

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LENNOX INDUSTRIES INC.,

Petitioner,

vs.

ROSEN TECHNOLOGIES LLC,

Patent Owner

Case No. IPR2023-00715

U.S. Patent No. 6,619,555

PATENT OWNER'S PRELIMINARY RESPONSE

* * * *

USE OF EMPHASIS IN QUOTATIONS

All emphases in quotations and exhibit citations have been added, unless otherwise indicated.

APPLICABLE STATUTES

References to 35 U.S.C. §§ 102 and 103 are to the Pre-AIA versions applicable to the '555 Patent.

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	THE '555 PATENT DISCLOSES A THERMOSTAT SYSTEM FOR CONTROLLING SPACE CONDITIONING EQUIPMENT IN COMMUNICATION WITH A REMOTE CORRESPONDENT AND DISPLAYING DIVERSE INFORMATION	1
III.	CLAIM CONSTRUCTION	4
A.	LEVEL OF ORDINARY SKILL IN THE ART	5
B.	“A PROGRAM STORED IN SAID MEMORY FOR DISPLAYING MESSAGES RECEIVED FROM SAID REMOTE CORRESPONDENT”	6
IV.	THE <i>FINTIV</i> FACTORS FAVOR DISCRETIONARY DENIAL UNDER § 314(A).....	8
A.	Factor 1 –The District Court is Has Not Stayed the Parallel Litigation.	8
B.	Factor 2 – The Expected Trial Date Is Neutral.	9
C.	Factor 3 – The Northern District of Texas, Patent Owner and Lennox Have Significantly Invested in the Parallel Litigation, Favoring Denial.	9
D.	Factor 4 – The Significant Overlap Between Issues Raised in this Proceeding and the Parallel Litigation Favors Denial.	10
E.	Factor 5 – The Patent Owner and Petitioner Are Parties to the Parallel Litigation.	11
F.	Factor 6 – Additional Circumstances Favor Discretionary Denial....	12
V.	PETITIONER’S GROUND 1 FAILS TO ESTABLISH <i>SHAMOON</i> IN VIEW OF <i>RAINER</i> RENDERS OBVIOUS LIMITATIONS OF CLAIMS 18.	14
A.	Overview of Shamoan (Ex-1004)	14
B.	Overview of Rainer (Ex-1005).....	14

C.	<i>Shamoon</i> in combination with <i>Rainer</i> Do not Teach or Render Obvious at Least Element 18[d] of Independent Claim 18.....	15
D.	<i>Shamoon</i> in combination with <i>Rainer</i> Do Not Teach or Render Obvious Additional Limitations of claim 20.	16
VI.	PETITIONER’S GROUND 2 FAILS TO ESTABLISH <i>INOUE</i> IN VIEW OF <i>PETERS</i> AND <i>WEATHER.COM</i> RENDERS OBVIOUS LIMITATIONS OF CLAIMS 18 AND 20.....	17
A.	Overview of Inoue (Ex-1006).	17
B.	Overview of Peters (Ex-1007).....	17
C.	Overview of Weather.com (Ex-1008).....	18
D.	<i>Inoue</i> in combination with <i>Peters and weather.com</i> Do Not Disclose a Thermostat System for Controlling Space Conditioning Equipment 18	
E.	There is No Motivation to Combine <i>Inoue</i> and <i>Peters</i> with <i>weather.com</i>	18
F.	<i>Inoue</i> in combination with <i>Peters and weather.com</i> Do Not Teach or Render Obvious Claim Element E of independent claim 18.	19
G.	<i>Inoue</i> in combination with <i>Peters and weather.com</i> Do Not Teach or Render Obvious Additional Limitations of claim 20.....	20
VII.	PETITIONER’S GROUND 3 FAILS TO ESTABLISH <i>GLORIOSO</i> IN VIEW OF <i>SHAH</i> RENDERS OBVIOUS LIMITATIONS OF CLAIMS 18 AND 20.....	20
A.	Overview of Glorioso (Ex-1009)	20
B.	Overview of Shah (Ex-1010)	21
C.	<i>Glorioso</i> in combination with <i>Shah</i> Do not Teach or Render Obvious at Least Element E of Independent Claim 18.	22
D.	<i>Glorioso</i> in combination with <i>Shah</i> Do Not Teach or Render Obvious Additional Limitations of claim 20.	23
VIII.	CONCLUSION.....	24

I. INTRODUCTION

Petitioner Lennox Industries Inc. (“Lennox” or “Petitioner”) challenges claims 18 and 20 (the “Challenged Claims”) of Patent Owner Rosen Technologies LLC (“Rosen” or “Patent Owner”)’s U.S. Patent No. 6,619,555 (the “’555 Patent”).

All Grounds 1, 2 and 3 asserted by Petitioner fails as the petition relies on prior art combinations that do not include each and every element of the Challenged Claims of the ’555 Patent. Additionally, a POSITA would not be motivated to combine the references of Ground 2.

Furthermore, given the timing for which Petitioner filed the Petition, a full 363 days after Patent Owner filed suit against Petitioner, and the current stage of the litigation against Petitioner, the *Fintiv* factors also weigh in favor of discretionary denial.

Accordingly, Patent Owner Rosen Technologies LLC respectfully requests that the Board deny the petition for *inter partes* review of claims 18 and 20 of the ’555 Patent on the merits and/or under §314(a).

II. THE ’555 PATENT DISCLOSES A THERMOSTAT SYSTEM FOR CONTROLLING SPACE CONDITIONING EQUIPMENT IN COMMUNICATION WITH A REMOTE CORRESPONDENT AND DISPLAYING DIVERSE INFORMATION

At the time of the filing of the ’555 Patent, traditional programmable thermostat systems, fixed position buttons were to be touched in a precise sequence to program set points for programmable time periods. Ex-1001, 1:48-55. The ’555

Patent notes that the “modern thermostat systems may limit, or even make no provision for, user programming. For example, thermostats distributed throughout a large commercial establishment may be programmable only by authorized persons employing special tools or may even have their programs permanently set at the time of manufacturer or installation. These non-programmable thermostat systems do not have a user accessible touch pad (or have no touch pad at all), but may incorporate a user readable display.” Ex-1001, 1:58-64.

More specifically, the '555 Patent disclosed a program stored in a memory of the thermostat system for displaying messages received from a remote correspondent. Among other things, the program reads the current information from the remote correspondent and parse it against key terms stored in the memory to determine if there is a match. If a match is found, the received information is searched for the presence of a “value” associated with the matched term. If the value is found, a alphanumeric message is generated for display by reading the prestored first message component that represents a connotation of the matched key term from the memory and concatenating it with the second message component that represents the value associated with the matched key term. Ex-1001, 4:16-32

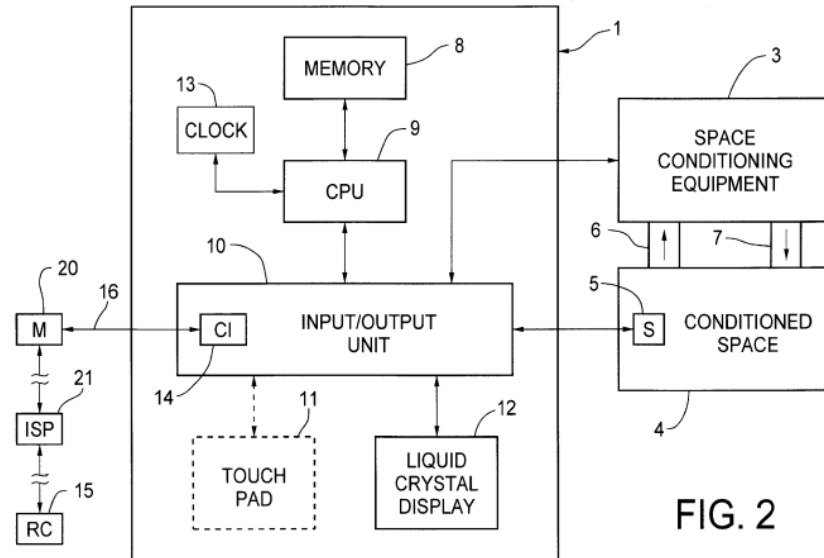
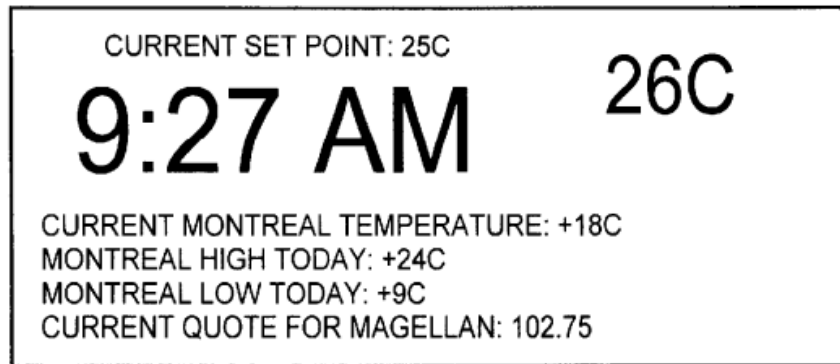


FIG. 2



As an example, assume that Montreal weather is of interest to an occupant of a conditioned space in the Montreal area which uses the subject thermostat system and that “temperature,” “high” and “low” are the key terms for the subject of local weather stored in the memory 8. Periodically, as determined by times stored in the memory 8, the CPU 9 issues signals to access the remote correspondent 15 (a site providing local Montreal weather in the example) and download the current weather information as a data stream. If the CPU finds, by examining and processing the data stream, that the term “temperature” has been received, it looks for the next characters

in the data stream which can be a value associated with “temperature;” e.g., it may quickly find “+18° C.”. With this coupling established, the CPU may access the memory 8 to read the prestored alphanumeric message component “Current Montreal Temperature:” and then concatenate, as a second alphanumeric message component, “18 C” and then send the complete message to the LCD 12 which displays: “CURRENT MONTREAL TEMPERATURE: 18° C.”. Ex-1001, 4:40-59

III. CLAIM CONSTRUCTION

In the present case, Patent Owner and Petitioner filed their respective opening claim construction briefs on April 20, 2023. Patent Owner and Petitioner filed their respective response claim construction briefs on May 11, 2023.

The standard for claim construction in an *inter partes* review proceeding is the same as that for a district court. 37 C.F.R. § 42.100(b). Claim construction is “simply a way of elaborating the normally terse claim language in order to understand and explain, but not to change, the scope of the claims.” *DeMarini Sports, Inc. v. Worth, Inc.*, 239 F.3d 1314, 1322-23 (Fed. Cir. 2001) (quoting *Embrex, Inc. v. Serv. Eng g Corp.*, 216 F.3d 1343, 1347 (Fed. Cir. 2000); *see also Markman v. Westview Instruments, Inc.*, 517 U.S. 370 (1996)). An inventor particularly points out and distinctly identifies the subject matter of the invention in the claims, and no one, including the Court, can change the invention through claim construction. *See K-2 Corp. v. Salomon S.A.*, 191 F.3d 1356, 1365 (Fed. Cir. 1999)

(citing *Autogiro Co. of Am. v. United States*, 384 F.2d 391, 396 (Ct. Cl. 1967); *Digital Biometrics, Inc. v. Identix, Inc.*, 149 F.3d 1335, 1344 (Fed. Cir. 1998).

In the District Court, the Parties disputed 6 terms in the '555 Patent and said that 35 U.S.C. § 112, ¶6 should apply for all 6. For the purposes of the Petition, the Petitioner has agreed to apply the following construction. Petition at 7

Limitation	Structure and Function
“means coupling said communications interface and said first remote correspondent;”	Function: coupling the communications interface and the remote correspondent Structure: a serial link and/or data link and any equivalents EX1001, Fig. 1, 4:4-15, 6:1-18

A. LEVEL OF ORDINARY SKILL IN THE ART

Plaintiff contends that a person having ordinary skill in the art of the inventions of the Patents-in-Suit (a “POSITA”) would have at a bachelor’s degree in engineering, computer science, or a comparable field, with at least 2 years’ experience in temperature controls, embedded control systems, electronic thermostats, or HVAC controls, or similarly relevant industry experience, with relevant experience substituting for education and vice versa.

B. “A PROGRAM STORED IN SAID MEMORY FOR DISPLAYING MESSAGES RECEIVED FROM SAID REMOTE CORRESPONDENT”

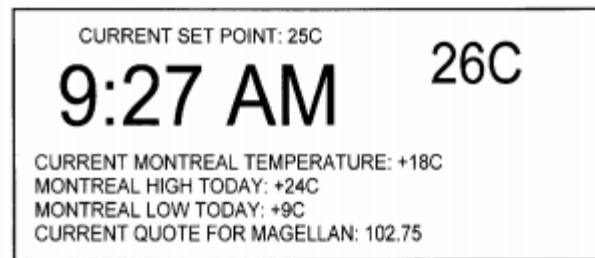
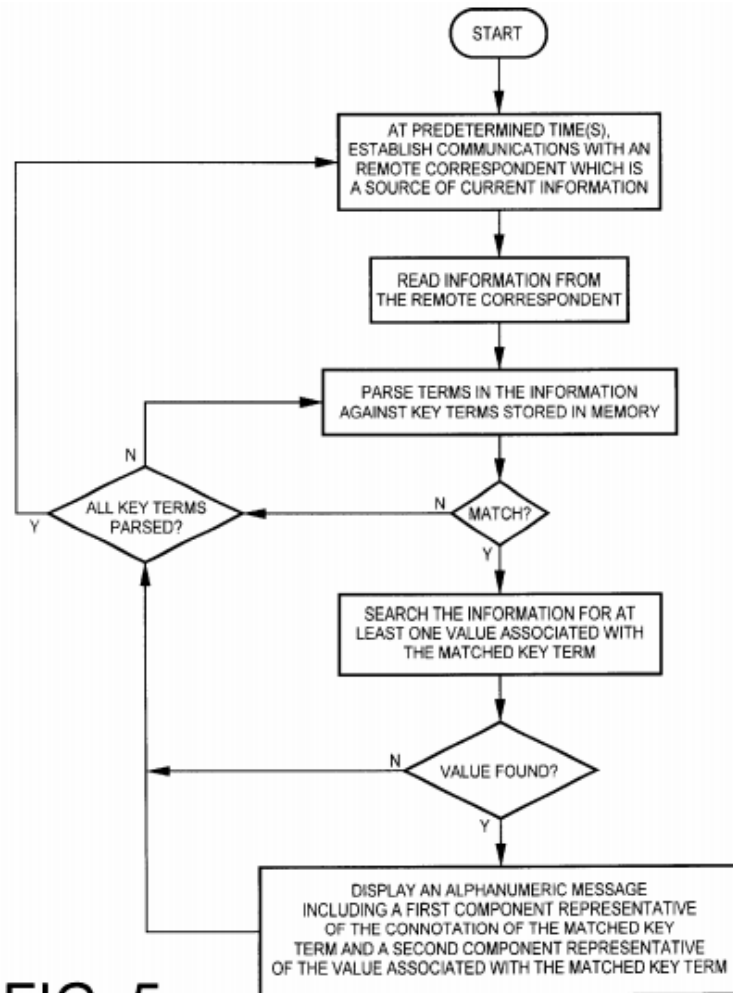
For the purpose of this preliminary response, Patent Owner agrees that this term should be construed under 35 U.S.C. § 112, ¶6 and has adopted Petitioner’s proposed function, but disputes the proper structure which Petitioner argues is indefinite. Patent Owner has proposed the following construction:

<u>Limitation</u>	<u>Structure and Function</u>
“a program stored in said memory for displaying messages received from said remote correspondent;”	Function: displaying messages received from said remote correspondent Structure: the algorithm disclosed in Ex-1001, Fig. 5; 4:40-59, 4:16-31, or equivalents

The ’555 Patent recites that to display message received from the remote correspondent, the program reads the current information from the remote correspondent and parse it against key terms stored in the memory to determine if there is a match. If a match is found, the received information is searched for the presence of a “value” associated with the matched term. If the value is found, a alphanumeric message is generated for display by reading the prestored first message component that represents a connotation of the matched key term from the memory and concatenating it with the second message component that represents

the value associated with the matched key term. Ex-1001, FIGs. 5-6, 4:16-32; 4:40-

65



12

FIG. 6

IV. THE *FINTIV* FACTORS FAVOR DISCRETIONARY DENIAL UNDER § 314(A).

The Board may also exercise its §314(a) discretion to deny institution because this proceeding would not promote the efficient and conclusive resolution of the pending litigation dispute regarding the '555 Patent. Lennox is the real party in interest and the litigation is ongoing.

The Director has discretion to deny institution under 35 U.S.C. § 314(a). The Board's precedential decisions in *NHK Spring Co., Ltd. v. Intri-Plex Technologies, Inc.* and *Apple Inc. v. Fintiv Inc.* explain that the Board should consider "whether efficiency, fairness, and the merits support the exercise of authority to deny institution."¹ As shown below, a majority of *Fintiv*'s factors support the Board's exercise of discretionary denial because efficiency, fairness, and the merits don't support institution.

A. Factor 1 –The District Court is Has Not Stayed the Parallel Litigation.

As mentioned earlier, there is a pending District Court litigation involving the '555 Patent as well as 4 other patents asserted by Patent Owner against Lennox ("Lennox Litigation"). Lennox initially filed a Motion to Stay Pending IPR, this

¹ IPR2018-00752, Paper 8 (P.T.A.B. Sept. 12, 2018) (designated precedential); IPR2020-00019, Paper 11 at 5 (P.T.A.B. Mar. 20, 2020) (designated precedential).

was denied by the Court in the Pending. Subsequently, the Parties jointly filed a Motion to Stay, however, as of the date of this POPR, the Court has not stayed the litigation.

B. Factor 2 – The Expected Trial Date Is Neutral.

This factor is neutral. The Board is unlikely to issue a final written decision for this proceeding before April 2024. The district court, however, has scheduled the parallel litigation’s final pretrial materials due by May 13, 2024.²

Accordingly, because the deadline for the Board’s final written decision is right before the scheduled trial timeline, this factor is neutral.

C. Factor 3 – The Northern District of Texas, Patent Owner and Lennox Have Significantly Invested in the Parallel Litigation, Favoring Denial.

This factor weighs in favor of discretionary denial. Rosen submitted infringement contentions November 21, 2022, and Lennox submitted their invalidity contentions on December 15, 2022. All claim construction briefings were submitted, and a claim construction ruling is expected shortly.

This expenditure of resources was avoidable. Patent Owner filed the complaint in the parallel litigation on March 31, 2022. Petitioner waited 363 days from the filing of the Lennox Complaint to file this Petition on March 29, 2023.

² Ex-1011 (NDTX Scheduling Order).

During that year, Rosen and Lennox expended significant resources (and continue to do so). The Board has found that this weighs in favor of discretionary denial.³

Even if Petitioner had diligently filed its petition in a timelier manner, this factor would still weigh in favor of discretionary denial. As explained, diligence in filing the petition does not overcome the concern over expended resources in the parallel litigation.⁴ And even the remaining work before trial isn't significant enough to overcome the extensive efforts already exerted by the parties and the court.⁵

Accordingly, because Patent Owner, Petitioner and the district court have expended significant resources in the parallel litigation, this factor weighs against institution.

D. Factor 4 – The Significant Overlap Between Issues Raised in this Proceeding and the Parallel Litigation Favors Denial.

This factor weighs in favor of discretionary denial. If the Board institutes this proceeding, significant overlap will occur. For example, as Lennox's invalidity

³ *Immersion Sys. LLC v. Midas Green Techs., LLC*, PGR2021-00104, Paper 15 at 10 (P.T.A.B. Jan. 31, 2022) (internal quotation and citation omitted).

⁴ *Verizon Business Net. Servs. LLC v. Huawei Techs. Co. Ltd.*, IPR2020-01278, Paper 12 at 11 (P.T.A.B. Jan. 26, 2021) (weighing claim construction and Markman hearing favored exercise discretion despite Petition's filing date only 2 months after service) (internal citations omitted).

⁵ *NXP USA, Inc. v. Impinj, Inc.*, IPR2021-01556, Paper 10 at 8-9 (P.T.A.B. Apr. 21, 2022) (internal citations omitted).

contentions show, the parties will still be expending efforts to address the following overlapping obviousness arguments in the parallel litigation that are based on Grounds 1-3

- Petitioner has cited Shamoon and Rainer against the '555 Patent in the Lennox Litigation
- Petitioner has cited Inoue and Peters and weather.com against the '555 Patent in the Lennox Litigation
- Petitioner has cited Glorioso and Shah against the '555 Patent in the Lennox Litigation

Further, institution would open the door to conflicting and inefficient rulings regarding validity. Accordingly, because of the significant overlap and duplicative rulings, this factor weighs against institution.

E. Factor 5 – The Patent Owner and Petitioner Are Parties to the Parallel Litigation.

The Board has consistently found parallel proceedings with the same parties to weigh in favor of exercising discretion to deny institution.⁶ There is no dispute that Petitioner and Patent Owners are the only parties to the parallel litigation.

⁶ *Immersion Systems LLC v. Midas Green Technologies, LLC*, PGR2021-00104, Paper 15 at 15 (P.T.A.B. Jan. 31, 2022); *eClinicalWorks, LLC, Medical Software Solutions, Inc., and NextGen Healthcare, Inc. v. Decapolis LLC*, IPR2022-00229,

As such, this factor weighs in favor of denial.

F. Factor 6 – Additional Circumstances Favor Discretionary Denial.

This factor favors discretionary denial. Among the additional factors considered are the merits of the proposed grounds and the necessity for third party discovery. Both considerations favor discretionary denial.

i. The Weakness of Grounds 1-2 Weighs Against Institution.

“Although we need not undertake a full merits analysis when evaluating *Fintiv* Factor 6, we consider the strengths and weaknesses of Petitioner’s case, where stronger merits may weigh against discretionary denial and weaker merits may favor exercising discretion to deny institution.”⁷ “[I]f the merits of the grounds raised in

Paper 10 (P.T.A.B. Apr. 13, 2022) (weighing even only two of three petitioner’s status in parallel proceeding as favoring discretionary denial); *NXP USA, Inc. v. Impinj, Inc.*, IPR2021-01556, Paper 10 at 10 (P.T.A.B. Apr. 21, 2022); *cf. TCO AS v. NCS Multistage Inc.*, PGR2020-00078, Paper 16 at 11 (P.T.A.B. Feb. 18, 2021) (weighing petitioner’s absence from parallel proceedings against discretion).

⁷ *Immersion Systems LLC v. Midas Green Technologies, LLC*, PGR2021-00104, Paper 15 at 16 (P.T.A.B. Jan. 31, 2022) (weighing weak disclosures and lack of motivation to combine for exercising discretion to deny); *TCO AS v. NCS Multistage Inc.*, PGR2020-00078, Paper 16 at 22-27 (P.T.A.B. Feb. 18, 2021) (weighing failure to map prior art disclosures to claims sufficiently and weak proposed grounds weighed in favor of exercising discretion).

the petition are a closer call, then that fact has favored denying institution when other factors favoring denial are present.”⁸

As discussed above in Section III, the three proposed grounds fail to disclose at least “program stored in said memory for displaying messages received from said remote correspondent.”

Accordingly, the merits of the proposed grounds aren’t “sufficiently strong to override the concerns about duplication of effort by the Board and the district court.”⁹ As a result, this factor weighs heavily against institution.

* * * *

In sum, five of the six *Fintiv* factors (Factors 1, 3-6) weigh against institution, one factor (Factor 2) is neutral. Accordingly, Patent Owner respectfully requests that the Board discretionarily deny this petition under §314(a).

⁸ *Fintiv* at 15.

⁹ *Immersion Systems LLC v. Midas Green Technologies, LLC*, PGR2021-00104, Paper 15 at 16 (P.T.A.B. Jan. 31, 2022) (weighing weak disclosures and lack of motivation to combine for exercising discretion to deny); *TCO AS v. NCS Multi-stage Inc.*, PGR2020-00078, Paper 16 at 22-27 (P.T.A.B. Feb. 18, 2021) (weighing failure to map prior art disclosures to claims sufficiently and weak proposed grounds weighed in favor of exercising discretion).

V. PETITIONER’S GROUND 1 FAILS TO ESTABLISH *SHAMOON* IN VIEW OF *RAINER* RENDERS OBVIOUS LIMITATIONS OF CLAIMS 18.

A. Overview of Shamoon (Ex-1004)

Shamoon is a published application titled “Thermostat and remote control system and method.” *Shamoon* is directed primarily to a thermostat and remote control apparatus and its components such as a housing, display screen, icons, recessed program, electric cradle, enter and clear buttons, microcontroller, serial and parallel ports, such as universal serial bus port (USB), RS-232 ports etc. The primary objective of *Shamoon* is to provide the ability to control a thermostat remotely. Ex-1004, Abstract, [0019], [0020]

Shamoon was primarily concerned with the thermostat and remote control apparatus, including its various components and functionalities, but as discussed in detail below, *Shamoon* failed to disclose or render obvious elements of the Challenged Claims.

B. Overview of Rainer (Ex-1005)

Rainer is a patent titled “Integrated ventilation cooling system.” *Rainer* is directed primarily to an apparatus and technique for regulating temperature in buildings. The primary objective of *Rainer* is to provide an integrated assembly of devices for providing and controlling building heating, ventilation cooling, fresh air ventilation, and air conditioning. Ex-1005, Abstract, 1:7-10

Rainer generally disclosed retrieving of weather information from the internet for control and display purposes Ex-1005 4:31-34, but as discussed in detail below, *Rainer* failed to disclose or render obvious elements of the Challenged Claims.

C. *Shamoon* in combination with *Rainer* Do not Teach or Render Obvious at Least Element 18[d] of Independent Claim 18.

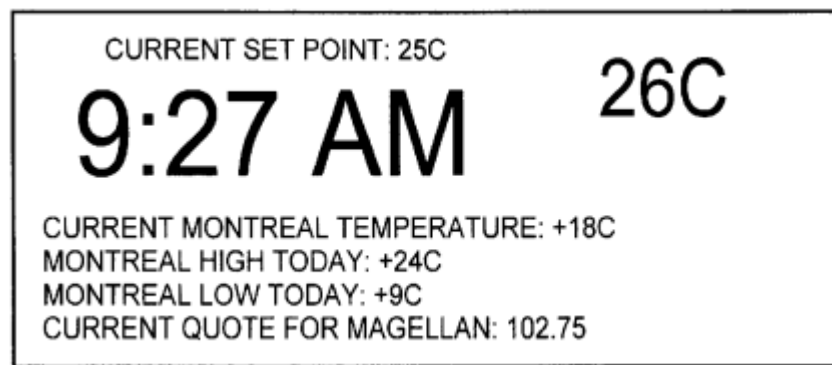
Element 18(d) of claim 18 recites the following:

E) a program stored in said memory for displaying messages received from said first remote correspondent, which received messages do not pertain to the operation of said thermostat system, on said liquid crystal display.

Shamoon in combination with *Rainer* disclose only that “current utility price information” and “weather predictions” may be obtained thru the communications link. However, does not disclose that “displaying messages.. messages do not pertain to the operation of said thermostat system, on said liquid crystal display.” *Rainer* is silent on whether the exact information obtained in the messages are displayed on the liquid crystal display.

Furthermore, in view of the structure of the term “a program stored in said memory for displaying messages received from said first remote correspondent,” *Shamoon* in combination with *Rainer* further do not disclose this element. The program of the '555 Patent does not display every message on the LCD. Rather, The '555 discloses a program stored in a memory to read the current information from the remote correspondent and parse it against key terms stored in the memory

to determine if there is a match. If a match is found, the received information is searched for the presence of a “value” associated with the matched term. If the value is found, a alphanumeric message is generated for display by reading the prestored first message component that represents a connotation of the matched key term from the memory and concatenating it with the second message component that represents the value associated with the matched key term. Ex-1001, 4:40-59, 4:16-31



Neither *Shamoon* nor *Rainer* disclose this element based on a means plus function construction.

D. *Shamoon* in combination with *Rainer* Do Not Teach or Render Obvious Additional Limitations of claim 20.

Likewise, dependent claim 20 further recites “communications between said first remote correspondent and said communications interface is carried out via the Internet.” Parroting the obvious, since *Shamoon* in combination with *Rainer* fails with respect to independent claims 18, *Shamoon* in combination with *Rainer* also fails with respect to dependent claim 20.

VI. PETITIONER’S GROUND 2 FAILS TO ESTABLISH *INOUE* IN VIEW OF *PETERS* AND *WEATHER.COM* RENDERS OBVIOUS LIMITATIONS OF CLAIMS 18 AND 20.

A. Overview of *Inoue* (Ex-1006).

Inoue is a patent titled “Software-based temperature controller circuit in an electronic apparatus.” *Inoue* is directed primarily to a temperature controller circuit in an electronic apparatus such as a computer device. The primary objective of *Inoue* is to control temperature in the electronic apparatus by changing the operation of a central processing unit (CPU) based on an information signal identifying the status of a cooling device such as a cooling fan installed within the computer device. Ex-1006, Para [0001].

The petitioner considers *Inoue*’s laptop as a thermostat system as the laptop is controlling the temperature inside the laptop via a temperature sensor using the CPU. The CPU controls the temperature by controlling a cooling fan, but as discussed in detail below, *Inoue* failed to disclose or render obvious elements of the Challenged Claims.

B. Overview of *Peters* (Ex-1007)

Peters is a patent titled “Independently controlling passive and active cooling in a computer system.” *Peters* is directed primarily to a computer system having thermal control logic that independently controlling passive and active cooling in the computer system in response to processor temperature. *Peters* discloses a

temperature sensor that measures the temperature outside of a CPU. EX1007, Abstract, 1:16-21, 4:7-31, 5:32-53, 6:12-21

The petitioner considers *Peters* laptop as a “thermostat system” as the laptop controls temperature using thermal control logic that responds to signals from multiple temperature sensors, but *Peters* failed to disclose or render obvious elements of the Challenged Claims.

C. Overview of Weather.com (Ex-1008)

Weather.com is a website published on January 26, 1997. It is a website that is accessible via the Internet and provides weather data to a requester. However, as discussed in detail below, *weather.com* failed to disclose or render obvious elements of the Challenged Claims.

D. *Inoue* in combination with *Peters* and *weather.com* Do Not Disclose a Thermostat System for Controlling Space Conditioning Equipment

The '555 Patent and the preamble to the claim 18 is directed entirely to a novel HVAC system. The apparatus of *Inoue* and the system of *Peters* are directed to purely a computer CPU cooling device and are non-analogous art.

E. There is No Motivation to Combine *Inoue* and *Peters* with *weather.com*.

Both *Inoue* and *Peters* are directed purely to a computer CPU cooling device. Whereas the *weather.com* website is just that, a website for one to look up weather information. There is no suggestion or teaching to combine standalone computer

fan systems which do not use or require an internet connection to operate with a website.

F. *Inoue* in combination with *Peters and weather.com* Do Not Teach or Render Obvious Claim Element E of independent claim 18.

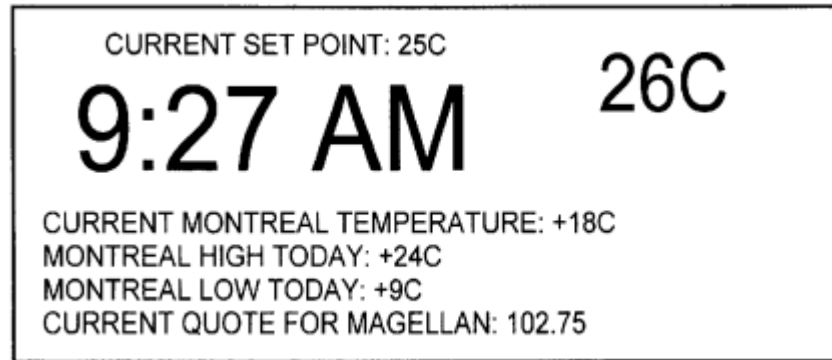
Element E of claim 18 recites the following:

E) a program stored in said memory for displaying messages received from said first remote correspondent, which received messages do not pertain to the operation of said thermostat system, on said liquid crystal display.

The program disclosed in *Inoue* and *Peters* is an application (e.g., browser application) that is used to access weather.com for fetching weather data on a computer device's screen.

Furthermore, in view of the structure of the term “a program stored in said memory for displaying messages received from said first remote correspondent,” *Shamoon* in combination with *Rainer* further do not disclose this element. The program of the '555 Patent does not display every message on the LCD. Rather, The '555 discloses a program stored in a memory to read the current information from the remote correspondent and parse it against key terms stored in the memory to determine if there is a match. If a match is found, the received information is searched for the presence of a “value” associated with the matched term. If the value is found, a alphanumeric message is generated for display by reading the prestored first message component that represents a connotation of the matched key term from

the memory and concatenating it with the second message component that represents the value associated with the matched key term. Ex-1001, 4:40-59, 4:16-31



Neither *Inoue*, *Peters*, nor *weather.com* disclose this structure or an equivalent as construed.

G. *Inoue* in combination with *Peters* and *weather.com* Do Not Teach or Render Obvious Additional Limitations of claim 20.

Likewise, dependent claim 20 further recites “communications between said first remote correspondent and said communications interface is carried out via the Internet.” Parroting the obvious, since *Inoue* in combination with *Peters* and *weather.com* fail with respect to independent claims 18, *Inoue* in combination with *Peters* and *weather.com* also fail with respect to dependent claim 20.

VII. PETITIONER’S GROUND 3 FAILS TO ESTABLISH *GLORIOSO* IN VIEW OF *SHAH* RENDERS OBVIOUS LIMITATIONS OF CLAIMS 18 AND 20.

A. Overview of *Glorioso* (Ex-1009)

Glorioso is a published application titled “Smart thermostat having a transceiver interface.” *Glorioso* is directed primarily to a smart thermostat system for controlling energy usage for a cooling/heating device. The primary objective of

Glorioso is to provide a two-way communication between the thermostat's signal transceiver and an energy provider. Abstract, 1:43-48

Glorioso was primarily concerned with the integration of thermostat systems to the energy provider for providing information to the energy provider to predict effect of a change in the price of energy upon the demand for energy or for verifying that an action effecting the demand has taken place. Ex-1009, 1:43-48 But as discussed in detail below, *Glorioso* failed to disclose or render obvious elements of the Challenged Claims.

B. Overview of Shah (Ex-1010)

Shah is a patent titled "Multiple language user interface for thermal comfort controller." Shah is directed primarily to a user interface system for thermostats or other thermal comfort controllers and also includes control algorithms. The primary objective of *Shah* was not controlling of the cooling/heating device but relating to multi-language user interface for the thermostat. Ex-1010, 1:6-8, 3:1-8, 3:20-33, Abstract

Shah generally disclosed additional controls on a display unit such as a control to review the schedules, one to program new schedules, and one to manually control the heating or cooling of the house. Ex-1010, 3:21-33 But as discussed in detail below, *Shah* failed to disclose or render obvious elements of the Challenged Claims.

C. *Glorioso* in combination with *Shah* Do not Teach or Render Obvious at Least Element E of Independent Claim 18.

Element E of claim 18 recites the following:

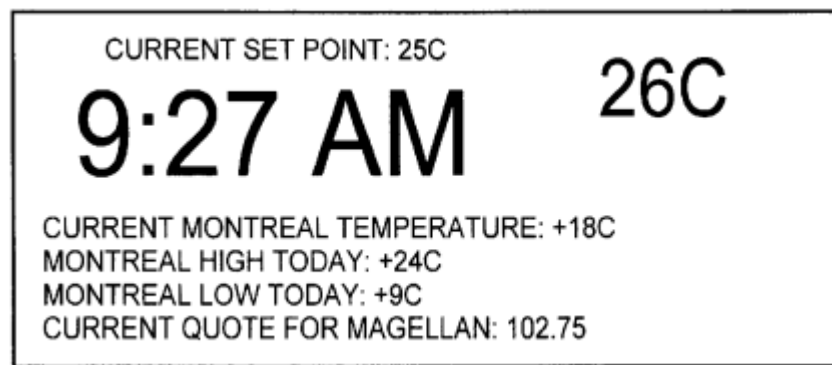
E) a program stored in said memory for displaying messages received from said first remote correspondent, which received messages do not pertain to the operation of said thermostat system, on said liquid crystal display.

Ground 3 is based on *Glorioso* in combination with *Shah*, the Petition relies heavily on this combination to support that the element E is disclosed or rendered obvious. However, as shown below, *Glorioso* in combination with *Shah* does not disclose a program stored in said memory for displaying messages received from said first remote correspondent as claimed in Element E.

The program disclosed in *Glorioso* and *Shah* is used to display “outages, announcements, promotions, or the like” to a thermostat’s user interface. However, ‘555 does not disclose that the information fetched from the internet is directly displayed on the thermostat’s user interface.

Furthermore, in view of the structure of the term “a program stored in said memory for displaying messages received from said first remote correspondent,” *Shamoon* in combination with *Rainer* further do not disclose this element. The program of the ‘555 Patent does not display every message on the LCD. Rather, The ‘555 discloses a program stored in a memory to read the current information from the remote correspondent and parse it against key terms stored in the memory

to determine if there is a match. If a match is found, the received information is searched for the presence of a “value” associated with the matched term. If the value is found, an alphanumeric message is generated for display by reading the prestored first message component that represents a connotation of the matched key term from the memory and concatenating it with the second message component that represents the value associated with the matched key term. Ex-1001, 4:40-59, 4:16-31



Neither *Glorioso* and *Shah* disclose this structure or an equivalent as construed.

D. *Glorioso* in combination with *Shah* Do Not Teach or Render Obvious Additional Limitations of claim 20.

Likewise, dependent claim 20 further recites “communications between said first remote correspondent and said communications interface is carried out via the Internet.” Parroting the obvious, since *Glorioso* in combination with *Shah* fail with respect to independent claims 18, *Glorioso* in combination with *Shah* also fail with respect to dependent claim 20.

VIII. CONCLUSION

The Board should exercise its discretion to deny the petition on the merits and/or *Fintiv* grounds.

Respectfully Submitted,

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CERTIFICATE OF COMPLIANCE

Per 37 C.F.R. §42.24(a) and (d), the undersigned hereby certifies that the Petition complies with the type-volume limitation of 37 C.F.R. §42.24(a)(i) because, exclusive of exempted portions, it contains 4955 words as counted by the word-processing program used to prepare it.

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that the above-captioned Mandatory Notice was served on counsel of record for the Petitioner by filing this document through the Patent Review Processing System as well as by delivering a copy via electronic mail to:

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