

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MOTOROLA SOLUTIONS, INC.,
Petitioner,

v.

STA GROUP LLC,
Patent Owner.

Case IPR2023-01295
U.S. Patent No. 8,994,830

**DECLARATION OF DR. ROBERT AKL
IN SUPPORT OF PATENT OWNER'S RESPONSE**

TABLE OF CONTENTS

I.	INTRODUCTION	5
II.	BACKGROUND AND QUALIFICATIONS	5
III.	MATERIALS RELIED UPON IN FORMING MY OPINIONS	12
IV.	LEGAL STANDARDS FOR PATENTABILITY	12
A.	Claim Construction	12
B.	Obviousness.....	13
V.	LEVEL OF ORDINARY SKILL IN THE ART	15
VI.	OVERVIEW OF THE '830 PATENT.....	16
VII.	CLAIM CONSTRUCTION.....	18
VIII.	OVERVIEW OF THE CITED PRIOR ART.....	19
A.	Shaffer (Ex. 1004)	19
B.	Saylor (Ex. 1011)	21
C.	Gogic (Ex. 1006)	22
D.	Opitz (Ex. 1007).....	22
IX.	GROUND 1: CLAIMS 1-5, 7-19, AND 21-24 ARE NOT OBVIOUS OVER SHAFFER IN VIEW OF SAYLOR.....	23
A.	Independent Claims 1 and 15	23
1.	There Is No Motivation To Combine Shaffer and Saylor	23
a)	Shaffer's Method Of Endpoint Connectivity Is Substantially Different Than Saylor's	24
b)	Shaffer's Open Network v. Saylor's Closed Network	27

c)	Both References Are Fully Functional Without The Other	29
d)	Shaffer’s IS Would Work With Any Network, There Is No Reason To Look To Saylor	31
2.	Shaffer in view of Saylor Does Not Teach “Identifying At Least One Video Feed By Selecting The At Least One Video Feed From The Plurality Of Video Feeds Associated With The Geographic Zone”	33
3.	Shaffer In View Of Saylor Does Not Teach “Providing A Plurality Of Radio Frequencies On A Display Of The Mobile Communication Device”	35
4.	Shaffer In View Of Saylor Does Not Teach “Monitoring A Selection Of A Radio Frequency Of The Plurality Of Radio Frequencies By The User”	37
5.	Shaffer In View Of Saylor Does Not Teach Associating A Video Feed With A Communication Channel “... When The User Accesses The Selected Communication Channel”	41
B.	Ground 1 Dependent Claims	44
1.	Claims 3, 17	44
2.	Claims 7, 21	45
X.	GROUND 2: CLAIMS 1-5, 8-19, AND 22-24 ARE NOT OBVIOUS OVER GOGIC IN VIEW OF OPITZ	47
A.	Independent Claims 1, 15	47
1.	There is No Motivation to Combine Gogic and Opitz	48
a)	The Petition Suggests One Reason To Combine Is To Provide A Mechanism For CDs To Make An Initial Connection To Base Stations, But Gogic Itself Teaches This	49
b)	Gogic Explains That Opitz’s Permanent Networks Are Flawed.....	53

2.	Gogic fails to teach “monitoring a selection of a communication channel by a user of a mobile communication device,” as recited in Claims 1 and 15.....	54
3.	Gogic in view of Opitz fails to teach “providing a plurality of radio frequencies on a display of the mobile communication device, each radio frequency being associated with a geographical zone from which a plurality of video feeds associated with the geographic zone are sourced”	58
a)	Everybody Agrees that Gogic Does Not Teach This Limitation	58
b)	Opitz Is Like The Winter Reference Cited By The Examiner.....	59
c)	Opitz’s “Vehicle Radios” Would Not Interface With Video Systems	62
4.	Gogic fails to teach “identifying at least one video feed by selecting the at least one video feed from the plurality of video feeds associated with the geographic zone,” as recited in Claims 1 and 15	63
a)	Creativity Is Required To Understand The Arguments Made In The Petition	63
b)	No Video Feed Is Selected From A Plurality Of Video Feeds As Claimed	65
B.	Dependent Claims	67
1.	Claims 3, 17	67
XI.	ADDITIONAL REMARKS	69

I, Robert Akl, D.Sc. of Dallas, Texas, hereby state and declare:

I. INTRODUCTION

1. I am over the age of 18 and am competent to make this Declaration. I have personal knowledge, or have developed knowledge, of the matters set forth herein based upon my education, training, and/or experience. If called upon to do so, I would testify competently thereto.

2. I have been retained by counsel for Patent Owner STA Group LLC (“STA”) in the above matter. I am submitting this Declaration in response to the Petition for *Inter Partes* Review for U.S. Patent No. 8,994,830 (the “’830 Patent”) and associated exhibits. Specifically, I have been asked to consider the validity of claims 1-5, 7-19, and 21-24 of the ’830 Patent (the “Challenged Claims”) in view of prior art, obviousness considerations, and understanding of a person of ordinary skill in the art (“POSITA”) at the time of the inventions claimed in the ’830 Patent.

II. BACKGROUND AND QUALIFICATIONS

3. I am an expert in the field of telecommunication systems. I have studied, taught, practiced, and researched this field for over 30 years. I have summarized in this section my educational background, work experience, and other relevant qualifications. Exhibit 2007 is a true and correct copy of my *curriculum vitae* describing my background and experience.

4. I earned Bachelor of Science degrees in Electrical Engineering and

Computer Science *summa cum laude* with a grade point average of 4.0/4.0 and a ranking of first in my undergraduate class from Washington University in St. Louis in 1994. In 1996, I earned my Master of Science degree in Electrical Engineering from Washington University in St. Louis with a grade point average of 4.0/4.0. I earned my Doctor of Science in Electrical Engineering from Washington University in St. Louis in 2000, again with a grade point average of 4.0/4.0, with my dissertation being on “Cell Design to Maximize Capacity in Cellular Code Division Multiple Access (CDMA) Networks.”

5. While a graduate student, from 1997 through 1999, I worked at MinMax Corporation in St. Louis, where I designed software packages that provided tools to flexibly allocate capacity in a CDMA communications network and maximize the number of subscribers. I also validated the hardware architecture for an Asynchronous Transfer Mode (ATM) switch capable of channel group switching, as well as performed logical and timing simulations, and developed the hardware architecture for the ATM switch. I also worked with Teleware Corporation in Seoul, South Korea, where I designed and developed algorithms that were commercially deployed in a software package suite for analyzing the capacity in a CDMA network implementing the IS-95 standard to maximize the number of subscribers.

6. After obtaining my Doctor of Science degree, I worked as a Senior Systems Engineer at Comspace Corporation from October of 2000 to December of

2001. At Comspace, I designed and developed advanced data coding and modulation methods for improving reliability and increasing the available data rates for cellular communications. I coded and simulated different encoding schemes (including Turbo coding, Viterbi decoding, trellis coded modulation, and Reed-Muller codes) and modulation techniques using amplitude and phase characteristics and multi-level star constellations. This work further entailed the optimization of soft decision parameters and interleavers for additive white Gaussian and Rayleigh faded channels. In addition, I also extended the control and trunking of Logic Trunked Radio (LTR) to include one-to-one and one-to-many voice and data messaging.

7. In January of 2002, I joined the faculty of the University of New Orleans in Louisiana as an Assistant Professor in the Department of Electrical Engineering. While in this position, I designed and taught two new courses called “Computer Systems Design I and II.” I also developed a Computer Engineering Curriculum with a strong hardware-design emphasis, formed a wireless research group, and advised graduate and undergraduate students.

8. In September of 2002, I received an appointment as an Assistant Professor in the Department of Computer Science and Engineering at the University of North Texas (UNT), in Denton, Texas. In May of 2008, I earned tenure and was promoted to the rank of Associate Professor. As a faculty member, I have taught courses and directed research in networking and telecommunications, including 2G,

3G, 4G, 5G, CDMA/WCDMA, GPS, GSM, UMTS, LTE, ad-hoc networks, antenna design and beamforming, Bluetooth, call admission control, channel coding, channel estimation, communication interfaces and standards, compression, computer architecture, MIMO systems, multi-cell network optimization, network security, packet-networks, telephony, VoIP, Wi-Fi (802.11), 802.15.4, Zigbee, wireless communication, and wireless sensors. Between January of 2015 and August of 2022, I was appointed Associate Chair of Graduate Studies in the Department of Computer Science and Engineering. In May of 2023, I was promoted to the rank of Professor.

9. I am also the director of the Wireless Sensor Lab (“WiSL”) at UNT. I am a member of the Center for Information and Cyber Security (CICS). It is the only program in the U.S. to be federally certified by the National Security Agency as a Center of Academic Excellence in Information Assurance Education and Research *and* Cyber Defense Research. I was also a member of the NSF Net-Centric & Cloud Software & Systems: Industry-University Cooperative Research Center (I/UCRC). Several of my research projects are funded by industry and the National Science Foundation and published in *IEEE* conference proceedings and journals.

10. In addition to advising and mentoring students at UNT, I was asked to join the faculty of the University of Arkansas in Little Rock as an Adjunct Assistant Professor from 2004 to 2008 in order to supervise the research of two Ph.D. graduate students who were doing research in wireless communications. At UNT, I have

advised and supervised more than 250 undergraduate and graduate students, several of whom received a master's or doctorate degree under my guidance.

11. Between 2005 and 2017, I have received over a million dollars in funding from the State of Texas, Texas Higher Education Coordination Board, the National Science Foundation, and industry to design and conduct robotics, video, and mobile gaming (*e.g.*, Xbox, PC, mobile device) programming summer camps for middle and high school students at UNT. By using video and mobile gaming as the backdrop, participants have learned coding and programming principles and developed an understanding of the role of physics and mathematics in video game design.

12. Between 2011 and 2013, I was director of the Bio-Com Project that was funded by Raytheon. The project evaluated the feasibility study using Surface Electromyography (EMG) and bend resistive sensors, which are attached to each of the five fingers of the hand, for hand gesture recognition. This approach is sometimes known as a “data glove.” A prototype was developed and demonstrated at Raytheon, to help soldiers in close-combat situations communicate with hand gestures and hand signals that would be recognized and transmitted to other soldiers’ Head Up Display (HUD) without breaking radio silence.

13. In addition to my academic work, I have remained active in the communication industry through my consulting work. In 2002, I consulted for

Input/Output Inc. and designed and implemented algorithms for optimizing the frequency selection process used by sonar for scanning the bottom of the ocean. In 2004, I worked with Allegiant Integrated Solutions in Ft. Worth, Texas to design and develop an integrated set of tools for fast deployment of wireless networks, using the 802.11 standard. Among other features, these tools optimize the placement of Access Points and determine their respective channel allocations to minimize interference and maximize capacity. I also assisted the Collin County Sheriff's Office (Texas) in a double homicide investigation, analyzing cellular record data to determine user location.

14. I have authored and co-authored over 100 journal publications, conference proceedings, technical papers, book chapters, and technical presentations in a broad array of communications-related technologies, including networking and wireless communication. I have also developed and taught over 100 courses related to communications and computer systems, including several courses on signals and systems, 4G/LTE and 5G/NR, OFDM, VoIP, Wi-Fi (802.11), 802.15.4, Zigbee, wireless communication, antenna design and beamforming, communications systems, communication interfaces and standards, channel estimation, location management, sensor networks, source coding and compression, network security, computer systems design, game and app design, and computer architecture. These courses have included introductory courses on communication networks and signals

and systems, as well as more advanced courses on wireless communications. A complete list of my publications and the courses I have developed and/or taught is also contained in my *curriculum vitae*.

15. My professional affiliations include services in various professional organizations and serving as a reviewer for a number of technical publications, journals, and conferences. I have also received a number of awards and recognitions, including the IEEE Professionalism Award (2008), UNT College of Engineering Outstanding Teacher Award (2008), and Tech Titan of the Future (2010) among others, which are listed in my *curriculum vitae*.

16. I have also served as an expert in certain legal proceedings. A list of cases in which I have testified at trial, hearing, or by deposition (including those during the past four years) is provided in my *curriculum vitae*. Over the years, I have been retained by both patent owners and petitioners, as well as plaintiffs and defendants.

17. I am being compensated for my work in this case at my standard rate. I am also being reimbursed for expenses that I incur during the course of this work. My compensation is not contingent upon the results of my study, the substance of my opinions, or the outcome of any proceeding involving the challenged claims. I have no financial interest in the outcome of this matter.

III. MATERIALS RELIED UPON IN FORMING MY OPINIONS

18. In preparing this Declaration, I have reviewed all documents cited herein, including the '830 Patent (Ex. 1001) and its prosecution history (Ex. 1003), and the Petition for IPR for the '830 Patent (Paper No. 1, "Petition"), including accompanying exhibits (*e.g.*, Ex. 1002, the "Polish Decl."). I have also reviewed Paper Nos. 7 (Preliminary Patent Owner's Response, "PPOR"), 9 (Petitioner's Reply to the POPR), 10 (Patent Owner's Sur-Reply in support of the PPOR), 11 (Institution Decision) and the other documents and materials cited therein. When quoting from these materials, all emphasis is added unless otherwise noted.

19. My opinions are also based upon my education, training, research, knowledge, and personal and professional experience.

IV. LEGAL STANDARDS FOR PATENTABILITY

20. I am not an attorney and I offer no opinion on the law itself. My understanding of the relevant legal principles in this section is based on information provided to me by counsel.

A. Claim Construction

21. I understand that claim terms are typically given their ordinary and customary meaning, as would have been understood by a person of ordinary skill in the art, at the time of invention, which I was asked to assume is the August 2008 timeframe. In considering the meaning of the claims, I also understand that one must

consider the claim language, specification, prosecution history, and the knowledge of a person of ordinary skill in the art (“POSITA”) at the relevant time. I have followed these principles in my analysis.

22. Except as set forth below in Section VII, I have been asked to apply the plain and ordinary meaning of the claim terms consistent with the specification.

B. Obviousness

23. I have been informed by counsel that a claim may be invalid if the invention recited in the claim would have been obvious to one of ordinary skill in the art at the time the invention was made in light of the prior art. I understand for a claim to be found obvious, every claim limitation must be found present in the combination of the prior art references before the obviousness analysis proceeds.

24. In considering whether a claim is obvious, I understand that one must consider (a) the level of skill in the art at the time of the claimed invention, (b) the scope and content of the prior art, (c) any differences between the prior art and the claims of the patent-in-suit, and (d) any “secondary factors” tending to show non-obviousness of the claimed invention, including commercial success, long-felt but unresolved need, failure of others, copying, praise by others, unexpected results, and simultaneous invention by others.

25. I understand that a claim composed of several elements is not proved obvious merely by demonstrating that each of its elements was independently known

in the prior art. I also understand that obviousness should not be analyzed using the benefit of hindsight. Instead, it must be analyzed from the standpoint of what was known and understood by a POSITA at the time of the claimed invention. I further understand demonstrating whether making a modification to a reference or whether combining multiple references would have been obvious requires providing a reason for why a POSITA would modify the reference or combine multiple references, and that reason must be supported with some rationale underpinning. Merely pointing out that two references are similar or in the same field of endeavor is not sufficient.

26. I understand that if a combination of two or more prior art references is used to render a claimed invention obvious, there must be a reasonable expectation of success in making or practicing the claimed invention based on such combination. I understand the combination cannot modify a prior art reference such that it would render the reference unsatisfactory for its intended purpose.

27. I understand that it is impermissible to use the patent as a template (and reason) for combining prior art references as that would be applying hindsight. I understand that a POSITA would have to be motivated to combine references to create the combination of features required by the claims of the patent. I further understand that mere assertions that prior art references are analogous art, without more, is an insufficient articulation for a motivation to combine.

V. LEVEL OF ORDINARY SKILL IN THE ART

28. In rendering the opinions set forth in this Declaration, I was asked to consider the patent claims and the prior art through the eyes of a POSITA. The “art” is the field of technology to which the ’830 patent is related. In my Declaration, I use the term POSITA and skilled person to refer to the same hypothetical person of ordinary skill in the art. I considered factors such as the educational level and years of experience of those working in the pertinent art; the types of problems encountered in the art; the teachings of the prior art; patents and publications of other persons or companies; and the sophistication of the technology. I understand that a POSITA is not a specific real individual, but rather a hypothetical individual having the qualities reflected by the factors discussed above.

29. I understand that Petitioner and Dr. Polish have proposed that a POSITA in the field of the ’830 Patent inventions at the time of invention (August 2008) would have had “at least a bachelor’s degree in computer science, electrical engineering, or a similar field, and would have had approximately two years industry experience in networking or communication systems, including interoperating different types of networks that include video feeds. Additional education in the fields of electrical engineering or computer science such as a masters or doctorate degree may serve as a substitute for experience in the field. A person with less or different education but more relevant practical experience, or vice versa, may also

meet this standard.” Ex. 1002 ¶46; *see* Pet. at 13.

30. I understand that Patent Owner does not dispute the proposal provided by Petitioner and Dr. Polish as to who would qualify as a POSITA. I do not dispute this proposal either. Under that proposal, I qualified as a POSITA at least as early as 1996, when I earned my Master’s degree. I am qualified to provide opinions concerning what a POSITA would have known and understood, and my analysis and conclusions herein are from the perspective of a POSITA under Petitioner and Dr. Polish’s set of qualifications.

VI. OVERVIEW OF THE ’830 PATENT

31. The ’830 Patent issued March 31, 2015 from an application filed August 8, 2008. Ex. 1001 at Cover. The ’830 Patent is directed to methods and apparatuses for providing access to video streams associated with communication channels in a communication network. *Id.* at Abstract. Independent claims 1 and 15 claim a method and apparatus for selecting channels including radio frequencies, which are associated with geographic zones, by a user of a mobile communication device. *Id.* at claims 1, 15. Claims 1 and 15 further claim a plurality of video feeds associated with each geographic zone. *Id.*

32. The user of a mobile communication device selects a radio frequency from multiple available radio frequencies, each associated with a geographical zone. *Id.* Instead of providing all the video feeds that are associated with and sourced from

the geographic zone, the claims recite that only one or some of the video feeds are identified for providing to the user based on a user policy. *Id.* The claimed user policy identifies one or more video feeds that are relevant to the user when the user accesses the selected communication channel. *Id.*

33. Figure 9 depicts a graphical user interface (“GUI”) that allows a user to select a communication channel and once that channel is selected, to select a communication frequency associated with that channel and the user’s location from a drop-down menu. *Id.* at 1:55–57; 9:60–10:41; Fig. 9. Figure 8 similarly shows a schematic view of an exemplary GUI that allow a user to select a communication channel and associated frequency using policy rules 806, based on an access policy or a user’s role, to identify which video feeds can be shown to the user. *Id.* at 1:55–57; 9:45–59; Fig. 8.

34. The Petition asserts invalidity of the Challenged Claims based on Grounds 1 and 2, as detailed below (Pet. at 9–10):

Ground	Basis for Challenge
1	Claims 1-5, 7-19, and 21-24 are obvious based on Shaffer ¹ in view of Saylor ²

¹ U.S. Pat. Pub. No. 2006/0281471 to Shaffer titled “Method and System for Communicating Using Position Information.” Ex. 1004 (“Shaffer”) at Cover.

² U.S. Pat. No. 7,113,090 to Saylor titled “System and Method for Connecting Security Systems to a Wireless Device.” Ex. 1011 (“Saylor”) at Cover.

2	Claims 1-5, 8-19, and 22-24 are obvious based on Gogic ³ in view of Opitz ⁴
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VII. CLAIM CONSTRUCTION

35. I have been informed by counsel that because the Petition was filed after November 13, 2018, the proper claim construction standard to be applied is articulated in *Phillips v. AWH Corp.* Therefore, I understand that the '830 Patent claims should be given their ordinary and customary meaning and the ordinary and customary meaning of a claim term is the meaning that the term would have to a POSITA in question at the time of the invention (August 2008), *i.e.*, as of the effective filing date of the patent application.

36. I understand that in parallel district court litigation (Case No. 2:22-cv-00381-JRG-RSP), Petitioner and Patent Owner agreed on certain constructions, and that the district court has adopted these agreed constructions:

Term	Agreed Construction
Order of Steps (Claim 1)	The “monitoring a selection of a communication channel” step must be performed before the “identifying at least one video feed by selecting the at least one video feed from the plurality of video feeds” step.

³ U.S. Pat. Pub. No. 2007/0173273 to Gogic titled “System and Method for Forming Ad-Hoc Location-Based Multicast Group.” Ex. 1006 (“Gogic”) at Cover.

⁴ U.S. Pat. No. 8,090,388 to Opitz titled “Method and Apparatus for Determining a Geographic Location.” Ex. 1007 (“Opitz”) at Cover.

Term	Agreed Construction
“Push-to-Talk (PTT) channel in a PTT communication network” (Claim 5)	“A channel for transmitting half-duplex communications in a Push-to-Talk communication network”

Ex. 2001 at 7, 9–10.

I further understand that the Court construed certain claim terms as shown below:

Term	Agreed Construction
“wherein the at least one video feed is associated with the selected communication channel ... the one or more video feeds being independent of the selected communication channel” (Claim 1)	“the one or more video feeds being capable of being associated with more than the selected communication channel”
“video stream association module” (Claim 15)	Plain and ordinary meaning; not subject to 35 U.S.C. § 112, ¶ 6

Ex. 2005 at 17–31.

VIII. OVERVIEW OF THE CITED PRIOR ART

37. Here, I provide overviews of the prior art references relied on in the Petition and Dr. Polish’s Declaration. I discuss these references in more detail in connection with the claim limitations below.

A. Shaffer (Ex. 1004)

38. Shaffer describes “a method for communicating using position information.” *Id.* at Abstract, ¶¶ 1, 5. As a user moves from a first location to a second location, the method identifies the updated position of the user and

automatically adjusts communication parameters to join and communicate on a communication network at the second location. *Id.*

39. Shaffer describes the migration to a second communication network as occurring automatically when the user moves into a new location. *Id.* at ¶¶ 6-7. Shaffer also describes an “endpoint 200” that “includes a transmitter/receiver 202, a user interface 204, a processor 206 and a memory module 208.” *Id.* at ¶ 44. The “[t]ransmitter/receiver 202 obtains signals from GPS satellites or ground stations of a communication network in order to determine a position of endpoint 200” so that the endpoint can join the communication network for the geographic location it is presently in. *Id.* “User interface 204 provides a mechanism through which a user of mobile endpoint 200 may operate the endpoint and communicate with other network devices.” *Id.*

40. “Memory module 208 includes network communication parameter listings 210 which contains mappings of communication settings, such as radio frequencies and encryption keys, of communication networks by location.” *Id.* at ¶ 46. As the user moves from a first location to a second location, the endpoint 200 finds the relevant radio frequency and encryption key for the new location and automatically selects those parameters to allow the endpoint to communicate on the communication network of the second location. *Id.* at ¶¶ 49-50, 52 (“As indicated above, technical advantages of particular embodiments of the present invention

include utilizing GPS information to adjust parameters of a mobile endpoint and automatically tune its parameters to match local network requirements.”).

B. Saylor (Ex. 1011)

41. Saylor “provides a personal security network where an individual’s system or systems of security devices may be connected to a central security network.” Ex. 1011, Abstract. Saylor allows users to set up “personalized alarms and alert services” that specify who is to be contact, the order and method of contact, and the type of situation to be alerted of. *Id.* at 2:26-31. The system further monitors images, and if “a change in images (indicating motion) is detected, an alarm may be signaled” along with the images or video clips of the motion. *Id.* at 2:45-55.

42. Saylor includes a set of databases that “may store relevant information for personalized alarm services.” *Id.* at 6:9-14. The user’s profile can be created to specify how the user is to be notified in the event of a security alert. *Id.* at 6:19-32. Saylor further states that a notification may be sent to “police, fire department, and/or rescue squads” but that notification to these emergency services occurs after the user is notified and has confirmed the existence of the alert in order to prevent triggering false alarms. *Id.* at 8:16-28, 12:30-41. The user preferences of Saylor relate to determining when, how, and who is contacted in the event of an emergency or security event. *Id.* at 11:4-28.

C. Gogic (Ex. 1006)

43. Gogic describes providing group communication services according to proximity to other users of communication devices (CDs) in a communication system. Ex. 1006 at ¶¶ [0010], [0024]. According to Gogic, “a broad or indiscriminant or generalized invitation to join a group [is transmitted] to all recipient CDs....” *Id.* at ¶ [0060]. Devices that meet the location criteria are configured to “accordingly accept” the invitation. *Id.* at ¶¶ [0062], [0011]-[0012]. The invite is sent when a “dispatcher 400 identifies the occurrence or presence of an event or condition wherein communication between proximately located users could be beneficial.” *Id.* at ¶ [0057]. The dispatcher sets the “group membership location criteria” that determines which CDs join the communication group. *Id.* at ¶¶ [0010], [0058].

D. Opitz (Ex. 1007)

44. Opitz is directed to a communication system that uses a received wireless signal to determine a location of the communication system or a component of the communication system. Ex. 1007 at Title, Abstract, 1:7-9. Opitz is an alternative to GPS systems, the functionality of which was not present in many communication systems at that time. *Id.* at 1:44-52. As a vehicle travels from one location to another, Opitz recognizes that the regional messages that would be transmitted to that vehicle lose both signal strength and relevance. *Id.* at 2:45-59.

Conversely, as the vehicle approaches a new location, the transmission signal strength and relevance of messages from the new location increase. *Id.*

45. Based on the change in signal strength, Opitz teaches being able to determine a current location of the vehicle/communication system. *Id.* at 3:16-29. In response to the changing relevance, the vehicle's onboard communication system (e.g., scanning radio) may be configured to scan communication channels known to be associated with the new location. See *id.* at 3:30-4:56 (detailing a vehicle's path through a region, including updating the communication system "according to the availability of communications from communications towers 120 and 162 as vehicle 134 crosses into communication regions 158 and 160."). As the vehicle moves and the relevant and local communication region changes, Opitz teaches a display 248 that "displays identification data corresponding to the channel being monitored by the scanner 136" and that "can be used to select channels which are to be excluded from the scanning list." *Id.* at 5:3-18. Opitz does not teach affirmatively selecting a communication channel.

IX. GROUND 1: CLAIMS 1-5, 7-19, AND 21-24 ARE NOT OBVIOUS OVER SHAFFER IN VIEW OF SAYLOR

A. Independent Claims 1 and 15

1. There Is No Motivation To Combine Shaffer and Saylor

46. Shaffer and Saylor describe different types of networks that a POSA would not be motivated to combine. For example, in my opinion, Shaffer's and

Saylor's networks contain significant structural differences in how endpoints communicate and which endpoints can join networks. In addition, Saylor contains a host of examples of how endpoints communicate, and particularly how endpoints convey notifications. Finally, the way the Petition and Dr. Polish position the references, any network under the sun could be an input to Shaffer's IS. The Petition and Dr. Polish have not provided any specific motivation to modify Shaffer with the structurally different notification structure taught by Saylor.

a) Shaffer's Method Of Endpoint Connectivity Is Substantially Different Than Saylor's

47. The way endpoints connect are vastly different between Shaffer's system and Saylor's system. Specifically, while Shaffer describes a system that relates to a "method and system for communication using position information" (Ex. 1004 at ¶ [0001]), Saylor teaches "a security network where a user may set up personalized alarms and alert services; identify various methods of contact; order at which to be contacted; individuals and entities to be contacted; type of situations to be alerted of and other relevant security and other information." Ex. 1011 at Abstract.

48. Shaffer's system functions by "adjusting [] one or more first communication parameters to one or more second communication parameters" as a user endpoint moves from a first location into a second location. Ex. 1004 at Abstract, ¶¶ [0005]-[0006]. This results in what Shaffer calls "[t]echnical advantages" including "providing a mobile endpoint user the ability to communicate,

while changing locations, with different communication networks that utilize different communication parameters, such as different radio frequencies, modulation methods and/or encryption keys.” *Id.* at ¶ [0008]. As a result, Shaffer explains that “effort and time associated with determining appropriate communication parameters when moving to a new location are reduced.” *Id.* Dr. Polish agrees this is what Shaffer teaches. Ex. 2008 at 20:11-17.

49. Saylor, on the other hand, teaches “a system and method for connecting a security system to a wireless communication system to automatically inform an owner and other authorized entities in a manner predetermined by the user when alarm situations and/or alarm worthy situations occur.” *Id.* at 1:17-22, 6:25-27 (“Contact individuals and/or entities 161₁–161_N *identified by the user* may also receive alert notification *in an order determined by the user.*” (emphasis added)). In setting up the notification structure, the user of Saylor’s system defines who receives a notification and when. *Id.* I understand that Dr. Polish agrees that Saylor’s notification mechanism requires setting rules and policies regarding who to notify, and follows those rules and policies in the case of an alarm worthy situation. *Id.*; Ex. 2008 at 60:19-61:1.

50. In my opinion, Saylor does not teach taking the location of a notification recipient into account while determining who to notify and what to send them. I understand that Dr. Polish agreed that Saylor does not take into account

where the notification recipient is in determining when to notify the user. Ex. 2008 at 71:20-72:3.

51. Additional differences between the references include the fact that Shaffer is concerned with allowing endpoints that move between geographic areas to connect to a variety of networks as they move between areas. Saylor, on the other hand, describes a stationary, fixed security network that does not include transient endpoints that would connect to a variety of networks. All notifications delivered via Saylor's system are generated through Saylor's stationary central security network.

52. Saylor could include, as an example, a situation where the user who lives in City A has set up its notification system to contact the police department or fire department in City B in the case of an alarm situation. Ex. 2008 at 60:19-61:1. I understand that Dr. Polish has opined that Shaffer's endpoints would not work in this situation because endpoints could only connect to the network for the geographic area that the endpoint is physically present in. *Id.* at 27:10-28:2.

53. Likewise, in my opinion the user of Saylor's notification system would want to be notified of an alarm situation irrespective of where the user was physically present. Saylor does not describe any situation in which the user is not notified yet some other recipient is.

54. In my opinion because of the differences between Shaffer's location-

based communication system and Saylor's notification mechanism that does not account for the recipient's location, a POSITA would not be motivated to combine these references.

b) Shaffer's Open Network v. Saylor's Closed Network

55. Shaffer's communication network is set up so that any endpoint that has the appropriate communication settings—including frequency, modulation method, and encryption key—is able to join the communication network. Ex. 1004 at ¶¶ [0037] (stating the interoperability server “may be configured to communicate with any type of communication endpoint”), [0008] (“As a user moves locations, GPS information may be used to recognize a new location. A user's endpoint may then, either automatically, through specific user command or predefined instructions, alter its communication parameters so that the user may communicate on one or more local or other networks that correspond to the user's location.”), [0016] (“In particular embodiments, at least some of endpoints 32 comprise mobile devices capable of communicating with other endpoints and devices through any of a variety of communication parameters, such as radio frequencies, modulation methods and encryption keys.”), [0031] (“as mobile endpoint 70 (*e.g.*, a LMR in a safety vehicle) moves between geographic areas, the endpoint may use GPS information to pinpoint its location and automatically adjust its current communication radio frequency, modulation method and/or encryption key settings to allow the user of the endpoint

to communicate with local safety and security forces in the area in which the endpoint is currently located.”), [0035], [0046]. This kind of network is typically described as an “open” network, because any device on the appropriate settings is able to join the communication group.

56. I understand that Dr. Polish has included one additional limitation on endpoints attempting to join one of Shaffer’s communication groups, that the endpoint needs to be “authenticated.” Ex. 2008 at 39:21-40:15. Even with this additional limitation, any authenticated endpoint with the appropriate settings is capable of joining Shaffer’s communication groups. Thus, Shaffer’s communication network is an “open” or “semi-open” network because endpoints are able to join the communication network with the appropriate settings.

57. Saylor’s notification mechanism is not an “open” network like Shaffer’s. Instead, Shaffer says that specific individuals and entities are notified “in a manner predetermined by the user.” Ex. 1011 at 1:17-22, 2:20-31. The predetermined manner that the user defines depends on an “address book” that the user sets up, “where contact information (*e.g.*, phone, pager, 50 mobile device, etc.) associated with various individuals may be stored and accessed based on various identified alarm situations and/or potential alarm situations.” *Id.* at 8:48-52, 5:27-36, 9:34-35, 9:59-67. This set of recipients includes user 160, contacts 162₁-162_N, and emergency entity 164. *Id.* at 9:22-28.

58. This predetermined method of notifying recipients closes off the ability for other endpoints to join the notification recipient list. Because other endpoints cannot join the group of recipients, Saylor's system can be thought of as a "closed" network that is "closed" off to outside endpoints. In other words, unlike Shaffer, an endpoint or entity cannot join Saylor's notification stream. Instead, the user must expressly change the notification stream to include that endpoint or entity as a recipient, meaning that entity or endpoint has not joined, but instead has been added by the user.

59. In my opinion, a POSITA would not be motivated to combine Saylor's closed system with Shaffer's open network. Neither the Petition nor Dr. Polish provides any indication for why a POSITA would have looked to these references in light of the differences between the references.

c) Both References Are Fully Functional Without The Other

60. Both Shaffer's and Saylor's systems are fully functional without the inclusion of the other. Shaffer's network allows endpoints to join and communicate, Saylor's provides notifications in a set way without the need to pull in other art such as Shaffer's IS. Indeed, both the Petition and Dr. Polish admit that "Saylor's central security network sends communication to another network" in a manner that Saylor already envisions, "namely, by a first network sending a pack-based communication through an intermediary network, such as the 'Internet,' to a second network also

connected to the same intermediary network.” Petition at 28; Ex. 1002 at ¶ 89 (citing Ex. 1011 at 6:22-25, Fig. 1). Thus, it appears that Petitioner and Dr. Polish agree with my opinion that Saylor is fully operational without the need to pass notifications through Shaffer’s IS.

61. This appears to contradict other statements made in the Petition and Dr. Polish’s declaration that Saylor “does not explain *how* to convey notifications to recipients in different networks. Petition at 28; Ex. 1002 at ¶ 88. It appears that this statement provides the bulk of the apparent motivation to combine Shaffer and Saylor because, according to the Petition, “A POSITA would have recognized that Shaffer’s IS system provides the needed mechanism for interoperable communications to achieve Saylor’s security goals.” *Id.*

62. In addition to the statement above that Saylor already envisions a manner by which Saylor’s central security network sends communication to another network, (Petition at 28; Ex. 1002 at ¶ 89), Saylor is full of other examples for how notifications can be sent. These include “the Internet 150, POTS 152, wireless communication portals, voice portals, and/or other methods,” (Ex. 1011 at 6:22-32), “a voice alarm, text message, and other notifications [such as] email or other form of electronic communication” (Ex. 1011 at 7:40-48), and “cell phone, regular phone, pager, PDA, email, instant messenger, or other form of communication.” Ex. 1011 at 11:24-28. Such an extensive list further confirms a POSITA would have

understood that Saylor does “explain how to convey notifications to recipients in different networks.

63. Dr. Polish also agreed, stating in response to the question “Saylor discloses how to convey notifications to recipients in different networks in a myriad of ways, right?” that “Saylor discloses that you can do it in lots of different ways and that it lists a bunch of examples.” Ex. 2008 at 54:6-11, 53:2-8.

64. The assertion that Saylor does not explain how to convey notifications to recipients is contradicted by Saylor, and the “myriad of ways” in which Saylor teaches conveying such notifications. Thus, there would be no need to incorporate Shaffer’s IS system in order to achieve Saylor’s security goals. Indeed, there would be no need to combine these references.

d) Shaffer’s IS Would Work With Any Network, There Is No Reason To Look To Saylor

65. The Petition and Dr. Polish describe Shaffer’s IS as “broadly interoperable” such that it would work with a wide range of networks. Petition at 27 (“Shaffer’s IS is well-suited to connect a network, such as a video security system designed to monitor particular buildings, with a different network that responds to incidents in those buildings, such as a security or emergency network.”); Ex. 1002 at ¶ 86 (“Gateways, routers, and bridges are commonly used for this purpose [interconnecting communication networks]. I have employed such hardware in this way for decades for all manner of projects.”); Ex. 2008 at 62:10-63:5 (“Shaffer’s IS

is meant to be very broadly interoperable.”). But even if this is true, this does not mean a POSITA would have been motivated to pick Saylor’s notification system to combine with Shaffer’s IS.

66. Indeed, in my opinion, as discussed above the structural differences between Shaffer’s open network communication system and Saylor’s closed notification mechanism, and the fact that each reference is self-contained and would function without the other undermine the idea that a POSITA would have looked to combine these references.

67. Further, the Petition and Dr. Polish structure the combination in a way that “the IS of Shaffer would assign a multicast IP address (communication channel) to a particular endpoint or a group of endpoints requiring notification of a particular type of event” that “would have then been stored in Saylor’s databases for retrieval and use to contact entities outside of the security system upon occurrence of an event.” Petition at 26; Ex. 1002 at ¶ 85. But Saylor’s central security network would not need to store multicast IP addresses (1) because it already predetermined how it would communicate with each recipient, and (2) because those multicast IP addresses would have been useful only for endpoints moving between geographic areas.

68. This is the “technical advantage” specifically addressed in Shaffer, that a mobile endpoint user is provided “the ability to communicate, while changing

locations, with different communication networks that utilize different communication parameters....” Ex. 1004 at ¶ [0008]. There would be no reason to store network details such as multicast IP addresses in Saylor’s databases because Saylor’s databases would not be “changing locations” like the endpoints in Shaffer.

69. Taking these reasons into account, it is my opinion that a POSITA would not be motivated to combine Shaffer and Saylor.

2. *Shaffer in view of Saylor Does Not Teach “Identifying At Least One Video Feed By Selecting The At Least One Video Feed From The Plurality Of Video Feeds Associated With The Geographic Zone”*

70. In my opinion, Shaffer in view of Saylor does not teach the limitation “identifying at least one video feed by selecting the at least one video feed from the plurality of video feeds associated with the geographic zone,” as the term appears in Claims 1 and 15 of the ’830 Patent. This element appears as the first part of limitation 1[e] in the Petition and Dr. Polish’s declaration. Petition at 36-37; Ex. 1002 at ¶ 103.

71. In particular, the Petition does not address how Shaffer or Saylor identifies at least one video feed by selecting the at least one video feed *from the plurality of video feeds.*” Petition at 37; Ex. 1002 at ¶ 104. First, both the Petition and Dr. Polish’s declaration state that “Saylor’s central security network monitors *a specific video feed* in an ‘identified location’” *Id.* The “specific video feed” that Saylor’s central security system allegedly monitors confirms that a video feed is not

selected from a plurality of video feeds. *Id.*

72. Dr. Polish modified this testimony in his deposition, stating he does not “think it’s the central security server that is doing the monitoring there. I think it is being done by the video or other recording device that’s doing the monitoring and then sending out to the remote user.” Ex. 2008 at 69:11-22. If each video or other recording device (*i.e.*, camera) is monitoring its own feed, then in my opinion, Saylor does not teach identifying at least one video feed by selecting the at least one video feed from the plurality of video feeds. Only one video feed is examined by the camera, so Saylor does not have a plurality of video feeds that a video feed can be identified and selected from.

73. This opinion presented in Dr. Polish’s deposition mirrors Saylor’s disclosure, which says “[a]t step 1010, an identified location may be monitored by a video or other recording device.” Ex. 1011 at 16:52-60. Each frame is compared to the previous frame to detect motion. *Id.* If motion is detected, “an alarm may be triggered” and “the recorded images (*e.g.*, video clips) may be...sent to a central security network, as shown by step 1020.” *Id.* at 16:59-64. In other words, “an identified location may be monitored by a video or other recording device” and if the video or other recording device detects motion, then “the recorded images...may be sent to a central security network.” *Id.* at 16:52-64, Fig. 10. Dr. Polish’s statements in deposition that “I think it is being done by the video or other recording

device that's doing the monitoring and then sending out to the remote user" tracks Saylor's disclosure. Ex. 2008 at 69:11-22.

74. The fact that recorded images such as video clips are sent to the central security network once motion is detected also suggests no selection of a video feed is occurring. Ex. 1011 at 16:59-64, Fig. 10. Put differently, in my opinion Saylor's video feed does not need to be identified and selected from a plurality of video feeds because the recorded images are automatically sent to the central security network without ever being selected.

75. Thus, in my opinion, Shaffer in view of Saylor fails to render obvious "identifying at least one video feed by selecting the at least one video feed from the plurality of video feeds associated with the geographic zone" as that term appears in Claims 1 and 15 of the '830 Patent.

3. *Shaffer In View Of Saylor Does Not Teach "Providing A Plurality Of Radio Frequencies On A Display Of The Mobile Communication Device"*

76. This limitation was the one that was added to overcome a rejection, and which resulted in allowance. Ex. 1003 at 108-115. The Petition seems to recognize this, noting "[t]he independent claims were only allowed when applicants added the requirements of frequency display and selection to the independent claims." Petition at 13; Ex. 1002 at ¶ 44. Despite the importance of this limitation, the Petition and Dr. Polish gloss over it. Petition at 32-35; Ex. 1002 at ¶¶ 96-100.

77. Specifically, the Petition and Dr. Polish point to Shaffer’s Figure 4, which, according to Petitioner, “shows an exemplary mobile communication device with memory module 208 that stores several different communication parameter listings 210.” Petition at 32 (citing Ex. 1004 at ¶¶ [0043]-[0048], Fig. 4); Ex. 1002 at ¶ 97 (same). In my opinion, this disclosure regarding storing communication parameter listings in a memory module shows that a plurality of radio frequencies may be stored but nothing suggest the plurality of frequencies are provided on a display.

78. Looking elsewhere at Shaffer, it provides a user interface to input “instructions regarding adjustment of the end point’s communication settings upon entering a new communication network.” Ex. 1004 at ¶ [0044] (parenthesis omitted). In my opinion, the context of not only this sentence, but the entirety of Shaffer suggests the “instructions” describe when and how to change communication settings as an endpoint moves between locations. Ex. 1004 at Abstract, ¶¶ [0001], [0005]-[0008], [0047]. Indeed, Shaffer explains that providing instructions on when and how to change networks as the endpoint moves between geographic zones results in a reduction in “effort and time associated with determining appropriate communication parameters when moving to a new location...” *Id.* at ¶ [0008]. Thus, in my opinion, this paragraph does not render obvious providing a plurality of radio frequencies on a display, wherein each radio frequency is associated with a

geographic zone.

4. *Shaffer In View Of Saylor Does Not Teach “Monitoring A Selection Of A Radio Frequency Of The Plurality Of Radio Frequencies By The User”*

79. As a direct result of Shaffer failing to provide a plurality of frequencies on a display, it is my opinion that Shaffer fails to render obvious the step of “monitoring a selection of a radio frequency of the plurality of radio frequencies by the user” as this limitation appears in Claims 1 and 15. Since no plurality of radio frequencies is displayed, no selection can be made from a plurality of non-existent frequencies.

80. As described above, Shaffer does not teach providing a plurality of radio frequencies on a display. Instead, Shaffer allows a user to input instructions regarding adjustment of an endpoint’s settings. Ex. 1004 at ¶ [0044]. When this disclosure is viewed within the context of Shaffer as a whole, these “instructions” do not monitor for the selection of a radio frequency from a plurality of radio frequencies provided to a user, but instead prescribe how to change networks as the endpoint moves between locations. For example, the instructions would tell an endpoint to tune to the City B frequency, modulation method, and encryption key as the user moves into range of City B.

81. Thus, in my opinion, Shaffer in view of Saylor fails to teach the step of “monitoring a selection of a radio frequency of the plurality of radio frequencies by

the user.”

82. Shaffer in view of Saylor fails to teach “wherein the at least one video feed is associated with the selected communication channel,” as this claim term appears in Claims 1 and 15. Ex. 1001, 12:30-32, 13:67-14:2.

83. The Petition and Dr. Polish point to Shaffer’s “multicast IP addresses” as the claimed “selected communication channel.” Petition at 29-31; Ex. 1002 at ¶¶ 92-93. The Petition and Dr. Polish point to Saylor’s “‘video cameras’ located in a geographic zone” as the claimed video feeds. Petition at 35-36; Ex. 1002 at ¶ 101. For this claim, the Petition and Dr. Polish say “Shaffer’s IS system can assign a multicast IP address to the relevant security forces and provide the IP address to Saylor’s databases for storage” and “when an event occurs that requires sending a video clip to security forces, Saylor’s central security network can lookup the appropriate multicast address and use the address to send the information to the security personnel that have selected this communication channel....” Petition at 39; Ex. 1002 at ¶ 105.

84. In my opinion, this assertion contains numerous flaws. For example, as discussed in § IX.A.1.d) above, Shaffer’s multicast IP addresses are only described as stored in endpoints, not networks like Saylor’s. *See* Ex. 1004 at ¶ [0040] (“In accordance with some embodiments, multicast IP addresses, radio frequencies, modulation methods and encryption keys utilized by various networks (*e.g.*,

agencies) may be embedded in memory of the mobile endpoint.”). A POSITA would not have been motivated to store multicast IP addresses in stationary networks, such as Saylor’s because those networks do not move. Instead, in light of Shaffer, a POSITA would have known that these addresses were stored in memory of *endpoints* so that as the endpoints moved between locations, the endpoints could look up and connect to the local network. *Id.* (“As the mobile endpoint (*e.g.*, in a safety vehicle) moves between communication regions, the endpoint uses GPS information to pinpoint its location and automatically adjusts communication parameters (*e.g.*, IP addresses, radio frequencies, modulation methods and encryption keys) to achieve interoperability.”). Because Saylor’s central security network is stationary, a POSITA would not have been motivated to store Shaffer’s multicast IP addresses there.

85. Second, a POSITA reading Saylor would know that notifications are handled in a precise, and importantly, predetermined way. *See, e.g.*, Ex. 1011 at 1:17-22 (“a wireless communication system to automatically inform an owner and other authorized entities *in a manner predetermined by the user* when alarm situations and/or alarm worthy situations occur.” (emphasis added)), 5:27-36 (“The central security network may access the user’s personal preferences, profile information and/or other information which may be used to execute notifications *in the manner specified by the user.*” (emphasis added)), 6:25-27 (“Contact individuals

and/or entities 161₁-162_N identified by the user may also receive alert notification *in an order determined by the user.*” (emphasis added)), 8:28-30, 12:30-39, 16:49-51. Thus, in my opinion, Saylor’s central security system would already know how to communicate with the notification recipients and would not need to separately utilize Shaffer’ IS in order to transmit its notifications.

86. Third, and relatedly, Saylor provides examples of how it conveys notifications to recipients. While the Petition and Dr. Polish argue “when an event occurs (such as motion), the central security network can send relevant information (such as video clips) ‘via the Internet 150’ to ‘[a]n emergency entity 164’” and that to facilitate these Internet-based communications, Saylor would utilize Shaffer’s multicast IP addresses, I disagree. Petition at 39; Ex. 1002 at ¶ 105. Specifically, Saylor provides plenty of examples of Internet based communication that would not require use of Shaffer’s IS, or even Shaffer’s multicast IP addresses.

87. For example, Saylor teaches “the central security network may call 911 (or other emergency unit). . . .” Ex. 1011 at 11:32-34. Many other examples of Internet-based communication methods are described, including email, instant messenger, digital subscriber links, and web pages. *Id.* at 5:21-24, 7:16-27, 11:24-28, 12:54-60. Even this subset of communication methods does not include the whole list provided in Saylor, which includes: “the Internet 150, POTS 152, wireless communication portals, voice portals, and/or other methods,” (*Id.* at 6:22-32), “a

voice alarm, text message, and other notifications [such as] email or other form of electronic communication” (*Id.* at 7:40-48), and “cell phone, regular phone, pager, PDA, email, instant messenger, or other form of communication” (*Id.* at 11:24-28).

88. Because Saylor’s stationary central security network would have a host of Internet-based (and non-Internet-based) methods at its disposal to communicate alert notifications, and would already know exactly how it planned to communicate those notifications, it is my opinion that a POSITA would not find it obvious to associate Saylor’s video cameras with Shaffer’s multicast IP addresses as the Petition suggests.

89. Thus, in my opinion, Shaffer in view of Saylor fails to teach the claimed step “wherein the at least one video feed is associated with the selected communication channel.”

5. *Shaffer In View Of Saylor Does Not Teach Associating A Video Feed With A Communication Channel “... When The User Accesses The Selected Communication Channel”*

90. Shaffer in view of Saylor fails to teach “associating a video feed with the selected communication channel based on a user policy that identifies one or more video feeds that relevant to the user when the user accesses the selected communication channel,” as this claim term appears in Claims 1 and 15.

91. The Petition and Dr. Polish argue “[t]he user policy is the set of preferences stored in Saylor’s databases identifying when to notify users (such as

security personnel) and what to send them.” Petition at 40 (citing Ex. 1011 at 8:34-60); Ex. 1002 at ¶103. The set of preferences stored in Saylor’s databases does not include associating video feeds with a communication channel based on relevance.

92. Saylor provides detailed disclosure regarding its “user preferences.” *See* Ex. 1011 at 5:29-36. “User database 140 may contain user information, such as profile information, user preferences, contact information, special instructions and/or other information.” *Id.* at 8:34-60. “User profile information may include one or more of name, identification information, address information, and other profile information. User preferences may include mode of communication, order of communication, contact information and other preferences.” *Id.* “Different alarm situations that may be detected in various locations or systems may warrant different levels of response.” *Id.* The notification can be accompanied by “[s]pecial instructions [that] may include information to be conveyed to entities reacting to the alarm” such as “to inform the fire department that the user has two pets living at the user’s primary residence.” *Id.* In my opinion, none of this factual information would render obvious the subjective determination that something is relevant to the user when the user accesses the communication channel.

93. In addition, in Saylor, the “owner and other authorized entities [are informed] in a manner predetermined by the user when alarm situations and/or alarm worthy situations occur.” Ex. 1011 at 1:17-22, 6:25-28 (“Contact individuals and/or

entities 161₁-162_N identified by the user may also receive alert notification in an order determined by the user.”), 8:28-30 (“In another example, if the user cannot be contacted for confirmation within a predetermined time frame, the system may automatically contact an emergency entity.”), 12:30-39 (“emergency dispatch may occur at the detection of an alarm situation, after confirmation by the user, after a predetermined period of time if the user cannot be reached or other user defined event or trigger.”), 16:49-51 (“The user may then be notified according to predefined notification methods.”). The predetermined manner can be set up in one of two ways: (1) the alarm can send a notification to a recipient or predefined group of recipients whenever an alarm situation is detected, (*Id.* at 6:19-32 (describing notifications to users 160, contact individuals and/or entities 161₁-162_N, and emergency entity 164)) or (2) the system can send a first wave of notifications to a select group of recipients, and if those recipients don’t respond the system can send the notification to another recipient, such as emergency services. (*Id.* at 8:18-21 (“a user may be notified before the sounding of an alarm and before contacting an emergency entity”))

94. In either scenario, the predetermined manner of issuing notifications does not include any subjective determination, such as one of relevance. In my opinion, this type of determination is not contemplated in Saylor, and would not have been obvious over Saylor. Instead, only objective information is stored and used, such as how long to wait for a response before sending a follow-up notification

to a separate entity. In my opinion, the predetermined nature of Saylor’s notification scheme all but prohibits using a finding of relevance to associate video feeds and communication channels, and nothing in Saylor, the Petition, or Dr. Polish’s declaration suggests otherwise.

B. Ground 1 Dependent Claims

95. Because, in my opinion, the Petition and Dr. Polish have not established that either of Claims 1 or 15 are obvious, I understand that no claim depending from either of these claims can be obvious. Even so, it is my opinion that there is evidence, or at lack of evidence, that at least the following Claims are obvious over the prior art.

1. Claims 3, 17

96. Claim 3 recites “the method of claim 1, further comprising: accessing a database to identify a plurality of members of an emergency response team that includes the user of the mobile communication device.” Ex. 1001 at 12:46-54; Ex. 1001 at 14:16-20 (claim 17). The analysis in the Petition and Dr. Polish’s declaration for this limitation points back to the analysis for claim 2. Petition at 43; Ex. 1002 at ¶ 114. Specifically, the Petition and Dr. Polish assert “As described for claim 2, Saylor’s database may contain location information to identify members of an emergency response team associated with a communication channel.” *Id.* This is the whole analysis for limitation 3[a]. *Id.*

97. In my opinion, nothing in the analysis for Claim 2 suggests or otherwise teaches a POSITA the step of “accessing a database to identify a plurality of members of an emergency response team that includes the user of the mobile communication device.” Ex. 1001 at 12:46-54, 14:16-20. For example, nothing in the analysis for Claim 2 refers to the identity of any member of an emergency response team.

98. Instead, the Petition and declaration state for Claim 2, that “Saylor’s database associates video feeds with the user’s selected multicast IP address” and “it would have been obvious to also associate video feeds with the particular user selecting the channel....” Petition at 42-43, Ex. 1002 at ¶¶ 112-113. Associating video feeds with the user that has selected the channel does not mean that the user is a member of emergency response team. Even if the user was a member of the emergency response team, this does not suggest that the database can be accessed “to identify a plurality of members of an emergency response team” as required by Claims 3 and 17.

99. Therefore, in my opinion, the Petition and Dr. Polish do not explain how Shaffer in view of Saylor renders Claims 3 and 17 obvious.

2. *Claims 7, 21*

100. The analysis in the Petition for claim 7, and in particular for claim limitation 7[c], relies solely on Dr. Polish’s declaration. That assertion states “[i]t

would have been obvious that Saylor’s central security network could send a video clip from a camera near the front door when a sound of breaking glass is detected near the front door.” Petition at 46 (citing Ex. 1002 at ¶ 122). This assertion is not supported by any prior art, and particularly is not supported by the cited art, Shaffer or Saylor.

101. To achieve this limitation, Dr. Polish is essentially creating logic to Saylor’s notification structure that is unsupported by Saylor itself. The notification “logic” that Dr. Polish creates but that is not taught by Saylor is to send a second sensor’s data (*i.e.*, “a video clip from a camera near the front door”) in response to a first sensor sensing an alert condition (*i.e.*, “a sound of breaking glass is detected [by a sound sensor] near the front door”). Petition at 46. Crucially, this sort of logic is not taught by Shaffer, Saylor, or any other reference cited in the Petition or Dr. Polish’s declaration.

102. Even if adding this type of logic to Saylor’s notification structure would have been possible, there is nothing in the Petition or Dr. Polish’s declaration that explains why a POSITA would have been motivated to incorporate this kind of logic to Shaffer or Saylor. In my opinion, the Petition’s assertion based on Dr. Polish’s assumption is unsupported.

103. Thus, in my opinion, Shaffer in view of Saylor fails to teach the subject matter of claims 7 and 21.

X. GROUND 2: CLAIMS 1-5, 8-19, AND 22-24 ARE NOT OBVIOUS OVER GOGIC IN VIEW OF OPITZ

A. Independent Claims 1, 15

104. The arguments made in the Petition in support of Ground 2 primarily refer to Gogic’s ad-hoc communication network. Petition at 55-69; Ex. 1002 at ¶¶ 153-175. This ad-hoc network is established when a dispatcher determines some event is notable and would benefit from a communication group among communication devices (CDs) in a defined area. Ex. 1006 at ¶ [0057]. The dispatcher requests setting an emergency flag on a common channel, which “is regularly monitored by CDs located in the area of interest.” *Id.* This request is sent to a communication manager, which directs a base station “to transmit a set emergency flag on a common channel in at least an area serviced by a specific base station....” *Id.* at ¶ [0059].

105. The base station also transmits “a broad or indiscriminant or generalized invitation to join a group to all recipient CDs with their invitation acceptance being conditional upon the CD qualifying according to the location criteria also transmitted in the broad indiscriminant invitation.” *Id.* at ¶ [0060]. The CDs receive that “broad indiscriminant invitation to join the group,” “calculate their location and evaluate their location against the group membership location criteria ... to determine qualification for acceptance of the invitation to join the group.” *Id.* at ¶¶ [0060]-[0061]. Gogic describes that when a CD evaluates itself as

“qualifying to join the group [it] accordingly accept[s] 440 the invitation which is relayed back to dispatcher 400 through CM 404.” *Id.* at ¶ [0062].

106. In my opinion, this disclosure explains that CDs that determine themselves to be in the relevant range “accordingly” or automatically accept the invitation and join the group. Put differently, in my opinion, Gogic’s CDs do not select the network to join, but instead Gogic’s dispatcher and CM set the criteria that selects the CDs that will make up the ad-hoc group. This is a starkly different teaching than the ’830 Patent, which requires users of mobile communication devices to select a channel and select a frequency.

1. There is No Motivation to Combine Gogic and Opitz

107. I understand the Petition admits Gogic does not teach “the limitation requiring radio frequencies displayed on a mobile device and selected by a user.” Petition at 55; Ex. 1002 at ¶ 153. The inclusion of these limitations resulted in allowance of the ’830 Patent, something both the Petition and Dr. Polish recognize. Petition at 13 (“The independent claims were only allowed when applicants added the requirements of frequency display and selection to the independent claims.” (citing Ex. 1003 at 108-115)); Ex. 1002 at ¶ 44.

108. Because, in my opinion, a POSITA would not be motivated to Gogic and Opitz, the prior art does not teach each and every claim limitation. Thus, in my opinion, no claim of the ’830 Patent is taught, suggested, or otherwise obvious over

the prior art.

a) The Petition Suggests One Reason To Combine Is To Provide A Mechanism For CDs To Make An Initial Connection To Base Stations, But Gogic Itself Teaches This

109. In my understanding of the Petition, only one purported motivation to combine Gogic and Opitz is provided: “Gogic discloses that CDs connect to a base station in a particular area, but Gogic does not expressly disclose how the CDs make that initial connection (as needed to form the ad-hoc group central to Gogic’s disclosure).” Petition at 59; Ex. 1002 at ¶ 160. Per the Petition, “[a] POSITA would have understood that, by the alleged priority date of the ’830 patent, there were a finite number of predictable options for selecting a radio frequency for connecting a radio to a base station” and that “Opitz describes one such known example.” Petition at 59; Ex. 1002 at ¶ 161. It appears the Petition is alleging that Gogic lacks a description of how to connect base stations and CDs and would have been motivated to look to other references for this functionality, which would have led a POSITA to Opitz, which pet the Petitioner “describes one such known example.” *Id.*

110. This reasoning lacks a true motivation, and instead relies on a conclusory assumption about Gogic. In my opinion, while the initial connection between CD and base station is immaterial to Gogic’s functionality, Gogic does provide a long list of ways that CDs and base stations can be connected. Thus, even this purported “motivation” is undermined by Gogic itself. For example, Gogic explains that base stations transmit on “a common channel that is regularly

monitored by CDs 412, 414, 416, etc.” Ex. 1006 at ¶ [0060]. In other words, in my opinion, Gogic’s CDs are monitoring a channel and do not need to make an initial connection with a base station in order to form an ad-hoc group.

111. This is demonstrated with Gogic’s Figure 4 (reproduced below), which shows how CDs and base station (MSC/BS_N) are initially connected: “The MSC/BSN 408 transmits 410 the set emergency flag in a common channel that is regularly monitored by CDs 412, 414, 416, etc.” and “MSC/BSN 408 as previously directed 418 by CM 404 transmits 420 a broad or indiscriminant or generalized invitation to join a group to all recipient CDs....” Ex. 1006 at ¶ [0060].

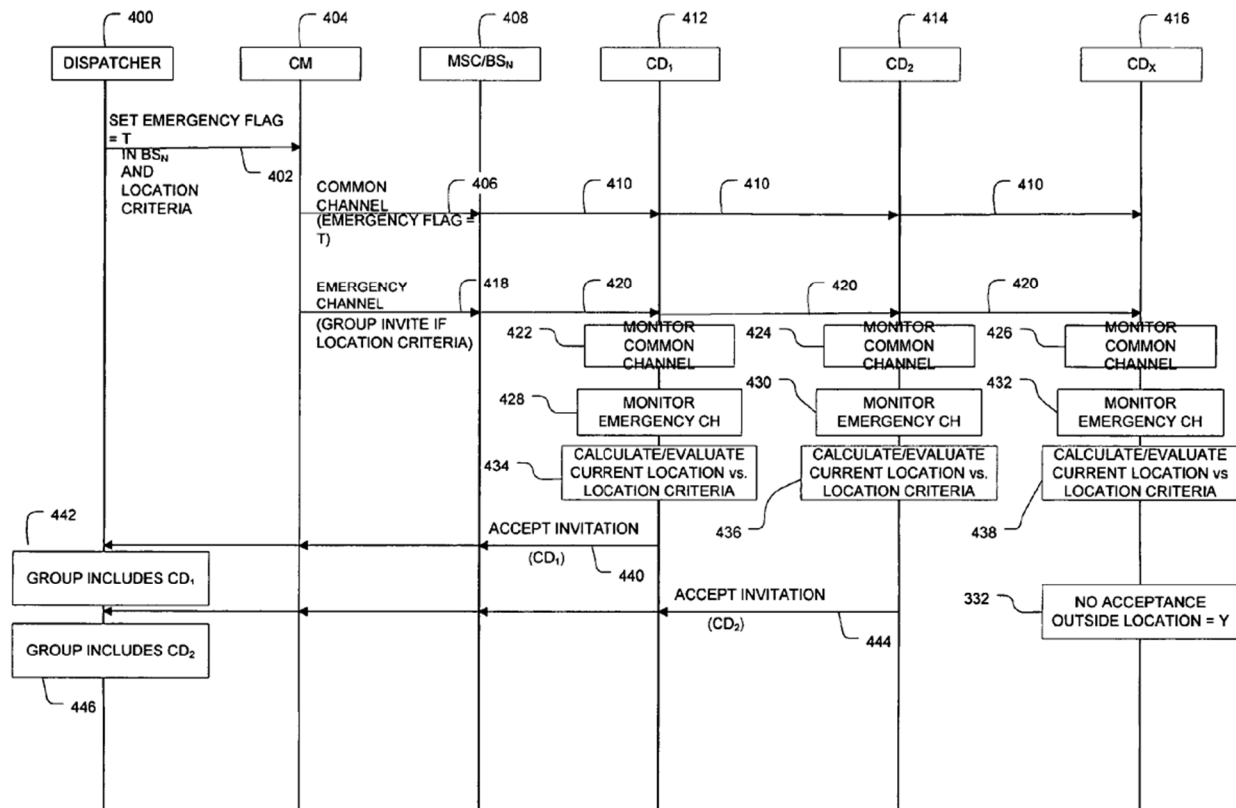


FIG. 4

Ex. 1006 at Fig. 4. “FIG. 4 illustrates CD₁ 412 as qualifying to join the group and accordingly accepting 440 the invitation which is relayed back to dispatcher 400 through CM 404.” *Id.* at ¶ [0062]. Thus, the initial connection between CD and base station is made when the CD receives the invitation and returns its acceptance through MSC/BS_N (base station) 408. *Id.* at Fig. 4.

112. Gogic also explains that its “CDs 102, 104, and 106 transmit and receive communication signals from base stations 108 and/or 110, generally *depending on their proximity to each base station.*” Ex. 1006 at ¶ [0031] (emphasis added). In my opinion, this explains that as CDs are in range of a base station, they are communicating with that base station without a need to make an initial connection to a base station.

113. Gogic also provides another “example” that CDs may make an initial connection to a base station via “a standard audio call mode from a CD to a base station.” Ex. 1007 at ¶ [0037]. In my opinion, this explains that even if a monitored channel does not establish an initial connection, and even if proximity does not establish a connection between CD and base station, Gogic provides additional ways, including a “standard audio call,” to make that an initial connection. Thus, in my opinion, the Petition’s only purported “motivation” is contradicted by the express teachings of Gogic.

114. Even assuming the assertion—that Gogic fails to teach a requisite to the

functionality “central to” its disclosure—is true, nothing in the Petition explains why a POSITA would have selected Opitz, other than it “describes one such known example ... [of] displaying available radio frequencies on the display of a mobile communication device and allowing a user of the device to select one of those frequencies, as recited in the Challenged Claims.” Petition at 59; Ex. 1002 at ¶ 161. Dr. Polish stated in his deposition, and I agree with his comment, that “a POSITA would certainly know a variety of ways to make such an initial connection to a base station.” Ex. 2008 at 106:23-107:6. In my opinion, instead of addressing the “variety of ways to make such an initial connection to a base station,” it appears the Petition and Dr. Polish used the Challenged Claims as a roadmap and found a reference that allegedly teaches displaying available radio frequencies on a display and allowing a user to select those frequencies in order to arrive at the claimed invention. I understand this to be improper use of hindsight.

115. Beyond this lone alleged motivation to combine, the Petition and Dr. Polish’s declaration simply list similarities between Gogic and Opitz, without any explanation as to how the similarities would have motivated a POSITA to combine these references. *See* Petition at 62; Ex. 1002 at ¶ 165; Ex. 2008 at 107:20-108:4 (“Q. Paragraph 165 you describe similarities between the references? A. Yes, I describe that there, I describe ways in which they are addressing similar communications needs.”). In my opinion, these similarities, without more, does not

explain how or why a POSITA would have been motivated to make this combination.

116. Finally, Gogic describes that when a CD evaluates itself as “qualifying to join the group [it] accordingly accept[s] 440 the invitation which is relayed back to dispatcher 400 through CM 404.” Ex. 1006 at ¶ [0062]. In my opinion, this disclosure explains that CDs that determine themselves to be in the relevant range “accordingly” or automatically accept the invitation and join the group. *See* Petition at 67 (“The user of [Gogic’s] CD accesses the communication channel for the ad-hoc group when the CD determines that it satisfies the group membership location criteria.”); Ex. 1002 at ¶ 172 (same). Because Gogic’s CDs join the communication group “when the CD determines that it satisfies the group membership location criteria,” in my opinion, a POSITA would have no reason to look to or otherwise “implement Gogic’s CDs with the frequency display and selection in Opitz’s mobile radio.” Petition at 61, 67; Ex. 1002 at ¶¶ 164, 172.

b) Gogic Explains That Opitz’s Permanent Networks Are Flawed

117. Gogic and Opitz describe different types of communication groups. Gogic’s communication groups are ad-hoc such that they are and are dismantled when the instigating event is no more. Ex. 1006 at ¶¶ [0034] (“[G]roups may not be pre-defined, but they can be formed in an ad-hoc fashion, typically by a user who invites other users to the ad-hoc group one at a time. Upon termination of the ad-hoc communication session, the group formed in this fashion is disbanded.”), [0009].

Opitz's communication channels, on the other hand, are permanent channels that "would exist before the vehicle [110] is in the region," as Dr. Polish opined in his deposition. Ex. 2008 at 103:10-23; Ex. 1007 at 2:45-58.

118. Gogic also suggests there are drawbacks to permanent networks, like those described in Opitz. Ex. 1006 at ¶ [0009]. Specifically, Gogic suggests that permanent networks effectively "strain[] available telecommunication resources excessively...." *Id.* In my opinion, by describing the drawbacks of permanent networks in this way, Gogic is foreclosing the motivation for a POSITA to look to permanent network systems, such as Opitz, because the resulting combination would be torn between the desire to have no network-straining channels, yet include the network-straining, permanent channels. Thus, in my opinion, Gogic warns a POSITA against making the combination suggested in the Petition.

119. It is my opinion that the teachings of Gogic and Opitz do not provide any motivation to combine these references.

2. *Gogic fails to teach "monitoring a selection of a communication channel by a user of a mobile communication device," as recited in Claims 1 and 15*

120. Claims 1 and 15 of the '830 Patent recite the step of "monitoring a selection of a communication channel by a user of a mobile communication device." Ex. 1001 at 12:19-20, 13:56-57. The Petition and Dr. Polish rely exclusively on the teachings of Gogic in support of their arguments for this limitation. Petition at 55-

58; Ex. 1002 at ¶¶ 155-158. Specifically, the Petition argues that each of Gogic’s ad-hoc groups “has a dedicated channel, for example, over the ‘Internet’ or over a ‘dedicated forward channel’ in a radio system....” Petition at 56 (citing Ex. 1006 at ¶ [0045]); Ex. 1002 at ¶ 156. If this “dedicated forward channel” is the communication channel required by Claims 1 and 15, nothing in Gogic, the Petition, or Dr. Polish’s declaration suggests this “dedicated channel” is selected or even selectable by the user. *See* Petition at 56-58; Ex. 1002 at ¶¶ 156-158.

121. This is apparent from the portion of the Petition and Dr. Polish’s declaration referring to the selection portion of these claims. Specifically, the Petition states “the user of a mobile CD also *selects* a communication channel to set the CD to that channel, for example, through ‘activation of a push-to-talk (PTT) key or switch.’” Petition at 57 (emphasis in original); Ex. 1002 at ¶ 157. Notably, this argument refers to “a communication channel,” and not the “dedicated channel” or “dedicated forward channel” that was mapped to the claimed communication channel. *Id.*

122. This citation also wrongly suggests the PTT key or switch is used to select a channel. This is not the purpose of a PTT key. The PTT key or switch is used to request the transmission privilege once a user is already in a communication group communicating on a communication channel. Ex. 1006 at ¶ [0042] (“the CD is configured to request the transmission privilege through initiation or activation of

a push-to-talk (PTT) key or switch.”). In my opinion, to request the transmission privilege, the user must already be in the communication group, or else there would be no channel to communicate on. I understand that Dr. Polish offered a similar view in his deposition, stating “[y]ou first join the group and then you can press the PTT key to request the floor.” Ex. 2008 at 91:5-92:3.

123. Gogic’s switch, which is used to request the transmission grant (otherwise known as a request for the “floor”), is not used to select a communication channel, but is instead used to request the floor after the CD is in an existing communication channel. Ex. 1006 at ¶ [0042]; Ex. 2008 at 91:5-92:3. The Petition also supports this view, noting that Gogic teaches “pushing a button to allow voice communication to be transmitted and releasing the button to allow voice communication to be received.” Petition at 57-58 (quoting Ex. 1006 at ¶ [0026]); Ex. 1002 at ¶ 157 (same).

124. In my opinion, Gogic does not provide any way for a user of a mobile communication device to select a channel. Instead, Gogic’s “dispatcher 400 identifies the occurrence or presence of an event or condition wherein communications between proximately located users could be beneficial.” Ex. 1006 at ¶ [0057]. The “CDs 412, 414, 416 monitor 422, 424, 426 the emergency broadcast channel [and] receive the broad indiscriminant invitation to join the group.” *Id.* at ¶ [0061]. Once a CD, such as CD 412, identifies as “qualifying to join the group” it

“accordingly accept[s] 440 the invitation.” *Id.* at ¶ [0062].

125. That the CD makes the determination and accordingly accepts the invitation means the user of the CD does not make a selection, the CD itself makes the connection and the “[d]ispatcher 400 amends 442 the group list to include CD₁ 412 as a confirmed member of the group.” *Id.* My understand of Gogic appears to match the assessment of Gogic in the Petition and Dr. Polish declaration, which they describe as “[t]he user of a CD accesses the communication channel for the ad-hoc group *when the CD determines* that it satisfies the group membership location criteria.” Petition at 67; Ex. 1002 at ¶ 172.

126. The Petition and Dr. Polish lastly suggest Gogic’s CDs must select a communication channel because “the selection of the communication channel by the user of a CD is monitored by the ‘communication manager 218’ (CM 218), which received the CD’s request to communicate on the communication channel and determines whether any other ‘group member is currently assigned the transmission privilege.’” Petition at 58; Ex. 1002 at ¶ 158. I agree that CM 218 “receive[s] the CD’s request to communicate on the communication channel and determines whether any other ‘group member is currently assigned the transmission privilege,’” but disagree that this means CM 218 is monitoring the selection of a communication channel.

127. Instead, CM 218 is monitoring for requests to transmit. Ex. 1006 at ¶

[0042]. The purpose of CM 218 is to prevent multiple users from transmitting at the same time, or to prevent cross-talk between users. Because Gogic's users request the floor after joining the ad-hoc communication group, CM 218's functionality is limited to CDs that are already in the communication group on the communication channel. Ex. 2008 at 91:5-92:3. Therefore, in my opinion, Gogic's CM 218 does not monitor the selection of a communication channel by a user of a CD.

128. In my opinion, Gogic does not teach, suggest, or otherwise render obvious the step of "monitoring a selection of a communication channel by a user of a mobile communication device" which is present in both Claims 1 and 15. Ex. 1001 at 12:19-20, 13:56-57.

3. *Gogic in view of Opitz fails to teach "providing a plurality of radio frequencies on a display of the mobile communication device, each radio frequency being associated with a geographical zone from which a plurality of video feeds associated with the geographic zone are sourced"*

a) *Everybody Agrees that Gogic Does Not Teach This Limitation*

129. The Petitioner acknowledges "[t]he independent claims were only allowed when applicants added the requirements of frequency display and selection to the independent claims." Petition at 13 (citing Ex. 1003 at 108-115); Ex. 1002 at ¶ 44. Thus, this claim and the selection of a radio frequency claim, were the inventive concept that resulted in allowance. *Id.*

130. Both the Petition and Dr. Polish's declaration admit that Gogic does not

teach the “limitation requiring radio frequencies displayed on a mobile device and selected by a user.” Petition at 55; Ex. 1002 at ¶ 153. As I discussed in § X.A.1 above, a POSITA would not be motivated to combine Gogic and Opitz. Because Gogic does not teach this limitation, and because there is no motivation to modify Gogic with the teachings of Opitz, it is my opinion that the prior art fails to render this claim obvious.

131. Further, even if a POSITA could have combined Gogic and Opitz, the Petition does not offer any insight as to why a POSITA would have been motivated to do so. Specifically, the Petition and Dr. Polish’s declaration merely assert that Opitz was “one such known example” of a way to display and allow selection of frequencies. Petition at 59, 61; Ex. 1002 at ¶¶ 160-161, 164. Even the alleged similarities between Gogic and Opitz do not establish why a POSITA would have been motivated to make the combination of these references. Petition at 62; Ex. 1002 at ¶ 165; Ex. 2008 at 107:20-108:4.

132. Thus, in my opinion, Gogic’s failure to teach this limitation is not overcome through Opitz.

b) Opitz Is Like The Winter Reference Cited By The Examiner

133. A review of the prosecution history shows that the applicant of the ’830 Patent successfully overcame a rejection based on U.S. Patent Application Publication No. 2007/0015518 (“Winter”). In the rejection, the examiner stated,

“Winter teaches in Fig. 2 teaches [sic] radio frequency for certain geographic area and *determining customer location.*” Ex. 1003 at 174-175 (emphasis in original) (quoting Ex. 1003 at 192).

134. In response, the applicant pointed out that the rejection based on Winter “ignore[s] limitations including ‘providing a plurality of radio frequencies on a display of the mobile communication device, *each radio frequency being associated with a geographical zone from which a plurality of video feeds associated with the geographic zone are sourced.*’” *Id.* (emphasis in original). It appears the examiner agreed with the applicant and found this claimed subject matter to be allowable. *Id.* at 137. Ultimately, this subject matter found its way into claims 1 and 15 and the claims were allowed. *Id.* at 117, 78; Petition at 13; Ex. 1002 at ¶ 44.

135. In his deposition, Dr. Polish admitted that Opitz, like the Winter reference cited by the examiner, teaches “providing radio frequency for certain geographic area and determining customer location.” Ex. 2008 at 98:4-14; *see also* Ex. 1003 at 174-175. Indeed, Opitz is full of disclosure that tracks the language of Winter, such as the Abstract which states, “[a] communication system [] that uses a received wireless signal combined with stored location data about the received signal *to determine a location of the communication system* or a component of the communication system.” Ex. 1007 at Abstract (emphasis added), 1:7-9 (“The present invention relates to systems and methods *for determining a location relevant*

to a radio receiver or a location relevant to a user associated with a radio receiver.” (emphasis added)), 1:44-54 (“It would be desirable, therefore, to provide an improved method *for determining a location.*” (emphasis added)), 4:58-5:2 (“scanner 136 is capable of *determining its geographic location*” (emphasis added)).

136. The applicant argued the examiner’s reference to Winter “ignore[s] limitations including ‘providing a plurality of radio frequencies on a display of the mobile communication device, *each radio frequency being associated with a geographical zone from which a plurality of video feeds associated with the geographic zone are sourced.*’” Ex. 1003 at 175. In my opinion, the Petition’s analysis of Opitz contains a similar flaw.

137. This is evident in how the Petition separates the limitations, with the “ignored” portion of the claim (denoted in the Petition as element 1[c]) analyzed separately from the rest of the claim (denoted as element 1[b]). Petition at 58-64. Opitz clearly does not include the limitation “each radio frequency being associated with a geographical zone from which a plurality of video feeds associated with the geographic zone are sourced,” and the Petition does not even allege that it does. Petition at 63-64. In my opinion, I do not see anything in the Petition, declaration, or cited art that warrants treating Opitz different than Winter.

138. Therefore, in my opinion, Gogic in view of Opitz fails to teach this limitation.

c) Opitz's "Vehicle Radios" Would Not Interface With Video Systems

139. When the claim is considered as a whole, as the applicant intended, in my opinion the reference to Opitz falls even further apart. Specifically, the Petition and Dr. Polish rely on the vehicle radio 110 as providing a plurality of radio frequencies on a display and monitoring for a selection of a radio frequency. Petition at 59-60, 64; Ex. 1002 at ¶¶ 162, 163, 168. While Dr. Polish refused to opine that it would not be safe to provide video feeds on a vehicle radio display, it is my opinion that common sense suggests it would not be safe to provide such videos on the display of a vehicle radio. Ex. 2008 at 100:18-012:5 (Dr. Polish acknowledging that he "personally would not want to be in a car with somebody watching a video").

140. In my opinion, Opitz vehicle radio 110, which the Petition cites as "providing a plurality of radio frequencies on a display of the mobile communication device," would not be used in the way claimed, and would not render obvious being used in the way claimed, because the radio frequencies that Opitz's vehicle radio 110 examines would not be "associated with a geographical zone from which a plurality of video feeds associated with the geographic zone are sourced."

141. Therefore, in my opinion, Gogic in view of Opitz does not teach, suggest, or otherwise render obvious this limitation.

4. *Gogic fails to teach “identifying at least one video feed by selecting the at least one video feed from the plurality of video feeds associated with the geographic zone,” as recited in Claims 1 and 15*

a) *Creativity Is Required To Understand The Arguments Made In The Petition*

142. The Petition breaks limitation 1[e] into three separate parts: “[1] identifying at least one video feed by selecting the at least one video feed from the plurality of video feeds associated with the geographic zone, wherein [2] the at least one video feed is associated with the selected communication channel [3] based on a user policy that identifies one or more video feeds that are relevant to the user when the user accesses the selected communication channel.” Petition at 64-65 (brackets in original); Ex. 1002 at ¶ 169. Despite this numbering, the Petition does not appear to address the limitations of the claim in this way, unlike the analysis in Ground 1. *Compare* Petition at 37-41 (restating each part of the claim in separate paragraphs) *with* Petition at 65-68.

143. The lack of introductory language makes understanding the Petition’s evidence challenging. For example, in the introduction, the Petition states part 2 of the claim is “the at least one video feed is associated with the selected communication channel” and part 3 is “based on a user policy that identifies one or more video feeds that are relevant to the user when the user accesses the selected communication channel.” Petition at 64-65. What appears to be the analysis of part 2, however, states “the at least one video feed can be identified by CM 218 and

associated with the selected communication *based on a user policy.*” *Id.* at 65. While I do not offer an opinion that the claim should be divided in any way, the initial division of the claim followed by an analysis that appears to rely on a different division of the claim is confusing.

144. Next, the Petition argues in this section that CDs which can have video streaming capability are the claimed “video feeds.” In particular, the Petition states “Gogic’s system (including, for example, CM 218) forms an ad-hoc group of CDs that identifies and selects at least one video feed (*at least one CD, which can have video streaming capability*, §VIII.B.1.d) from the plurality of video feeds (*CDs*) in the identified geographic zone....” Petition at 65 (emphasis added). In his deposition, Dr. Polish reiterated that his opinion is that the claimed “at least one video feed” is “a CD of Gogic that has video streaming capability.” Ex. 2008 at 108:22-25.

145. In my opinion, CDs, even CDs with video streaming capabilities, are not video feeds. Gogic’s CDs are “communication devices,” which Dr. Polish also opines. Ex. 2008 at 109:1-5; Ex. 1006 at ¶ [0035] (“Group members communicate with each other using an assigned communication device, shown as communication devices (CD) 202, 204, and 206.”).

146. This assertion flows to the later part of the claim that states the user policy “identifies one or more video feeds that are relevant to the user.” Ex. 1001 at

12:30-34, 13:67-14:4. The Petition here states that Gogic’s “group membership location criteria (user policy) that exists will identify the other group members (other CDs, including CDS with video streaming capability) relevant to the user at the time of access.” Petition at 68; Ex. 1002 at ¶ 172. In my opinion “other group members” are also not video feeds, especially when you consider the parenthetical which expands this to definition to include CDs that do not have video feeds. *Id.*

147. Citing CDs as both video feeds and communication devices, and mapping video feeds to both CDs and “other group members” results in a confusing Petition that is difficult to understand. It is unclear how a CD can be both a device and a video feed, and it is unclear how a video feed can be both a CD (including but not limited to a CD with video streaming capabilities) and another group member. In my opinion, each of these interpretations is not how a POSITA would understand the term “video feed,” and there is no evidence I see in the Petition or Dr. Polish’s declaration to the contrary.

148. In my opinion, this lack of clarity throughout the claim confirms Gogic in view of Opitz fails to teach this limitation.

b) No Video Feed Is Selected From A Plurality Of Video Feeds As Claimed

149. In my opinion, Gogic does not teach “identifying at least one video feed *by selecting the at least one video feed from the plurality of video feeds* associated with the geographic zone” as the term appears in Claims 1 and 15. Ex. 1001 at

12:28-30, 13:65-67. Specifically, Gogic teaches that a CD must “request[s] the transmission privilege through initiation or activation of a push-to-talk (PTT) key or switch” in order to be able to transmit to other CDs. Ex. 1006 at ¶ [0042]. If the CM 218 determines that “no other group member is currently assigned the transmission privilege and the communication criteria in effect does not so prohibit or deny the floor, the requesting user is granted (*e.g.*, floor grant) the transmission privilege....” *Id.*

150. In my opinion, the process of requiring each CD to request the transmission privilege means no video feed is selected. Instead, the user requests the ability to transmit and if certain conditions are met, irrespective of what that user intends to transmit, the user will be able to transmit. *Id.*

151. This process of requesting the transmission floor also prohibits selecting a video feed from a plurality of video feeds. The transmission privilege is given only if “no other group member is currently assigned the transmission privilege.” *Id.* In other words, only one CD can be given the transmission privilege at any given time, which means there cannot be a selection of a video feed *from a plurality of video feeds*. There can be a maximum of one video feed at any given time. Dr. Polish stated the same in his deposition. Ex. 2008 at 92:4-93:5 (“Q. Only one CD can transmit at a time, right? A. Well I think they all can transmit. I think the whole point of this taking the floor thing is to prevent more than one CD from

transmitting at a time.”).

152. It is, therefore, my opinion, that Gogic in view of Opitz fails to render this limitation obvious because no video feed is identified and selected from a plurality of video feeds.

B. Dependent Claims

153. Because, in my opinion, the Petition and Dr. Polish have not established that either of Claims 1 or 15 are obvious, I understand that no claim depending from either of these claims can be obvious. Even so, it is my opinion that there is evidence, or at lack of evidence, that at least the following Claims are obvious over the prior art.

1. Claims 3, 17

154. The first part of Claim 3, which the Petition denotes as limitation 3[a], recites “the method of claim 1, further comprising: accessing a database to identify a plurality of members of an emergency response team that includes the user of the mobile communication device.” Ex. 1001 at 12:46-54; Ex. 1001 at 14:16-20 (claim 17). The Petition cites Gogic’s paragraph [0056] in support of this limitation. Gogic’s paragraph [0056] does not support, however, “accessing a database to identify a plurality of members of an emergency response team that includes the user of the mobile communication device.”

155. In particular, Gogic’s paragraph [0056] states “the authority to initiate

formulation of such a group is controlled by strict security procedures” including security procedures such as “[o]nly authorized personnel are allowed to have access to Dispatcher 226, and to access the control link between Dispatcher 225 and CM 218.” Ex. 1006 at ¶ [0056]. Gogic continues “security access of such a formation [of an ad-hoc group] will be driven solely by secure access to CM 218 functions related to this application by authorized and trained persons only (*e.g.*, Police, Emergency Crews, Fire Dept. personnel, etc.)....” *Id.* In my opinion, this paragraph is not describing a database to identify a plurality of members of an emergency response team that includes the user of the mobile communication device. It, instead, describes who has the authority to access the dispatcher to formulate a group.

156. This discrepancy is more apparent when limitation 3[b] is considered. Limitation 3[b] states, “presenting a plurality of available video feeds on the display of the mobile communication device, the plurality of available video feeds including video streams associated with the plurality of members of the emergency response team.” Ex. 1001 at 12:50-54, 14:21-25. The Petition’s analysis does not include any indication that “the plurality of available video feeds including video streams associated with the plurality of members of the emergency response team” as recited by these Claims. Gogic’s disclosure that “Police, Emergency Crews, Fire Dept. personnel, etc.” can access the dispatcher does not mean that these personnel provide video feeds that are presented on the display of the mobile communication device.

Ex. 1006 at ¶ [0056].

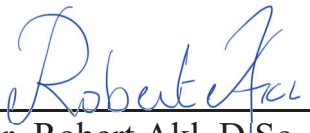
157. Thus, in my opinion, the Petition does not explain how Gogic suggests, or otherwise teaches, the subject matter of these Claims.

XI. ADDITIONAL REMARKS

158. I currently hold the opinions expressed in this Declaration. But my analysis may continue, and I may acquire additional information and/or attain supplemental insights that may result in added observations.

I hereby declare that all statements made are of my own knowledge are true and that all statements made on information and belief are believed to be true. I further declare that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of the Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this proceeding.

Dated: July 1, 2024

By: 
Dr. Robert Akl, D.Sc.
Dallas, Texas