

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FOURSQUARE LABS, INC.,
Petitioner

v.

BOARDACTIVE CORPORATION,
Patent Owner.

U.S. PATENT NO. 10,621,620 B2
Title: PLATFORM FOR LOCATION AND TIME BASED ADVERTISING

IPR2023-00918

PATENT OWNER'S RESPONSE
UNDER 37 C.F.R. § 42.120

February 22, 2024

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<i>Univ. of Strathclyde v. Clear-Vu Lighting LLC</i> , 17 F.4th 155 (Fed. Cir. 2021)	22
<i>Vitronics Corp. v. Conceptronic, Inc.</i> , 90 F.3d 1576 (Fed. Cir. 1996)	10

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Exhibit	Title
1001	U.S. Patent No. 10,621,620 to Pittman (“Pittman”)
1002	Declaration of Dr. Steven Goldberg, Ph.D.
1003	Petitioner’s Power of Attorney
1004	U.S. Patent Application Publication No. 2015/0095124 (“Verizon”)
1005	U.S. Patent Application Publication No. 2016/0309292 (“Kerr”)
1006	U.S. Patent Application Publication No. 2015/0262214 (“Geer”)
1007	International Publication No. WO 2017/079838 A1 (“Muhire”)
1008	U.S. Patent No. 9,094,137 (“Sehn”)
1009	European Patent Publication No. 2424278 A1 (“Alcatel”)
2001	U.S. Patent No. 10,621,620 file history

I. INTRODUCTION

The '620 patent, titled “Platform for Location and Time Based Advertising,” relates generally to digital advertising and provides a stand-alone application, API (application programming interface), or SDK (software development kit), configured to: i) register digital assets, physical assets, virtual assets, brand assets, media assets, and mobile assets, ii) associate content to be delivered in response to an activation of those assets, iii) specify triggers for delivering content to targeted consumer profiles, iv) engage the consumer at the right time/place with the targeted profile, and v) track user engagement and provide analytics on consumer engagement. *See* Exh. 1001, Abstract.

Contrary to the Petition, nothing in the art anticipated or rendered obvious this approach. To confuse the issue, the Petition focuses on “the use of location information in determining advertising content distribution, which may additionally consider other factors such as proximity or time.” Exh. 1002 (Petition for IPR) at 5. While these are part of the claimed invention, the Petition fails to recognize the inventive concepts outlined above. Because of this fundamental error in the Petition, and the failure of the Petition’s cited references, individually or when combined, to teach claim elements 1(c)(ii), 1(h), 28(c)(ii), 28(f), 29(c)(ii), and 29(f) of the independent claims 1, 28, and 29, as well as various other deficiencies described

below, the Petition should be denied, and the validity of the claims should be confirmed.

II. PERSON OF ORDINARY SKILL IN THE ART

For the purposes of this proceeding, Patent Owner accepts the Decision to Institute’s definition of a person of ordinary skill in the art (“POSITA”) as one who “would have had a Bachelor of Science Degree in Computer Science, Electrical Engineering, Computer Engineering or equivalent, and about two to three years of practical experience.” Exh. 1003 (Decision Granting Institution of IPR) (DTI) at 15. Also, “[a]dditional experience may substitute for specific education, or specific education may substitute for experience.” *Id.* at 15-16.

III. BACKGROUND

A. State of the Art Prior to Filing of the ’620 Patent

Prior to filing of the ’620 Patent, there was a need in the market for improved methods and systems for advertising in outdoor and indoor locations. Outdoor advertising was then, as it is now, a common and powerful mode of disseminating information to users. Typically, outdoor advertising involved the use of signage (e.g., a billboard, T.V., or other viewable advertisements) installed at public places such as roadways, bus and train stations, airports, malls, parking spaces, etc. Further, these signs are typically managed by an advertising agency that rents the sign to

different advertisers for a predetermined time period. In recent years, the same technique has been applied to online advertising.

While traditional signage has proven to be a viable method of advertising over the years, it nevertheless had several shortcomings. For example, adverse weather such as fog, rain, etc., greatly hampers the visibility of nearby viewers. Also, traditional signs require illumination in dark conditions, i.e., at night, which increases cost. Furthermore, viewers are often bombarded with distracting visuals such as trees, buildings, etc., partially or completely blocking and or distracting the viewer from the advertisement. Moreover, signs are oftentimes placed along highways, where viewers are moving at highway speeds, and are (hopefully) focused on the road. Because of these shortcomings, traditional methods failed to leave the desired impression upon the viewer.

In addition to its shortcomings to viewers, the prior art also left much to be desired for the advertisers. For example, the advertiser was unable to determine the reach and/or accuracy of their advertisement because the advertiser did not have a means for collecting or assessing any analytical information relating to consumption and usage of the advertisements on the sign. In other words, advertisers could not know if the advertisement actually worked. Absent such information, advertisers using traditional signs were at a disadvantage because they could not change their advertisements based on consumer response.

The '620 Patent provides an effective solution to these problems.

B. U.S. PATENT NO. 10,621,620

The '620 Patent, titled "Platform for Location and Time Based Advertising," issued on April 14, 2020, which is a continuation-in-part of U.S. application 15/483,790, filed on April 10, 2017, titled "A Platform for Location and Time Based Advertising," which issued on December 31, 2019, as U.S. Patent 10,521,822. Exh. 1001, Related U.S. Application Data.

The '620 patent generally relates to a stand-alone application, API, or SDK, configured to i) register digital assets, physical assets, virtual assets, brand assets, media assets, and mobile assets, ii) associate content to be delivered in response to an activation of those assets, iii) specify triggers for delivering content to targeted consumer profiles, iv) engage the consumer having the targeted profile at the right time/place, and v) track user engagement and provide analytics on consumer engagement. *See* Exh. 1001, Abstract.

C. PETITIONER’S PRIOR ART

The Petition relies on seven references: Felt (Verizon),¹ Kerr, Geer, Muhire, Sehn, Adharapurapu (Alcatel),² Cellco (Thaper).³ As shown below, none of those references, alone or in combination, disclose each of the claim limitations of the ’620 Patent.

1. Felt (Exh. 1004)

Felt, an abandoned U.S. patent application publication, is directed to systems and methods “for displaying marketing content at a predetermined location and at a predetermined time.” Ex. 1004, Abstract. While the ’620 Patent delivers personalized content to a consumer and evaluates the efficacy of that messaging, Felt provides advertising content based solely on characteristics concerning the advertisement itself (particular location or time of day) and a potential customer’s proximity to the advertisement. *Id.* at [0018].

¹ In its POPR, Patent Owner identified the patent to Felt by its owner “Verizon” but will adopt the Board’s indicia (“Felt”) moving forward.

² In its POPR, Patent Owner identified the patent to Adharapurapu by its owner “Alcatel” but will adopt the Board’s indicia (“Adharapurapu”) moving forward.

³ In its POPR, Patent Owner identified the patent to Thaper by its owner “Alcatel” but will adopt the Board’s indicia (“Thaper”) moving forward.

Felt also describes two distinct embodiments to delivering content, and as detailed below, the Petition selectively, and improperly, combines components from both embodiments when it suits Petitioner to do so. For example, one embodiment in Felt delivers advertising content to non-consumers such as billboards, vehicular displays, subway cars, trolley cars, and signs. *Id.* at [0021]. In contrast, the '620 Patent delivers advertising content directly to “consumers.”

A second embodiment is to send advertising content directly to a consumer’s mobile device 120. *See, e.g., id.* at [0044]. This embodiment determines whether an advertisement be delivered based on the consumer’s proximity to a display (e.g., a billboard or a vehicular display). *Id.* In contrast, the '620 Patent determines whether an advertisement be delivered after conducting an analysis of the consumer’s “course of travel” and their previously known preferences.

Further, Felt does not provide any means for obtaining and relaying analytical data to advertisers to evaluate the efficacy of its advertising content.

2. Kerr (Exh. 1005)

Kerr is an October 20, 2016 publication of U.S. Patent Application 15/099,855, and it claims priority back to October 3, 2011. Exh. 1005, 1. Kerr describes itself as “a system for delivering targeted content to a wireless handset ... that is communicatively coupled to a network.” Exh. 1005, Abstract. Specifically,

the system transmits content to a handset based on an associated user profile having at least one user attribute. *Id.*; *see also* [0019].

Although Kerr mentions sending text advertisements to a user based on the user's profile preferences, *id.* at [0133], there is no discussion of tracking a user and updating content based on the changing locations of the user.

3. Geer (Exh. 1006)

Geer, patent application publication number US 2015/0262214, claims priority to March 2014, and is directed to a system for social networking at a specific event or venue. Exh. 1005, ¶2. For example, fans attending a sporting event can use an application on a cellular phone to message each other. *Id.*, ¶6. The users of Geer's system are already present at an event or venue. *See id.*, ¶¶6–7; *see also id.*, ¶50 (“After the start [], fan [] registers ... to participate in the FNS [] at the event.”). Thus, unlike the '620 patent, the system of Geer is not attempting to influence users to drive to a certain location, nor is it evaluating how successful any advertisements are at steering users to desired locations. In short, Geer is only tenuously related to the field of advertising, and it is wholly unrelated to the invention disclosed in the '620 patent.

4. Muhire (Exh. 1007)

Muhire is an international publication, dated May 18, 2017, with a priority date of November 10, 2015. The field of the invention and background sections

describe Muhire as systems and methods for helping consumers “save, manage their time and maintain a healthy budget.” Exh. 1007, [0001-0002]. One embodiment discloses “an electronic touchscreen device attachable by magnet or other methods, and/or integrated to a refrigerator or other surfaces” that is designed to receive media from a cloud computing server related to saving and budgeting tools. *Id.* at [0007-0008]. There is no description of personalizing content based on a user’s real-time location and travel; rather a user must manually select a location to receive content regarding nearby stores. *Id.* at [0041], [0064], [0079], & Fig. 11.

5. Sehn (Exh. 1008)

Sehn, U.S. Patent No. 9,094,137, titled “Priority Based Placement of Messages in a Geo-Location Based Event Gallery,” issued on July 28, 2015, and was filed on October 24, 2014. *See* Exh. 1008. The Abstract describes a digital “event gallery” in which devices located within a geofence can send messages to the gallery. *Id.*

The event gallery is created “from messages from users within a geo-location fence associated with an event” or from “individuals following an event.” *Id.* at 6:27-30. Thus, Sehn is not directed to delivering personalized advertisements to consumers based on their profiles or their course of travel. In short, Sehn bears little relation to the claimed invention of the ’620 patent.

6. Adharapurapu (Exh. 1009)

Adharapurapu [Alcatel] is a European patent application that claims priority back to 2010. Ex. 1008. Alcatel relies on storing and using “the mobility history” of a mobile device. *Id.*, Abstract & ¶6. When a user passes by a “base station,” and has opted to receive content delivery, the system sends a message like “Road X closed for construction” *Id.*, ¶¶15-18. Nothing in Alcatel discloses tracking multiple positions of a user, or comparing those positions to a predicted course of travel. Moreover, while Alcatel mentions that the content may be advertisements, *id.* at ¶16, there is no disclosure of personalizing the content based on the user’s expected course of travel or their proximity to a specific billboard or store. Nor is there any mention of evaluating the effectiveness of any advertisement sent to the user. Furthermore, the alleged direction is merely a history of base stations the mobile unit connects with (i.e., cellular coverage) during travel. *Id.* at ¶22. No direction is provided and simply connecting to a base station only gives a geographic area in which the mobile unit may be. Identification of potential next geographic area is identified by historical data. *Id.*

7. Thaper (Cellco) (Exh. 1010)

Thaper, U.S. Patent No. 8,391,886, is titled “Systems and Methods for Providing Mobile Handset Position to Software Applications.” Exh. 1010. It issued on March 5, 2013, but was filed back on July 14, 2010. As the name suggests,

Thaper is directed to methods for providing location information of a mobile device (*e.g.*, smartphones) to software applications on the device. *Id.* at Abstract.

As an example of prior art software that Thaper claims to improve upon, it describes applications that permit parents to keep tabs on their children's locations or friends and family members to monitor each other's locations. *Id.* at 1:39-59. Thaper makes no disclosures or references concerning digital advertising, let alone the personalization of digital advertising, and thus it bears no relevance to the claimed invention of the '620 patent.

IV. CLAIM CONSTRUCTION

In construing patent claims, the Court first looks to the intrinsic record which consists of the claim language, the patent specification, and, the patent's prosecution history. *See Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005). Intrinsic evidence is the most important resource in determining the operative meaning of disputed claim language, and usually will resolve any ambiguity concerning that language. *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582-83 (Fed. Cir. 1996). Indeed, “[i]n those cases where the public record unambiguously describes the scope of the patented invention, reliance on any extrinsic evidence is improper.” *Id.* at 1583. Where the claim language is clear on its face and susceptible of a clear and unambiguous plain meaning and scope, and in the absence in the intrinsic record of any clear deviation or contradiction, or clear intent by the inventor to be his or her

own lexicographer, the inquiry need go no further. *See Interactive Gift Express, Inc. v. Compuserve, Inc.*, 256 F.3d 1323, 1331 (Fed. Cir. 2001)..

In its Preliminary Response, Patent Owner proposed that the claim term “consumer” be construed to mean “a user or person to whom an advertisement is sent to elicit engagement.” POPR at 11-12. In the DTI, the Board found that proposed construction was too narrow because it would exclude those who are not sent an advertisement “to elicit engagement.” DTI at 14-15. As such, Patent Owner proposes that “consumer” be construed to mean “a user or person to whom an advertisement may be sent.”

V. THE CLAIMS OF THE '620 PATENT ARE NEITHER ANTICIPATED NOR OBVIOUS

The Petition fails to meet the requirements of 37 C.F.R. § 42.104(b)(4) because it fails to specify where each element of the '620 patent claims is found in the prior art. To the extent that Petitioner has some theory, Petitioner should have explained that theory in its Petition, rather than merely providing mere string citations. *See, e.g., Trading Techs. Int'l, Inc. v. IBG LLC*, 921 F.3d 1378, 1385 (Fed. Cir. 2019) (holding that a conclusory assertion with no analysis was not adequately developed). Despite Petitioner's inadequate explanation, the Board should determine that the claims of the '620 patent are patentable because none of

Petitioner's grounds renders the claims of the '620 patent claim anticipated or obvious.

A. GROUND I: Anticipation of Claims 28 and 29 by Felt

A prior art reference is anticipatory only if it teaches each and every element of the claimed invention, as arranged in the claim. *See Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 U.S.P.Q. 193, 198 (Fed. Cir. 1983). Thus, Patent Owner need only show that a single element is missing from the reference to overcome anticipation.

Felt describes two different and distinct approaches to delivering content. The first is delivery of content to a consumer, and the second is delivery of content to a non-consumer, such as a billboard or a van displaying advertisements. The Petition improperly cherry-picks elements from the different distinct approaches while ignoring the actual teachings and description contained in Felt and the claim as specifically limited. *See BlephEx, LLC v. Myco Indus., Inc.*, 24 F.4th 1391, 1400–02 (Fed. Cir. 2022) (“[I]t is not enough that the prior art reference includes multiple, distinct teachings that the artisan might somehow combine to achieve the claimed invention to show anticipation.”).

1. Independent Claim 28 — “A method comprising:”

The Petitioner has failed to meet its burden of establishing this all of the elements are present in Felt, and claim 28 is therefore not anticipated by Felt.

Likewise, neither the Petition nor the Declaration (Ex. 1002) provide any evidence that a POSITA would modify the teachings of Felt to arrive at the claimed invention, hence, the claim also is not obvious over Felt.

a. [28(a)] registering asset data, wherein

[28(a)] registering the asset data comprises at least one of the following:

[28(a)(i)] registering a first geolocation associated with one of the following:

[28(a)(i)(1)] a physical asset, and

[28(a)(i)(2)] a virtual asset;

Petitioner lumps (using Petitioner's element labeling) "[e]lement 28(a), 28(a)(i)-(iii)" together. *See* Pet. 6. First, 28(a)(ii)-(iii) do not exist. For this reason, it is impossible to actually know how Petition intended to apply Felt to these various limitations.

As discussed above, the Petition relies on string citations requiring Patent Owner to search through the Petition, Declaration, and cited reference to understand what Petitioner argues. For example, for this element, the Petition relies on Paragraphs 0026, 0028, 0032, 0036, 0046 of Felt (Exh. 1004). *See* Pet. 7-8. But upon reviewing paragraph 0026, no mention of registering asset data is found. Likewise, no mention of registering assets is described in paragraph 0028. Instead, "marketing content may be categorized or assigned criteria by ad agencies."

Exh.1004, ¶0028. But categorizing or assigning criteria is not registering an asset, and neither the Petition nor the Declaration explains how it could be *Registering is Adding, Categorizing is Grouping*

The Petition relies on Felt paragraphs 0026 and 0028 and supplying the parenthetical: “geographical locations of, for example, businesses, parks, institutions, or [...] mobile units 124, mobile devices 120, or even displays 114.” *Id.* But, reading the missing portions of Felt’s quoted text in context reveals that the alleged assets are instead “assigned criteria,” which are not “registered”:

The marketing content may be further categorized or assigned criteria based on preferred location of display, time of display, proximity to known geographical locations of, for example, businesses, parks, institutions, or proximity to other mobile unit 124, mobile devices 120, or even displays 114.

Id. Thus, marketing content is categorized using assigned criteria based upon the proximity to known geographical locations of businesses, parks, institutions, or proximity to other mobile unit 124, mobile device 120, or even display 114. Once again, the act of categorizing is being described and not registering. The marketing content and the criteria are already in the system. And, the Petition does not explain how “assigned criteria” satisfies the claim requirement for “registering a first geolocation associated with an asset” as required by the claims. The other cited

paragraphs also do not describe registering assets, as the assets are already in the system.

The Board requested an explanation for why “the techniques shown in the reference [Felt] fail to disclose the identified elements of claim 28, ...” *See* DTI, p.21. The Petition does not explain that the registering occurs, rather it cites only to categorizing (grouping) items that are already known to the system of Felt. Registering is adding, categorizing is grouping what is already there. Indeed, the differences between the techniques shown in Felt and those in claim 28 are not merely linguistic.

Paragraph 0036 of Felt mentions tracking the location of different devices, but identifying a geolocation of a device, such as non-consumer device mobile unit 124 is not registering the device. If it is an asset, how was it registered?

Petitioner asserts that Felt discloses such registration by its “acknowledgement that ads are provided by third party agencies, and categorized according to location/proximity,” followed by a string cite of four paragraphs of Felt and paragraph in the Declaration. Pet. 8. Yet, Petitioner provides no identification, much less analysis, as to what is being cited in those paragraphs or to what element is being addressed; a physical asset or a virtual asset, or whether this string cite intended to further an unsupported assertion that third party information is always registered? Regardless, paragraphs 0034-0036 describe categorization and storage

of marketing content, no registration is described. Paragraph 0028 of Felt mentions ad agencies storing marketing content to ad server 107 that may be stored in ads bank 108. See Exh. 1004, 0028. Storage is not registering an asset as claimed in the '620 patent. Reference to the Declaration at paragraph 96 fails no better, assuming that the information provided by third party agencies is registered with the service provider. However, the cited paragraphs 0028, 0034, and 0036 again refer to categorization and storage, not registration. Because anticipation requires each and every claim element to be present in the asserted prior art, assumptions are not enough. See *Karsten Mfg. Corp. v. Cleveland Golf Co.*, 242 F.3d 1376, 1383 (Fed. Cir. 2001).

Because registering is not disclosed in Felt, and Petitioner has not made a legal argument that “registering” is inherently disclosed, the “registration” limitation is not met by Felt for anticipation.

b. [28(b)] receiving media content to be associated with at least one registered asset;

The Petition relies on the same paragraphs in Felt for these elements as it does for the previous element. Pet. 9. First, the Petition states “Verizon [Felt] discloses receiving media ... to be associated with at least one registered asset.” *Id.* A discussion of categorizing and assigning criteria is discussed and then a statement is made that the “Verizon’s display itself can be a business marketing display, and

further associates the content with the Business.” *Id.* However, Felt’s marketing content as asserted, cannot be the claimed “media content,” as the “media content” must be associated with the registered asset. The registered asset is not identified in the Petition for this element, and the marketing content is not identified as being “associated with at least one registered asset.” What is the registered asset? Petitioner improperly left up to the Board and Patent Owner to explain how this limitation is satisfied.

The Declaration states “[i]t is my understanding that the display itself can be a business marketing display, and further demonstrates the association of the content with the business itself.” Exh. 1002, ¶98. Petitioner’s expert does not track the claim language, nor does he identify whether the asset is registered. His analysis is merely that such is “understood” by Petitioner’s expert. *TQ Delta, LLC v. Cisco Sys.*, 942 F.3d 1352, 1359 (Fed. Cir. 2019) (discussing the inadequacy of conclusory expert testimony in the court’s obviousness analysis). Further, Petitioner’s expert makes only the general conclusion that “Verizon discloses receiving media content, including advertisements, to be associated with at least one registered asset as recited in claim 28.” *Id.* The Expert does not identify the registered asset.

Petitioner has failed to meet its burden of establishing this element is present in Felt, and claim 28 is therefore not anticipated.

- c. **[28(c)] specifying a plurality of rules for delivering the media content, wherein specifying the plurality of rules comprises specifying:**

[28(c)(i)] a first delivery rule associated with at least one element of profile data corresponding with a recipient of the media content, and

[28(c)(ii)] a second delivery rule associated with a second geolocation at which the recipient is tracked;

The Petition states, “Verizon [Felt] discloses specifying rules at least by its criteria/requirements for delivery of tailored content” for the first rule. See Pet. 9. And “Verizon discloses rules for delivery of ad content also based on a second location as recited” for the second rule. See Pet. 9. However, there are two problems with these assertions. First, that is not what is claimed. The claim requires: “specifying a plurality of rules for delivering the media content ... comprises specifying ... a first rule and a *second delivery rule* associated with a second geolocation at which the *recipient* is tracked.” Exh. 1001, Col. 40, lns. 13-20 (emphasis added). There is nothing in Felt describing a second rule being employed at a second geolocation location. At most Felt only describes a first rule employed at a location to deliver content. Felt may apply the same rule at the second location. However, that does not meet the claim language. In addition, the Petition relies, not on the mobile unit 120 for the second location, but on Felt’s mobile unit 124 is at location 1, location 2, location 3. See Pet. 10; Exh. 1002, ¶100. Mobile unit 124 is

not a consumer, and hence does not include the “recipient” required by both the first rule and the second rule. User profile data associated with a users’ gender, financials, age, ethnicity, education is used with the first rule corresponding with a recipient of media content. As the Board noted, “Petitioner does not identify any disclosure, in Felt indicating that a mobile unit 124 has a user profile.” DTI, p.23, citing Pet. 9-10. Media unit 124 is a van with advertisements, not a consumer device or mobile device 120. Exh. 1004, Fig. 1. Therefore, Petitioner is erroneously mixing embodiments of Felt.

The Board indicated that Petitioner has failed to establish that “a ‘mobile unit 124’ maps to the claimed ‘recipient of the media content’ having corresponding ‘profile data,’ per claim 28 [(c)(ii)]” See DTI, p.23.

Petitioner has failed to meet its burden of establishing the elements are present in the Felt reference, and claim 28 is therefore not anticipated by Felt.

d. [28(d)] receiving an indication that the recipient is proximate to the first geolocation, comparing the first delivery rule and the at least one element of profile data associated with the recipient;

As discussed above, Petitioner is improperly conflating distinct embodiments of Felt. Further, Petition makes general statements of the teachings of Felt with no text directly cited in Felt or the ’620 patent. It is left up to Patent Owner and the Board to read the string sites to discern Petitioner’s argument. Petitioner has failed

to meet their burden of establishing this element is present in the Felt reference and claim 28 is therefore not anticipated by Felt.

- e. **[28(e)] tracking a location associated with the recipient in response to a matching comparison;**
[28(f)] comparing the second delivery rule and the location in order to determine whether the recipient is proximate to the second geolocation; and
[28(g)] delivering, upon fulfillment of the first deliver rule and the second delivery rule, the media content to the recipient.

The Board has indicated that Petitioner has failed to establish Felt teaches element 28(f) as it relies on element 28(c)(ii) and that Patent Owner's arguments appear to have merit. DTI, p.24-25. Based on similar logic, the Board also has indicated that Petitioner has failed to establish element 28(g). Because Petitioner has failed to meet its burden of establishing every element of claim 28 is present in the Felt reference, claim 28 is not anticipated by Felt.

2. Independent Claim 29: A computer-readable medium comprising a set of instructions which when executed perform a method, the method comprising:

- a. **[29(a)] registering asset data, wherein registering the asset data comprises at least one of the following:**

[29(a)(i)] registering a first geolocation associated with one of the following:

[29(a)(i)(1)] a physical asset, and a virtual asset;

[29(a)(i)(2)] a virtual asset;

See § V.A.1(a), supra.

- b. [29(b)] receiving media content to be associated with at least one registered asset;**

See § V.A.1(b), supra.

- c. [29(c)] specifying a plurality of rules for delivering the media content, wherein specifying the plurality of rules comprises specifying:**

[29(c)(i)] a first delivery rule associated with a period of time, and

[29(c)(ii)] a second delivery rule associated with a second geolocation at which a recipient is tracked during the period of time;

[29(d)] receiving an indication that the recipient is proximate to the first geolocation;

[29(e)] tracking a location associated with the recipient in response to a matching comparison;

[29(f)] comparing the second delivery rule and the location in order to determine whether the recipient is proximate to the second geolocation; and

[29(g)] delivering, upon fulfillment of the first delivery rule and the second delivery rule, the media content to the recipient.

The Board has indicated that Petitioner has failed to establish that Felt teaches element 28(f) as it relies on element 28(c)(ii) and that Patent Owner's arguments appear to have merit. DTI, p.24-25. For the same reasons, Petitioner has failed to

meet its burden in showing that elements 29(c)(ii) and 29(f) are taught by Felt. Claim 29 is not anticipated by Felt.

B. GROUNDS II-VI: Obvious Under with Felt combined with other references.

Felt alone fails to teach at least elements 28(c)(ii), 28(f), 29(c)(ii), and 29(f). The same arguments provided for claim 28's elements 28(c)(ii), 28(f), apply to claim 1's elements 1(c)(ii) and 1(h). *See Supra* §§ V.A.1(a)(2)(b) and V.A.1(b). Hence, in order to satisfy the all elements rule, the additional prior art must disclose these specific claim elements. If not, Petitioner has not proven obviousness. *See Univ. of Strathclyde v. Clear-Vu Lighting LLC*, 17 F.4th 155, 160-62 (Fed. Cir. 2021) (reversing Board's finding that claims were unpatentable for obviousness when the prior art failed to disclose or suggest a key limitation). Only if all the elements are disclosed is an analysis motivation to combine required. *Pers. Web Techs., LLC v. Apple, Inc.*, 848 F.3d 987, 991 (Fed. Cir. 2017). Here, because the references in Grounds II-VI are not used to satisfy the elements missing from Felt, there can be no obviousness as a matter of law. *Id.*

1. Felt/Kerr/Geer – Ground II - Claims 28 & 29.

Claims 28 and 29 are not obvious under Ground II because Petitioner does not rely on either Kerr or Geer to remedy the deficiencies from Felt. Therefore, even if Felt could be combined with either Kerr or Geer, the combination would fail to teach

or suggest all elements of independent claims 28 and 29, and Ground II fails. *See* §§ V.A.1(c), (e), A.2.(c), *supra*.

Furthermore, Petitioner has failed to show a motivation to combine Felt, Kerr, and Geer. The Petition asserts that a “POSITA would have implemented ... aspects of Kerr into Felt to promote ease of implementing/adjusting requirements, ease of understanding distribution and location schemes, and/or for effectiveness in human-machine interfacing in support of targeted content.” Pet. 14-15 (citing Dec. ¶109). But the Declaration states: “a POSITA would have implemented such registration aspects of Kerr into Felt to promote ease of implementing of and adjusting requirements, ease of understanding distribution and location schemes of various sorts. Again, generally these interfaces like Kerr’s, can be improve effectiveness in human-machine interfacing.”

Even if there were a motivation to combine Felt and Kerr, the Petition fails to establish a motivation to combine those references with Geer. Geer is a “networking system (FNS), available through a software application, executing on fans’ portable smart devices for an event to be held in a venue. A FNS may offer event-customized services to fans, such as messaging, fan groups, mementos, coupons, ‘friends,’ and contest.” Exh. 1005, Abstract. The Declaration did not address why Geer, a patent directed at social media (see Exh. 1005, Field of the Invention), would be looked to

by a POSITA and if the teachings of Geer could even be successfully combined with Felt. See Exh. 1002, ¶ 338.

First, Geer is for a fan's experience at an event, as opposed to Felt, which is focused on advertising with media content to get people to attend the event.

Second, Petitioner asserts that "Geer discloses responsive activation of high-resolution tracking ("HIRES")...to activate HIRES when a user crosses a geofence boundary for increased precision near the location of interest, while reducing phone battery consumption further away from the location." Pet. 16. Many of Felt's devices (114, 112, 124 of FIG. 1) are non-consumer devices, and power is not an issue.

Third, no evidence is provided that battery power is an issue in Felt.

Fourth, no evidence is provided that increased precision is required in Felt or would result in a different or improved result.

Fifth, Geer is only tangentially related to advertising and appears to be more focused on messaging, social networking, occasion recognition, contests & games, and wagering, in addition to memorabilia. See Exh. 1006, Fig. 15. Most, if not all, of these focuses are directed not at prompting a consumer to take action from delivered media content but at enhancing a fan's experience. The field of invention of Geer even states, "[t]he present invention relates to social networking at an event in a venue." Exh. 1006, Field of the Invention.

Sixth, in Geer, a fan is at an event and has a general predetermined location. Because the general location is known, higher resolution could be helpful. In Felt, mobile units and mobile devices are moving around a city or state. Their location is changing. No explanation is provided as to why, when passing through a geofence, it would be advantageous in Felt to reduce the power to save battery life using Geer's teachings when that geofence area is not the destination. The mobile device or mobile unit would be affected when in a geofenced area that is not the final destination if the approach of Geer was incorporated into Felt.

Seventh, the Declaration states that a POSITA would have been motivated to incorporate the tracking in response to of a user location, disclosed in Geer into Felt to conserve energy. See Exh. 1002, ¶111. But this is opposed to the teachings in Geer where "[l]ayered zones 830 can be exploited to reduce the usage of the battery 580 of the PSD 320 required for geolocation while providing HIRES tracking when needed to facilitate an IB 821 that is coincides with or closely approximates the boundary of the venue 800." Exh. 1006, ¶0063. The only battery life savings taught in Geer is reducing the amount of extra power when not using the teachings of Geer. This teaches away from using the teachings of Geer with Felt and Kerr as a net increase in power usage would result.

As the Board recognized with respect to whether Geer discloses element 28(c), "Patent Owner's arguments appear to have merit, as the features for which

Petition cites Geer – ‘responsiveness’ and ‘increased precision’ in tracking (*see* Pet. 15) – are not recited in the claims. DTI, p. 27. Petitioner did not rely on Geer for 28(f). Petitioner did not rely on Kerr for claim elements 28(c)(ii), 28(f), 29(c)(ii), and 29(f).

For at least these seven reasons, the teachings of Felt and Kerr would not be combined with the teachings of Geer by a POSITA. *See also* § V.A.1, *supra*. Therefore, the combination of Felt, Kerr, and Geer fail to teach all elements of claims 28 and 29, further motivation to combine has not been shown, and hence, claims 28, and 29 are not obvious in view of the combined references.

2. Felt/Thaper - Ground III – Claims 1-6 & 11-27

Thaper is not asserted by Petitioner to satisfy any of the missing limitations from Felt found in claim 1.⁴ Therefore, even if Thaper could be combined with Felt, the combination would fail to teach all elements of claim independent claim 1 along with all the claims that depend from independent claim 1, and are not obvious in view of the combined references.

The cited references do not teach or suggest the claim limitations at issue in Ground 3. As the Board recognized, Thaper does not overcome the shortcomings of

⁴ Indeed, the Board notes that Thaper is only applied to dependent claims 3 and 7 in this Ground.

Felt. DTI at 30. As discussed above, there can be no motivation to combine when the combined references fail to teach each and every element of the claims. Petitioner's obviousness argument for Ground III fails. See also *Supra* § V.A.1.

3. Felt/Muhire -Ground IV – Claims 1-6 & 11-27

Ground IV fails because Petitioner fails to cite references that satisfy any of the missing limitations from Felt found in claim 1. The Petition does not rely on Muhire for claim elements 1(c)(ii) and 1(h). Therefore, even if Muhire could be combined with Felt, the combination would fail to teach all elements of claim independent claim 1, along with all the claims that depend from independent claim 1, and the at issue claims not obvious in view of the combined references.

Additionally, Muhire is non-analogous art, making this combination improper. See *In re Bigio*, 381 F.3d 1320, 1325 (Fed. Cir. 2004). A reference is analogous art to the claimed invention if: (1) the reference is from the same field of endeavor as the claimed invention (even if it addresses a different problem); or (2) the reference is reasonably pertinent to the problem faced by the inventor (even if it is not in the same field of endeavor as the claimed invention). See *Bigio*, 381 F.3d at 1325. Tools to save money accessible from a touchscreen on a refrigerator is from a different field of endeavor and is not reasonably pertinent to the problem solved by the '620 patent. See § III(c)(4) *Supra*. There is no evidence of why a POSITA would look to making such a combination with the location tracking of Felt in the

Petition, only a discussion of using separate layers is provided. Exh. 1002, ¶163. No discussion of why the teachings of Muhire's layers could be successfully combined with the teachings of Felt or why it would be desirable. The general statement provided in the Declaration, Exh. 1002, ¶164, is a general statement that could be applied to any reference analogous or non-analogous.

Consequently, the combination of Felt and Muhire fail to teach all elements of claims 1-6, and 11-27, motivation to combine has not been shown, and hence, these claims are not obvious in view of the combined references of Ground IV.

4. Felt/Muhire/Kerr – Ground V – Claims 1-6 & 11-27

Ground V fails because Petitioner fails to cite any references that satisfy the missing limitations from Felt found in claim 1. The Petition does not rely on Muhire or Kerr for claim elements 1(c)(ii) and 1(h). Therefore, even if Muhire and/or Kerr could be combined with Felt, the combination would fail to teach all elements of independent claim 1, along with all the claims that depend from, and the claims asserted in Ground V are not obvious in view of the combined references.

Further, Muhire (as outlined above) and Felt are non-analogous art, making this combination improper. *See Bigio* 381 F.3d at 1325. Even if Muhire and Felt were analogous art, Petitioner has failed to show a motivation to combine them with Kerr. *See* § V.A.1(c), *supra*.

Consequently, the combination of Felt, Muhire, and Kerr fail to teach all elements of claims 1-6, and 11-27, motivation to combine has not been shown, and hence, these claims are not obvious in view of the combined references of Ground V.

5. Felt/Kerr/Muhire/Sehn – Ground VI – Claims 7-10

Ground VI fails because Petitioner fails to cite any references that satisfy the missing limitations from Felt found in claim 1. The Petition does not rely Muhire, Kerr, or Sehn for claim elements 1(c)(ii) and 1(h). Therefore, even if these references could be combined with Felt, the combination would fail to teach all elements of independent claim 1 along with all the claims that depend from claim 1, and the claims asserted in Ground VI are not obvious in view of the combined references.

Further, as discussed above in Ground V, the combination of Felt, Kerr, and Muhire is improper. The addition of Sehn does not change this.

The Sehn reference is not about advertising, but rather it is directed towards, brand endorsement. *See* Exh. 1008, Summary of the Invention. The reference describes recognizing business names and logos, but why is Sehn combinable with the other reference? Why would a POSITA choose Sehn rather than any other reference? The Petition and Declaration do little more than assert that Kerr may be

combine with Sehn with regards to claims 7-10 of the '620 patent. *See* Pet. 40. No motivation is provided by the Petitioner.

Petitioner's assertion that Sehn brings, to the combination of reference teachings, "benefits in administrative level control and access ... in consideration of additional identifiers" is irrelevant and does not change the analysis. Pet. 40 (citing Ex. 1008, 5:33-49, Ex. 1002 ¶¶ 169-173).

Consequently, the combination of Felt, Muhire, Kerr, and Sehn fail to teach all elements of claims 1-6, and 11-27, motivation to combine has not been shown, and hence, these claims are not obvious in view of the combined references of Ground VI. *See also supra* §§ V.A.1(c).

C. GROUNDS VII-XIII: Obviousness of Adharapurapu combined with other references and Anticipation of Adharapurapu.

1. Adharapurapu – Claims 1, 28, and 29

Petitioner combines Adharapurapu with other references in Grounds VII-XIII, but the Petition only relies on Adharapurapu for the independent claim elements 1(c)(ii), 1(h), 28(c)(ii), 28(f), 29(c)(ii), and 29(f). In addressing these next seven Grounds, Patent Owner will start with the teachings of Adharapurapu with respect to these elements.

a. Claim element [1(c)(ii)] a second rule for updating the media content, the second rule being associated with a second geolocation

The Petition cites to ¶¶[0018], [0020]-[0022] of Adharapurapu for teaching element [1(c)(ii)]. But, ¶¶[0018], [0020]-[0022] of Adharapurapu provides that “the direction of the travel is ascertained and content information related to restaurant R1 can be sent to the mobile device 107 along with content information of restaurant R2 alone.” Adharapurapu 5:10-14. A second rule is not associated with a second geolocation in Adharapurapu. Rather, Adharapurapu teaches to send information for both restaurants R1 and R2 with the original determination of direction of travel. By contrast, a second geolocation is not used to update media content is updated. Hence, the second rule of claim limitation 1(c)(ii) is not satisfied.

Further, the Petition asserts that “receiving other initial content from initial journeys, a consumer heading to the second geolocation associated with Station C, from stations A, D ... results in updating of content for the gift shop.” Pet. 46. However, “initial journeys” represents historical data from multiple trips. “Journeys” is plural. Again, a second geolocation is not used to update media content. Petitioner admits that “a consumer is HEADING to the second geolocation,” i.e. direction that is being used and not the claimed second geolocation. Additionally, annotated FIG.3 on page 47 of the petition is annotated with an arrow

drawn by the Petitioner that mistakenly shows direction “HEADING” to a location, rather than the actual “geolocation,” as required by claim element 1(c)(ii).

Thus, Adharapurapu fails to teach claim element [1(c)(ii)].

b. Claim element [1(h)] comparing the second rule and the location in order to determine whether to update the media content, and

See § V.C.1(a), *supra*. Adharapurapu fails to teach claim element 1(h) as it relies on prior missing element 1(c)(ii).

c. Claim element: [28(c)(ii)] a second delivery rule associated with a second geolocation at which the recipient is tracked;

See § V.C.1(a), *supra*. Adharapurapu fails to teach claim element 28(c)(ii) for same reason as element 1(c).

d. Claim element: [28(f)] comparing the second delivery rule and the location in order to determine whether the recipient is proximate to the second geolocation; and

See § V.C.1(a), *supra*. Adharapurapu fails to teach claim element 28(f) as it relies on the element of 28(c)(ii).

e. Claim element: [29(c)(ii)] a second delivery rule associated with a second geolocation at which a recipient is tracked during the period of time;

See § V.C.1(a), *supra*. Adharapurapu fails to teach claim element 29(c)(ii).

- f. Claim element: [29(f)] comparing the second delivery rule and the location in order to determine whether the recipient is proximate to the second geolocation; and**

See § V.C.1(a), *supra*. Adharapurapu fails to teach claim element 29(f) as it relies on the element of 29(c)(ii).

2. Adharapurapu/Kerr – Ground VII – Claims 1, 11-27

Ground VII fails because Petitioner does not rely on Kerr to satisfy the limitations from claim 1 that are missing in Adharapurapu. Therefore, even if Adharapurapu could be combined with Kerr, the combination would fail to teach or suggest all elements of independent claim 1 along with all the claims that depend from claim 1, and the claims asserted in Ground VII are not obvious in view of the combined references. *See* §§ V.C.1(a), (b), *supra*.

Furthermore, the only motivation to combine that the Patent Owner could discern in the Petition is “[t]o the extent that Adharapurapu does not elaborately discuss particular features such as profile data, a POSITA would have implemented these features based on Adharapurapu’s suggestions, Kerr’s disclosure, and/or POSITA’s skill and/or knowledge. Pet. 41 (Citing Decl., ¶176). This is not a motivation to combine the references. This is just a statement that it may be possible to combine the reference. The Petitioner asserting that if Adharapurapu does not elaborately discuss a feature, then Kerr suggests them does not explain what the

feature is and why a POSITA would be motivated to combine it with the teachings of Kerr.

Consequently, the combination of Adharapurapu and Kerr fail to teach all elements of claims 1-6, and 11-27, motivation to combine has not been shown, and hence, these claims are not obvious in view of the combined references of Ground VII. *See also supra* § V.B.1.

3. Adharapurapu, Kerr, Muhire – Ground VIII – Claims 1, 11-27

Ground VIII fails because Petitioner does not rely on Kerr or Muhire to satisfy the limitations from claim 1 that are missing in Adharapurapu. Therefore, even if Adharapurapu could be combined with Kerr and/or Muhir, the combination would fail to teach or suggest all elements of independent claim 1 along with all the claims that depend from claim 1, and the claims asserted in Ground VII are not obvious in view of the combined references. *See* §§ V.C.1(a), (b), *supra*; *see also* § V.C.2 (no motivation to combine Adharapurapu with Kerr).

Additionally, Muhire is non-analogous art, making this combination improper. *See Bigio*, 381 F.3d at 1325. A reference is analogous art to the claimed invention if: (1) the reference is from the same field of endeavor as the claimed invention (even if it addresses a different problem); or (2) the reference is reasonably pertinent to the problem faced by the inventor (even if it is not in the same field of

endeavor as the claimed invention). *See Bigio*, 381 F.3d at 1325. Tools to save money accessible from a touchscreen on a refrigerator is non-analogous art. *Supra* § IX.D. There is no evidence of why a POSITA would look to making such a combination with the location tracking of Adharapurapu in the Petition.

Consequently, the combination of Adharapurapu Kerr, and Muhire fail to teach all elements of claims 1-6, and 11-27, motivation to combine has not been shown, and hence, these claims are not obvious in view of the combined references of Ground VIII. *See also* §§ V.C.1., *supra*.

4. Adharapurapu/Kerr/Felt – Ground IX – Claims 1-6 & 11-27

Ground IX fails because Petitioner does not rely on Kerr or Felt to satisfy the limitations from claim 1 that are missing in Adharapurapu. Therefore, even if Adharapurapu could be combined with Kerr and/or Felt, the combination would fail to teach or suggest all elements of independent claim 1 along with all the claims that depend from claim 1, and the claims asserted in Ground IX are not obvious in view of the combination. *See* §§ V.C.1(a), (b), *supra*; *see also* § V.C.2 (no motivation to combine Adharapurapu with Kerr).

Consequently, the combination of Adharapurapu Kerr, and Felt fail to teach all elements of claims 1-6, and 11-27, motivation to combine has not been shown, and hence, these claims are not obvious in view of the combined references of Ground IX. *See also* §§ V.C.1., *supra*.

**5. Adharapurapu/Kerr/Muhire/Felt – Ground X - Claims 1-6
& 11-27**

Ground X fails because Petitioner does not rely on Kerr, Muhir, and/or Felt to satisfy the limitations from claim 1 that are missing in Adharapurapu. Therefore, even if Adharapurapu could be combined with Kerr, Muhire, and/or Felt, the combination would fail to teach or suggest all elements of independent claim 1 along with all the claims that depend from claim 1, and the claims asserted in Ground X are not obvious in view of the combination. *See* §§ V.C.1(a), (b), *supra*; *see also* § V.C.2 (no motivation to combine Adharapurapu with Kerr).

Additionally, Muhire is non-analogous art, making this combination improper. *See Bigio*, 381 F.3d at 1325. A reference is analogous art to the claimed invention if: (1) the reference is from the same field of endeavor as the claimed invention (even if it addresses a different problem); or (2) the reference is reasonably pertinent to the problem faced by the inventor (even if it is not in the same field of endeavor as the claimed invention). *See In re. Bigio*, 381 F.3d at 1325. Tools to save money accessible from a touchscreen on a refrigerator is non-analogous art. There is no evidence of why a POSITA would look to making such a combination with the location tracking of Adharapurapu in the Petition.

Consequently, the combination of Adharapurapu Kerr, and Felt fail to teach all elements of claims 1-6, and 11-27, motivation to combine has not been shown,

and hence, these claims are not obvious in view of the combined references of Ground X. *See also* §§ V.C.1., *supra*.

**6. Adharapurapu/Kerr/Muhire/Felt/Sehn – Ground XI –
Claims 7-10**

Ground XI fails because Petitioner does not rely on Kerr, Muhir, Felt, and/or Sehn to satisfy the limitations from claim 1 that are missing in Adharapurapu. Therefore, even if Adharapurapu could be combined with Kerr, Muhire, Felt and/or Sehn, the combination would fail to teach or suggest all elements of dependent claims 7-10, and the claims asserted in Ground XI are not obvious in view of the combination. *See* §§ V.C.1(a), (b), *supra*; *see also* § V.C.2 (no motivation to combine Adharapurapu with Kerr).

Additionally, Muhire is non-analogous art, making this combination improper. *See Bigio*, 381 F.3d at 1325. A reference is analogous art to the claimed invention if: (1) the reference is from the same field of endeavor as the claimed invention (even if it addresses a different problem); or (2) the reference is reasonably pertinent to the problem faced by the inventor (even if it is not in the same field of endeavor as the claimed invention). *See In re. Bigio*, 381 F.3d at 1325. Tools to save money accessible from a touchscreen on a refrigerator is non-analogous art. There is no evidence of why a POSITA would look to making such a combination with the location tracking of Adharapurapu in the Petition.

Consequently, the combination of Adharapurapu Kerr, Felt and Sehn fail to teach all elements of claims 7-10, motivation to combine has not been shown, and hence, these claims are not obvious in view of the combined references of Ground XI. *See* §§ V.C.1., *supra*.

7. Adharapurapu – Ground XII (Anticipation) – Claims 28 & 29

See infra, Sec. V.D. separately addressing Ground XII

8. Adharapurapu/Kerr/Geer – Ground XIII – Claims 28 & 29.

Ground XIII fails because the cited references do not teach or suggest all limitations of the claim limitations at issue. Specifically, the combination fails to teach elements 29(c)(ii), 29(f), 29(c)(ii), 29(f) of independent claims 28 and 29. Neither Kerr nor Geer are relied upon by Petitioner to satisfy the missing limitations of claims 28 and 29.

Furthermore, Petitioner has failed to show a motivation to combine them. *See* Pet. 57-58. *See* Sec. §§ V.C.1, V.B.1, *supra*.

Because the combination of Adharapurapu/Kerr/Geer fail to teach every element of claim claims 28 and 29, and motivation to combine has not been shown, claims 28 and 29 are not obvious in view of the combined references of Ground XIII.

D. GROUND XII: Anticipation of Claims 28 and 29 under 35 U.S.C. § 102 by Adharapurapu

For anticipation, a prior art reference must show each and every element of the claimed invention, arranged as in the claim. *See Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542 (Fed. Cir. 1983). Thus, Anticipation is overcome by pointing out at least one difference between the claimed invention and the prior art reference.

1. Independent Claim 28—“A method comprising:

a. [28(a)] registering asset data, wherein registering the asset data comprises at least one of the following:

[28(a)(i)] registering a first geolocation associated with one of the following:

[28(a)(i)(1)] a physical asset, and

[28(a)(i)(2)] a virtual asset;

The Petitioner has failed to meet its burden of establishing this element is present in the Adharapurapu reference, and claim 28 is therefore not anticipated by Adharapurapu.⁵

First, the term “register” only appears in the application twice in paragraph 0018. In that paragraph, “register” is used for “tracker base stations in every location to tracks the mobile device. See Exh. 1009, ¶0018. “The mobile service provider

⁵ Petitioner identifies “Element 28(a), 28(a)(i)(A)-(B) in this section, Pet. 60, but the claim sub-elements of element 28(a) are identified as 28(a)(i)(1)-(2).

network 103 has a mobility manager 104 which keeps track of location and direction of all the mobile devices 107 through base stations, where the subscriber has enabled the content delivery based on direction of mobility service.” Exh. 1009, ¶0015. Content deliver is BASED ON DIRECTION. When all the claim elements are viewed together, delivery of content is based upon location is required in these elements of the ’620 patent, not direction.

Petitioner has failed to meet their burden of establishing the elements are present in the Adharapurapu reference and claim 28 is therefore not anticipated.

b. [28(b)] receiving media content to be associated with at least one registered asset;

The Petition relies on the same paragraphs in Adharapurapu as for the previous element and has failed to specifically point out where this limitation is met in Adharapurapu. Pet. 61.

c. [28(c)] Specifying a plurality of rules for delivering the media content, wherein specifying the plurality of rules comprises specifying:

[28(c)(i)] a first delivery rule associated with at least one element of profile data corresponding with a recipient of the media content, and

[28(c)(ii)] a second delivery rule associated with a second geolocation at which the recipient is tracked;

As discussed above, Adharapurapu does not teach claim 28 element 28(c)(ii). *See* § V.C.1(a), (c), *supra*. Further, Petitioner only cites to paragraph 0017 of Adharapurapu, for teaching all of these elements. But, paragraph 0017 states:

The mobile service provider then configures the content in a format which can be sent to the mobile device. The mobile service provider then configures a set of rules based on the days specified, time specified and the location of the tracker base stations near the road. Information saying "Road X closed for construction every Sunday from 6AM-3PM till August 2010" will be sent to all the mobile devices that are in the vicinity of the road and have subscriber to the content delivery based on mobility service.

Exh. 1009, 0017. By contrast to the claim elements, the above rule is based upon the location of the tracker base station and sends to all the mobile devices that are in the vicinity. It is different from the claim language requiring the “recipient that is being tracked,” as required in the element of the ’620 patent’s claim 28.

Further, paragraph 0018 is identified as a second location at which the recipient is tracked. Yet, paragraph 0018 describes that “[a] path illustrating the location and direction of the movement of a subscribed mobile device 107 user *can be inferred* drawn using the location of tracker base stations stored in the mobility history.” Exh. 1009, ¶0018 (emphasis added). Adharapurapu’s inferred location is

not a second geolocation at which the recipient is tracked. *See* Sec. V.C.1(a)-(d), *supra* (showing that Adharapurapu does not provide for a second delivery rule associated with a second geolocation).

Petitioner has failed to meet its burden of establishing the elements are present in Adharapurapu, and claim 28 is therefore not anticipated by Adharapurapu.

- d. [28(d)] receiving an indication that the recipient is proximate to the first geolocation, comparing the first delivery rule and the at least one element of profile data associated with the recipient;**

The Petition asserts that “Alcatel receives location information from the mobile device traveling along, and determines proximity to a first geolocation such as near a closed road 6AM-3PM.” Pet. 62. First, Adharapurapu does not determine proximity to a closed road. The only location known close to the closed road is a base station. The base station sends out the message to the mobile devices it is in contact with (not based on a geofenced location).

Petitioner has failed to meet its burden of establishing the elements are present in Adharapurapu, and claim 28 is therefore not anticipated by Adharapurapu.

- e. [28(f)] comparing the second delivery rule and the location in order to determine whether the recipient is proximate to the second geolocation; and**

Adharapurapu fails to teach claim 28 element 28(c)(ii). *See* §§ V.C.1(a), (b), (c), (d), *supra*.

Petitioner has failed to meet its burden of establishing the elements are present in Adharapurapu, and claim 28 is therefore not anticipated by Adharapurapu.

2. Independent Claim 29: A computer-readable medium comprising a set of instructions which when executed perform a method, the method comprising:

a. [29(a)] registering asset data, wherein registering the asset data comprises at least one of the following:

1) [29(a)(i)] registering a first geolocation associated with one of the following:

a) [29(a)(i)(1)] a physical asset, and

b) [29(a)(i)(2)] a virtual asset;

See §§ V.C.1.(e), (d), V.D.1(a), *supra*. Adharapurapu fails to teach claim 29 element 29(a), and therefore does not anticipate claim 29.

b. [29(b)] media content to be associated with at least one registered asset;

See §§ V.D.1(b), *supra*. Adharapurapu fails to teach claim 29 element 29(b), and therefore does not anticipate claim 29.

c. [29(c)(ii)] a second delivery rule associated with a second geolocation at which a recipient is tracked during the period of time;

See § V.D.1(c) and § V.C.1(a) *supra*. Adharapurapu fails to teach claim 29 element 29(c)(ii), and therefore does not anticipate claim 29.

- d. **[29(e)] tracking a location associated with the recipient in response to a matching comparison;**
- [29(f)] comparing the second delivery rule and the location in order to determine whether the recipient is proximate to the second geolocation; and**

See § V.D.1(e) and § V.C.1(f). *Supra*. Adharapurapu fails to teach claim 29 element 29(f).

Adharapurapu does not anticipate claim 29 because it fails to disclose all of the elements of claim 29.

VI. CONCLUSION

As described above, none of the cited prior art, either alone or in combination, includes all of the limitations of any of the claims, and therefore, the patentability of the '620 Patent should be confirmed.

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies service of BoardActive's Patent Owner's Response on counsel of record for Petitioner Foursquare, inc. by filing this document through the P-TACTS system, as well as delivering a copy via electronic mail to the following:

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Date: February 22, 2024

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CERTIFICATE OF COMPLIANCE

This Patent Owner's Response complies with the type-volume limitations as mandated in 37 C.F.R. § 42.24, totaling 9,530 words. Counsel has relied upon the word count feature provided in Microsoft® Word for Mac Version 16.81.

Dated: February 22, 2024

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