

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DROPBOX, INC. AND MICROSOFT CORPORATION,

Petitioners,

v.

DATANET, LLC

Patent Owner.

U.S. Pat. No. 10,585,850

Inter Partes Review Case No. 2024-00080

PATENT OWNER RESPONSE

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	DESCRIPTION OF THE DISCLOSURE AND CLAIMS	3
III.	LEVEL OF SKILL.....	10
IV.	WITHDRAWAL OF EXHIBITS 2001 AND RELATED EXHIBIT 2002.....	11
V.	CLAIM CONSTRUCTION.....	11
A.	Limitations 1.4, 10.4, 18.5	12
B.	Limitation 19.5	14
VI.	Overview of Cited References	16
A.	Schneider	16
B.	Crawford.....	16
C.	Sweat	17
VII.	ARGUMENT	17
A.	Response to Ground 1: Obviousness of claims 1, 10, and 18 in view of Schneider	17
1.	The Petition fails to show that limitation 1.4 is taught in Schneider	18
a)	The Petition fails to show that “retrieving the restorable representation of the selected previous version from the remote storage location” is disclosed or suggested in Schneider	18
b)	The Petition fails to show that Schneider teaches or suggests that “retrieving” and “storing” are both “responsive to a selection to restore”	22
2.	The Petition’s broad allegations of obviousness in view of Schneider lack substantial evidence.....	25
B.	Response to Ground 1: Obviousness of claim 19 in view of Schneider.....	31
C.	Response to Ground 1: Obviousness of claim 3 in view of Schneider	32
D.	Response to Ground 2: Schneider in view of Crawford	34
E.	Response to Ground 3: Obviousness of claims 1-8, 10-16, and 18-21 in view of Sweat	36

1. The Petition fails to show that limitations 1.4, 10.4, and 18.5 are taught in Sweat	36
2. Sweat does not teach or suggest “restoring selected another revision of said file following said previewing step” of claim 19.....	38
3. Claims 2, 3, and 11 are non-obvious over Sweat	39
VIII. GROUND 4: CLAIMS 9 AND 17 ARE NOT OBVIOUS OVER SWEAT IN VIEW OF SCHNEIDER.....	40
IX. CONCLUSION	41

LIST OF PATENT OWNER'S EXHIBITS

Exhibit	Description
2001	[WITHDRAWN] Declaration of Zaydoon (“Jay”) Jawadi in Support of Patent Owner’s Preliminary Response
2002	[WITHDRAWN] Curriculum Vitae of Zaydoon (“Jay”) Jawadi
2003	Marc Farley, Building Storage Networks (McGraw-Hill 2000) (excerpts)
2004	Declaration of Zaydoon (“Jay”) Jawadi in Support of Patent Owner’s Response
2005	Curriculum Vitae of Zaydoon (“Jay”) Jawadi
2006	Deposition of David Maier, Ph.D., July 18, 2024

I. INTRODUCTION

Pursuant to 37 CFR § 42.120, Datamet, LLC (“Datamet” or “Patent Owner”) files this response to the Petition and the Institution Decision.

U.S. Patent No. 10,585,850 (the “’850 patent” or the “patent,” EX1001), entitled “Automatic Real-Time File Management Method and Apparatus,” was filed December 15, 2015, and claims priority to provisional application no. 60/234,221 (the “’221 application”), filed September 21, 2000, via a chain of two intervening non-provisional applications. *See* EX1001 at 1, 2. The disclosure of the ’221 application is incorporated by reference into the ’850 patent disclosure. *See id.*, 1:9-10.

The claims of the ’850 patent are directed to methods of restoring a file to a previous version, when a current version of the file is locally available and the previous version is at a remote storage location, with the previous version being obtained from the remote storage location and stored as the current version. *See, e.g.*, EX1001-8:63-9:5 (claim 1).

The Petition primarily relies upon two references to allege obviousness: PCT Publication No. WO99/12101 (“Schneider”) and U.S. Patent No. 7,062,532 (“Sweat”).

Schneider is directed to “reverting a disk drive to an earlier point in time....” EX1005-Abstract. Schneider primarily employs a sector-based recovery method,

which “works by recording the original state of sectors on a disk prior to being changed.” EX1005-12:1-2. As an alternative to this sector-based approach, Schneider also discloses “a file level implementation of the present invention, with tight integration into the operating system” (EX1005-24:7-8), but there is no disclosure in either implementation of Schneider (sector-based or file-based) of retrieving a previous version of a file from a remote storage location responsive to a selection to specifically restore such version, and on this basis Schneider fails to render obvious any of the claims of the ’850 patent. U.S. Patent No. 5,771,354 (“Crawford”) does not cure this issue with Schneider because the combination of Schneider and Crawford, as asserted in the Petition, does not address this missing feature.

Sweat, by contrast, concerns “a project hosting service that a user can access with a web browser. With it, a user can communicate and collaborate with the members of a design team or construction project.” EX1006-Abstract. Because Sweat concerns a collaborative system in which files are typically locked before they are updated on the server, Sweat does not teach or suggest that, in response to selection to restore a selected previous version of a file, retrieving such restorable representation of the selected previous version from a remote storage location and storing the selected previous version as the current version, as a POSITA would understand is contemplated by the claims of the ’850 patent.

II. DESCRIPTION OF THE DISCLOSURE AND CLAIMS

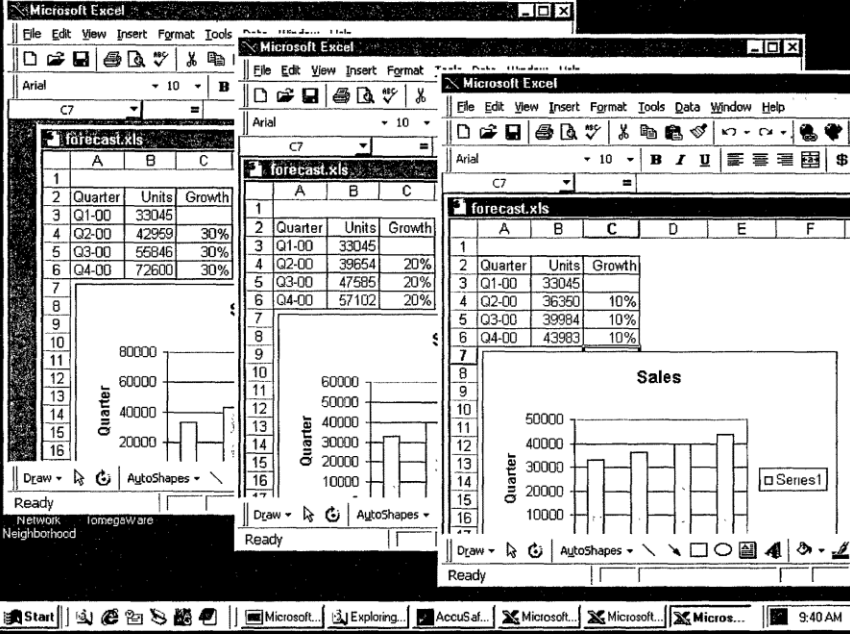
The '850 patent is directed to restoring a locally available file to a previous version of the file, in which the previous version is obtained from a remote storage location and the restored version becomes the current version. EX1001-8:63-9:28 (claim 1). The method of restoring a file includes providing the ability for a user to preview a collection of remotely-available, backed-up versions of a particular file, selecting one of those versions in order to preview the selected version of the file, and, ultimately, if the previewed version of the selected file is the desired version, restoring that version of the selected file in response to selection thereof. The selected version of the file is then obtained from the remote storage location and stored on the user's computer as the current version, which is also then reflected back on the remote storage location as the current version.

An embodiment of such a file restoration method is depicted in various figures from the '221 application, which illustrate a prototype AccuSafe product configured to enable selective backup file previewing and retrieval, as reproduced in the following.

By way of a use-case background, a user may develop various versions of a spreadsheet. These versions evolve in time, with various evolutions of the most current version on the local machine being automatically captured and respectively

stored as versions in the remote storage location. In the example provided, a user accidentally overwrites the previous versions with later versions:

Example use-case scenario



User develops 3 versions of a spreadsheet, accidentally overwriting the previous versions with the later versions...

7/27/00

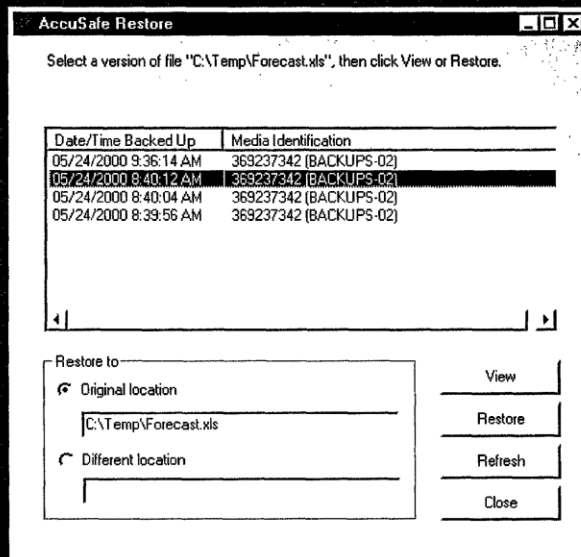
AccuSafe -- IPCI Confidential

28

EX1003-30.

Having discovered this issue, the user may pull up a list of captured versions of the file:

Example use-case scenario



AccuSafe displays the list of revisions it has captured.

The user selects a version from this list, then clicks the View button to determine if this is the version he wishes to restore...

7/27/00

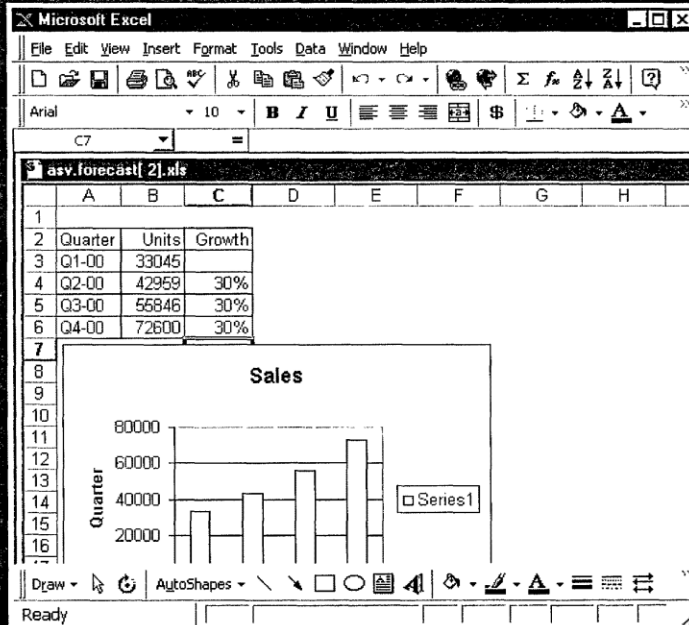
AccuSafe -- IPCI Confidential

30

EX1003-32.

Using the provided interface, the user may select a particular prior version of the file and select the "View" option to preview that particular version of the file before formally restoring the file from the remote storage location:

Example use-case scenario



AccuSafe displays the revision selected, using the application that created the file.

If this isn't the version that the user wanted...

7/27/00

31

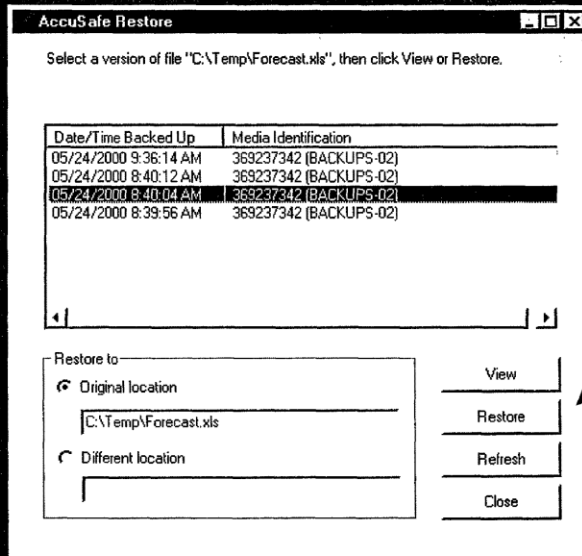
AccuSafe -- IPCI Confidential

EX1003-33.

If the user wishes to preview a different version of the file, they can close the preview view and select "View" on a different version of the file using the same user interface. EX1003-34.

Having found the desired version of the file to restore, the user can select the "Restore" button to restore the file:

Example use-case scenario



The user has verified this to be the proper revision to restore, so the user clicks Restore to retrieve his file.

7/27/00

AccuSafe -- IPCI Confidential

34

EX1003-36.

In response to selecting the "Restore" button, the selected earlier version of the file is retrieved from the remote storage location and stored as the current version at the local storage location:

Example use-case scenario



7/27/00

AccuSafe -- IPCI Confidential

36

EX1003-38.

Thereafter, when a user makes changes to the restored version on the local machine, such changes are reflected back in the remote storage location so that the current version on the local machine is also present as a corresponding current version in the remote storage location. *See* EX1003-139 (“AccuSafe constantly monitors the Windows OS for file activity. File information is available and responded to in AccuSafe when a file is opened, copied, deleted, renamed, moved or created.”); EX1003-147 (“prior to actually restoring the file, the restoration process should determine if the backed up file will overwrite a file of the same

name on the users PC, and if so, if the version of the file on the users PC is on the top level of the AccuSafe revision ‘stack’. If such is not the case, AccuSafe must first backup the users file to the AccuSafe Media Device, then perform the restoration function. This will assure that no version of a file is lost as a result of the restoration process.”); EX1003-140 (“AccuSafe records the file properties and then does nothing until the user either closes the file without change, or makes a change and saves the file. When the save operation occurs, AccuSafe informs the IntelliQueuer that the file will require copying to the AccuSafe drive.”).

Claim 1 is reproduced for reference, with element numbers adopted from the Petition:

[1.1]	A method of restoring a file to a previous version of the file, a current version of the file being available at a local storage location, comprising the steps of:
[1.2]	(A) presenting information for a collection of one or more previous versions of the file, the information for the collection including information indicative of at least one or more of previous versions of the file, wherein a restorable representation of each version, V, of the previous versions, is retrievable from a remote storage location, the restorable representation having at least information required for recovering the version V by a computational machine with the current version being accessible, the remote storage location being accessible through a network;
[1.3]	(B) responsive to a selection to preview a selected previous version of the file based on the presented information for the collection of (A), presenting a presentable representation of the selected previous version, the selected previous version being one of the previous versions of the file in the presented information for the collection, the presentable representation having at least information required for presenting at least a portion of the selected previous version by the computation machine with the current version being accessible; and

[1.4]	(C) responsive to a selection to restore the selected previous version, retrieving the restorable representation of the selected previous version from the remote storage location and storing the selected previous version by the computational machine as the current version on the local storage location, the selected previous version available from the restorable representation of the selected previous version.
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Claim 19 is also reproduced for reference, with element numbers from the

Petition:

[19.1]	A method of restoring a file to a previous version of the file, a current version of the file being available at a local storage location, comprising the steps of:
[19.2]	(a) receiving a request to display a list of captured revisions for a file; (b) displaying a list of captured revisions for said file;
[19.3]	(c) receiving a selection from said list indicating a revision of said file to restore; (d) previewing selected revision of said file, wherein said selected revision of said file is received from an Internet storage area network;
[19.4]	(e) receiving another selection from said list indicating another revision of said file to restore; (f) previewing selected another revision of said file wherein said selected another revision of said file is received from a network attached storage location; and
[19.5]	(g) restoring selected another revision of said file following said previewing step in (f), optionally, decrypting said selected revision of said file prior to step (d) and decrypting said selected another revision of said file prior to step (f).

III. LEVEL OF SKILL

Petitioner asserts that a person of ordinary skill in the art (“POSITA”) would, *inter alia*, “have held a bachelor’s degree in computer science, electrical engineering, computer engineering, or a closely related field, and one or more years of experience in the design and development of file management, restoration,

and archival systems.” Pet. 13. For purposes of these proceedings only, Patent Owner agrees to this definition proposed in the Petition.

IV. WITHDRAWAL OF EXHIBITS 2001 AND RELATED EXHIBIT 2002

According to Patent Trial and Appeal Board Consolidated Trial Practice Guide (Nov. 2019) (“Practice Guide”):

If a trial is instituted, a patent owner may choose not to rely on testimony submitted with the preliminary response. In that case, the patent owner should advise the Board of its decision, which can be done by affirmatively withdrawing the testimony in the patent owner response. If a patent owner withdraws a declaration submitted with its preliminary response, that declarant will usually not be subject to deposition on the withdrawn declaration.

Practice Guide § II(C), at 51.

Pursuant to this direction, and as indicated above in the List of Patent Owner’s Exhibits, Patent Owner hereby advises the Board that Patent Owner is withdrawing the testimony of Zaydoon (“Jay”) Jawadi (EX2001) dated February 29, 2024, and related Curriculum Vitae in Exhibit 2002, that were submitted with Patent Owner’s Preliminary Response (Paper 7). Patent Owner submits a declaration of Zaydoon (“Jay”) Jawadi, dated August 2, 2024, herewith, as Exhibit 2004, and an accompanying Curriculum Vitae as Exhibit 2005.

V. CLAIM CONSTRUCTION

Inter partes review proceeds under the claim construction standard outlined in *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (*en banc*). 37 C.F.R.

§ 42.100. According to *Phillips*, when construing a term, the “objective baseline” is the “ordinary and customary meaning,” which is “the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention.” 415 F.3d at 1303, 1312-13. “[T]he best source for understanding a technical term” is a patent’s intrinsic evidence, which includes the patent and its prosecution history. *Id.* at 1315 (internal quotations omitted). However, because the prosecution history represents an “ongoing negotiation ... rather than the final product of that negotiation, it often lacks the clarity of the specification and thus is less useful for claim construction purposes.” *Id.* at 1317. Additionally, if a term is fairly susceptible of two constructions, the construction that conforms to the actual invention should prevail. *See id.* at 1322 (citing *Smith v. Snow*, 294 U.S. 1, 14 (1935)).

A. Limitations 1.4, 10.4, 18.5

Limitations 1.4, 10.4, and 18.5 (using element numbers from the Petition) each recite “responsive to a selection to restore the selected previous version, retrieving the restorable representation of the selected previous version from the remote storage location and storing the selected previous version [by the computational machine]¹ as the **current version** on the local storage location, the selected

¹ Bracketed portion not present in claim 10.

previous version available from the restorable representation of the selected previous version.”

In accordance with the claimed invention of the ’850 patent as disclosed in the ’221 application, when a user makes a change to a file on the user’s PC, or restores such a file to a previous version present in the AccuSafe drive, the resultant version of that file (that is, the version resulting from the change or the restoration procedure that subsequently resides on the user’s computer), is also reflected back in the AccuSafe drive so that the now-current version on the user’s PC is again also present in the AccuSafe drive as the most current version therein. EX2004 ¶ 60; *see also* EX2006-94:4-19 (AccuSafe’s ability to restore “a previous version of the file prior to it being overwritten.”).

A POSITA would therefore understand that the term “storing the selected previous version by the computational machine as the current version on the local storage location,” in view of the ’221 application disclosure, means that the version of a file now present on the user’s PC also has a corresponding version on the remote storage location, each of them corresponding to the other and being the most recent version in time of such file. EX2004 ¶ 61.

Since the term “storing the selected previous version [] on the local storage location” encompasses the concept of merely overwriting the file on the local storage location with the selected previous version from the remote storage

location, the above construction is necessary to give full meaning and effect to the term “as the current version,” which would otherwise read out this limitation.

Warner-Jenkinson Co., Inc. v. Hilton Davis Chemical Co., 520 U.S. 17, 29 (1997)

(“[e]ach element contained in a patent claim is deemed material”); EX2004 ¶ 62. A

POSITA would understand that in the file restoration system and method of the

’850 patent, “versioning” of files resident on the AccuSafe drive is an important

feature of the underlying system. EX2004 ¶ 62. That is, chronologically tracking

how files evolve in time as recorded on the AccuSafe drive is an important feature

for the user. Ensuring that files currently resident on the local storage location also

have corresponding versions on the AccuSafe drive is similarly important to

providing such functionality, which a POSITA would know. *Id.* Hence, in the

context of the claims and underlying disclosure, “current version” means more

than mere overwriting a local version, but also means keeping parity between the

file on the local storage location and the versioning system of the remote storage

location.

B. Limitation 19.5

Limitation 19.5 (using element numbers from the Petition) recites “restoring selected another revision of said file following said previewing step,” which is set forth within the claimed context of “[a] method of restoring a file to a previous

version of the file, a current version of the file being available at a local storage location...” EX1001-12:9-11.

As noted above, the sole disclosed embodiment of the invention discloses that a “current version” of a local file is also reflected in the remote storage location. A POSITA would understand that, in the context of the ’850 patent disclosure, the claimed method of “restoring a file to a previous version of the file, a current version of the file being available at a local storage location” means that the “current version” of such file will be updated or replaced, *e.g.*, “restored,” with the “selected another revision of said file,” and thus the “current version” of the file, as recited in the preamble, will be the “selected another revision of said file.” EX2004 ¶ 64. *See Metabolite Lab., Inc. v. Laboratory Corp.*, 370 F. 3d 1354, 1362 (Fed. Cir. 2004) (claim preamble can provide context for claim construction).

As with limitation 1.4, since the “current version” is also reflected in the remote storage location (in the context of claim 19, the “Internet storage area network”), a POSITA would understand the term “restoring selected another revision of said file following said previewing step” to mean that the “selected another revision of said file” becomes the most recent version in time on both the local machine and the “Internet storage area network.” EX2004 ¶ 65.

VI. Overview of Cited References

A. Schneider

Schneider concerns reverting a disk drive to an earlier point in time. EX1005-Abstract. Schneider discloses use of a circular buffer to store changes made to a disk that stores old disk data before being overwritten by new data, as well as metadata concerning such disk changes, *e.g.*, the time when new data overwrites old data, and the original location of the data. *Id.*

To recover historical states of the disk, Schneider creates a virtual disk drive, the contents of which are created by combining the contents of the disk with information from the circular buffer to recreate an image of the disk at a desired point in time. *See* EX1005-15:21-29. A user may copy data from this virtual drive to the disk or use it to restore the disk entirely to the selected prior state. *See* EX1005-16:1-21.

B. Crawford

Crawford discloses providing Internet-based computer services, such as virtual storage and compute services, to a user's computer. EX1009-Abstract. Crawford contemplates that the remote virtual storage services could be useful for backup or archiving purposes. EX1009-8:38-40. In one instance, a user can configure the Crawford system for backup purposes by defining certain backup parameters, "Backup Option Flag, Incremental Flag, Full Backup, Backup File List The backup option flag is used to indicate a backup request. Backup can be incremental, full

backup or based on a file list. File list includes target location information.”

EX1009-33:2-6.

C. Sweat

Sweat discloses a “project hosting service that a user can access with a web browser. With it, a user can communicate and collaborate with the members of a design team or construction project.... A user can view or download files from anywhere in the world to work on them, while locking the file to prevent others from overwriting the file. When the user is done, the file can be uploaded and unlocked while simultaneously notifying other Project members of the change by e-mail.” EX1006-Abstract.

VII. ARGUMENT

A. Response to Ground 1: Obviousness of claims 1, 10, and 18 in view of Schneider²

Limitation 1.4 recites, *inter alia*, “**responsive to** a selection to restore the selected previous version, retrieving the restorable representation of the selected previous version **from the remote storage location and storing the selected previous version as the current version....**” In other words, retrieval of the

² Although claim 1 is specifically discussed in the following, the arguments presented herein are equally applicable to independent claims 10 and 18, *i.e.*, limitations 10.4 and 18.5.

previous version of a file from the remote storage location, and its storage as the current version, are both made in response to, and thus chronologically after, the selection to restore such previous version. The Petition has not established that any selected previous version is retrieved from a remote storage location *in response to* a selection to restore such previous version, and further that both retrieval and storage are both responsive to the selection.

1. The Petition fails to show that limitation 1.4 is taught in Schneider

The Petition has failed to establish why limitation 1.4 would be obvious in view of Schneider.

a) The Petition fails to show that “retrieving the restorable representation of the selected previous version from the remote storage location” is disclosed or suggested in Schneider

The sum total of the Petition’s argument actually directed to limitation 1.4 is as follows:

A POSITA would have understood this to involve retrieving the restorable representations from the remote storage location and storing it locally because Schneider discloses restoring past files by replacing the current file with the recovered file. EX1005, 130:11-13, 15:20-16:21, Fig. 2, EX1004, ¶71. Schneider discloses selecting a previous version of a file in order to restore it and store it as the current file version, e.g. by allowing a user to select the previous version from a displayed list of available stored previous versions. EX1005, 130:10-13. As explained above for element [1.1/10.1], Schneider discloses storing the current version by the local computer on the computer’s local drive, i.e., a local storage location. EX1004, ¶71.

Pet. 29-30.

The entire purported support for the Petition’s allegations of disclosure is taken from Schneider at EX1005-15:20-16:21, EX1005-130:11-13 and EX1005-Fig. 2, and paragraph 71 of the expert declaration of David Maier (EX1004). *Id.*

Addressing each in turn, it is clear that none of these citations supports the conclusion that Schneider discloses a selected previous version *being retrieved from a remote storage location in response to selection to restore such previous version*, as required of limitation 1.4.

15:20-16:21 of Schneider lays out an “Information Recovery Process [a]s illustrated in Figure 2....” EX1005-15:20-21. For reference, Figure 2 of Schneider is reproduced below:

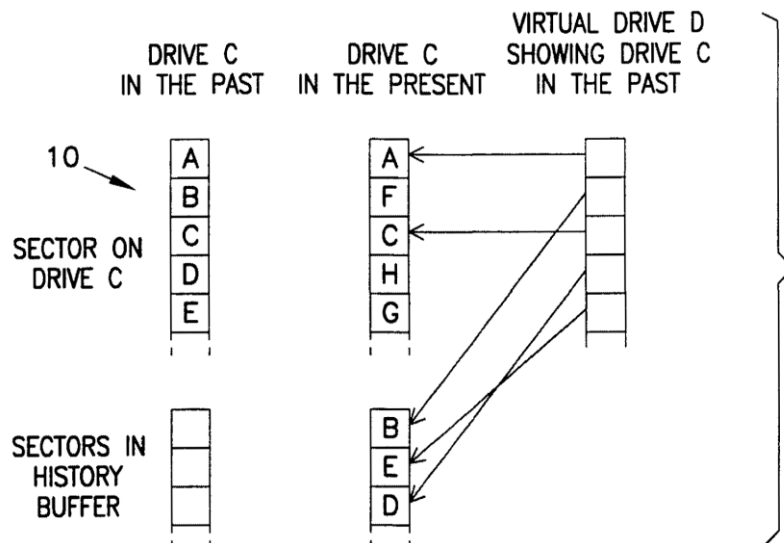


FIG. 2

EX1005, Fig. 2.

According to this portion of Schneider, “[t]he technology of the present invention assumes the system can support another drive D, which instead of being a real disk drive, is a simulated or virtual drive whose image is created by combining information on the original drive C and the history buffer (which is typically part of drive C).” EX1005-15:23-26. This history buffer of Figure 2 *is thus local to the user’s computer* and so cannot facilitate retrieval from a *remote storage location*. See also, EX1005-7:15-18 (history buffer (intermixed with operating system (“OS”) data) “relies on re-mapping of disk locations between the OS and the actual hard disk.”), 10:17-20 (allocating 10% of local disk space toward the history buffer). The history buffer of Figure 2 and EX1005:15:20-16:21, cited in the Petition, is thus not a remote storage location as required of the retrieval operation of limitation 1.4.

130:11-13 of Schneider does not cure this deficiency, stating simply:

Hooking into or supplementing the directory and file presentation means of an OS, and allowing the user to view a list of earlier versions of a file. **A selection can be made from the list and the recovered file either replaces the current version or is copied to a new file.** The list is generated from the OS’s file activity that is logged by the engine. For a given file, the engine constructs a list of a file’s available earlier versions by scanning its log, and following the path, for the selected file, of its file modifications, file renames, and file moves (from one directory to another).

EX1005-130:10-17 (sentence at EX1005-130:11-13 highlighted). As for the “OS’s file activity that is logged by the engine” referenced in this excerpt, such language simply refers back to page 59 of Schneider, in which it is disclosed that:

the act of selecting a file to retrieve from a list, wherein the list is constructed from information in the general log, can automatically lead to the steps of creating the appropriate simulated disk, copying the file, and closing (de-activating) the simulated disk.

EX1005-59:12-16. The “general log,” in turn, is discussed on page 58 of Schneider, in which it is explained that “[i]n addition to tracking the original states of changed pages the engine must also track various other data. For example file activity (open and closes), program activity (launches), system boots, keystrokes and mouse activity, as well as other information.” EX1005-58:20-23; *see also* EX1005-7:15-16 (history buffer intermixed with OS data), 14:27-15:18 (“Other Information Kept in the History Buffer”). In other words, this “general log” is local to the user’s computer as part of the history buffer, and hence none of the citations to Schneider proffered in the Petition in connection with limitation 1.4 discloses a selected previous version being retrieved *from a remote storage location* in response to selection to restore such previous version.

Paragraph 71 of the expert declaration of David Maier does nothing to cure this deficiency either, as it simply recites to the same portions of Schneider as the Petition quoted above, and then *assumes the conclusion* by arguing “[a] POSITA would have understood that recovering a previous file version from a remote

storage location would include processes for searching, locating, and returning that file version in order to transfer the file to the user's computer." EX1004 ¶ 71. No analysis or explanation is provided as to why the local history buffer recited in the relied-upon portions of Schneider can be understood to be from a remote storage location, and no attempt is made to explain why it would otherwise be obvious.

The Petition has thus failed to identify, with particularity, evidence to support the conclusion that limitations 1.4, 10.4, and 18.5 are obvious in view of Schneider. 35 U.S.C. § 312(a)(3); 37 C.F.R. § 42.104(b)(4) ("petition must specify where each element of the claim is found in the prior art patents or printed publications relied upon"); *see also Intelligent Bio-Sys., Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1369 (Fed. Cir. 2016) ("It is of the utmost importance that petitioners in the IPR proceedings adhere to the requirement that the initial petition identify with particularity the evidence that supports the grounds for the challenge to each claim.") (internal quotations omitted).

b) The Petition fails to show that Schneider teaches or suggests that "retrieving" and "storing" are both "responsive to a selection to restore"

Limitation 1.4 recites "responsive to a selection to restore the selected previous version, retrieving the restorable representation ... and storing [it] ... as the current version" The plain language of this limitation requires that the "retrieving" step

and the “storing” step are *both* responsive to the “selection” step. The Petition fails entirely to particularly point out how this is disclosed or suggested in Schneider.

As noted above, the entirety of the Petition’s argument concerning limitation 1.4 relies upon citing to EX1005-130:11-13, EX1005-15:20-16:21, EX1005-Fig. 2, and EX1004 ¶ 71. None of these citations supports the contention that both “retrieve” and “store” steps are “responsive to” the selection step, as individually addressed below.

EX1004 ¶ 71 says little more than the excerpt from the Petition at pages 29-30 quoted above, relying upon the same citations to Schneider, and makes no effort to show that both the retrieving and storing steps as allegedly disclosed in Schneider are *both responsive to* the selection step. All EX1004 ¶ 71 has to say on this score is that “[a] POSITA would have understood that recovering a previous file version from a remote storage location would include processes for searching, locating, and returning that file version in order to transfer the file to the user’s computer,” which fails to address the requirement that such “returned file” is not merely “transferred” but must be stored “as the current version” in response to the selection step, in accordance with limitation 1.4.

The citations to Schneider do not correct this deficiency. Figure 2 of Schneider, reproduced above, simply “illustrates the operation of the history buffer to restore a virtual drive that reflects the state of another drive at a previous point in time”

(EX1005-8:13-14), and discloses nothing of “retrieving the restorable representation ... and storing [it] ... as the current version,” responsive to a selection step.

EX1005-15:20-16:21 outlines Schneider’s “Information Recovery Process,” making explicit reference to Figure 2. EX1005-15:20-21. As previously discussed, this portion of Schneider “assumes the system can support another drive D,” which “is a simulated or virtual drive whose image is created by combining information on the original drive C and the history buffer (which is typically part of drive C). The process of looking back in time involves setting a reference time for drive D and then simply accessing it as if it really was another physical disk drive whose contents had been copied from drive C at the specified time.” EX1005-15:23-29. According to Schneider, “one could set the time for drive D to 11:30, open a desired ‘old’ file, decide they want an even earlier version, adjust the time back to 11:15, and try again.” EX1005-16:1-3. Nothing in this teaches or suggests “retrieving the restorable representation ... **and** storing [it] ... as the current version,” in which both are responsive to a selection step.

Finally, EX1005-130:11-13 states that “[a] selection can be made from the list and the recovered file either replaces the current version or is copied to a new file.” This does not teach, however, that *in response to* such selection, to both (a) retrieve the restorable representation of the selected previous version from the remote

storage location and (b) store the selected previous version as the current version on the local storage location, as recited in limitation 1.4.

2. The Petition's broad allegations of obviousness in view of Schneider lack substantial evidence

As discussed above, the relevant portions of the Petition specifically directed to limitation 1.4 do not explain why this limitation is obvious over Schneider, or why it would be obvious to modify Schneider to meet limitation 1.4. The Petition does, however, make more general allegations of obviousness at the outset, which are based upon Schneider's "External Backup" disclosure from EX1005-108:15-114:7. *See, e.g.*, Pet. 16-18. This theory relies on two aspects of Schneider: (1) Schneider's "file-level data recovery, allowing a user to select a prior version of a specific file and recover only the data for that file at a specific point in time" (*citing* EX2005-23:29-24:6); and (2) Schneider's disclosure of "maintaining historic data on a separate 'external disk' remotely accessible via a network" (*citing* EX1005-112:26-114:7). Pet. 16.

In support of this theory, the Petition primarily relies upon Figures 47A-I of Schneider, which disclose various stages in a synchronization operation between internal and external drives (in which the external drive may be on a server). *See* Pet. 17-18; *see also* EX1005-108:15-114:7. Fundamentally, Schneider seeks to keep the current image and history buffer of both the internal and external disks synchronized (as illustrated in EX1004-Figure 47I). *See* Pet. 17 ("over time the

external disk mirrors the same data contained in the internal disk, thereby providing an effective backup of the disk.”). Such synchronization provides redundancy in case of failure of the internal disk. *See* EX1005-110:11-13; EX1004 ¶ 62. The Petition then concludes that “a POSITA would have found it obvious to implement a system with the current versions of files stored locally on the user’s PC and the historic versions on an external drive accessible via a network.” Pet. 18.

Regardless of the merits of this conclusion, it does not address the fact that, even under this theory, Schneider does not teach “*responsive to a selection to restore the selected previous version, retrieving the restorable representation of the selected previous version from the remote storage location,*” recited in limitation 1.4. EX2004 ¶¶ 85-87.

According to Schneider, “a prior state of the disk can be reconstructed by combining the current image with the appropriate data in the history buffer. (Of course, you can only go back in time as far as prior states have been saved in the history buffer.)” EX1005-38:30-40:3. However, regardless of where the image and history buffer may be located, reconstruction of the disk (or file) is performed *locally*, on the user’s computer. EX2004 ¶¶ 88-95; EX1004 ¶ 52 (“history buffer allows a user to recover data of a Drive C by looking back to a prior reference time by *creating a simulated Drive D* that combines unchanged data from the current Drive C with archived data from the history buffer.”) (emphasis added); EX1005-

146:1-9 (“method for managing data *within a computing system* having a data storage device containing original data comprising... form[ing] a virtual storage device”) (emphasis added); EX1005-Abstract (“The method and apparatus may be implemented as part of an operating system, or as a separate program, or in the controller for the disk drive.”).

For example, a POSITA would understand that the software that implements Schneider’s file restoration functionality actually executes locally on the user’s computer. EX2004 ¶¶ 88-90, 92; *see also* EX2006-100:11-15 (“Schneider contemplates having this version capability accessible from, say, of a tool such as Microsoft -- or Microsoft Explorer where there’s a file list that a user can select from.”). As for file restoration, Schneider discloses that such functionality “allow[s] the user to select a file that can be retrieved from the past, and to automatically launch the appropriate application to view the file, referencing either the file on a simulated disk or copying the file from a simulated disk to a temporary directory.” EX1005:60-21-24. A POSITA would know that both of these locations, “simulated disk” and “temporary directory,” are local to the user’s computer. EX2004 ¶¶ 91, 93. A POSITA would also understand that Schneider’s disclosure of “automatically launch[ing] the appropriate application to view the file” provides further evidence that a restored file, which is locally present, is being viewed. EX2004 ¶ 100; *see also* EX2006-102:4-8 (Schneider’s viewing

functionality means “get[ting] a particular application running” on the user’s computer).

With specific respect to Schneider’s “File Method” for data recovery, relied upon by the Petition, such “method calls for integrating the process of saving and retrieving original states of altered information *directly into the OS’s filing system.*”

EX1005-34:16-17. “The File Method is one in which the functionality of saving prior states such that one can restore or view data from the past *is incorporated into the OS.*” EX1005:102:7-8. According to Schneider:

In a file level implementation of the present invention, *with tight integration into the operating system*, the method and understanding by the user of retrieving information may significantly differ, although is still based on the principal of saving original states of recent changes. For example, an operating system may simply present the user with a list of prior states for a given file, and allow any to be copied forward.

EX1005-24:7-12 (emphasis added). A POSITA would therefore understand Schneider to be disclosing that that the prior version of files is generated on the local computer, regardless of where the underlying data may originate. EX2004 ¶ 95.

As also noted by the Petition (*see* Pet. 28), Schneider discloses:

that it is useful to allow the user to select a file that can be retrieved from the past, and to automatically launch the appropriate application to view the file, *referencing either the file on a simulated disk or copying the file from a simulated disk to a temporary directory.* (The contents of this temporary directory, when no longer in use, are eventually automatically purged.) This

allows the user to not only know of the existence of an old version of a file, but to view its contents without actually formally retrieving the file, as the viewed file is automatically discarded.

EX1005-60:21-28 (emphasis added). A “simulated disk” is one created by the local machine’s OS and is thus local. *See* EX1005-15:23-30 (invention assumes local system can support a virtual drive created by combining information of local drive with information from history buffer); EX1004 ¶ 52; EX2004 ¶ 91. However, per the discussion of Schneider’s “File Method” above, all such reconstructed prior versions of a file are reconstructed *locally*, and, per the quote above, these local reconstructions *are stored locally*, in either a simulated disk (as provide by the local OS) or a temporary directory, for viewing purposes. EX2004 ¶¶ 95-96.

Because all prior history versions of files are generated locally, when it comes time to view such reconstructed prior versions of files, this is also done with the *locally generated* files. EX2004 ¶ 96. Indeed, the excerpt immediately above relied upon by the Petition (Pet. 28) demands exactly this understanding. Petitioners’ expert seems to have come to the same conclusion. *See* EX1004 ¶ 69 (“by providing a temporary view of prior versions that can be viewed simultaneously with the current version of a file, the system taught by Schneider presents a presentable representation of the selected previous version...”). The Petition only further confirms this understanding in its arguments in connection with claim 3, when it states, “a POSITA would understand Schneider to, when previewing a file

with an appropriate application, operate the application in read-only mode because the previewed file *is stored in a temporary directory....*” Pet. 31 (emphasis added).

Given that the prior versions of a file are reconstructed and present on the local computer, a POSITA would understand that the act in Schneider of restoring one of these earlier version in response to a request by the user to do so would involve copying or moving the *local copy of the prior version* to the locations specified by the user, which could be the current version of the local file. EX2004 ¶¶ 87, 98-99.

This is confirmed by Schneider:

Hooking into or supplementing the directory and file presentation means of an OS, and allowing the user to view a list of earlier versions of a file. A selection can be made from the list and *the recovered file either replaces the current version or is copied to a new file*. The list is generated from the OS’s file activity that is logged by the engine. For a given file, the engine constructs a list of a file’s available earlier versions by scanning its log, and following the path, for the selected file, of its file modifications, file renames, and file moves (from one directory to another).

EX1005-130:10-17 (emphasis added).

Although the Petition cites to the above in its contention that limitation 1.4 is obvious, it does nothing to address the issue that file recovery in Schneider is based upon locally-generated files, and therefore does not teach or suggest “*responsive to a selection to restore the selected previous version, retrieving the restorable representation of the selected previous version from the remote storage location,*” as recited in limitation 1.4. EX2004 ¶¶ 85, 97-98. All the Petition has to say on this

score is to assume the conclusion, alleging “[a] POSITA would have understood this to involve retrieving the restorable representations from the remote storage location and storing it locally because Schneider discloses restoring past files by replacing the current file with the recovered file” (Pet. 49), ignoring the fact that, as it concluded in connection with limitation 1.3, the previous versions were reconstructed and present *locally*, and thus any restoration must have been via “either replac[ing] the current version or [copying] to a new file” (EX1005-130:12-13) of these *locally-generated* previous versions. This difference is important, as the ’850 patent is directed to restoration of files from remote storage, not from local storage. The Petition makes no effort to explain why such differences would be obvious or why a POSITA would be motivated to make such a change.

The Petition therefore has not advanced any substantial evidence that would permit a conclusion that Schneider teaches or suggests limitation 1.4 in combination with the other limitations of claim 1. EX2004 ¶ 99. For at least these reasons, then, claims 1, 10, and 18 (and their dependent claims 2-9 and 11-17) are patentable over Schneider.

B. Response to Ground 1: Obviousness of claim 19 in view of Schneider

Limitation 19.3 recites, *inter alia*, “previewing selected revision of said file, wherein said selected revision of said file is received from an Internet storage area

network....” The Petition simply refers back to its arguments in connection with limitation 1.3 to support its obviousness contentions. *See* Pet. 43.

However, as shown above in connection with limitation 1.4, all prior history versions of files in Schneider are generated *locally*, even if the underlying data used to generate the versions may be obtained remotely, and thus Schneider does not teach “previewing selected revision of said file, wherein said selected revision of said file is received from an Internet storage area network,” as recited in limitation 19.3. EX2004 ¶ 100.

For at least this reason, claim 19, and its dependent claims 20 and 21, are patentable over Schneider.

C. Response to Ground 1: Obviousness of claim 3 in view of Schneider

Claim 3, depending from claim 2, recites that “the application [that created the file or the selected previous version and used for presenting the presentable representation of the selected previous version] is in a read-only mode.” EX1001-9:33-34.

The Petition’s entire theory as to obviousness is that “a POSITA would understand Schneider to, when previewing a file with an appropriate application, operate the application in read-only mode because the previewed file is stored in a temporary directory with its existence hidden from the user and is subsequently ‘automatically discarded’ (*id.*, 60:27-28). EX1004, ¶74.” Pet. 31-32. Petitioners’

expert adds little more, beyond alleging that “a POSITA would not desire to perform any write operation on such a file that is meant to be discarded and would implement the teachings of Schneider so as to have the viewing application open the file as read-only; that is, a POSITA would restrain the user from updating files that are being previewed, knowing that any such changes would be lost after viewing unless other action were taken.” EX1004 ¶ 74. These subjective conclusions are without merit and constitute hindsight. EX2004 ¶ 102.

Schneider was well-aware of the “read-only” concept and could have mentioned it in the context of previewing but does not. *E.g.*, EX2005-20:10; EX2004 ¶ 104. Schneider mentions two ways in which a file may be retrieved for previewing: using a simulated disk or copying from such a disk to a temporary directory. EX1005-60:23-24; EX2004 ¶ 103. Schneider does not, however, indicate that a file retrieved to a temporary directory is treated any differently than one in a simulated disk, or that a “read-only” mode is used in either case. EX2004 ¶ 103.

Moreover, a POSITA would recognize that even if Schneider were assumed to use some type of “read-only” mode as being desirable for previewing purposes, doing so would be best implemented by way of a read-only *file* or a read-only *directory* – not by launching an *application* in read-only mode, which may not support such a mode in any event. EX2004 ¶¶ 105-106. In any event, a POSITA knows that many applications will, by default, alert a user when exiting the

application if a file has been modified, and as such a mechanism to notify the user against modifications is already built in the application programs. EX2004 ¶ 107. A POSITA would therefore not expect Schneider to be teaching or suggesting that an application be launched in read-only *mode* to preview a file.

The mere fact that a file may be located in a temporary directory does not force the conclusion that any application opening such file would do so only in read-only mode. A POSITA knows that many applications make use of temporary directories to create or modify files, and that such files may thereafter be moved to a different location after such creation or modification, either automatically or in response to user input. EX2004 ¶¶ 108-109. Moreover, the application used to open and present a file to the user would not necessarily know that such file is located in a temporary directory. EX2004 ¶ 110. A POSITA would therefore expect that the application would open the file in a normal mode – that is, to allow both reading and writing operations of the file. EX2004 ¶¶ 108, 111.

Claim 3 is thus non-obvious over Schneider.

D. Response to Ground 2: Schneider in view of Crawford

The primary reason for the Petition’s reliance on Crawford is to substitute the local area network (“LAN”) disclosed in connection with Figure 47G in Schneider with the internet, *i.e.*, a wide area network (“WAN”). *See* Pet. 45, 48. According to the Petition, “[a] POSITA would have been motivated to modify the file back-up

and restore system of Schneider to include an Internet data link to a remote storage device as taught by Crawford. A POSITA would have done so to achieve the benefits explained for claim [1.2.ii/10.2.ii] for Ground 1 above....” Pet. 48.

Even assuming *arguendo* that it would, in fact, have been obvious to use a WAN instead of a LAN in the network and related methods discussed in relation to Figure 47G of Schneider, such a substitution in no way addresses the infirmities noted above as to limitation 1.4. EX2004 ¶¶ 113-114. Regardless of whether the data from Schneider’s server in Figure 47G arrives over a LAN or a WAN, it still does not change the fact that, ultimately, all prior version of files in Schneider are reconstructed on the local machine, both for previewing and restoring purposes, and hence the combination of Schneider and Crawford still does not teach “*responsive to a selection to restore the selected previous version, retrieving the restorable representation of the selected previous version from the remote storage location,*” as recited in limitations 1.4, 10.4, and 18.5, nor does it address the deficiency of Schneider with respect to limitation 19.3 of “*previewing selected revision of said file, wherein said selected revision of said file is received from an Internet storage area network....*”

Claims 1-21 are thus patentable over Schneider in view of Crawford.

E. Response to Ground 3: Obviousness of claims 1-8, 10-16, and 18-21 in view of Sweat

1. The Petition fails to show that limitations 1.4, 10.4, and 18.5 are taught in Sweat³

Limitation 1.4 recites, *inter alia*, “storing the selected previous version by the computational machine as the **current version** on the local storage location...”

As explained in the Claim Construction section above, a POSITA would understand the term “current version” in limitation 1.4, 10.4, and 18.5 to mean the most recent version in time on both the local machine and at the remote storage location. EX2004 ¶¶ 59-62. The Petition has failed to establish why limitation 1.4, when properly construed, would be obvious in view of Sweat.

Sweat discloses a “[m]ethod and apparatus for drawing collaboration on a network” (EX1006, Title), and more specifically “a project hosting service that a user can access with a web browser” (EX1006-1:44-45), with which the user “can communicate and collaborate with the members of a design team or construction project” (EX1006-:46-47) and “share CAD drawing files (DWG DWF, etc.), document files, or any other type of file.” EX1006-1:47-48.

³ As above, claim 1 is specifically discussed in the following, but the arguments presented herein are equally applicable to corresponding limitations in independent claims 10 and 18.

A POSITA would have understood from the teachings of Sweat that, in order for the user to retrieve a previous version of a file (and not merely to preview the previous version), the user must perform at least the following three steps: (1) “the user selects the desired version” (EX1006-10:55-56), (2) the user “clicks a ‘Download’ button” (EX1006-10:60-61; and (3) “the user identifies/selects the target location to save the selected file” (EX1006-10:61-62) so that “[t]he file is then copied to the location specified.” EX1006-10:62-63; EX2004 ¶ 117.

However, a POSITA would also know that these steps do not ensure that the retrieved version is the current version, as the term “current version” is properly understood in the context of the claims of the ’850 patent. That is, after the “download” step referenced above, the version of the file present on the user’s computer will not also have a corresponding version on Sweat’s server system, such that each of these files (remote and local) correspond to the other and are the most recent versions in time of such files, as required by limitation 1.4. EX2004 ¶ 118.

To ensure that the version on the local computer and the remote server both correspond to each other and are the most recent versions in time, a POSITA would know that a user in Sweat would have to perform an additional, manual, “Update File” step, which Sweat discloses is used “to complete the editing process. As a result, a new version is stored with the user’s updates.” EX1006-6:52-54; EX2004

¶ 119. Only after this “Update File” step would the versions on both the local storage location and remote storage location be the most recent versions in time for these files, as required of limitations 1.4, 10.4, and 18.5.

Sweat, therefore, does not teach or suggest “*responsive to a selection to restore the selected previous version, retrieving the restorable representation of the selected previous version from the remote storage location and storing the selected previous version by the computational machine as the current version on the local storage location,*” as required by claims 1, 10, and 18. Sweat’s “Update File” step is not “responsive to a selection to restore the selected previous version,” but is, instead, a separate and manual step. EX2004 ¶ 120.

2. Sweat does not teach or suggest “restoring selected another revision of said file following said previewing step” of claim 19

As set forth in the Claim Construction section above, when properly construed, a POSITA would understand that the step in limitation 19.5 of claim 19, reciting “restoring a file to a previous version of the file, a current version of the file being available at a local storage location” means that the “selected another revision of said file” is now the most recent version in time on both the “local storage location” and the “Internet storage area network.” EX2004 ¶ 121.

As set forth above in connection with claims 1, 10, and 18, Sweat does not disclose this feature. In Sweat, a POSITA would know that after the user clicks the “Download” button, as noted above, the resultant downloaded file would not be the

most recent version in time on both the user's computer and Sweat's server system.

EX2004 ¶ 122. Sweat therefore does not teach or suggest independent claim 19.

3. Claims 2, 3, and 11 are non-obvious over Sweat

Claims 2 and 11 each recite “the presentable representation is presented using an application that created the file or the selected previous version,” which concerns the limitation in the respective independent claim of “responsive to a selection to preview a selected previous version of the file based on the presented information for the collection of (A), presenting a presentable representation of the selected previous version,” *i.e.*, limitation 1.3/10.3.

It is noted that for limitation 1.3/10.3, the Petition states: “When a user selects the ‘View in Window’ button, ‘the selected file appears in a separate window’ such that the ‘user sees the contents of the file.’ EX1006, 24:13-19; *see also id.*, 24:6-11; EX1007, 31, 9.” Pet. 60. The Petition thus relies exclusively upon Sweat’s “View in Window” functionality for limitation 1.3/10.3. With respect to this view functionality, Sweat states:

To view project files including drawing files and markup files, a user must install the appropriate viewer to open and view drawing files. Client computer 104 may use the same plug-ins and ActiveX controls that a browser 108 uses to display files. If a user can't see the drawing files (DWG, DWF, or DXF) when loaded into a browser, the user may not be able to view them. One or more embodiments of the invention work with Autodesk WHIP!® Viewer and Volo™ View Express. Users can view files from anywhere around the world, but the drawing file formats that the user is able of viewing depends on the viewer that is installed on

the computer. To find out which viewer is installed, in the View tab, right-click, and then choose About.

EX1006-23:39-51.

Sweat thus discloses the use of specialized viewing software to view the related file. Sweat, as quoted above, specifies that a “viewer” is used, not a program that did or even could create the file, which would be an “editor” or a full program, rather than a mere “viewer.” Claims 2 and 11, by contrast, recite that “the presentable representation is presented using an application *that created the file* or the selected previous version.” It is clear from Sweat that the software used to *view* the files is not the same software that is used to *create* the files. Sweat therefore does not teach or suggest dependent claims 2 and 11. Claim 3 is patentable at least for its dependance upon claim 2.

VIII. GROUND 4: CLAIMS 9 AND 17 ARE NOT OBVIOUS OVER SWEAT IN VIEW OF SCHNEIDER

With respect to Ground 4, the Petition states that “Sweat discloses all limitations of claims 1 and 10....” Pet. 72. The Petition seeks to combine Sweat with Schneider with little more than the gift of hindsight. However, the proposed combination is deficient in any event since, as discussed above, Sweat does not teach or suggest limitations 1.4, 10.4, or 18.5 and the Petition does not (and could not, as previously discussed) rely on Schneider for these limitations. The combination of Sweat in view of Schneider therefore does nothing to alleviate the

deficiencies of Sweat, and claims 9 and 17 are thus not obvious over Sweat in view of Schneider. EX2004 ¶ 123.

IX. CONCLUSION

For the foregoing reasons, the Board should find all challenged claims patentable.

Dated: August 2, 2024

Respectfully submitted,

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212-257-1630

CERTIFICATION UNDER 37 CFR § 42.24(d)

Pursuant to 37 CFR §42.24(d), the undersigned hereby certifies that the word count for the foregoing Patent Owner Preliminary Response totals 8,778 words, which is less than the 14,000 allowed under 37 CFR §42.24(a)(1)(i).

Dated: August 2, 2024

Respectfully submitted,

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212-257-1630

CERTIFICATE OF SERVICE

Pursuant to 37 CFR § 42.205(b), the undersigned certifies that on August 2, 2024, a complete and entire copy of this Patent Owner Response was served on Petitioners by filing through the Patent Trial and Appeal Case Tracking System (P-TACTS) and via email to andrew.mason@klarquist.com, cameron.clawson@klarquist.com, sarah.jelsema@klarquist.com, and frank.morton-park@klarquist.com, as authorized in Petitioners' mandatory notices.

Dated: August 2, 2024

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