

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Walt Disney Parks and Resorts U.S., Inc.,
Petitioner,

v.

Agile Journeys LLC,
Patent Owner.

Case (to be assigned)
Patent 7,212,983

**PETITION FOR *INTER PARTES* REVIEW OF
OF U.S. PATENT NO. 7,212,983
UNDER 35 U.S.C. §§ 311-319 AND 37 C.F.R. §42.100 *et seq.***

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TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	MANDATORY NOTICES	4
A.	Real Parties-in-Interest	4
B.	Related Matters	4
C.	Counsel and Service Information	4
III.	NOTICE OF FEES PAID	5
IV.	CERTIFICATION OF GROUNDS FOR STANDING	5
V.	PRECISE RELIEF REQUESTED	5
VI.	'983 OVERVIEW	6
A.	Background	6
B.	Prosecution	7
VII.	CLAIM CONSTRUCTION AND POSITA DEFINITION	8
A.	Claim Construction	8
B.	Definition of a Person of Ordinary Skill in the Art	9
VIII.	ANALYSIS OF GROUNDS FOR UNPATENTABILITY	9
A.	<u>Ground 1</u> : Sim in View of Doi	10
1.	Independent Claim 1	10
2.	Independent Claim 3	24
3.	Dependent Claim 5	24
4.	Dependent Claim 7	25
5.	Dependent Claim 8	27
6.	Dependent Claim 10	28
7.	Dependent Claim 11	28

8.	Dependent Claim 12	30
9.	Dependent Claim 13	31
10.	Dependent Claim 14	32
11.	Dependent Claim 16	33
12.	Dependent Claim 17	33
13.	Dependent Claim 19	34
14.	Dependent Claim 20	35
15.	Dependent Claim 22	36
16.	Dependent Claim 23	38
17.	Dependent Claim 24	39
18.	Dependent Claim 25	40
B.	<u>Ground 2</u> : Sim (as Modified by Doi) in View of Waytena	41
1.	Dependent Claim 4.....	41
2.	Dependent Claim 18	44
3.	Dependent Claim 21	46
C.	<u>Ground 3</u> : Waytena.....	48
1.	Independent Claim 1	48
2.	Independent Claim 3	59
3.	Dependent Claim 4.....	60
4.	Dependent Claim 5.....	60
5.	Dependent Claim 8.....	62
6.	Dependent Claim 10	63
7.	Dependent Claim 12	64
8.	Dependent Claim 13	65
9.	Dependent Claim 14	65
10.	Dependent Claim 16	66
11.	Dependent Claim 17	66
12.	Dependent Claim 18	66
13.	Dependent Claim 19	66
14.	Dependent Claim 20	67
15.	Dependent Claim 21	67
16.	Dependent Claim 23	68

17.	Dependent Claim 24	68
18.	Dependent Claim 25	69
D.	<u>Ground 4</u> : Waytena in View of Herz.....	69
E.	<u>Ground 5</u> : Waytena (Alone or as Modified by Herz) in View of Sim Renders Claim 7 Obvious	73
F.	<u>Ground 6</u> : Waytena (Alone or as Modified by Herz) in View of Doi Renders Claims 11, 22 Obvious	74
1.	Dependent Claim 11	74
2.	Dependent Claim 22	76
IX.	DISCRETIONARY DENIAL IS NOT WARRANTED.....	77
A.	<i>Fintiv</i> Factors	77
B.	§ 325(d).....	77
X.	CONCLUSION 79	

TABLE OF AUTHORITIES

Page(s)

Cases

<i>Advanced Bionics v. MED-EL Elektromedizinische Gerate,</i> IPR2019-01469 (P.T.A.B. Feb. 13, 2020).....	78
<i>Agile Journeys LLC v. The Walt Disney Company and Walt Disney</i> <i>Parks and Resorts U.S., Inc.,</i> Case No. 6:22-cv-02272 (M.D. Fla.).....	<i>passim</i>
<i>Oticon Medical v. Cochlear,</i> IPR2019-00975 (P.T.A.B. Oct. 16, 2019).....	78
<i>Sotera Wireless, Inc. v. Masimo Corp.,</i> IPR2020-01019 (Dec. 1, 2020).....	77

Regulations

37 C.F.R. § 42.100(b)	8
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I. INTRODUCTION

Petitioner Walt Disney Parks and Resorts U.S. challenges claims 1, 3-5, 7-8, 10-14, and 16-25 of US7,212,983 (“’983”) (EX1001) purportedly owned by Patent Owner Agile Journeys. The ’983 is directed to a system and method for providing an itinerary. With it, a party can provide “information” about their group on a handheld device, including age and ride preferences:

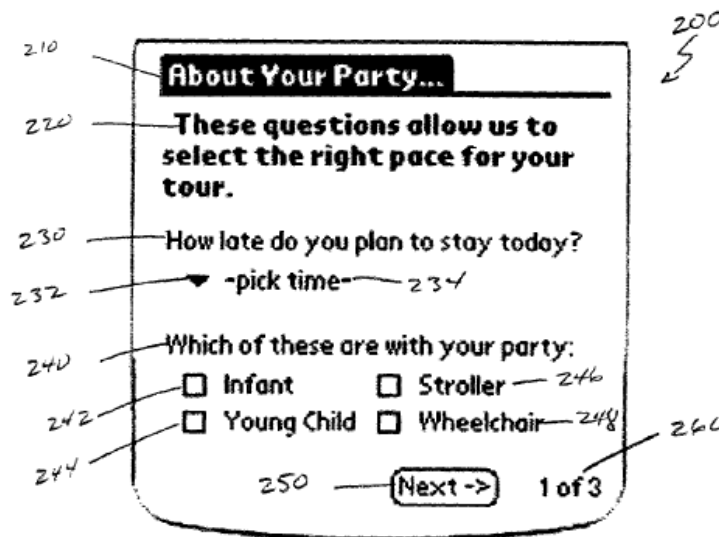


Figure 2

(’983, 6:20-32, Fig. 2.) The device takes this, along with attraction “data,” and “selects” matching attractions for the party. (*Id.*, 6:23-7:34.) Selected attractions are then used to create a custom itinerary the party can view as they navigate their day.

This was all known in the art. For example, WO97/18534 (“**Sim**”) (EX1005) discloses a system in which a party provides preferences and other “relevant

information” (Sim, 23:8-31) and software uses this, along with park data, to “calculate” an “itinerary” of attractions and times for the party. (*Id.*, 35:15-30.) US6,938,066 (“**Doi**”) (EX1006), in the same field, discloses a computer that automatically selects a recommended ride and subsequent show at a particular time, based on data about such attractions matching party information. (Doi, 9:52-10:24.) Neither Sim nor Doi were considered during prosecution.

Further, US5,978,770 (“**Waytena**”) (EX1007) discloses a handheld device for a park that collects party “information,” including “ride preferences”:

WELCOME TO

PLEASE ENTER THE FOLLOWING INFORMATION FOR EACH MEMBER OF YOUR GROUP.

NAME SEX

AGE YEARS

HEIGHT FEET INCHES

WEIGHT LBS.

HEALTH CONDITIONS: (CHECK ALL THAT APPLY)

☐ BACK CONDITION ☐ VERTIGO

☐ HEART CONDITION ☐ WHEELCHAIR

☐ PREGNANT ☐ HEARING DISABILITY

☐ NURSING ☐ OVERWEIGHT/LARGE

521

RIDE PREFERENCES: (CHECK ALL THAT APPLY)

☐ THRILL RIDES ☐ FRONT SEAT

☐ EDUCATIONAL ☐ REAR SEAT

☐ SHOWS ☐ AISLE SEAT

☐ KIDDIE RIDES

522

CANCEL

NEXT

DONE

523

519

520

(Waytena, Fig. 5A.) After parties provide information, the device provides a “list of attractions that *match* the particular *preferences*” of the party. (*Id.*, 14:20-24.)¹ “Match[ing]” rides can then be included in an itinerary the party views as they navigate their day. (*Id.*, 14:12-35.)

Waytena was considered during prosecution, but the Examiner erred in allowing the ’983 over it. Applicants argued Waytena is distinguishable because in the ’983’s claims the computer does the “selections,” whereas in Waytena a user must still decide which “match[ing]” attractions selected by the computer to include in the itinerary. This is not a distinction over the ’983’s claims. The claims broadly recite on their face a computer that “selects” attractions, and the Waytena computer does, in fact, select a list of attractions for the user. Tellingly, there is little in the prosecution record that explains the rationale for allowance.

Nevertheless, the Board need not reach the issue of whether the Examiner erred in finding that Waytena does not anticipate the claims because, at the very least, it renders them obvious. It would have been obvious over Waytena *alone* to automatically present a full recommended schedule of “matching” attractions that a party could accept, without the party needing to manually select each attraction one after another to complete the schedule. Moreover, other prior art, like US5,758,257 (“**Herz**”) (EX1008), expressly discloses the idea of a computer “selecting” a

¹ All emphasis added unless otherwise noted.

schedule of matching attractions (like movies), without requiring party selection, and it would have been obvious to apply this simple teaching to Waytena.

II. MANDATORY NOTICES

A. Real Parties-in-Interest

The real parties-in-interest are Petitioner Walt Disney Parks and Resorts U.S., Inc., the Walt Disney Company, TWDC Enterprises 18 Corp., and Disney Corp Srvcs Co, LLC.

B. Related Matters

The '983 is the subject of the following civil action: *Agile Journeys LLC v. The Walt Disney Company and Walt Disney Parks and Resorts U.S., Inc.*, Case No. 6:22-cv-02272 (M.D. Fla.), filed December 2, 2022.

C. Counsel and Service Information

Lead counsel is Celine Crowson (Reg. No. 40,357). Backup counsel are Joe Raffetto (Reg. No. 66,218), and Scott Hughes (Reg. No. 68,385). Service information is as follows:

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III. NOTICE OF FEES PAID

Fees are submitted herewith. If additional fees are due during the proceeding, the undersigned authorizes the Office to charge them to Deposit Account No. 50-1349.

IV. CERTIFICATION OF GROUNDS FOR STANDING

Petitioner certifies the '983 is available for *inter partes* review and that it is not barred or estopped from requesting this review.

V. PRECISE RELIEF REQUESTED

The relief requested is cancellation of the challenged claims, as follows:

Ground	References	Claims ²	Basis
1	Sim in view of Doi	1, 3, 5, 7-8, 10-14, 16-17, 19-20, 22-25	103
2	Sim (as modified by Doi) in view of Waytena	4, 18, 21	103
3	Waytena	1, 3-5, 8, 10, 12-14, 16-21, 23-25	103
4	Waytena in view of Herz	1, 3-5, 8, 10, 12-14, 16-21, 23-25	103
5	Waytena (as modified by Herz) in view of Sim	7	103
6	Waytena (as modified by Herz) in view of Doi	11, 22	103

² Independent claims in bold.

VI. '983 OVERVIEW

A. Background

The '983 claims a system and method for “creating itineraries for a party of visitors to a facility,” such as a “theme park.” ('983, Abstract, 1:8-11.) The patent argues that “facilities” include “many attractions,” which can “amount[] to information overload.” (*Id.*, 1:42-58.) It adds that “long waits” can also “degrade a visitor’s experience,” causing “portions of the population to avoid some facilities.” (*Id.*, 2:50-52.) The patent explains that “[a] tourist wants to see and do the most interesting things available, with a minimum of inconvenience.” (*Id.*, 1:32-33.)

The '983 allegedly addresses these “problems” through a system and method that can provide a “customized” itinerary of “attractions.” (*Id.*, claims 1, 3.) The claimed invention includes “information” about a party, such as attributes and interests. (*Id.*, 6:20-48, Fig. 1.) It similarly includes “data” about a first set of attractions, such as whether they are for “children” or “height limited.” (*Id.*, 18:15-20:65, Fig. 10.) “Attractions” can range from “rides” to “movies” to “attractions within a city,” “state,” or “country,” and, more generally, to “areas.” (*Id.*, claim 12.)

A “computer” (“portable computer 100”) accesses this party information and attraction data and uses it to “select” a “second set” of attractions from the first set. (*Id.*, claim 1, 3.) The claims recite that at least one attraction selected has matching party information and attraction data. (*Id.*) The selected attractions can then be used

to create a “customized” itinerary that can be displayed on the party’s computer’s screen (“display 130”). (*Id.*)

B. Prosecution

Years after filing the application, *pro se* Applicants submitted a preliminary amendment modifying the written description and adding 179 new claims. (EX1002, 289-335.) Following a notice of non-compliance, they submitted another amendment, this time canceling three claims and adding 169 claims. (*Id.*, 216-260.) The Examiner issued a non-final rejection requesting Applicants to select a subset of claims, and in response Applicants selected twenty-five claims for examination. (*Id.*, 180.)

The Examiner rejected all but one such claim as anticipated or rendered obvious based on US5,978,770 to Waytena. (*Id.*, 65-73.) Applicants acknowledged Waytena disclosed many elements of their “invention,” including (a) “data” about a “first set of attractions,” (b) “information” about a party, and (c) providing a “list” of attractions that “match” party’s preferences. (*Id.*, 43-61.) Applicants argued their invention was distinguishable because a Waytena party must still manually select which “matching” attractions to include in their itinerary, whereas in Applicants’ invention the computer selects the attractions without “the intermediate step of manual selection.” (*Id.*)

Applicants requested continued examination, and the Examiner issued another office action maintaining the rejections, explaining that Waytena “at column 14, lines 13-35 discloses that if desired, the party may be presented with a list of attractions that match preferences, which is seen to meet the language of applicant’s selecting step.” (*Id.*, 20.) Shortly after this, and years after the application had been filed, Applicants conducted a telephone interview. The Examiner then agreed to withdraw the rejections based on the claims being amended from “operable to select” to “selects.” (*Id.*, 9.) There is no record of this interview, and it is unclear how the amendment could overcome Waytena. Nevertheless, the application issued.

VII. CLAIM CONSTRUCTION AND POSITA DEFINITION

A. Claim Construction

Claims in an *inter partes* review “shall be construed using the same claim construction standard that would be used to construe the claim in a civil action under 35 U.S.C. 282(b), including construing the claim in accordance with the ordinary and customary meaning of such claim as understood by one of ordinary skill in the art and the prosecution history pertaining to the patent.” 37 C.F.R. § 42.100(b). Unless indicated otherwise, all claim terms herein are given such ordinary and customary meaning.

Claims 1 and 3 recite “presentation means”—a means-plus-function term under §112, ¶6. Each claim recites that the “presentation means” can perform the

function of (a) “receiv[ing] said itinerary from said computer” and (b) “present[ing] said itinerary to said party.” (’983, claims 1, 3.) The ’983 discloses that “a party arriving a facility” can receive a “portable computer.” (’983, 11:1-4.) This computer “has a display screen 130” that is “used to present various forms for gathering or displaying information.” (*Id.*, 11:8-11, 11:33-42.) Dependent claim 16 similarly recites that the “presentation means” can include “a screen.” (*Id.*, claim 16.) Thus, the “corresponding structure” for performing the recited functions is “display screen 130.”

B. Definition of a Person of Ordinary Skill in the Art

A person of ordinary skill in the art (“**POSITA**”) in the field of the ’983 would have the equivalent of an undergraduate degree in computer science, engineering, operations research, or similar discipline, along with one year of experience in computer programming. (Houh Decl., ¶32.)³ The more education one has, the less experience needed to attain an ordinary level of skill. (*Id.*) Similarly, more experience in the field may serve as a substitute for formal education. (*Id.*)

VIII. ANALYSIS OF GROUNDS FOR UNPATENTABILITY

³ Dr. Henry Houh is an expert in computer programming, among other things. His Declaration is attached as Exhibit 1003.

Sim and Waytena, along with certain other prior art, render the challenged claims obvious. Petitioner takes no position herein as to whether the claims are invalid under §101 or §112, understanding this is not the appropriate forum for these challenges. Petitioner reserves the right to present these and other challenges to the '983's validity in other fora.

A. Ground 1: Sim in View of Doi

1. Independent Claim 1

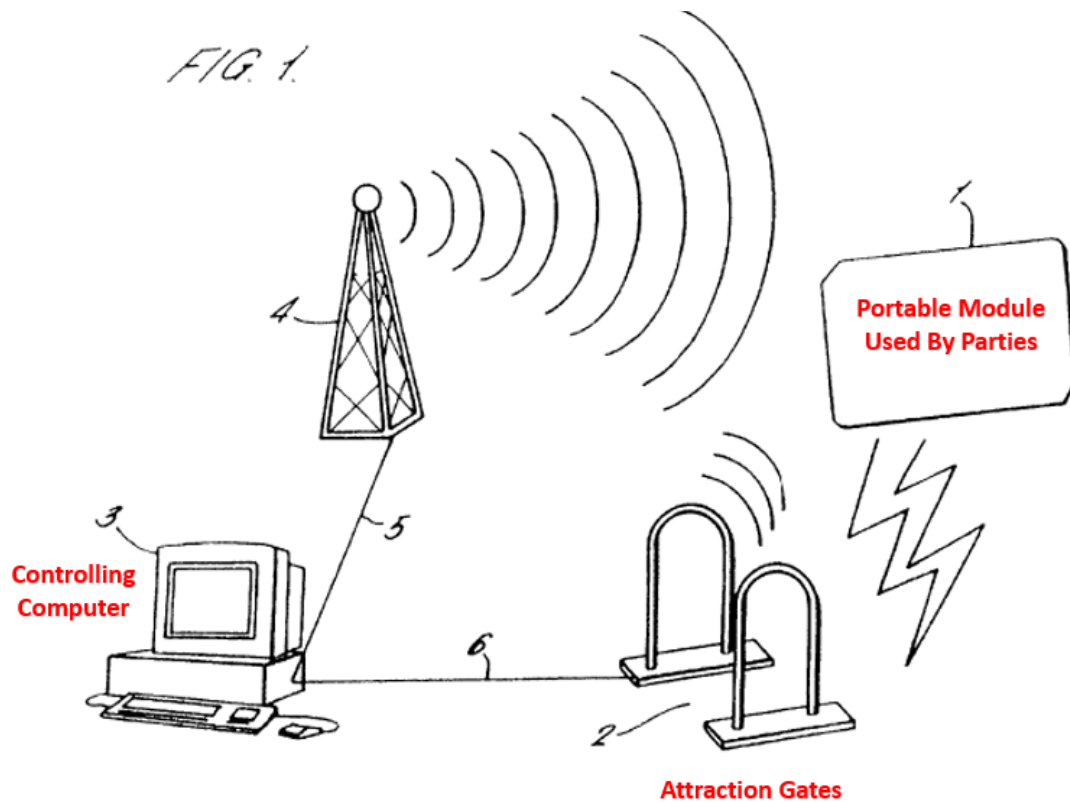
Sim⁴ in view of Doi renders claim 1 obvious. (Houh Decl., ¶¶53-78.)

1[pre]: *A system for providing an itinerary to a party, said itinerary comprising a second set of attractions selected from a first set of attractions, said system comprising:*

Sim discloses claim 1[pre] to the extent limiting. (*Id.*, ¶¶54-59.)

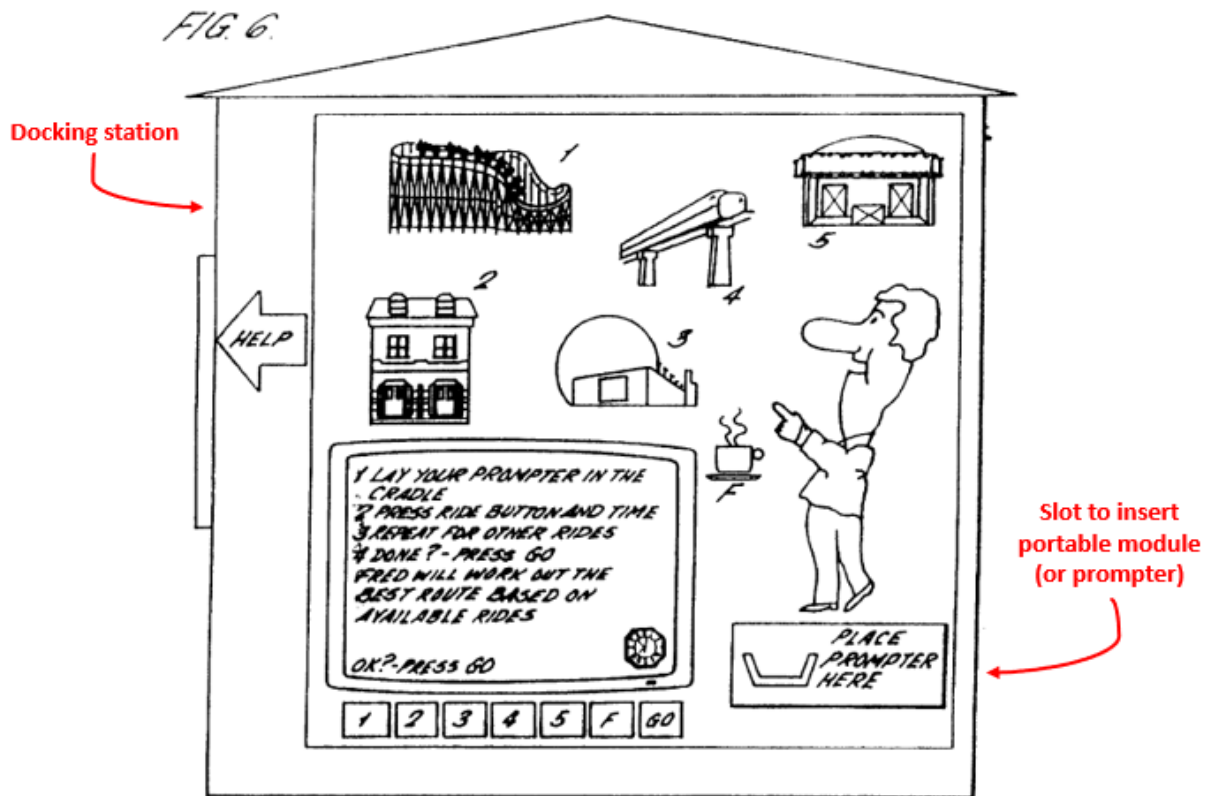
First, Sim discloses a “system” for providing an “itinerary.” Sim discloses a “queue management system” that can be “employed in theme parks” for “guests.” (Sim, 3:16-27, Fig. 2.) The system includes (a) “portable modules” to be “carried by a person or group” and (b) a “controlling computer” that can “determine[] the optimum sequence and time of” attractions for each person/group:

⁴ Sim is WO97/18534. Sim was filed November 15, 1996, and published May 22, 1997. Sim is prior art under §102(b).



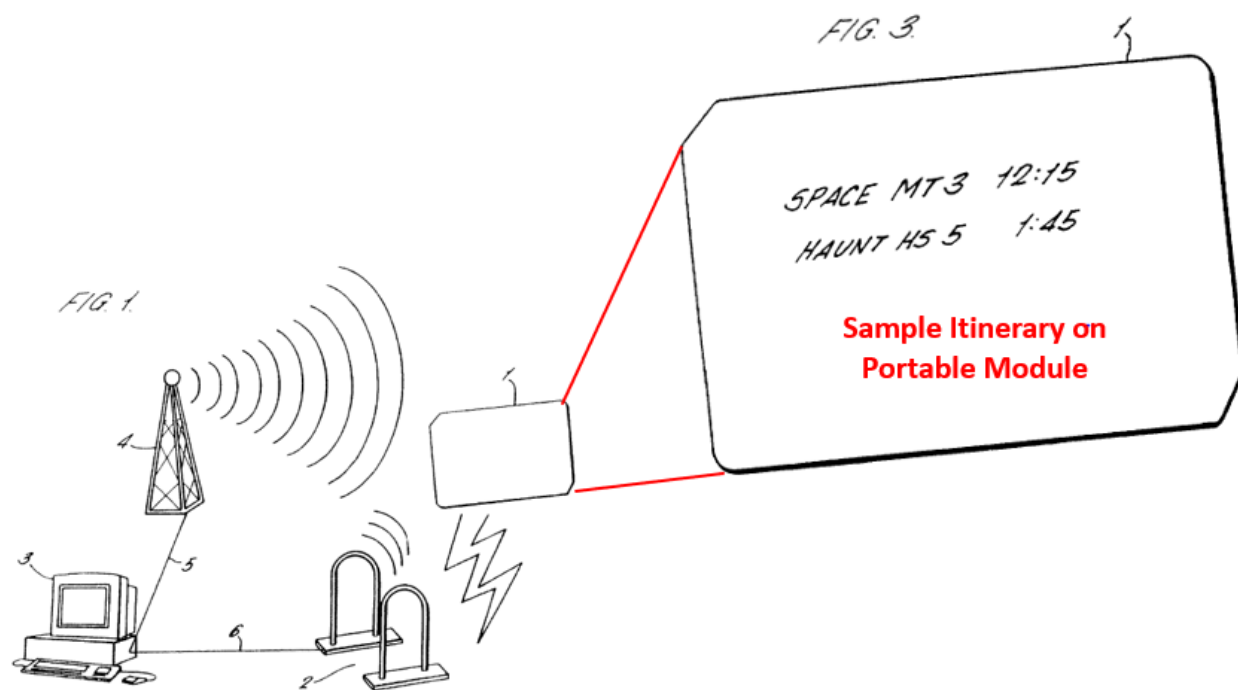
(*Id.*, Fig. 1 (annotated), 2:5-20, 15:23-16:5.)

Parties first provide “relevant information” about themselves using their portable modules, such as “height,” “health status,” and “preferred times and preferred sequence of rides”:



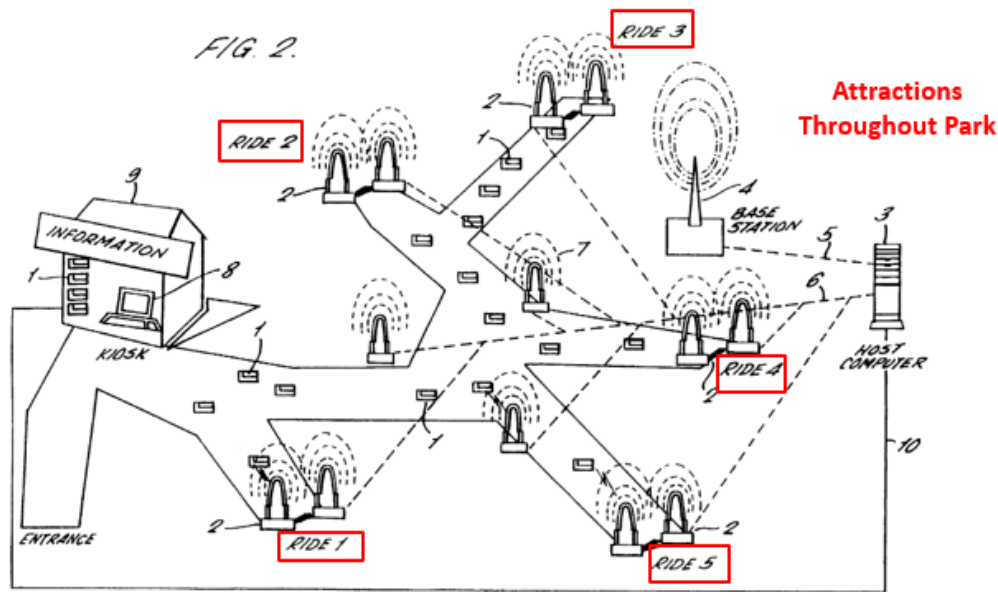
(*Id.*, Fig. 6 (annotated), 22:32-23:21, 15:18-16:3, Fig. 2; *see also* 7:15-26, 8:11-27.)

Sim's "controlling computer" then uses its "Queue Manager" software to "determine the optimum queue sequence" and "recommended route" based on the party's information. (*Id.*, 34:15-35:30, 18:29-19:25, 22:4-24:22, 8:28-9:9.) The calculated "*guest's itinerary*" is provided to the portable module, which displays the itinerary "visually" or "audibl[y]":



(*Id.*, Figs. 1, 3 (annotated), 35:21-30, 9:4-9, 3:28-35; *see also* Fig. 5, 15:34-16:9.)

Second, Sim’s “itinerary” comprises “a second set of attractions selected from a first set of attractions.” Sim’s system includes information on rides throughout the park (“first set of attractions”), including open and closed rides, and allows users to choose among these park attractions:



(*Id.*, Fig. 2 (annotated), 39:1-8, 23:32-24:22, 28:10-21 (discussing “gate units 2” being “located at each ride”), Table 2 (listing rides and restaurants), 37:5-6, 9:30-34; *see also* 7:15-8:27, 15:23-34.) Further, after a party provides “relevant information,” including preferred “rides,” Sim provides an itinerary with an “optimum sequence and time” of selected ride(s) in the park (“second set of attractions”), such as shown in Figure 3 above. (*Id.*, 17:22-27, 15:23-16:5, Fig. 3, 22:4-24:22.) That is, out of all rides in the park (“first set”), *e.g.*, those rides shown in Figure 2 or Table 2, the party is provided an optimum sequence and times to visit a selected portion of rides (“second set”). (Houh Decl., ¶59; *see also* Sim, 23:32-24:22, 34:15-32, 35:15-30, 28:28-29:4.) *See also infra* claim 1[c].

1[a]: data regarding said first set of attractions;

Sim's system includes "data" on the "first set of attractions." (Houh Decl., ¶¶60-62.) For example, it uses "age, size of [sic] health restrictions" to limit access to certain "rides" to "eligible members" of a party. (Sim, 22:29-23:3, 23:8-21, 34:2-21.) Thus, Sim's system includes data on attraction "restrictions," such as age, size (height), and health "restrictions." (Houh Decl., ¶¶60.) As another example, when producing "itineraries," Sim's system accounts for whether rides are "closed down" and how busy rides are. (Sim, 39:1-8, 23:29-24:22, Table 2, 35:21-30, 38:27-32, 8:22-27, 19:4-5, 20:7-15). Thus, Sim's system includes data on whether rides are open, closed, or busy. (Houh Decl., ¶¶61.)

Sim's system also includes other data associated with attractions, including:

- which rides require additional tickets or fees (Sim, 35:31-36:5, 38:11-15, 12:35-13:28);
- ride names (*id.*, Figs. 3, 5, Table 2);
- information on each ride queue (*id.*, 8:28-9:9);
- ride images (*id.*, Fig. 6); and

- which “gate units”⁵ are associated with which rides (*id.*, 19:24-25, 19:28-20:22).

1[b]: information about said party, at least a portion of said information distinguishing among said first set of attractions with respect to said data;

Sim discloses claim 1[b]. (Houh Decl., ¶¶63-66.) Sim’s system allows parties to enter “relevant information” about themselves, including “height or health status,” “the need for a stroller or wheelchair,” and “ride and time preferences.” (Sim, 22:29-23:3.) Further, Sim’s “controlling computer 3 can store information... on each party..., e.g. prompter serial number, relationship to other prompters or on tags, arrival time, preferred language, attract preferences, time preferences, calculated optimum route, the number in the group, attraction restriction information by individual user...” (*Id.*, 23:8-21; *see also* 4:15-17, 11:16-28, 30:10-17, 32:29-32, 35:21-30, 37:25-38:7 (discussing user location data), 4:1-17, 11:5-28, 12:35-30 (user-credit data), 18:7:10 (user-preferred language), 11:29-32, 38:25-26.) Sim’s system also has “different classes of guest depending on the fee paid,” giving guests different “range[s] of privileges”—additional party “information.” (*Id.*, 3:23-27, 34:22-32, 37:3-4.)

⁵ “gate units” are near each ride that the “controlling computer” communicates with and that allow/deny ride entry to parties. (Sim, 14:31-15:7, 15:8:17, 19:28-20:22, 21:22-28, 28:10-18; Houh Decl., ¶62.)

At least “a portion” of this party information distinguishes among the “first set of attractions with respect to said data.” (Houh Decl., ¶¶65-66.) For example, Sim’s system includes data on “age, size of [sic] health restrictions” of rides. *See supra* Ground 1, claim 1[a]. When a party inputs “relevant information,” such as age or height (size), the system will limit ride access to “eligible members of the party.” (Sim, 34:3-11.) Thus, this information (*e.g.*, age, height) distinguishes among those rides that parties are allowed to access (*e.g.*, based on ride age or height restrictions) and those they are not allowed to access. (Houh Decl., ¶¶65-66.)⁶

1[c]: a computer having access to said data and said information, said computer having software that selects said second set of attractions from said first set of attractions, said second set of attractions consisting of at least some of said first set of attractions for which said data substantially matches with said information;

Sim renders obvious claim 1[c]. (Houh Decl., ¶¶67-76.)

Sim discloses a “computer” with access to attraction “data” and party “information.” *See supra* Ground 1, claim 1[pre]. Sim discloses a “controlling computer” with “Queue Manager” software. *Id.* (Sim, 20:10-11, Fig. 1, 14:31-15:7.)

⁶ Additionally, this limitation is obvious over Sim in view of Doi. (Houh Decl., ¶66.)

Doi relates to a theme park “customer navigation system” that obtains party information (*e.g.*, age) and uses associated ride data to select rides (*e.g.*, recommend rides based on party age)—a teaching that would have been obvious to apply to Sim. *See infra* claim 1[c].

This computer uses party “information” and attraction “data” to create a custom itinerary for certain attractions in the park. (Houh Decl., ¶¶68-69.) For example, Sim discloses:

The queue manager (QM)... accepts ride preference requests from guests and collects information about the guest’s location. This information is used to calculate and update a guest’s itinerary. As guests are identified by module detectors the system will produce and sequence the messages for the particular module detector. These messages instruct guests to attend the various rides.

(Sim, 35:21-30.)

The queue manager includes means of calculating the actual time and sequence of attendance at queue entrances offered to the party. This calculation can be in response to party preferences, on the overall demand in the system and any priority attached to the particular party and would result in effectively, a recommended route. This allows considerable control of the users.

(*Id.*, 34:22-32; *see also* 23:32-24:22.)

Thus, Sim’s computer acquires party information, including preferences for rides, times, and sequences, and compares that to attraction data, including locations and current crowding, and generates a “recommended” sequence of rides and route (e.g., itinerary). (Houh Decl., ¶69; *see also* Sim, 38:27-32 (“timing and route planned” based on “how busy the park is...”).) Sim does this to “maxim[ize]

ride/show utilisation, ease park management issues, raise spending on secondary attractions and most importantly, greatly increase customer satisfaction.” (*Id.*, 22:4-12.)

To the extent Sim does not disclose that its computer “selects” particular rides when creating an itinerary, Sim in view of Doi⁷ renders this obvious. (Houh Decl., ¶¶70-76.) Doi is directed to a theme park “customer navigation system” and has the same goal of directing parties to attractions in a way that maximizes utilization. (Doi, Abstract, 9:9-10:44, 10:52-62.) Doi’s system uses similar components to Sim, including (a) “navigation terminal 1C” that is “carried by a customer” and (b) “service server 4A” that “transmits customer navigation information” to the customer terminal. (*Id.*, Fig. 10, 8:60-9:20, Fig. 1, 4:56-63.) The customer terminal includes customer information, *e.g.*, “nickname,” “height,” “age,” “positional information,” and can provide a navigation plan based on position and “crowd condition[s],” among other things. (*Id.*, 9:21-58, 4:64-5:29.)

Further, Doi’s system collects “use data” reflecting “use frequencies of attractions by customer ages” and attraction “waiting times.” (*Id.*, 8:20-56, Figs. 8-9.) Doi’s customer terminal can apply this “use data” to “select” attractions for the

⁷ Doi was filed November 21, 2000, and issued August 30, 2005. Doi is prior art under §102(e).

customer based on their information matching attraction data. (*Id.*, 9:52-10:44; *see also* 6:43-64.) “For example, as an attraction A is crowded, the navigation planner 42 makes a plan to **recommend other attractions** to some of customer queuing at the attraction A that are **selected in consideration of their age**.” (*Id.*, 9:63-66.) Doi gives an example of selecting “Attraction D” based on it being “enjoyable” for similarly-aged persons. (*Id.*, 9:65-10:11, Fig. 11.) Doi’s system can also “positively propagate held events.” (*Id.*, 10:12-33.) “[I]f, for example, a **popular attraction** ‘Pokekun’ to be held still has non-reserved seats, there are selected **matching ages** from ages of customer stored in use data memories 14, and invitations are given.” (*Id.*) Thus, in Doi, the computer can recommend a ride and a subsequent seat for a show at a particular time, based on data about such attractions matching party information, *e.g.*, age. (Houh Decl., ¶72.)

It would have been obvious to apply Doi’s teachings and have Sim’s system “select” attractions, with at least some of those attractions having data that “substantially matches with [party] information.”⁸ (*Id.*, ¶73.) Both Sim and Doi are in the field of theme park navigation and disclose similar systems including a

⁸ There can be no question that Doi discloses a “substantial match” as claimed, irrespective of the precise boundaries of that term, as Doi discloses that there is an actual match between attraction data and party information,

portable customer terminal and a central computer. (*Id.*) Moreover, both disclose collecting the same types of party information (*e.g.*, age, location) **and** using that information when determining access to rides. (*Id.*) Doi simply adds that the system can further use this information to select attractions for a party where party information and attraction data match. (*Id.*) Adding this to Sim’s system would have been the use of a known technique to improve a similar device. (*Id.*)

Moreover, a POSITA would have been motivated to combine the teachings of Doi and Sim. (*Id.*, ¶74.) Sim recognizes the need for “greater control in crowd movement” and “increas[ing] customer satisfaction” and, thus, contemplates “concentrat[ing] park users certain areas at certain times,” and directing parties to “secondary attractions.” (*Id.*, 39:1-8, 23:32-24:22, 22:4-24.) Doi recognizes these same problems and provides similar solutions to achieve the same results as Sim. (Doi, 9:33-10:44; *see also* 8:60-9:32, 3:9-14.) Doi teaches this can be done by automatically selecting recommendations of attractions and times for the party, based on matching party information and attraction data. (*Id.*)

A POSITA would have thus been motivated to apply Doi to Sim, such that Sim’s system could select attractions and times that match party information when determining a “guest’s itinerary.” (Houh Decl., ¶75.) This would have enabled Sim’s system to take party information and provide recommendations to the party for their itinerary at the outset—thereby maximizing attraction utilization, controlling

crowding, offering parties sufficient rides for a complete day, and reducing the need to later re-allocate sequences. (*Id.*) And where re-allocation is necessary to “cope with unexpected events” like ride closures (Sim, 23:32-24:22), a POSITA would have looked to Doi, so that Sim users would be provided with alternatives for rides removed from their itineraries. (Houh Decl., ¶75.)

Sim’s system was also ready for improvement, and adding Doi’s teachings would yield predictable results. (*Id.*, ¶76.) Doi adds that the exact information Sim has already collected can be matched to provide ride recommendations. (*Id.*) Sim’s system would predictably compare party information to attraction data and determine what attractions and times to recommend in the same way as Doi. (*Id.*) This would not change Sim’s ultimate output, which would continue to provide itineraries as before, but with the added benefit of selecting “matching” attractions. (*Id.*)

1[d]: a presentation means in communication with said computer, said presentation means able to receive said itinerary from said computer and present said itinerary to said party,

Sim discloses claim 1[d]. (Houh Decl., ¶77.) Sim’s portable customer units have a “display 30” (“presentation means”). (Sim, Fig. 4, 17:3-15.) Using this display, “[t]he portable unit is able to display the ride sequence and times...” (Sim, 17:16-21; *see also* 3:32-35, 15:34-16:9, Figs. 3, 5, 9:10-10:3.) Sim further discloses that once the “queue manager 5 has determined the optimum queue sequence, it

transmits data on the queue sequence and times at which the queue should be joined to the portable modules and *this data is stored* in the memory means of each portable module *for display.*” (*Id.*, 9:4-9; *see also* 18:16-20, 3:28-31, 9:10-10:3.) Thus, the portable module, with its display, is in “communication with” the “controlling computer.” (Houh Decl., ¶77.) *See also supra* Ground 1, claim 1[pre].

1[e]: whereby said itinerary is customized for said party.

To the extent limiting, Sim discloses claim 1[e]. (Houh Decl., ¶78.) *See also supra* Ground 1, claims 1[pre], 1[b]-1[c]. As discussed, Sim discloses parties providing their “relevant information,” including preferred “times and... sequence of rides.” (Sim, 11:16-55, 8:5-9, Fig. 6.) “This information is used to calculate and update a *guest’s itinerary.*” (*Id.*, 35:21-30.) The itinerary includes the “actual time and sequence of attendance at queue entrances offered to the user” and would “result in effectively, a recommended route.” (*Id.*, 34:22-32.) Thus, the “itinerary” is customized for parties. (Houh Decl., ¶78.) Moreover, Sim’s system, as modified by Doi, results in itineraries “customized” for a party, as attractions and times are selected based on those attractions matching the party’s information. *See supra* Ground 1, claim 1[c].

2. Independent Claim 3

Claims 3[pre]-3[e] are near identical to claims 1[pre]-1[e]. *See* Appendix A. Therefore, claims 3[pre]-3[e] are rendered obvious over Sim in view of Doi for the reasons above. *See supra* Ground 1, claims 1[pre]-1[e].

3. Dependent Claim 5

Sim in view of Doi renders claim 5 obvious. (Houh Decl., ¶¶80-84.) Claim 5 is similar to claim 1, in that it relates to using party “information” and attraction “data” to indicate rides of interest and select those rides. It merely specifies a type of party “information” to use, an “*attribute*”—a type already discussed above for claim 1. Claim 5 is thus obvious for the reasons above. *See supra* Ground 1, claim 1[c].

For example, Sim’s party information comprises numerous “attributes,” including “height or health status,” “need for a stroller or wheelchair,” “number in the group,” and “age.” (Sim, 22:29-23-3, 23:8-21, 34:2-11.) *See also supra* Ground 1, claim 1[b]. Doi adds that its computer can use this same party “attribute” information (*e.g.*, age), along with attraction data (*e.g.*, age interest data), to select attractions (*e.g.*, a ride and subsequent show) that are “more desirable” to the party (*e.g.*, based on “matching ages”). (Doi, 8:20-56, 9:52-10:44, 10:12-33, Figs. 8-9.)

It would have been obvious to combine Sim and Doi, such that Sim’s party attributes and attraction data distinguish which attractions are “more desirable” and

the “controlling computer” selects those attractions. (Houh Decl., ¶83.) *See supra* Ground 1, claim 1[c]. A POSITA would have looked to Doi—and its distinguishing of rides based on party “attributes” and selecting of rides that are, for example, age appropriate—so that Sim users could receive ride selections based on their attributes, like age. (Houh Decl., ¶83.) Adding this to Sim would have been the use of a known technique to improve a similar device. (*Id.*) Moreover, using party attributes, like age, to distinguish among and select attractions in Sim would have functioned in the same way as in Doi—Sim would continue to provide itineraries as before, but with the added benefit of selecting attractions parties may enjoy. (*Id.*, ¶84.)

4. Dependent Claim 7

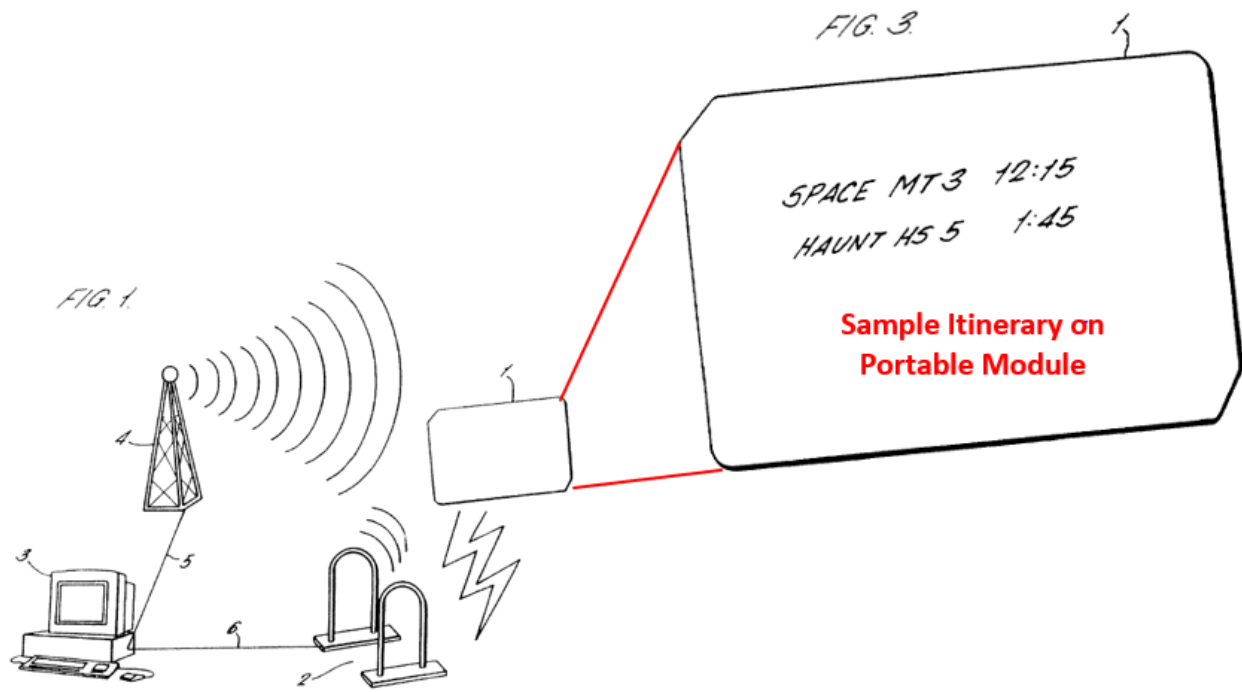
Sim in view of Doi renders claim 7 obvious. (Houh Decl., ¶¶85-87.) Sim contemplates “different classes of guests depending on the fee paid,” and parties paying premiums for a “range of *privileges*.” (Sim, 3:23-27, 34:22-32, 37:3-4.) Sim further discloses that parties may have privileges based on their arrival time. (*Id.*, 24:5-20.) Additionally, “priority attached to” parties can be taken into account when determining the queues to offer. (*Id.*, 34:22-32.) A POSITA would understand from Sim that parties can have a “privilege” associated with them, giving them priority over others when it comes to selecting attractions. (Houh Decl., ¶85.) Where, for example, an attraction is popular, parties with privilege or paid-class status can be given priority for selection of that attraction. (*Id.*)

In Sim, party privilege/class is part of the party “information” in the system. (*Id.*, ¶86.) As such, selecting rides for an itinerary that match with a party having a privilege or paid-class status would have been obvious over Sim in view of Doi. (*Id.*) Doi discloses selecting attractions that are popular for age groups matching the age of the party. *See supra* Ground 1, claim 1c. It would been obvious to a POSITA, given the teachings of Sim and Doi, that the same selection of attractions could be made based on whether a party has a particular privilege or class status privilege attached to them as taught by Sim. (Houh Decl., ¶86.) This would have been nothing more than providing the same itinerary selection of an event as disclosed in Doi, but with the selection based on party privilege or paid-class status as disclosed in Sim—a simple substitution. (*Id.*)

A POSITA would have been motivated to modify Sim to include selecting certain attractions for parties who had privilege or paid-class status, as this would accomplish Sim’s goal of increasing customer satisfaction. (*Id.*, ¶87.) A POSITA would have had a reasonable expectation of success, as just like the recommended itinerary offering rides that match with a user’s age (as taught by Doi), Sim could further offer the same itineraries for more popular rides, or rides with limited availability, by first checking whether a party has a privilege or priority. (*Id.*)

5. Dependent Claim 8

Sim in view of Doi renders obvious claim 8. (Houh Decl., ¶88.) Sim’s “queue manager includes means of calculating the *actual time and sequence* of attendance at queues offered to the user,” and “[o]nce the queue manager has determined the optimum queue sequence, it transmits data on the *queue sequence and times* at which the queue should be joined to the portable modules and this data is stored in the memory means of each portable module *for display*.” (Sim, 34:22:-32, 9:4-9; *see also* 8:28-4, 15:23-16:9, 17:16-17, claims 1, 22.) Sim provides an example itinerary displayed on a portable module, showing “Space Mt” (“first attraction”) at a “scheduled time” of 12:15 and a “second attraction” (“Haunt Hs”) at a “second scheduled time” of 1:45:



(*Id.*, Figs. 1, 3 (annotated), 15:23-16:9.)

6. Dependent Claim 10

Sim in view of Doi renders claim 10 obvious. (Houh Decl., ¶¶89-90.) Sim's system adds "scheduled times" for all attractions a party is offered, including a "first attraction" (*e.g.*, "Space Mt") and "second attraction" (*e.g.*, "Haunt Hs") *See supra* Ground 1, claim 8. Further, it takes into account that parties must "physically be able to get from one ride to another in time." (*Id.*, 24:7-11.) Sim's system thus accounts for the time needed to get from one ride to another when generating the sequence of queues, and a POSITA would have known from Sim for the "second scheduled time" (*e.g.*, 1:45 for Haunt Hs) to be equal to the "first scheduled time" (*e.g.*, 12:15 for Space Mt) plus a "time required between attractions." (Houh Decl., ¶90.)

7. Dependent Claim 11

Sim in view of Doi renders claim 11 obvious. (Houh Decl., ¶¶91-93.) Claim 11 is similar to claim 1, but specifies that the selected set of attractions is an adjustment to a previous itinerary ("third set of attractions") due to an "interruption." (*Id.*) Doi contemplates "interruptions," including where rides have "abnormally long wait times" due to being overcrowded. (Doi, 8:20-45, 9:36-10:11.) In such situations, Doi will select replacement rides that match party information, like age, so as "to take a measure for the waiting time to be shorter." (*Id.*) Thus, the party will

forego one attraction (A) and instead do newly-selected attraction (D) as a “replacement.” (Houh Decl., ¶92.)

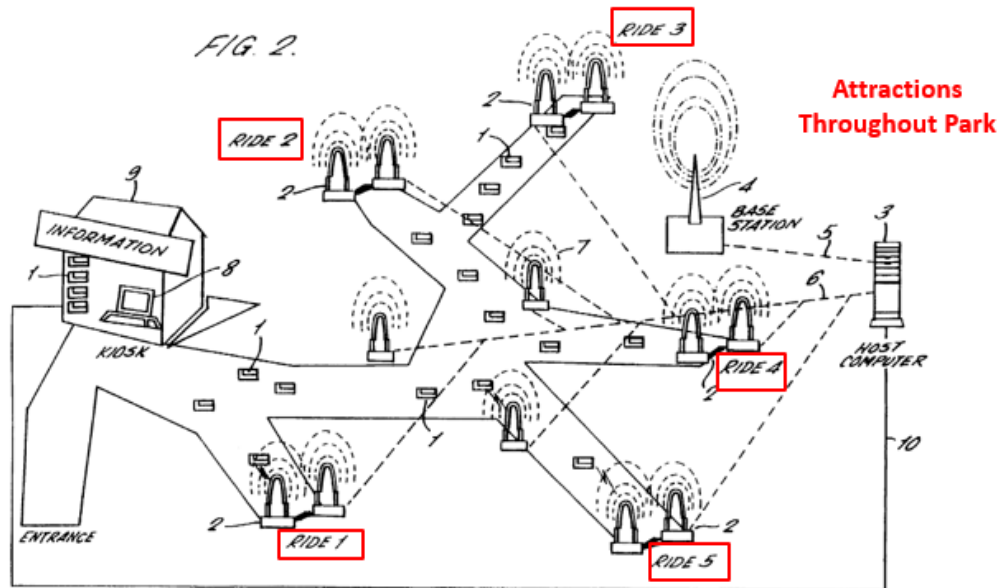
It would have been obvious to apply this to Sim, such that Sim “selects said second set of attractions as a *replacement* for said remaining portion” and “said second set of attractions substantially excludes said already visited portion, whereby said interruption is overcome.” (*Id.*, ¶92.) In Sim, a party receives an itinerary (“third set of attractions”), and as the party proceeds through the day, some attractions will have been visited and some will remain. (*Id.*; *see also* Sim, 23:8-21.) Like Doi, Sim discloses that “unexpected events” (“interruptions”) can occur, such as ride closure or failure. (*Id.*, 23:32-24:22.) When this occurs, Sim’s “controlling computer 3 can be programmed to re-allocate every user’s sequence”—removing closed ride(s) and selecting new ride sequences and times for the remaining rides to overcome the “interruption.” (*Id.*, 23:32-24:22, 35:21-30; *see also* Houh Decl., ¶92.)

A POSITA would have been motivated to include replacement attractions, as taught by Doi, in Sim’s “re-allocated” itinerary to make up for attractions the party had to miss, while excluding those already visited. (Houh Decl., ¶93.) Sim’s “re-allocated” itinerary in Sim excludes previously-selected rides for which there has been an “interruption” and thus may result in a shortened itinerary. (*Id.*) Sim was thus ready for improvement, and it would have been a simple application of a known method, as taught by Doi, to select “alternative rides” for Sim’s “re-allocated”

itinerary. (*Id.*) Sim as modified would continue to result in parties receiving “re-allocated” itineraries—only now with additional rides as a replacement. (*Id.*) See also *supra* Ground 1, claim 1[c] (discussing rationale for applying Doi to Sim).

8. Dependent Claim 12

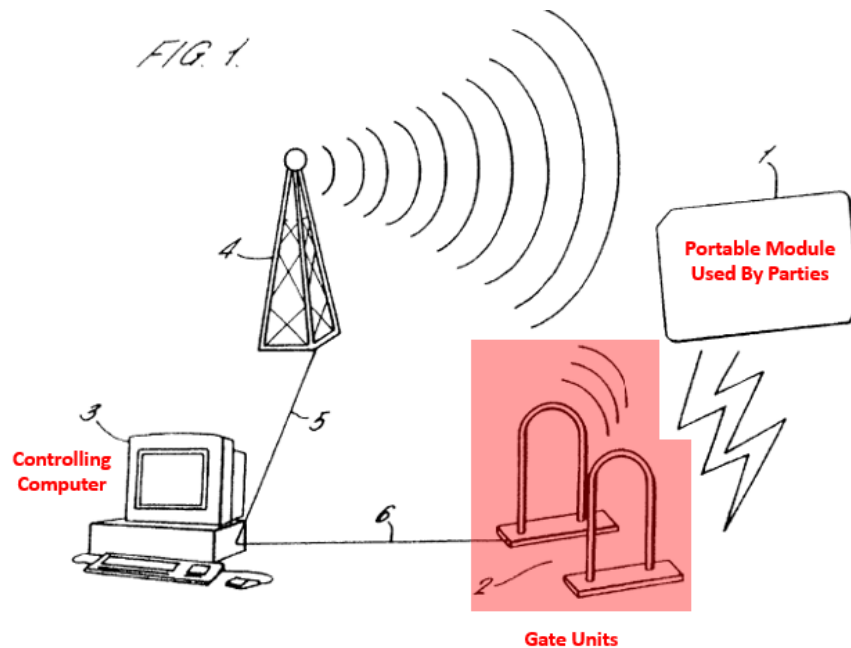
Sim in view of Doi renders claim 12 obvious. (Houh Decl., ¶94.) Sim’s “first set of attractions” can include “various rides” in a “park”:



(*Id.*, Fig. 2 (annotated), 15:8-22; see also Table 2, 39:1-8, 23:32-24:22.) Sim’s “first set of attractions” can further include a “show and/or restaurant.” (*Id.*, 37:5-6, Table 2, 22:5.)

9. Dependent Claim 13

Sim in view of Doi renders claim 13 obvious. (Houh Decl., ¶¶95-96.) Sim includes “gate units” in communication with “controlling computer 3” and “portable modules 1”:



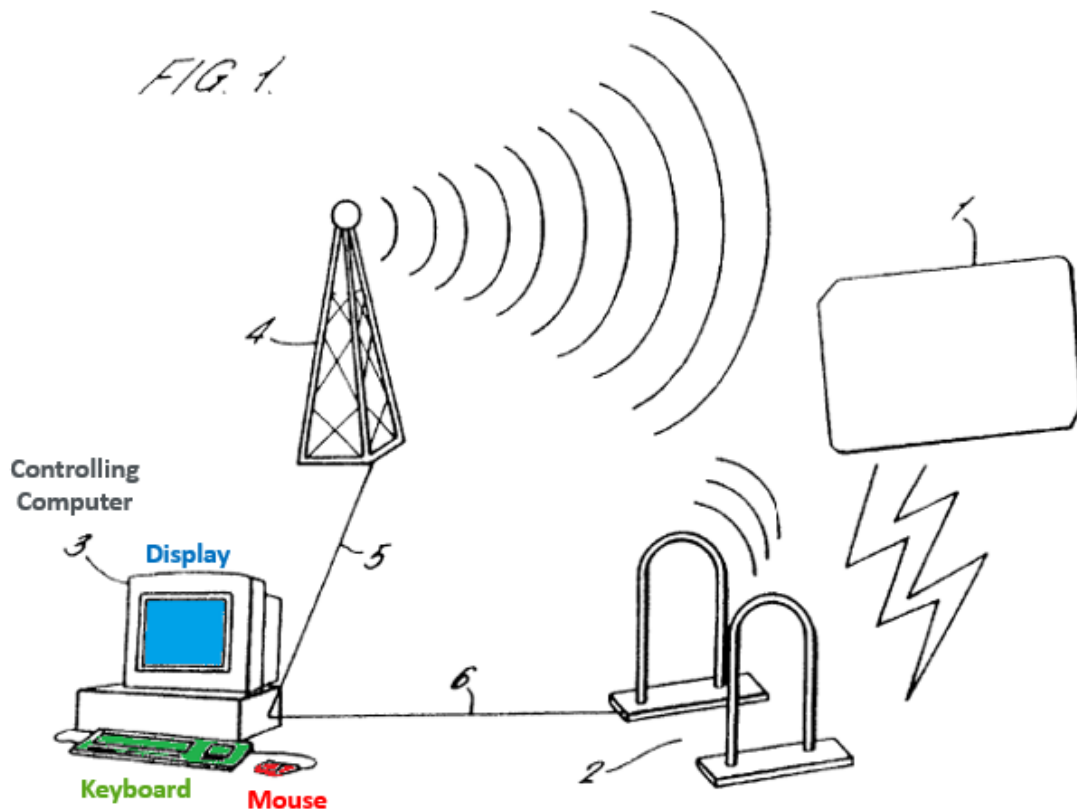
(Sim, Fig. 1 (annotated), 14:31-15:7.) The gate units are “positioned at various rides in the park” and “set up at the entrance to the physical queue to *control access* to the queue.” (*Id.*, 19:28-33, 15:8-15:17, Fig. 2, 19:28-33.)

When “gate unit 2 detects an identification code,” it transmits it to the controlling computer to confirm whether the party should be allowed access. (*Id.*, 20:7-22.) The computer responds instructing the gate to grant/deny access. (*Id.*) Access will be granted within a “time window” of the scheduled ride, “e.g., +5 mins, -10 mins.” (*Id.*, 10:30-11:4, 11:35-12:2, claim 31.) Access will be denied if “the

party has arrived before or after the time, is at the wrong ride or the party is at the wrong ride and at the wrong time.” (*Id.*, 20:19-22; *see also* 10:4-29, Fig. 8, 21:22-28, Fig. 7, 21:29-22:3, Fig. 10, 28:10-18.)

10. Dependent Claim 14

Sim in view of Doi renders claim 14 obvious. (Houh Decl., ¶97.) Sim’s “controlling computer” is in communication with the gate units and portable modules. (Sim, Fig. 1, 14:31-15:7.) It can include a display, keyboard, and mouse:

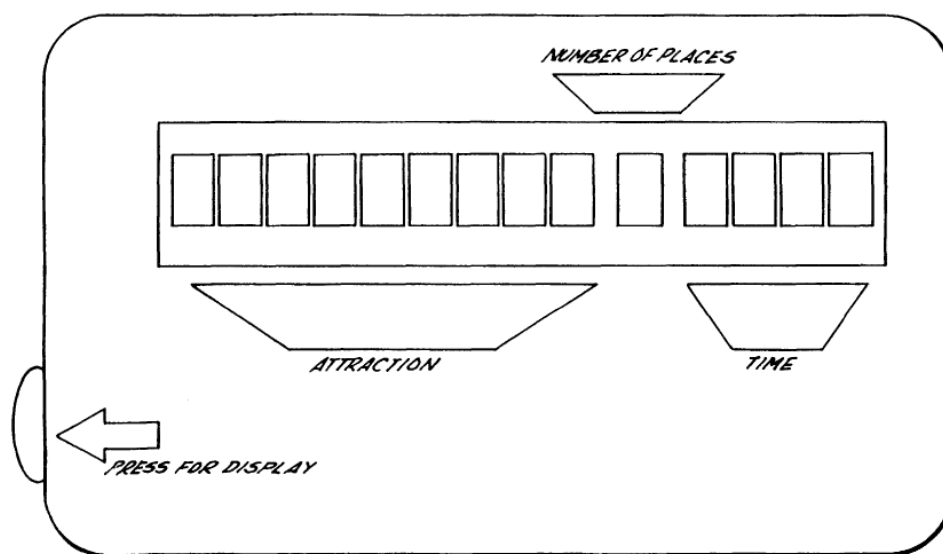


(*Id.*, Fig. 1 (annotated), 1:40-55, 8:5-13.) Thus, it is at least a “general purpose computer” and “desktop computer.” (Houh Decl., ¶97.)

11. Dependent Claim 16

Sim in view of Doi renders claim 16 obvious. (*Id.*, ¶98.) Sim’s “portable module” can include “an alphanumeric display” that “display[s] the ride sequence and times.” (Sim, 17:16-18, Fig. 4.) Thus, Sim’s display includes a “screen.” (Houh Decl., ¶; *see also* Sim, Fig. 3, Fig. 5, 15:34-16:9.) Sim further discloses its display can be a “scrolling display,” explaining its “display arrangement... allows for the *display to scroll across* to indicate the ride or attraction, the number of places reserved in the queue and the time at which the physical queue should be joined”:

FIG. 5.



(*Id.*, Fig. 5, 16:5-9.)

12. Dependent Claim 17

Sim in view of Doi renders claim 17 obvious. (Houh Decl., ¶99.) Sim’s portable units “can be provided without // *an alphanumeric display* with a simpler

ride indication arrangement for applications which do not require readable messages.” (Sim, 2:5-33, 3:32-35, 17:16-21.) In this arrangement, ride information can be provided “audibl[y], e.g. a spoken message or a tone.” (*Id.*, 3:28-35; *see also* Houh Decl., ¶99.)

13. Dependent Claim 19

Sim in view of Doi renders claim 19 obvious. (Houh Decl., ¶¶100-102.) Sim’s system maintains information on “demand” for park “resources” (e.g., rides). (Sim, 34:22-32, 35:1-10, 36:9-16.) Sim uses this data to moderate or adjust attraction demand. (Houh Decl., ¶100.) For example, Sim teaches that “resource demand information” is available to the Queue Manager and the Queue Manager’s “calculation can be in response to party preferences, *on the overall demand in the system* and any priority attached to particular user...” (Sim, 36:9-16, 34:22-32.) Sim adds that “[h]aving the timing and route planned by the computer reflect how busy the park is at that time” and enables the system to “le[a]d” or “encourage[]” parties to visit different attractions. (*Id.*, 38:27-32, 22:13-24.)

Moreover, Doi’s system stores data regarding “crowd condition[s] at each attraction,” as well as “waiting times... by attraction types,” and includes an “optimization algorithm” that can use this data to moderate attraction demand. (Doi, 9:33-51, 8:20-45.) For example, if “attraction A is crowded,” Doi “makes a plan to recommend other attractions to some of customer [sic] queueing at the attraction A

that are selected in consideration of their age.” (*Id.*, 9:52-10:11.) Doi can thus recognize when an attraction is crowded and moderate demand for it by “guiding a non-crowded attraction to the customer.” (*Id.*, 10:38-44; *see also* 10:48-11:27.)

It would have been obvious to apply these teachings of Doi to have Sim’s system select less crowded attractions for the same reasons discussed above. *See supra* Ground 1, claim 1[c]. A POSITA would have looked to the similar system of Doi—and its disclosure of selecting rides that are of interest (*e.g.*, based on age) but less crowded—so that Sim users would be provided with rides for their itineraries that match their interests but do not have long wait times. (Houh Decl., ¶102.) Such would not change the ultimate output of Sim, which would continue to provide itineraries as before, and would help further achieve Sim’s goals. (*Id.*) *See also supra* Ground 1, claim 1[c] (rationale for applying Doi to Sim).

14. Dependent Claim 20

Sim in view of Doi renders claim 20 obvious. (Houh Decl., ¶¶103-104.) Sim’s “controlling computer” includes “storage,” as it has “memory” and can access multiple “databases.” (Sim, 20:10-11, 18:29-19:27, 23:8-9, 34:15-21; *see also* 8:28-9:9, claim 25.) *See also supra* Ground 1, claims 1[a]-1[b]. Sim further discloses its system stores itinerary information, noting “controlling computer 3 can store information in a database on each user and each member of a group, *e.g.*, ... *calculated optimum route...*” (*Id.*, 23:8-21.) Sim also tracks “resource” or ride

“demand information,” so it can adjust parties’ itineraries. (*Id.*, 36:9-16, 34:22-32, 34:33-35:10.) Similarly, Sim’s Queue Manager includes “queue information storage means” that tracks “predicted” and “actual” queue rates and uses this “store[d] information to optimise the length of... each queue sequence and to enable the otpimisation of the sequence of queues.” (*Id.*, 8:28-9:9, claim 25; *see also* 19:4-7, 20:7-12, 10:4-21.) By storing queue information and using it to generate itineraries, Sim is tracking “directed demand,” *e.g.*, the number of parties its system is directing to each attraction. (Houh Decl., ¶104.) *See also* *supra* Ground 1, claim 19 (discussing Doi tracking directed demand and applying Doi to Sim).

15. Dependent Claim 22

Sim in view of Doi renders claim 22 obvious. (Houh Decl., ¶¶105-107.) Both Sim and Doi disclose “redistributing a directed demand” to mitigate attraction “underutilization” and “excessive demand.” For example, Sim uses data on “demand” for park “resources” (*e.g.*, rides) to moderate or adjust demand for attractions. *See supra* Ground 1, claim 19. Further, when the number of parties being directed to an attraction is low, Sim can mitigate this by closing the attraction and “re-allocat[ing] every user’s sequence,” “allow[ing] savings on ride operating costs and staffing costs.” (Sim, 24:32-11, 39:1-8.) Similarly, Doi mitigates attraction

“underutilization” and “excessive demand” by “guiding a non-crowded attraction to the customer.” (Doi, 10:12-33, 10:38-44.) *See supra* Ground 1, claim 19.⁹

Regarding the software applying a “perturbation to a desirability” of an attraction, the ’983 teaches the perturbation function can change the “desirability of an attraction,” so that not all users are directed to the same attraction. (’983, 24:15-50.) Sim in view of Doi renders this obvious. (Houh Decl., ¶106.) Doi teaches that selecting attractions for a party, such as based on matching of age, “will not always cause a customer to move as planned.” (Doi, 10:53-59.) Doi can address this by making an attraction more desirable to certain parties, such as by adjusting “price,” using an “expectation function value,” so as to increase/decrease the likelihood of such attraction being selected. (*Id.*, 10:48-11:35; *see also* Houh Decl., ¶106.)

It would have been obvious to apply these teachings of Doi and have Sim’s system adjust the desirability of attractions to redistribute demand for the same reasons discussed above. *See supra* Ground 1, claims 1[c], 19. For example, a POSITA would have looked to the similar system of Doi and its disclosure of adjusting the desirability of rides that may be of interest to parties (*e.g.*, based on age) by changing pricing to mitigate demand—so that users of Sim would continue

⁹ It would have been obvious to apply these teachings of Doi to Sim for the reasons discussed above. *See supra* Ground 1, claim 19.

to receive itineraries as before while being provided with rides that match their interests but do not have long wait times. (Houh Decl., ¶107.)

16. Dependent Claim 23

Sim in view of Doi renders claim 23 obvious. (Houh Decl., ¶¶108-113.) Claim 23 adds (a) marketing, discount, or recommendation “messages” having conditions and attractions associated with them and (b) software that can select and provide such messages to a party when applicable conditions are met. (*Id.*, ¶109.)

Sim includes marketing, discount, or recommendation messages having “attractions” and “conditions” associated with them. (Houh Decl., ¶¶109-110.) Sim can issue “*zone specific* messages promoting other utilized attractions, other *promotional* messages and competitions.” (Sim, 38:8-10; *see also* 15:1-3, 18:16-28, 32:18-25.) Since Sim’s Queue Manager “is able to monitor the location of the portable modules, it is possible... to send *area specific* messages which are known to be in a specific area. Such messages can for instance be *prompting advertisements* for local attractions or information on local facilities.” (*Id.*, 11:22-28.) These messages are thus associated with local attractions and facilities, as well as attraction(s) in the “zone” of the park where the messages are to be issued. (Houh Decl., ¶110.) When the “condition” of the party’s location being in that area is met, Sim will select and provide the party the relevant message(s). (*Id.*)

Stated differently, Sim contemplates different messages associated with different attractions—such as message A advertising a restaurant and message B advertising a show—and delivering each message when a party is in a certain area. (Houh Decl., ¶¶111, 113.) If a party is issued an itinerary with two rides in these “zones”—ride 1 at 9 am and ride 2 at 11 am—Sim will provide the messages in conjunction with the party’s itinerary. (*Id.*) Specifically, after the party arrives at ride 1, they will be issued message A, and after they move from ride 1 to ride 2, they will be issued message B, all based on the “condition” of their location being met. (*Id.*) These messages will only be delivered when the party is in the correct “zone” or area during the course of their itinerary. (*Id.*)¹⁰

17. Dependent Claim 24

Sim in view of Doi renders obvious claim 24. (Houh Decl., ¶114.) Sim’s “Queue Manager is the controlling *software* program in the host computer.” (Sim, 34:15-16.) It includes “algorithms” (“decision-making routines”) that use attraction data and party information to determine which rides and when to include and when

¹⁰ Sim also provides “recommendation” messages as to when a party should “join a physical line” or is at the wrong ride or ride time—additional messages associated with attractions that are provided upon certain conditions. (Sim, 18:16-28, claim 1, 20:5-22, 10:26-11:4, claim 30; Houh Decl., ¶112.)

in a party's itinerary. (Sim, 34:22-32.) The "structuring and managing of the queues are features which can be customised to suite [sic] a particular need," the controlling computer will "operate in accordance with the customised algorithm to manage the queues," and the "computer... can be programmed to re-allocate every user's sequence in accordance with a preset algorithm or to cope with unexpected events." (*Id.*, 23:27-24:35; *see also* 23:8-21, 35:21-30.) Thus, Sim discloses using algorithms to decide which park attractions to offer to a party and when, based on attraction data and party information. (Houh Decl., ¶114.)¹¹

18. Dependent Claim 25

Sim in view of Doi renders claim 25 obvious. (Houh Decl., ¶115.) Sim's system includes data on:

- "predicted"/"actual" attraction queue information ("expected"/"actual" queue length)—(Sim, 8:28-9:9);

¹¹ Additionally, it would have been obvious to select attractions for Sim's itinerary based on matching attraction data and party information, as taught by Doi. *See supra* Ground 1, claim 1[c]. Doi's selection of recommended attractions is part of a routine, as its system continuously checks against current crowding conditions and showtimes to make such selections. (Houh Decl., ¶114.)

- whether attractions are open/closed/busy (“availability”/“inoperation”/“capacity”)—(*id.*, 39:1-9, 23:29-24:22, Table 2, 35:21-30, 23:29-24:22, 38:27-32);
- attraction age, height, and health-related restrictions (“admission requirement,” “wheelchair accessibility”)—(*id.*, 22:29-23:3, 23:8-21, 34:2-11); and
- which attractions require tickets or fees (“admission requirements”)—(*id.*, 35:31-36:5, 38:11-15, 12:35-13:28).

See also supra Ground 1, claim 1[a] (discussing attraction data).

B. Ground 2: Sim (as Modified by Doi) in View of Waytena

1. Dependent Claim 4

Sim (as modified by Doi) in view of Waytena renders claim 4 obvious. (Houh Decl., ¶¶117-124.) Sim in view of Doi teaches a system that selects an itinerary of attractions and attraction times for a party, based on attraction data matching party information. *See supra* Ground 1, claim 3. Waytena simply adds that additional party information, such as preferred ride types, can also be used to determine which rides to suggest to a party.¹² (Waytena, 7:9-31, 13:44-14:35, Fig. 5A.)

¹² Waytena is US5,978,770. Waytena was filed April 24, 1997, and issued November 2, 1999. Waytena is prior art under §102(b).

Waytena, like Sim, discloses a system for creating an itinerary for an amusement park. (Waytena, Abstract, 2:45-57.) In Waytena, parties can use “personal communication devices (PCDs)” to create “patron information records” about their group, including age, height, and health-status. (*Id.*, 2:45-57, 5:1-12, 5:59-6:15, Fig. 5A, 7:9-31, 13:44-14:35; *see also* Figs. 1, 1A, 2, 2A.) This can further include “attraction *preferences*,” like “thrill” or “kiddie” rides:

WELCOME TO

PLEASE ENTER THE FOLLOWING INFORMATION FOR EACH MEMBER OF YOUR GROUP.

NAME SEX

AGE YEARS

HEIGHT FEET INCHES

WEIGHT LBS.

HEALTH CONDITIONS: (CHECK ALL THAT APPLY)

☐ BACK CONDITION ☐ VERTIGO

☐ HEART CONDITION ☐ WHEELCHAIR

☐ PREGNANT ☐ HEARING DISABILITY

☐ NURSING ☐ OVERWEIGHT/LARGE

RIDE PREFERENCES: (CHECK ALL THAT APPLY)

☐ THRILL RIDES ☐ FRONT SEAT

☐ EDUCATIONAL ☐ REAR SEAT

☐ SHOWS ☐ AISLE SEAT

☐ KIDDIE RIDES

CANCEL

NEXT

DONE

FIG. 5A

(*Id.*, Fig. 5A (annotated), 7:9-31, 13:44-14:35, Fig. 2A.) Waytena’s PCDs also include “attraction description records 236” in “storage 205,” which include “flags” describing each attraction’s characteristics. (*Id.*, Fig. 2B, 7:60-8:31.)

Waytena’s attraction data distinguishes a portion of attractions as more desirable with respect to a party’s preferences, such as distinguishing thrill rides that a party may indicate a preference for from rides flagged as mild and for children.

(*Id.*, 14:13-24; Houh Decl., ¶119.) Further, Waytena uses party information to present a “list of attractions that *match the particular preferences* of the members of the patron’s group.” (*Id.*; *see also* 15:3-6.) Those attractions in the list are distinguished from those not included, based on party preferences indicating they would be more desirable. (Houh Decl., ¶119.)

It would have been obvious to include Waytena’s party preferences, like preferred ride types, in Sim. (Houh Decl., ¶120.) Both Waytena and Sim are in the field of theme park queue management and aim to achieve the same goals, including improving customer “satisfaction” and allocation and use of park resources. (Sim, 22:4-8; Waytena, 25:17-29; Houh Decl., ¶120.) Moreover, both disclose similar systems having central computers and portable customer devices that maintain similar party information. (*Id.*) Waytena merely adds that this information can further include party preferences—information that could be stored in the party information records already in Sim. (*Id.*)

A POSITA would have been motivated to include Waytena’s party preferences in Sim. (*Id.*, ¶¶121-122.) Doing so would allow Sim to maximize ride/show utilization and raise spending on park attractions by selecting rides that parties would enjoy but may not know about. (*Id.*; Waytena, 14:20-24.) Sim also acknowledges that party itineraries may need to be “re-allocated” when rides are closed. (Sim, 23:32-24:23.) Thus, a POSITA would recognize that by having

information on preferred ride types, as taught by Waytena, Sim could select alternative rides as part of its re-allocation process, increasing ride utilization and customer satisfaction. (Houh Decl., ¶¶121-122.)

Moreover, adding ride preference information would enhance the selection of rides in the Sim system as taught by Doi. *See supra* Ground 1, claim 1[b]. Waytena, like Doi, includes recommendations of attractions based on matching party information and attraction data. (Houh Decl., ¶¶123-124.) While Doi selects rides based on matching party ages with recommended ages for attractions, Waytena teaches this can also be based on matching ride type preferences with ride data. (*Id.*) Adding party preferences to Sim would have thus been the inclusion of a known technique in a similar system—Sim (as modified by Doi) already selects a second set of attractions based on matching user age to ride age recommendations, and adding Waytena would allow the system to perform the same selection of rides when ride type preferences match ride data. (*Id.*)

2. Dependent Claim 18

Sim (as modified by Doi) in view of Waytena renders claim 18 obvious. (Houh Decl., ¶¶125-129.) Waytena discloses a “reservation system” for a park that includes “plurality of attraction computers 101... each associated with a particular attraction...” (Waytena, 5:1-12.) These computers include “attraction information storage 213” that maintains “*current status 266 of the attraction*, for example,

OPERATING, CLOSED, SCHEDULED MAINTENANCE, PAUSED...” (*Id.*, 11:18-61.) Waytena further includes “PCDs” that allow parties to transmit reservation requests to the attraction computers. (*Id.*, 5:59-6:15, 7:2-8:67, 12:13-63, Figs. 1-4, 6-7.) If the computer determines the attraction is unavailable, it responds that “the attraction is **unavailable**.” (*Id.*, 11:18-61, 12:38-49; 16:56-17:32, 19:20-60, 21:6-24, Figs. 2, 6.) If the attraction is unavailable, it will not be included or available for the party’s itinerary. (Houh Decl., ¶126.)

It would have been obvious to modify Sim to include Waytena’s teachings of having attraction reservation computers with information on whether attractions are available/unavailable. (*Id.*, ¶127.) *See supra* Ground 2, claim 4 (discussing similarities between Sim and Waytena as rationale). Sim already determines if an “attraction is available,” “exclude[s]” that attraction if “unavailable” due to ride closure or failure, and “re-allocates” itineraries as needed. (Sim, 23:32-24:32, 39:1-8.) Waytena discloses that such information on ride availability can be obtained via an “attraction computer” “associated with each attraction.” (Waytena, 11:18-61, 12:38-49; 16:56-17:32, 19:20-60, 21:6-24, Figs. 2, 6; Houh Decl., ¶127.) A POSITA would have understood that associating an “attraction computer” with attractions in Sim would have been the use of a known technique to improve a similar theme park system in the same way. (Houh Decl., ¶127.)

A POSITA would have had a reasonable expectation of success in implementing an attraction computer as in Waytena with attractions in Sim's system. (*Id.*, ¶¶128-129.) Sim already contemplates including an "access control mechanism.... to allow access to a queue area" for each ride. (Sim, 10:4-29.) *See supra* Ground 1, claim 13. Thus, Sim discloses access hardware at each ride, similar to Waytena's attraction computers, and Sim's system is therefore ready for modification. (Houh Decl., ¶128.) It would have been obvious to modify Sim's existing gate units to include Waytena's reservation computers, such that each attraction could provide its availability and alert when it becomes unavailable and itineraries need to be re-allocated. (*Id.*, ¶¶128-129.)

3. Dependent Claim 21

Sim (as modified by Doi) in view of Waytena renders claim 21 obvious. (Houh Decl., ¶¶130-132.) As discussed, it would have been obvious to include Waytena's "reservation computer" in Sim (as modified by Doi). *See supra* Ground 2, claim 18. Also as discussed, Waytena includes patron PCDs that allow parties to transmit reservation requests to attraction computers. (Waytena, 5:59-6:15, 7:2-8:67, 12:13-63, Figs. 1-4, 6-7.) These requests are received by a "request processor 209" in the attraction computer. (*Id.*, 12:38-63.) If request processor 209 determines the attraction is unavailable, it "rejects" the request, and if the attraction is available, the

processor sends a “proposed time or position” of a reservation for the party to confirm:

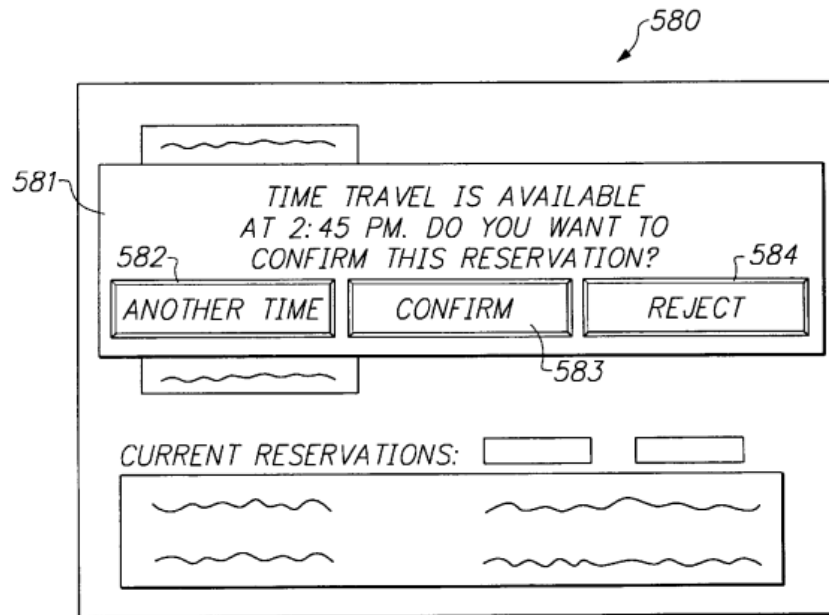


FIG. 5E

(*Id.*, Fig. 5E, 11:18-61, 12:38-13:28, 16:56-17:32, 20:15-21:34, 19:20-60.) If the party accepts the reservation, then the attraction computer makes a reservation for the party for that particular attraction and time. (*Id.*, 12:50-13:28, 16:56-18:29, 20:15-21:34.)¹³

¹³ Reservations are accessible to other users of the attraction computers. (Houh Decl., ¶131.) Waytena discloses a “central attraction control interface 104” that allows “access to all attraction computers by park staff,” enabling park staff to use

It would have been obvious to modify Sim to include Waytena's teachings of having attraction reservation computers that can make and maintain reservations for attractions. (Houh Decl., ¶132.) Sim and Waytena are in the same field and disclose similar systems, and a POSITA would have been motivated to include Waytena's attraction computers for making reservations in Sim to ensure that the current operating status and crowd conditions of each attraction are properly taken into account when reservations are requested. (*Id.*) Sim's central computer would continue to operate in the same way, monitoring overall status and queue requests of parties. (*Id.*) The inclusion of the attraction computers for making reservations would simply provide a known, common method of making reservations within the overall system. (*Id.*) *See also supra* Ground 2, claim 18 (further rationale for applying Waytena to Sim).

C. Ground 3: Waytena

1. Independent Claim 1

Waytena renders obvious claim 1. (Houh Decl., ¶¶133-154.)

1[pre]: A system for providing an itinerary to a party, said itinerary comprising a second set of attractions selected from a first set of attractions, said system comprising:

Waytena discloses claim 1[pre] to the extent limiting. (*Id.*, ¶¶134-137.)

the attraction computers to access reservation schedules and make manual changes where necessary. (Waytena, 2:55-57, 6:16-30, 10:53-67.)

First, Waytena’s “system” provides an “itinerary” to a party. In Waytena, a “group of patrons, such as a family, entering the [amusement] park is given one or more PCDs” having a “screen display for displaying text and graphic information” and “user interface” for “receiving input.” (*Id.*, 2:58-65; 6:59-7:8, Fig. 2.) Parties can create “patron information records” on their PCDs by entering their information, including “age,” “sex,” “height,” “weight,” and “flags” that contain “coded information describing preferences and characteristics”:

WELCOME TO

PLEASE ENTER THE FOLLOWING INFORMATION FOR EACH MEMBER OF YOUR GROUP.

NAME SEX

AGE YEARS

HEIGHT FEET INCHES

WEIGHT LBS.

HEALTH CONDITIONS: (CHECK ALL THAT APPLY)

☐ BACK CONDITION ☐ VERTIGO

☐ HEART CONDITION ☐ WHEELCHAIR

☐ PREGNANT ☐ HEARING DISABILITY

☐ NURSING ☐ OVERWEIGHT/LARGE

520

521

522

523

CANCEL

NEXT

DONE

FIG. 5A

(*Id.*, Fig. 5A, 7:9-31, 13:44-14:35; *see also* Figs. 2, 2A.) The PCDs further include park attraction data, including “age,” “height,” and “weight” restrictions, “location,” “operating hours,” and “flags” with encoded information describing attraction characteristics. (*Id.*, 7:52-8:31, Figs. 2, 2B.)

Waytena’s system uses the party information and attraction data to generate recommended attractions for the party to visit. In particular, the PCDs will present a “list of attractions that match the particular preferences of the members of the patron’s group.” (*Id.*; 14:13-24; *see also* 15:3-6.) Patrons can then make reservations for those attractions using their PCDs, and the PCDs will display a list of scheduled attractions along with times to visit them:

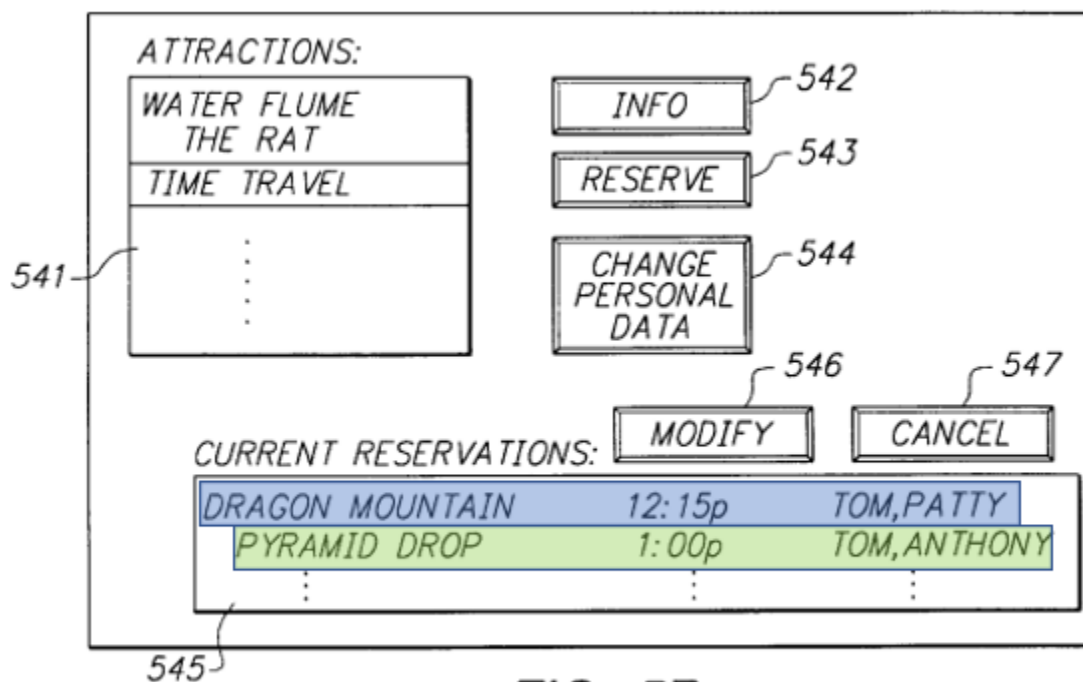


FIG. 5B

(*Id.*, Fig. 5B (annotated), 14:13-20; *see also* 5:59-6:15, 7:2-8:67, 11:18-61, 12:13-13:28, Figs. 1-4.)

Second, the “itinerary” in Waytena comprises “a second set of attractions selected from a first set of attractions.” As discussed, Waytena’s PCDs contain data on each park attraction—that is, they have a full list of park attractions (“first set”).

(*Id.*, 7:60-8:31.) *See also infra* claim 1[a]. Thus, when the PCD presents the party with a “list of attractions that match the particular preferences of the members of the patron’s group,” that list is a subset (“second set”) of available park attractions. (*Id.*, 14:13-24.) Similarly, the list of attractions a party has reservations for, as shown in Figure 5B above, are a selected subset of park attractions. (*Id.*, Fig. 5B, 14:13-20.) *See also infra* claim 1[c].

1[a]: data regarding said first set of attractions;

Waytena discloses claim 1[a]. (Houh Decl., ¶¶138-139.) Waytena discloses “attraction description records 236” stored in the PCDs. (Waytena, 7:60-8:31.) Each record refers to a park attraction, and includes data on text and graphical descriptions of the attraction, age, height, and weight restrictions, location, operating hours, and “flags” describing attraction characteristics:

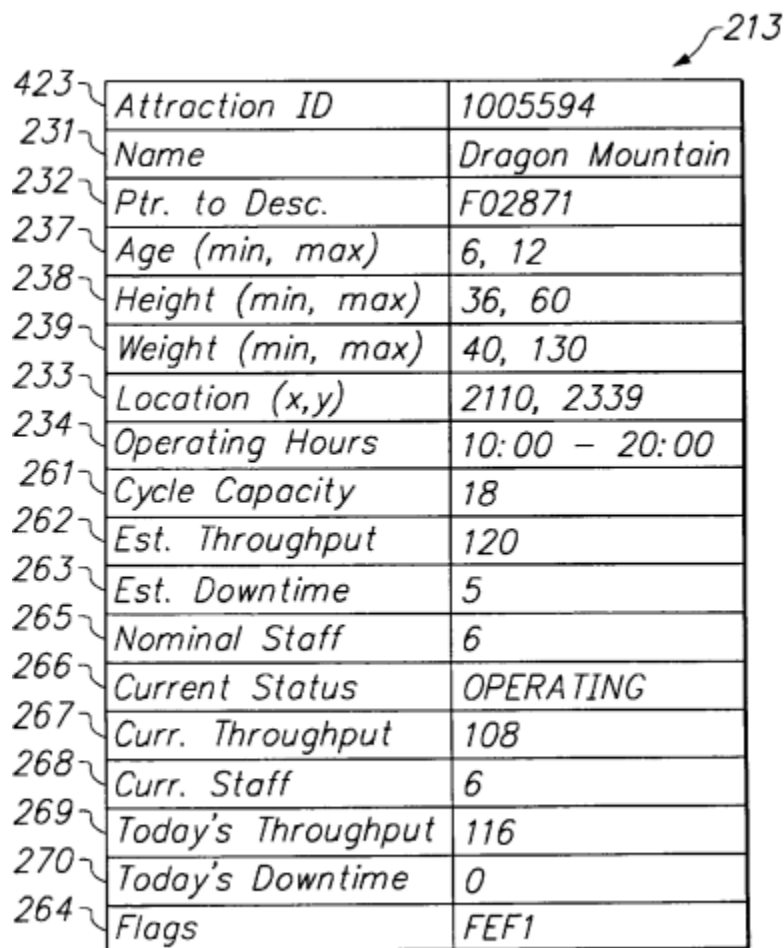
Attraction ID	Name	Ptr. to Description	Age (min, max)	Height (min, max)	Weight (min, max)	Location (x,y)	Operating Hours	Flags
1005678	Water Flume	F0034E	8, 65	54, 84	90, 250	1521, 1122	10:00–16:00	1A22
1004629	The Rat	F012E4	8, 65	54, 84	50, 250	422, 98	10:00–18:00	A113
1006689	Time Travel	F01AB2	8, 65	48, 84	50, 250	334, 95	10:00–20:00	FF59
1005594	Dragon Mountain	F02871	6, 12	36, 60	40, 130	2110, 2339	10:00–20:00	FEF1
1009813	Pyramid Drop	F0301A	8, 65	54, 84	90, 250	1123, 1339	10:00–20:00	586C
...	...							

FIG. 2B

205

(*Id.*, Fig. 2B, 7:60-8:31.)

Similarly, Waytena's system includes "attraction computers" that store each attraction's "ID 423, name 231, pointer to description 232, age restrictions 237, height restrictions 238, weight restrictions 239, location 233, and operating hours 234," as well as capacity, staffing, throughput, and current status:



423	Attraction ID	1005594
231	Name	Dragon Mountain
232	Ptr. to Desc.	F02871
237	Age (min, max)	6, 12
238	Height (min, max)	36, 60
239	Weight (min, max)	40, 130
233	Location (x,y)	2110, 2339
234	Operating Hours	10:00 – 20:00
261	Cycle Capacity	18
262	Est. Throughput	120
263	Est. Downtime	5
265	Nominal Staff	6
266	Current Status	OPERATING
267	Curr. Throughput	108
268	Curr. Staff	6
269	Today's Throughput	116
270	Today's Downtime	0
264	Flags	FEF1

FIG. 2E

(*Id.*, Fig. 2E, 11:18-12:13.)

1[b]: information about said party, at least a portion of said information distinguishing among said first set of attractions with respect to said data;

Waytena discloses claim 1[b]. (Houh Decl., ¶¶140-142.) In Waytena, parties use PCDs to create “patron information records” about their group, including age, weight, height, and health-status. (Waytena, Fig. 5A, 7:9-31, 13:44-14:35; *see also* Figs. 2, 2A.) These records can further include “attraction *preferences*,” such as “thrill” and “kiddie” ride preferences:

WELCOME TO

PLEASE ENTER THE FOLLOWING INFORMATION FOR EACH MEMBER OF YOUR GROUP.

NAME SEX

AGE YEARS

HEIGHT FEET INCHES

WEIGHT LBS.

HEALTH CONDITIONS: (CHECK ALL THAT APPLY)

☐ BACK CONDITION ☐ VERTIGO

☐ HEART CONDITION ☐ WHEELCHAIR

☐ PREGNANT ☐ HEARING DISABILITY

☐ NURSING ☐ OVERWEIGHT/LARGE

RIDE PREFERENCES: (CHECK ALL THAT APPLY)

☐ THRILL RIDES ☐ FRONT SEAT

☐ EDUCATIONAL ☐ REAR SEAT

☐ SHOWS ☐ AISLE SEAT

☐ KIDDIE RIDES

CANCEL

NEXT

DONE

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Ride preferences of the party

FIG. 5A

(*Id.*, Fig. 5A (annotated), 7:2-31, 13:44-14:35, Fig. 2A.)

At least “a portion” of this information distinguishes among the “first set of attractions with respect to said data.” (Houh Decl., ¶141.) For example, Waytena receives “age, height, and weight” and “health conditions” on parties. (Waytena, 7:9-28; 13:50-60.) It then compares this to age, height, weight, and health restrictions in the attraction descriptions to “determine the validity of reservation requests.” (*Id.*,

7:29-31, 8:26-31, 14:56-15:38, 16:52-17:9, Figs. 4, 5D.) If members of a party are not “of sufficient age and height,” reservation requests will be determined invalid, and those individuals will not be allowed to attend the attraction. (*Id.*; Houh Decl., ¶141.) Thus, this party information (*e.g.*, age, height, weight) distinguishes attractions certain parties are allowed to attend (*e.g.*, where the parties meet age, height, and weight restrictions) from those they are not allowed to attend. (*Id.*, ¶141.) As another example, where a party indicates a “thrill ride” preference, this will distinguish attractions at the park having flags indicating thrill ride characteristics from attractions having flags indicating they are mild and for small children. (*Id.*, ¶142.) *See also infra* claim 1[c].

1[c]: a computer having access to said data and said information, said computer having software that selects said second set of attractions from said first set of attractions, said second set of attractions consisting of at least some of said first set of attractions for which said data substantially matches with said information;

Waytena renders obvious claim 1[c]. (Houh Decl., ¶¶143-151.)

In Waytena, each PCD is a “computer” that stores “attraction description records” (attraction data) and “patron information records” (party information). (Waytena, 5:59-6:15, 6:59-8:31, 13:44-14:2, Figs. 1A, 2, 2A-2B.) *See also supra* Ground 3, claim 1[pre]. The PCDs implement a “software architecture” with a “user interface 201” and software “modules.” (*Id.*, 6:59-7:8, 8:32-9:62, 12:25-14:25, Figs. 2, 3, 5.) These modules can cause the user interface to present “a list of attractions that match the particular preferences of the members of the patron’s group.” (*Id.*,

14:13-35, Fig. 5B.) That is, the software can select a list of recommended attractions to display, by determining which attractions “match” the party’s preferences. (Houh Decl., ¶145.) Additionally, the software enables parties to request reservations for attractions (*e.g.*, such as from the recommended list) through the user interface. (*Id.*, 14:36-18:11, Figs. 3-4; *see also* 8:32-9:58.)

During prosecution, Applicants tried to distinguish Waytena, arguing Waytena requires a party to be involved in the “selection” of attractions, whereas in the claimed invention the software selects the attractions without the party’s involvement. *See supra* Section VI.B. To the extent this is a distinction,¹⁴ Waytena alone renders this obvious. (Houh Decl., ¶146.) Waytena already discloses its PCD ***selecting*** attractions that “match” party preferences and presenting these attractions in a list that the party can pick from to schedule reservations. At the very least, it would have been obvious over Waytena to simply present this list ***with*** proposed reservation times (such as shown in red below) for each recommended attraction:

¹⁴ On their face the claims only say that the computer “selects” attractions; they do not recite that the computer must provide a complete itinerary of attractions and times to visit without party intervention.

Selected Matching Attractions and Times

ATTRACTIONS:	
DRAGON MOUNTAIN	12:15p
PYRAMID DROP	1:00p
WATER FLUME	1:30p
THE RAT	2:00p
TIME TRAVEL	2:45p
.	
.	
.	

(Waytena, Fig. 5B (as modified and annotated); Houh Decl., ¶¶147-151.) This would give the party the option to simply accept an entire list of attractions *and* proposed times (e.g., an itinerary), without having to schedule reservations for each individual attraction (e.g., if the user wanted to use the entire recommended list). (*Id.*)

A POSITA would have recognized Waytena could readily do this—the PCD already selects and presents a list of matching attractions and, further, can send reservation requests to attraction computers for individual attractions. (Waytena, 14:12-17:55, Figs. 5A-5E; Houh Decl., ¶¶147-151.) Waytena also discloses allowing a party to select “next available time” for each recommended attraction, and the PCDs and attraction computers communicate to provide a reservation time that fits ride availability and the party’s schedule. (*Id.*, 12:25-29, 14:46-47, 14:56-15:38, 16:28-38, 23:3-24.) A POSITA would have thus understood that the PCD

could simply use “next available time” as a default and create a complete itinerary itself. (Houh Decl., ¶¶147-151.) The party would get the same attractions at the same times with this approach as if they made individual selections and followed the process of Figures 5B-5E. (*Id.*) Thus, these existing processes in Waytena could be used to present a list of matching attractions *and* proposed times to visit, without the party having to click on each one. (*Id.*)

1[d]: *a presentation means in communication with said computer, said presentation means able to receive said itinerary from said computer and present said itinerary to said party,*

Waytena discloses claim 1[d]. (Houh Decl., ¶¶152-153.) Waytena’s PCDs include a “user interface 201” that receives the party’s schedule of “current reservations” (“itinerary”) from the PCD and presents such schedule to the party:

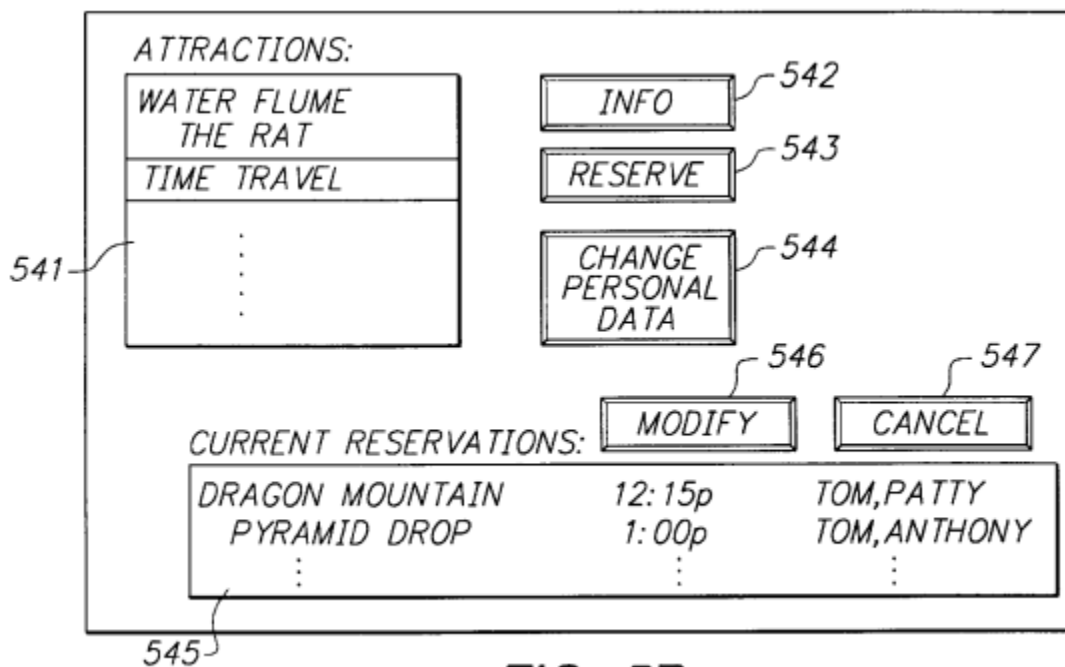


FIG. 5B

(Waytena, Fig. 5B, 14:13-20.) *See also supra* Ground 3, claim 1[pre]. This interface can be a “touch-sensitive screen 109” connected to “CPU 106”:

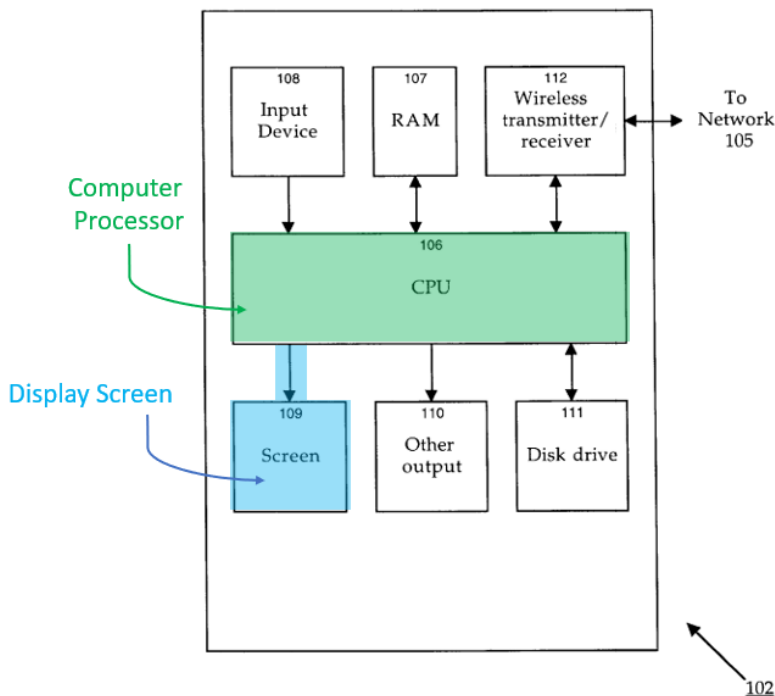
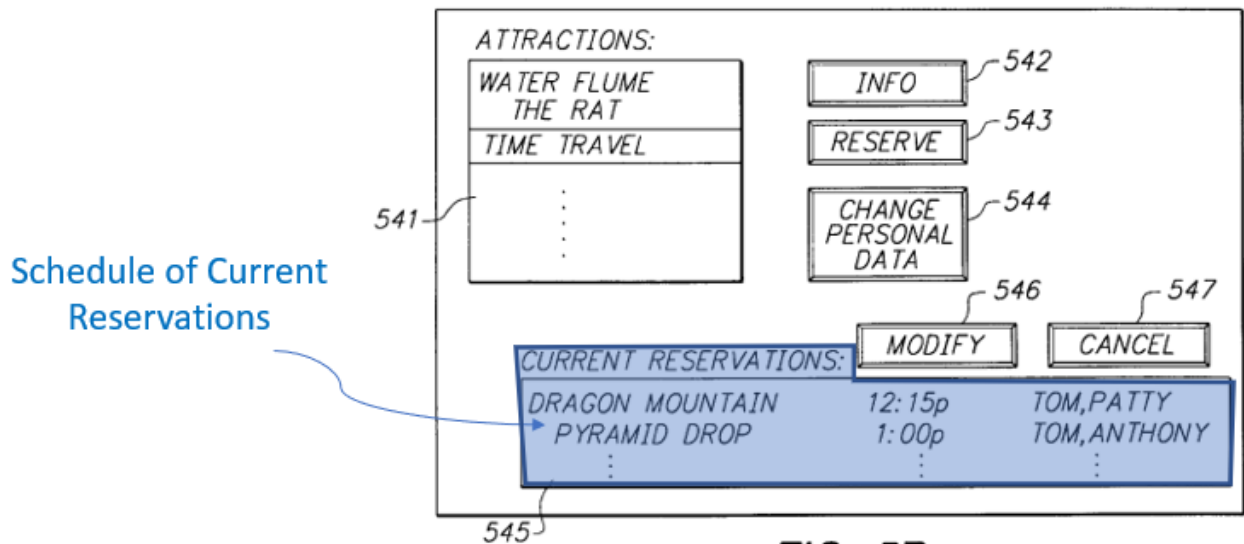


FIGURE 1A

(Waytena, Figure 1A (annotated), 6:58-7:8.) Thus, the display is in communication with the CPU in the PCD. (Houh Decl., ¶153.)

1[e]: whereby said itinerary is customized for said party.

To the extent limiting, Waytena discloses claim 1[e]. (Houh Decl., ¶154.) Waytena’s PCDs can create a custom itinerary for a park visit based on a party’s personal information. (Waytena, 14:13-24, 5:59-6:15, 7:2-8:67, 11:18-61, 12:13-13:28, 15:3-6, Figs. 1-4, 5B.) Figure 5B shows such a custom schedule of park attractions and times (*e.g.*, “itinerary”) for a party:



(*Id.*, Fig. 5B (annotated), 14:20-24.). Moreover, each PCD can present “a list of attractions that match the particular preferences of the members of the patron’s group or that are in relative proximity to the patron’s current location” for inclusion in the itinerary, further customizing it for the party. (*Id.*, 14:13-35.)¹⁵

2. Independent Claim 3

Claims 3[pre]-3[e] are near identical to claims 1[pre]-1[e]. *See* Appendix A. Therefore, claims 3[pre]-3[e] are obvious over Waytena for the reasons described above. *See supra* Ground 3, claims 1[pre]-1[e].

¹⁵ As explained, it would have been obvious over Waytena to present this list with proposed reservation times for each recommended attraction, without party involvement. *See supra* Ground 3, claim 1[c].

3. Dependent Claim 4

Waytena renders claim 4 obvious. (Houh Decl., ¶156.) As discussed, Waytena discloses its “party information” includes preferences like ride types and its “attraction data” can distinguish a portion of attractions as more desirable with respect to those preferences (*e.g.*, distinguishing thrill rides from kiddie rides). *See supra* Ground 2, claim 4. For example, Waytena’s PCDs can include “attraction preferences” like “thrill” and “kiddie” rides and compare these against attraction data to provide a “list of attractions that match the particular preferences” of the party. (Waytena, 7:9-31, 13:44-14:35, Fig. 5A.) Moreover, it would have been obvious over Waytena to “select” such matching attractions for inclusion in the party’s itinerary, without party involvement, for the same reasons discussed above for claim 1. *See supra* Ground 3, claim 1[c]. (Houh Decl., ¶156.)

4. Dependent Claim 5

Waytena renders claim 5 obvious. (Houh Decl., ¶157.) As discussed, Waytena stores party information including “attraction *preferences*,” such as “thrill” or “kiddie” rides, which is an “attribute” of the party that distinguishes a portion of the first set of attractions as being more desirable:

WELCOME TO

PLEASE ENTER THE FOLLOWING INFORMATION FOR EACH MEMBER OF YOUR GROUP.

NAME SEX

AGE YEARS

HEIGHT FEET INCHES

WEIGHT LBS.

HEALTH CONDITIONS: (CHECK ALL THAT APPLY)

☐ BACK CONDITION ☐ VERTIGO

☐ HEART CONDITION ☐ WHEELCHAIR

☐ PREGNANT ☐ HEARING DISABILITY

☐ NURSING ☐ OVERWEIGHT/LARGE

RIDE PREFERENCES: (CHECK ALL THAT APPLY)

☐ THRILL RIDES ☐ FRONT SEAT

☐ EDUCATIONAL ☐ REAR SEAT

☐ SHOWS ☐ AISLE SEAT

☐ KIDDIE RIDES

CANCEL

NEXT

DONE

FIG. 5A

(Waytena, Fig. 5A (annotated), 7:9-31, 13:44-14:35, Fig. 2A.) *See supra* Ground 3, claim 4. Party information can include other party “attributes” as well, like “age, height, and weight” and “health conditions.” (Waytena, 7:9-28; 13:50-60; Houh Decl., ¶157.) Waytena compares this information to corresponding age, height, weight, and health restrictions in the attraction descriptions to “determine the validity of reservation requests.” (Waytena, 7:29-31, 8:26-31, 14:56-15:38, 16:52-17:9, Figs. 4, 5D.) Thus, a POSITA would understand attractions where age, height, weight, and health restrictions would be met are more desirable, and could be included in the itinerary, as compared to attractions where the restrictions were not met and reservations would be denied. (Houh Decl., ¶157.) Moreover, it would have been obvious over Waytena to “select” such matching attractions for inclusion in the

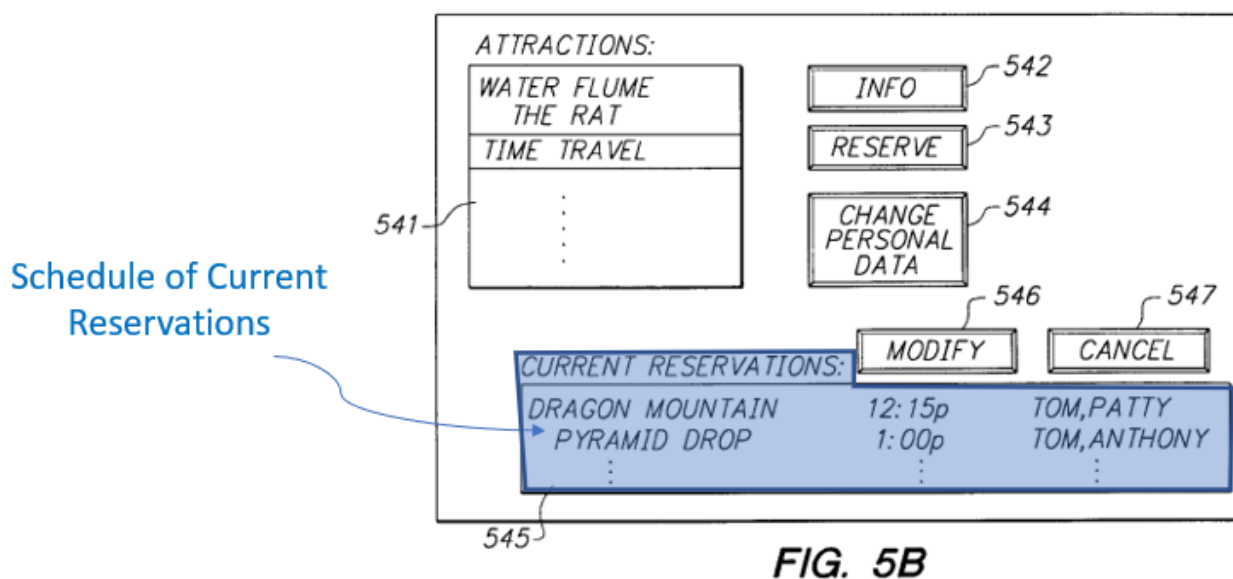
party's itinerary, without party involvement, for the same reasons discussed above for claim 1. *See supra* Ground 3, claim 1[c]. (Houh Decl., ¶157.)

5. Dependent Claim 8

Waytena renders obvious claim 8. (Houh Decl., ¶158.) Waytena's PCDs enable users to create reservations for particular attractions at particular times through the user interface. (Waytena, 14:36-18:11, Figs. 3-4, 8:32-9:58.) All party reservations are stored as "local reservation records 244" in the PCD and can be displayed as a "list 545 of previously-made reservations":

FIG. 2C

Request ID	Attraction ID	Time	Who	Flags
4170001	1005594	12:15	1,2,3,4	100F
4170002	1009813	13:00	1,2	104C
4170003	1004629	13:05	3,4	108E
...	...			



(*Id.*, Figs. 2C, 5B (annotated) 9:21-58, 14:13-20, 17:66-67; *see also* 4:38-41.) As shown above, reservation records include information on reserved attractions and times and which guests have each reservation, which information is presented to the party on the PCD's display screen. (*Id.*, 9:33-58, Figs. 2C, 5B; *see also* 10:4-67, Fig. 2D.)

6. Dependent Claim 10

Waytena renders claim 10 obvious. (Houh Decl., ¶¶159-161.) Waytena's PCDs add a "first scheduled time corresponding to a first attraction." *See supra* Ground 3, claim 8. Waytena further discloses adding scheduled times for additional attractions. *Id.* For example, all reservations made for a group are displayed as a "list 545 of previously-made reservations":

206

422 Request ID	423 Attraction ID	241 Time	242 Who	243 Flags
4170001	1005594	12:15	1,2,3,4	100F
4170002	1009813	13:00	1,2	104C
4170003	1004629	13:05	3,4	108E
...	...			

244

FIG. 2C

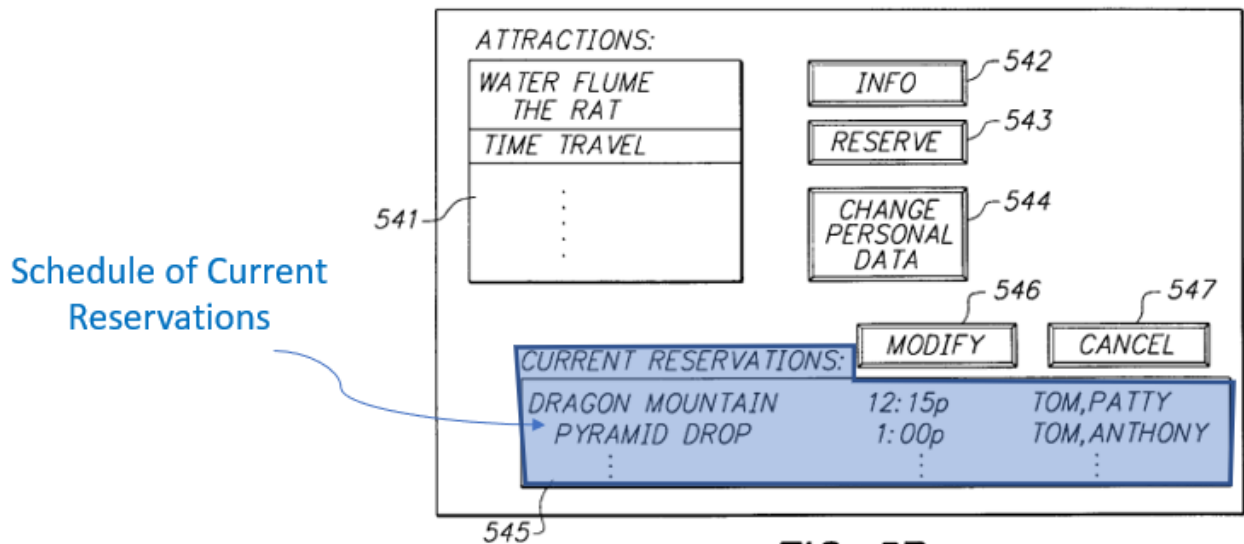


FIG. 5B

(Waytena, Figs. 2C, 5B (annotated) 9:21-58, 14:13-20, 17:66-67; *see also id.*, 4:38-41.) As shown above, a second attraction “Pyramid Drop” is added at a “second scheduled time” of “1:00p,” after a first scheduled time of “12:15p” for “Dragon Mountain.” (*Id.*) Further, Waytena takes into account “a time required between attractions” when generating and confirming reservations for a party. (Houh Decl., ¶¶160-161.) In approving a reservation request, Waytena’s processor 209 determines “minimum travel time for the patron to get to the requested attraction” and “also optionally checks whether the patron will have sufficient time to reach any previously-made reservations that occur after [the requested time].” (Waytena, 23:3-56; *see also* 24:25-37, 25:5-8.)

7. Dependent Claim 12

Waytena renders claim 12 obvious. (Houh Decl., ¶162.) Waytena’s “first set of attractions” can include “a number of attractions such as rides” in an “amusement

park. (Waytena, 4:58-67, Figs. 2B, 5B.) Waytena’s system can further be applied to “other environments involving patron reservations for distributed services, such as for example, shows, restaurants, sporting events, and the like.” (*Id.*)

8. Dependent Claim 13

Waytena renders claim 13 obvious. (Houh Decl., ¶163.) In Waytena, parties with reservations enter attractions “by way of a separate entry dedicated for users of system 100.” (Waytena, 21:42-55.) When “a patron arrives at the attraction in fulfillment of a reservation, a sensor detects patron’s arrival,” including by transmitting a signal to the PCD to identify itself, with the PCD then providing its PCD_ID “thereby signaling arrival of the patron.” (*Id.*) This “arrival signal is received and sent to attraction computer 101, and the reservation for that particular patron is identified in the virtual queue 210 using the PCD_ID and REQUEST_ID.” (*Id.*) This separate, dedicated entry is an access control system whereby users are only allowed entry when the system detects a PCD and a reservation for parties associated with that PCD is identified in the “virtual queue 210” of the attraction. (Houh Decl., ¶163.)

9. Dependent Claim 14

Waytena renders claim 14 obvious. (Houh Decl., ¶164.) Waytena’s PCDs are “small, hand-held portable computers.” (Waytena., 5:59-6:15, 6:59-7:8.) *See also supra* Ground 3, claim 1[pre].

10. Dependent Claim 16

Waytena renders claim 16 obvious. (Houh Decl., ¶165.) Waytena's PCDs include a "display screen 109." (Waytena, 5:59-6:15.) Further, Waytena's "user interface 201," which displays the reservation schedule, is implemented as a "touch-sensitive screen 109." (*Id.*, 6:58-67.) Waytena specifies this interface includes "scrollable" lists of attractions and previously-made reservations. (*Id.*, 14:13-24; *see also* Figs. 1, 5A, 5D.)

11. Dependent Claim 17

Waytena renders claim 17 obvious. (Houh Decl., ¶166.) Waytena's PCDs include, in addition to the display screen, an "auxiliary output device 110 such as audio speaker." (Waytena, 5:59-6:15.) This speaker can announce portions of the itinerary to the party, in the form of audible message alerts. (Waytena, 3:39-43, 13:29-33, 18:38-62; Houh Decl., ¶166.)

12. Dependent Claim 18

Waytena renders claim 18 obvious. (Houh Decl., ¶¶167-168.) *See supra* Ground 2, claim 18 (discussing how Waytena discloses claim 18).

13. Dependent Claim 19

Waytena renders claim 19 obvious. (Houh Decl., ¶169.) Waytena maintains attraction data including "current state and reservation status of the attraction," as well as "how many people are in the physical queue for the attraction," and uses this to "estimate current and future availability of the attraction for purposes of making

electronic reservations.” (Waytena, 5:33-58, 12:38-59.) Thus, where the reservation status and physical queue data indicate the attraction is no longer available for a requested reservation, this data indicates “excessive demand” for that attraction. (Houh Decl., ¶169.) Because this attraction is “unavailable,” it would be less likely to be selected for the party’s itinerary of reserved attractions. (*Id.*) And where no more reservations are generated, demand for that attraction is moderated. (*Id.*)

14. Dependent Claim 20

Waytena renders claim 19 obvious. (Houh Decl., ¶170.) Waytena’s PCDs include “local reservation storage 206,” which has “information describing pending and confirmed reservations for the patron.” (Waytena, 9:21-32.) Moreover, PCDs can communicate with attraction computers, which include a “virtual queue 210” that maintains “a list of pending and confirmed reservations for the attraction.” (*Id.*, 10:4-53.) Thus, the PCDs have access to storage in the PCDs themselves and in the attraction computers that accumulate a “directed demand,” *e.g.*, the number of parties the system is directing to each attraction. (Houh Decl., ¶170.) *See also supra* Ground 3, claim 19 (discussing Waytena tracking attraction demand in determining reservation availability).

15. Dependent Claim 21

Waytena in view of Herz renders claim 21 obvious. (Houh Decl., ¶171.) *See supra* Ground 2, claim 21 (discussing how Waytena discloses claim 21).

16. Dependent Claim 23

Waytena renders claim 23 obvious. (Houh Decl., ¶¶172-174.) Waytena's PCDs can send "messages" to parties, including a set of "alert" messages from information stored "locally in PCD 102" about pending and confirmed reservations. (Waytena, 9:21-32, 9:59-62, 13:29-32, 18:38-19:8; *see also* 3:39-55.) These messages include "recommendations" to the user to proceed to an attraction when a reservation for that attraction is approaching. (*Id.*, 3:39-55, 9:21-32, 9:59-62, 13:29-65, 18:38-19:8.) That is, the transmission of the alert messages is "conditioned" on "a reserved time approaching." (*Id.*, 3:39-55, 13:29-65, 18:38-19:8; Houh Decl., ¶174.) These alert messages are associated with attractions, as each alert is specific to the attraction for which a reservation time is approaching. (*Id.*, 3:39-55, 9:21-62, 13:29-65, 18:38-19:8; Houh Decl., ¶174.)

17. Dependent Claim 24

Waytena renders obvious claim 24. (Houh Decl., ¶175.) Waytena's PCDs are "programmed with specific software to configure them to operate." (Waytena, 6:5-7, 6:58-7:8, Fig. 2) The software uses attraction data and party information to determine which attractions to select for the party's itinerary. For example, Waytena's PCDs can present "a list of attractions that match the particular preferences of the members of the patron's group." (*Id.*, 14:20-24.) Thus, Waytena teaches using software operations to decide which attractions in a park to offer to a

party, based on both attraction data and party preferences. (Houh Decl., ¶175.) *See also supra* Ground 3, claim 1[c] (discussing Waytena selecting matching attractions for a party).

18. Dependent Claim 25

Waytena renders claim 25 obvious. (Houh Decl., ¶176.) For example, Waytena includes data on:

- attraction age/height/weight restrictions (“admission requirements”)—(Waytena, 8:10-15, Fig. 2B);
- attraction “operating hours” (*id.*, 8:22, Fig. 2B); and
- attraction “location” information (*id.*, 8:16-19, Fig. 2B).

See also supra Ground 3, claim 1[a] (discussing attraction data).

D. Ground 4: Waytena in View of Herz

Waytena in view of Herz renders obvious claims 1, 3-5, 8, 10, 12-14, 16-21, and 23-25. (Houh Decl., ¶¶177-186.) Waytena alone discloses or renders obvious claims 1, 3-5, 8, 10, 12-14, 16-21, and 23-25. *See supra* Ground 3. To the extent Waytena is determined not to disclose or render obvious certain elements of claims

1 and 3 discussed below, such would have been obvious over Waytena in view of Herz.¹⁶

Regarding claims 1[c], 1[e], and 3[c]-[e], Waytena in view Herz renders obvious Waytena's PCD presenting an itinerary, or schedule, of computer-selected attractions, without the party having to select which attractions to include. (*Id.*, ¶¶179-181.) Both Waytena and Herz are in the field of systems and methods that assist parties in identifying and scheduling desirable attractions (*e.g.*, theme park rides in Waytena and movies or shows in Herz).¹⁷ (Herz, Abstract, 4:18-58.) Specifically, Herz relates to a computer system that assists parties in identifying content that would be most desirable by automatically selecting content, like movie programs, matching the party's profile. (Herz, Abstract; 1:38-47, 4:18-58, 47:37-52.) Herz teaches this minimizes the need for parties to manually search for and select content, with the computer automatically selecting and scheduling matching

¹⁶ The remaining elements of claims 1, 3-5, 8, 10, 12-14, 16-21, 23, and 25 are disclosed or rendered obvious by Waytena, and thus obvious over Waytena in view of Herz, because Waytena, as modified by Herz, would not change with respect to these elements. (Houh Decl., ¶178.)

¹⁷ The '983 indicates that "attractions" can include, among other things, a "ride, show, [or] movie." '983, Claim 12.

content using an “agreement matrix.” (*Id.*, 1:38-47, 4:18-5:22, 19:5-65, 22:7-23:18.) For example, Herz’s computer automatically selects and schedules movie and video programs for a party by providing a customized “virtual channel” comprising a computer-selected list of video and movie programs that “most closely match the party’s preferences.” (Herz, 4:18-58, Abstract.) To do so, Herz’s computer selects programs for time slots that match a party’s profile, creating “a collection of only those video programs having content profiles which best match the customer’s profile and hence are most desirable to the customer during the relevant time frame.” (*Id.*, 4:18-58, 4:59-5:21, 6:53-7:55, 22:7-23:18, 24:53-25:30, Figs. 1-3.) That is, Herz’s computer generates a custom schedule of programs for parties, without the party having to select which recommended programs to include in the schedule. (*Id.*, 19:5-65, 22:7-23:18, 24:56-25:30, 2:65-3:16, 10:6-20; *see also id.*, 4:40-5:52, 9:61-13:54; Houh Decl., ¶¶179-181.)

It would have been obvious to apply Herz’s teachings to Waytena, such that in Waytena the party does not have to select which attractions to attend and, instead, can enjoy automatically-scheduled content selected by the computer that matches the party’s profile. (Houh Decl., ¶¶182-184.) Waytena and Herz both disclose systems that obtain party information and compare it to content data to assist users in finding desirable content (or attractions). (*Id.*, ¶182.) For example, Waytena already presents a “list of attractions that match the particular preferences” of the

party. (Waytena, 14:13-24; *see also* 15:3-6.) Herz similarly teaches generating a list of recommended content matching a party profile, simply adding that the computer can also select such content into a customized schedule, rather than requiring the party to confirm the inclusion of each item. (Houh Decl., ¶182.)

Thus, a POSITA would have had a reasonable expectation of success in implementing Herz's teachings of using a computer to select and schedule recommended content in Waytena—which already includes all information necessary to select attractions that match party information and create reservations for those recommended attractions at particular times. (*Id.*) Just like parties looking for movies in Herz no longer having to “channel surf” to manually select movies, applying Herz's teaching to Waytena would result in parties no longer having to manually select each attraction they want to attend during their visit. (*Id.*) This would give them the option to simply accept an entire list of attractions *and* proposed times (*e.g.*, a customized itinerary), without having to schedule reservations for each individual attraction (*e.g.*, if the user wanted to use the entire recommended list).

Moreover, Herz explains its system is not limited to matching video programs and can be applied to “to numerous other areas of technology in which it is desirable to assist the customer in the selection of a data service which best meets that customer's needs.” (Herz, 8:13-23, 47:19-52:5) For example, Herz's selections of content matching a party's profile can be used to schedule other things, like “music

videos and... the transmission of music.” (*Id.*, 50:55-64.) Modifying Waytena’s PCDs to provide a schedule of matching attractions for a party, without the party having to make such selections, is just an application of the known technique of Herz’s system to a different type of attraction (rides instead of movies) to meet “customer[] needs.” (*Id.*, 8:13-23, 25:16-29, 47:19-52:5; *see also id.*, 1:44-47; Houh Decl., ¶¶183-186.)

E. Ground 5: Waytena (Alone or as Modified by Herz) in View of Sim Renders Claim 7 Obvious

Waytena (alone or as modified by Herz) in view of Sim renders claim 7 obvious. (Houh Decl., ¶¶187-189.) As discussed, in Sim party information can include “privileges,” and parties with “privileges” can receive priority over others when it comes to having certain attractions included in their itinerary. *See supra* Ground 1, claim 7.

As such, selecting rides that match with a party’s particular privilege or paid-class status would have been obvious over Waytena (alone or as modified by Herz) in view of Sim. (Houh Decl., ¶188.) Waytena renders obvious selecting attractions that match party preferences. *See supra* Ground 3, claim 1c (Waytena); Ground 4 (Waytena-Herz). It would have been obvious that this same selection of attractions could be based on whether a party has priority or privilege attached to them as taught by Sim—a simple substitution of one type of party information for another. (Houh Decl., ¶188.) As noted above, Waytena and Sim are in the same field of theme park

queue management, aim to achieve the same goals, including improving customer “satisfaction” and allocation and use of park resources, and include similar systems that maintain similar information, and a POSITA would have been motivated to use the teachings of Sim in the system of Waytena. *See supra* Ground 2, claim 4.

Moreover, a POSITA would have been motivated to modify Waytena to include selecting certain attractions for parties who paid a fee to be in a higher “class” of user, such that they had a privilege or priority attached to them. (Houh Decl., ¶189.) Parties paying such fees would expect something in return—most naturally prioritized access to popular attractions. (*Id.*) A POSITA would have had a reasonable expectation of success, as just like the selected rides that match a party’s preferences, Waytena could further offer the same itineraries for more popular rides, or rides with limited availability or that require the payment of an extra fee to attend, by first checking whether a party has a privilege or priority attached to their party information. (*Id.*)

F. Ground 6: Waytena (Alone or as Modified by Herz) in View of Doi Renders Claims 11, 22 Obvious

1. Dependent Claim 11

Waytena (alone or as modified by Herz) in view of Doi renders claim 11 obvious. (Houh Decl., ¶¶190-192.) Claim 11 is similar to claim 1, but now specifies that the set of attractions is selected as an adjustment to a previous itinerary (“third set of attractions”) when there has been an “interruption.” (*Id.*) Doi, in the same field

as Waytena, discloses that where rides have long wait times, it will select replacement rides for parties so as “to take a measure for the waiting time to be shorter.” *See supra* Ground 2, claim 11 (discussing how Doi discloses Claim 11). Doi and Waytena disclose similar systems, as both include personal devices parties use to schedule attractions and navigate their day at the park, allow parties to reserve attractions, and provide messages to parties regarding their reservations, including when such may need to be changed due to an “interruption.” (Houh Decl., ¶191.)

Thus, it would have been obvious to apply Doi’s teachings of selecting “replacement rides” when there has been an interruption to Waytena, such that Waytena “selects said second set of attractions as a **replacement** for said remaining portion” and “said second set of attractions substantially excludes said already visited portion, whereby said interruption is overcome.” (Houh Decl., ¶191.) In Waytena, a party receives an itinerary (“third set of attractions”), and as the party proceeds through the day, some attractions will have been visited and some will remain. (*Id.*) Like Doi, Waytena discloses that “attraction malfunctions” and “other factors” (“interruptions”) can occur. (Waytena, 11:1-17; 19:20-60.) To overcome these interruptions, “patrons may initiate changes or cancellations to reservations.” (*Id.*)

A POSITA would have been motivated to include replacement attractions, as taught by Doi, when updating Waytena’s itinerary, so as to make up for attractions

a party had to miss because of the interruption, while excluding those already visited. (Houh Decl., ¶192.) Waytena’s updated itinerary excludes previously-selected rides for which there has been an “interruption” and thus may result in a shortened itinerary for the party. (*Id.*) Waytena was thus ready for improvement, and it would have been a simple application of a known method to, as taught by Doi, select “alternative rides” for the party’s updated itinerary in Waytena. (*Id.*) Such would continue to result in the party receiving an updated itinerary—only now that itinerary would predictably include additional rides as replacements. (*Id.*)

2. Dependent Claim 22

Waytena (alone or as modified by Herz) in view of Doi renders claim 22 obvious. (Houh Decl., ¶¶193-194.) As discussed, Doi discloses the additional elements of claim 22. Doi can mitigate attraction “underutilization” and “excessive demand” by “guiding a non-crowded attraction to the customer.” *See supra* Ground 1, claim 22. Moreover, Doi teaches applying a “perturbation to the desirability” of an attraction, such as by adjusting attraction pricing, to change the likelihood that that attraction may be selected. *Id.*

It would have been obvious to apply these teachings to have Waytena adjust the desirability of attractions to redistribute demand. (Houh Decl., ¶194.) For example, Waytena and Doi disclose similar systems, address the same problems, and aim to achieve the same results. (*Id.*) A POSITA would have looked to Doi—and its

disclosure of adjusting the desirability of rides that may be of interest to parties (*e.g.*, based on age) by changing pricing to mitigate demand—so that Waytena parties would be provided with rides for their itineraries that match their interests but do not have long wait times. (*Id.*) This would not change Waytena’s ultimate output, which would continue to provide itineraries as before, but would provide the added benefit of attraction recommendations that both match parties’ interests and reduce waiting times. (*Id.*)

IX. DISCRETIONARY DENIAL IS NOT WARRANTED

A. *Fintiv* Factors

The Board should institute review because Petitioner has been diligent in filing its Petition and the circumstances surrounding the parallel district court case do not warrant discretionary denial under § 314(a). *Sotera Wireless, Inc. v. Masimo Corp.*, IPR2020-01019, Paper 12 at 11-21 (Dec. 1, 2020) (precedential) (citations omitted). This case is in the early stages: fact discovery is in infancy; no *Markman* has taken place; and trial is not scheduled until 2025 at the earliest.

B. § 325(d).

Analysis under the framework from *Advanced Bionics v. MED-EL Elektromedizinische Gerate* shows that denial under §325(d) is not appropriate. IPR2019-01469, Paper 6 at 8-9 (P.T.A.B. Feb. 13, 2020) (precedential). The grounds in this Petition are not the same or substantially the same as the art and arguments

raised during prosecution, and to the extent that they are, the Examiner erred in a manner material to the patentability of the challenged claims.

Per step one of *Advanced Bionics*, the grounds in this Petition are not the same or substantially the same as the art and arguments raised during prosecution. Neither Sim nor Doi (Grounds 1-2) were considered during prosecution of the '983. Likewise, Herz (Grounds 4-6) was not considered during prosecution. Such “new, noncumulative prior art asserted in the Petition” strongly favors IPR. *Oticon Medical v. Cochlear*, IPR2019-00975, Paper 15 at 20 (P.T.A.B. Oct. 16, 2019) (§§II.B and II.C precedential).

Per step two of *Advanced Bionics*, although Waytena was considered by the Examiner as an anticipation ground, the Office erred in a manner material to patentability by failing to consider whether Waytena renders the claims obvious. Specifically, the Examiner accepted as true Applicants’ arguments that Waytena does not anticipate the claims because in Waytena parties can manually select which “matching” attractions to include in their itinerary. (EX1002 at 9-10.) However, nothing in the prosecution indicates the Examiner considered whether the claims may nonetheless be obvious, in view of Waytena’s full disclosure of how its system works and the knowledge of a POSITA. Petitioner presents such unconsidered grounds here, supported by the declaration of Dr. Houh. Moreover, Waytena in combination with Herz, as presented herein, was not considered during prosecution

and presents a new, noncumulative argument.

The Board should institute review because the merits are strong and the circumstances here do not support discretionary denial policy considerations. Should Patent Owner raise any discretionary denial arguments not addressed above, Petitioner reserves the right to respond before institution.

X. CONCLUSION

Petitioner respectfully requests that a Trial be instituted. Claims 1, 3-5, 7-8, 10-14, and 16-25 of the '983 should be cancelled as obvious over the prior art.

Dated: October 11, 2023 Respectfully submitted,

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Table of Exhibits

Exhibit No.	Description
1001	U.S. Patent No. 7,212,983 (“ ’983 Patent ”)
1002	File History for the ’983 Patent
1003	Declaration of Dr. Henry Houh
1004	Curriculum Vitae of Dr. Henry Houh
1005	WIPO Patent Publication No. 97/18534 (“ Sim ”)
1006	U.S. Patent No. 6,938,066 to Doi (“ Doi ”)
1007	U.S. Patent No. 5,978,770 to Waytena (“ Waytena ”)
1008	U.S. Patent No. 5,758,257 to Herz (“ Herz ”)

Certificate of Word Count

I certify that, in accordance with 37 C.F.R. § 42.24(d), the word count for the foregoing Petition totals 13,960. This is less than the permitted total under the 37 C.F.R. 42.24(a)(1)(i).

/s/ Celine J. Crowson

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Certificate of Service

The undersigned certifies that on October 11, 2023, in accordance with 37 C.F.R. § 42.6(e) and 37 C.F.R. § 42.105, true and correct copies of this Petition for *Inter Partes* Review and all supporting documents were served via Federal Express on the Patent Owner at the following correspondence address of record:

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Appendix A: Independent Claims Comparison Table

	Claim 1	Claim 3
[pre]	A system for providing an itinerary to a party, said itinerary comprising a second set of attractions selected from a first set of attractions, said system comprising:	A method of providing an itinerary to a party, said itinerary comprising a second set of attractions selected from a first set of attractions, said method comprising the steps of:
[a]	data regarding said first set of attractions;	a) providing data regarding said first set of attractions;
[b]	information about said party, at least a portion of said information distinguishing among said first set of attractions with respect to said data;	b) gathering information about said party, at least a portion of said information distinguishing among said first set of attractions with respect to said data;
[c]	[1] a computer having access to said data and said information, said computer having software that selects said second set of attractions from said first set of attractions, [2] said second set of attractions consisting of at least some of said first set of attractions for which said data substantially matches with said information;	c) providing a computer having access to said data and said information, said computer having software that selects said second set of attractions from said first set of attractions; d) selecting said second set of attractions with said software such that said second set of attractions comprises at least one of said first set of attractions for which said data substantially matches with said information;
[d]	a presentation means in communication with said computer, said presentation means able to receive said itinerary from said computer and present said itinerary to said party,	e) providing a presentation means able to receive said itinerary from said computer; and, f) presenting said itinerary to said party using said presentation means;
[e]	whereby said itinerary is customized for said party.	whereby said itinerary is customized for said party.