

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 AUTHORIZED SUR-REPLY TO
PETITIONER'S AUTHORIZED REPLY TO PATENT OWNER
PRELIMINARY RESPONSE**

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?

The Board authorized this sur-reply on July 30, 2024, in connection with Petitioner's request to file a reply to Patent Owner's Preliminary Response. Ex-3001. Petitioner's reply reiterates its petition and provides no new or compelling reason SAP would prevail with respect to at least one claim. SAP's arguments fail to overcome the failure of the asserted references to teach key limitations of the challenged claims.

A. DISCRETIONARY DENIAL IS WARRANTED UNDER FINTIV

Each of the Fintiv factors strongly favors denial of institution.

Fintiv First Factor: SAP argues that this factor supports a denial because "a stay should be granted." Paper 7 (Reply) at 1-2. But SAP has not even sought a stay in district court. This factor strongly disfavors denial of institution.

Fintiv Second Factor: It is undisputed that trial is expected to begin with jury selection on March 17, 2025, so it should conclude about six months before the statutory deadline for a final written decision in this case. *See* Ex-1013 at p. 1. This factor strongly favors denial of institution.

Fintiv Third Factor: SAP suggests that "Fact discovery is in its infancy," but that is not so. The deadline for the parties' substantial completion of document production passed last week on August 8, 2024. Fact discovery closes October 28, 2024, so depositions and expert reports will occur in the next sixty days. This factor strongly favors denial of institution.

Fintiv Fourth Factor: SAP asserted the same art in district court that it presented in its petition. Total overlap strongly favors denial of institution.

B. *SOTERA* STIPULTION

Isix is prejudiced by SAP's gamesmanship. At the outset, SAP's "stipulation" is not a stipulation—it is an unsigned draft that may thereafter be unilaterally modified by SAP, if and when it files the stipulation in the Eastern District of Texas litigation. *See* Ex-1016. Because SAP's draft stipulation may be modified, it does not "mitigate[] concerns of potentially conflicting decisions and duplicative efforts between the district court and the PTAB." Director's Memorandum for the Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court Litigation (June 21, 2022) at p. 7.

SAP presented its alleged stipulation five weeks after Isix filed its Patent Owner Preliminary Response and about a week before Isix's deadline for its opening claim construction brief. SAP admits that Brann was "assigned to a subsidiary of Petitioner SAP." Pet. at 16. Depositions of Brann and Suresh likely will lead to the discoverability of relevant evidence. Isix is prejudiced by the timing of this late *Sotera* Stipulation because third-party discovery is more limited in an IPR proceeding than in federal district court. Additionally, Isix has been conducting discovery in district court regarding the Brann patent that SAP owns and is asserting as prior art in both the district court and in its petition. This

prejudice alone counsels against the inclusion of SAP's alleged Sotera stipulation at this point in this litigation. *BMW of North Am., LLC v. NorthStar Syss. LLC*, IPR2023-01017, Paper 12 at 10 (Dec. 8, 2023) ("Nor does Patent Owner allege that it has been prejudice by the timing of the stipulation.").

C. SAP'S PETITION AND REPLY FAILS TO PRESENT A LIKELIHOOD OF A SHOWING OF INVALIDITY OF AT LEAST ONE CLAIM—LET ALONE A COMPELLING EVIDENCE THEREOF

Contrary to its reply arguments, SAP has not presented "compelling evidence of unpatentability." Reply at 4.

Source and Destination Applications: Petitioner points to Brann's disclosure of subroutines for "translating source message to target messages" and attempting to equate "programs" with "applications" as disclosing this element. See Reply at 5; Paper 1 (Pet.) at 21. But Brann does not teach or suggest integrating source and destination applications. Instead, Brann updates software or moves software to a different heterogeneous platform, neither of which integrates source and destination applications which is no different than Suresh's ETL approach. See Paper 6 (POPR) at 30-31. As to Suresh, SAP argues that "'conventional RDMS systems' and 'data warehouses and data marts' are applications." Reply at 5. A database is not an application. See POPR at 32 (citing Ex-1001 ('178 patent) at 8:46-47). SAP contends that "Suresh is directed to data integration through a data extraction/transformation/loading (ETL) process," POPR at 32 (citing Pet. at 19).

SAP itself admits that the technology described in both Brann and Suresh is distinct from integration of applications. *See* Ex-2005 (“While both application integration and data integration make information more accessible to the people working with it, they are not the same thing.”).

Integrating data among heterogeneous source and destination applications:

SAP contends that Brann’s description of “‘integration’ of heterogeneous computer systems” discloses this element. Reply at 5. But Brann’s conversion of data from one form into another does not teach or suggest integrating data among applications. *See* POPR at 31. SAP contends that Suresh’s disclosure of a “system [that] extracts, transforms, and loads data” discloses this element. Yet, Suresh discloses loading of extracted and transformed data to a data mart and does not involve any business software application. Consequently, neither Suresh nor Brann disclose integration of data among source and destination applications.

Repository of information: SAP contends that Brann meets this element because it “describes that all the instructions and data are needed to perform a translation are stored in a database.” Reply at 5. But Brann is teaching translation of source messages to target messages, not instructions needed to integrate data between source and destination applications. *See* POPR at 34 (citing Ex-1003 (Brann) at 5:2-6). And storing messages and message types in tables does not teach or suggest source and destination applications. *See* POPR at 35. SAP

contends that the repository in Suresh maintains mapping information and thus discloses this element. *See* Reply at 5. But the “mapping information” in Suresh relates to data movement from source to target, not information relating to source and destination applications. POPR at 36 (citing Ex-1004 (Suresh) 6:23-29, 9:20-22; ’178 patent at 9:20-22, Figs. 1, 2, 5). The “transformation components” that perform ETL functionality in Suresh do not rely on information relating to source and destination applications. POPR at 37 (citing Suresh 9:6-8). Information about the source and destination applications is fundamental to the challenged claims. ’178 pat. at cl. 1. (“a repository of information relating to the source and the destination applications”).

Repository including first module: SAP argues that Brann teaches invoking a list of subroutines and that is the same as a list of instruction sets activating data elements. *See* Reply at 6. The list of subroutines in Brann are stored in volatile computer memory (not in a repository), and the function pointers to the subroutines cannot be stored in a database. *See* POPR at 37-38 (citing Brann, 7:33-35, 7:43-51). Thus, Brann does not disclose a repository including a first module.

Suresh does not cure the deficiency. Contrary to the claim language that requires “instructions” to be distinct from “data elements,” SAP relies on the erroneous contention that transformation components meet both “instructions” and “data elements.” *See* Reply at 6; Pet. at 50; POPR at 39-40. Accordingly, Suresh

does not disclose “each instruction of each instruction set activating a data element” of the challenged claims. SAP further alleges that the pipelines in Suresh are instruction sets with activate a data element by mapping and transforming data. Reply at 6. Because the mapping information in Suresh relates to data movement between transformation components in a pipeline, rather than the actual transformation components in the pipeline, Suresh does not disclose a repository that includes a first module. *See* POPR at 40.

SAP erroneously conflates Control Program instructions with the claimed instructions sets. *See* Reply at 6. SAP points to Brann’s “list of subroutines to be invoked and an order in which they should be invoked” as meeting the “first module.” Pet. at 29 (citing Brann at 7:26-27). This “list” is an “action” taken by the Control Program—separate from Control Program instructions—and is generated by an “executable reference . . . not held in the database.” *See* Brann at 7:25-44). Thus, the subroutine list is stored in computer memory, not in a database.

Finally, SAP’s attempt to limit the Brann function pointer specifically to the C programming language, *see* Reply at 6, is wrong because Brann describes that the subroutine list is generated by the Control Program using “an executable function reference.” *See* Brann at 7:26-52. Brann generally describes an “executable function reference” that “cannot be held in a database” because “[t]his

operation is carried out by the Control Program when it first begins executing.”

POPR at 38; Brann 7:39-52. Brann never describes an executable function

reference for generating a list that is stored in a database.

SAP cannot meet its more likely than not burden of showing the
unpatentability of at least one claim of the '178 Patent.

Respectfully submitted,

Date: August 13, 2024

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CERTIFICATE OF SERVICE

Pursuant to 37 CFR §§ 42.6(e)(4)(i) et seq. and 42.105(b), the undersigned certifies that on August 13, 2024 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:

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