

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.

PTAB Case No. IPR2024-00029

U.S. Patent No. 7,212,983 B2

PATENT OWNER RESPONSE TO PETITION FOR
INTER PARTES REVIEW OF U.S. PATENT NO. 7,212,983 B2

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I. INTRODUCTION

Patent Owner Agile Journeys LLC (“Patent Owner”) submits this Patent Owner Response to the Petition for *Inter Partes* Review (“Petition”) of U.S. Patent No. 7,212,983 (EX1001, “’983 Patent”) filed by Walt Disney Parks and Resorts U.S., Inc., (“Disney” or “Petitioner”). Petitioner asserts that Claims 1, 3-5, 7-8, 10-14, and 16-25 of the ’983 Patent are unpatentable on six grounds based on 35 U.S.C. §§ 102 and 103. *See* Petition (Paper 2), p. 5.

This Response is timely filed based on the Board’s Scheduling Order (Paper 8). *See* Paper 8, p. 11.

Petitioner states that in the ’983 Patent, “[s]elected attractions are then used to create a custom itinerary the party can view as they navigate their day.” Paper 2, p. 1. In contrast to prior art where attractions are *manually* selected, the itinerary in the ’983 Patent comprises attractions that are *automatically* selected. Gonsalves Declaration (EX2009, Gonsalves Decl.), ¶¶68-83. Preparation of an itinerary from manually selected attractions or destinations was well-known in the art at the time as observed by the ’983 Patent. EX1001, 4:1-5:47. The Institution Decision overlooks the differences.

However, this distinction is critical. Petitioner mischaracterizes the ’983 Patent, stating “[t]he claims broadly recite on their face a computer that ‘selects’ attractions.” Paper 2, p. 3. Actually, Claims 1 and 3 are more limited than that, each reciting “said itinerary comprising a second set of attractions,” and “*software that selects* said second set of attractions,” and “said data *substantially matches* with said information.” *See* EX1001, Claims 1, 3 (emphasis added).

The prosecution history “clearly and unambiguously disclaimed or disavowed an interpretation of the claims encompassing manual selection of attractions to include in an itinerary.” EX2009, Gonsalves Decl., ¶69. To construe

“software that selects” to exclude manual selection is consistent with the plain and ordinary meaning of the ’983 Patent’s claim language. *Id.* at ¶77.

II. OVERVIEW OF THE ’983 PATENT

A. BACKGROUND

The inventors of the ’983 Patent, William Redmann and Michael Eaton, are both former employees of Disney.

Mr. Redmann holds a Master of Engineering from the University of California, Los Angeles. He is a Fellow of the Society of Motion Picture and Television Engineers (SMPTE), and currently chairs the SMPTE Technical Committee 30MR Metadata Registers.

Mr. Redmann worked for Disney at WED Enterprises for approximately two years as a show designer for EPCOT beginning in 1982. He later worked at Walt Disney Imagineering in Research and Development where he developed new ride technologies. Mr. Redmann also worked as a Director of Technology for Walt Disney Imagineering and Disney Regional Entertainment from 1995 to 2000, where he worked designing and fielding DisneyQuest and developed and managed 18 high-technology attractions from inception through commercial deployment and operation.

Mr. Redmann is a prolific inventor who is a named inventor or co-inventor on more than 80 issued United States Patents, including at least twelve assigned to Disney.

Mr. Eaton worked as a travel-industry marketing supervisor in the Walt Disney Resort division from 1990 until 1997, where he packaged and marketed Disney tourism products through various global wholesale and retail distributors

and supported general marketing campaigns of new Disneyland and Walt Disney World properties.

In the Spring of 2001, long after leaving Disney, Mr. Redmann and Mr. Eaton began discussing solutions to problems they perceived in conventional theme park experiences. They conceived of solutions to these problems and reduced their solutions to writing, filing a patent application (U.S. Patent Application No. 09/858,376, which later issued as the '983 Patent) on May 15, 2001. In the ensuing months, Mr. Redmann and Mr. Eaton produced an actual implementation of the invention.

Petitioner mischaracterizes the present invention in at least four ways:

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 . . . 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’).

Paper 2, p. 6¹.

First, “portable computer 100” is one embodiment of the recited “computer,” but not a limitation of Claims 1 and 3.

Second, the customized itinerary of Claims 1 and 3 *comprises* the second set of attractions; there is no additional step required to create the customized itinerary. The selected attractions, *i.e.*, the second set of attractions, are, at least, part of the customized itinerary.

¹ Emphasis and citations omitted throughout unless indicated otherwise.

Third, as maintained by the Applicants and accepted by the Examiner, the ordinary meaning of the recited “software that selects said second set of attractions” explicitly rules out manual selection (whether assisted by software or not) of that second set of attractions to be incorporated into the itinerary. *See* EX1002, pp. 9-10 ¶4, p. 20 ¶2.

Fourth, the itinerary is displayed on a “presentation means,” which, in some embodiments, is the “display 130” of the party’s “portable computer 100.” It is important to note that “display 130” is not a limitation of the claim.

B. PROSECUTION OF THE '983 PATENT

The patent application which issued as the '983 Patent was filed *pro se* by inventors Redmann and Eaton on May 15, 2001. EX1002, p. 456. Applicant filed Preliminary Amendments on December 1, 2004 and September 9, 2005. *Id.* at 347-352.

The Examiner issued the first office action on October 27, 2005 (“First Rejection”), rejecting Claims 4-169 under 35 U.S.C § 112, stating that “taken as a whole the claims recite an undue multiplicity of claims.” *Id.* at 192-195. Applicant filed a Request for Reconsiderations on January 27, 2006, selecting twenty-five claims, including the claims that became independent Claims 1–3 of the '983 Patent. *Id.* at 133-191.

The examiner issued a Final Rejection on April 28, 2006 (“Final Rejection”), rejecting several claims as indefinite and rejecting others as being anticipated by Waytena or obvious over Waytena in view of Laval (6,173,209), Lancos (6,873,260), or Murashita (2002/0062236). EX1002, 64-73. The Examiner stated that Claim 11 (issued Claim 2) would be allowable if rewritten in independent form. *Id.*

The Examiner commented that,

Waytena et al ('770) further discloses the aversion attribute (age), see column 7, lines 9-31, but doesn't specifically disclose a nullifying preference of said party, wherein said data distinguishes a portion of said first set of attractions as being less desirable with respect to said aversion attribute unless said corresponding nullifying preference is present and wherein in step d) at least on[sic] attraction from said portion of said first set of attractions is selected for said second set of attractions.

Id. at 73.

Applicant filed a request for continued examination on July 28, 2006, amending Claim 11 into independent form and providing arguments against the Examiner's rejection regarding other claims. *Id.* at 29-62.

The Examiner issued a third office action on November 1, 2006 ("Non-Final Rejection"). *Id.* at 17-25. The Examiner commented:

Applicant's reply of 7-28-06 has been considered, but is not convincing. Applicant argues that Waytena et al ('770) doesn't have "software operable to select" but has only a manual step of selection. The examiner disagrees, Waytena et al ('770) at column 14, lines 13-35 discloses that if desired, the patron may be presented with a list of attractions that match preferences, which is seen to meet the language of applicant's selecting step.

Id. at 20.

On November 9, 2006, Applicant had a telephone interview with the Examiner during which authorization was given for an examiner's amendment regarding certain "selection" limitations. *Id.* at 9. The application was allowed after the amendment. *Id.* at 5-16. The Examiner provided the following reasons for allowance:

As per Claim 4 [issued Claim 3]:

Waytena et al ('770) doesn't specifically disclose 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 whereby said itinerary is customized for said party.

As per Claim 11 [issued Claim 2]:

Waytena et al ('770) further discloses the aversion attribute (age), see column 7, lines 9-31, but doesn't specifically disclose a nullifying preference of said party, wherein said data distinguishes a portion of said first set of attractions as being less desirable with respect to said aversion attribute unless said corresponding nullifying preference is present and wherein in step d) at least on[sic] attraction from said portion of said first set of attractions is selected for said second set of attractions.

As per Claim 87 [issued Claim 1]:

Waytena et al ('770) doesn't specifically disclose 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 whereby said itinerary is customized for said party.

Id. at 9-10.

Years after the issuance of the '983 Patent, Disney filed its own United States Patent Application No. 12/036,176, titled "Method, System and Computer Program Product for Providing Real-Time Recommendations" ("the '176 Application").

The '176 Application concerns a method that includes accessing an itinerary corresponding to a guest of a venue, the venue having a plurality of attractions. The itinerary was created in response to one or both preferences of the guest and historical data about the venue. The real-time recommendation includes one or more suggested future activities for the guest. The one or more suggested future activities are communicated to the guest via a user device.

The Examiner rejected all the pending claims in the '176 Application under 35 U.S.C. § 103 as being unpatentable over the '983 Patent in view of various other references.

After a response and amendment by Disney, the Examiner issued a Final Rejection, again rejecting all pending claims as being unpatentable over the '983 Patent in view of various other references. *See Canora et al.*, Final Rejection (EX2003).

On appeal, the PTAB affirmed the examiner's rejection of all the pending claims in the Disney '176 Patent Application over the '983 Patent in view of other references. *See Canora et al.*, Appeal Rejection (EX2004).

III. CLAIM CONSTRUCTION

All terms that are not construed have their plain and ordinary meaning. *See* 37 C.F.R. § 42.100(b). When construing claims, the Federal Circuit “considers the prosecution history to determine whether the applicant clearly and unambiguously disclaimed or disavowed any interpretation during prosecution in order to obtain claim allowance.” *3M Innovative Props. Co. v. Avery Dennison Corp.*, 350 F.3d 1365, 1371 (Fed. Cir. 2003) (internal quotations and alterations omitted).

A. “SOFTWARE THAT SELECTS”

The Board in its Institution Decision states:

“software that selects” means that the software is selecting a set of attractions from the first set but does not exclude a contemporaneous or further manual confirmation or selection.

However, whether there exists a clear and unmistakable disclaimer that “software that selects” excludes a contemporaneous or further manual confirmation or selection requires further factual determinations to be addressed at trial.

Paper 7, p. 20.

Each of independent Claims 1 and 3 recites “said computer having *software that selects* said second set of attractions from said first set of attractions,” which excludes manual selection of attractions to include in an itinerary (emphasis added). EX2009, Gonsalves Decl., ¶¶68-83.

The Board agrees with Patent Owner that “[t]he prosecution history indicates that the term ‘software to select’ means that the software is selecting a set of attractions from the first set.” Paper 7, p. 20; EX2009, Gonsalves Decl., ¶¶79-80. However, Patent Owner disagrees with the Board’s conclusion that “‘software

that selects’ means that the software is selecting a set of attractions from the first set but does not exclude a contemporaneous or further manual confirmation or selection[,],” since “Claim 1 recites that the system ‘comprises,’ in relevant part, a computer having software that selects a second set.” *Id.*

The prosecution file history “clearly and unambiguously disclaimed or disavowed an interpretation of the claims encompassing manual selection of attractions to include in an itinerary.” EX2009, Gonsalves Decl., ¶76.

In the original application, Applicants cited Mahoney as “providing computer terminals for visitors having an ID to make and edit reservations.” EX1001, 3:3-7². Applicants cited Kanemitsu as describing “a system which allows selection from a list of destinations, such as a particular museum or a specific beach.” *Id.* at 4:62-64. Mahoney discloses “a waiting line management system for high-demand” settings, where users receive cards or electronic devices to access terminals that allow them to select attractions, choose time slots, and perform other functions. EX2009, Gonsalves Decl., ¶55. Kanemitsu discloses “a system that facilitates itinerary generation by allowing users to enter desired facility information and visiting purposes.” *Id.* at ¶57. Kanemitsu, and Mahoney were each observed to beneficially reduce the set of attraction choices by filtering according to user preferences. *Id.* at ¶¶55, 57.

However, it was a clearly stated goal of the ‘983 Patent to avoid the need for users to select attractions. *Id.* at ¶¶72-74.; EX1001, 1:41-58, 3:21-35, 8:65-9:6.

² Mahoney at Abstract; 2:28-32 (the “patron can select various choices” and “patrons that have the access card are able to select access times for various attractions, and are able to confirm at any time existing selections, . . . change previous selections.”).

Moreover, the Examiner rejected Claims 1 and 3 under 35 U.S.C § 102 and cited Waytena. EX1002, pp. 20-23, 69-71. In the second Office Action and the third Office Action, the Examiner explained that Waytena “discloses that if desired, the patron may be presented with a list of attractions that match preferences, which is seen to meet the language of applicant’s selecting step.” EX1002, p. 20 ¶2. In other words, during this stage of the prosecution, the Examiner interpreted Claims 1 and 3 to encompass the manual selection of attractions for an itinerary, as described in Waytena. EX2009, Gonsalves Decl., ¶¶69-70.

Waytena clearly relied on users to make selections of attractions that produce reservation requests. *Id.* Actually, Waytena’s process of requesting reservations is *only* triggered when a user completes the selection of an attraction for which they wish to obtain a reservation, and the request is received. *Id.*; *see also* EX1007, Waytena, 12:16-18, 12:25-27, 20:15-16, 20:27-29.

In contrast, Applicant undoubtedly intended to exclude manual selection. EX2009, Gonsalves Decl., ¶¶69-76. After an examiner interview on November 9, 2006, Applicant authorized the Examiner to make an Examiner’s Amendment to narrow the claims to disclaim the manual selection of attractions. EX2009, Gonsalves Decl., ¶76; EX1002, pp. 9-10. In particular, the claim limitation “software operable to select” was replaced with the claim limitation “software that selects.” EX1002, p. 9. The resulting claim required the attractions to be selected by software on a computer. EX2009, Gonsalves Decl., ¶76. The application was allowed after the amendment over Waytena and other prior art references that also disclosed manual selection of attractions. *Id.*; EX1002, pp. 9-10.

It is unreasonable to conclude that the Applicant, who cited the prior art in their application and pointed out the disadvantages they observed, to have tried

their best to overcome such problems, yet ultimately draft their claim in such a way as to include, rather than exclude, the exact disadvantage. EX2009, Gonsalves Decl., ¶74.

It is also unreasonable and arguably even inappropriate to conclude that the Examiner, who recognized that Waytena included a manual selection step, cited it, and initially rejected the application, to ultimately allow the application unless it was amended to exclude the manual selection step. EX2009, Gonsalves Decl., ¶76; *see also* MPEP § 1302.04; 37 C.F.R. § 1.104(c).

To construe “software that selects” to exclude manual selection is consistent with the plain and ordinary meaning of Claims 1 and 3. EX2009, Gonsalves Decl., ¶77. The construction is also consistent with the ’983 Patent’s specification because eliminating user selection of attractions was a stated goal and advantage of the invention. *Id.* at ¶78; EX1001, 1:41-58, 3:21-35, 8:65-9:6.

In Method Claim 3, introducing a hypothetical step for manual confirmation or selection from a software-selected second set of attractions would create a redundant and purposeless *third* set. EX2009, Gonsalves Decl., ¶¶81-82. The claim already specifies that the itinerary includes this second set, making any manual modification of such second set contradictory. *Id.* Moreover, the claim states, “said second set of attractions *comprises* at least one of said first set of attractions for which said data substantially matches with said information.” *Id.* Thus, adding a step for manual selection contradicts the plain language of the claim that “said computer having software that selects said second set of attractions” excluding any manual intervention. *Id.*

For these reasons, providing a party with a customized itinerary that comprises the second set of (software-selected) attractions eliminates the

possibility of manually selecting or removing any of these attractions from the second set of attractions before presenting it to the guest³. EX2009, Gonsalves Decl., ¶82.

Petitioner Disney agrees with the Patent Owner’s claim construction of “software that selects” and in the clear and unambiguous disavowal of manual/user selection to generate the itinerary (*i.e.*, the second set of attractions) from the prosecution history. Disney urged that⁴,

“When guests are unfamiliar with the facility, they need the system, here the *software*, to select attractions suited to their tastes.” Transcript of Technology Tutorial (EX2010), 24:21-23 (emphasis added).

“And [the ’983 Patent] does this all *without the party selecting* any attractions themselves.” *Id.* at 25:11-12 (emphasis added).

³ It is the “software that selects” the “second set of attractions” from “the first set of attractions” to generate an itinerary, as stated, for example, in Claims 1 and 3. Both Claims 1 and 3 repeatedly employ the open-ended transition phrase, “comprising” or “comprises,” thereby leaving open the possibility that there may be additional steps after the software selects the second set of attractions. Subsequent to the step of using software to generate an itinerary for the user, the ’983 Patent notes that there may be additional steps, such as sending messages to the user (as in Claim 23), receiving feedback or input from the user, or recomputing and presenting a revised/updated itinerary to the user due to an interruption or due to changed circumstances for the user (as in Claim 11). ’983 Patent, 13:7-9, 13:62-64, 19:58-60, 29:42-46; EX2009, Gonsalves Decl., ¶83.

⁴ Disney made these statements during the Technology Tutorial before the Honorable Carlos E. Mendoza, United States District Judge in the United States District Court for the Middle District of Florida, Case No.: 6:22-cv-2272-CEM-LHP.

“[I]mportantly, it does this matching of party information with attraction data, it does it all with the software. The party *doesn’t select any attractions itself.*” *Id.* at 29:16-18 (emphasis added).

“[I]n the ’983 patent that it's the software that does the selection *without the party . . .* visiting the facility, selecting *any* of the attractions themselves, and this is a very important part of the technology because . . . the visitors are unfamiliar with the facility; they don’t know what attractions to select; and so the ’983 patent, it's the software that does the selection.” *Id.* at 30:14-20 (emphasis added).

“[M]anual selection has . . . ‘no correspondence in the invention.’ It defeats the purpose of a customized itinerary, and manual selection was described by the applicants as . . . ‘antithetical’ to the purpose of the alleged invention.” *Id.* at 31:7-11.

Additionally, as discussed below in Sec. IV.A.13, the claim allows for scenarios where the software selects matches that go beyond exact matches to include substantial matches. EX2009, Gonsalves Decl., ¶81.

B. “PRESENTATION MEANS”

The Board “agree[d] that ‘presentation means’ is a means-plus-function claim term” and “adopted Petitioner’s construction” but noted that should “either party believe that a different construction should apply in the instituted trial, it should explain the proposed construction, how the construction is supported by the record, and how the construction affects our unpatentability analysis.” Paper 7, pp. 18-19.

Following the Board’s instructions, Patent Owner suggests an alternative interpretation.

The corresponding structure includes any of the following (and their equivalents): a portable hand-held computer as described at, *e.g.*, EX1001, 10:44–53; a computing device with its associated display, which is distinct from the “said computer” recited in the claims, that determines the itinerary and may be located remotely, *e.g.*, EX1001, 16:10-13; a printer that communicates with “said computer,” *e.g.*, EX1001, Claim 15; and an audio interface that also has communication with “said computer,” *e.g.*, EX1001, 30:61-67. EX2009, Gonsalves Decl., ¶¶85-87. This interpretation aligns more closely with the support described in the specification and equivalents thereof and is crucial for the coherence of certain dependent claims, such as Claims 15 and 17. *Id.*

C. “SUBSTANTIALLY MATCHES”

The Board in its Institution Decision states:

Claims 1 and 3 do not recite that the data must only “substantially” match such that an exact match is excluded. There is no specific definition of what would be considered “substantial” nor is there an exclusion of an exact match that, by its nature, is also a “substantial” match.

Paper 7, p. 21.

However, a PHOSITA would have interpreted the claim limitation “substantially matches,” in light of the specification. EX2009, Gonsalves Decl., ¶89. Specifically, “substantially matches” excludes a poor/low match, which violates some clearly identified party preferences unless nullified; “substantially matches” excludes an unalluring (*i.e.*, neutral) match; “substantially matches” are matches more alluring than an unalluring match and have nothing strictly objectionable. EX2009, Gonsalves Decl., ¶89; EX1001, 6:50-60, 7:40-42, 22:43-49, 28:34-36. Applicants acknowledged the extensive flexibility the invention

provides to function designers and facility operators in deciding how matches are determined and characterized, which includes a range of factors and methods for representing and interpreting these factors. EX2009, Gonsalves Decl., ¶¶90, 114.

As Dr. Gonsalves explained, “the interpretation should consider not only the pedagogical ‘binary all-or-nothing values’ (EX1001, 21:20-21) but also the ‘more linear’ ‘fuzzy logic or weighted metrics’ approaches (*id.* at 21:22-24) as might be obtained by regression analysis (*id.* at 6:61) or empirical correlations (*id.* at 20:25-30).” EX2009, Gonsalves Decl., n.10. The specification outlines various possible implementations and options that an implementor might choose, indicating that a PHOSITA would understand the claims as stated when they are read in light of the specification. EX2009, Gonsalves Decl., ¶91.

D. “DIRECT DEMAND”

Patent Owner agrees with the Board’s construction of “directed demand.” Paper 7, p. 22.

IV. THE CLAIMS OF THE ’983 PATENT ARE VALID

A. GROUND 1: SIM IN VIEW OF DOI

1. Independent Claim 1

The Board in its Institution Decision states: “on this record and based on the construction of ‘software that selects’ . . . as not excluding a contemporaneous or further manual confirmation or selection, we find Petitioner has sufficiently supported its contention that Doi’s recommendation of another attraction is selected by software.” Paper 7, p. 42.

As discussed above, under the proper construction, “software that selects” recited in Claims 1 and 3, *excludes* manual selection of the second set of attractions to include in an itinerary, instead, it means that the software is selecting a set of

attractions from the first set and precludes a contemporaneous or further manual confirmation or selection. EX2009, Gonsalves Decl., ¶96; *see supra* Sec. III.A.

Under this proper construction of “software that selects,” neither Sim nor Doi discloses or renders obvious the claim limitation of “software that selects.” EX2009, Gonsalves Decl., ¶95. Users’ manual selection of attractions to be included in an itinerary is required in both Sim and Doi. *Id.* at 96. Actually, users’ manual selection of attractions to be included in an itinerary is a common limitation in the prior art related to itinerary provision. EX2009, Gonsalves Decl., ¶97. This was identified by the Applicant in the original application, by the Examiner during prosecution, and by Petitioner here. *Id.* Both Sim and Doi demonstrate this same limitation. *Id.*

Petitioner asserts that “Sim *alone* renders obvious claim 1[c].” Paper 2, p. 17 (citing Houh Decl., ¶¶67-76, emphasis added). However, Sim consistently teaches “the user will be required to enter manually the required rides” (Sim, 17:22-27), to register for attraction queue (Sim, 15:29-30). EX2009, Gonsalves Decl., ¶99. As Dr. Gonsalves explained, “[a]s a noun, ‘queue’, ‘ride’, and ‘attraction’ are equivalent; [a]s a verb, ‘select’, ‘register’, and ‘request’ are equivalent.” *Id.* at ¶62. The phrase “user preferences,” thus, “consists of those attractions selected by the user, a preferred order and times in which they are visited. Sim uses an array of terms to mean the same thing in the context of selection[.]” *Id.* It is a mischaracterization to suggest Sim teaches *software selection*. *Id.* at ¶99.

In the sections Petitioner cited from Sim (Paper 2, p. 18), the “queue manager” computes “actual time and sequence of attendance at queue entrances offered to the party.” EX2009, Gonsalves Decl., ¶102. These options can be narrowed “in response to party preferences.” *Id.* Petitioner emphasizes terms like

“ride preference requests” and “party preferences” to create ambiguity, suggesting they align with the “preferences” described in the ’983 Patent Claim 4, which refers to a specific type of “information about a party.” *Id.* However, in Sim, “preferences” refer to the *attractions selected by the party*. *Id.*; see EX1005, Sim, 7:15-19, 8:22-27, 15:23-34.

Dr. Houh asserts that “Sim also discloses that the system will re-allocate every user’s sequence when ‘[t]he theme park is lightly loaded and certain rides are to be closed down,’ or ‘[i]f ride failure occurs.’” Houh Decl., ¶68. Dr. Houh then concludes that “[w]hen re-allocating every user’s *sequence*, the controlling computer will select *different attractions* than what the user chose, such as by adding or removing an attraction.” *Id.* (emphases added).

The assertion combines fabrication and partial truth. EX2009, Gonsalves Decl., ¶100. Sim discusses a scenario where a ride failure prompts the removal of the affected attraction from a user’s planned sequence, which is one of the reasons cited for initiating a re-allocation. *Id.*; EX1005, Sim, 24:21-22. However, other situations like a planned closure or a less crowded park in the morning do not necessarily result in the removal of an attraction, nor does Sim suggest automatically adding attractions to a user’s itinerary (although users have the option to add one). EX2009, Gonsalves Decl., ¶100. Before the re-allocation discussion, Sim describes a procedure for late-arriving users where they can join certain queues near the front, effectively allowing them to bypass the regular virtual queue. EX1005, Sim, 23:22-30. This setup can be customized to fit specific situations, such as closing an attraction early and accelerating its virtual queue, thereby altering some users’ sequences of attractions earlier than planned. EX2009, Gonsalves Decl., ¶101. Sim’s re-allocation is a continuation of this thought. *Id.*

Even if some users' sequences are altered earlier or get cancelled, Sim does not provide any basis for suggesting that the controlling computer 3 would *automatically select different attractions. Id.*

Doi also teaches users' manual selection of attractions. EX2009, Gonsalves Decl., ¶103. Petitioner asserts that "[Doi's] navigation planner 42 makes a plan to recommend other attractions," which Petitioner characterizes as "selecting." Paper 2, p. 20. However, the complete passage of Doi clearly shows that it requires a party to make the decision—stay in the same queue or select a new attraction from the recommendations. EX2009, Gonsalves Decl., ¶103; see EX1006, Doi, 9:63-10:44. Under the proper claim construction discussed in Sec. III.A, a PHOSITA would understand Doi teaches a filtering of available attractions which is not "software that selects" taught by the '983 Patent. EX2009, Gonsalves Decl., ¶103. Actually, the filtering of attraction choices offered to users was already part of the prior art considered. *Id.* at ¶¶104-105. Additionally, Doi teaches a system that is operating in real-time, which makes the teaching even more incompatible with an itinerary-generation system; for example, if a party were trying to obtain an itinerary for tomorrow morning, there is no evidence that Doi can provide any recommendations. EX2009, Gonsalves Decl., n.15., ¶110, ¶126.

The Board cites to Petitioner and asserts: "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." Paper 7, pp. 43-44. But Claim 1 recites "whereby said itinerary is customized *for* said party" instead of reciting "customized *by* said party." "Customized for" indicates that the software makes the selection of the itinerary for the party, whereas "customized by" implies that the selection is done by the party. EX2009, Gonsalves Decl., ¶¶117-118.

Under proper construction discussed above, *supra* Sec. III.C, the '983 Patent discloses “substantially matches,” which excludes a poor match and an unalluring (*i.e.*, neutral) match. EX2009, Gonsalves Decl., ¶89. The “substantial[] matches” are matches more alluring than an unalluring match and have nothing strictly objectionable. *Id.*; *see supra* Sec. III.C. Thus, '983 Patent discloses software that determines “the best possible (or best available) match to a party’s profile,” and the software then gives preference to attractions receiving a higher ranking. EX2009, Gonsalves Decl., ¶¶91, 116, 119. A PHOSITA would recognize that this relaxation in the matching requirement represents a significant improvement over the prior art of Sim and Doi, which require exact matches. *Id.* at ¶114. Therefore, the '983 Patent discloses an element that does not exist in Doi, which requires an exact match. *Id.* at ¶119.

Petitioner asserts that Doi’s terminal can “apply this ‘use data⁵’ to ‘select’ attractions for the customer based on their information matching attraction data.” Paper 2, pp. 19-20. Petitioner provides examples of *users* being selected that *match exactly* the *attraction* data, rather than *attractions* that *substantially match* the *party* information. EX2009, Gonsalves Decl., ¶¶115-116. Petitioner cites to Doi and states that, “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.” Paper 2, p. 20. The example indicates that if the users’ age does not match the age requirement of the attraction, an invitation will not be given. EX2009, Gonsalves Decl., ¶116.

⁵ Petitioner asserts “Doi’s system collects ‘use data’ reflecting ‘use frequencies of attractions by customer ages’ and attraction ‘waiting times’.” Paper 2, pp. 19-20.

Neither Sim nor Doi discloses or renders obvious Claim 1 because there is no reasonable motivation for a PHOSITA to combine the teachings of Sim and Doi as Petitioner has proposed. EX2009, Gonsalves Decl., ¶106.

Since both Sim and Doi lack “itinerary comprising a second set of attractions” and “software that selects said second set of attractions,” Petitioner and its expert have failed to establish a *prima facie* case of obviousness. *Id.* Furthermore, although Petitioner claims that “a PHOSITA would have been motivated to combine the teachings of Doi and Sim” (Paper 2, p. 21), they concurrently acknowledge a lack of motivation to combine these references, by merely noting that “Doi recognizes the same problems and provides similar solutions to achieve the same results as Sim” (Paper 2, p. 21). EX2009, Gonsalves Decl., ¶106.

Moreover, references like Sim, Waytena, Mahoney, and Laval, primarily aim to reduce physical queue times by managing virtual queues with special entrances for the most sought-after attractions. *Id.* Given that only a few attractions offer multiple entrances, it is clear why there would be little or zero motivation to develop a more complex system capable of generating itineraries that encompass *all* attractions at a venue. *Id.*

Additionally, a PHOSITA would not have combined the teachings of Sim and Doi and reasonably expected success for the following reasons:

First, Doi selects a class of parties for an attraction, rather than selecting an attraction for a specific party. EX2009, Gonsalves Decl., ¶108. Instead of recommending an attraction based on a party’s characteristics, Doi identifies a class of parties suitable for an attraction. *Id.* Thus, recommendations are based on class membership rather than individual party preferences. *Id.*

Second, Doi's system activates in response to specific situations such as overcrowding or underutilization. *Id.* at ¶109. It selects an attraction and identifies parties for recommendations, thus directing their movement. *Id.* Without such a problem, Doi has no basis for recommendations and would be non-functional if a party tried to obtain an itinerary during stable conditions. *Id.*

Third, Doi's system relies on real-time user positions to assess crowd levels and make recommendations. *Id.* at ¶110. If a party seeks an itinerary now, Doi offers a single suggestion and ceases operation. *Id.* There is no indication that Doi can make future recommendations, such as for the next morning, rendering the system non-functional for advanced planning. *Id.*

The lack of a functional combination and motivation to combine suggests that these patents were assembled under impermissible hindsight, with the teachings of the individual patents distorted to mimic the claimed invention of the '983 Patent. *Id.* at ¶112. This is impermissible. As the Federal Circuit has explained:

It is impermissible to use the claimed invention as an instruction manual or "template" to pieced [sic] together the teachings of the prior art so that the claimed invention is rendered obvious.[] This court has previously stated that "one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention."

In re Fritch, 972 F.2d 1260, 1266 (Fed. Cir. 1992) (citations omitted).

2. Independent Claim 3

Petitioner asserts that “Claims 3[pre]-3[e] are near identical to Claims 1[pre]-1[e].” Accordingly, the rebuttal above for Claim 1 also applies to Claim 3. EX2009, Gonsalves Decl., ¶122.

3. Dependent Claim 5

Claim 5 specifies that party information, such as an attribute, is used to distinguish some attractions as more desirable, which then influences the software's selection of attractions in creating a customized itinerary. EX2009, Gonsalves Decl., ¶123. Petitioner, however, ignores Claim 5's requirements, asserting that Sim in view with Doi makes the claim obvious, focusing on the type of “information” used rather than its application in selecting attractions. *Id.* at ¶¶124-126.

Sim does collect personal attributes such as height or health status, which are crucial for determining access to certain rides but does not use these attributes to select attractions for an itinerary; decisions about which attractions to visit remain in the hands of the users. EX2009, Gonsalves Decl., ¶124. This process is purely about access permission, not itinerary customization. *Id.*

Similarly, Doi records attributes like height and age to ensure users meet the usage limitations of attractions but again, these attributes are not used to select attractions for a customized itinerary. *Id.* at ¶125. Instead, Doi's system requires customer confirmation before navigating them to attractions, with attributes being used primarily at access points rather than in itinerary planning. *Id.*

Therefore, both Sim and Doi utilize attributes for managing access permissions and making recommendations based on user qualifications, not for the automated selection of attractions as required by Claim 5. *Id.* at ¶¶124-126. Neither

system employs these attributes in software algorithms to tailor a customized itinerary, highlighting a gap between the patent claim and what is disclosed by Sim and Doi. *Id.* at ¶123.

4. *Dependent Claim 7*

Claim 7 of the '983 Patent specifies that the information about the party includes a privilege that marks certain attractions as more desirable, which the software then uses in step d) to select a second set of attractions. EX2009, Gonsalves Decl., ¶128. However, Sim's system, while it offers a queue management system applicable to all guests or only those paying a premium, lacks specificity in defining what constitutes a "privilege" beyond general access rights. *Id.* Sim's disclosure is limited to stating that different classes of guests may exist based on the fee paid, without detailing how these fees affect the desirability of specific attractions. *Id.*

A PHOSITA would understand Sim's mechanism for managing fees involves direct interaction by the user, who must actively make payment to register for a queue that requires a fee. *Id.* at ¶129. This process indicates that the selection of attractions based on privileges, as recited in Claim 7, is not automated by software but rather executed by users themselves. *Id.* at ¶130. This interpretation is supported by the fact that Sim does not provide a system where attractions are distinguished or selected based on the described privileges. *Id.* Instead, it merely allows for priority in queue access, which does not influence the selection of attractions but only the recommended route to them. *Id.* at ¶131.

In summary, while Sim discusses the provision of access based on different fee levels, it does not articulate a method where attractions are chosen or prioritized based on specific privileges linked to these fees, thus failing to meet the

criteria set forth in Claim 7 where privileges dictate the selection of attractions in an itinerary. *Id.* at ¶¶127-131.

5. *Dependent Claim 8*

Claim 8 requires the data about the attraction to comprise a schedule time, *e.g.*, “discretely scheduled times, such as theaters with specific show times.” EX1001, 9:12-13. For some attractions, the schedule time can vary by location, *e.g.*, the arrival time of a parade along a parade route. *Id.* at 18:47-56. Petitioner fails to clarify how the displayed times in FIG. 3 of “Space Mt” and “Haunts Hs,” are the scheduled times. EX2009, Gonsalves Decl., ¶133. Actually, “Space Mt” and “Haunts Hs” are attractions that continuously accept riders, rather than events scheduled to start at a specific time. *Id.* The displayed times are the next available times, which will change based on factors such as the length of the queue and other considerations. *Id.*

6. *Dependent Claim 10*

Claim 10 discloses “said second scheduled time is at least equal to said first scheduled time plus a *time required* between attractions.” Petitioner asserts that Sim’s system discloses “time required between attractions” because it “takes into account that parties must ‘physically be able to get from one ride to another in time.’” Paper 2, p. 28. Sim discloses a scenario in which “[t]he theme park is lightly loaded and certain rides are going to be closed down”; therefore, late users may not physically be able to get from one ride to another in time.” E1005, Sim, 24:5-8. Sim’s solution is “some re-arrangement of queues” when “slots are available.” EX1005, Sim, 24:10-11. A PHOSITA would understand “physically be able to get from one ride to another in time” refers to the minimum time between the two attractions. EX2009, Gonsalves Decl., ¶135. Petitioner offers no evidence

that Sim’s system understands the relative positions of the attractions between them, which is critical in the ’983 Patent. EX2009, Gonsalves Decl., ¶135. The ’983 Patent also discloses when the software selects attractions for a customized itinerary, it recognizes that slow groups have different speeds compared to fast groups and travel times vary on light and heavy attendance days. EX1001, 17:46-18:4. Thus, A PHOSITA would not conclude that Sim teaches “time required between attractions.” EX2009, Gonsalves Decl., ¶136.

7. *Dependent Claim 11*

Claim 11 further discloses a third set of attractions “consisting of an already visited portion and a remaining portion.” Petitioner mischaracterizes Claim 11, saying it only “specifies that the selected set of attractions is an adjustment to a previous itinerary due to an ‘interruption.’” Paper 2, p. 28. Petitioner ignores the critical limitation “second set of attractions substantially *excludes* said already visited portion.” EX2009, Gonsalves Decl., ¶¶137-140.

As an example of the interruption, Petitioner cites rides experiencing “abnormally long wait times” due to overcrowding. Paper 2, p. 28. Doi explains that if Attraction A is crowded, a recommendation for Attraction D is given. EX2009, Gonsalves Decl., ¶139. However, there is no exclusion of an already visited portion: Attraction D can be an attraction that the customer already visited. *Id.* Sim suffers from a similar deficiency as Petitioner asserts Sim discloses re-allocation of user’s sequence for the same attraction rather than selected different attractions. *See supra*, Sec. IV.A.1. Sim also does not disclose exclusion of already visited rides, but explicitly teaches their inclusion. *Id.*

While Doi has compiled a list of attractions that the customer has visited, there is no evidence that this list is used as a basis for Doi’s recommendations, nor

is there any indication that attractions previously visited are excluded, as recited in Claim 11. EX2009, Gonsalves Decl., ¶140.

8. Dependent Claim 13

Claim 13 further discloses “an access control system to a first attraction of said second set of attractions.” Petitioner asserts Sim in view of Doi renders Claim 13 obvious because Sim includes “gate units,” which are “positioned at various rides in the park” and “set up at the entrance to the physical queue to control access to the queue.” Paper 2, p. 31.

In Sim, the “portable module... has a receiver 70 for receiving ‘identify yourself’ signals from the gate units 2” and it responds with “the portable module’s serial number” (Sim, 22:9-14), which does not fulfill the requirement of “at least a portion of said itinerary corresponding to said first attraction” as recited in Claim 13. EX2009, Gonsalves Decl., ¶142. As disclosed by the ’983 Patent, “A current event banner 420 identifies the current event in the itinerary” and touching “current event attraction name 430 may optionally bring up a pass form 600, showing a reservation or access permission,” which includes details like “party size,” “attraction name,” “event time,” and “an authentication code or signature” possibly expressed as a barcode (EX1001, 14:14-15, 14:58-64, 15:4-28, 16:65-66). EX2009, Gonsalves Decl., ¶142. This indicates that the itinerary includes such pass forms, whereas a mere serial number of a device is not part of the itinerary. *Id.*

9. Dependent Claim 17

Claim 17 further discloses the “itinerary is announced audibly.” Petitioner asserts Sim in view of Doi renders Claim 17 obvious because Sim’s portable units “can be provided without an alphanumeric display with a simpler ride indication arrangement.” Paper 2, p. 33. The Examiner made the same argument with respect

to Waytena. EX2009, Gonsalves Decl., ¶¶144-147; *see* EX1002, p. 70. However, the “simpler ride indication” (even in the form of a voice message) is not the same as “the next event indicated on the itinerary. . . might instead be announced audibly,” EX1001, 30:65-67, and does not correspond to Claim 17’s requirement that “at least a portion of said itinerary is announced audibly by said presentation means.” EX2009, Gonsalves Decl., ¶146.

10. Dependent Claim 19

Claim 19 requires that the data about a first attraction that has excessive demand causes the software to be less likely to select the first attraction. EX2009, Gonsalves Decl., ¶150.

Sim relies on users to select their attractions and allows collection of preferred sequences and/or ride times. *See supra*, Sec. IV.A.1. The user information is available to bias the “means of calculating the actual time and sequence of attendance,” and is consistent with Sim’s teaching that “[t]his calculation can be in response to user preferences, on the overall demand in the system and any priority attached to the particular user” EX2009, Gonsalves Decl., ¶151; EX1005, Sim, 34:22-27. Accordingly, since Sim’s patron has already selected the attractions, there is no plausible way that Sim’s queue manager makes their selection less likely. EX2009, Gonsalves Decl., ¶151. Similarly, in Doi, the likelihood of an attraction being selected cannot be higher or lower since Doi’s system only deals with attractions customers have already selected. *Id.* at ¶152.

Accordingly, since neither Sim or Doi alone or in combination can reduce the likelihood of an attraction having excessive demand being selected, they cannot render Claim 19 obvious. *Id.* at ¶153.

11. Dependent Claim 20

Tracking specifically the portion of the demand for an attraction that is produced by the claimed itinerary generation process can provide valuable feedback for the control of the itinerary generating process itself. EX2009, Gonsalves Decl., ¶155. This feedback is also relevant for other integrated reservation-making systems. *Id.* For instance, if there is an allocated capacity for the first attraction and it is excluded from selection based on the directed demand exceeding the allocated capacity. *See* EX1001, 8:28-31.

Petitioner asserts “Sim is tracking ‘directed demand,’ *e.g.*, the number of parties its system is directing to each attraction[,]” Paper 2, p. 36. This is not the case, because Sim has no “directed demand.” EX2009, Gonsalves Decl., ¶156. Sim accepts the parties’ attraction selections and does not change their number. Given the patron demand, Sim does have an opportunity to manage it and shift it to different times, but the total demand remains unaltered. *Id.* Doi, similarly, discloses no tracking of directed demand, as defined, since Doi creates no itinerary. *Id.* at ¶157.

12. Dependent Claim 22

Claim 22 further discloses “said software applies a perturbation.” Both Sim and Doi rely on users to select attractions. EX2009, Gonsalves Decl., ¶159. Thus, there is no software to apply a perturbation to a desirability of a first attraction of the first set of attractions. *Id.* The perturbation produces a different result for the selection of attractions from the first set of attractions, *i.e.*, the second set of attractions. *See* EX1001, 24:16-25:15 (discussing the perturbed directed demand in FIG. 13). Both Sim and Doi rely on other methods to manage their queues. EX2009, Gonsalves Decl., ¶160. Sim can reorder where people are in a virtual

queue; Doi uses more of a “carrot” approach by adjusting the price of an attraction, which may coax Doi’s customer to decide the lower price is sufficiently attractive.

Id.; see also Paper 2, p. 36.

No combination of these teachings results in a perturbation to desirability that would lead to a different software-based selection of attractions. Petitioner’s assertion is unsupported by Sim in view of Doi. EX2009, Gonsalves Decl., ¶161.

13. Dependent Claim 23

Dr. Houh states that “Sim’s controlling computer 3 enables the transmission of messages to the portable module 1.” Houh Decl., ¶110. As mentioned in the Sim patent, “[c]onveniently, the method of communication between the portable modules and the queue manager is by way of radio paging messages, which can be received and displayed by the portable modules.” EX1005, Sim, 3:28-31. Since all commands directed to Sim’s portable module/prompter are considered messages, this forms the foundation of the communication technology in Sim. EX2009, Gonsalves Decl., ¶163. However, as Dr. Houh admits, Sim teaches that transmission of such messages *disables presentation of the itinerary* to present the recommendation. EX2009, Gonsalves Decl., ¶169.

Therefore, Sim fails to disclose at least two of the limitations recited in Claim 23: first, said itinerary further comprising a second set of messages; second, each of said second set of messages is provided to said party *in conjunction* with said itinerary. EX2009, Gonsalves Decl., ¶¶165-169.

14. Dependent Claims

Additionally, all dependent claims (including those discussed above) are necessarily valid in light of Petitioner’s failure to prove Claim 3 invalid. *In re Fine*, 837 F.2d 1071, 1076 (Fed. Cir. 1988) (“Dependent claims are nonobvious under 35

U.S.C.S. § 103 if the independent claims from which they depend are nonobvious.”); MPEP § 2143.03.

B. GROUND 2: SIM (AS MODIFIED BY DOI) IN VIEW OF WAYTENA

Each of the below dependent claims is valid at least because they are based on valid independent Claim 3.

1. Dependent Claim 4

The Board explains that: “the parties’ disputes regarding Claim 4 are substantively the same as the parties’ disputes regarding independent Claims 1 and 3.” Paper 7, p. 47. Petitioner asserts that “Sim in view of Doi teaches a system that selects an itinerary of attractions” (Paper 2, p. 41), but this is incorrect. EX2009, Gonsalves Decl., ¶173. Dr. Houh’s testimony, which claims “Sim in view of Doi teaches a system that recommends an itinerary of attractions and attraction times to a party” (Houh Decl., ¶117), is also inaccurate. EX2009, Gonsalves Decl., ¶173. In reality, Sim in view of Doi only *recommends* attractions; the user ultimately selects these to form a proposed list. *Id.* Both Sim and Doi, whether alone or in combination, teach that attractions are selected by the user. *Id.*

Petitioner acknowledges that “Waytena adds that additional party information, like preferred ride types, can be used to suggest which rides to offer to a party.” Paper 2, p. 41. Dr. Houh agrees, noting that such data enables the system to enhance ride/show utilization and increase spending by suggesting attractions parties might enjoy but are unaware of. Houh Decl., ¶122. Doi does not consider user preferences in its selection process; it merely selects an attraction and identifies a class of parties without any preference-based criteria. EX2009, Gonsalves Decl., ¶175. Thus, the combination of references fails to make obvious

using collected preferences to automatically select attractions for an itinerary. *Id.* at ¶176.

Petitioner mistakenly claims that Sim can select alternative rides during its reallocation process and that Waytena's preferences would be useful in this scenario (Paper 2, p. 44). EX2009, Gonsalves Decl., ¶¶177-178. However, preferences in Waytena are applied prior to selecting attractions to narrow down the choices. After selections are made by Waytena's or Sim's customers, reservations are processed. *Id.*

2. *Dependent Claim 18*

The Board states: "Patent Owner's argument appears to be against Waytena individually whereas Petitioner relies on the combination of Sim, Doi, and Waytena for teaching this claim." Paper 7, p. 49. Actually, in combination with either Sim, Doi, or Waytena, it is a user's selection that is entered on the list of reservations, becoming a part of an itinerary. EX2009, Gonsalves Decl., ¶¶181-183.

Petitioner notes that Waytena uses PCDs to handle reservation requests; if an attraction is unavailable, it is excluded from the itinerary. Paper 2, p. 45. However, Waytena does not prevent unnecessary reservation attempts; users must first attempt a reservation before discovering unavailability (EX1007, Waytena, Figure 7). EX2009, Gonsalves Decl., ¶181. Claim 18 of the '983 Patent specifies that software selects itinerary attractions based on their availability as confirmed by the reservation system. *Id.*

Doi's reservation system does not address unavailable attractions but focuses on filling empty theater seats last minute, a method not suited for itinerary

planning. *Id.* at ¶182. This highlights a key difference from Sim/Waytena: Doi lacks a real-time alternative activity recommendation system. *Id.*

3. *Dependent Claim 21*

The Board states: “Petitioner has, on this record, sufficient support for its contention that Waytena teaches a ‘reservation computer.’” Paper 7, p. 50. However, a PHOSITA would not have been motivated to combine the teachings of Waytena with Sim and Doi as suggested by Petitioner, expecting success. *Id.* at ¶185. Petitioner’s proposal to incorporate “Waytena’s ‘reservation computer’ into Sim (as modified by Doi)” is flawed for several reasons:

First, the term “reservation computer” does not appear in Waytena but is a claim element in the ’983 Patent, which introduces a misalignment in terminology and conceptual application. *Id.* at ¶186.

Second, Dr. Houh’s assertion that it would be obvious to integrate Waytena’s attraction reservation capabilities into Sim to manage reservations based on the current operating status and crowd conditions is redundant. EX2009, Gonsalves Decl., ¶187. Sim already contains similar functionalities with its “Queue Manager” system, which includes a host computer that controls queue sequences and manages crowd conditions effectively without any input from Waytena. *Id.* at 188. Sim’s system already accounts for crowd conditions and can adapt to changes such as weather impacts or ride failures by reallocating queues or adjusting operation times, demonstrating that it independently addresses the needs that Waytena would supposedly fulfill. *Id.* at ¶¶188-191.

Thus, the functions that Petitioner claims would motivate a combination are already effectively implemented by Sim, making the proposed integration of Waytena unnecessary. *Id.*

C. GROUND 3: WAYTENA ALONE

The Board states: “because Waytena was previously provided and we discern no error on the part of the Examiner, Petitioner has not demonstrated a reasonable likelihood of prevailing . . . under Ground 3.” Paper 7, p. 52. Patent Owner agrees with the Board’s conclusion. And Patent Owner agrees with the Board reasoning below:

Waytena teaches recommending an attraction, and Petitioner asserts that amounts to an automatic selection but does not explain how it meets the claimed “software that selects” a second set of attractions from the first set based on a substantial match with the information to create an itinerary. Further, Petitioner provides how Waytena can be modified and that one could do so, but does not provide adequate reasoning why one would modify Waytena as proposed. See, e.g., *Belden Inc.*, 805 F.3d at 1073. Specifically, Petitioner asserts that Waytena’s “PCD could simply use ‘next available time’ as a default and create a complete itinerary itself.” Pet. 56–57. That is insufficient without further justification.

Paper 7, p. 57.

1. Independent Claims

Petitioner asserts that “Claims 3[pre]-3[e] are near identical to claims 1[pre]-1[e].” Accordingly, the rebuttal for Claim 1 also applies to Claim 3. Waytena does not render obvious Claim 1. EX2009, Gonsalves Decl., ¶¶193-224. Waytena was already considered and rejected by the Examiner during prosecution, *see supra*, Sec. II.B, the Board agrees and states that “because Waytena was previously provided and we discern no error on the part of the Examiner, Petitioner has not

demonstrated a reasonable likelihood of prevailing . . . under Ground 3.” Paper 7, p. 52.

Petitioner admits, by quoting Waytena’s description of a personal communication device (PCD), that “the PCDs will present a ‘list of attractions that match the particular preferences of the members of the patron’s group.’ *Patrons can then make reservations* for those attractions using their PCDs, and the PCDs will display a list of schedule attractions along with the times to visit them.” Paper 2, p. 50 (emphasis added).

Waytena’s FIG. 5B, ATTRACTIONS list 541 contains three attractions: WATER FLUME, THE RAT, and TIME TRAVEL. Paper 1, p. 57. Attractions selected and reserved by the user are shown in the “list 545 of previously-made reservations” and listed under CURRENT RESERVATIONS. EX1007, Waytena, 14:18-19. A PHOSITA would notice from FIG. 5B that the third attraction in list 541, TIME TRAVEL, is highlighted by a rectangle, indicating the user’s current selection, EX2009, Gonsalves Decl., ¶197:

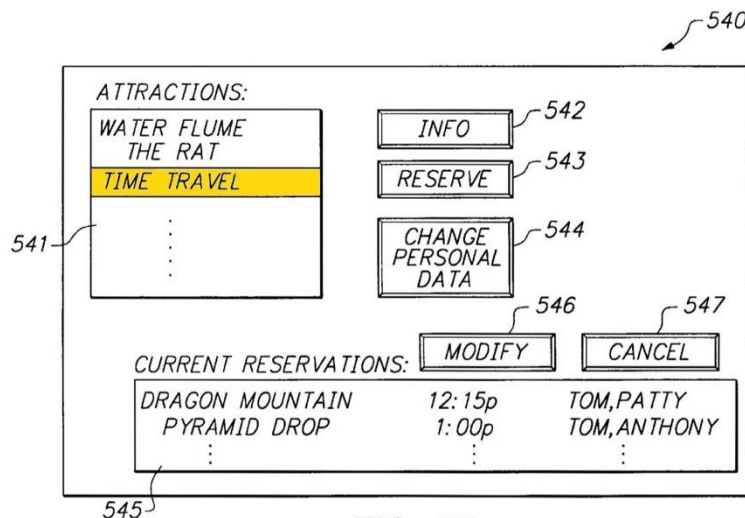


FIG. 5B

Waytena continues, “[c]licking on button 543 causes PCD 102 to enter state 503 for requesting reservations. FIG. 5C shows a sample display screen 560 for

requesting a reservation for a selected attraction.” EX1007, Waytena, 14:41-44. A PHOSITA would understand, from this description, that pressing the RESERVE button 543 in FIG. 5B requests a reservation for the currently selected TIME TRAVEL attraction, as demonstrated in FIG. 5C. EX2009, Gonsalves Decl., ¶198:

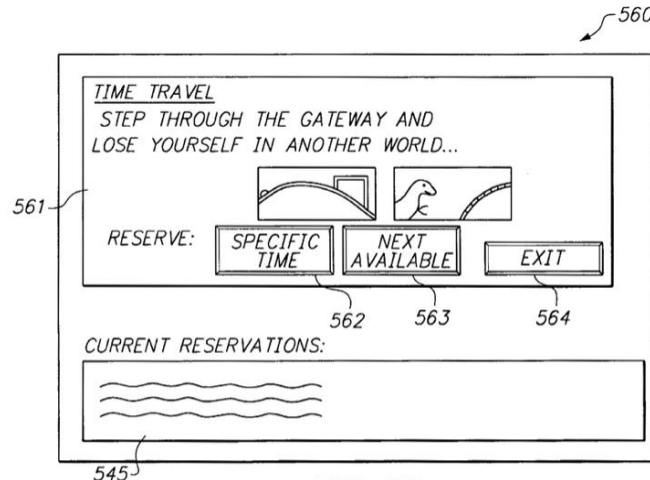


FIG. 5C

Upon observing FIG. 5B in Waytena, where the third attraction, TIME TRAVEL, from list 541 is currently selected, and FIG. 5C, where it is the subject of a reservation request, a PHOSITA would understand that users are not required to make reservations for every attraction listed in 541—they can choose specific ones. EX2009, Gonsalves Decl., ¶199. Furthermore, users are not obliged to reserve attractions in the order presented in list 541. *Id.* This flexibility aligns with Waytena’s goal to overcome the “inability of patrons to communicate their intention to attend particular attractions, and in effect, request a reservation for an attraction” by “allow[ing] patrons to . . . make reservations for certain ones of these [attractions].” *Id.*; see EX1007, Waytena, 1:48-50, 2:31-35.

Waytena acknowledges that the latencies present in communication protocols of that time were “apparent to those skilled in the art,” EX1007,

Waytena, 9:7-10, and shows an awareness of these latencies and their impact on the interaction of various specified timeout periods. EX2009, Gonsalves Decl., ¶200; *see* EX1007, Waytena, 13:11-19, 17:10-13, 17:51-54, 17:59-65, 18:8-11, 20:65-21:3, 21:29-31, 21:35-40.

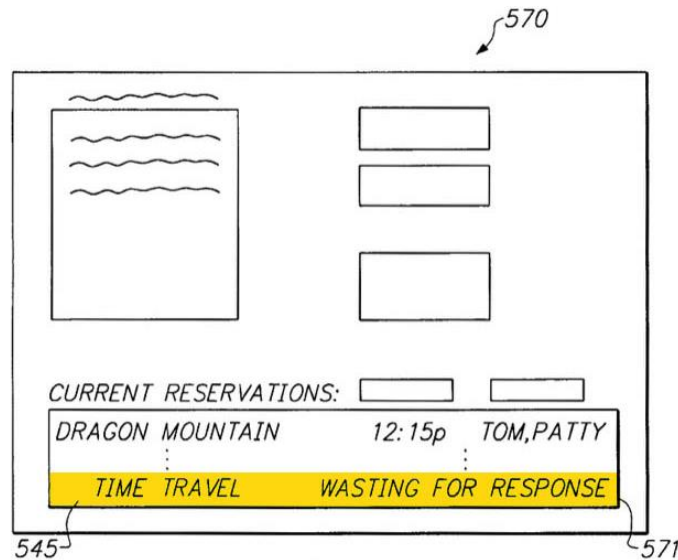


FIG. 5D

The resolution is illustrated in FIG. 5D, where reservations list 545 shows an entry for the TIME TRAVEL attraction listed with the message 571 “WA[I]TING FOR RESPONSE”, *i.e.*, “an indication that PCD 102 is waiting for a response regarding the request.” EX1007, Waytena, 16:54-55.

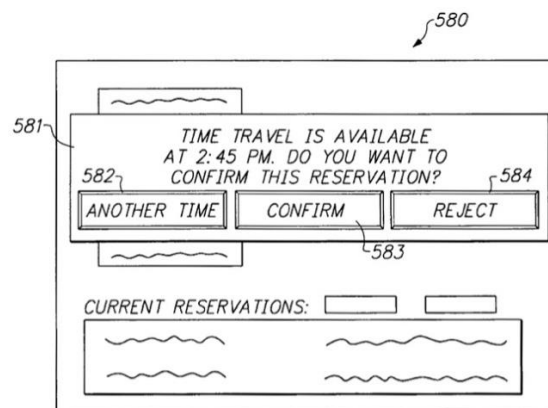


FIG. 5E

Whether the user selects a specific reservation time using button 562 or chooses the next available reservation time with button 563⁶ on screen 560 of FIG. 5C, if the attraction computer provides a proposed reservation, the confirmation screen FIG. 5E appears. EX2009, Gonsalves Decl., ¶202. If the proposed time is suitable, the user can confirm with button 583; conversely, if “Another Time” button 582 is pressed, “PCD 102 prompts patron to enter a new requested time.” *Id.*; EX1007, Waytena 17:33-65.

Petitioner’s proposed reconfiguration of Waytena’s mechanisms to match their hypothetical user interface would not have been obvious to a PHOSITA at the time of the invention as claimed in the ’983 Patent. EX2009, Gonsalves Decl., ¶¶203-216. A PHOSITA would not perceive this as achieving Waytena’s intended purpose, nor would it produce the same results as asserted by the Petitioner. *Id.* Based on Waytena’s teachings, it could not be expected to function as Dr. Houh contends. *Id.*

Regarding claim element 1[c], Petitioner points to Waytena’s ability to filter the list of attractions, based on categories the user may have indicated. EX2009, Gonsalves Decl., ¶204. Petitioner contends that Waytena’s filtering function, operating without user intervention, accomplishes the same result as if the user were manually selecting those attractions for an itinerary. *Id.* In essence, Petitioner and Dr. Houh are asserting the patron’s selection is completely superfluous to Waytena’s invention and performs no useful function. EX2009, Gonsalves Decl., ¶205.

⁶ This is equivalent to requesting a reservation for the “current time.” *See* EX1007, Waytena, 23:4-6.

Petitioner present a hypothetical user interface, allegedly based on Waytena's FIG. 5B, where entries in the ATTRACTIONS list 541 are enhanced with proposed reservation times that a user can reserve *en masse* using what was previously the RESERVE button 543. EX2009, Gonsalves Decl., ¶206. Petitioner asserts that a "POSITA would have recognized Waytena could readily do this," Paper 2, p. 56, and that a 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." Paper 2, p. 57 (citing Houh Decl., ¶151).

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
.	
.	
.	

However, this is not the case for the following reasons. EX2009, Gonsalves Decl., ¶¶207-222.

First, Waytena acknowledges the importance of selecting specific attractions and the order of their selection. EX2009, Gonsalves Decl., ¶208. Waytena aims to provide the "ability of patrons to communicate their intention to attend particular attractions" and "make reservations for certain ones of these" EX1007, Waytena, 1:48-49, 2:35. Currently DRAGON MOUNTAIN, PYRAMID DROP, and TIME TRAVEL are the first three attractions displayed in FIG. 5D. If the users choose to, they can select WATER FLUME as the third one, as shown in the above figure. Thus, the sequence in which attractions are selected affects the availability of reservations, which is significant for patrons. EX2009, Gonsalves Decl., ¶208.

Second, the order in which attractions are selected impacts the schedule of reservations. EX2009, Gonsalves Decl., ¶209. This is because reservations are made consecutively, and if a time conflict arises, the system adjusts the timing to prevent overlaps. *Id.* Waytena ensures that once a reservation is made, it occupies a time slot that subsequent reservations cannot overlap. *Id.*

Third, Dr. Houh asserts that under Waytena, “a party can individually choose and reserve among computer selected (or recommended) attractions” and that this is an “easy one-step process that gives the party the *same* resulting schedule of reserved attractions.” Houh Decl., ¶149 (emphasis added). However, there is no clear rationale given for the order of selection in the list, leaving doubts about achieving *identical* outcomes with the proposed user interface. EX2009, Gonsalves Decl., ¶210.

Fourth, Petitioner’s hypothetical user interface would not be feasible to a PHOSITA. EX2009, Gonsalves Decl., ¶212. While the display of available times might appear efficient, concerns about system delays and the “WAITING FOR RESPONSE” message suggest potential feasibility issues. *Id.* The complexity of handling multiple reservations simultaneously could exacerbate these concerns, leading to increased timeouts. *Id.*

Fifth, under the proposed system, there is a risk that users may not commit to reservations they did not request individually. EX2009, Gonsalves Decl., ¶213. A PHOSITA would understand the new system potentially invalidates Waytena’s overbooking calculations. *Id.* The new system could lead to a high number of unutilized reservations. *Id.*

Sixth, a PHOSITA would find it problematic to order attractions meaningfully using the proposed interface, especially if selections are based on

broad categories that could encompass half the attractions in a park. EX2009, Gonsalves Decl., ¶214. The sheer number of options could overwhelm users, undermining the process's effectiveness, and violate Waytena's original goal. *Id.*

Seventh, the hypothetical modification of Waytena's interface suggested by Petitioner does not reflect any prior art and would not have been obvious from existing technologies. EX2009, Gonsalves Decl., ¶¶215-217. It oversimplifies the process, potentially returning to earlier issues Waytena aimed to resolve, such as system latency and overbooking. *Id.*

Eighth, Petitioner's hypothetical interface shown in "Waytena, Fig. 5B (as modified and annotated)" does not exist in Waytena but is rather a modern interpretation that aligns more closely with the '983 Patent's FIG. 4.:

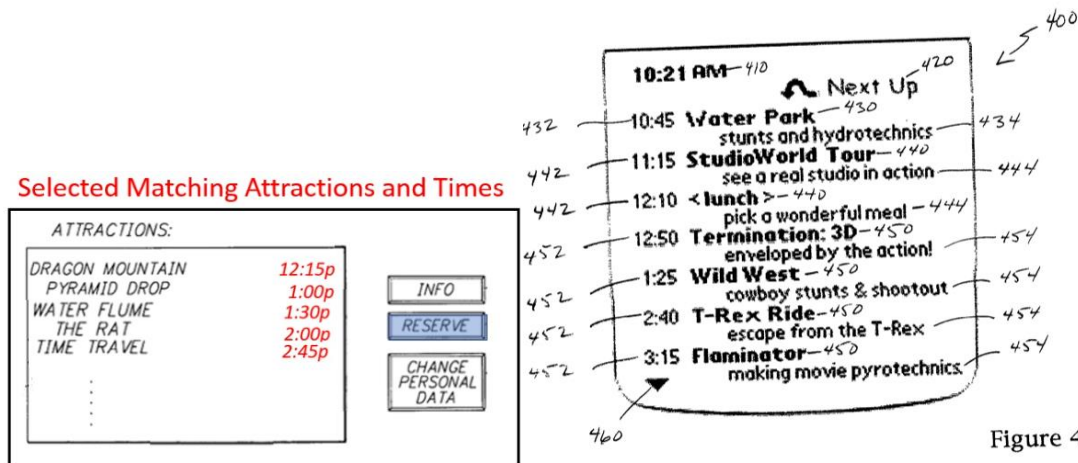


Figure 4

Where the '983 Patent shows "Next Up" indicator 420, Petitioner adopts Waytena's "ATTRACTION:" symbol. In both the '983 Patent itinerary 400 and Petitioner's hypothetical interface, attraction names are paired with scheduled times. Petitioner has mimicked itinerary 400 of the '983 Patent FIG. 4 even to the extent of omitting other buttons and lists from Waytena's original FIG. 5B. EX2009, Gonsalves Decl., ¶219. The resulting interface leads to a problem disclosed by Waytena: "the inability of patrons to communicate their intention to

attend particular attractions.” EX1007, Waytena, 1:48-49; EX2009, Gonsalves Decl., ¶219.

Despite Dr. Houh’s assertion that “a party can individually choose and reserve among computer-selected (or recommended) attractions” as “an easy one-step process that gives the party the same resulting schedule of reserved attractions,” a PHOSITA would recognize, in light of the above discussion, that it is not the case. EX2009, Gonsalves Decl., ¶222. The set of reservations made in this manner would be inferior and not align with what the user would have chosen. *Id.* This acts against the solution Waytena set out to accomplish, introducing substantial questions of operability. *Id.* A PHOSITA would not be motivated to adopt Petitioner’s proposal. *Id.* Accordingly, Waytena fails to render obvious “software selects,” as proposed by Petitioner.

The distinction between “software select” and “user select” is also emphasized in the last clause of Claim 1. EX2009, Gonsalves Decl., ¶¶117-118. Instead of reciting “customized by said party,” Claim 1 teaches “whereby said itinerary is customized for said party.” “Customized for” indicates that the software makes the selection of the itinerary for the party, whereas “customized by” implies that the selection is done by the party. *Id.*

Next, Waytena discloses in detail how its “match” works:

Once the relevant information has been retrieved, module 203 retrieves pre-programmed rules 409 for validity determination of reservation requests.

...

For example, a rule might specify that the patron may not have more than five reservations at a time; or another rule may specify a

maximum distance between the attractions for two successive reservations.

...

Module 203 may also check, for example, that members of the group are of sufficient age and height to enjoy the selected attraction by comparing information in patron information storage 202 with the description data of the attraction in the attraction description storage 205. Module 203 may also ensure that no conflicting reservations have been made. Other processing based on locally available information may also be performed to filter or otherwise validate the request.

EX1007, Waytena, 15:18-37.

Waytena discloses that a valid reservation request requires party information to match the attraction data exactly. Under proper claim construction discussed in Sec. III.C., the '983 Patent has no such requirement. EX2009, Gonsalves Decl., ¶¶88-91. The system disclosed in the '983 Patent ranks the attractions from high to low and may include rule out options, which means attractions with high rating are more likely be chosen, and lower ranked attractions may be chosen even if the probability is low; attractions will be ruled out only in some situations such as when the consumer does not meet the age requirement or the attraction does not meet the wheelchair transfer requirement. *Id.* Thus, Waytena fails to render Claim 1[c] obvious.

2. *Dependent Claims*

Additionally, all dependent claims (including those discussed above) are necessarily valid in light of Petitioner's failure to prove Claim 3 invalid. *In re Fine*, 837 F.2d at 1076; MPEP §2143.03.

D. GROUND 4: WAYTENA IN VIEW OF HERZ

The Board largely agrees with the Patent Owner, and states:

We find potential merit in Patent Owner's evidence and arguments that Herz is not analogous art because it is not in the same field of endeavor as the '983 Patent nor is it reasonably pertinent to the problem faced by the inventor.

Paper 7, p. 61. Petitioner admits Ground 3 is unpersuasive, particularly with regard to claim 1[c]: "[t]o 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." Paper 2, p. 69.

Even though Petitioner asserts "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," Paper 2, p. 70, the facts disclosed by Herz and Waytena support the opposite conclusion. EX2009, Gonsalves Decl., ¶¶241-267.

Prior art is "analogous if it is from the same field of endeavor or if it is reasonably pertinent to the particular problem the inventor is trying to solve." *Circuit CheckInc. v. QXQInc.*, 795 F.3d 1331, 1335 (Fed. Cir. 2015). However, "[i]f [a reference] is directed to a different purpose, the inventor would accordingly have had less motivation or occasion to consider it." *In re Clay*, 966 F.2d 656, 659 (Fed. Cir. 1992).

Herz is not analogous. EX2009, Gonsalves Decl., ¶245. The fields of invention for Herz and Waytena are distinctly different, contrary to Petitioner's claim that both are in the field of systems and methods that help parties identify and schedule desirable attractions. *Id.* at ¶246. Waytena specifically defines its field as “scheduling patron reservations in facilities offering numerous attractions” (EX1007, Waytena, 1:8-9), primarily focusing on theme park rides. EX2009, Gonsalves Decl., ¶246. In contrast, Herz describes its domain as “controlling broadcast of and/or customer access to data such as video programs” (EX1008, Herz, 1:2-3), which pertains to media content like movies or shows. EX2009, Gonsalves Decl., ¶246. This misalignment highlights Petitioner’s inaccuracy in categorizing both under a similar field of invention. *Id.*

The subject matter of Waytena and Herz are fundamentally different, which is crucial given that the ’983 Patent describes its field as “creating a personalized itinerary.” *Id.* at ¶247. The ’983 Patent details events as visits to attractions with scheduled times, not necessarily reservations, but *recommended times for visits*, such as parades or shows. *Id.* Waytena and the ’983 Patent both focus on *attractions* with specific *locations* and manage *travel time* and *limited attraction capacity*, aligning them within a common field of managing guest experiences at physical venues. *Id.*

Conversely, Herz operates in a distinct domain, focusing on scheduling broadcasts of video programs *without physical location* constraints. *Id.* at ¶248. For Herz, viewers *do not travel* between program locations but switch channels, and the system optimizes program selection based on viewer agreement to maximize viewership, illustrating an *unlimited viewing capacity*. *Id.* This places Herz in a

non-analogous field, primarily concerned with digital content delivery rather than physical guest management. *Id.*

A PHOSITA would not have been motivated to combine the teachings of Herz with Waytena and reasonably expect success. EX2009, Gonsalves Decl., ¶¶245, 230-245.

In the terminology used in the '983 Patent, “attractions” refer to a diverse group including rides, shows, and movies. *Id.* at ¶250. Petitioner claims both Waytena and Herz focus on scheduling these attractions, a statement that glosses over the fundamental differences between the two systems. *Id.* at ¶251. Waytena deals with physical theme park attractions, while Herz focuses on broadcast content like movies and shows. *Id.* at ¶¶251-254. This mischaracterization suggests false equivalences, such as comparing a movie theater presentation to television broadcasting or equating a stage show to a television program. *Id.* at ¶250. It is more precise to describe Herz’s output as “programs” to clarify that Herz’s domain is distinct from that of Waytena. *Id.*

Petitioner argues that both Waytena and Herz assist in identifying and scheduling desirable attractions, but this overlooks critical differences. *Id.* at ¶251. Herz’s system, which manages time-slot-based programming through an algorithm that creates virtual channels tailored to viewer preferences, is quite distinct from Waytena’s theme park scheduling. *Id.* at ¶¶251-255. Herz’s method involves a complex setup that aligns broadcast content with real-time viewer preferences using an “agreement matrix” to correlate customer desires with available programming. *Id.* at ¶¶251, 255-259. This level of customization in content delivery is advanced compared to Waytena’s more straightforward attraction scheduling. *Id.* at ¶¶251-252.

Herz's system also includes standard network broadcasts as part of its offerings, adapting the scheduling to incorporate viewer preferences for other programming. *Id.* at ¶¶252-256. This dynamic adaptation is a key feature that sets Herz apart from traditional broadcasting and Waytena's system. *Id.* at ¶257. Herz continually adjusts its program offerings based on changing viewer preferences, an approach that leverages detailed customer profiles and content profiles to tailor programming effectively. *Id.*

Given these complexities and the specific requirements of Herz's technology—particularly its reliance on time slots and viewer profiles—a PHOSITA would not have been motivated to combine Herz's broadcast-focused technologies with Waytena's theme park attraction scheduling. *Id.* at ¶265. The fundamental operational differences and the specialized nature of Herz's system, which optimizes content delivery based on precise time slots and viewer preferences, would not translate effectively to the scheduling of physical attractions in a theme park setting where availability is more static and less dependent on individual preferences. *Id.* at ¶¶265-266. Petitioner's assertion fails to appreciate these critical distinctions, making the proposed combination of Herz and Waytena technologies unlikely to succeed. *Id.* at ¶267.

E. GROUND 5: WAYTENA (ALONE OR AS MODIFIED BY HERZ) IN VIEW OF SIM

1. Dependent Claim 7

The Board states: "Patent Owner does not present separate argument against Petitioner's proposed modification of Waytena with Sim." Paper 7, p. 62. Claim 7 would not have been obvious over Waytena (as modified by Herz) not only because claim 7 depends from a patentable base claim, but also for the additional reasons expressed below. *See* EX2009, Gonsalves Decl., ¶¶268-269; EX1002, pp.

48:22-49:3. Waytena does not refer to privileges of the party that distinguish between attractions. *Id.* The Examiner tried to point out such privilege in Waytena. *Id.* However, rather than a privilege, Waytena instead describes a way of estimating the likelihood of a reservation being kept. *Id.*; see EX1007, Waytena, 20:51-55.

Herz fails to address this lack of privileges. EX2009, Gonsalves Decl., ¶270. Herz discusses “pay-per-view” services, encryption of valuable content, billing mechanisms, and refers to customers as “subscribers,” but does not explore how these elements might influence program selection. *Id.* Similarly, Sim mentions a queue management system in theme parks for guests who pay premiums for various privileges, but this payment does not affect the selection of attractions, as the system lacks software to select based on this criterion. *Id.* Sim further describes payment mechanisms at docking stations for specific queues, but these fees apply only after queue selection, implying that user choices are unaffected by any privileges related to payment. *Id.* Given these contexts, a PHOSITA would recognize that the premium payments in Sim’s system are merely for access to the system and not for influencing queue or attraction choices. *Id.* Additionally, a PHOSITA would not have been motivated to combine Herz with Waytena and reasonably expect success, as explained in detail above. *Id.*

F. GROUND 6: WAYTENA (ALONE OR AS MODIFIED BY HERZ) IN VIEW OF DOI

Each of the below dependent claims is valid at least because they are based on a valid independent claim.

1. Dependent Claim 11

The Board states: “Patent Owner does not provide specific argument against the combination proposed by Petitioner.” Paper 7, p. 64. However, claim 11 would not have been obvious over Waytena (as modified by Herz) in view of Doi not only

because claim 7 depends from a patentable base claim, but also for the additional reasons expressed below. *See* EX2009, Gonsalves Decl., ¶¶271-273; EX1002, p. 51:4-15 Since the invention of Waytena does not select attractions, there is no mechanism proposed by Waytena to select replacement attractions that substantially avoid attractions already visited. *Id.*

Additionally, Herz lacks a mechanism to modify a scheduled broadcast. EX2009, Gonsalves Decl., ¶272. If a user cannot view a program at its scheduled time, Herz offers no solution unless the program is set to air again. *Id.* However, these repeats do not equate to the “said second set of attractions as a replacement for said remaining portion” as recited in claim 11. *Id.* Instead, the “remaining portion” remains unchanged, and Herz’s programming schedule proceeds uninterrupted on both regular and virtual channels, resuming in progress when the user returns. EX2009, Gonsalves Decl., ¶272.

Petitioner conflates the language in claim 11 (“said software selects said second set of attractions as a replacement for said remaining portion”) with a single replacement for a single attraction. *Id.* Petitioner cites Waytena column 11 line 1 to 11 to suggest that Waytena addresses the issue of interruptions. Paper 2, p. 75. However, Waytena specifically deals with interruptions at a single attraction, stating, “Queue updater 212 makes adjustments to virtual queue 210 when necessitated by changes in the status of *the attraction*” (EX1007, Waytena, 11:1-3) (emphasis added). EX2009, Gonsalves Decl., ¶273. This does not imply that replacements are made for the rest of the itinerary beyond the affected attraction. *Id.* Similarly, Doi does not mention replacing the entire remaining portion of an itinerary. *Id.* Essentially, Petitioner argues that Waytena in view of Doi addresses

replacements for a singular interrupted attraction, not the entire set of remaining attractions. *Id.*

2. *Dependent Claim 22*

The Board considers: “the parties’ disputes regarding claim 22 are substantively the same as the parties’ disputes regarding independent claims 1 and 3 regarding what is selected by software.” Paper 7, p. 66. Claim 22 would not have been obvious over Waytena due to the reasons discussed above in Ground 1, claim 22. Both Sim and Doi rely on their users to select attractions. EX2009, Gonsalves Decl., ¶¶274-280. Since it is the users who are making the decisions, there is no software to apply a perturbation to a desirability of a first attraction of the first set of attractions. *Id.* at ¶277.

Doi’s system relies on users to select attractions, lacking any software to modify the desirability of an attraction as described in the ’983 Patent. *Id.* Doi instead manages queues using incentives, such as adjusting prices to make attractions more appealing. EX2009, Gonsalves Decl., ¶278; *see* Paper 2, p. 76. This confirms that there is no software determining the next attraction; the choice is left to the user. EX2009, Gonsalves Decl., ¶278. Similarly, Waytena depends on user selection, offering no scope for software-induced perturbation. *Id.* Herz, focusing on aligning programs with viewer interests without addressing demand surges, also does not incorporate such perturbations. *Id.*

Overall, none of these approaches or combination thereof involve software that alters attraction desirability to influence user selection, negating any “directed demand.” *Id.* at 279. While Doi manipulates demand through pricing, neither Waytena nor Herz attempts to modify attraction desirability, showing a lack of capability for perturbing directed demand. *Id.*

Moreover, a PHOSITA would not have been motivated to combine Herz with Waytena and reasonably expect success, as explained in detail above. *Id.* at ¶280.

V. CONCLUSION

For the reasons stated above, none of the Petitioner's six grounds disclose all elements of any of the challenged claims of the '983 Patent.

Date: July 8, 2024

Respectfully submitted,

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LIST OF EXHIBITS

Exhibit No.	Descriptions
2001	Declaration of Dr. Gregory Gonsalves
2002	Detailed Comparison Table
2003	Canora <i>et al.</i> , Final Rejection
2004	Canora <i>et al.</i> , Appeal Rejection
2005	U.S. Patent No. 6,173,209 (“Laval”)
2006	U.S. Patent No. 5,502,806 (“Mahoney”)
2007	U.S. Patent No. 5,850,617 (“Libby”)
2008	U.S. Patent No. 5,940,803 (“Kanemitsu”)
2009	Declaration of Dr. Gregory Gonsalves, in support of Patent Owner’s Response to Petition
2010	Transcript of Technology Tutorial before the Honorable Carlos E. Mendoza, United States District Judge in the United States District Court for the Middle District of Florida, Case No.: 6:22-cv-2272-CEM-LHP.

CERTIFICATE OF WORD COUNT

Pursuant to 37 C.F.R. § 42.24, the undersigned certifies that the foregoing Patent Owner Response contains less than 14,000 words excluding the table of contents, table of authorities, certificate of service, certificate of word count, and appendix of exhibits. Patent Owner has relied on the word count feature of the word processing software used to create this paper in making this certification.

By: /s/ Jay P. Kesan

Jay P. Kesan

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Counsel for Patent Owner

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on the date indicated below, a complete and entire copy of this submission was served by email to Petitioner's counsel via the email addresses of record as provided in Petitioner's Service Information in the October 11, 2023 Petition submission.

Respectfully submitted,

Dated: July 8, 2024

By: /s/ Jay P. Kesan
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