

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,
Petitioner,

v.

FLYPSI, INC. (D/B/A FLYP),
Patent Owner.

IPR2023-00359
Patent 11,012,554 B2

Before ROBERT J. WEINSCHENK, JAMES J. MAYBERRY, and
MICHAEL T. CYGAN, *Administrative Patent Judges*.

MAYBERRY, *Administrative Patent Judge*.

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

I. INTRODUCTION

A. *Background and Summary*

Google LLC (“Petitioner”) filed a Petition requesting *inter partes* review of claims 1–4 (the “Challenged Claims”) of U.S. Patent No. 11,012,554 B2 (Ex. 1001, the “’554 patent”). Paper 1 (“Pet.”), 1. Flypsi, Inc. (“Patent Owner”) filed a Preliminary Response to the Petition. Paper 6 (“Prelim. Resp.”). With our authorization, Petitioner filed a Preliminary Reply (“Prelim. Reply,” Paper 7) and Patent Owner filed a Preliminary Sur-reply (“Prelim. Sur-Reply,” Paper 8).

We have authority to determine whether to institute an *inter partes* review. 35 U.S.C. § 314 (2018); 37 C.F.R. § 42.4(a) (2021) (permitting the Board to institute trial on behalf of the Director). To institute an *inter partes* review, we must determine that the information presented in the Petition shows “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). For the reasons set forth below, upon considering the current record, we institute an *inter partes* review.

B. *Real Parties-in-Interest*

Petitioner identifies Google LLC as the real party-in-interest. Pet. 1. Patent Owner identifies itself as the real party-in-interest. Paper 4, 2.

C. *Related Matters*

The parties each identify the following litigations as matters related to the ’554 patent: *Flypsi, Inc., (d/b/a Flyp) v. Google, LLC*, No. 6:22-cv-00031 (W.D. Tex.); *Flypsi, Inc. (d/b/a Flyp) v. Dialpad, Inc.*, No. 6:21-cv-00642 (W.D. Tex.).

D. The '554 Patent

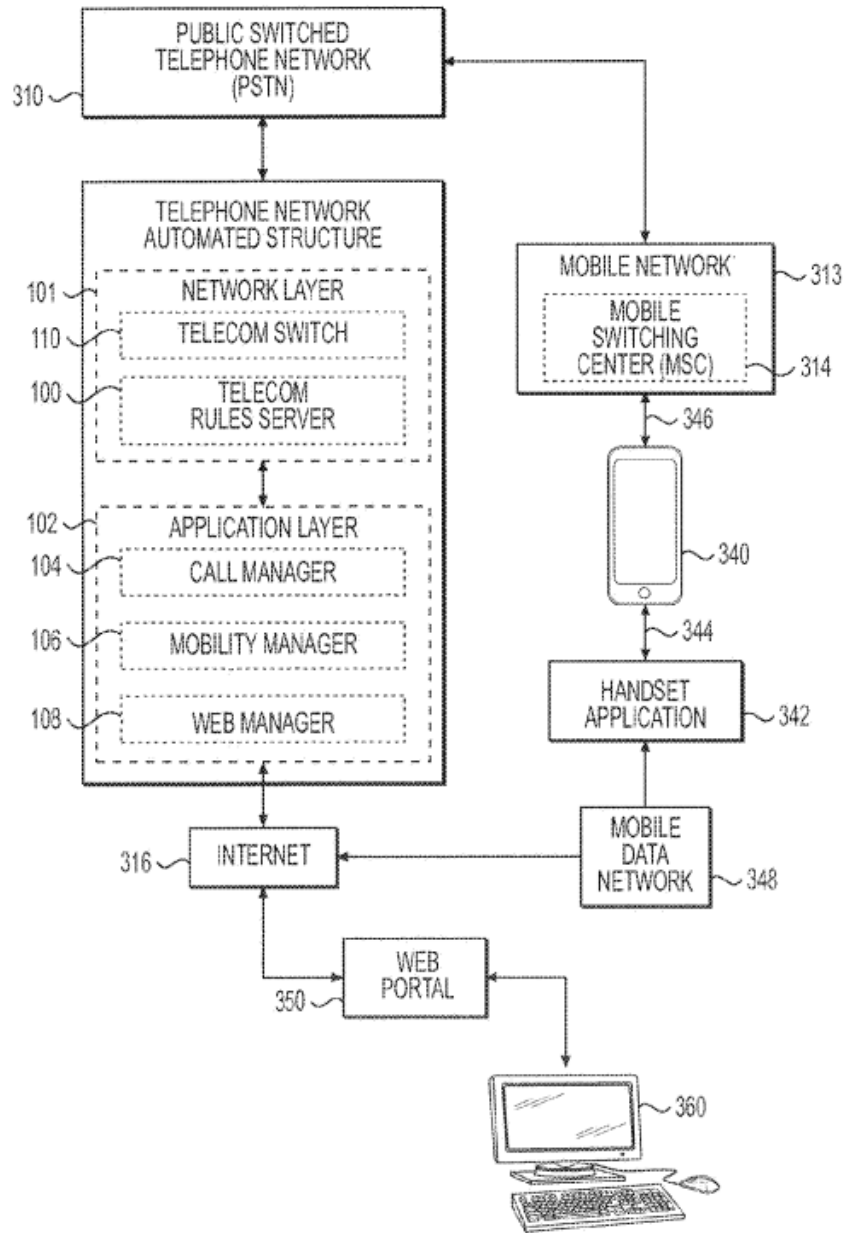
The '554 patent, titled “Telephone Network System and Method,” issued May 18, 2021, from application US 17/039,566. Ex. 1001, codes (54), (45), (21). The '554 patent ultimately claims priority to application, US 13/944,853, filed on July 17, 2013. *Id.* at code (60).

The '554 patent relates to “[s]ystems for and methods of delivering telephone calls using the combination of a data channel and a voice channel.” Ex. 1001, Abstract. “A data channel connection with the telephone handset may provide pre-call information used to set up incoming and outgoing calls which are ultimately connected using a voice channel,” and “[u]se of the pre-call information may permit the same handset to be associated with multiple secondary telephone numbers from which calls appear to have been made and to which calls appear to have been placed.” *Id.*

The '554 patent “permits the user to select one or more secondary telephone numbers to be referenced to a primary telephone number.” Ex. 1001, 5:8–13. A “bridge telephone number” may be “assign[ed] . . . to be used to connect the call from the handset 340 to the switch 110 and send pre-call information including the bridge telephone number to the handset via the data channel.” *Id.* at 7:61–65. “The bridge telephone number may be associated with the switch 110, and calls to the bridge telephone number may be automatically routed to this switch.” *Id.* at 7:66–8:1. The bridge telephone number is associated “with the primary telephone number for the handset 340, the secondary telephone number selected for the call, and the contact telephone number to be called.” *Id.* at 8:4–7. The '554 patent

allows “the secondary telephone number to be displayed as the number from which the call appears to have been placed.” *Id.* at 8:35–43.

Figure 3, reproduced below, illustrates “data channel and voice channel connections used to provide telephone service.” Ex. 1001, 3:62–64.



As shown, an “incoming call is routed from the caller’s telephone to the PSTN 310,” and “over the PSTN 310 to the switch 110.” Ex. 1001, 6:1–3. Then, “the call Manager 104 may assign or look up a bridge telephone number to be used for completion of the call,” and the “bridge telephone number may be associated with the switch 110, and calls to the bridge telephone number may be automatically routed to this switch.” *Id.* at 6:10–15. Call information, including “the assigned/looked up bridge telephone number” is transmitted “via the data channel connection, i.e., over the Internet 316 and the Mobile Data Network 348.” *Id.* at 6:44–48. The ’554 patent differentiates between “IP governed communications . . . conducted over a ‘data channel,’” and “CDMA, GSM or like governed communications, when used to carry voice information . . . conducted over a ‘voice channel.’” *Id.* at 4:46–57.

E. Challenged Claims

The Petition challenges claims 1–4. Pet. 3–4. Claim 1 is the sole independent claim, which we reproduce below.

1. A method of providing telephone service, comprising:
 - automatically storing electronic information that indicates an association of a secondary telephone number and a primary telephone number with a mobile device in a computer memory associated with a server;
 - automatically transmitting information that indicates an access telephone number to the mobile device via a data channel;
 - automatically associating the telephone access number with a switch associated with the server;
 - receiving, at the switch associated with the server, an outgoing call from the mobile device to the access telephone number via a second channel;
 - receiving, at the server, information from the switch indicating the outgoing call is being made to the access telephone number from the primary telephone number; and

receiving, at the switch, information from the server directing the switch to:

(a) connect the outgoing call to a contact telephone number indicated by the mobile device, and

(b) identify a telephone number from which the outgoing call is being made as the secondary telephone number.

Ex. 1001, 10:10–33.

F. Prior Art and Asserted Grounds

Petitioner asserts that the Challenged Claims are unpatentable based on four grounds:

Claims Challenged	35 U.S.C. §	References/Basis
1, 2, 4	102 ¹	Backhaus ²
3	103	Backhaus, Saksena ³
1, 2, 4	103	Backhaus, Taylor ⁴
3	103	Backhaus, Saksena, Taylor

Pet. 3–4.

Petitioner also relies on the declaration testimony of Dr. Lin.

Ex. 1002; *see also* Ex. 1003 (providing Dr. Lin’s Curriculum Vitae).

The following subsections provide brief descriptions of the asserted prior art references.

¹ The Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112-29, 125 Stat. 284, 296–07 (2011), took effect on September 16, 2011. The changes to 35 U.S.C. §§ 102 and 103 in the AIA do not apply to any patent application filed before March 16, 2013. Because the earliest possible priority date for the ’554 patent is after March 16, 2013, we refer to the AIA version of the statute.

² US 2013/0295892; published Nov. 7, 2013 (Ex. 1005, “Backhaus”).

³ US 2006/0077956; published Apr. 13, 2006 (Ex. 1008, “Saksena”).

⁴ US 2009/0052437; published Feb. 26, 2009 (Ex. 1007, “Taylor”).

1. *Backhaus (Ex. 1005)*

Backhaus, titled “System and Method for Provision of a Second Line Service to a Telecommunications Device Using Mixed Protocols,” published November 7, 2013, from application US 13/920,056, filed June 17, 2013. Ex. 1005, codes (54), (43), (21), (22). The application claims priority to a parent application, US 13/466,074, filed May 7, 2012, and to a provisional application, US 61/660,772, filed June 17, 2012. *Id.* at codes (63), (60).

Backhaus relates generally to “routing calls between a third party telecommunications device (‘TD) and a subscriber TD associated with a primary service and a second line service (“SLS”).” Ex. 1005, code (57) (Abstract). We reproduce Backhaus’s Figure 1, below, as annotated by Petitioner.

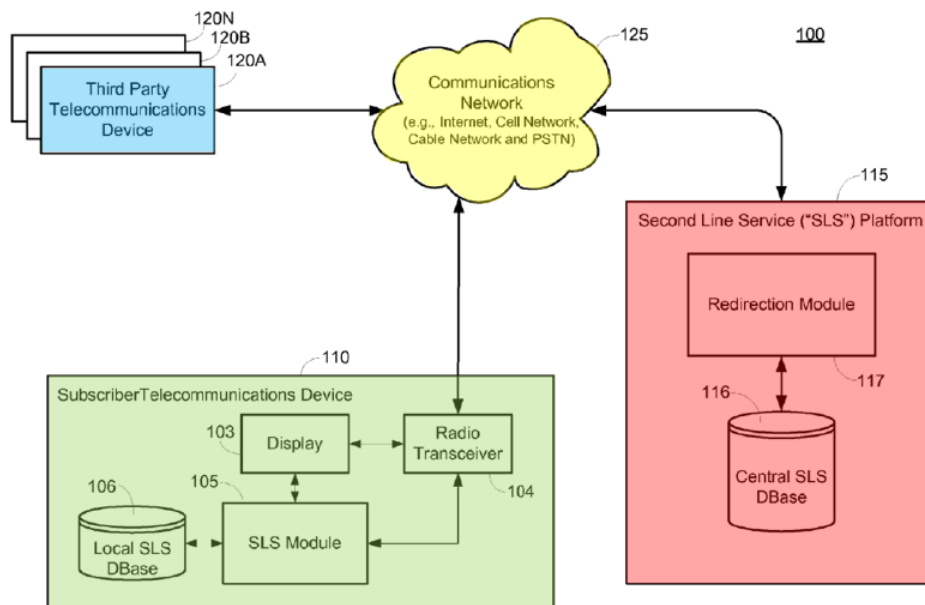


FIG. 1

Pet. 10. Backhaus’s Figure 1 depicts “a system for providing a second line service . . . to a user of telecommunications device,” with Petitioner annotating the figure by coloring sections of the system. *Id.*; Ex. 1005 ¶ 17.

A subscriber TD 110 (in green in the figure above) is associated with a primary phone number provided by a telephone service provider and a secondary phone number provided by SLS platform 115. Ex. 1005 ¶ 32.

In operation, any calls placed to the primary or secondary phone number from third party TD 120 (in blue in the figure above) to subscriber TD 110 are routed through communications network 125 (in yellow in the figure above), for example, a cellular network, PSTN, cable network, or the Internet. Ex. 1005 ¶ 32. A call made to the primary phone number is routed directly to subscriber TD 110. *Id.* ¶ 33. A call made to the secondary, or SLS, number is routed to SLS platform 115 (red in the figure above). At SLS platform 115, redirection module 117 queries central SLS database 116 to determine the subscriber TD associated with the secondary phone number called by the third party. Once this determination is made, redirection module 117 modifies the call data to reflect its identification as a call for the second line number and then makes the call available at the primary number associated with subscriber TD 110 associated with the called secondary phone number.

2. *Saksena (Ex. 1008)*

Saksena, titled “Common Telephony Services to Multiple Devices Associated with Multiple Networks,” published April 13, 2006, from application US 10/961,387, filed October 8, 2004. Ex. 1008, codes (54), (43), (21), (22). Saksena “relates to common telephony services to multiple devices associated with multiple networks.” *Id.* ¶ 1. One disclosed method includes

assigning an identical unique identifier to a first telephony device and a second telephony device associated with a first network and second network, respectively and receiving, via a packet-

based network, a call set-up request associated with the unique identifier. The method includes routing, via the packet-based network, a call to or from the first device, the second device, or the first and second devices, based on a routing preference.

Id. ¶ 57

3. *Taylor (Ex. 1007)*

Taylor, titled “System and Method for Dynamic Telephony Resource Allocation Between Premise and Hosted Facilities,” published February 26, 2009 from application US 12/195,298, filed August 20, 2008. Ex. 1007, codes (54), (43), (21), (22). The application claims priority to a provisional application, US 60/957,151, filed August 12, 2007. *Id.* at code (60).

Taylor “relates to telecommunication and a networked computer telephony system including the Internet and the Public Switched Telephone System, and more particularly to user-configurable allocation of telephony resources between a hosted facility and a subscriber’s premise.” Ex. 1007 ¶ 2. Relevant to this proceeding, Taylor discloses PSTN Interface 52, which allows Taylor’s Computer Telephony server 50 to interface with a public switched telephone network through switch 12. *Id.* ¶ 8.

II. ANALYSIS OF PETITIONER’S CHALLENGES

A. *Applicable Law*

Petitioner’s asserted grounds of unpatentability are based on anticipation under 35 U.S.C. § 102 and on obviousness under 35 U.S.C. § 103. A “prior art reference—in order to anticipate under 35 U.S.C. § 102—must not only disclose all elements of the claim within the four corners of the document, but must also disclose those elements ‘arranged as in the claim.’” *Net MoneyIN, Inc. v. VeriSign, Inc.*, 545 F.3d 1359, 1369

(Fed. Cir. 2008) (quoting *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548 (Fed. Cir. 1983)).

With respect to obviousness under 35 U.S.C. § 103,

[a] patent for a claimed invention may not be obtained, notwithstanding that the claimed invention is not identically disclosed as set forth in section 102, 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. Patentability shall not be negated by the manner in which the invention was made.

35 U.S.C. § 103 (2011); *see KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of 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 available, objective evidence, such as commercial success, long felt but unsolved needs, and failure of others. *Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966); *see KSR Int'l Co.*, 550 U.S. at 407 (“While the sequence of these questions might be reordered in any particular case, the [Graham] factors continue to define the inquiry that controls.”). The Court in *Graham* explained that these factual inquiries promote “uniformity and definiteness,” for “[w]hat is obvious is not a question upon which there is likely to be uniformity of thought in every given factual context.” 383 U.S. at 18.

The Supreme Court made clear that we apply “an expansive and flexible approach” to the question of obviousness. *KSR Int'l Co.*, 550 U.S. at 415. Whether a patent claiming the combination of prior art elements would have been obvious is determined by whether the improvement is more

than the predictable use of prior art elements according to their established functions. *Id.* at 417. To support this conclusion, however, it is not enough to show merely that the prior art includes separate references covering each separate limitation in a challenged claim. *Unigene Labs., Inc. v. Apotex, Inc.*, 655 F.3d 1352, 1360 (Fed. Cir. 2011). Rather, obviousness additionally requires that a person of ordinary skill at the time of the invention “would have selected and combined those prior art elements in the normal course of research and development to yield the claimed invention.” *Id.*

“[O]bviousness must be determined in light of *all the facts*, and . . . a given course of action often has simultaneous advantages and disadvantages, and this does not necessarily obviate motivation to combine” teachings from multiple references. *Medichem, S.A. v. Rolabo, S.L.*, 437 F.3d 1157, 1165 (Fed. Cir. 2006) (emphasis added); *see also PAR Pharm., Inc. v. TWI Pharms., Inc.*, 773 F.3d 1186, 1196 (Fed. Cir. 2014) (“The presence or absence of a motivation to combine references in an obviousness determination is a pure question of fact.”). As a factfinder, we also must be aware “of the distortion caused by hindsight bias and must be cautious of arguments reliant upon *ex post* reasoning.” *KSR Int’l Co.*, 550 U.S. at 421.

For institution, “[t]he ‘reasonable likelihood’ standard is a somewhat flexible standard that allows the Board room to exercise judgment.” Patent Trial and Appeal Board Consolidated Trial Practice Guide 53 (Nov. 2019), *available at* <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

B. Level of Ordinary Skill in the Art

The level of 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). Petitioner contends that

A person of ordinary skill in the art . . . at the time of the alleged invention of the ’554 patent would have had an undergraduate degree in electrical engineering, computer engineering, computer science or a related field along with two years of work experience in the field of communication . . . More education can supplement practical experience and vice versa.

Pet. 4–5 (referencing Ex. 1002 ¶¶ 17–18). Patent Owner does not dispute the level of ordinary skill in the art at this stage of the proceeding. Prelim. Resp. 5.

For the purposes of this Decision, we apply Petitioner’s definition of the level of ordinary skill in the art. We determine that this definition is consistent with the prior art of record and the skill reflected in the Specification of the ’554 patent, based on our review of the limited record.

C. Claim Construction

In *inter partes* reviews, we interpret a claim “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).” 37 C.F.R. § 42.100(b). Under this standard, we construe the claim “in accordance with the ordinary and customary meaning of such claim as understood by one of ordinary skill in the art and the prosecution history pertaining to the patent.” *Id.*

Petitioner states that “the Board need not construe any terms of the challenged claims to resolve the underlying controversy.” Pet. 8. “Patent Owner agrees claim construction is unnecessary at this stage” of the proceeding. Prelim. Resp. 5.

We determine that we need not expressly construe any claim terms to resolve the parties’ disputes on the current record. *See Realtime Data, LLC v. Iancu*, 912 F.3d 1368, 1375 (Fed. Cir. 2019) (“The Board is required to construe ‘only those terms that . . . are in controversy, and only to the extent necessary to resolve the controversy.’”) (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999)). To the extent that the scope of any particular claim term requires discussion, however, we provide it in our assessment of the challenges, which we turn to next.

D. Ground 1: Claims 1, 2, and 5 as anticipated by Backhaus

Petitioner contends that Backhaus anticipates each limitation of claims 1, 2, and 4. Pet. 9–42. We address Petitioner’s contentions, and Patent Owner’s counter-arguments, below.

1. Independent claim 1

a) Preamble

The preamble of claim 1 recites “[a] method or providing telephone service.” Ex. 1001, 10:10. Petitioner contends that, “[t]o the extent that the preamble of claim 1 is limiting, Backhaus discloses” the subject matter. Pet. 9 (referencing Ex. 1002 ¶¶ 58–63). Specifically, Petitioner contends that Backhaus discloses a second line service to a subscriber with a telecommunications device. *Id.*; *see also id.* at 10 (providing an annotated version of Backhaus’s Figure 1, which is an exemplary telephone service system); *id.* at 10–15 (describing the structure and operation of Backhaus’s system, and referencing Ex. 1005 ¶¶ 3–11, 31, 33–36, 52–57, 59–139; Ex. 1002 ¶¶ 51–57).

Upon review of the information in the Petition and corresponding evidence, we determine Petitioner has sufficiently demonstrated, at this stage

of the proceeding, that Backhaus discloses the subject matter of the preamble. In view of this determination, we need not resolve, at this stage of the proceeding, whether the preamble is limiting.

Patent Owner does not dispute Petitioner's contentions with respect to the preamble at this stage of the proceeding.

b) Limitation 1.a

Claim 1 recites “automatically storing electronic information that indicates an association of a secondary telephone number and a primary telephone number with a mobile device in a computer memory associated with a server.” Ex. 1001, 10:11–14 (limitation 1.a⁵ of claim 1). Petitioner contends that Backhaus's TD 110 corresponds to the recited mobile device. Pet. 15 (referencing Ex. 1005 ¶¶ 31, 33, 50, 81–83; Ex. 1002 ¶¶ 58–59).

Petitioner contends that Backhaus discloses that TD 110 receives calls directed to its primary number or a SLS number (the alleged “secondary telephone number”). Pet. 15–16 (referencing Ex. 1005 ¶¶ 31, 33, 34, 60, 75; Ex. 1002 ¶ 59). Petitioner contends that Backhaus discloses associating the primary and SLS numbers and storing the association in computer memory. *Id.* at 17–19 (referencing Ex. 1005 ¶¶ 39–40, 42–44, Fig. 3A; Ex. 1002 ¶¶ 60–62); *see, e.g., id.* at 17 (providing an annotated version of Backhaus's Figure 3A, depicting the Second Line Service Master ID Table in Central SLS Database 116, which shows the association between a subscriber's primary number and secondary number).

⁵ We use the limitation labels for claim 1 used by Petitioner and Patent Owner. *See* Pet. 9–37 (labeling limitations 1.a–1.f); Prelim. Resp. 1 (referencing limitations 1.c, 1.d, 1.e, and 1.f).

Upon review of the information in the Petition and corresponding evidence, we determine Petitioner has sufficiently demonstrated, at this stage of the proceeding, that Backhaus discloses the subject matter of limitation 1.a of claim 1.

Patent Owner does not dispute Petitioner's contentions with respect to this limitation at this stage of the proceeding.

c) Limitation 1.b

Claim 1 also recites “automatically transmitting information that indicates an access telephone number to the mobile device via a data channel.” Ex. 1001, 10:15–17 (limitation 1.b of claim 1). Petitioner contends that Backhaus's SLS module 105 on TD 110 translates a number calling TD 110 into the relationship number associated with the calling number and uses the relationship number to access the SLS platform 115 over telephone network 125. Pet. 20 (referencing Ex. 1005 ¶¶ 43, 49, 57, code (57) (Abstract)). Petitioner contends that a person having ordinary skill in the art would understand that Backhaus's relationship number is the recited “access telephone number.”

Petitioner contends that Backhaus discloses that, when a third party calls TD 110's SLS number, SLS Platform 115 determines if the caller has a relationship number and, if not, the platform establishes a “dialable” relationship number. Pet. 21 (referencing Ex. 1005 ¶¶ 52–53). Petitioner adds that Backhaus discloses that the relationship number can be used for multiple subscribers, since the combination of the relationship number and subscriber SLS number or primary number would be unique. *Id.* (referencing Ex. 1005 ¶ 54; Ex. 1002 65). Petitioner adds that the relationship number is stored in SLS database 116. *Id.* at 21–22 (referencing

Ex. 1005 ¶¶ 42, 53–54, Fig. 3A; Ex. 1002 ¶ 66); *see id.* at 22 (providing Figure 3A, which shows the association of a relationship number and third-party number for a subscriber’s contacts).

With respect to the requirement that the access telephone number be transmitted to the mobile device “via a data channel,” Petitioner contends that Backhaus discloses this aspect “in two ways.” Pet. 22. As to the “second way,”⁶ Petitioner contends that “Backhaus discloses . . . processes for handling data communications between subscriber TD 100 and SLS platform 115 over network 125.” *Id.* at 25 (referencing Ex. 1005 ¶¶ 71–74, Fig. 4D). Petitioner explains that, for a situation where the subscriber wishes to call a third party that does not have a relationship number established in the system, SLS Module 105 on subscriber TD 110 requests a new relationship number from SLS platform 115. *Id.* (referencing Ex. 1005 ¶ 71). In response, SLS platform 115 assigns a relationship number and returns that number to TD 110. *Id.* (referencing Ex. 1005 ¶ 74). Petitioner adds that Backhaus discloses that communications between SLS platform 115 and TD 110 may be through protocols or mechanisms that include data channels. *Id.* at 25–26 (referencing Ex. 1005 ¶¶ 72–73; Ex. 1002 ¶ 70).

Patent Owner argues that “the mere fact that Backhaus describes that unspecified communications can occur via various channels is not enough for anticipation: Backhaus must teach the specific arrangement of the claims,

⁶ We address the “second way” here only. Because we institute trial, both of Petitioner’s contended ways of satisfying limitation 1.b will be addressed on a complete trial record.

in which specific transmissions occur via a ‘data channel’ and other transmissions occur via a ‘second channel.’” Prelim. Resp. 15.

We have considered Patent Owner’s argument and determine, on the current record, that Petitioner has made a sufficient showing for institution that Backhaus discloses the requirement that the access telephone number be automatically transmitted to the mobile device via a data channel. Backhaus expressly discloses that “SLS module 105 may communicate with an SLS platform 115 to designate and acquire a relationship number to a third party who has not been called by the subscriber before via the SLS service” using “an unstructured supplementary services data (‘USSD’) protocol.” Ex. 1005 ¶ 72; *see also* Pet. 25 (referencing Ex. 1005 ¶ 72). Backhaus explains that, alternatively, other data channel communications, such as short message service (“SMS”) protocol, multimedia messaging service (“MMS”) protocol, IP-based interaction, WiFi, Bluetooth technologies, and proprietary wireless or wired technologies, may be used. Ex. 1005 ¶ 73; *see also* Pet. 25–26 (referencing Ex. 1005 ¶ 73). As discussed below, these communication channels differ from the public switched telephone network upon which Petitioner relies for the “second channel.” *See infra*, Section II.D.1.e.

Upon review of the information in the Petition and corresponding evidence, including Patent Owner’s counter arguments, we determine Petitioner has sufficiently demonstrated, at this stage of the proceeding, that Backhaus discloses the subject matter of limitation 1.b of claim 1.

d) Limitation 1.c

Claim 1 also recites “automatically associating the telephone access number with a switch associated with the server.” Ex. 1001, 10:18–19 (limitation 1.c of claim 1). Petitioner contends that calls directed to a

subscriber's primary or SLS numbers are routed through communications network 125. Pet. 27 (referencing Ex. 1005 ¶ 32). Petitioner contends that Backhaus discloses that network 125 may be a public switched telephone network, using signaling system seven ("SS7") protocol. *Id.* at 27–28 (referencing Ex. 1005 ¶ 32; Ex. 1011, 5–6, 103–105; Ex. 1002 ¶ 71).

Petitioner contends that a person having ordinary skill in the art would have understood that a public switched telephone network would include signal switching points as a "necessary part" of the network. Pet. 28 (referencing Ex. 1002 ¶ 72; Ex. 1011 62–63, 81; Ex. 1007 ¶ 4). Petitioner contends that a public switched telephone network would include a local signal switching point, which "is a switch that connects to a telecommunication device or server so as to allow the device/server to access the PSTN." *Id.* at 29 (referencing Ex. 1011, 6–7, 82; Ex. 1007 ¶ 4). Petitioner contends that "in Backhaus, given that subscriber TD 110 'uses a relationship number to access the SLS platform 115 over the telephone network 125,' a [person having ordinary skill in the art] would have understood that a local switch (the claimed 'switch') in network 125 necessarily receives calls directed to a relationship number before routing the same to SLS platform 115," associating the switch with the relationship number automatically. *Id.* at 30–31 (referencing Ex. 1005 ¶ 49; Ex. 1002 ¶ 73). Petitioner adds that the local switch is associated with SLS server 205. *Id.* at 31 (referencing Ex. 1005 ¶¶ 34–35, 39, 40; Ex. 1002 ¶ 74).

Patent Owner argues that claim 1 requires the recited "switch" to be the same switch for each of the steps of claim 1 including a "switch." Prelim. Resp. 5–6. Patent Owner argues that Petitioner has not demonstrated that it is necessary for the same switch to perform the steps of

claim 1 reciting the “switch.” *Id.* at 7. Patent Owner argues that evidence in the record confirms that any switch in the U.S. can route a signal to any other switch. *Id.* (referencing Ex. 1011, 40).

Patent Owner argues that the Petition identifies a calling party’s local switch and a destination’s local switch. Prelim. Resp. 8. Patent Owner adds that Taylor, to which Petitioner points in support of its inherency argument, shows multiple switches in the public switched telephone network. *Id.* at 9 (reproducing Taylor’s Figure 1A). As such, there are multiple switches. Patent Owner also argues that, even if a telecommunications switch is well known, the specific structure recited in the method steps are not well known. *Id.* at 10.

Patent Owner also argues that Dr. Lin’s Declaration testimony is entitled to little weight, as the testimony is “substantially identical to the Petition.” Prelim. Resp. 11 (citing *Xerox Corp. v. Bytemark, Inc.*, IPR2022-00624, Paper 9 (PTAB Aug. 24, 2022) (precedential) (“*Xerox*”)).

We have considered Patent Owner’s arguments and determine, on the current record, that Petitioner has made a sufficient showing for institution that Backhaus discloses the recited switch, and, as will be discussed in detail below, the same switch is used for the method steps of claim 1 reciting the switch. Petitioner presents evidence that each telecommunication device or server necessarily accesses a PSTN using the same local switch. Ex. 1002 ¶ 73 (“A local SSP is a switch that connects to a telecommunication device or server so as to allow the device/server to access the PSTN.” (referenced at Pet. 29–30)); Ex. 1007, Fig. 1A (showing a single local switch 12 associated with server 50 (referenced at Pet. 29–30)); Ex. 1011, 6–7 (“the calling party’s local switch . . . the called party’s local switch” (referenced at

Pet. 29)), 82 (“The End Office provides network access for the subscriber. It is located at the bottom of the network hierarchy.” (referenced at Pet. 29)), 84 (“The Local Exchange network consists of the digital switching nodes (EOs) that provide network access to the subscriber. The Local Exchange terminates both lines and trunks, providing the subscriber access to the PSTN.”). Thus, because Backhaus’s SLS platform accesses the PSTN using its same local switch, the same local switch that receives an outgoing call from the subscriber TD also routes the outgoing call from the SLS platform to the third party device through the public switched telephone network. Ex. 1002 ¶ 79 (“a local switch . . . necessarily receives the outgoing calls before routing the same to SLS platform 115”); *id.* ¶ 84 (“the local switch . . . route[s] the call to the third party”).

Even if Patent Owner is correct that Backhaus’s PSTN also includes additional intermediate switches for completing the outgoing call (that is, for connecting the subscriber TD 110 with a third party TD120), we do not find any language in claim 1 that prohibits such additional switches. The switch of claim 1 is associated with a server—a server that would access a public switched telephone network through the same local switch.

Also, on the current record, we determine that Dr. Lin’s Declaration is distinguishable from the declaration at issue in *Xerox*. In that case, the expert’s declaration included conclusory statements, not supported by underlying facts. In that case, the Board determined that “Dr. Jones does not cite to any additional supporting evidence or provide any technical reasoning to support his statement. Thus, the cited declaration testimony is conclusory and unsupported, adds little to the conclusory assertion for which it is offered to support, and is entitled to little weight.” *Xerox* at 15; *see also*

37 C.F.R. § 42.65(a) (“Expert testimony that does not disclose the underlying facts or data on which the opinion is based is entitled to little or no weight.”). Here, Dr. Lin cites to supporting evidence. *See, e.g.*, Ex. 1003 ¶ 73 (citing to Ex. 1007 and Ex. 1011).

Upon review of the information in the Petition and corresponding evidence, including Patent Owner’s counter arguments, we determine Petitioner has sufficiently demonstrated, at this stage of the proceeding, that Backhaus discloses the subject matter of limitation 1.c of claim 1.

e) Limitation 1.d

Claim 1 also recites “receiving, at the switch associated with the server, an outgoing call from the mobile device to the access telephone number via a second channel.” Ex. 1001, 10:20–22 (limitation 1.d of claim 1). Petitioner contends that Backhaus’s TD 110 makes calls to relationship numbers associated with third parties, with the relationship number corresponding to the recited access telephone number. Pet. 32 (referencing Ex. 1005 ¶¶ 49, 59; Ex. 1002 ¶ 75). Petitioner contends, consistent with its contention with respect to limitation 1.c, that “given that the outgoing calls are routed through network 125 (which includes the PSTN) to SLS platform 115, a [person having ordinary skill in the art] would have understood that a local switch . . . in network 125 necessarily receives the outgoing calls before routing the same to SLS platform 115.” Pet. 33 (referencing Ex. 1002 ¶ 76).

Petitioner contends, consistent with the description in the ’554 patent, that public switched telephone networks are an example of a “voice channel.” Pet. 34 (referencing Ex. 1001, 4:46–57, 6:2–3, 7:9–11). Petitioner adds that a person having ordinary skill in the art “would have

understood the disclosed switch is responsible for connecting a voice channel to create a conversation path between the calling and the called parties.” *Id.* (referencing Ex. 1011, 99).

Upon review of the information in the Petition and corresponding evidence, we determine Petitioner has sufficiently demonstrated, at this stage of the proceeding, that Backhaus discloses the subject matter of limitation 1.d of claim 1. We address Patent Owner’s arguments with respect to the switch above, in connection with our analysis of limitation 1.c.

f) Limitation 1.e

Claim 1 also recites “receiving, at the server, information from the switch indicating the outgoing call is being made to the access telephone number from the primary telephone number.” Ex. 1001, 10:23–25 (limitation 1.e of claim 1). Petitioner contends that Backhaus discloses that SLS server 205 of SLS platform 115, which is associated with the switch of network 125, receives information indicating that an outgoing call is made to a third party from a subscriber’s primary number. Pet. 35 (referencing Ex. 1002 ¶ 78). Petitioner explains that, “when the subscriber dials the third party number, ‘[t]he SLS module 105 [on subscriber’s TD 110] . . . translates the called third party number . . . to relationship number’ and then ‘calls the relationship number.’” *Id.* (referencing Ex. 1005 ¶ 59). Petitioner contends that the local switch receives the outgoing call and routes it to the server, where the server “**may recognize that the calling number is the subscriber’s primary number.**” *Id.* at 35–36 (referencing Ex. 1005 ¶¶ 49, 59–60, 60–70).

Upon review of the information in the Petition and corresponding evidence, we determine Petitioner has sufficiently demonstrated, at this stage

of the proceeding, that Backhaus discloses the subject matter of limitation 1.e of claim 1. We address Patent Owner’s arguments with respect to the switch above, in connection with our analysis of limitation 1.c.

g) Limitation 1.f.

Finally, claim 1 recites “receiving, at the switch, information from the server directing the switch to: (a) connect the outgoing call to a contact telephone number indicated by the mobile device, and (b) identify a telephone number from which the outgoing call is being made as the secondary telephone number.” Ex. 1001, 10:27–33 (limitation 1.f of claim 1). Petitioner contends that Backhaus’s system directs the outgoing call to the third party associated with the called relationship number. Pet. 37–38 (referencing Ex. 1005 ¶ 60; Ex. 1002 ¶ 80). As with other connections with network 125, Petitioner contends that the call is made through the local switch. *Id.* at 38–39 (referencing Ex. 1007 ¶ 41 Ex. 1011, 6–8, 82; Ex. 1002 ¶ 81). Petitioner explains that the subscriber’s mobile device indicates the contact number of the outgoing call by calling the relationship number. Pet. 40 (referencing Ex. 1005 ¶ 59; Ex. 1002 ¶ 83).

Petitioner contends that Backhaus discloses that SLS platform 115 causes the calling number to reflect the subscriber’s SLS number, rather than its primary number. Pet. 40–41 (referencing Ex. 1005 ¶¶ 60, 70; Ex. 1002 ¶ 84). Petitioner adds that the ability of a publicswitched telephone network to provide the calling number was a known service. *Id.* at 41 (referencing Ex. 1011, 217; Ex. 1005 ¶ 33; Ex. 1002 ¶ 84).

Patent Owner argues that Petitioner’s position that the same switch is used for all of the “switch” limitations of claim 1 is inconsistent with Petitioner’s contentions with respect to limitation 1.f. Prelim. Resp. 9–10.

Patent Owner argues that “[t]he Petition offers no reason to disregard Backhaus’s express teaching that it is the “SLS platform”—not any switch—that will “complete the subscriber’s call by calling the actual number.” *Id.* at 10. Patent Owner adds that, “[e]ven if [the Petition] could overcome this teaching, the Petition offers no reason why Backhaus would necessarily use the same switch as the ‘local switch’ allegedly used in satisfying limitations [1.c], [1.d], and [1.e].” *Id.*

We have considered Patent Owner’s arguments and determine, on the current record, that Petitioner has made a sufficient showing for institution that Backhaus discloses the recited switch of limitation 1.f. Petitioner sufficiently demonstrates that, with communications network 125 being a public switched telephone network, SLS platform 115 would necessarily connect the call *using* its local switch, thus the switch connects the outgoing call as required by limitation 1.f. Also, as discussed above, SLS platform 115 attaches to the public switched telephone network through a local switch, the local switch associated with the server that is recited in limitations [1.c], [1.d], and [1.e].

Upon review of the information in the Petition and corresponding evidence, including Patent Owner’s counter arguments, we determine Petitioner has sufficiently demonstrated, at this stage of the proceeding, that Backhaus discloses the subject matter of limitation 1.f of claim 1.

h) Conclusion

For the reasons discussed above, we determine, on the current record, that the information presented in the Petition sufficiently demonstrates that Backhaus anticipates claim 1 under 35 U.S.C. § 102.

2. *Dependent claims 2 and 4*

Petitioner also contends that dependent claims 2 and 4, which depend from claim 1, are anticipated by Backhaus. Pet. 3, 41–42. As we discuss above, Petitioner has sufficiently demonstrated that the information presented in the Petition anticipates claim 1, and we institute on all challenges raised in the Petition. *See SAS Inst., Inc. v. Iancu*, 138 S. Ct. 1348, 1354, 1359–60 (2018); *see also PGS Geophysical AS v. Iancu*, 891 F.3d 1354, 1360 (Fed. Cir. 2018) (interpreting the statute to require “a simple yes-or-no institution choice respecting a petition, embracing all challenges included in the petition”); 37 C.F.R. § 42.108(a) (“When instituting *inter partes* review, the Board will authorize the review to proceed on all of the challenged claims and on all grounds of unpatentability asserted for each claim.”).

Still, we have reviewed Petitioner’s contentions and citations to the evidence and determine that Petitioner has sufficiently demonstrated, at this stage of the proceeding, that Backhaus anticipates dependent claims 2 and 4 under 35 U.S.C. § 102. Patent Owner does not provide any arguments with respect to claims 2 and 4, other than those made for independent claim 1. *See* Prelim. Resp. 16.

E. Ground 2: Claim 3 as unpatentable over Backhaus and Saksena

Petitioner contends that the combined teachings of Backhaus and Saksena render obvious the subject matter of claim 3. Pet. 3, 43–47. We have reviewed Petitioner’s contentions and citations to the evidence and determine that Petitioner sufficiently demonstrates, at this stage of the proceeding, that dependent claim 3 is unpatentable under 35 U.S.C. § 103

over Backhaus and Saksena. As part of this review, we determine, on the current record, that Petitioner has sufficiently demonstrated that a person having ordinary skill in the art would have had reason to combine the teachings of Backhaus and Saksena to arrive at the subject matter of claim 3, with a reasonable expectation of success. *See* Pet. 43–47.

Patent Owner does not provide any arguments with respect to claim 3, other than those made for independent claim 1. *See* Prelim. Resp. 16.

F. Ground 3: Claims 1, 2, and 4 as unpatentable over Backhaus and Taylor

Petitioner contends that the combined teachings of Backhaus and Taylor render obvious the subject matter of claims 1, 2, and 4. Pet. 3, 47–51. We have reviewed Petitioner’s contentions and citations to the evidence and determine that Petitioner has sufficiently demonstrated that claims 1, 2, and 4 are unpatentable under 35 U.S.C. § 103 over Backhaus and Taylor. As part of this review, we determine, on the current record, that Petitioner sufficiently demonstrates that Taylor discloses the claimed switch of claim 1, and that Petitioner has sufficiently demonstrated that a person having ordinary skill in the art would have had reason to combine the teachings of Backhaus and Taylor to arrive at the subject matter of claims 1, 2, and 4, with a reasonable expectation of success. *See* Pet. 47–51.

Patent Owner argues that “Taylor fails to teach one single ‘switch’ performing limitations [1.c], [1.d], [1.e], and [1.f] and, thus, the combination of Backhaus and Taylor would not have rendered claim 1 obvious.” Prelim. Resp. 17; *see also id.* at 18 (providing an annotated Figure 1A from Taylor, with five switches 12 shown in yellow).

We have considered Patent Owner’s argument and determine, on the current record, that Petitioner has made a sufficient showing for institution that Taylor discloses the recited switch of limitations 1.c, 1.d, 1.e, and 1.f of claim 1. As discussed above in connection with our analysis of Ground 1, a public switched telephone network, like that shown in Taylor’s Figure 1A, has a local switch that would connect to Backhaus’s SLS platform 115. Indeed, Taylor’s Figure 1A shows its server 50 connected directly to only *one* of the switches 12, which then connects to other switches.

G. Ground 4: Claim 3 as unpatentable over Backhaus, Saksena, and Taylor

Petitioner contends that the combined teachings of Backhaus, Saksena, and Taylor render obvious the subject matter of claim 3. Pet. 4, 47–51. We have reviewed Petitioner’s contentions and citations to the evidence and determine that Petitioner sufficiently demonstrates that dependent claim 3 is unpatentable under 35 U.S.C. § 103 over Backhaus, Saksena, and Taylor. *See* Pet. 47–51.

We address Patent Owner’s argument with respect to Taylor above, in connection with our analysis of Ground 3.

H. Discretion under 35 U.S.C. § 314(a) - Fintiv

Patent Owner argues that we should exercise our discretion under 35 U.S.C. § 314(a) to deny the Petition. Prelim. Resp. 19–24; Sur-reply 1–3. Section 314(a) states that

The Director may not authorize an inter partes review to be instituted unless the Director determines that the information presented in the petition filed under section 311 and any response filed under section 313 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. Under § 314(a), we have discretion to deny institution of an *inter partes* review. *Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2140 (2016). We consider several factors when determining whether to deny institution under § 314(a) based on a parallel district court proceeding, specifically

1. whether the court granted a stay or evidence exists that one may be granted if a proceeding is instituted;
2. proximity of the court’s trial date to the Board’s projected statutory deadline for a final written decision;
3. investment in the parallel proceeding by the court and the parties;
4. overlap between issues raised in the petition and in the parallel proceeding;
5. whether the petitioner and the defendant in the parallel proceeding are the same party; and
6. other circumstances that impact the Board’s exercise of discretion, including the merits.

Apple Inc. v. Fintiv, Inc., IPR2020-00019, Paper 11 at 5–6 (PTAB Mar. 20, 2020) (precedential) (“*Fintiv*”). We also consider “several clarifications” made by the Director of the United States Patent and Trademark Office (“USPTO”). See USPTO Memorandum, Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court Litigation, 2 (June 21, 2022), *available at* https://www.uspto.gov/sites/default/files/documents/interim_proc_discretionary_denials_aia_parallel_district_court_litigation_memo_20220621_.pdf (“Director’s Memo”).

1. Factor 1 – Whether the court granted a stay or evidence exists that one may be granted if a proceeding is instituted

Under the first *Fintiv* factor, we consider “whether the court granted a stay or evidence exists that one may be granted if a proceeding is instituted.” *Id.* at 6. Petitioner argues that the District Court “previously granted motions to stay pending instituted IPRs,” so the first factor “weighs against denial” or “is at least neutral.” Prelim. Reply 1. Patent Owner argues that the District Court denied Petitioner’s “motion for stay relating to [its] mandamus petition,” so the first factor “is neutral.” Prelim. Resp. 19–20.

Neither party identifies any statements by the District Court or other evidence that specifically address a stay of the District Court Litigation pending this proceeding. *See* Pet. 56; Prelim. Resp. 19–20; Prelim. Reply 1; Sur-reply 1. We decline to speculate based on the record in this case whether the District Court would grant a stay of the District Court Litigation. *See Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 15 at 12 (PTAB May 13, 2020) (informative) (“*Fintiv IP*”). As a result, we determine that the first *Fintiv* factor is neutral.

2. Factor 2 – Proximity of the court’s trial date to the Board’s projected statutory deadline for a final written decision

Under the second *Fintiv* factor, we consider the “proximity of the court’s trial date to the Board’s projected statutory deadline for a final written decision.” *Fintiv*, Paper 11 at 6. Petitioner argues that the District Court’s trial date of February 19, 2024 “cannot be reliably used” because “[t]rial has already been postponed several times.” Prelim. Reply 1. Petitioner also argues that the District Court’s “median time from filing to trial . . . is more than 28 months,” so “trial will likely be in May/June 2024.” Pet. 53. Petitioner concludes that the second factor “weighs against denial

or is at least neutral.” Reply 1. Patent Owner argues that the second factor favors denial because the District Court’s trial date of February 19, 2024 is “around six months before the expected final written decision date of August 8, 2024.” Prelim. Resp. 20. Patent Owner also argues that Petitioner relies on “time-to-trial statistics for the entire Western District of Texas,” but more specific statistics for the presiding judge show that “trial is likely to occur faster” in “December 2023 or January 2024.” *Id.* at 20–21.

The current trial date in the District Court Litigation is February 19, 2024. Ex. 2003, 3. The projected statutory deadline for a final written decision in this case is in July 2024. However, Petitioner presents statistics indicating that the median time to trial in the Western District of Texas is 28 months (Ex. 1014, 37), and Patent Owner presents statistics indicating that the median time to trial for the presiding judge is 23 months (Ex. 2004, 1). *See* Director’s Memo at 8–9. On this record, we find Petitioner’s statistics more indicative of the likely time to trial because Petitioner’s statistics represent the median time to trial for civil cases during the recent 12-month period ending on June 30, 2022. Ex. 1014, 37 (“12-Month Periods Ending . . . Jun 30 2022 . . . Civil Only”). Although Patent Owner’s statistics are specific to the presiding judge, Patent Owner does not assert that its statistics are limited to civil cases or to a recent time period. *See* Prelim. Resp. 20–21; Ex. 2004, 1 (“pending between 2009-01-01 and 2023-05-03 . . . Trial . . . 46 cases”). Based on Petitioner’s statistics, the trial in the District Court Litigation is likely to occur in May 2024, which is a couple of months before the projected statutory deadline for a final written decision in this case. As a result, we determine that the second *Fintiv* factor slightly favors discretionary denial of institution.

3. *Factor 3 – Investment in the parallel proceeding by the court and the parties*

Under the third *Fintiv* factor, we consider the “investment in the parallel proceeding by the court and the parties.” *Fintiv*, Paper 11 at 6. Petitioner argues that “fact discovery and expert discovery do not close until after the institution deadline,” so the third factor “favors institution or is at least neutral.” Prelim. Reply 2. Patent Owner argues that the third factor “strongly weighs in favor of denying the Petition” because 1) the District Court “has performed claim construction, decided a motion to transfer, and decided a motion to stay”; 2) the parties “have engaged in substantial discovery, including production and review of source code, depositions, service of final contentions, written discovery, and document production”; and 3) fact discovery closes on August 22, 2023, and expert discovery closes in October 2023. Prelim. Resp. 21–22.

The evidence of record indicates that the District Court and the parties have invested only some resources in the District Court Litigation as to issues of unpatentability involving the ’554 patent. The District Court issued a claim construction order that addresses two terms in the ’554 patent, but the District Court stated only that those terms have their “[p]lain and ordinary meaning.” Ex. 1016, 2. And the evidence of record indicates that fact discovery is ongoing, expert discovery has not begun, and the deadline for dispositive motions is not until October 2023. Ex. 2003, 1–2. Thus, we determine that the third *Fintiv* factor weighs slightly against discretionary denial of institution.

4. *Factor 4 – Overlap between issues raised in the petition and in the parallel proceeding*

Under the fourth *Fintiv* factor, we consider the “overlap between issues raised in the petition and in the parallel proceeding.” *Fintiv*, Paper 11 at 6. Petitioner states that “if the IPR is instituted, Petitioner will not pursue the IPR grounds in the [D]istrict [C]ourt [L]itigation.” Pet. 53. Thus, according to Petitioner, the fourth factor “weighs against denial.” *Id.* Patent Owner argues that Petitioner’s “narrow[] stipulation only mitigates concerns about overlap ‘to some degree’ and thus, at best, only ‘weighs marginally in favor of not exercising discretion to deny institution.’” Prelim. Resp. 22.

The Petition challenges claims 1–4, and relies on Backhaus, Saksena, and Taylor. Pet. 3–4. Neither party explains which claims and references are at issue in the District Court Litigation. *See* Pet. 53; Prelim. Resp. 22–23; Reply 2–3; Sur-reply 2. Thus, on this record, we cannot determine whether there is overlap between issues raised in the Petition and District Court Litigation. Nonetheless, Petitioner’s stipulation that it will not pursue the grounds asserted in the Petition in the District Court Litigation mitigates to some degree concerns of duplicative efforts and potentially conflicting decisions. Pet. 53; *see Sand Revolution II, LLC v. Continental Intermodal Grp. – Trucking LLC*, IPR2019-01393, Paper 24 at 12 (PTAB June 16, 2020) (informative). Thus, even if we assume that there is overlap between the issues raised in the Petition and the District Court Litigation, we determine that the fourth *Fintiv* factor weighs slightly against discretionary denial of institution.

5. *Factor 5 – Whether the petitioner and the defendant in the parallel proceeding are the same party*

Under the fifth *Fintiv* factor, we consider “whether the petitioner and the defendant in the parallel proceeding are the same party.” *Fintiv*, Paper 11 at 6. Here, Petitioner is the defendant in the District Court Litigation. Prelim. Resp. 23. But, as we discussed for the second factor, the projected trial date in the District Court Litigation is only a couple months before the projected statutory deadline for a final written decision in this case. Under these circumstances, we determine that the fifth *Fintiv* factor slightly favors discretionary denial of institution.

6. *Factor 6 – Other circumstances that impact the Board’s exercise of discretion, including the merits*

Under the sixth *Fintiv* factor, we consider “other circumstances that impact the Board’s exercise of discretion, including the merits.” *Fintiv*, Paper 11 at 6. “[W]here the PTAB determines that the information presented at the institution stage presents a compelling unpatentability challenge, that determination alone demonstrates that the PTAB should not discretionarily deny institution under *Fintiv*.” Director’s Memo at 4–5. Petitioner argues that the sixth factor “weighs against denial as the merits of Petitioner’s arguments are compelling.” Pet. 54. Patent Owner argues that the sixth factor “weighs in favor of denial” because “the primary reference Backhaus fails to disclose [several] limitations.” Prelim. Resp. 24; *see* Sur-reply 2–3.

On balance, we determine that *Fintiv* factors 1–5 do not favor discretionary denial of institution. Specifically, we determine that Petitioner’s stipulation and the parties’ minimal investment in the District Court Litigation as to issues of unpatentability outweigh the projected trial

date. As a result, we need not decide whether Petitioner presents a compelling unpatentability challenge. *See CommScope Techs. LLC v. Dali Wireless, Inc.*, IPR2022-01242, Paper 23 at 4–5 (PTAB Feb. 27, 2023) (decision on Director review) (precedential) (“[I]n circumstances where the Board determines that the other *Fintiv* factors 1–5 do not favor discretionary denial, the Board shall decline to discretionarily deny under *Fintiv* without reaching the compelling merits analysis.”).

7. *Summary*

Based on our holistic view of the *Fintiv* factors, we decline to exercise our discretion under § 314(a) to deny the Petition.

III. CONCLUSION

Based on the information presented, we determine Petitioner has established a reasonable likelihood that it would prevail with respect to at least one of the Challenged Claims. Accordingly, we institute an *inter partes* review on all challenges.

IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that, pursuant to 35 U.S.C. § 314(a), an *inter partes* review is instituted as to claims 1–4 of U.S. Patent No. 11,012,554 B2;

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 Order.

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