

**IPR2023-00919**  
**Patent No. 10,692,108**

**Patent Owner's Demonstratives**  
September 4<sup>th</sup>, 2024



# Overview

- 1) The Invention
- 2) Level of Ordinary Skill in the Art
- 3) Claim Construction
- 4) Unpatentability – Grounds 1-7
- 5) Patent Owner's Opposition to Petitioner's Motion to Exclude
- 6) Patent Owner's Motion To Exclude

# Instituted Grounds

IPR2023-00919

| Ground | Basis | Reference(s)                                             | Claims |
|--------|-------|----------------------------------------------------------|--------|
| 1      | §102  | Felt (aka Verizon)                                       | 1-23   |
| 2      | §103  | Felt                                                     | 1-23   |
| 3      | §103  | Felt, Geer                                               | 13-19  |
| 4      | §103  | Felt, Creemer or Scofield                                | 1-23   |
| 5      | §103  | Felt and Creemer or Scofield,<br>further in view of Geer | 13-19  |
| 6      | §103  | Adharapurapu (aka Alcatel),<br>Felt                      | 1-23   |
| 7      | §103  | Adharapurapu, Felt, Geer                                 | 13-19  |

# Comparison of Independent Claims 1 and 13

| <u>Claim 1</u>                                                                                                                                  | <u>Claim 13</u>                                                                                                                                                      |
|-------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1[pre] A method comprising:                                                                                                                     | 13[pre] A method comprising:                                                                                                                                         |
| 1[a] specifying a content distribution campaign, the content distribution campaign comprising;                                                  | 13[a] specifying a content distribution campaign comprising media content associated with a geolocation;                                                             |
| 1[a][i] a geolocation, and                                                                                                                      |                                                                                                                                                                      |
| 1[a][ii] media content associated with the geolocation;                                                                                         |                                                                                                                                                                      |
| 1[b] specifying a plurality of rules for the content distribution campaign, wherein specifying the plurality of rules comprises:                | 13[b] specifying a plurality of rules for the content distribution campaign, wherein specifying the plurality of rules comprises:                                    |
|                                                                                                                                                 | 13[b][i] specifying the geolocation,                                                                                                                                 |
| 1[b][i] specifying a first rule corresponding to a period of time,                                                                              | 13[b][ii] specifying a period of time, and                                                                                                                           |
| 1[b][ii] specifying a second rule corresponding to at least one element of profile data associated with a consumer, and                         |                                                                                                                                                                      |
|                                                                                                                                                 | 13[b][iii] specifying at least one action to be performed by a consumer;                                                                                             |
| 1[b][iii] <b>specifying a third rule corresponding to <u>a course of travel associated with the consumer</u>;</b>                               |                                                                                                                                                                      |
| 1[c] <b>receiving a first indication that <u>the consumer is at a first location within a radius of the geolocation</u>;</b>                    | 13[c] <b>receiving <u>a first indication that the consumer is within a radius of the geolocation</u>;</b>                                                            |
| 1[d] assessing, in response to the first indication, the at least one element of profile data associated with the consumer;                     |                                                                                                                                                                      |
|                                                                                                                                                 | 13[d] tracking the consumer in response to receiving <b><u>the first indication</u></b> to determine whether the consumer has performed the at least one action; and |
| 1[e] <b>receiving a second indication that <u>the consumer is at a second location</u>;</b>                                                     |                                                                                                                                                                      |
| 1[f] determining <b><u>the course of travel based, at least in part, on an analysis of the first location and the second location</u></b> ; and |                                                                                                                                                                      |
| 1[g] establishing that the consumer is eligible for the content distribution campaign when the plurality of rules is satisfied.                 | 13[e]: establishing that the consumer is eligible for the content distribution campaign when the plurality of rules is satisfied.                                    |

# Independent Claims 20

| <u>Claim 20</u>                                                                                                                                                                                     |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 20[pre] A method, comprising:                                                                                                                                                                       |
| 20(a): defining at least one of the following for a registered asset:                                                                                                                               |
| 20(a)(i): a physical asset, and                                                                                                                                                                     |
| 20(a)(ii): a virtual asset;                                                                                                                                                                         |
| 20(b): defining a media content associated with the registered asset, the media content comprising <b>a first message and a second message</b> ;                                                    |
| 20(c): defining a consumer audience segment to be delivered the media content;                                                                                                                      |
| 20(d): defining a set of rules for providing the media content to the consumer audience segment, the set of rules comprising:                                                                       |
| 20(d)(i): a first rule corresponding a consumer's location in association with the registered asset, and                                                                                            |
| 20(d)(ii): a second rule corresponding to at least one action performed by a consumer during a <b>course of travel</b> related to the consumer's location in association with the registered asset; |
| 20(e): receiving a first determination that the first rule has been satisfied;                                                                                                                      |
| 20(f): associating the first message with the consumer upon the first rule being satisfied;                                                                                                         |
| 20(g): receiving a second determination that the second rule has been satisfied; and                                                                                                                |
| 20(h): <b>associating the second message with the consumer upon the second rule being satisfied.</b>                                                                                                |

# Comparison of Challenged Dependent Claims

| <u>Claim 2</u>                                                                                                                                                                                                      |  | <u>Claim 14</u>                                                                                                                                                                                                                                             |  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| 2. The method of claim 1, wherein specifying the third rule corresponding to the course of travel associated with the consumer comprises specifying a destination as the second location.                           |  | 14. The method of claim 13, wherein specifying the at least one action comprises specifying at least one of the following:                                                                                                                                  |  |
|                                                                                                                                                                                                                     |  | 14(a): a target destination; and                                                                                                                                                                                                                            |  |
|                                                                                                                                                                                                                     |  | 14(b): a particular path towards the target destination.                                                                                                                                                                                                    |  |
| <u>Claim 3</u>                                                                                                                                                                                                      |  | <u>Claim 15</u>                                                                                                                                                                                                                                             |  |
| 3. The method of claim 1, further comprising providing a first aspect of the media content associated with the content distribution campaign when the following delivery rules are satisfied:                       |  | 15. The method of claim 13, further comprising:                                                                                                                                                                                                             |  |
| 3(a): the first rule corresponding to the period of time, and                                                                                                                                                       |  | 15(a): receiving a second indication that the consumer is engaged in a potential fulfillment of the at least one action.                                                                                                                                    |  |
| 3(b): the second rule corresponding to the at least one element of profile data associated with the consumer.                                                                                                       |  |                                                                                                                                                                                                                                                             |  |
| <u>Claim 4</u>                                                                                                                                                                                                      |  |                                                                                                                                                                                                                                                             |  |
| 4. The method of claim 3, further comprising tracking the consumer during the course of travel.                                                                                                                     |  |                                                                                                                                                                                                                                                             |  |
| <u>Claim 16</u>                                                                                                                                                                                                     |  |                                                                                                                                                                                                                                                             |  |
|                                                                                                                                                                                                                     |  | 16: The method of claim 15, wherein receiving the second indication comprises establishing that the consumer is performing at least one of the following actions: moving at a particular path, towards a target destination, and within the period of time. |  |
| <u>Claim 5</u>                                                                                                                                                                                                      |  |                                                                                                                                                                                                                                                             |  |
| 5. The method of claim 3, further comprising providing a second aspect of the media content associated with the content distribution campaign when the third rule associated with the second location is satisfied. |  |                                                                                                                                                                                                                                                             |  |
| <u>Claim 17</u>                                                                                                                                                                                                     |  |                                                                                                                                                                                                                                                             |  |
|                                                                                                                                                                                                                     |  | 17: The method of claim 13, further comprising:                                                                                                                                                                                                             |  |
|                                                                                                                                                                                                                     |  | 17(a): providing a first aspect of the media content in response to the first indication.                                                                                                                                                                   |  |

# Comparison of Dependent Claims

## Claim 6

6. The method of claim 3, further comprising, receiving a third indication that the consumer has interacted with the first aspect of the media content during the course of travel.

## Claim 7

7. The method of claim 6, wherein specifying the first rule comprises specifying a limited timeframe, during the course of travel, in which the consumer has to interact with the first aspect of the media content.

## Claim 18

18. The method of claim 17, further comprising providing, upon a fulfillment of the at least one action, a second aspect of the media content.

## Claim 19

The method of claim 18, wherein the second aspect of the media content comprises a modification of the first aspect of the media content.

## Claim 8

8. The method of claim 6, further comprising tracking the consumer during the course of travel in response to the third indication.

## Claim 9

9. The method of claim 8, wherein tracking the consumer during the course of travel comprises receiving, from a mobile computing device associated with the consumer, at least one of the following:

9(a): location data,

9(b): sensor data,

9(c): telemetry data,

9(d): device usage data, and

9(e): a unique identifier.

# Dependent Claims

## Claim 10

10. The method of claim 7, further comprising providing a second aspect of the media content associated with the content distribution campaign when the third rule associated with the second location is satisfied.

## Claim 11

11. The method of claim 1, wherein specifying the first rule comprises specifying a limited timeframe, during the course of travel, in which the consumer is eligible to receive the media content associated with the content distribution campaign.

## Claim 12

12. The method of claim 3, wherein specifying the first rule comprises specifying a limited timeframe, during the course of travel, in which the consumer is eligible to receive a second aspect of the media content associated with the content distribution campaign.

Ex. 1001, Claims 10-12

# Dependent Claims

## Claim 21

21. The method of claim 20, wherein defining the set of rules further comprises defining at least one additional rule specifying the following:

21(a): the consumer's relative presence at a first location associated a delivery of the first message;

21(b): the consumer's relative presence at a second location associated with a delivery of the second message;

21(c): the consumer's path from the first location to the second location; and

21(d): a period of time in which the consumer traveled from the first location to the second location.

## Claim 22

22. The method of claim 21, further comprising providing the media content to the consumer.

## Claim 23

23. The method of claim 22, wherein providing the media content comprises:

23(a): providing the first message when the at least one additional rule has not been satisfied, and

23(b): providing the second message when the at least one additional rule has been satisfied.

# The Invention

# The Invention

(12) **United States Patent**  
**Pittman**

(10) **Patent No.:** US 10,692,108 B1  
(45) **Date of Patent:** \*Jun. 23, 2020

(54) **PLATFORM FOR LOCATION AND TIME  
BASED ADVERTISING**

(71) Applicant: **BoardActive Corporation**, Atlanta, GA  
(US)

(72) Inventor: **Douglas L. Pittman**, Atlanta, GA (US)

(73) Assignee: **BoardActive Corporation**, Atlanta, GA  
(US)

(\*) Notice: Subject to any disclaimer, the term of this  
patent is extended or adjusted under 35  
U.S.C. 154(b) by 0 days.  
This patent is subject to a terminal dis-  
claimer.

(21) Appl. No.: **16/823,323**

(22) Filed: **Mar. 18, 2020**

**Related U.S. Application Data**

(63) Continuation of application No. 15/950,019, filed on  
Apr. 10, 2018, now Pat. No. 10,621,620, which is a  
(Continued)

(51) **Int. Cl.**  
**G06Q 30/02** (2012.01)  
**H04W 4/02** (2018.01)  
**H04W 4/029** (2018.01)  
**H04W 4/80** (2018.01)  
**H04L 29/08** (2006.01)

(52) **U.S. Cl.**  
CPC ..... **G06Q 30/0261** (2013.01); **G06Q 30/0242**  
(2013.01); **G06Q 30/0244** (2013.01); **G06Q**  
**30/0246** (2013.01); **G06Q 30/0264** (2013.01);  
**G06Q 30/0267** (2013.01); **G06Q 30/0269**  
(2013.01); **G06Q 30/0277** (2013.01); **H04W**  
**4/02** (2013.01); **H04W 4/023** (2013.01);  
(Continued)

(58) **Field of Classification Search**  
CPC ..... **G06Q 30/0261**; **G06Q 30/0242**; **G06Q**

USPC .....  
See applic

(56)

U.

8,271,413 B.

8,417,258 B.

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Compending U.S. Ap

"Platform for Loca

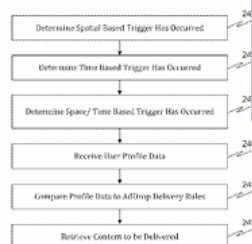
Primary Exam

(74) Attorney, A

(57)

The present disci-  
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receiving the con  
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on consumer eng

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## PLATFORM FOR LOCATION AND TIME BASED ADVERTISING

### (57) ABSTRACT

The present disclosure may provide a stand-alone application, API, or SDK, configured to, for example, but not be limited to: i) register digital assets, physical assets, virtual assets, brand assets, media assets, and mobile assets associated with a platform user; ii) associate content to be delivered in response to an activation of those assets, including interactivity criteria, if applicable; iii) specify triggers for delivering the content and target consumer profiles for receiving the content; and iv) transmit content for engaging the consumer at the right time and/or place, with the targeted profile, and v) track user engagement and provide analytics on consumer engagement.

Ex. 1001, Cover; Institution Decision, 3-6

# The Invention

(12) **United States Patent**  
**Pittman**

(10) Patent No.: US 10,692,108 B1  
(45) Date of Patent: \*Jun. 23, 2020

(54) **PLATFORM FOR LOCATION AND TIME BASED ADVERTISING**

30/0277; G06Q 30/0267; G06Q 30/0246;  
G06Q 30/0244; G06Q 30/0264; G06Q  
30/0269; H04W 4/029; H04W 4/023;  
H04W 4/02; H04W 4/80; H04W 4/024;  
H04W 4/021; H04L 67/306  
..... 705/14.43

(71) Applicant: **BoardActive Corporation**, Atlanta, GA  
(US)

(72) Inventor: **Douglas L. Pittman**, Atlanta, GA (US)

USPC .....  
See application file

(73) Assignee: **BoardActive Corporation**, Atlanta, GA (US)

(56) **Ref**

(\*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

This patent is subject to a terminal disclaimer.

8,271,413 B2 9/2  
8,417,258 B2 4/2  
(

FOREIGN P

(21) Appl. No.: 16/823,323

WO 2016043663

(22) Filed: **Mar. 18, 2020**

OTHER

### Related U.S. Application Data

(63) Continuation of application No. 15/950,019, filed on Apr. 10, 2018, now Pat. No. 10,621,620, which is a  
(Continued)

Primary Examiner — Co

(51) **Int. Cl.**

(14) *Attorney, Agent, or*

|                   |           |
|-------------------|-----------|
| <i>G06Q</i> 30/02 | (2012.01) |
| <i>H04W</i> 4/02  | (2018.01) |
| <i>H04W</i> 4/029 | (2018.01) |
| <i>H04W</i> 4/80  | (2018.01) |
| <i>H04L</i> 29/08 | (2006.01) |

(57) The present disclosure may include one or more of the following features:  
The present disclosure may include one or more of the following features:  
The present disclosure may include one or more of the following features:

(52) U.S. Cl.

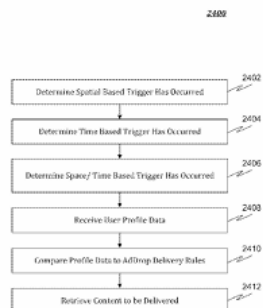
CPC ..... *G06Q 30/0261* (2013.01); *G06Q 30/0242*  
(2013.01); *G06Q 30/0244* (2013.01); *G06Q*  
*30/0246* (2013.01); *G06Q 30/0264* (2013.01);  
*G06Q 30/0267* (2013.01); *G06Q 30/0269*  
(2013.01); *G06Q 30/0277* (2013.01); *H04W*  
*4/02* (2013.01); *H04W 4/023* (2013.01);  
(Continued)

asset, brand assets, mediated with a platform delivered in response to a triggering interactivity criteria, for delivering the content to the consumer receiving the content; and the consumer at the right time, place, and in the right profile, and v) track user on consumer engagement.

(58) **Field of Classification Search**

CPC ..... G06Q 30/0261; G06Q 30/0242; G06Q

**23 Claims, 26 Drawing Sheets**



## FIELD OF DISCLOSURE

The present disclosure generally relates to the field of advertising. More specifically, the present disclosure relates to an online platform for managing geolocation and time-based advertising and methods for managing and/or delivering location and time based advertisements.

Ex. 1001, 1:24-27; Institution Decision, 3-6

# The Invention

1. [pre] A method comprising:

1[a] specifying a content distribution campaign, the content distribution campaign comprising;

1[a][i] a geolocation, and

1[a][ii] media content associated with the geolocation;

1[b] specifying a plurality of rules for the content distribution campaign, wherein specifying the plurality of rules comprises:

1[b][i] specifying a first rule corresponding to a period of time,

1[b][ii] specifying a second rule corresponding to at least one element of profile data associated with a consumer, and

1[b][iii] **specifying a third rule corresponding to a course of travel associated with the consumer**;

1[c] **receiving a first indication that the consumer is at a first location within a radius of the geolocation**;

1[d] assessing, in response to the first indication, the at least one element of profile data associated with the consumer;

1[3] **receiving a second indication that the consumer is at a second location**;

1[f] **determining the course of travel based, at least in part, on an analysis of the first location and the second location**; and

1[g] establishing that the consumer is eligible for the content distribution campaign when the plurality of rules is satisfied.

# Person Having Ordinary Skill In The Art

# Proposed Levels of Skill in the Art

| <u>Party</u>      | <u>Proposed Definition</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>P.O.</b>       | For the purposes of this proceeding, Patent Owner accepts the definition of a person of ordinary skill in the art (“POSITA”) adopted by the Board’s Decision to Institute. DTI, p.10. Specifically, a POSITA “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. Additional experience may substitute for specific education, or specific education may substitute for experience.” DTI, p.10. |
| <b>Petitioner</b> | A person of ordinary skill in the art at the time of the alleged invention of the ‘108 Patent (“POSITA”) 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. Additional experience may substitute for specific education, or specific education may substitute for experience. Ex. 1002, Declaration of Dr. Goldberg, Ph.D., (“DEC.”), ¶26.                                                     |

Response, 3; Petition, 3

# The Board's Preliminary POSITA Level from ID

Trials@uspto.gov  
571-272-7822

Paper 7  
Date: November 29, 2023

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FOURSQUARE LABS, INC.,  
Petitioner,

v.

BOARDACTIVE CORPORATION,  
Patent Owner.

IPR2023-00919  
Patent 10,692,108 B1

Before JAMES A. TARTAL, M  
ROBERT J. SILVERMAN, Ad

WOODS, *Administrative Patent*

Granting Instit

For purposes of this Decision, we adopt Petitioner's assessment of the level of ordinary skill in the art. We disagree that a skilled artisan would have specific working experience with digital advertising and geofencing, as Patent Owner proposes. See Prelim Resp. 6. We find Petitioner's definition, which more generally requires practical working experience, is consistent with the '108 patent and the asserted prior art. Pet. 3; ... Whether we adopt Petitioner's or Patent Owner's proposed level of skill, however, would not change the outcome of this Decision, based on the similarity in qualifications proposed by each party.

# Claim Construction

# Consumer

[Petitioner did not propose any construction in Petitioner or Reply]

Patent Owner:

Patent Owner proposes that “consumer” be construed to mean “a user or person to whom an advertisement may be sent.”

Response, 11

Petitioner:

Petitioner does not expressly construe any term. See Pet. 3–4.

DTI, 11

# Course of Travel

[Petitioner did not propose any construction in Petition or Reply]

Patent Owner:

Claim 1 expressly requires that determining the “course of travel” be based “at least in part, on an analysis of the first location and the second location.” Exh. 1001, 38:65-67. As such, Patent Owner proposes “course of travel” be given its plain and ordinary meaning, albeit requiring “at least in part, an analysis of the first location and the second location.”

Response, 11-12

Petitioner:

Petitioner does not expressly construe any term. See Pet. 3–4.

DTI, 11

# Grounds 1 and 2: Invalidity in View of Felt [Verizon]

§102 - Claims 1-23

§103 – Claims 1-23

# “COURSE OF TAVEL” ASSOCIATED WITH CONSUMER GROUNDS 1 & 2 Element 1(b)

Felt

As to the “third rule corresponding to a course of travel associated with the consumer,” Petitioner cites to Felt’s teaching of “speed and/or direction of travel.” Pet. 7 (citing in part Ex. 1004 ¶ 36).<sup>11</sup> Felt discloses that

Location/Proximity module 206 may comprise a WiFi, 3G, 4G, or Bluetooth component, a GPS receiver/processor, and/or other components to track the location of the mobile unit and/or nearby mobile devices to yield location data. The respective location of the mobile unit and/or mobile devices may be compared to obtain proximity data. *The location data and/or proximity data may be used by decision module 212 in the determination of whether to display the marketing content and/or distribute the marketing content.*

Ex. 1004 ¶ 36 (emphasis added). At this stage, we are persuaded that Felt’s teaching of using location data “in the determination of whether to display the marketing content and/or distribute the marketing content” (*id.*) satisfies the “course of travel associated with the consumer.”

At this preliminary stage of the proceeding, Petitioner demonstrates a reasonable likelihood that Felt’s method of advertising satisfies Element 1(b).

# “COURSE OF TAVEL” ASSOCIATED WITH CONSUMER

## GROUND 1 & 2 – Claim 1

Element 1(b)(iii), 1(c), 1(f), and 1(e)

Felt

1(b)(iii) specifying a third rule corresponding to **a course of travel associated with the consumer**;

1(f): **determining the course of travel** based, at least in part, on an analysis of **the first location** and **the second location**; and

1(c): receiving a first indication that **the consumer is at a first location** within a radius of the geolocation;

1(e): receiving a second indication that **the consumer is at a second location**;

Petition, iv (*color and emphasis added*); Exhibit 1001, Claim 1

# Element 1(e) - receiving a second indication that the consumer is at a second location

Grounds 1 & 2

Felt

“At this preliminary stage of the proceeding, we have reservations as to whether Felt discloses the step of ‘receiving a second indication that the consumer is at a second location.’ Based on the current briefing, it appears that neither the Petition (see Pet. 11) nor the cited portion of Dr. Goldberg’s declaration (see Ex. 1002 ¶¶ 264–268) clearly sets forth where Felt teaches the receipt of a second indication at a second location.”

DTI, 26; *See also* Response 28-30

# Element 1(f) - determining the course of travel based, at least in part, on an analysis of the first location and the second location

Grounds 1 & 2

Felt

## *“Summary of Independent Claim 1*

At this preliminary stage, we are skeptical whether the Petition demonstrates a reasonable likelihood that Felt’s method of advertising satisfies Element 1(e) or 1(f).”

DTI, 28; *See also* Response 30-32

# Dependent Claims 2-12

## Grounds 1 & 2

Felt

“Claims 2–12 depend from independent claim 1. Ex. 1001, 39:4–55. In addressing these claims under Grounds 1 and 2, Petitioner relies on the same analysis relied upon in challenging claim 1. See Pet. 13–20. For the same reasons discussed above in relation to whether Felt anticipates or renders obvious claim 1, at least at this preliminary stage of the proceeding, we are skeptical whether the Petition demonstrates a reasonable likelihood that Felt anticipates or renders obvious claims 2–12.”

DTI 28; *See also* Response 32

# Claim 13(b)(iii) - specifying at least one action to be performed by a consumer;

Grounds 1 & 2

Felt

However, claim 13 requires the consumer act before the consumer is determined to be eligible for the content distribution campaign. Exh. 1001, 39:59-65 (specifying that a consumer action is one of the required rules); 40:4-6 (specifying that the consumer is eligible for the distribution campaign “when the plurality of rules is satisfied”). Petitioner fails to identify where the claimed three rules are defined in Felt, and it fails to show how Felt’s alleged consumer action occurs before content delivery to the consumer.

Response, 34

“Felt distinguishes interactivity-travel from other travel. RESP., 42. Felt’s “geolocation” and “period of time” rules are undeniable, and Patent Owner’s complaints are purely argumentative. RESP., 34-35.”

Reply, 15

# Claim 13(d) - tracking the consumer in response to receiving the first indication to determine whether the consumer has performed the at least one action

Grounds 1 & 2

Felt

“At this preliminary stage of the proceeding, we are skeptical whether the Petition demonstrates a reasonable likelihood that Felt’s method of advertising discloses Element 13(d).”

DTI, 32

“Dr. Goldberg’s testimony suggests that multiple locations of the consumer are ‘tracked’ (see *id.*), yet, at this preliminary stage, and as similarly discussed above in relation to claim 1 (see *supra* § III.D.2.e), we are skeptical whether Felt tracks consumer location.”

DTI, 32

# Claim 13(d)

## Grounds 1 & 2

Felt

### *“Summary of Independent Claim 13*

At this preliminary stage, we are skeptical whether Felt’s method of advertising satisfies Element 13(d), and whether the Petition demonstrates a reasonable likelihood that Felt anticipates or renders obvious claim 13.”

DTI, 33

13(d) tracking the consumer in response to receiving the first indication to determine whether the consumer has performed the at least one action; and

Ex. 1001, Claim 13

# Claims 14-19

## Grounds 1 & 2

Felt

“Claims 14–19 depend from independent claim 13. Ex. 1001, 40:7–30. In addressing these claims under Grounds 1 and 2, Petitioner relies on the same analysis relied upon in challenging claim 13. See Pet. 23–27. For the same reasons discussed above regarding claim 13, at this preliminary stage of the proceeding, we are skeptical whether the Petition demonstrates a reasonable likelihood that Felt anticipates or renders obvious claims 14–19.”

DTI, 33

“Patent Owner’s arguments regarding claims 14-19 rest on rebutted points regarding claim 13. ”

Reply, 16

# Independent Claim 20

## Grounds 1 & 2

Felt

“As this preliminary stage of the proceeding, we are skeptical whether the Petition demonstrates a reasonable likelihood that Felt satisfies the ‘second message’ limitations. ”

DTI, 34

Claim Element 20(g) requires “receiving a second determination that the second rule has been satisfied;”

Claim Element 20(h) further requires “associating the second message with the consumer upon the second rule being satisfied.”

Exh. 1001

# Independent Claims 21-23

## Grounds 1 & 2

Felt

“For the same reasons discussed above in regards to claim 20, at this preliminary stage of the proceeding, we are skeptical whether the Petition demonstrates a reasonable likelihood that Felt anticipates or renders obvious claims 21–23.”

DTI, 34-35

**Ground 3: Felt and Geer**  
**Ground 5: Felt, (Creemer or Scofield), and Geer**

**Claims 13-19**

# Felt & Geer

## Motivation to Combine

Ground 3 & 5

Felt & Geer

Based on our preliminary understanding, it is not clear from the Petition how the teachings of Geer are being used to improve upon Felt's system. Petitioner reasons that a "POSITA would have incorporated such location responsive user tracking in [Felt] to adjust resolution appropriately, to reduce data loads, and/or to save power consumption" (Pet. 35), yet the Petition does not appear to address how the proposed combination would satisfy the relevant claim limitation, which requires, "tracking the consumer in response to receiving a first indication to determine whether the consumer has performed the at least one action" (id. at vi (Element 13(d))). Based on our review of the Petition, it is unclear how Felt is being modified based on Geer's teachings to satisfy the claim limitation. See id. at 34–35.

DTI, 43

# Felt, Creemer or Scofield, Geer Claims 15-19 and 22-23

Ground 5 (also Ground 4)

Felt, Creemer or Scofield, Geer

The Petition and Declaration do not rely on Creemer or Scofield to teach any element of independent claims 13 and 20, nor any elements of dependent claims 15-19 and 22-23.

Response, 52

# Ground 4: Felt and (Creemer or Scofield)

Claims 1-23

# Felt (Creemer or Scofield)

## Ground 4

### Independent Claim 1

Felt, (Creemer or Scofield)

## Incorrect Based on Petition

At this stage of the proceeding, Petitioner's expert, Dr. Goldberg, testifies with reasonable support from Scofield that

Scofield discloses analyzing periodic position information to determine "how (e.g., by what geographic path, trail, or avenue) a mobile device user is traveling between locations. . . .

Such periodic information indicates at least first and second locations indicated from the mobile device to the remote system.

DTI, 40

# Felt, (Creemer or Scofield)

## Ground 4 Independent Claim 1

Felt, (Creemer or Scofield)

Creemer:

For example, Creemer discloses applying user position and time information to determine rate of travel “along the user’s path,” and averages “for the overall journey.” Id., ¶[0062]. Creemer discloses consideration of the user’s direction. Id., ¶[0063] (“along the user’s path.”), [0064] (“user’s rate and direction of travel along segments of the user’s path, or for the overall journey.”).

Petition, 8

Scofield:

For example, Scofield applies the user’s path (or “trail”) to determine desirable advertisements. Cols. 4:43-55, 5:17-32. Scofield expansively considers such paths as consumer courses of travel including the user’s movements generally. Id., Cols. 5:33-6:36.

Petition, 9

# Ground 6: Adharapurapu (Alcatel) and Verizon

Claims 1-23

# Adharapurapu and Felt No Motivation to Combine

## Ground 6

### Adharapurapu & Felt

“Adharapurapu’s “system keeps track of the direction of travel of the mobile device through locations of predetermined tracker base stations passed by the mobile device.” Id.”

DTI, 44

“Adharapurapu is using old and entirely different technology to track mobility service, and not the location of the of the consumer within a radius of the geolocation as required by the claims”

Response, 55

“The combination of geofencing in Felt with cellular base stations in Adharapurapu makes little sense as their operations are so different. Petitioner’s expert recognizes these differences but fails to explain how they would permit combination of the references. See also PATENT OWNER’S SUR-REPLY 12 IPR2023-00919, U.S. Patent No. 10,692,108 Paper No. 15 Paper 12 (Reply), p.31. ”

Sur-Reply, 12

# Adharapurapu and Felt No Motivation to Combine

## Ground 6

Adharapurapu & Felt

“There is no geofencing because a mobile device can be covered by two or more cells at the same time and no evidence has been provided by Petitioner that a mobile device will always be assigned the same base station.”

Response, 56

“[E]ven if a mobile device takes the same path through the same cell sites, the use of different services, such as a service requiring a UTRAN cell, would result in different cells being used”

Response, 57

# Adharapurapu and Felt

## Claim Elements 1(e), 1(f), 13(d), and 20(g)

Ground 6 – Claims 1-23

Adharapurapu & Felt

“Felt does not teach claim elements 1(e) and 1(f). See §§V.B.1 and V.B.2, supra. The Board indicated that it was skeptical that Felt taught ‘a second location and no indication is provided in Dr. Goldberg’s Declaration.’ DTI, p.26.”

Response, 54

“The Board also indicated that ‘[u]nder Grounds 1 and 2, we are skeptical whether Felt’s method of advertising satisfies Element 13(d).’ DTI, p.41..”

Response, 54

“[E]lement 20(g) recites ‘receiving a second determination that the second rule has been satisfied,’ which is not found in Felt. See §§V.B.1 and V.B.2, supra. The Board also stated that the ‘Patent Owner’s argument has merit.’ DTI, p.34. The Adharapurapu reference is not relied on for teaching element 20(g) DTI, p.26.”

Response, 54

# Adharapurapu and Felt Claim Elements 1(e) & 1(f)

Ground 6 – Claims 1-23

Adharapurapu & Felt

“With regards to Adharapurapu’s teaching of element 1(e) and 1(f), the only comment in the petition is a statement of “[c]ontinuing Alcatel’s first example above, comparing the indication of stations D to station A, Alcatel determines the course of travel between those stations, accordingly.” Pet., p. 40 (citing Adharapurapu, ¶¶17, 20-22; DEC., ¶347).”

Response, 55

“Adharapurapu is using old and entirely different technology to track mobility service, and not the location of the of the consumer within a radius of the geolocation as required by the claims.”

Response, 55

# Adharapurapu and Felt Claim Elements 13(d)

Ground 6 – Claims 1-23

Adharapurapu & Felt

“[A]s pointed out by the Board, the element requires ‘tracking the consumer in response to receiving the first indication to determine whether the consumer has performed the at least one action.’ DTI, p. 32...[the Board] are skeptical whether Felt discloses the step. *Id.*”

Response, 58; DTI 32

“The tracking of the Consumer in a general area in Adharapurapu fails no better:

When a mobile device 107 is detected (401) by a tracker base station 105, the tracker base station 105 checks (402) if the mobile device user has subscribed to content delivery...If the mobile device 107 subscriber has not subscribed to the content delivery based on direction of mobility service, location information of the mobile device 107 is not noted.

Adharapurapu, ¶22. Therefore, tracking is not in response to, rather it occurs prior to, receiving the first indication.”

Response, 55

“A determination is being made of what to do with the tracked information, not if tracking will occur.”

Response, 55

# Ground 7: Adharapurapu, Verizon, Geer

Claims 13-19

# Adharapurapu, Felt, and Geer Motivation to Combine

## Ground 7

Adharapurapu, Felt, & Geer

“Based on our current understanding, it appears that the Petition fails to sufficiently explain how Adharapurapu or Felt is being modified based on Geer’s teachings to satisfy the claim limitation. See *id.* at 34–35.”

DTI, 53

“At this preliminary stage of the proceeding, we are skeptical whether the Petition demonstrates a reasonable likelihood that Adharapurapu, Felt, and Geer (Ground 7) renders independent claim 13 or its dependent claims 14–19 unpatentable.”

DTI, 53

# Opposition to Petitioner's Motion To Exclude

# Opposition to Petitioner's Motion To Exclude

Exhibit 2002 (The GSM System for Mobile Communications): Relevant because it establishes why Adharapurapu fails to work as Petitioner proposes and why a POSITA would not consider Adharapurapu.

Exhibit 2003 (TS 45.008 - "Measurements for Cell Reselection"): Relevant and publicly available printed publication.

- Dr. Goldberg's "concerns" are improper as shown by the "change history."

Exhibit 2004 (Declaration of Craig Bishop): Relevant because it attests to the public availability of Exhibit 2003.

# Patent Owner's Motion To Exclude

# Motion to Exclude Exhibits 1002 & 1009

Exhibit 1002 (Declaration of Dr. Goldberg): Improperly discusses the “Patents in suit” (plural) despite only one patent being at issue.

Exhibit 1009 (Supplemental Declaration of Dr. Goldberg): Improper for the reason above, and because technical experts may not attest to conclusions of law.

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# End of Demonstrative