

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAP America, Inc.,
Petitioner,

v.

ISIX IP LLC,
Patent Owner.

Case IPR2024-00615
Patent No. 6,308,178

**PATENT OWNER ISIX IP LLC'S PRELIMINARY RESPONSE
UNDER 37 C.F.R. § 42.107**

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PATENT OWNER'S EXHIBIT LIST

Exhibit-2001	Complaint for Patent Infringement (ECF No. 1), Case No. 2:23-cv-00237-JRG, <i>Isix IP LLC v. SAP America, Inc.</i> , filed May 26, 2023.
Exhibit-2002	Defendant SAP's Invalidity Contentions, Exhibit A4 Claim Chart for U.S. Patent No. 5,842,205 (Brann).
Exhibit-2003	Defendant SAP's Invalidity Contentions, Exhibit A1 Claim Chart for U.S. Patent No. 6,208,990 (Suresh).
Exhibit-2004	U.S. Patent No. 7,130,964 to Ims et al.
Exhibit-2005	SAP Website: What is Application Integration?

I. PRELIMINARY STATEMENT

SAP America, Inc. has failed to demonstrate a reasonable likelihood of prevailing with respect to at least one challenged claim. SAP relies primarily upon Brann, which relates to translating data to update executable computer code, and Suresh, which relates to ETL—technology for Extracting data from operational databases, Transforming the data, and then Loading that data into a database called a data warehouse or data mart. Neither Brann nor Suresh relate to integrating data among heterogeneous applications, which is referred to as Enterprise Application Integration or “EAI.”

EAI enables an application (e.g., sales and invoicing) to obtain data from and share data with another application (e.g., inventory management). EAI as claimed in the ’178 patent populates destination *applications* with data that is processed based upon information about source and destination *applications*. Using the same example, the ’178 enables sales and invoicing data to be used by the inventory management system to reflect subtraction of a unit from inventory that was delivered per the sales system.

To find that Brann renders obvious the challenged claims requires equating ***data*** to ***applications*** (*i.e.*, equating source data to source applications and target data to destination applications) and ignoring Brann’s requirement that instructions that integrate applications are *not* stored in a database.

To find Suresh renders obvious the challenged claims requires equating a destination **application** with a data warehouse. The asserted references are directed to gathering data into a common database, without regard to any application accessing the data. Moreover, transformation functionality in Suresh's ETL system is directed by the user, not by the destination application.

The **application integration** technology of the '178 patent integrates data among heterogeneous source and destination **applications** and is beyond the scope of these ETL references. To integrate applications, the subject matter claimed in the '178 patent requires data operations driven by a destination application and populating data within that destination application.

SAP itself distinguishes data integration from application integration:

While both application integration and data integration make information more accessible to the people working with it, **they are not the same thing**. Application integration links applications so that data can flow between them and be acted on across departments, business units, and functions.

Data integration, on the other hand, takes data from different sources and cleanses, formats, and combines it into one data set that can be used to fuel analytics and business insights. Data integration uses a

different set of practices, tools, and architectural procedures to this end.

Ex-2005 (SAP, <https://www.sap.com/products/technology-platform/what-is-enterprise-integration/application-integration.html> (last visited June 27, 2024)) at p. 3 (emphasis added).

The '178 patent distinguishes data integration consistent with SAP in the background of the invention:

Off-the-shelf, front-end integration packages, such as those provided by Cross Worlds or Constellar, are also available to address an organization's integration needs. This software is attached to the heterogeneous source applications and is used to query the source applications to obtain the desired data. Whole files are not transferred from a source application to a destination application for manipulation and use. More importantly, this front-end integration software does not directly integrate with the applications at the destination end, but instead requires a software developer to generate custom code to bridge the gap between the front-end package and the destination applications.

Ex. 1001 at 2:9-20.

Relying upon unrelated prior art, Petitioner fails to provide any evidence for multiple elements of the independent claims including (i) “source applications” and “destination applications,” (ii) “a repository of information relating to source applications and destination applications,” and (iii) “a first module, including a plurality of data elements.” This failure of proof precludes Petitioner from demonstrating a reasonable likelihood of prevailing on at least one challenged claim.

SAP has not met its burden to show the substantive underpinnings of obviousness by failing to articulate the differences between the alleged scope of the Brann and/or Suresh references and the inventions claimed in independent claims 1 and 23. Nor does SAP provide any motivation to combine Brann and Suresh leaving the Patent Owner and the Board to guess as to the missing information and the concomitant motivation to combine.

The Consolidated Trial Practice Guide (“TPG”) and precedential Board decisions provide another compelling basis for denial. Denial of SAP’s petition is appropriate under *Apple Inc. v. Fintiv, Inc.* and *NHK Spring Co., Ltd. v. Intri-Plex Tech., Inc.* in view of the advanced district court litigation that “implicates considerations of efficiency and fairness” and favors institutional denial. *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 15 at 11 (precedential); *see also* TPG, November 2019 (*available at* <https://www.uspto.gov/TrialPracticeGuide>

Consolidated) at 58; *NHK Spring Co., Ltd. v. Intri-Plex Tech., Inc.*, IPR2018-00752, Paper 8 at 20 (precedential); *Apple Inc. v. Pinn, Inc.*, PGR2020-00066, Paper 16.

The parallel district court case is well underway. The parties started the claim construction process in May 2024, and the District Court will conduct a *Markman* hearing in September 2024. Fact discovery is underway and closes on October 28, 2024. Denial of SAP's Petition is appropriate under § 314(a) in view of the advanced state of the district court case and the resources already spent and dedicated by the court and parties. *See Fintiv*, Paper 15; *NHK*, Paper 8.

II. BACKGROUND

A. The '178 Patent

The '178 patent is a system for integrating various disparate applications so that an application can request and receive data from another application without creating customized integration software. In the '178 patent, application middleware is a “configurable software system for providing migration of data *among heterogeneous applications* without requiring the development of code to accommodate the specific requirements of the heterogeneous applications present in a particular environment.” '178 pat. at 1:7-11 (emphasis added).

Prior art systems for application integration were based upon custom code “written specifically to operate with a fixed group of heterogenous applications and

integrate them with an ERP product of a particular version.” *Id.* at 1:60-64. Such an approach worked “only so long as the environment remains unchanged,” and the applications were not updated. *Id.* at 1:67-2:1. Prior art systems were additionally deficient because the “front-end integration software [did] not directly integrate with the applications at the destination end.” *Id.* at 2:16-18.

The ’178 patent disclosed an integration system that “provides a flexible, end-to-end integration solution that manages all mapping, validation, and synchronizations of data among heterogeneous source and destination applications within an organization and among the applications of multiple organizations.” *Id.* at 2:35-40.

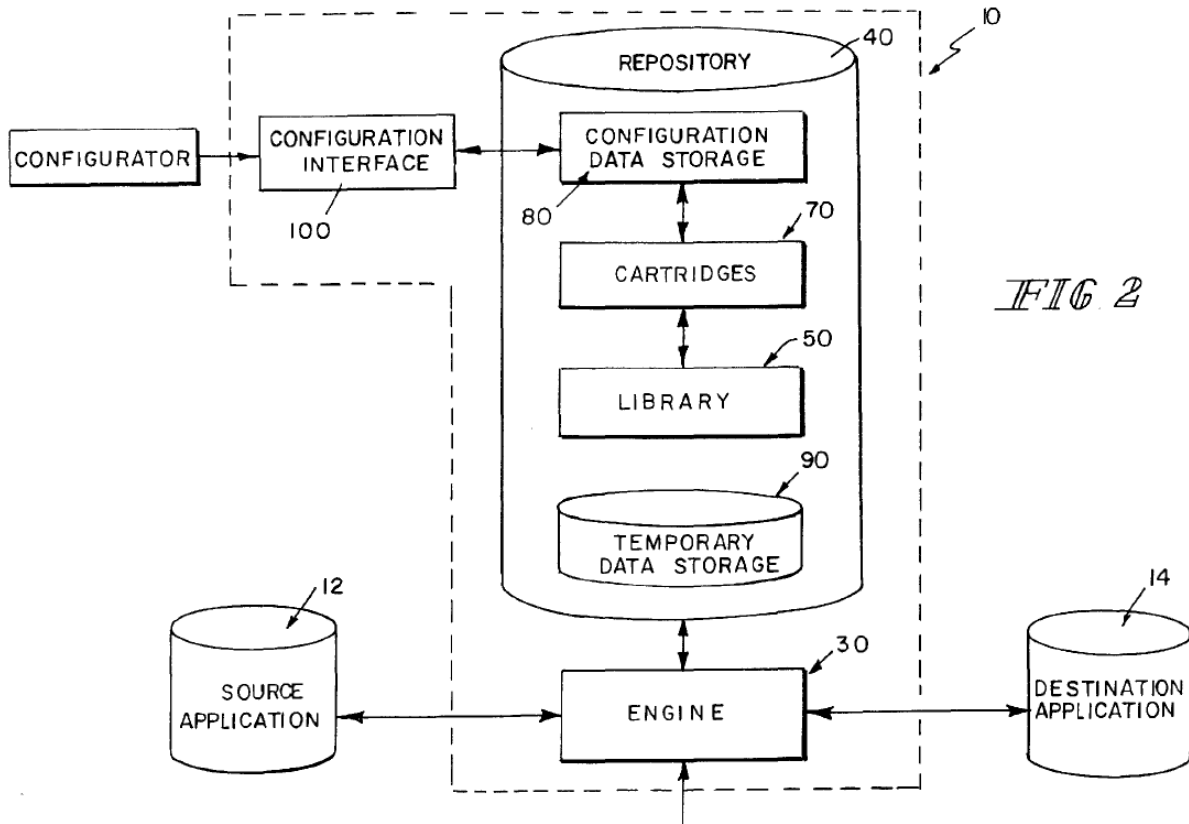
The ’178 patent integrates data among source and destination applications, rather than translating and transferring data from an operational database to merely a data warehouse (or data mart), which is not a destination application. “Destination applications 14 may include any combination of database applications 14A, 14B and ERP applications 14C.” *Id.* at 4:10-12. The ’178 patent is focused on integrating data with various disparate business software applications:

EAI [Enterprise Application Integration] software is generally designed to address the need of business to integrate various business software applications employed by the diverse operating sectors of a single business organization (for example, financial operations, human resources, shipping and receiving, etc.), or by such operating sectors of multiple organizations. Over time, many organizations incorporate disparate software applications, each designed to manage a specific business function or set of functions. Accordingly, data related to these

business functions is dispersed across the organization, and resides separately within the various software applications.

Id. at 1:14-25.

Figure 2 (below) shows one example of the claimed system that includes an active component (denoted as engine) that performs the “underlying communication and data processing functions and a repository of information used by the active component relating to the characteristics of the source and destination applications.” *Id.* at 2:40-44. System functionality is enhanced by adding modules (denoted as cartridges) that are “pre-built integration packages” that “define[] interface processes or instruction sets which migrate data between the source applications and a particular destination application.” *Id.* at 2:44-56. “In operation, when destination application 14 requests data held in a file or data base residing in source application 12,” the active component “read[s] and process[es] inputs from a source application and perform[s] the transfer of data to a destination application.” *Id.* at 2:56-60, 8:46-48.



“Application integration middleware technology” like that claimed in the ’178 Patent “enable[s] application programs to efficiently and conveniently interact with legacy host applications and/or legacy host data stored in a back-end data store (such as a database, directory, or other data storage repository).” See Ex-2004 (U.S. Patent No. 7,130,964 (“the ’964 patent”)) at 2:10-15. In other words, the ’178 patent further contemplates integrating data among applications having different data models because “various software applications maintain data according to different data models, such as hierarchical networks, relational

models, spreadsheets, multimedia databases, knowledge databases and other types of data models.” ’178 pat. at 1:26-30.

A contemporaneous patent cited as Exhibit 1012 (US Patent 6,738,975) in the Petition recognizes that a need existed for application integration technologies like that claimed in the ’178 patent. “Throughout the past few decades, business enterprises have designed or bought many large, single-purpose software applications. These “legacy” **applications** continue to be used, and most often were designed to perform a specific function (e.g., inventory, finance, accounting, sales force automation, and human resources). More recently, substantial investments have also been made by those same enterprises to procure packaged software applications from software developers such as SAP, PeopleSoft, Oracle, and Baan. Each of these packaged software applications enjoyed its own unique strengths. Accordingly, the typical business enterprise used two or more disparate packaged software applications in the same runtime environment. Such packaged software applications were not, in the beginning, designed to share information among themselves. As a result, enterprises had been forced to **integrate** their disparate packaged software **applications** with expensive custom code. Such integration efforts often took months, if not years, to complete.” Ex-1012 (U.S. Patent No. 6,738,975) 13:59-14:10.

SAP challenges the validity of Claims 1-5, 7-10, 19, and 23-25 of the '178

Patent. Independent Claim 1 recites:

1. A system for integrating data among heterogeneous source applications and destination applications, comprising:
a repository of information relating to the source applications and the destination applications, the repository including a plurality of data elements each being capable of performing a discrete operation on a piece of data, and a first module including a plurality of instruction sets, each instruction of each instruction set activating a data element; and
an active component connected to the repository having an input for loading data from the source applications, and an output for populating the destination applications with processed data, the active component processing the data from the source applications by activating data elements according to the plurality of instruction sets in the module.

Dependent Claim 5 recites:

5. The system of claim 3, wherein the repository further includes configuration data storage for storing configuration data describing the source applications, the configuration data

storage including a first portion used by the first module and a second portion used by the second module.

Dependent Claim 8 recites:

8. The system of claim 1 wherein the destination applications are included within an ERP product.

Independent Claim 23 recites:

23. A system for integrating data among heterogeneous source applications and destination applications, comprising:
configuration data storage for storing configuration data relating to the source applications;
temporary data storage for storing temporary data being integrated among the source and the destination applications;
a library of data elements, each data element performing a predefined function;
a first module including a plurality of instruction sets, each instruction set specifying a plurality of data elements to form a chain of data elements; and
an active component operably associated with the configuration data storage, the temporary data storage, the library, and the first module, the active component including a loader for

loading data from the source applications to the temporary data storage according to the configuration data relating to the source applications, and an interfacier for populating the destination applications with data from the temporary data storage after the data is processed by the active component, the active component processing the data by communicating with the first module and activating data element chains according to instruction sets of the first module.

B. Patent Owner's Patent Infringement Action

On May 26, 2023, patent owner Isix IP LLC ("Patent Owner" or "Isix") filed a Complaint for Patent Infringement against Petitioner in the United States District Court for the Eastern District of Texas, alleging that SAP infringed U.S. Pat. No. 6,308,178. Ex-2001.

C. Petitioner's Grounds of Challenge

All asserted grounds identified in the Petition rely in whole or in part on one or more references: U.S. Pat. No. 5,842,205 to Brann ("Brann," Ex. 1003), U.S. Patent No. 6,208,990 to Suresh *et al.* ("Suresh," Ex 1004), and U.S. Patent No. 6,621,505 to Beauchamp *et al.* ("Beauchamp", Ex 1006). *See* Pet. at 15. The petitioned grounds for rejection are as follows:

Grounds	Claims	Basis
1	1, 3, 4, 7, 8	§103 over Brann
2	1-5, 7, 9, 10, 23-35	§103 over Suresh
3	1-5, 7, 9, 10, 23-25	§103 over Suresh in view of Brann
4	8 and 19	§103 over Suresh in view of Beauchamp
5	8 and 19	§103 over Suresh in view of Brann and Beauchamp

Throughout this Preliminary Response, Patent Owner will refer to these prior art references by the names indicated above, rather than by exhibit number. The prior art references relied on are described and addressed below, in conjunction with the argument represented in this Preliminary Response.¹

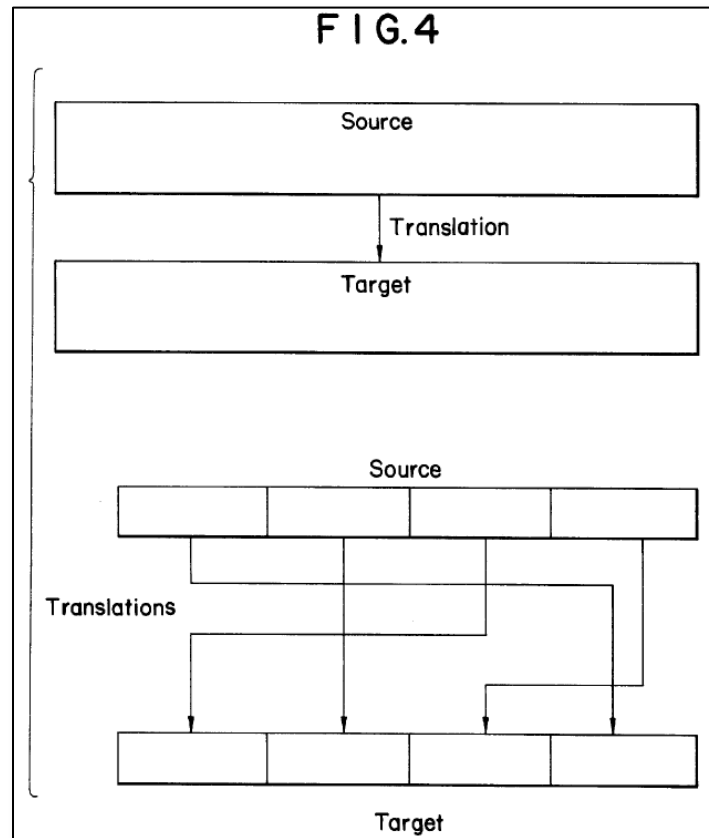
1. Summary of Brann

Brann discloses a “computer programming method . . . for translating source messages to target messages. Brann, Abstract. “This invention relates to a late binding process, for providing an efficient system for assembling and for translating information from one computer to another.” Brann at 1:10-13. Brann’s “late-binding programming methods” use a “Translation Program (FIG. 4)” to “translate[] data that has been obtained (i.e., source data) into a “set of outgoing structures (i.e., target data).” Brann at 7:19-20, 8:5-11). Brann is focused on

¹ Patent Owner intends no waiver by any argument made or omitted at this stage and reserves its right to present additional argument and evidence related to these prior art references, consistent with the Board’s Rules and practice.

providing “a computer program in which changes may be made to the program without having to rewrite the entire source code of the program.” Brann at 3:1-4.

This translation of source data to target data is shown in Fig. 4 of Brann:

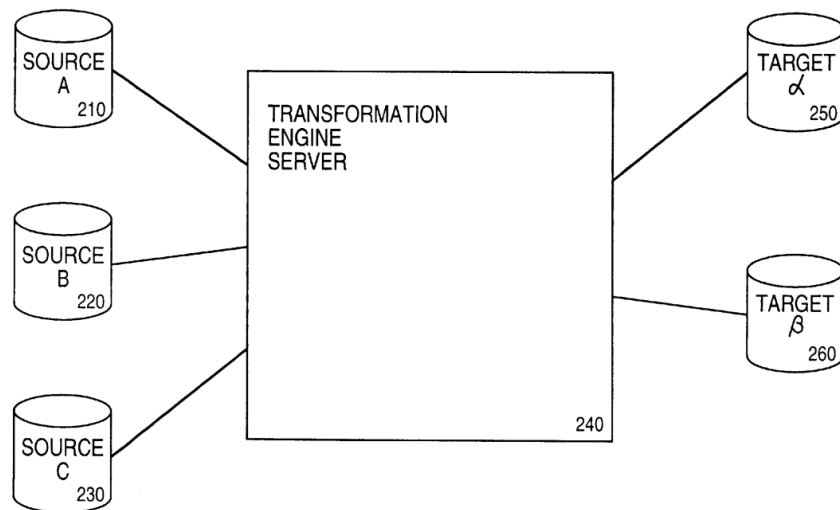


“Programs with late “binding times” have the advantage that they need not be recompiled or re-linked in order to offer new functions. Implementation of program changes and new programs using program methods, reduce the system testing phase to only such testing as is required by the new functions. The old functions would be unaffected because the executable image was not altered in any way. Since there is no change to the executable image there is no need for the inconvenience of replacing it in the running system.” Brann at 6:15-24.

“The late binding programs described consist of two parts—a Control Program and subroutines.” Brann at 7:21-22. “No application processing takes place in the Control Program.” Brann at 7:53-54. “Based upon these principles, new programs can be created and modified with no change to the Control Program.” Brann at 7:63-64.

2. Summary of Suresh

Suresh discloses a “computer software architecture to automatically optimize the throughput of the data extraction/transformation/loading (ETL) process in data warehousing applications.” Suresh at Abstract. Suresh discloses “a computer software architecture that automatically optimizes the throughput of data transport process (e.g., extraction, transformation, and loading) in data warehousing . . .” Suresh at 2:59-62. Fig. 2 depicts Suresh’s system:



Sources A B, and C are operational databases that store “data resulting from business and financial transaction, and/or from equipment performance logs” and

“provide the data source from which the transformation engine server 240 can extract, transform, then load the data into the databases [not applications] 250 and 260.” Suresh at 6:8-11 and 6:16-19. Suresh uses “transformation components” to perform its ETL process, namely, loading source data, transforming the source data, and storing the transformed data. *See* Suresh at 10:35-11:6. “[T]he user manually chooses the transformation components necessary to accomplish the data ETL process.” *Id.* at 9:6-8.

3. Summary of Beauchamp

Beauchamp describes use of standardized interface screens a “linked together in predetermined orders to implement on a client computer activities for which the standardized screens are appropriate to accomplish a pre-defined process.” Beauchamp, Abstract. Beauchamp describes “accessing data from an application or data store in response to the request for a step from the client computer.” Beauchamp at 5:31-33. The client computer may receive and render the data in one or more screens. *See id.* at 5:35-37. Fig. 2 of Beauchamp (below) depicts a “process-based computing using a universal client to lead a user through a business process.” *Id.* at 8:3-4.

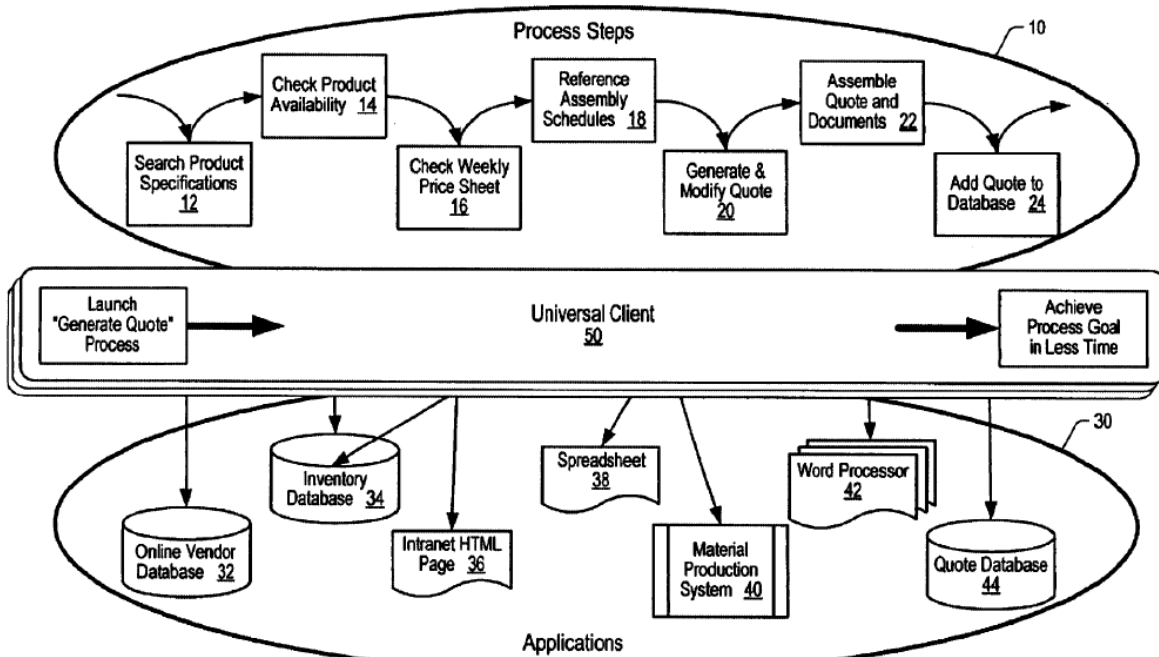
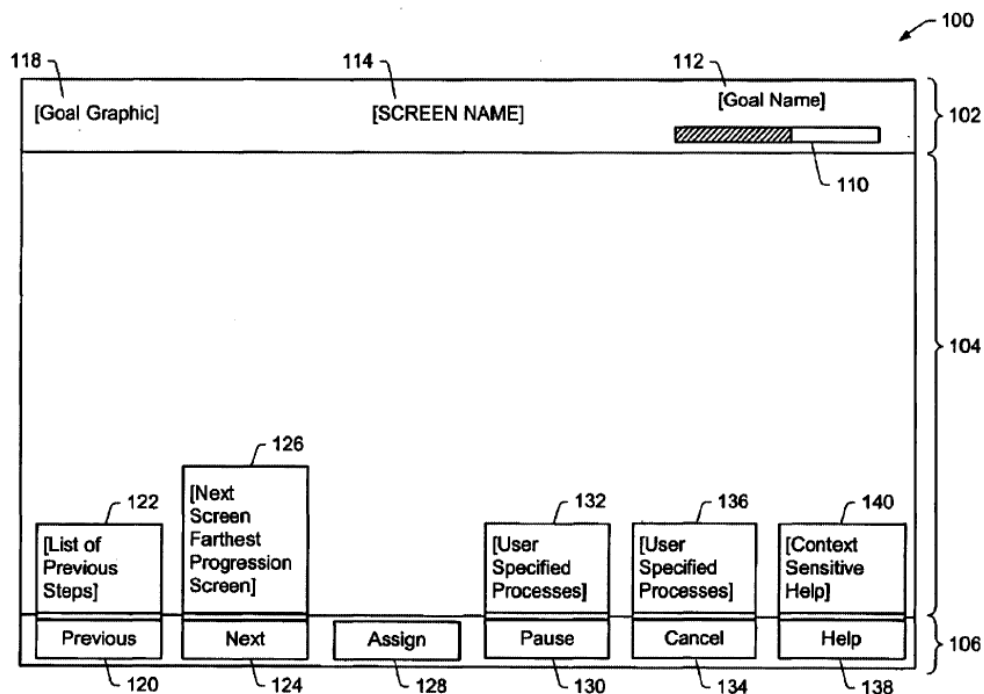


Fig. 3 of Beauchamp (below) depicts “one embodiment of a screen framework that may be rendered by a universal client.” *Id.* at 8:5-7.



III. CLAIM CONSTRUCTION

Patent Owner has applied the preliminary claim constructions adopted by Magistrate Judge Gilliland of the Western District of Texas. Ex-1007.

Destination Application

Petitioner asserts that the limitation “integrating data among heterogeneous source and destination applications” is met in Suresh by extracting data from operational databases, transforming that data, and loading the transformed data onto target databases. See Pet. at 44. In so doing, Petitioner construed “destination application,” based largely on a dictionary definition of “application” untethered to the scope of the ’178 patent. See Pet. at 46-47. The ’178 patent, however, is clear that a destination application “may include any combination of database applications 14A, 14B and ERP [Enterprise Resource Planning] applications 14C.” ’178 pat. at 4:9-11. Indeed the ’178 patent never describes a database itself as a destination application.

The proper construction of an application is a *business application program* such as an accounting, purchasing, or human resources application. ’178 pat. at 3:64-4:1; see also 1:43-47 and 5:50-60. A database may be accessed by a destination application but is not equivalent to a “destination application” in the challenged claims.

IV. DISCRETIONARY DENIAL UNDER 35 U.S.C. § 314(a) IS APPROPRIATE UNDER FINTIV.

The Board has recognized that “the advanced state of [a parallel] district court proceeding” can provide grounds for the Board to deny institution of post-grant proceedings under § 314(a). *NHK*, Paper 8 at 20; TPG at 58; *Fintiv*, Paper 15 at 7.

In *Fintiv*, the Board articulated several factors that “balance considerations of system efficiency, fairness, and patent quality when a patent owner raises an argument for discretionary denial due to the advanced state of a parallel proceeding.” Under circumstances similar to this matter, the Board has denied institution when the analysis of these factors reveals that deciding otherwise would be an inefficient use of Board resources. *Fintiv*, Paper 15 at 7.

The *Fintiv* factors include (1) whether the court granted a stay or evidence exists that one may be granted if a proceeding is instituted; (2) proximity of the court’s trial date to the Board’s projected statutory deadline for a final written decision; (3) investment in the parallel proceeding by the court and the parties; (4) overlap between issues raised in the petition and in the parallel proceeding; (5) whether the petitioner and the defendant in the parallel proceeding are the same party; and (6) other circumstances that impact the Board’s exercise of discretion, including the merits. *See id.* at 7-8. Application of the *Fintiv* factors to the present circumstances suggest that discretionary denial is appropriate and will serve the interests of administrative efficiency and conserve the Board’s resources.

A. SAP Has Not Sought a Motion to Stay the Case in the Eastern District of Texas.

SAP has neither filed a motion to stay the district court litigation nor indicated to the district court that it intends to request a stay of the proceedings pending the Board's decision whether to institute review. This factor strongly favors denial of institution.

B. The Court's Trial Date is Set for About Six Months Before the Board's Projected Statutory Deadline.

The Board considers the proximity of the court's trial date in the parallel proceeding to the Board's projected statutory deadline for a final written decision. *Fintiv*, Paper 11 at 6. "If the court's trial date is earlier than the projected statutory deadline, the Board generally has weighed this fact in favor of exercising authority to deny institution under *NHK*." *Id.* at 9. In *Fintiv*, the jury trial was set to begin on March 8, 2021, "approximately two months before a final written decision would be due in [that] proceeding," and the Board found that this proximity weighed in favor of discretionary denial. *Fintiv*, Paper 15 at 13.

In the parallel court proceeding here, the current Scheduling Order requires filing the Joint Pretrial Order on February 3, 2025. The Pretrial Conference is set for February 18, 2025, with jury selection set for March 17, 2025. Trial is expected to begin and conclude about six months before the statutory deadline.

C. Significant Investment Has Been Made in the Parallel Proceeding by the Court and the Parties.

The Board considers investment in the parallel proceeding by the court and the parties in determining whether to exercise discretionary denial under § 314(a). *See Fintiv*, Paper 11 at 6. “Specifically, if, at the time of the institution decision, the district court has issued substantive orders related to the patent at issue in the petition, this fact favors denial.” *Id.* at 9-10. Notably, “district court claim construction orders may indicate that the court and parties have invested sufficient time in the parallel proceeding to favor denial.” *Id.* at 10. In *Fintiv*, the Board noted that even though claim construction was complete, “fact discovery [was] in its early stages, with document production ongoing and depositions just getting underway, expert reports [were] not yet due, and substantive motion practice [was] yet to come.” *Fintiv*, Paper 15 at 14. Even so, the Board in *Fintiv* determined that this “factor weigh[ed] somewhat in favor of discretionary denial.” *Id.*

Patent Owner has served infringement contentions, and SAP has served invalidity contentions. The district court will conduct a claim construction hearing on September 19, 2025. Ex-1013. Discovery is underway, and fact discovery will close on October 28, 2024. *Id.* Both parties and the district court have invested significant resources in the parallel proceeding, so this factor weighs in favor of discretionary denial.

D. There is Complete Overlap Between Issues Raised in the Third Petition and in the Parallel Proceeding.

The Board considers overlap between issues raised in the petition and in the parallel proceeding in deciding whether to exercise its discretion to deny institution. *See Fintiv*, Paper 11 at 6. “Accordingly, if the petition includes the same or substantially the same claims, ground, arguments, and evidence as presented in the parallel proceeding, this fact has favored denial.” *Id.* at 12. As in *Fintiv*, the same claims are challenged here as in the district court. *See Fintiv*, Paper 15 at 14-15.

SAP relies on the same Brann and Suresh references that are the basis of this petition as its primary reference (designated “A4” and “A1,” respectively) in its district court invalidity contentions:

i. The ‘178 Patent		
Prior Art References	Anticipated Claims	Exhibit
US Patent No. 6,208,990 to Suresh	1, 3, 4, 7, 8	A-1
PCT Application No. WO 95/27254 to MacKay	1, 3, 4, 7	A-2
US Patent No. 5,524,253 to Pham	1, 3, 4, 7, 8	A-3
US Patent No. 5,842,205 to Brann	1, 3, 4, 7, 8	A-4

See Ex-2002 (Defendant SAP’s Invalidity Contentions, Nov. 9, 2023) at p. 12; Ex-2003 (Brann Invalidity Contention Chart); Ex-2004 (Suresh Invalidity Chart). Furthermore, SAP relied on Beauchamp for its invalidity theory for claim 8 of the ’178 patent. Ex-2003, at p. 18; Ex-2004, at p. 21. Complete overlap in asserted

references weighs heavily in favor of denying institution.

E. The Petitioner and Defendant in the Parallel Proceeding are the Same Party.

The Board considers whether the petitioner is a defendant in the parallel proceeding, and, if it is, this fact weighs in favor of denying institution. *See Fintiv*, Paper 11 at 13-14. SAP is the defendant in the parallel district court litigation and the Petitioner in this proceeding, so this factor weighs in favor of discretionary denial. *See id.* at 15.

F. Other Circumstances, Including the Lack of Merit in Petitioner's Arguments, Favor Denial of Institution.

The Board also considers the merits of both petitioners' and patent owners' arguments. *See id.* Here, Petitioner's failure to offer any prior art reference that teaches, for example, a repository storing information relating to source and destination applications renders all of Petitioner's grounds unpersuasive, or, at the very least, does not show that Petitioner's "case [is] a close call." *Id.* at 16.

The fundamental problem with SAP's petition is that Brann relates to "late-binding programming methods" for updating source code, Brann at 7:19-20, whereas Suresh and Beauchamp relate to updating ETL processes and systems. The '178 specification describes a different field and technology: Enterprise Application Integration. '178 pat. at 1:5-11. And the specification explicitly distinguishes ETL: "[t]his software is attached to the heterogeneous source

applications and is used to query the source applications to obtain the desired data .

. . [it] does not directly integrate with the applications at the destination end . . .

Id. at 2:12-18 (describing prior commercial ETL products called “front-end integration packages” that pull data from a source application but do not populate a destination application). Further, ETL cannot be EAI because it does not include “a repository of information relating to the source applications and the destination applications.” ETL systems do not have this because they are not concerned with information related to the destination application. ETL systems are simply not concerned with destination applications.

The specification describes (and the claims recite) a hallmark of EAI that distinguishes ETL in terms of a solution: “an integration system capable of providing data transfer interfaces among the various heterogeneous applications employed throughout the organization.” *Id.* at 1:33-37; *see also id.* 2:35-40 (describing present invention as flexible, end-to-end integration solution that manages all mapping, validation, and synchronization of data among . . . source and destination applications . . .”). The claims recite the same description, distinguishing the claimed subject matter from ETL. *See e.g., id.* at 9:51-53 (claim 1) (“a system for integrating data among heterogenous source applications and destination applications”).

Integrating data between applications is fundamentally different from ETL,

which focuses on moving data from a source database to a data warehouse or data mart—a destination datastore, not a destination application. Suresh and the other ETL references are not concerned with populating a destination application with processed data. They output (or load) transformed data into a database. A database is not a destination application, and petitioner’s arguments lack merit due to ignoring this basic and fundamental distinction in the art. Indeed, this important aspect of the claimed subject matter is expressed in the description of “the integration system of the present invention [that] provides a flexible, end-to-end integration solution that manages all mapping, validation, and synchronization of data among heterogenous source and destination applications . . .” *Id.* at 2:35-38. Data validation and data synchronization among heterogenous source and destination applications are beyond the scope of a data warehouse in an ETL system. ETL simply loads data into a data store without regard to how it will be used by an application and has no knowledge of, and does not interact with, a destination application.

With these glaring holes in every Ground of Petitioner’s argument, the merits of this case “tip the balance” in favor of Patent Owner, and institution should be denied. *See Fintiv*, Paper 15 at 15.

**V. THE PETITION SHOULD BE DENIED BECAUSE NO GROUND
ESTABLISHES A REASONABLE LIKLIHOOD OF SUCCESS.**

Petitioner has failed to show that any of its Grounds 1-5 establish a reasonable likelihood that at least one of the claims challenged in the petition is unpatentable. Brann, Suresh, Beauchamp, alone or in combination, fail to teach the challenged claims. In particular, both Brann and Suresh fail to teach or suggest limitations required by all claims: “source applications,” “destination applications,” “a repository of information relating to the source and destination applications,” “[the repository including . . .] a first module including a plurality of instruction sets, each instruction of each instruction set activating a data element,” and “configuration data storage for storing configuration data describing data in the source applications / “configuration data storage for storing configuration data relating to the source applications.” Petitioner also failed to provide any evidence of what recited limitations not in Brann or Suresh under its obviousness theories or why a person of ordinary skill in the art would have been motivated to combine such information to practice the subject matter of the challenged claims.

A. Petitioner Failed to Articulate a Motivation to Combine For its § 103 Obvious Analysis.

“Obviousness concerns whether a skilled artisan not only *could have made* but *would have been motivated to make* the combinations or modifications of prior

art to arrive at the claimed invention.” *Belden Inc. v. Berk-Tek LLC*, 805 F.3d 1064, 1073 (Fed Cir. 2015). Petitioner must provide at least “some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Absent such information, Petitioner cannot demonstrate a reasonable likelihood of success of prevailing with respect to at least one challenged claim.

Petitioner bases all five invalidity grounds on § 103 obviousness. Pet. at 15. Petitioner alleges two separate bases for its motivation to combine Suresh and Brann: (1) integrating data between applications and (2) storing instructions in a database. Pet. at 41-44. Except for these two limitations, Petitioner never described how other limitations are disclosed by Brann or Suresh. And Petitioner fails to provide any semblance of a motivation to combine or rational reasoning underpinning its legal conclusion of obviousness so it cannot meet its burden.

SAP contends that because “Brann provides ‘an efficient system for assembling and for translating information from one computer to another,’” Pet. at 42 (citing Brann, 1:10-13), and a “POSITA would have understood that the databases or data warehouses of Suresh could be replaced with applications to solve the problem of interoperability between different types of applications, as well as different databases” Pet. at 42. Because translating information from one computer is not application integration and Brann does not disclose any source or

destination applications, a POSITA would not have been motivated to combine Brann and Suresh. Moreover, SAP failed to articulate a reasonable expectation of success of such a combination. Pet. at 42. Instead, SAP concluded that “a system for integrating data between heterogeneous applications was already known” because Brann’s invention “relates to a late binding process for providing an efficient system for assembling and for translating information from one computer to another.” Pet. at 42; Brann at 1:10-13. But Brann’s system for translating information from one computer to another is not application integration, and SAP has shown no motivation to combine Brann and Suresh to solve the problem of integrating data between applications.

SAP’s motivation to combine Suresh and Brann to solve the problem of storing instructions in a database is based on improper hindsight. *See TQ Delta, LLC v. Cisco Sys.*, 942 F.3d 1352, 1360-61 (Fed. Cir. 2019) (conclusory statements “fraught with hindsight bias”). SAP alleges that such combination “would be use of a known technique (storing instructions) to improve known devices or methods in the same way (allowing the instructions to be modified and/or saved) to yield predictable results (calling subroutines as set forth in computer instructions, with a reasonable expectation of success.” Pet. at 43. This conclusion is factually unsupported, and, in fact, Brann teaches away from the alleged combination because the instruction that calls the subroutine in Brann is not stored in a

database. Brann at 7:43-44 (“This function pointer cannot be held in the database.”).

Because of this deficiency, SAP has not shown a motivation to combine Brann and Suresh confirming that Petitioner’s invalidity arguments are based upon improper hindsight reconstruction. Petitioner has not demonstrated that *any* of the challenged claims are reasonably likely to be invalid. Accordingly, Petitioner failed to meet its burden of demonstrating a reasonable likelihood of prevailing with respect to at least one challenged claim.

B. None of the Brann, Suresh, Beauchamp, Nor Any Combination Thereof Renders Obvious any of the Challenged Claims.

In its asserted obviousness grounds, Petitioner essentially relies on Brann and Suresh, alone or in combination, as teaching the limitations of independent claims 1 and 23. Even if Petitioner had established a motivation to combine, Petitioner’s reliance on Brann and/or Suresh as rendering obvious most (if not all) limitations in all the challenged claims is misplaced because the combination fails to render the challenged claims obvious for several reasons. And Petitioner has not shown a reasonable likelihood that any of these challenged claims will be found unpatentable in view Brann and Suresh in combination with Beauchamp.

- 1. SAP failed to show that Brann or Suresh, alone or in combination, teaches or suggests “source applications and destination applications” nor “integrating data among heterogeneous source applications and destination applications” in independent claims 1 and 23.**

Ground 1: Brann, claim 1

There is no disclosure in Brann of a destination application requesting data from a source application. Brann requires custom programming to translate the source messages to target messages. Consequently, SAP fails to show that Brann teaches or suggests “integrating data among heterogeneous source applications and destination applications” as recited in the challenged claims. Brann discloses “translating source messages to target messages” using subroutines. Brann Abstract; 7:21-22, 8:5-11.

To sidestep this deficiency, Petitioner relies upon an observation in the background regarding “coordination of data between the competing programs,” and then equates programs with applications. Pet. at 21. But Brann does not describe integrating source applications and destination applications. This is confirmed by Petitioners reliance on the discussion in the Background relating to “replacing systems . . . by the logistic of converting the data contained in such systems, implementing the new software, and re-education of users.” Pet. at 21 (citing Brann at 2:45-55). Replacing computer software, performing an “upgrade . . . or mov[ing] to a different heterogeneous platform,” Pet. at 22, results in deprecating the software

or platform—not integrating source applications and destination as claimed in the ’178 patent.

Petitioner’s annotation of Fig. 4 of Brann is incorrect and unsupported because the figure discloses source and target *data*—there is no teaching or suggestion that Fig. 4 depicts source and destination applications. *See* Brann at 8:5-11. Moreover, the source data is further decomposed into data types, which are then separately *converted* via subroutines based on the data type. *See* Brann at 8:16-48. Data conversion is simply converting data from one form to another—it does not integrate applications, nor does it disclose source and destination applications.

Ground 2: Suresh, claims 1 and 23

SAP has failed to show that Suresh teaches or suggests “destination applications” as recited in independent claims 1 and 23. SAP points to “data warehouses and data marts” as applications by stating that “Suresh’s systems are software applications running on computers to perform data management tasks.” Pet. at 47. However, data warehouses and data marts are not business software applications as described and claimed in the ’178 patent.

Petitioner’s reliance on extrinsic evidence to redefine “application” (*see* Ex. 1020, the Microsoft Computer Dictionary definition) and equate it with a computer program ignores the specification. An “application” in the ’178 patent refers to enterprise application integration (EAI) and means “enterprise/business

applications.” *See* ’178 patent, 1:5-6, 1:14-20 and 4:7-17. Examples in the patent include “financial operations, human resources, shipping and receiving.” *Id.* at 1:14-20 (“EAI software is generally designed to . . . integrate various business software applications employed by the diverse operating sectors of a single business organization”). Suresh does not disclose that a data warehouse (or data mart) performs any specific enterprise application, and a generic “program” is not an application.

SAP has failed to show how Suresh discloses destination applications, let alone heterogeneous applications. A database merely stores data, which may be accessed by an application, but a database is not an application. *See* ’178 patent, 8:46-47. Consequently, SAP fails to show that Suresh discloses a destination application required in *all* challenged claims.

Furthermore, Suresh does not teach or disclose integrating among heterogeneous source applications and destination applications.” The petitioner mischaracterizes the ’178 patent as “integration of data,” *see* Pet. at 19. (“Like the ’178 patent, Suresh is directed to data integration through a data extraction/transformation/loading (ETL) process.”), instead of integration of applications. As an initial matter, Suresh does contain any reference to “integrate” or “integration,” let alone integration of applications, which is the subject matter claimed in the ’178 patent. *See* ’178 pat. at 1:5-8. (“The present invention relates

generally to Enterprise Application Integration (“EAI”) software, and more particularly to a configurable software system for providing migration of data among heterogeneous applications.”). The ’178 patent teaches that EAI is related to integrating software applications. *See id.* at 1:14-20 (“EAI software is generally designed to address the need of business to integrate various business software applications employed by the diverse operating sectors of a single business organization (for example, financial operations, human resources, shipping and receiving, etc.), or by such operating sectors of multiple organizations.”). Even a contemporaneous patent cited by Petitioner recognizes that data warehouses and data marts are not options for accessing data from ERP applications. *See Ex. 1012*, 2:64-66 (“the options for getting data into and out of an ERP system preclude known approaches used for data warehousing”). Because Suresh merely discloses loading of extracted transformed data to a data warehouse/mart completely devoid of any business software applications—not integration among heterogeneous source and destination applications—Petitioner cannot show a reasonable likelihood of the unpatentability of at least one challenged claim.

Ground 3: Suresh in view of Brann, claims 1 and 23

As it did with respect to Ground 1, SAP contends that Brann describes a source application and a destination application. To do so, however, SAP erroneously labels Brann’s disclosure of “source data” and “target data” in Fig. 4,

Brann, at 8:5-11, as “source application” and “destination application,” respectively. But Brann does not disclose or teach that its “source data” and “target data” are applications. Nor could it because Brann converts source data to target data. Brann, at 9:1-2 (“translation of data in one format to data in another format). Accordingly, Suresh in combination with Brann does not disclose this element.

2. SAP failed to show that Brann or Suresh, alone or in combination, teaches or suggests “a repository of information relating to the source and destination applications” in the challenged claims.

Ground 1: Brann, claim 1

SAP erroneously contends that Brann’s reference to a database that stores “instructions, data, and the structures of any source stimuli to be acted upon in the database” is a disclosure of a “repository of information relating to the source applications and the destination applications” in independent claim 1. Pet. at 23-24 (citing Brann, 3:49-51, 4:6-8). The “instructions, data, and structures of any source stimuli” relate to the process of translating source messages to target messages, not to any source applications and destination applications. An application program—unrelated to any source or destination application—in Brann performs the message translation. Brann at 5:2-6 (“the instructions in the database to direct the control program and call upon predetermined application method programs to translate the source message to the target message and provide the target message . . . at least a

portion of the completed program”); *see also id.* at 10:58-65. Nor are message types a disclosure of applications. Storing incoming message types in a location table and target messages in a target table, Pet. at 24 (citing Brann, at 11:4-10), says nothing about source and destination applications. This is so because message types are not tied to any application. Brann at 12:12-14 (“the types of messages that a given translator receives change very slowly compared to the rate at which messages are received”).

Ground 2: Suresh, claims 1 and 23

SAP contends that a client-created repository of mapping information meets the element “a repository of information relating to the source and destination applications” in independent claims 1 and 23. Pet. at 49-50. SAP’s alleged proof fails for two reasons. First, the client-created repository “keep[s] track of session information as well as mapping information relating to how data is to be mapped and transformed from [source] tables of the operational database to target tables of data marts.” Suresh, 6:23-29 (obvious error in original text refers to “target tables” when referring to the source “tables of the operational database”). In other words, this “repository” relates to data mapping, which Suresh defines as “data movement . . . for each transformation component.” *Id.* at 9:20-22. Data movement describes the transfer of data from operational databases to data marts via transformational components. Data movement relates to merely **moving**

information from a source to a target, which is *not* information relating to any source or destination application as required by the challenged claims and has nothing to do with enabling **direct communication** (as clearly shown by the **bidirectional arrows** for both the source and destination applications in Figures 1, 2 and 5 of the '178 patent) for integration among heterogeneous source applications and destination applications in the context of application **integration**.

Second, the transformation components identified by Petitioner do not relate to any source or destination applications. Source transformations “provide[] data for the data mart/data warehouse,” Suresh at 10:39-41, whereas target transformations “receive data from other transformations” and “make the data available to data mart users for decision support.” *Id.* at 10:41-44. These transformations relate to source and destination of data. None of these transformations relate to the source or destination applications. “Expression transformations calculate a single result, using values from one or more ports.” *Id.* at 10:44-46. But there is no teaching or suggestion that these transformations relate to source and destination *applications*. Suresh lacks the details of the source and destination applications—instead, the source database will provide the requested data and the target database will receive the data that is provided to it based on the transformations for the particular ETL system. Moreover, the transformation components, including expression transformations are selected by

the user, with no information in the repository related to any target database application. Similarly, the source application has no bearing to the transformation components selected. Because the “user **manually** chooses the transformation components necessary to accomplish the data ETL process,” the result of which is loaded onto a database, none of the transformation components in Suresh includes or relies on information relating to the source and destination applications. *Id.* at 9:6-8. The ETL process in Suresh is simply independent of the source and target applications because ETL is only concerned with translating data from one form to another and loading that transformed data into a data warehouse.

Petitioner has failed to demonstrate that Suresh teaches or suggests “a repository of information related to the source and destination applications” as required by the challenged claims.

3. SAP failed to show that Brann or Suresh, alone or in combination, teaches or suggests “[the repository including . . .] a first module including a plurality of instruction sets, each instruction of each instruction set activating a data element” in independent claims 1 and 23.

Ground 1: Brann, claim 1

SAP contends that the “‘first module’ is a collection of instruction sets,” and the “instruction sets of Brann include a ‘list of subroutines to be invoked and an order in which they should be invoked.’” Pet. at 29 (citing Brann at 7:26-27). That is incorrect for three reasons. *First*, the list and order of the subroutines to invoke is an “action” taken by the Control Program. See Brann at 7:23-27. Brann does

not disclose that this action—the list and order of subroutines to invoke—is stored in a repository (or database as SAP contends). Nor could it because Brann discloses that this information is stored “in the form of arrays of data structures, in the computer’s memory.” *Id.* at 7:33-35. A computer’s memory is not a database.

Second, Brann’s contention that “the database and database tables contain information describing where the subroutines to be activated may be found, just as the ‘module’ described in the ’178 patent,” Pet. at 30, contradicts Brann’s teachings. Brann discloses that the “data structures contain an executable function reference (in the C language this is a ‘function pointer’) to the subroutine which is the reference required by the program in order to execute the subroutine.” Brann at 7:39-42. Critically, “[t]his function pointer cannot be held in the database.” Brann, at 7:43-44. Under SAP’s theory, the instruction sets (*i.e.*, reference or function pointer) that activate data elements (*i.e.*, executes the subroutines) is *not* stored in the repository (*i.e.*, database). Rather than being stored in a database, the function pointers are created “by the Control Program when it first begins executing.” *Id.* at 7:50-51. Accordingly, the “information describing where the subroutines to be activated are located”—the function pointers—are created by the Control Program and are *not* stored in the database.

SAP alleges that each of the instructions activates a subroutine by instructing the Control Program to call that subroutine. Pet. at 29. Brann teaches no such

thing. Instead, Brann teaches that the Control Program creates the function pointer to the subroutine because the “function pointer cannot be held in the database.” Brann, at 7:43-44. The “unique string of characters [stored in the database] for each available subroutine” does not call or activate the subroutine. *Id.* at 7:45-46. The Control Program “converts the function names into function pointers,” which are *not* stored in a database. *Id.* at 7:43-49. The instruction sets identified by SAP in its annotated Fig. 3 (denoted by the blue oval) are generated during Control Program execution, rather than stored in a database. Because the function pointers that call the subroutines are *not* stored in a database, SAP cannot show that Brann discloses this element.

Third, there is no teaching or suggestion in Brann that the order of subroutines to be invoked—another aspect of SAP’s theory of instruction sets—is stored in a database. Nor could it because the Control Program “derives the appropriate action to be taken” including forming “a list of subroutines to be invoked and an order in which they should be invoked.” *Id.* at 7:23-27.

Consequently, SAP has failed to show that Brann discloses this element.

Ground 2: Suresh, claims 1 and 23

SAP failed to show that Suresh teaches or suggest that (i) each instruction set activates a data element and (ii) the repository includes the first module. In the Petition, SAP alleges that a “pipeline” manually arranged by the user is an

“instruction set” of the first module and relies on each transformation component as meeting both the “instruction” and “data element” limitations. Pet. at 50. This allegation is a failure of proof. The independent claims recite that “each instruction of each instruction set activating a data element,” requiring “instructions” to be distinct from “data elements.” ’178 pat. claims 1 and 23. Relying on transformation components as both instructions and data elements cannot show that Suresh teaches or suggests that “each instruction set of each instruction activating a data element” in any of the challenged claims. This deficiency precludes Petitioner from demonstrating a reasonable likelihood of the unpatentability of at least one challenged claim.

Nor can Petitioner show that the alleged repository in Suresh includes the pipeline. In Suresh, the “repository” maintains “mapping information relating to how data is mapped and transformed from the target tables of the operation databases to target tables of data marts.” Suresh, 6:25-29. But mapping information relates to the data movement between transformation components in a pipeline. *Id.* at 9:20-22. Because the mapping information does not include the transformation components in the pipeline, the repository cannot include the first module. SAP has failed to show that the repository includes the first module in any of the challenged claims.

Ground 3: Suresh in view of Brann, claims 1 and 23

Similar to Ground 1 above, SAP erroneously contends Brann stores in database tables instruction sets for activating subroutines. Pet. at 53. But the instructions (functions) for activating subroutines are not stored in a database, let alone in a database table. Brann at 7:43-44 (“This function pointer cannot be held in the database.”) SAP’s contention that “[t]he method table includes pointers to the particular subroutines” is contrary to Brann. The Control Program, not the method table, derives the reference to the subroutine:

The methods table itself contains a name for an executable subroutine (i.e., a Method). That name is used by the Control Program to derive the executable function reference of the appropriate subroutine when it reads the database. The final result for each of the transformations is identified as it comes to this reference. It then resolves the reference to find the subroutine and execute the subroutine.

Id. at 11:13-20. Thus, the control program creates the reference to the executable subroutine, and that reference is not stored in the database. Accordingly, the combination of Suresh and Brann does not teach or disclose this element.

4. SAP failed to show that Suresh teaches or suggests “configuration data storage for storing configuration data describing data in the source applications” as recited in dependent claim 5 and “configuration data storage for storing configuration data relating to the source applications” as recited in independent claim 23.

Ground 2: Suresh, claim 5

SAP’s invalidity theory for these two limitations is based only on Suresh.

Pet. at 66-68, 71. SAP relies on the repository, the source table, and mapping information relating to the translation of the source data during the ETL process as meeting this element. Pet. at 66-68. First, the repository cannot meet this element since this element is distinct from the repository term in the independent claim. Petitioner has not identified any additional aspect of the repository beyond that it identified in claim 1. Second, mapping and transformation of the source data relates to modification of the source data. Petitioner has not shown that this functionality is configuration data relating to source applications because modification of the source data is not evidence of configuration data relating to source applications. Mapping information describes how data is moved and translated. It does not describe data in the source table because the source table is a copy of the data in the source database. Third, a copy of data is simply that—it does not describe the data in the source applications, as recited in these claims. Furthermore, executing pipelined transformations in parallel with dedicated threads

again relates to the transformation of data, not to configuration data relating to source applications.

Accordingly, Petitioner cannot show the unpatentability of dependent claim 5 and independent claim 23 and the challenged claims dependent therefrom.

5. SAP failed to show that Brann alone, Suresh in view of Beauchamp, or Suresh in view of Brann and Beachchamp teaches or suggests “wherein destination applications are included within an ERP product” as recited in dependent claim 8.

Ground 1: Brann

SAP bases its Ground 1 invalidity theory for this claim solely on Brann. SAP contends that Brann’s disclosure of monetary conversion (“An example of this is the conversion of a monetary currency code from one arbitrary form (e.g., that defined by Reuters) into another (e.g., that defined by S.W.I.F.T.)”) is a “type of financial application that would be typically part of an ERP product.” Pet. at 40-41 (citing Brann at 8:25-28). There is no teaching or suggestion in Brann that such an example conversion is an application. Nor does Brann teach or suggest that it is included in an ERP product. Accordingly, Brann does not teach or suggest this limitation.

Ground 4: Suresh in view of Beauchamp

SAP contends that Beauchamp suggests that “it was desirable for data integration systems to integrate all applications, including ERP systems and other databases.” Beauchamp provides a universal client to access all business

processes, including ERP systems. Beauchamp at 9:8-9 (“The universal client may provide a single business process interface”). Accessing and ERP system along with databases does not teach or disclose including a destination application within an ERP product as recited in this claim.

Ground 5: Suresh in view of Brann and Beauchamp

As discussed above with respect to Ground 1, Brann does not teach or disclose this element, and as discussed above with respect to Ground 5, Suresh in view of Beauchamp does not teach or suggest this limitation.

SAP has failed to that Suresh, Brann, and Beauchamp renders claim 8 obvious.

C. The Addition of Beauchamp to the Brann and Suresh Combination Fails to Render Obvious the Challenged Claims

Petitioner does not allege that Beauchamp teaches or suggests the limitations not found in Brann or Suresh, namely, “source applications,” “destination applications,” “integrating data among heterogenous source applications and destination applications,” “a repository of information relating to the source and destination applications,” “[the repository including . . .] a first module including a plurality of instruction sets, each instruction of each instruction set activating a data element,” and “configuration data storage for storing configuration data describing data in the source applications / “configuration data storage for storing configuration data relating to the source applications.” Accordingly, the addition

of Beauchamp does not demonstrate a reasonable likelihood of the unpatentability of at least one challenged claim.

Both Brann and Suresh fail to disclose, teach, or suggest integrating data among source and destination applications, and the secondary references do not help. Suresh's reference to "target databases," which are "data warehouses and/or data marts into which transformed data is loaded" does not anticipate or suggest target applications, let alone heterogeneous target applications such as accounting, sales, etc. Brann's references to "source data" and "target data" are not source or destination applications. Nor does Beauchamp teach such applications. In Suresh, "application" refers to applying transformation within the ETL system, not a destination application (e.g., an ERP application) that requests, receives and uses the data after the source and destination applications have been integrated.

VI. CONCLUSION

SAP's Petition should be denied under *Fintiv* in view of the district court proceeding and its upcoming trial. On the merits, SAP's arguments fail to teach key limitations of the challenged claims. SAP has failed to meet its burden, and for the foregoing reasons, denial of institution is appropriate.

Respectfully submitted,

Date: June 27, 2024

/Cabrach Connor/

Cabrach Connor

Registration No. 53,837

Lead Counsel for Patent Owner

John Shumaker

Registration No. 52,223

Backup Counsel for Patent Owner

CONNOR LEE & SHUMAKER PLLC

609 Castle Ridge Road, Suite 450

Austin, Texas 78746

Tel: 512-777-1254

Fax: 888-387-1134

Email: cab@clands.com

Email: john@clands.com

CERTIFICATION UNDER 37 CFR § 42.24

Under the provisions of 37 CFR § 42.24(d), the undersigned hereby certifies that the word count for the foregoing Patent Owner's Preliminary Response totals 9,050 words, which is fewer than the 14,000 allowed under 37 CFR § 42.24.

Dated: June 27, 2024

/Cabrach Connor/
Cabrach Connor
Registration No. 53,837
Lead Counsel for Patent Owner
CONNOR LEE & SHUMAKER PLLC
609 Castle Ridge Road, Suite 450
Austin, Texas 78746
Tel: 512-777-1254
Fax: 888-387-1134
Email: cab@clands.com

CERTIFICATE OF SERVICE

Pursuant to 37 CFR §§ 42.6(e)(4)(i) et seq. and 42.105(b), the undersigned certifies that on June 27, 2023, a complete and entire copy of this Patent Owner's Preliminary Response and all supporting exhibits were provided via E-Mail to the Petitioner by serving the correspondence address of record as follows:

Jeffri A. Kaminski, Reg. No. 42,709
VENABLE LLP
600 Massachusetts Ave NW
Washington, DC 20001
Phone: (202) 344-4048
Fax: (202) 344-8300
jakaminski@venable.com

Frank C. Cimino, Jr., Reg. No. 39,945
VENABLE LLP
600 Massachusetts Ave NW
Washington, DC 20001
Phone: (202) 344-4569
Fax: (202) 344-8300
fccimino@venable.com

Megan S. Woodworth, Reg. No. 53,655
VENABLE LLP
600 Massachusetts Ave NW
Washington, DC 20001
Phone: (202) 344-4507
Fax: (202) 344-8300
MSWoodworth@venable.com

/Cabrach Connor/
Cabrach Connor
Registration No. 53,837
Lead Counsel for Patent Owner
CONNOR LEE & SHUMAKER PLLC
609 Castle Ridge Road, Suite 450
Austin, Texas 78746
Tel: 512-777-1254
Fax: 888-387-1134
Email: cab@clands.com