to request verification by the licensing/reporting server of the validity status of a license to the specific instance of content; and
 - cause the client-side computing device to instruct a browser to access the content player via the location designator; and
- wherein the proxy instructions are further configured to relay information to a client-side Learning Management System (LMS) including information indicating a status of content played by the content player.

Id. at 16:48–17:19.

E. Asserted Grounds of Unpatentability

Petitioner contends that claims 1–16 of the ’113 patent are unpatentable based on the following grounds (Pet. 3, 14–76):

Claims Challenged	35 U.S.C. § ¹	References/Basis
1–16	103	Sperle, ² Madison ³
7, 8	103	Sperle, Madison, Kimball ⁴

In its analysis, Petitioner relies on the declaration testimony of Dr. Kevin C. Almeroth (Ex. 1002). Pet. 15–76. Patent Owner relies on the declaration testimony of Dr. Bryan Bergeron. (Ex. 2001). *See, e.g.*, Prelim. Resp. 12–50.

II. DISCUSSION

A. Claim Construction

In an *inter partes* review based on a petition filed on or after November 13, 2018, we apply the same claim construction standard that would be used in a civil action under 35 U.S.C. § 282(b), following the standard articulated in *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir.

¹ The Leahy-Smith America Invents Act (“AIA”) amended 35 U.S.C. §§ 102, 103. *See* Pub. L. No. 112-29, 125 Stat. 284, 285–88 (2011). Because the effective filing date of the challenged claims is before March 16, 2013 (the effective date of the relevant amendments), the pre-AIA version of § 103 applies.

² U.S. Patent Application Publication No. 2007/0111180 A1, published May 17, 2007 (Ex. 1005).

³ U.S. Patent Application Publication No. 2004/0015703 A1, published Jan. 22, 2004 (Ex. 1006).

⁴ U.S. Patent Application Publication No. 2006/0204942 A1, published Sept. 14, 2006 (Ex. 1007)

2005) (en banc). 37 C.F.R. § 42.100(b) (2020); 83 Fed. Reg. 51,340, 51,340–41, 51,343 (Oct. 11, 2018). In applying such standard, claim terms are generally given their ordinary and customary meaning, as would be understood by a person of ordinary skill in the art, at the time of the invention and in the context of the entire patent disclosure. *Phillips*, 415 F.3d at 1312–13. “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).

Neither party proposes express constructions for any claim terms. *See* Pet. 8 (“To resolve the particular grounds presented in this Petition, Petitioner does not believe that any term requires explicit construction.”); Prelim. Resp. 11 (“Patent Owner believes that the patent claims at issue can be interpreted without the need for the formal construction of any claim terms.”).

We determine that no claim terms require express construction in order to determine whether to institute *inter partes* review.

B. Level of Ordinary Skill

Petitioner asserts that a person having ordinary skill in the art would have had “a bachelor’s degree in electrical engineering, computer science, or a related field, and at least two years of experience in the research, design, development, and/or testing of systems for delivering educational content over networks such as the Internet, or the equivalent, with additional

education substituting for experience and vice versa.” Pet. 8 (citing, e.g., Ex. 1002 ¶ 41).

Patent Owner states that it “generally agrees with Petitioner’s proposed level of ordinary skill in the art.” Prelim. Resp. 11. Patent Owner adds that “the level of ordinary skill in the art is more often premised not upon obtaining a formal degree in computer engineering, computer science, etc., but through years of hands-on experience in the field, often coupled with formal coursework that may or may not lead to a degree in the enumerated fields.” *Id.* (citing, e.g., Ex. 2001 ¶ 49).

We determine on the current record that the level of ordinary skill proposed by Petitioner is consistent with the challenged patent and the asserted prior art, and we therefore adopt that level for the purposes of this decision.

C. Asserted Obviousness over Sperle and Madison

Petitioner asserts that claims 1–16 of the ’113 patent are unpatentable as obvious over the combination of Sperle and Madison. Pet. 3, 15–73. As explained below, Petitioner sufficiently shows that claims 1–6 and 9–16 are unpatentable as obvious over the combination of Sperle and Madison.

1. Summary of Sperle

Sperle is a U.S. patent application publication titled “Delivery Methods for Remote Learning System Courses.” Ex. 1005, code (54). Sperle discloses that “enterprises are often faced with the challenge of lifelong learning to train a (perhaps globally) distributed workforce, update partners or suppliers about new products and developments, [and] educate apprentices or new hires.” *Id.* ¶ 2. According to Sperle, many companies must identify third-party providers to provide the necessary training and

identify courses that are relevant to their employees, “which can be time consuming and costly.” *Id.* Sperle discloses a system that proposes learning units based on a learner’s personal data, tracks progress through courses, and coordinates the personalized learning experience. *Id.* ¶ 11.

Figure 1 of Sperle is shown below.

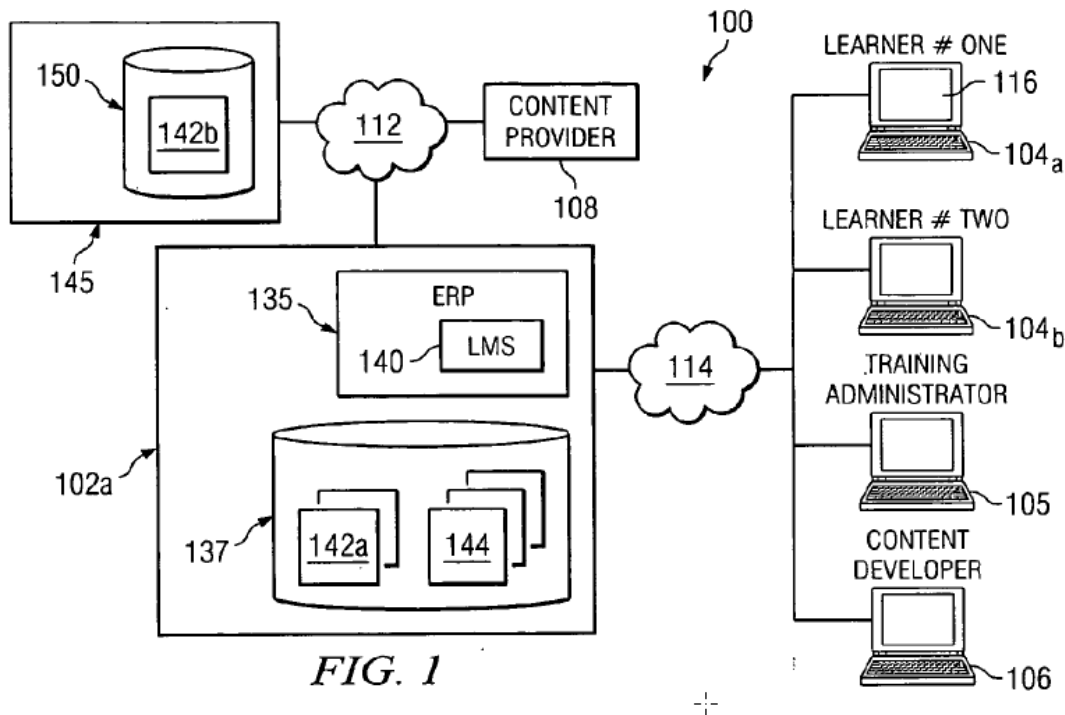


Figure 1, above, illustrates environment 100 for learning management system (LMS) 140. *Id.* ¶ 11. Sperle discloses that environment 100 “is typically a distributed client/server system that spans or or more networks such as external network 112 or internal network 114.” *Id.* ¶ 13.

Environment 100 includes server 102a and one or more learners 104 or other users on clients. *Id.* Environment 100 also is communicably coupled with external content provider 108 and external learning management system 145 via external network 112. *Id.* ¶¶ 11, 13. According to Sperle, training administrator 105 may customize teaching scenarios by using web services

to integrate external content from external content provider 108 or external learning management system 145. *Id.* ¶ 11. Internal server 102a includes local memory 137, which includes local course catalog 142a and course profiles 144. *Id.* ¶¶ 14, 15. Sperle discloses that “course catalog 142 includes information indicating specific checks that may be performed for a course,” such as whether the course “has a valid license.” *Id.* ¶ 16. Internal server 102a also includes enterprise resource planning (ERP) solution 135, which may implement analytics that enable the entity or user to evaluate performance and analyze operations. *Id.* ¶ 18. According to Sperle, LMS 140 is often fully integrated with ERP solution 135. *Id.* ¶ 19. Sperle discloses that LMS 140 “offers robust reporting capabilities, including ad hoc reporting and business intelligence.” *Id.* ¶ 11.

Figure 2 of Sperle is shown below.

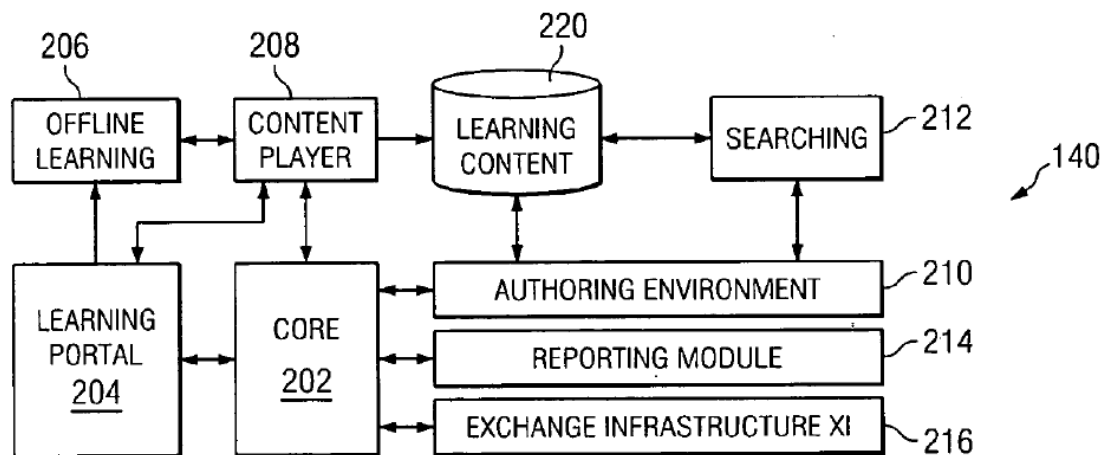


FIG. 2

Figure 2 illustrates an implementation of LMS 140. *Id.* ¶ 28. Sperle discloses that “[r]eporting functions 214 . . . keep track of learners’ learning activities and the associated costs at all times.” *Id.* ¶ 34. According to Sperle, “[t]here is a wide range of reporting options available in training

management to enable the trainer to keep track of participants, rooms, course locations, and so on.” *Id.*

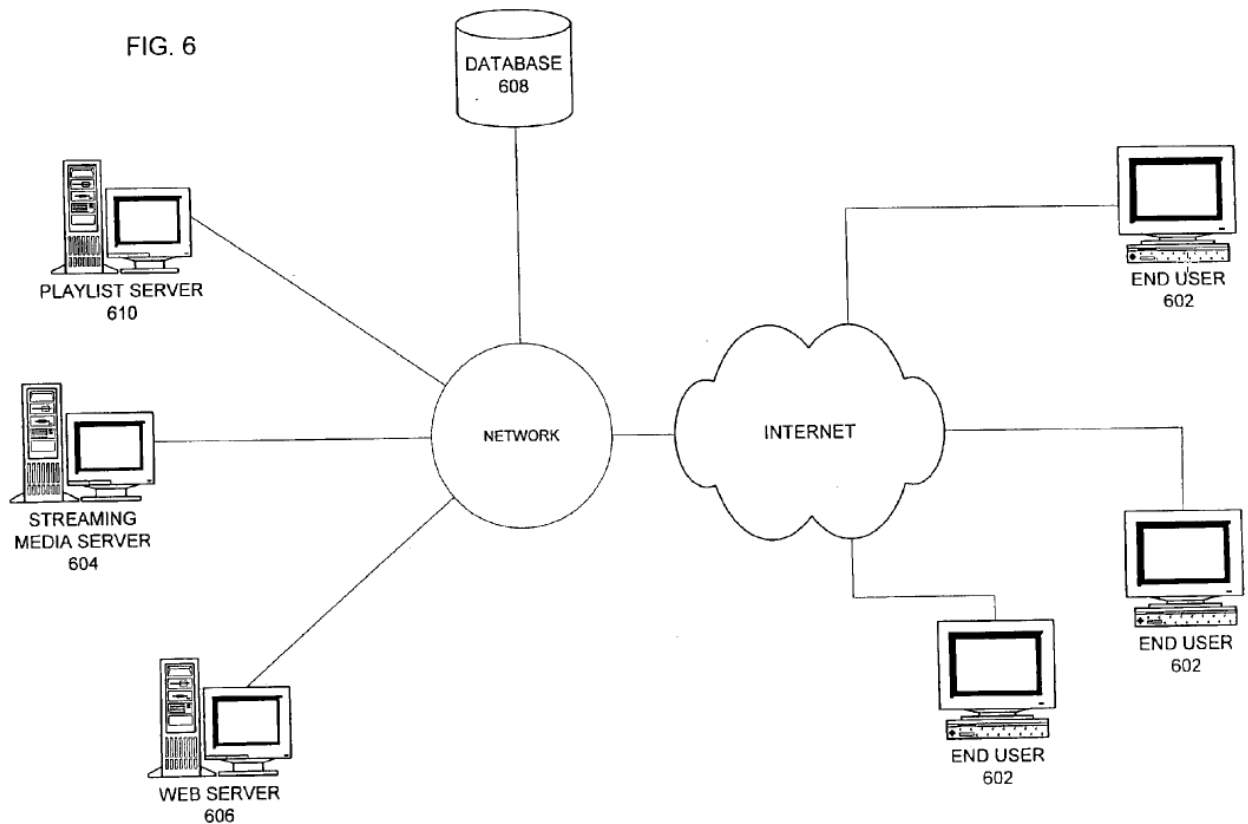
2. *Summary of Madison*

Madison is a U.S. patent application publication titled “System and Method for Controlling Access to Digital Content, Including Streaming Media.” Ex. 1006, code (54). Madison discloses that “streaming media may be used for any of a number of purposes, including . . . distance learning.” *Id.* ¶ 4. According to Madison, a streaming media server “typically includes a software plug-in of compiled code that contains the logic for determining whether or not to grant access to the streaming media.” *Id.* ¶ 6. Such an authentication plug-in, according to Madison, “is often complicated and difficult to develop and maintain.” *Id.*

Madison discloses an improved system in which a web server “cryptographically generates a ticket in response to an end user’s request for access to a file.” *Id.* ¶ 8. Madison discloses that, “[p]rior to a media server providing access to the requested file, the media server generates an authorization ticket, preferably using the same cryptographic algorithm as the web server.” *Id.* ¶ 9. According to Madison, “[t]he media server determines whether to grant access to the file by comparing the ticket, as generated by the web server, to the ticket, as generated by the media server.” *Id.* If the tickets match, the media server grants the end user access to requested media content. *Id.* ¶ 10.

Figure 6 of Madison, below, shows an embodiment of the system. *Id.*

¶ 16.



As illustrated in Figure 6 above, the system includes end user processors 602, one or more streaming media servers 604, one or more web servers 606, playlist server 610, and database 608, all of which couple to the Internet or other network. *Id.* ¶ 68.

3. Analysis

a. Independent claim 1

As explained below, Petitioner sufficiently shows that the combination of Sperle and Madison teaches the subject matter of claim 1. Petitioner also sufficiently shows that a person of ordinary skill in the art

would have been motivated to combine the teachings of Sperle and Madison in the claimed manner and would have had a reasonable expectation of success in doing so.

i. Preamble

The preamble of claim 1 recites “[a]n e-learning delivery system.” To the extent the preamble is limiting, Petitioner sufficiently shows that Sperle teaches an e-learning delivery system. Pet. 21–22; Ex. 1005, Abstract (“[T]he present disclosure includes delivery methods for remote learning system courses.”), Figs. 1, 2, ¶¶ 5 (Figure 1 illustrates “an example learning environment.”), 6 (Figure 2 illustrates “an example architecture of a learning management system implemented within the learning environment” of Figure 1.); Ex. 1002 ¶¶ 87–89.

Patent Owner does not argue in its Preliminary Response that Sperle fails to teach the preamble. *See* Prelim. Resp. 16–33.

ii. Licensing/reporting server

Claim 1 recites that the e-learning delivery system includes “a licensing/reporting server.” Petitioner sufficiently shows that the combination of Sperle and Madison teaches the claimed licensing/reporting server. Pet. 22–28; Ex. 1002 ¶¶ 90–101. For example, Sperle teaches a reporting server by teaching reporting functions implemented in Reporting Module 214 within Figure 2’s server-side learning management system. Ex. 1005, Figs. 1, 2, ¶ 34 (“Reporting functions 214 in training management enable managers to keep track of learners’ learning activities and the associated costs at all times.”). Sperle also teaches determining whether a desired course “has a valid license.” *Id.* at Figs. 1, 2, ¶ 16 (“[C]ourse catalog 142 includes information indicating specific checks that may be performed

for a course. For instance[], course catalog 142 may indicate inquiries . . . such as whether the course . . . has a valid license.”). In addition, Madison teaches a web server running authorization software that determines whether access to specific content should be granted or denied. Ex. 1006, Fig. 1, ¶¶ 2 (“The present invention relates generally to controlling access to digital content and, more particularly, to ticket-based systems and methods for limiting access to streaming media. . . .”), 25 (“In order for an end user 102 to view a playlist, the end user 102 must be identified as part of the authorized user group ID for that content file.”), 27, 28 (“The streaming media server 104 either denies or provides access to the requested streaming media content based on a comparison of the tickets as generated by the streaming media server 104 and web server 106.”).

Petitioner sufficiently shows that a person of ordinary skill in the art would have readily integrated Madison’s web server with authorization software and media server with similar authorization software into the reporting module of Sperle, obtaining a licensing/reporting server as claimed. Pet. 26–28; Ex. 1002 ¶¶ 99–101.

Patent Owner argues that the combination does not teach the claimed licensing/reporting server. Prelim. Resp. 16–21. Specifically, Patent Owner argues that the licensing/reporting server “is more than just a bare reporting server combined with a licensing server,” pointing to disclosures in the ’113 patent. *Id.* at 17–18 (citing Ex. 1001, 4:37–57). Patent Owner also argues that Sperle alone does not teach a licensing server, because Sperle’s teaching is directed to whether content is available and not directed to whether a particular user can access a particular instance of the content. *Id.* at 18 (citing Ex. 2001 ¶ 75). Patent Owner additionally argues that “Madison

does not teach whether a particular user has access to a particular streaming instance—only whether the user is part of a group of users with access to a playlist.” *Id.* at 20–21 (citing Ex. 2001 ¶ 80).

Patent Owner’s arguments are not persuasive on the current record. First, several of Patent Owner’s arguments are directed to each reference individually, rather than the combined teachings of Sperle and Madison upon which Petitioner relies. *See* Prelim. Resp. 18–21; *see also In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986) (“Non-obviousness cannot be established by attacking references individually where the rejection is based upon the teachings of a combination of references.”). Second, Patent Owner fails to explain why the claimed “licensing/reporting server” is limited to having the functions described in the specification, which are not recited in the claim. *See* Prelim. Resp. 17–18. Third, although Patent Owner asserts that the combination “would have been a very poorly designed method of reporting and paying content providers” and that the ’113 patent “allows secure access and interaction to all parties—learners, managers, trainers, content providers,” Patent Owner fails to tie these arguments to any recited claim language for this limitation. *See id.* at 21.

iii. Network-side content player

Claim 1 recites that the e-learning delivery system also includes “a network-side content player operably coupled with each of the licensing/reporting server and a content delivery network comprising stored e-learning content.” Petitioner sufficiently shows that the combination of Sperle and Madison teaches the claimed network-side content player. Pet. 28–31; Ex. 1002 ¶¶ 102–108. For example, Sperle discloses that content player 208 (shown in Figure 2) is part of network-side LMS 140

(shown in Figures 1 and 2). Ex. 1005, Figs. 1, 2, ¶ 30. Sperle also discloses that content player 208 is coupled to (i) reporting module 214, which as modified by the combination with Madison is the claimed licensing/reporting server, through core 202; and (ii) content delivery network (network 112 in Figure 1) through Learning Content 220. Pet. 28–30; Ex. 1005, Figs. 1, 2; Ex. 1002 ¶ 104. Sperle discloses that content player 208 is coupled to “content management system 220, where learning content is stored and managed.” Ex. 1005, Figs. 1, 2, ¶¶ 28, 36. Sperle also discloses that content management system 220 allows easy integration of courses “from external providers or other content providers 108.” *Id.* ¶ 36. According to Dr. Almeroth, a person of ordinary skill in the art would have understood that Sperle’s distributed client/server system was a content delivery network because it distributes e-learning content over networks 112 and/or 114, and that it is coupled to content player 208 through learning content 220 “because such coupling would be necessar[y] in order for the content stored in the network to be presented to the user.” Ex. 1002 ¶ 106.

Patent Owner does not argue in its Preliminary Response that the combination of Sperle and Madison fails to teach this limitation. *See* Prelim. Resp. 16–33.

*iv. Proxy comprising coded instructions that
identify a specific instance of licensed content*

Claim 1 also recites that the e-learning delivery system includes “a proxy comprising coded instructions stored on a non-transitory computing device-readable medium at the network-side, wherein the proxy instructions identify a specific instance of licensed content.”

Petitioner sufficiently shows that the combination of Sperle and Madison teaches the claimed proxy. Pet. 32–38; Ex. 1002 ¶¶ 109–122. For

example, Sperle discloses that the learning environment includes Enterprise Resource Planning (ERP) solution 135, which implements functionalities of LMS 140 and may be stored and executed both on the network and remotely on a user terminal. Ex. 1005, Figs. 1, ¶¶ 5, 18, 21 (“[W]hile illustrated as internal to server 102, one or more processes associated with ERP solution 135 may be stored, referenced, or executed remotely. For example, a portion of ERP solution 135 may be a web service that is remotely called, while another portion of ERP solution 135 may be an interface object bundled for processing at the remote client.”). Sperle also teaches identifying specific instances of licensed LMS content, such as courses or knowledge items. *Id.* ¶¶ 16, 25, 37 (“[T]he content structure provides flexible content delivery that may be adapted to the learning styles of different learners. . . . Each higher level structural element may refer to any instances of all structural elements of a lower level. . . . [C]ourse material 300 may be divided into four structural elements: a course 301, a sub-course 302, a learning unit 303, and a knowledge item 304.”), 38, 39; Ex. 1002 ¶ 114.

In addition, Madison discloses that—in response to a user requesting certain streaming media—the network-side playlist server “generates a redirector file” that “contains a link to the requested content, along with the ticket and public key (i.e., stream ID and end user ID).” Ex. 1006 ¶¶ 72–79. Madison also discloses that each specific entry in a redirector file relates to a specific instance of media content to be accessed by a specified authorized end user. Ex. 1006 ¶¶ 81, 90, 95.

Petitioner sufficiently shows that a person of ordinary skill in the art would have been motivated to use Madison’s access control software and

redirector file with Sperle's system components to enforce licensing restrictions placed on the e-learning content and to identify the specific instance of that content. Pet. 37; Ex. 1002 ¶ 121; Ex. 1006 ¶¶ 4, 5.

Petitioner also sufficiently shows that an ordinary artisan would have had a reasonable expectation of success in making the combination given the similar system architectures to achieve similar goals. Pet. 37; Ex. 1002 ¶ 121.

Patent Owner argues that the combination does not teach the claimed proxy. Prelim. Resp. 21–25. First, Patent Owner argues that Sperle teaches neither proxy content nor, within the context of the ERP, “any license instance construct at all.” *Id.* at 21. Second, Patent Owner argues that Madison teaches a dynamically-created redirect file, whereas the claimed proxy is “explicitly created at time of purchase and for the purposes of launch time is static, not dynamic.” *Id.* at 22. According to Patent Owner, the '113 patent teaches “a proxy that always maintains the information at the server that allows the license information to be maintained and cross-checked,” whereas the redirect file taught by Madison “must be created on demand each time a user attempts to access content.” *Id.* at 23. Third, Patent Owner argues that “[t]he redirect of Madison demonstrates why Sperle and Madison are not a feasible combination beyond a single implementation,” explaining the deficiency in connection with “a multi-tenant situation.” *Id.* at 23–24. Patent Owner also asserts that “it would be necessary to significantly modify the software in the Sperle LMS just to make it work with Madison, which tends to show that [a person of ordinary skill in the art] would not be motivated to combine these two references.” *Id.* at 24.

Patent Owner's arguments are not persuasive on the current record. First, several of Patent Owner's arguments are directed to each reference individually, rather than the combination of Sperle and Madison proposed by Petitioner. *See* Prelim. Resp. 21–24. Second, Patent Owner improperly focuses on bodily incorporation of the Madison system into the Sperle system, rather than Petitioner's proposed combination of the teachings from those references. *See In re Mouttet*, 686 F.3d 1322, 1332 (“It is well-established that a determination of obviousness based on teachings from multiple references does not require an actual, physical substitution of elements.”). Third, Patent Owner fails to persuasively explain why the claim language “stored on a non-transitory computing device-readable medium at the network side” excludes the storage of access control software related to the redirect file, as taught by Madison, combined with the teachings of Sperle's ERP being stored. Prelim. Resp. 23. Fourth, Patent Owner fails to explain how claim 1 is limited to “a multi-tenant situation” or otherwise persuasively explain why a combination that is “feasible” for “a single implementation” is insufficient to show that the subject matter of this claim limitation would have been obvious. *Id.* at 23–24.

v. *Enable user to access and interact;
report status of user's interaction*

Claim 1 further requires that (i) “the proxy instructions are configured when executed on a client-side computing device to enable a user to access and interact with the licensed content via a browser of the computing device”; and (ii) the proxy instructions “are further configured to report a status of the user's interaction with the content to one or both of the licensing/reporting server and a learning management system (LMS).”

Petitioner sufficiently shows that the combination of Sperle and Madison teaches these claim limitations. Pet. 38–41; Ex. 1002 ¶¶ 123–128. For example, Sperle discloses that a client-side device accesses the content with a browser. Ex. 1005 ¶¶ 24, 26. Also, Madison discloses that the user device includes an Internet browser, which is used to request and receive media using the redirector file. Ex. 1006 ¶¶ 20, 74, 76, 81, 82. With respect to reporting a status of the user’s interaction, Sperle discloses user profiles 144 that “identify courses associated with an individual as well as statuses of each course,” such as “progress, a result, or other information associated with the user’s participation in the course.” Ex. 1005 ¶ 17. Sperle also discloses that “[r]eporting functions 214 in training management enable managers to keep track of learners’ learning activities” such that “[s]upervisors or managers can monitor and steer the learning process of their employees.” *Id.* ¶ 34. Additionally, Madison discloses that database 108 “includes tables for tracking which end users have requested access to the content.” Ex. 1006 ¶ 66. Petitioner also sufficiently shows that a person of ordinary skill in the art would have understood that the reporting/tracking is triggered when a user clicks on a link to e-learning content from the redirector file. Ex. 1002 ¶ 127.

Patent Owner argues that the combination does not teach proxy instructions configured to enable a user to access and interact with the licensed content. Prelim. Resp. 25–26. Specifically, Patent Owner argues that Madison teaches “an ASX file or a redirect file that simply tells the user’s device to go elsewhere for more information,” and does not “enable the user to access and interact with licensed content.” *Id.* at 25. Patent Owner also asserts that “[a]ny such instructions allowing access and

interaction must necessarily be located at the Sperle LMS, which is not where the proxy instructions are allegedly found in the Sperle-Madison combination.” *Id.* at 25–26 (citing Ex. 2001 ¶ 96).

Patent Owner’s arguments are not persuasive on the current record. Patent Owner does not sufficiently explain why the combined teachings of Sperle and Madison (as opposed to Madison alone) do not enable a user to access and interact with the licensed content or why the instructions for interacting “must necessarily be located at the Sperle LMS.” Prelim. Resp. 25–26. The cited testimony from Dr. Bergeron does not provide any additional explanation. Ex. 2001 ¶ 96. To the extent Patent Owner is arguing that Petitioner does not assert that the combination teaches executing the proxy instructions on a client-side computing device, Patent Owner is not correct. *See, e.g.*, Pet. 16 (“Madison’s redirector file is . . . transmitted over the network to the client computer, where it is executed to enable a user to access and interact with the content in a browser.”), 38 (“[T]he ‘coded instructions’ in Sperle-Madison would have been implemented as one functional entity using Madison’s redirector file, enabling a client-side device to access licensed content. . . .”).

vi. Verify a validity status

Claim 1 further recites “wherein the licensing/reporting server includes coded instructions configured when executed to cause the licensing/reporting server to verify a validity status of the user license to the specific instance of content.”

Petitioner sufficiently shows that the combination of Sperle and Madison teaches this claim limitation. Pet. 41–43; Ex. 1002 ¶¶ 129–133. For example, as explained above with respect to the “licensing/reporting

server” limitation, Sperle discloses determining whether a desired course “has a valid license” (Ex. 1005 ¶ 16) and Madison teaches a web server running authorization software that determines whether access to specific content should be granted or denied (Ex. 1006, Fig. 1, ¶¶ 2, 25, 27, 28). In addition, Petitioner sufficiently shows that it would have been obvious for a person of ordinary skill in the art to use coded instructions on the licensing/reporting server taught by the combination to check whether or not the end user had a valid license to requested content. Ex. 1002 ¶¶ 131–133. Madison teaches a series of steps (which would have been implemented as coded instructions) between a user request and the ultimate provision of media, including verifying the validity of a user’s access request. Ex. 1006, Fig. 1, ¶¶ 68–97. Step 522 of Madison’s Figure 5 checks whether a streaming server ticket matches a web server ticket. *Id.*

Patent Owner argues that the combination does not teach this claim limitation. Prelim. Resp. 26–29. First, Patent Owner argues that Madison requires a generated ticket for access, and that ticket “would have to be generated on the Sperle LMS server side in the case of the Sperle-Madison LMS.” *Id.* at 26. Patent Owner argues that such “up-stream ticketing” is “contrary to claim 1.” *Id.* at 26. Patent Owner relies on the following disclosure in the ’113 patent at 5:47–55 for why “there can be no up-stream ticketing access to the content”:

Reference herein to a “specific instance of content” generally means that the instructions in the SESAMESEED proxy allow the proxy to be used only within the scope of the specifically purchased license stored at the licensing/reporting server 14. The license scope may define access to one or more specific courses or specific modules of a course, to a specific user or *limited number of users*, to a specific number of times

played/accessed, or to another limitation or combination of limitations.

Ex. 1001, 5:47–55 (emphasis added); *see also* Prelim Resp. 26 (citing Ex. 1001, 5:47–55). Patent Owner distinguishes Madison because it discloses validation that “always is specific as to exactly what is used in the redirect file”—a specific user and a specific piece of content—and does not “leave any room for managing a ‘limited number of users.’” *Id.* at 26–27 (citing Ex. 2001 ¶ 99).

Patent Owner further argues that, in Petitioner’s proposed combination, the LMS owner (and not the content owner) would be the sole determinant of when and how often a user can access content, whereas the ’113 patent “allows the licensing and reporting to be on a separate system than the LMS.” *Id.* at 27–29. In other words, according to Patent Owner, “like the prior art cited during prosecution,” “the combination of Sperle-Madison also fails to teach the use of the SESAMESEED proxy.” *Id.* at 29.

Patent Owner’s arguments are not persuasive on the current record. Patent Owner relies on descriptions from the ’113 patent but fails to show how any of those descriptions are definitional or how this claim limitation is otherwise limited by such disclosures. The passage quoted above describes “generally” what a specific instance of content means, and what a license “may” provide. Patent Owner, however, does not explain why this passage is limiting. *Id.* at 26–27. Nor does Patent Owner show that the prosecution history limits the scope of this limitation (or of the earlier recited “proxy”). *See id.* at 29; *see also Omega Eng’g, Inc. v. Raytek Corp.*, 334 F.3d 1314 (Fed. Cir. 2003) (“[F]or prosecution disclaimer to attach, our precedent requires that the alleged disavowing actions or statements made during prosecution be both clear and unmistakable.”). Indeed, Patent Owner also

has not advanced any particular claim construction in support of its narrow reading of the claim. *See* Prelim. Resp. 11.

Petitioner sufficiently shows that the combination of Sperle and Madison teaches what is recited in the claim—coded instructions to cause the licensing/reporting server to verify a validity status of the user license to the specific instance of content.

vii. Provide a location designator

Claim 1 further recites “upon verifying the validity of the license, the instructions are further configured to cause the licensing/reporting server to provide to the proxy a location designator for accessing the content player.”

Petitioner sufficiently shows that the combination of Sperle and Madison teaches this claim limitation. Pet. 44–45; Ex. 1002 ¶¶ 134–136. For example, as discussed above, Petitioner sufficiently shows that a person of ordinary skill in the art would have been motivated to use Madison’s licensing/authentication scheme, including its redirector file, in a system based on the combined teachings of Sperle and Madison. In addition, Madison teaches that the user device uses the URL in the redirector file to direct the user device to the media server. Ex. 1006 ¶¶ 81 (“The playlist sever 610 then passes the ASX redirector file to the media player at the end user process of 602.”), 90, 91 (“The media player then makes a series of calls to the streaming media server 604, one for each of the URL links contained in the redirector file.”), 95. Petitioner sufficiently shows that an ordinarily skilled artisan would have understood that “the content would be accessed via Sperle’s content player 208, such that the reference to the media server in the ASX URLs would point to the network location of Sperle’s content player 208.” Pet. 44–45 (citing Ex. 1002 ¶ 136.)

Patent Owner argues that the combination does not teach this claim limitation, again distinguishing between the claimed proxy and the redirector file. Prelim. Resp. 30. Specifically, Patent Owner asserts Madison “requires the user and content (or stream) to be specified and even requires an in-browser interpreter.” *Id.* (citing Ex. 2001 ¶ 105).

Patent Owner’s arguments are not persuasive on the current record. Patent Owner fails to persuasively explain how this limitation excludes the location designator taught in Madison, whereby the user and content (or stream) are specified.

*viii. Client-side computing device request verification and
instruct a browser to access the content player*

Claim 1 further recites limitations directed to when the proxy instructions are “executed on the client-side computing device in response to a request for access to the specific instance of content.” Specifically, the proxy instructions are configured to (i) “cause the client-side computing device to request verification by the licensing/reporting server of the validity status of a license to the specific instance of content”; and (ii) “cause the client-side computing device to instruct a browser to access the content player via the location designator.”

Petitioner sufficiently shows that the combination of Sperle and Madison teaches these claim limitations. Pet. 45–48; Ex. 1002 ¶¶ 137–144. For example, Sperle teaches learning portal 204 on the client device to request access to specific content. Ex. 1005 ¶ 29 (“Learners 104 log on to their personalized learning portal 204 from the client via GUI 116. The learning portal 204 is the user’s personalized point of access to the learning-related functions.”). Based on the combined teachings of Sperle and Madison, Madison’s redirector file is executed on the user device to obtain

media from the media server. Ex. 1006 ¶¶ 89 (describing a media player on end user processor 602), 91 (“The media player . . . makes a series of calls to the streaming media server 604.”).

Madison also discloses software used with the redirector file that causes the client device to request verification of the license. Ex. 1006 ¶¶ 30 (“[T]he end user provides the end-user’s user ID and activates a link, thereby logging into the authorization application and requesting access to the particular streaming media content file associated with the link.”), 33 (“Once the end user logs into the authentication application and the web server 106 receives the stream request and the end user ID from the end user, the web server 106 continues by dynamically generating the authentication ticket and dynamically generat[ing] a link to the selected content file. More specifically, under control of the authentication application, the web server 106 issues a request to the database 108 for the private key for use in generating the authorization ticket.”). Madison also discloses that the streaming media server either denies or provides access to the requested streaming media content, which would have been understood to a person of ordinary skill in the art to check for a valid license. Ex. 1006 ¶¶ 28, 66; Ex. 1002 ¶ 142.

In addition, Sperle and Madison both teach a user device with a browser. Ex. 1005 ¶¶ 26, 41; Ex. 1006 ¶ 20. Madison teaches that when the end user receives Madison’s redirector file, the redirector file instructs the user device to access a media server through the URL. Ex. 1006 ¶¶ 81, 90, 91, 95. Petitioner sufficiently shows that the pointer to the media server is a location designator because it points to a specific network location used to access the content. *Id.* Ex. 1006 ¶¶ 38 (“[T]he media player residing on the

end user processor 102 makes a call to ‘mediaserver.company.com’ (i.e., the streaming media server 104), as identified in the link.”), 81, 90, 91, 95.

Patent Owner argues that the combination of Sperle and Madison “teaches, at most, a request for whether content is available for license, not whether a particular user has access to a specific instance of content.”

Prelim. Resp. 31. Patent Owner also asserts that Sperle’s disclosure of logging on to a portal from a client-side device is “not the same as executing proxy instructions on a client[-]side device in response to a request for access.” *Id.* Patent Owner further argues that the proxy instructions recited in claim 1 “are not merely redirector files with URL links.” *Id.* at 32.

Rather, according to Patent Owner, “the proxy instructions are specifically directed to verification of a specific license for a specific instance of content.” *Id.*

Patent Owner’s arguments are not persuasive on the current record. As with the arguments discussed above in connection with other claim limitations, Patent Owner fails to persuasively explain how the instant limitations exclude the combined teachings of Sperle and Madison and the use of a redirector file, which identifies specific content for a validated user and a network location.

ix. Relay information to LMS

Claim 1 also recites that “the proxy instructions are further configured to relay information to a client-side Learning Management System (LMS) including information indicating a status of content played by the content player.”

Petitioner sufficiently shows that the combination of Sperle and Madison teaches this claim limitation. Pet. 48–50; Ex. 1002 ¶¶ 145–146.

Specifically, Sperle teaches reporting information to a network-side LMS about the content played, including tracking progress through courses. Ex. 1005 ¶¶ 17, 34. Sperle also discloses an offline learning module in the LMS that may guide the learner through the course such that the learner “can, at any point in time, resynchronize his offline learning progress with the learning portal 204 and either continue learning online or set the course to a completed status.” Ex. 1005, Fig. 2, ¶ 32. Petitioner sufficiently shows that a person of ordinary skill in the art would have understood that the offline module is on the client side because there is no network access in the offline mode. Pet. 49 (citing Ex. 1002 ¶ 146). Petitioner also sufficiently shows that an ordinarily skilled artisan would have understood that, to resynchronize a user’s offline progress once the user is back online, the same coded instructions in the proxy that relayed information to the network-side LMS regarding progress would also relay information to the client-side LMS when the user is offline. *Id.*

Patent Owner distinguishes the prior art combination based on the premise that, in Sperle, the client-side LMS and the web-side LMS “are resynchronized as they are in-tandem and built by the same people,” whereas, in the invention of claim 1, “the client-side LMS and web-side LMS are not developed by the same people, and are not capable of talking to each other.” Prelim. Resp. 33. Patent Owner then argues that “the Sperle-Madison combination contains no teaching that would facilitate communication via Madison’s redirect files to the Sperle LMS regarding ‘status of content played by the content player.’” *Id.*

Patent Owner’s arguments are not persuasive on the current record. Petitioner provides a reasoned explanation for how the combination teaches

this claim limitation to one of ordinary skill in the art, and Patent Owner fails to persuasively explain how the words of the claim—as opposed to an embodiment disclosed in the '113 patent—exclude such a teaching.

x. Reason to combine

Petitioner also sufficiently shows that a person of ordinary skill in the art would have been motivated to combine the teachings of Sperle and Madison in the manner claimed and would have had a reasonable expectation of success in doing so. Pet. 15–21 (citing Ex. 1002 ¶¶ 76–86). Sperle teaches an e-learning delivery system that includes a network-side content player, learning portal, and a reporting module. Ex. 1005, Figs. 1, 2. Sperle also teaches that, after a user requests a course, the system determines whether the user has a valid license to the content, and, if so, delivers the content to the user and monitors the user's progress through it. *Id.* ¶ 16. Madison discloses additional ways of controlling/delivering access to digital content, including distance learning content. Ex. 1006 ¶¶ 4, 5, 8–10. For example, Madison discloses creating a redirector file containing coded instructions and a URL identifier of the content that is transmitted over the network to the client computer, where it is executed to enable the user to interact with the content. *Id.* ¶¶ 4, 5, 8–10.

Petitioner sufficiently shows that, in implementing Sperle's teachings, a person of ordinary skill in the art would have considered Madison, given its disclosure of a similar system architecture and similar goals and benefits. Pet. 16–18; Ex. 1002 ¶¶ 76–83. Petitioner also sufficiently shows that an ordinarily skilled artisan would have been motivated to combine Madison's teachings with Sperle's teachings to provide improved access to content, improved authorization of users, an improved licensing system, and robust

reporting. Ex. 1006 ¶ 6 (explaining as background that “a need exists for an improved system and method for controlling access to digital content, particularly streaming media content, and authorizing end users”); Ex. 1005 ¶ 11 (disclosing that “learning management system 140 often offers robust reporting capabilities”); Ex. 1002 ¶ 82.

Petitioner also sufficiently shows that a person of ordinary skill in the art would have had a reasonable expectation of success in combining the basic e-learning teachings of Sperle with the controlled content delivery system taught by Madison. Pet. 20–21; Ex. 1002 ¶¶ 83–86. Such a combination would have included (i) applying the access and license control software teachings of Madison to Sperle’s teachings regarding reporting module 214; and (ii) adding the browser-based content-accessing features of Madison into the similar browser-based user systems of Sperle. Pet. 20–21; Ex. 1002 ¶¶ 83–84. An ordinarily skilled artisan would have had a reasonable expectation of success because Sperle and Madison purport to solve controlled e-learning content delivery systems in similar ways and propose solutions using the same type of hardware and software with similar functionalities. Pet. 20–21; Ex. 1002 ¶¶ 85–86.

Patent Owner argues that there is no motivation to combine Sperle and Madison. Prelim. Resp. 12–16. Patent Owner asserts that the Sperle and Madison systems “are necessarily developed independently of each other, with the LMS developer Sperle creating one system, and the content developer Madison creating another system[,] without the knowledge of the other.” *Id.* at 13. According to Patent Owner, in order to combine the systems, a person of ordinary skill in the art “would have to first be thinking about extending one or both” systems “to create an open system that could

interoperate with multiple content publishers and multiple instances of the Sperle LMS system”—which is not described in either Sperle or Madison. *Id.* Patent Owner also argues that combining the two systems based on what is described in Sperle and Madison “would not result in an open system[,], which is what is taught and claimed” in the ’113 patent. *Id.* at 14.

Patent Owner also argues that “Madison is running code on the server (.dll) that is explicitly not client-side material,” and that a skilled artisan “would have to modify the software in [the] Sperle LMS just to make it work”—specifically, one would have to modify the player. *Id.* at 15. According to Patent Owner, “[t]his alone” would be a reason for not seeking to combine the references. *Id.* at 15–16. Patent Owner asserts that the claimed system “allows content to be running with any SCORM or AICC compatible player” and that the player does not need to be modified at all. *Id.* at 16.

Patent Owner’s arguments are not persuasive on the current record. Patent Owner argues that there would have been no reason to combine the teachings of Sperle and Madison and there would have been no reasonable expectation of success in making the combination based on features that are not recited in claim 1. Patent Owner fails to persuasively show how claim 1 is limited to an “open system” that could interoperate with multiple content publishers and multiple instances of an LMS. Nor does Patent Owner show how claim 1 is limited to a system which allows content to be running with any SCORM or AICC compatible player. And, as discussed below in connection with claim 4, Petitioner sufficiently shows that the combination teaches a proxy that is operably compliant with SCORM, which is specifically recited in claim 4. In addition, Patent Owner improperly focuses

on bodily incorporating elements of the Madison system into the Sperle system, rather than Petitioner's proposed combination of the teachings from those references. *See Mouttet*, 686 F.3d at 1332 ("It is well-established that a determination of obviousness based on teachings from multiple references does not require an actual, physical substitution of elements."). Petitioner sufficiently shows on the current record a reason to make the combination resulting in the subject matter recited in claim 1 and a reasonable expectation of success in making such a combination.

xi. Conclusion regarding claim 1

For the above reasons, Petitioner sufficiently shows that the subject matter of claim 1 would have been obvious over the combination of Sperle and Madison.

b. Dependent claim 2

Claim 2 recites that the e-learning system of claim 1 further comprises "a network-side e-learning course catalog comprising coded instructions configured when executed on a computing device to request that the licensing/reporting server create a license to the specific instance of content in response to a user request."

Petitioner sufficiently shows that the subject matter of claim 2 would have been obvious over the combination of Sperle and Madison. Pet. 50–51; Ex. 1002 ¶¶ 147–150. As explained above, Petitioner sufficiently shows that the combination teaches the subject matter of claim 1. In addition, Sperle teaches two versions of a course catalog—local course catalog 142a and remote learning system course catalog 142b. Ex. 1005, Fig. 1, ¶¶ 15 ("In the illustrated embodiment, memory 137 includes local course catalog 142a and user profiles 144."), 16, 20 ("[L]earning management system 140 may be

operable to integrate courses from [a] remote learning system course catalog 142b into internal course catalog 142a and provide services associated with the remote learning system courses.”). Sperle also discloses that course catalog 142 includes information “indicating specific checks that may be performed for a course,” such as “if it has a valid license.” *Id.* ¶ 16.

Petitioner sufficiently shows that it would have been obvious to use Madison’s web server and associated database and/or Sperle’s reporting module to implement the course catalog to create licenses and tickets to the requested content, as taught by Madison. Pet. 51. Petitioner also sufficiently shows that an ordinarily skilled artisan would have expected the course catalog to work equally well on the licensing/reporting server in the combined system as it worked on Sperle’s server 102a or Sperle’s external learning management system 145. Ex. 1002 ¶ 149.

Patent Owner argues that “the LMS developer (Sperle) and the content access developer (Madison) are not working together” and that “it would not be possible to create an amalgamation of the two systems that could generate a new instruction . . . each time to communicate with a foreign system.” Prelim. Resp. 34–35.

Patent Owner’s argument is not persuasive on the current record. Patent Owner fails to tie its argument to language recited in the claim. Also, Patent Owner focuses on the physical combination of elements of the Sperle and Madison systems, rather than what the references teach to one of ordinary skill in the art, as explained by Petitioner.

c. Dependent claim 3

Claim 3 depends from claim 1 and adds “wherein the licensing/reporting server is configured with instructions stored on a

non-transitory computing-device-readable medium, and wherein the licensing/reporting server instructions are configured, when executed in response to a failed user license verification, to cause the licensing/reporting server to notify the proxy that the requested access is denied.” Ex. 1001, 17:26–32, Certificate of Correction.

Petitioner sufficiently shows that the subject matter of claim 3 would have been obvious over the combination of Sperle and Madison. Pet. 52–53; Ex. 1002 ¶¶ 151–152. As explained above, Petitioner sufficiently shows that the combination teaches the subject matter of claim 1. In addition, Madison discloses maintaining a list of tickets for which access has been granted (referred to as “used” tickets) and preventing an authorized end user from sharing with others a streaming request received from the web server. Ex. 1006 ¶ 63. In that example, if a matched ticket is on the list of used tickets, the media server denies access “and provides an appropriate message to the requesting end user.” *Id.* Petitioner sufficiently shows on the current record that a person of ordinary skill in the art would have understood that, in the combination, sending the message to the end user would be accomplished using the proxy, “just like all other relevant communications between the system and the user device are accomplished.” Ex. 1002 ¶ 152.

Patent Owner argues that the Sperle-Madison combination does not teach “instructions stored on a non-transitory computing device-readable medium” because Madison teaches that the instructions are generated dynamically with each instance. Prelim. Resp. 35. Patent Owner also argues that the Sperle and Madison systems “are designed and operate independently of each other, making cross communication impossible without massive modifications to one or both systems.” *Id.* Patent Owner

adds that “[t]his is precisely the issue that the SESAMESEED proxy is intended to address.” *Id.*

Patent Owner’s arguments are not persuasive on the current record. With respect to the storage of instructions, Patent Owner focuses on Madison alone, whereas Petitioner sufficiently shows that the combination (including Sperle’s disclosure that the enterprise resource planning (ERP) solution may be stored) teaches that the instructions of the licensing/reporting server are stored. *See, e.g.*, Pet. 22–27, 41–43; Ex. 1005, Fig. 1, ¶¶ 18, 21 (“[W]hile illustrated as internal to server 102, one or more processes associated with ERP solution 135 may be stored, referenced, or executed remotely. For example, a portion of ERP solution 135 may be a web service that is remotely called, while another portion of ERP solution 135 may be an interface object bundled for processing at the remote client.”). Also, Patent Owner fails to persuasively show how the limitation added in claim 3 is limited in the manner advanced by Patent Owner or how the claim excludes the communication taught by the combination of Sperle and Madison. For example, Patent Owner does not show how the specification or prosecution history limits the scope of the claim.

d. Dependent claim 4

Claim 4 depends from claim 1 and adds “wherein the proxy is operably compliant with either or both of the Sharable Content Object Reference Model(SCORM) and the Aviation Industry Computer-Based Training Committee (MCC) e-learning standards.” Ex. 1001, 17:33–37, Certificate of Correction.

Petitioner sufficiently shows that the subject matter of claim 4 would have been obvious over the combination of Sperle and Madison. Pet. 53–54;

Ex. 1002 ¶¶ 153–154. As explained above, Petitioner sufficiently shows that the combination teaches the subject matter of claim 1. In addition, Sperle discloses that “[c]ontent management system 220 may also include or implement content conversion, import, and export functions, allowing easy integration of Sharable Content Object Reference Model (SCORM)-compliant courses from external providers or other content providers 108.”

Ex. 1005 ¶ 36.

Patent Owner relies on its arguments directed to claim 1, but does not otherwise address Petitioner’s showing regarding claim 4. Prelim. Resp. 34.

e. Independent claim 5

As explained below, Petitioner sufficiently shows that the combination of Sperle and Madison teaches the subject matter of claim 5. Petitioner also sufficiently shows that a person of ordinary skill in the art would have been motivated to combine the teachings of Sperle and Madison in the claimed manner and would have had a reasonable expectation of success in doing so.

i. Preamble

The preamble of claim 5 is “[a] method for delivering e-learning standard-compliant content.” To the extent the preamble is limiting, Petitioner sufficiently shows that Sperle teaches a method of delivering e-learning standard-compliant content. Pet. 21, 53–54; Ex. 1002 ¶ 155. For example, Sperle discloses that the delivered content is standard-compliant. Ex. 1005 ¶ 36.

Patent Owner does not argue in its Preliminary Response that Sperle fails to teach the preamble. *See* Prelim. Resp. 36–43.

ii. Receiving a request

Claim 5 states that the method includes “receiving a request from a learning management system of a user to access content residing on a content delivery network (CDN).”

Petitioner sufficiently shows that the combination of Sperle and Madison teaches this claim limitation. Pet. 54; Ex. 1002 ¶¶ 156–158; *see also supra* Section 3.a.iii. For example, Sperle teaches a content delivery network with learning content 220. Ex. 1005, Figs. 1, 2, Abstract. Sperle also discloses “transmitting, to a remote management system, a request for a course associated with a course type.” *Id.* at Abstract. Sperle also discloses that “[i]nformation associated with the course,” including a delivery method, “is transmitted to or received from the remote learning management system.” *Id.* Petitioner also sufficiently shows that a person of ordinary skill in the art would have understood that a content request transmitted to the LMS in Sperle is for access to content residing in Sperle’s content delivery network. Pet. 54 (citing Ex. 1002 ¶¶ 156–158); *see also* Ex. 1002 ¶¶ 104, 107 (explaining that to the extent a commercial Content Distribution Network (CDN) is required by the claims, it would have been obvious to use a commercially available CDN for content delivery).

Patent Owner argues that Sperle teaches “only that learning content exists in one aspect of the system.” Prelim. Resp. 36. Patent Owner also argues that CDNs are not mentioned in Sperle and that a CDN is not obvious because it is “a layer of abstraction beyond an LMS that requires a system designer to take into account very specific considerations.” *Id.* at 37.

Patent Owner’s arguments are not persuasive on the current record. Patent Owner does not persuasively explain how the claim language

excludes the content delivery network taught in Sperle or a known CDN at the time of the invention.

iii. Configuring a proxy

Claim 5 also recites that the method includes “configuring a proxy with license information indicating a specific instance of licensed content, the configuring being performed by a network-side licensing/reporting server in response to the request.”

Petitioner primarily relies on its analysis of the proxy limitation of claim 1. Pet. 55; Ex. 1002 ¶ 159. For the reasons explained above in connection with that limitation, Petitioner sufficiently shows that the combination of Sperle and Madison teaches this claim limitation. *See supra* Section II.C.3.a.iv.

Patent Owner similarly relies on the arguments it made in connection with claim 1 regarding the proxy limitation. Prelim. Resp. 37–38. For the reasons explained above regarding that limitation, Patent Owner’s arguments are not persuasive on the current record. *See supra* Section II.C.3.a.iv.

iv. Providing the proxy to the user

Claim 5 recites that the method also includes “providing the proxy to the user.”

Petitioner relies on its analysis of the limitations of claim 1 related to the proxy instructions configured to execute on the client-side computing device. Pet. 55 (citing Pet. 38–41); Ex. 1002 ¶ 160. For the reasons explained above in connection with those limitations, Petitioner sufficiently shows that the combination of Sperle and Madison teaches this claim limitation. *See supra* Section II.C.3.a.v.

Patent Owner argues that the combination of Sperle and Madison does not teach this limitation because the combination “does not teach a proxy according to the teachings of the ’113 Patent” and that “dynamically generated redirect files are not an adequate substitute for the proxy of the ’113 Patent.” Prelim. Resp. 38 (referring to arguments made in connection with claim 1). Patent Owner’s arguments are not persuasive on the current record, for the reasons explained above with respect to the corresponding limitations of claim 1. *See supra* Sections II.C.3.a.iv, v.

v. Receiving a license verification request

Claim 5 recites that the method also includes “receiving, at the licensing/reporting server, a license verification request from the proxy.”

Petitioner relies on its analysis of corresponding limitations recited in claim 1. Pet. 56 (citing Pet. 38–41); Ex. 1002 ¶ 161. For the reasons explained above in connection with those limitations, Petitioner sufficiently shows that the combination of Sperle and Madison teaches this claim limitation. *See supra* Section II.C.3.a.v.

Patent Owner argues that the combination of Sperle and Madison does not teach this limitation for the same reasons the combination teaches the corresponding limitation in claim 1. Prelim. Resp. 38–39. Patent Owner asserts that the Sperle and Madison systems “are not able to generate instructions on demand that can be securely read by each other without significant modifications to one or both systems.” *Id.* at 39. Patent Owner adds that a person of ordinary skill in the art would not have been motivated to combine Sperle and Madison “in large part due to the technical difficulties inherent in making the two systems work together in a multi-user system, as taught by the ’113 Patent.” *Id.*

Patent Owner's arguments are not persuasive on the current record, for the reasons explained above with respect to the corresponding limitation of claim 1 and in addressing the reason to combine the teachings of the references. *See supra* Sections II.C.3.a.vi, x.

vi. Providing the content player location designator

Claim 5 recites that the method also includes “providing, from the licensing/reporting server to the proxy in response to a successful license verification request received from the proxy, the content player location designator, wherein the proxy is further configured to instruct a learner's browser to load a content-specific course runtime from the content player.”

Petitioner primarily relies on its analysis of a corresponding limitation recited in claim 1. Pet. 56–57 (citing Pet. 44–45); Ex. 1002 ¶¶ 162–163. For the reasons explained above in connection with the corresponding limitation in claim 1, and because Petitioner sufficiently shows that it would have been obvious that the licensing/reporting server would provide a location designator URL to the redirector file proxy for accessing content, Petitioner sufficiently shows that the combination of Sperle and Madison teaches this claim limitation. *See supra* Section II.C.3.a.vii.

Patent Owner argues that the combination of Sperle and Madison does not teach this limitation. Prelim. Resp. 40–43. Patent Owner argues that “the patented OpenSesame system provides an open communications channel between the LMS and the OpenSesame system, and the course itself, which allows two-way communications between learner and content provider, without sacrificing security.” *Id.* at 40. Patent Owner asserts that “the combined Sperle-Madison” does not have capabilities of the OpenSesame system because (i) “the system described in Sperle is not

inherently multi-tenant”; (ii) “Madison is streaming asset-specific”; and (iii) “neither Sperle nor Madison teach anything equivalent to a content delivery network (CDN).” *Id.* at 41–42.

As explained above in connection with similar arguments raised as to claim 1, Patent Owner’s arguments are not persuasive on the current record. *See supra* Sections II.C.3.a.iv, vi, x. Patent Owner fails to tie its arguments to any particular claim term or to any limiting passage from the specification or prosecution history. *See* Prelim. Resp. 40–43. For example, at this preliminary stage, Patent Owner fails to explain what limitation in claim 5 requires a “multi-tenant” system and what the requirements of such a system are that exclude the combined teachings of Sperle and Madison. Moreover, Patent Owner improperly focuses on bodily incorporation of elements of the Madison system into the Sperle system, rather than Petitioner’s proposed combination of the teachings from those references. *See In re Mouttet*, 686 F.3d at 1332.

vii. Loading the course runtime

Claim 5 recites that the method also includes “loading the course runtime from the content player to the learner’s browser.”

Petitioner sufficiently shows that the combination of Sperle and Madison teaches this claim limitation. Pet. 58–59; Ex. 1002 ¶ 165. As discussed above in connection with claim 1, based on the combination of the teachings of Sperle and Madison, the user-device’s browser accesses the content player, which involves accessing (i.e., loading) the course runtime. *See supra* Section II.C.3.a.viii. Petitioner sufficiently shows that a person of ordinary skill in the art would have executed a Java runtime implementation, such as a Java plug-in, in the user’s browser. Ex. 1002 ¶ 165.

Patent Owner does not address this limitation in its Preliminary Response. *See* Prelim. Resp. 36–43.

viii. Instructing the learner’s browser; loading the content

Claim 5 recites that the method also includes “instructing the learner’s browser to request the licensed content from a content delivery network (CDN), the instructing being performed by the course runtime.” Claim 5 also recites that the method includes “loading, the licensed content from the CDN to the learner’s browser.”

Petitioner sufficiently shows that the combination of Sperle and Madison teaches these claim limitations. Pet. 59–60; Ex. 1002 ¶¶ 166–167. For example, Sperle discloses or renders obvious a content delivery network with e-learning content. *See supra* Section. II.C.3.e.iii. Also, applying the teachings of both references, the client device accesses content using a location designator (URL); the URL is used by the course runtime to access the content stored at the CDN and to load it from the CDN to the user-device’s browser. *See supra* Section II.C.3.a.viii.

Patent Owner does not address these limitations in its Preliminary Response. *See* Prelim. Resp. 36–43.

ix. Reporting from the content player the learner’s status

Claim 5 further recites that the method includes “reporting, from the content player to either or both of the licensing/reporting server and the proxy, the learner’s status relative to the content.”

Petitioner sufficiently shows that the combination of Sperle and Madison teaches this claim limitation. Pet. 60–61; Ex. 1002 ¶ 168. For example, as discussed above in connection with the “licensing/reporting server” and “report a status” limitations of claim 1, Petitioner sufficiently

shows that Sperle and Madison teach reporting the learner's status relative to the content. *See supra* Sections II.C.3.a.ii, v. Petitioner also sufficiently shows that Sperle discloses reporting from the server-side LMS (reporting module 214, shown in Figure 2) and Madison discloses web server 106 associated with database 108, which includes an authorized user table.

Together, these disclosures teach the claimed licensing/reporting server. *See* Pet. 60. Petitioner also sufficiently shows that a person of ordinary skill in the art would have understood that in order for the proxy to report the status of the learner to the LMS, the proxy would receive the status from the content player first since it is the content player, and not the proxy, that delivers the content to the learner. *See supra* Section II.C.3.ix.

Patent Owner argues that this limitation is directed to two sides of the system communicating “with each other” to provide updates regarding the learner's status with respect to a specific instance of content. Prelim. Resp. 43. Patent Owner argues that the Sperle-Madison combined system “contains no teaching or suggestion that would result in such communication.” *Id.* Rather, according to Patent Owner, the redirect files taught by Madison “do not provide information from the (non-existent) proxy to the licensing-reporting server . . . regarding the learner's status,” and “certainly there is no teaching about reporting in the other direction.” *Id.* (citing Ex. 2001 ¶ 145).

Patent Owner's arguments are not persuasive on the current record. Patent Owner does not persuasively address Petitioner's showing that the combination teaches reporting the learner's status relative to the content from the content player to the licensing/reporting server.

x. Reporting from the proxy the learner's status

Claim 5 further recites that the method includes “reporting from the proxy to the user’s LMS the learner’s status relative to the content.”

Petitioner sufficiently shows that the combination of Sperle and Madison teaches this claim limitation. Pet. 61–62; Ex. 1002 ¶¶ 169–170. For example, Petitioner sufficiently shows that Sperle teaches that reporting functions, such as tracking a learner’s activities, are implemented as a reporting module within a server-side LMS and can also be implemented client-side. *See supra* Sections II.C.3.a.ii, v, ix. Petitioner also sufficiently shows that it would have been obvious to use the same server and related software as that used for reporting on a user’s interaction with learning content to also determine whether the user has a license to interact with that content in the first instance. Ex. 1002 ¶ 170.

Patent Owner does not address this limitation in its Preliminary Response. *See* Prelim. Resp. 36–43.

xi. Reason to combine

For the reasons explained above in connection with claim 1, Petitioner sufficiently shows that a person of ordinary skill in the art would have been motivated to combine the teachings of Sperle and Madison in the manner claimed and would have had a reasonable expectation of success in doing so. *See supra* Section II.C.3.a.x.

xii. Conclusion regarding claim 5

For the above reasons, Petitioner sufficiently shows that the subject matter of claim 5 would have been obvious over the combination of Sperle and Madison.

f. Dependent claim 6

Claim 6 recites that the content delivery method of claim 5 further comprises “providing a network-linked content player, the content player being accessible to a learner’s browser via a location designator.”

Petitioner sufficiently shows that the combination of Sperle and Madison teaches this claim limitation. Pet. 62–63; Ex. 1002 ¶ 171. As explained above, Petitioner sufficiently shows that the combination teaches the subject matter of claim 5. In addition, Petitioner sufficiently shows that Sperle teaches a network-linked content player and Madison teaches that a content player on a server is accessible to a learner’s browser via a location designator. *See supra* Section II.C.3.a.viii. Petitioner also sufficiently shows that it would have been obvious for the URL to point to the network location of Sperle’s content player. *See id.*

Patent Owner argues that the combination of Sperle and Madison fails to teach a network-linked content player accessible to a learner’s browser. Prelim. Resp. 44. Patent Owner asserts that “Sperle teaches only a network-connected player on the outbound side, not the inbound, as required by claim 6.” *Id.* Patent Owner also argues that “Madison teaches streaming content and is not relevant to claim 6.” *Id.* Patent Owner also asserts that Petitioner relies on a conclusory statement that, despite the absence of any such teaching or suggestion in the combination, one of ordinary skill in the art would have been motivated to come up with the system recited in claim 6. *Id.*

On the current record, Patent Owner’s arguments are not persuasive. Petitioner sufficiently shows how the teachings of Sperle and Madison together render the subject matter of claim 6 obvious. Moreover, Patent

Owner does not sufficiently explain why this claim—which merely states that a content player is accessible via a location designator—excludes the redirector file with a URL identifying a media server taught in Madison.

g. Dependent claims 7 and 8

Claim 7 recites that the content delivery method of claim 5 further comprises “receiving at the licensing/reporting server a rating of e-learning content provided from a user.” Claim 8 depends from claim 7 and adds the step of “storing the rating information at a network-side catalog operably coupled with the licensing/reporting server.”

Petitioner asserts that it would have been obvious to include a rating function in Sperle’s rating module. Pet. 63 (citing Ex. 1002 ¶¶ 172–173). Petitioner also asserts that it would have been obvious to store rating information in the network-side catalog taught by Sperle. *Id.* at 64 (citing Ex. 1002 ¶ 174).

Patent Owner relies on its arguments directed to claim 1, but does not otherwise address Petitioner’s showing regarding claims 7 and 8. Prelim. Resp. 43–45.

We address claims 7 and 8 in connection with ground 2, below.

h. Dependent claim 9

Claim 9 depends from claim 5 and adds “wherein the license information of the proxy is configured, when received by either or both of the license/reporting server and the CDN as part of a request to access licensed content, to be used by the licensing/reporting server and/or the CDN respectively to limit a number of instances that the content can be accessed via the location designator.”

Petitioner sufficiently shows that the combination of Sperle and Madison teaches this claim limitation. Pet. 65–66; Ex. 1002 ¶¶ 175–177. As explained above, Petitioner sufficiently shows that the combination teaches the subject matter of claim 5. In addition, as illustrated in table 514 of Figure 5b, Sperle discloses that courses may have a “capacity” attribute, which includes a number of “seats/license.” Ex. 1005, Fig. 5b, ¶ 56 (“[T]able 514 indicates that the static attributes may include capacity and completion specifications of the remote learning system course.”). Petitioner sufficiently shows that the capacity attribute would have been used to limit the specific number of instances of a course. Ex. 1002 ¶ 176. Petitioner also sufficiently shows that a person of ordinary skill in the art would have included this capacity information in the coded instructions of the redirector file to ensure that an end user access only the content that they are licensed to and does not exceed the permitted views of the content. *Id.* ¶ 177.

Patent Owner argues that the redirector file “contains no information other than a redirector—it simply points the user elsewhere to get some set of desired information.” Prelim. Resp. 45. Thus, according to Patent Owner, even if the combination of Sperle and Madison teaches that the number of instances of content can be limited, there is no teaching or suggestion that this information is included in the redirect file. *Id.*

On the current record, Patent Owner’s arguments are not persuasive. Patent Owner does not persuasively explain why it would not have been obvious to one of ordinary skill in the art to include the capacity information in the redirector file.

i. Dependent claim 10

Claim 10 depends from claim 5 and adds “wherein the proxy is operably compliant with one or both of Sharable Content Object Reference Model (SCORM) and Aviation industry Computer-Based Training Committee (AICC) e-learning standards.” Claim 10 is nearly identical to claim 4, and Petitioner relies on its analysis of claim 4. Pet. 66.

For the reasons explained above regarding claims 4 and 5, Petitioner sufficiently shows that the subject matter of claim 10 would have been obvious over Sperle and Madison.

Patent Owner relies on its arguments directed to claim 1, but does not otherwise address Petitioner’s showing regarding claim 10. Prelim. Resp. 43–45.

j. Independent claim 11

Claim 11 recites limitations that are very similar to the limitations recited in claims 1 and 5. *See, e.g.*, Ex. 1020 (Petitioner’s claim mapping table, comparing claims 1, 5, and 11). Petitioner provides additional explanation for some limitations, but primarily relies on its analysis of corresponding limitations in claims 1 and 5 for showing how the combination of Sperle and Madison teaches the subject matter of claim 11. Pet. 66–70.

For the reasons explained above, Petitioner sufficiently shows that the combination of Sperle and Madison teaches the subject matter of claim 11 and that a person of ordinary skill in the art would have been motivated to combine the teachings of Sperle and Madison in the claimed manner with a reasonable expectation of success in doing so.

Patent Owner addresses some of the limitations of claim 11. Prelim. Resp. 45–49. Patent Owner’s arguments are not persuasive on the current record, as explained below.

i. Preamble

The preamble of claim 11 is “[a]n e-learning proxy.” Petitioner sufficiently shows that, to the extent the preamble is limiting, Sperle teaches the functions of an e-learning proxy and Madison teaches a specific implementation in the form of its redirector file and associated access control instructions. Pet. 66; *see supra* Section C.3.a.iv.

Patent Owner argues that “the preamble in this instance must be limiting, as the very definition of ‘proxy’ is key to understanding the ’113 Patent.” Prelim. Resp. 46. Patent Owner, however, does not propose a construction for the claim term “proxy” or otherwise explain what one of ordinary skill in the art understood the term to mean at the time of the invention. *See id.* at 11–12, 45–46. And, as stated above in connection with claims 1 and 5, Patent Owner does not explain how the specification or prosecution history of the ’113 patent limits the scope of the term.

ii. Instructions

Claim 11 recites that the e-learning proxy comprises “instructions stored on a non-transitory computing-device-readable medium.” Petitioner sufficiently shows that both Sperle and Madison teach coded instructions that are stored and Madison teaches such instructions in a redirector file. Pet. 67; *see supra* Section C.3.a.iv.

Patent Owner argues “Madison teaches a user-specific redirect file being generated at runtime, which is completely different by definition from instructions stored on a non-transitory computing-device-readable medium.”

Prelim. Resp. 46. Patent Owner adds that “[t]he user-specific and on-demand generation clearly differentiate the redirect file from the proxy instructions.” *Id.* Petitioner, however, sufficiently shows that, based on the combined teachings of the references, the instructions of the redirector file would be stored. *See supra* Section C.3.a.iv; *see also* Ex. 1005, Fig. 1, ¶¶ 5, 18, 21 (“[W]hile illustrated as internal to server 102, one or more processes associated with ERP solution 135 may be stored, referenced, or executed remotely. For example, a portion of ERP solution 135 may be a web service that is remotely called, while another portion of ERP solution 135 may be an interface object bundled for processing at the remote client.”).

*iii. Executed on computing device;
send a request to network-side licensing/reporting server*

Claim 11 also recites that “the instructions are configured when executed on a computing device to cause the computing device to . . . send a request to a network-side licensing/reporting server to verify a license to a specific instance of content in response to a learner’s request for access to the content.” Petitioner sufficiently shows that both Sperle and Madison teach instructions configured to be executed on a client-side computing device and that Madison teaches proxy instructions that cause the client-side computing device to request the licensing/reporting server to verify whether the user has a valid license to the content. *Pet. 67; see supra* Sections C.3.a.v, viii.

Patent Owner argues that Sperle “makes no reference to a proxy request to an outside server”; rather, according to Patent Owner, Sperle discloses “only that a license check can be made as to local content access.” Prelim. Resp. 47. Patent Owner does not address the combined teachings of the references on which Petitioner relies, including Madison’s teaching of a

web server running authorization software that determines whether access to specific content should be granted or denied. *See supra* Sections C.3.a.ii; *see also* Ex. 1006, Fig. 1, ¶¶ 2 (“The present invention relates generally to controlling access to digital content and, more particularly, to ticket-based systems and methods for limiting access to streaming media. . . .”), 27, 28 (“The streaming media server 104 either denies or provides access to the requested streaming media content based on a comparison of the tickets as generated by the streaming media server 104 and web server 106.”).

iv. License information

Claim 11 also recites that “the proxy instructions include license information rendering the proxy specific to the specific instance of licensed content.” Petitioner sufficiently shows that the combination of Sperle and Madison teaches coded instructions that include license information specific to a specific instance of content, including that Madison teaches such information as part of the proxy. Pet. 68; *see supra* Sections C.3.a.iv, C.3.e.iii.

Patent Owner argues that, at best, Madison’s “redirect file merely points the user to another location that might contain the information.” Prelim. Resp. 48. Patent Owner also argues that “either or both of Sperle or Madison would have to be heavily modified to be able to interact with each other across multiple learning management systems” and there is simply no teaching that these modifications would be feasible. *Id.* Patent Owner also argues that “this was a known problem for years, and yet never solved until the ’113 Patent was filed.” *Id.* (citing Ex. 2001 ¶ 160).

For the reasons explained above in addressing the reason to combine the references, Patent Owner’s arguments are not persuasive on the record.

See supra Section C.3.a.x. For example, Patent Owner does not persuasively tie its arguments to the requirements of this claim limitation. Also, Patent Owner’s declarant (at either the cited ¶ 160 or ¶ 161 of his declaration) does not provide further explanation or contemporaneous evidence supporting Patent Owner’s argument for why this limitation is directed to a known problem that would not have been solved by the combined teachings of Sperle and Madison.

v. Loaded from the user’s LMS

Claim 11 also recites that “the proxy is configured to be loaded from the user’s LMS to the learner’s browser in response to a request from the learner for access to the licensed content.” Petitioner sufficiently shows that (i) Madison teaches proxy instructions generated network-side that are sent to and executed on the learner side, (ii) the combination of Sperle and Madison teaches that the proxy instructs the user-device’s browser to access the licensed content, and (iii) a person of ordinary skill in the art would have found it obvious that the proxy is configured to be loaded from the user’s LMS because it is generated by a module of the LMS. Pet. 69; *see supra* Section C.3.a.viii.

Patent Owner argues that “Madison’s redirect is generated on-demand to point to a different location where information might be found—a teaching that is unquestionably not the same as the claimed LMS-loaded content.” Prelim. Resp. 48–49. Patent Owner argues that Madison’s teachings would not motivate an ordinarily skilled artisan to “create a non-user specific proxy URL that would grant access on a user-by-user basis in a user specific in-browser transaction.” *Id.* at 49 (citing Ex. 2001 ¶ 163).

Patent Owner's arguments are not persuasive on the current record. Patent Owner focuses exclusively on Madison and does not address the combined teachings of Sperle and Madison.

k. Dependent claims 12–16

Claims 12–15 depend from claim 11 and add features related to being “standard-based.” Claim 16 depends from claim 11 and specifies that “the request to the network-side licensing/reporting server includes a license identifier and a user identifier.” Petitioner sufficiently shows that the combination of Sperle and Madison teaches the subject matter of each of these claims. *See* Pet. 70–73.

Patent Owner relies on its arguments directed to claim 11, but does not otherwise address Petitioner's showing regarding claims 12–16. Prelim. Resp. 49.

D. Asserted Obviousness over Sperle, Madison, and Kimball

Claim 7 of the '113 patent recites that the content delivery method of claim 5 further comprises “receiving at the licensing/reporting server a rating of e-learning content provided from a user.” Claim 8 depends from claim 7 and adds the step of “storing the rating information at a network-side catalog operably coupled with the licensing/reporting server.”

Petitioner asserts that claims 7 and 8 of the '113 patent are unpatentable as obvious over the combination of Sperle, Madison, and Kimball. Pet. 3, 73–76. Petitioner relies on Kimball for its teaching of a rating system. *Id.* at 73–76.

Petitioner sufficiently shows that the combination of Sperle, Madison, and Kimball teaches the subject matter of claims 7 and 8 and that a person of ordinary skill in the art would have been motivated to combine the teachings

of the references in the claimed manner with a reasonable expectation of success in doing so. Pet. 73–76; Ex. 1002 ¶¶ 197–201. For example, Petitioner sufficiently shows Kimball’s disclosure “is related to the field of electronic learning systems and software applications for the creation of the same.” Ex. 1007 ¶ 2. Kimball discloses an online store that “provides a secure automated web interface for buying, searching, and viewing interactive book and game modules and other e-learning products.” *Id.* ¶ 47. Kimball also discloses that the store “enables users to submit product reviews and to read reviews submitted by others.” *Id.* ¶ 53. Petitioner sufficiently shows that a person of ordinary skill in the art would have included a ratings component to the licensing/reporting server taught by the combination of Sperle and Madison “so that both course creators and students can benefit from the feedback.” Pet. 74. Also, Petitioner sufficiently shows that an ordinarily skilled artisan would have found it desirable to include a course evaluation component in an e-learning circumstance for the same reason it is included in a traditional classroom environment. Ex. 1002 ¶ 198. Petitioner also sufficiently shows that Sperle, Madison, and Kimball use similar known hardware and software components. Pet. 74; Ex. 1007, Fig. 9, ¶¶ 61–64; Ex. 1002 ¶ 199.

Patent Owner relies on its arguments directed to claim 5, but does not otherwise address Petitioner’s showing regarding claims 7 and 8 under this ground. Prelim. Resp. 49.

III. CONCLUSION

For the above reasons, we determine that the information presented establishes a reasonable likelihood that Petitioner would prevail in showing that claims 1–16 of the ’113 patent are unpatentable on the grounds asserted

in the Petition. We institute as to all claims and grounds challenged in the Petition.

IV. ORDER

Accordingly, it is

ORDERED that pursuant to 35 U.S.C. § 314(a), an *inter partes* review is instituted as to all of the grounds identified 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, which commences on the entry date of this decision.

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Patent 8,784,113 B2

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