

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TELADOC HEALTH, INC.,
Petitioner,

v.

DATA HEALTH PARTNERS, INC.,
Patent Owner.

IPR2024-00618
Patent 10,061,812 B2

Before ROBERT J. WEINSCHENK, SHARON FENICK, and
ANDREAS BALTATZIS, *Administrative Patent Judges*.

BALTATZIS, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

A. *Background and Summary*

Teladoc Health, Inc. (“Petitioner”) filed a Petition requesting *inter partes* review of claims 1–7, 9–14, 16–18, and 20 (the “challenged claims”) of U.S. Patent No. 10,061,812 B2 (Ex. 1001, “the ’812 patent”). Paper 1 (“Pet.”). Data Health Partners, Inc. (“Patent Owner”) filed a Preliminary Response. Paper 6 (“Prelim. Resp.”).

We have authority to determine whether to institute *inter partes* review. See 35 U.S.C. § 314 (2024); 37 C.F.R. § 42.4(a) (2023) (“The Board institutes the trial on behalf of the Director.”). We may institute *inter partes* review when “the information presented in the petition . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a). After considering the Petition and the evidence of record, we deny institution of an *inter partes* review as to claims 1–7, 9–14, 16–18, and 20 of the ’812 patent.

B. *Real Parties in Interest*

Petitioner identifies Teladoc Health, Inc. as the real party in interest. Pet. 1.

Patent Owner identifies Data Health Partners, Inc. as the real party in interest. Paper 4 (Patent Owner’s Mandatory Notices), 1.

C. *Related Matters*

The parties list the following co-pending litigation as a related matter: *Data Health Partners, Inc. v. Teladoc Health, Inc.*, 1-23-cv-00160-JCG (D. Del. Feb. 13, 2023). Pet. 2; Paper 4, 1.

Petitioner concurrently filed petitions for *inter partes* review challenging claims of related patents: U.S. Patent Nos. 11,144,554 B2 (IPR2024-00616) and 11,151,142 B2 (IPR2024-00617).

D. The '812 Patent (Ex. 1001)

The '812 patent relates to a system and method for tracking outcome specific data for clients served by providers. Ex. 1001, 1:38–41. For example, the clients may be individuals suffering from health challenges (*see id.* at 4:34–45) and the providers may be health-service providers (*see id.* at 4:12–22). An administrator assigns clients to various providers. *Id.* at 1:41–43. The clients achieve goals, which are tracked by the system using data about the clients received from the providers. *Id.* at 1:53–64. According to the Specification, the system provides an automated “process for assessment that drives goals, services, and interventions.” *Id.* at 27:26–28.

E. Illustrative Claim

Petitioner challenges claims 1–7, 9–14, 16–18, and 20, of which claims 1, 11 and 16 are independent. Claim 16 is illustrative of the claimed subject matter and is reproduced below.¹

16. [p] A server comprising:

- [a] a processor for executing a set of instructions or client management; and
- [b] a memory for storing the set of instructions for client management, wherein the set of instructions are executed by the processor to:
- [c] receive input establishing user accounts for providers serving clients, wherein the input includes rules for determining the progress of clients, wherein the clients are individuals receiving treatment or assistance;
- [d] assign each of the clients to one or more of the providers in response to selections from an administrator, wherein the one or more providers are individuals available to treat or assist the clients;

¹ We adopt the bracketed identifiers added by Petitioner.

- [e] prompt the providers to provide data associated with each of the clients that is required and not already received through the client management program, wherein the providers periodically provide/update the data, and wherein the data relates to the well-being of the clients;
- [f] compile data associated with each of the clients received from the providers utilizing communications devices in communication with the server without input from the clients to generate a score utilizing the rules, wherein the score is associated with progress toward mastery of one or more goals;
- [g] analyze the compiled data and the score to automatically determine a status of the clients, wherein the score is compared with previous compiled data to determine whether a plurality of measurements of the compiled data vary from a threshold to become significant; and
- [h] automatically communicate an alert from the server to the communications devices associated with the providers assigned to one of the clients in response to the plurality of measurements of the compiled data varying from the threshold to become significant for one of the clients, wherein the administrator or one of the providers intervenes with the one of the clients based on the alert; and
- [i] communicate the compiled data to specified parties in response to a request from the providers or administrator.

Ex. 1001, 33:28–34:21.

F. Asserted References

Petitioner relies on the following references in its asserted grounds of unpatentability:

Name	Reference	Ex. No.
Wager	US 2006/0149589 A1 (July 6, 2006)	1003
Chitiveli	US 2013/0179450 A1 (July 11, 2013)	1004
Douglas	WO 1999/003045 A1 (Jan. 21, 1999)	1002
Koh	Hian Chye Koh & Gerald Tan, “Data Mining	1009

Name	Reference	Ex. No.
	Applications in Healthcare,” 19 J. Healthcare Information Management 64 (2005)	
Virginia	“Autism Spectrum Disorders and the Transition to Adulthood,” VA Dep’t of Educ. (2010)	1022
Klotsche	J. Klotsche et al., “The DETECT adherence score—structure and psychometric exploration of a novel approach to measure adherence to drug and non-drug interventions in primary care,” 20 Int. J. Methods Psychiatr. Res. 82 (2011)	1005

G. Asserted Grounds

Petitioner asserts that claims 1–7, 9–14, 16–18, and 20 would have been unpatentable on the following grounds:

Claims Challenged	35 U.S.C. ² §	Reference(s)/Basis
1, 3, 6, 7, 9–11, 16, 17	103	Douglas, Klotsche, Virginia
1, 3, 6, 7, 9–11, 16, 17	103	Douglas, Klotsche, Virginia, Wager
2, 14, 20	103	Douglas, Klotsche, Virginia, Chitiveli
2, 14, 20	103	Douglas, Klotsche, Virginia, Wager, Chitiveli
4, 5, 12, 13, 18	103	Douglas, Klotsche, Virginia, Koh
4, 5, 12, 13, 18	103	Douglas, Klotsche,

² The Leahy-Smith America Invents Act, Pub. L. No. 112-29, 125 Stat. 284 (2011) (“AIA”), included revisions to 35 U.S.C. §§ 102 and 103 that became effective on March 16, 2013, after the filing of the application to which the ’812 patent claims priority. See Ex. 1001, code (60). Therefore, we apply the pre-AIA versions of Sections 102 and 103.

Claims Challenged	35 U.S.C. ² §	Reference(s)/Basis
		Virginia, Wager, Koh

Petitioner supports its challenges with a declaration from Bryan Bergeron, M.D. (Ex. 1012).

II. ANALYSIS

A. Legal Standards

“In an [*inter partes* review], the petitioner has the burden from the onset to show with particularity why the patent it challenges is unpatentable.” *Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1363 (Fed. Cir. 2016) (citing 35 U.S.C. § 312(a)(3) (requiring *inter partes* review petitions to identify “with particularity . . . the evidence that supports the grounds for the challenge to each claim”)). This burden never shifts to Patent Owner. *See Dynamic Drinkware, LLC v. Nat’l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015) (citing *Tech. Licensing Corp. v. Videotek, Inc.*, 545 F.3d 1316, 1326–27 (Fed. Cir. 2008)) (discussing the burden of proof in *inter partes* review). Furthermore, Petitioner must explain with particularity how the prior art would have rendered the challenged claims unpatentable. 35 U.S.C. § 312(a)(3); 37 C.F.R. § 42.104(b)(4) (“The petition must specify where each element of the claim is found in the prior art patents or printed publications relied upon.”).

A claim is unpatentable under 35 U.S.C. § 103 if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. *See KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of underlying factual determinations, including (1) the scope and content of the prior art;

(2) any differences between the claimed subject matter and the prior art; (3) the level of skill in the art; and (4) objective evidence of nonobviousness, i.e., secondary considerations.³ See *Graham v. John Deere Co. of Kan. City*, 383 U.S. 1, 17–18 (1966).

B. Level of Ordinary Skill in the Art

Petitioner argues that one of ordinary skill in the art relevant to the challenged claims, as of the earliest claimed priority date, “would have had at least a bachelor’s degree in a healthcare field as well as 1–2 years of experience with health information technology, including specific experience with computer-based systems for recording, tracking, and analyzing patient health information.” Pet. 7 (citing Ex. 1012 ¶ 36).

At this time, Patent Owner does not oppose Petitioner’s definition of a person of ordinary skill in the art. Prelim. Resp. 2.

For the purposes of this Decision, we adopt Petitioner’s formulation for a person of ordinary skill in the art, which appears to be consistent with the level of skill in the art reflected in the prior art of record and the disclosure of the ’812 patent.

C. Claim Construction

We construe claim terms according to the standard set forth in *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–17 (Fed. Cir. 2005) (en banc), i.e., as construed in a civil action under 35 U.S.C. § 282(b). See 37 C.F.R. § 42.100(b). Under *Phillips*, claim terms are afforded “their ordinary and customary meaning.” *Phillips*, 415 F.3d at 1312. “[T]he ordinary and customary meaning of a claim term is the meaning that the term would have

³ In the present record, neither party presents arguments or evidence relating to secondary considerations.

to a person of ordinary skill in the art in question at the time of the invention.” *Id.* at 1313. “Importantly, the person of ordinary skill in the art is deemed to read the claim term not only in the context of the particular claim in which the disputed term appears, but in the context of the entire patent, including the specification.” *Id.* at 1313.

Petitioner argues that “[n]one of the claim terms of the Challenged Claims require an explicit construction to resolve the current grounds.” Pet. 7. Patent Owner “[a]grees with Petitioner that, for purposes of this Preliminary Response only, all terms of the ’812 patent have their plain and ordinary meaning.” Prelim. Resp. 11.

Although the parties present no express claim construction, we consider the parties’ arguments as to the plain and ordinary meaning of a disputed claim element to be necessary to resolve whether to institute *inter partes* review in this proceeding. *See Realtime Data, LLC v. Iancu*, 912 F.3d 1368, 1375 (Fed. Cir. 2019) (“The Board is required to construe ‘only those terms . . . that are in controversy, and only to the extent necessary to resolve the controversy.’” (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999))). Specifically, we address the meaning of “*compile data* associated with each of the clients received from the providers utilizing communications devices in communication with the server *without input from the clients to generate a score*” (Ex. 1001, 34:1–4), which Patent Owner argues is dispositive for the purposes of institution. *See* Prelim. Resp. 12–20 (emphasis added). Independent claims 1 and 11 recite similar elements. *See* Ex. 1001, 31:31–34, 32:45–48. In particular, we consider the meaning of “without input from the clients” in the context of “compile data . . . to generate a score.”

Both parties refer to “compiled data” as “collected data.” See Pet. 31 (“patient data is collected over time—i.e., compiled—to determine progress of a patient toward achieving the goals”); *see also* Prelim. Resp. 20 (“compilations of data . . . contain input”). For purposes of this Decision, we apply the same plain and ordinary meaning as the parties, i.e., that compiled data refers to collected data, and “compiling data” is synonymous with “collecting data.”

We next consider the purpose of the compiled/collected data according to the claim language. The claims require compiling data to generate a score. See Ex. 1001, 34:1–4. In other words, the claimed score is generated from the compiled data. The parties appear to apply a similar meaning. See Pet. 31–32 (“patient data collected over time, charted against respective goals”); Prelim. Resp. 18 (“compiled data received from the providers is ‘without input from the clients to generate a score utilizing the rules’”). We agree with the parties that the claims require compiling or collecting data to generate a score.

We finally consider the disputed limitation “without input from the clients.” Petitioner argues that data inputted by a provider, and not the client, “is without input” from the client. See Pet. 51 (citing Ex. 1012 ¶ 141). Patent Owner distinguishes between entered data and compiled data. See Prelim. Resp. 19–20 (“[T]he element in claim 16 does not require data entry without input from the patients. Instead, . . . claim 16 recites that ‘instructions are executed by the processor to: . . . **compile data**’”). Patent Owner thus argues that the negative limitation “without” excludes client input from the compiled data to generate a score, not the entered data as a whole. See *id.* In other words, both providers and clients may input data, but the score is generated from data collected from the providers, not the clients.

We agree with Patent Owner’s position—that the compiled data used to generate a score includes client data received from the providers and excludes (is without) input from the clients—as consistent with the plain and ordinary meaning of the claim limitation. This reading gives meaning to the express limitation “without input from the clients.” *See Phillips*, 415 F.3d at 1314 (“the use of a term within the claim [may provide] a firm basis for construing the term”). We next consider whether this interpretation is consistent with the intrinsic evidence.

We begin with the other claim elements. For example, claim 16 recites data entry as a separate element, i.e., “prompt the providers to provide data associated with each client.” Ex. 1001, 33:42–43. Notably, this limitation does not exclude client input. *See id.* Accordingly, the plain language of the claims distinguishes between provided data and compiled data, where only one data set, compiled data for generating a score, excludes client input.

We next consider the Specification. *See Phillips*, 415 F.3d at 1315 (“claims must be read in view of the specification, of which they are a part”) (internal quote omitted). Neither party cites intrinsic evidence from the Specification to support their analysis of “without input from the clients.” *See Pet.* 51; *see also Prelim. Resp.* 12–20. We do not identify any discussion or express definition of “without input from the clients” in the Specification. *See generally* Ex. 1001. Nor do we find any disclosure that contradicts the plain and ordinary meaning discussed above. *See id.*

We also consider the prosecution history. *See Phillips*, 415 F.3d at 1317 (“Like the specification, the prosecution history provides evidence of how the PTO and the inventor understood the patent.”). Patent Owner argues that during prosecution, the limitation at issue was added to distinguish the

art used to reject the claims. Prelim. Resp. 18–19 (citing Ex. 2005, 183–184, 193). According to Patent Owner, it was argued that the asserted art “teaches that emoticons and other response to interactive content are received from the user being monitored,’ and so ‘does not teach compiling data associated with each of the clients received from the providers without input from the clients.’” *Id.* (citing Ex. 2005, 193) (emphasis omitted). Patent Owner then cites the Examiner’s responsive finding that the asserted art “does not teach a specific embodiment where data is obtained or a status determined without any user input.” *Id.* at 19 (citing Ex. 2005, 204, 209, 297). In these remarks, the Examiner appears to interpret the claim as excluding data input by the client from the entered data (obtained) or compiled data (status determined).

In light of the prosecution history, we agree with Patent Owner that the plain and ordinary meaning of the limitation “compile data associated with each of the clients received from the providers . . . without input from the clients to generate a score” and similar limitations in claims 1 and 11 requires generating a score from data associated with a client, excluding data received from the client. For purposes of this Decision, and based on the record before us, we determine that no other express construction of any other term is necessary.

D. Overview of the Prior Art

1. Douglas (Ex. 1002)

Douglas relates to a system and method for providing therapeutic behavior modification, including compliance monitoring and feedback.

Ex. 1002, 1:8–10.⁴ The system allows for a physician to assist an individual or patient to make desirable lifestyle and behavior modifications. *Id.* at 6:1–5, 24–29. Douglas describes an exemplary scenario in which a case administrator enters the patient into the system, and the “system or case advisor recommends a default set of goals based on the patient’s needs and existing medical protocols that may be modified by the physician.” *Id.* at 7:17–20.

Once the goals are set, “the system accepts updated patient data directly from the patient and through data entered by the physician during office visits.” *Id.* at 11:1–5. The system compares the patient’s data to the patient’s goals to provide patient progress reports to the physician. *Id.* at 11:6–10. The system will further notify the physician that the patient’s goals are not being met and provide an alarm for immediate action if a health risk is present. *Id.* at 11:11–25.

2. *Klotsche* (Ex. 1005)

Klotsche relates to a scoring scheme for measuring patient adherence to medical recommendations. Ex. 1005, 82. Klotsche describes assigning and measuring different treatment goals depending on the patient. *See id.* at 84. “After a period of 12-months - each patient was reappraised with regard to the degree in which treatment goals were achieved by use of a predefined goal attainment rating.” *Id.* The study “used the laboratory, clinician and self-reported patient data from the [] baseline and follow-up assessment that appropriately matched” domains of particular interest. *Id.* The scoring system then obtains a score by assigning values based on different

⁴ Petitioner’s exhibits include Bates numbering, but both parties refer to the original pagination of the documents. For consistency with the parties’ discussion, we refer to the documents’ original page numbers.

indicators, whether or not the indicators were targeted for intervention, and whether or not the treatment goal was attained. *Id.* at 87.

3. Virginia (Ex. 1022)

Virginia relates to assessing students with autism spectrum disorder who are transitioning to adulthood. Ex. 1022, 5, 13. The assessment includes identified measurable goals for the student. *Id.* at 24. Teachers collect data to evaluate their instructional strategy as compared to the goals. *Id.* at 27. That evaluation may be graphed as shown in Figure 4, reproduced below.

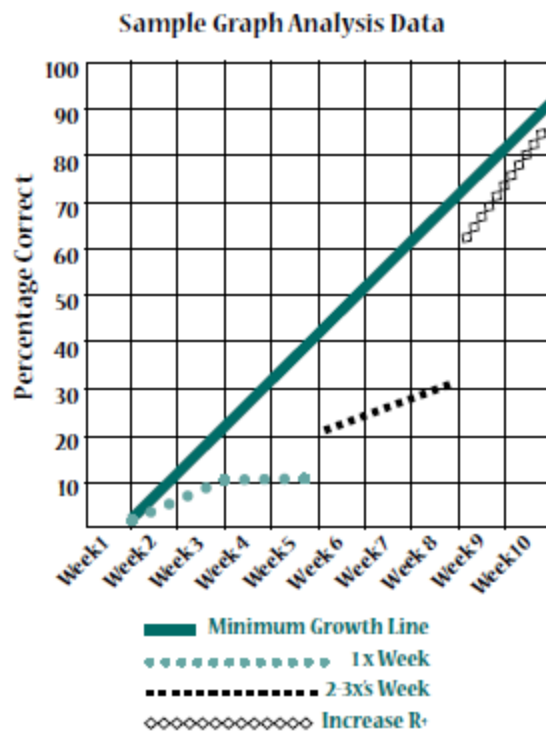


Figure 4 is a sample graph depicting ongoing data collection.

The sample graph includes a minimum growth line extending diagonally across the entire graph. *Id.* The minimum growth line allows the teacher to “track whether or not a student’s learning rate is sufficient to master the given goal” by the end of the teaching period. *Id.*

4. *Wager (Ex. 1003)*

Wager relates to a management interface for generating patient-to-care provider assignments. Ex. 1003 ¶ 3. A staff manager for a hospital or other clinical care facility may operate the workforce management interface to assign patients to providers, for example, “nurses, therapists, technicians, physicians, interns, or other clinical or [] personnel.” *Id.* ¶ 11. The workforce management system may provide a patient list with patient information to be matched to a provider list with provider information. *Id.* ¶¶ 12, 14. Wager further describes a graphical user interface with which the staff manager may “highlight, grab, click or otherwise activate a provider name in provider list 126, and drag and drop that identifier onto assignment bar 120 for that patient, or otherwise associate the provider with the patient.” *Id.* ¶ 15, Fig. 2.

E. Alleged Obviousness of Claims 1, 3, 6, 7, 9–11, 16, and 17

Petitioner argues that claims 1, 3, 6, 7, 9–11, 16, and 17 are unpatentable as obvious over Douglas, Klotsche, and Virginia. Pet. 8–53. Alternatively, Petitioner argues that these claims are unpatentable as obvious over Douglas, Klotsche, Virginia, and Wager. *Id.* at 54–59. Patent Owner disagrees, arguing that the Petition fails to establish a reasonable likelihood of unpatentability. *See* Prelim. Resp. 11–12. Specifically, Patent Owner argues that the Petition fails to address the step of “compiling the data associated with each of the clients received from the providers *without input from the clients* for the client management program to generate a score utilizing the rules.” *Id.* at 12–20 (emphasis added); *see also* Ex. 1001, 31:31–34 (claim 1), 32:46–48 (claim 11), 34:1–4 (claim 16).

On this record, we determine that Petitioner does not establish a reasonable likelihood that it would prevail in showing that the asserted art

teaches or suggests all the limitations of the challenged claims. We address in detail below this dispositive issue.

1. Alleged Obviousness of Claims 16 and 17

Independent claim 16 recites a server with a processor for executing a set of instructions, including instructions to “compile data associated with each of the clients received from the providers utilizing communications devices in communication with the server without input from the clients to generate a score utilizing the rules, wherein the score is associated with progress toward mastery of one or more goals.” Ex. 1001, 33:28–33, 34:1–6.

Petitioner asserts that “Douglas discloses compiling data associated with the patients received from the providers, as updated patient data is collected over time—i.e., compiled—to determine progress of a patient toward achieving the goals.” Pet. 31 (citing Ex. 1002, 11:26–28; Ex. 1012 ¶¶ 87, 90). That collected data is used to generate reports. *See id.* at 31–32 (citing Ex. 1002, 20:3–37, Figs. 40–45; Ex. 1012 ¶ 90). As to limitation 16[f] of claim 16 specifically, Petitioner argues that Douglas teaches receiving client-associated data from providers utilizing communications devices in communication with the server by teaching providers entering patient data “using a ‘PC 500’ that ‘is electronically linked to network server 508’ using ‘a high-speed modem 506 connected to the PC 500.’” *Id.* at 51 (citing Ex. 1002, 24:3–26, Fig. 59; Ex. 1012 ¶ 141). Petitioner asserts that “Douglas explains that the entry of patient health information is achieved ‘via the physician’s personal computer,’” and “[s]uch data entry, being input by the physicians, *is without input from the patients.*” *Id.* (citing Ex. 1002, 6:31–33, 24:28–36, 11:3–5; Fig. 60; Ex. 1012 ¶ 141) (emphasis added, bracketing removed).

Patent Owner argues that the claim limitation “compile data associated with each of the clients received from the providers . . . without input from the clients” excludes compiling data with input from the clients. *See* Prelim. Resp. 13 (“such exclusion is what the Challenged Claims require”). As to claim limitation 16[f], Patent Owner distinguishes between compiling data and data entry, arguing that “the element in claim 16 does not require data entry without input from the patients.” *Id.* at 19–20. Patent Owner argues that “while Petitioner’s additional claim 16 allegations show that physician-entered data exists, Petitioner makes no allegations for claim 16 about data compilation, and indeed does not mention any permutation of the word ‘compile’ in its analysis.” *Id.* at 20 (citing Pet. 51).

Patent Owner further distinguishes the limitation “compiled data . . . without input from the clients” from Douglas’s teachings. *See id.* at 13–20. Patent Owner argues that Douglas “explicitly indicates” that its data compilations “contain input from the clients.” *Id.* at 20. For example, Patent Owner argues that “each of Douglas’s Figures 40–45 contains information for which Douglas explicitly collects client input,” including behavioral intention, self-efficacy, and social support. *Id.* at 14–16 (citing Ex. 1002, Figs. 40–45). Patent Owner also cites Douglas’s patient journal and on-line questionnaires submitted to the patient as a source of client input for the compiled data. *Id.* at 16–17 (citing Ex. 1002, 9:32–34, 10:10–19, 10:31–33, 20:20–25, Figs. 9, 13).

On this record, we are persuaded by Patent Owner’s arguments. As discussed above in the claim construction section (Section II.C), we agree with Patent Owner that the plain and ordinary meaning of the claim requires generating a score from data associated with a client, excluding data received from the client. On this record, we further agree with Patent Owner

that Petitioner does not establish a reasonable likelihood that it would prevail in showing that the cited art teaches or suggests this limitation.

As discussed above, Petitioner asserts that Douglas teaches compiling data to generate reports on client progress (Pet. 31–32, citing Ex. 1002, 20:3–37, Figures 40–45) and entering data “without input from the patients” (Pet. 51, citing Ex. 1002, 6:31–33, 11:3–5, and 24:3–36, and Figures 59–60). We examine each of these citations.

First, Douglas teaches that a doctor may input a patient’s vital factors directly into the system via his or her personal computer. Ex. 1002, 6:31–33. On this record, the first citation appears to refer to data entry (*see* element 16[e], “prompt the providers to provide data associated with each of the clients”). This citation does not teach or suggest compiling data without input from the client to generate a score.

Second, Douglas teaches “the system accepts updated patient data directly from the patient and through data entered by the physician during office visits.” *Id.* at 11:3–5, Fig. 60. This second citation teaches including both provider and client input, and does not teach or suggest compiling data without input from the client to generate a score.

Third, Douglas teaches a health record of an exemplary patient including health-related factors, with graphs that allow the physician to review and grasp the patient’s progress. *See id.* at 20:1–27. This third citation teaches “compiling data” to determine patient progress. *See* Ex. 1012 ¶ 90. However, Douglas again does not teach compiling data without client input, nor any reason or suggestion to do so. Instead, as Patent Owner identifies, Douglas teaches a report generated from compiled client data including data from the provider and the client. *See* Prelim. Resp. 14–17 (citing Ex. 1002, 20:24–25, Figures 40–45).

Fourth, Douglas teaches a server that contains all the health plan data, including “pertinent information from a patient’s journal” and “[i]nformation provided by the physician.” Ex. 1002, 24:28–36. This fourth citation teaches comingling provider and client inputted data and does not teach compiling data without input from the client.

In sum, none of Petitioner’s citations to Douglas appear to address compiling data without input from the client to generate a score. Petitioner’s declarant, Dr. Bergeron, does not provide any further explanation of why one of ordinary skill in the art would compile data without input from the client to generate a score, nor a reason to modify Douglas to do so. See Ex. 1012 ¶¶ 141–142, 90–91. Instead, Dr. Bergeron merely provides the conclusion mirrored in the Petition. See Ex. 1012 ¶ 141. Finally, Petitioner does not rely on Klotsche, Virginia, or Wager for the disputed limitation “without input from the client.” See Pet. 32 (discussing Klotsche), 33 (discussing Virginia), and 58–59 (discussing Wager).

Based on the record before us, Petitioner has not established that the asserted art teaches or suggests all of the claim elements and limitations of claim 16. Accordingly, Petitioner has not established a reasonable likelihood of prevailing on its assertion that claim 16, and dependent claim 17, would have been obvious over Douglas, Klotsche, and Virginia or Douglas, Klotsche, Virginia, and Wager.

2. Alleged Obviousness of Claims 1, 3, 6, 7, 9, 10 and 11

Independent claim 1 recites a method for tracking outcome specific data comprising “compiling the data associated with each of the clients received from the providers without input from the clients for the client management program to generate a score utilizing the rules, wherein the score is associated with progress toward mastery of one or more goals.”

Ex. 1001, 31:31–36. Independent claim 11 recites a system for tracking goal achievement comprising a processor that executes a program to “compile data associated with each of the individuals received from the providers without input from the individuals to generate a score utilizing the rules.” *Id.* at 32:45–48.

Petitioner asserts that “Douglas discloses compiling data associated with the patients received from the providers, as updated patient data is collected over time—i.e., compiled—to determine progress of a patient toward achieving the goals.” Pet. 31 (citing Pet. 30–31; Ex. 1012 ¶ 90). Petitioner further asserts that Douglas teaches generating reports on patient progress using the “patient data compilation.” *Id.* at 31–32 (citing Ex. 1002, 20:3–37, Figs. 40–45; Ex. 1012 ¶ 90). Petitioner identifies “two sources for the necessary health-related data” in Douglas, “the patient and the physician.” *Id.* at 30 (citing Ex. 1002 Fig. 60; Ex. 1012 ¶ 87). However, Petitioner does not assert that one of ordinary skill in the art would exclude one of the sources when compiling data for generating a score, and does not expressly address “without input from the clients” in claim 1 or claim 11. *See id.* at 31–32, 49.

Patent Owner identifies this deficiency and argues that “every claim of the ’812 patent requires compiling the data associated with each of the clients received from the providers ‘without input from the clients,’” but “this phrase never even appears in Petitioner’s allegations or analysis for claim 1, or for claim 11, which merely relies on the claim 1 analysis.” Prelim. Resp. 13 (citing Pet. 31–32, 46–49).

We agree with Patent Owner. Petitioner does not address “without input from the clients” when discussing the limitations of claims 1 and 11. Even applying Petitioner’s argument as to claim 16, that does expressly

address the limitation “without input from the client,” we are not persuaded that Petitioner establishes the requisite reasonable likelihood for institution, as discussed above.

Based on the record before us, Petitioner has not established a reasonable likelihood that it would prevail in showing that a combination of Douglas, Klotsche, and Virginia, or of Douglas, Klotsche, Virginia, and Wager, teaches or suggests all of the claim elements and limitations of claims 1 or 11, and dependent claims 3, 6, 7, 9, and 10.

F. Alleged Obviousness of Claims 2, 14, and 20

Petitioner alleges that claims 2, 14, and 20, which depend directly from independent claims 1, 11, and 16, respectively, would have been obvious over Douglas, Klotsche, Virginia, and Chitiveli, or Douglas, Klotsche, Virginia, Wager, and Chitiveli. Pet. 59–66. Petitioner does not cite Chitiveli as teaching or suggesting the limitation “without input from the client.” *See id.*

For reasons discussed above, we determine that Petitioner has not shown a reasonable likelihood that it would prevail in its obviousness challenge of claims 2, 14, or 20 based on Douglas, Klotsche, Virginia, and Chitiveli, or Douglas, Klotsche, Virginia, Wager, and Chitiveli.

G. Alleged Obviousness of Claims 4, 5, 12, 13, and 18

Petitioner alleges that claims 4, 5, 12, 13, and 18, which depend directly or indirectly from independent claims 1, 11, and 16, respectively, would have been obvious over Douglas, Klotsche, Virginia, and Koh, or Douglas, Klotsche, Virginia, Wager, and Koh. Pet. 66–73. Petitioner does not cite Koh as teaching or suggesting the limitation “without input from the client.” *See id.*

For reasons discussed above, we determine that Petitioner has not shown a reasonable likelihood that it would prevail in its obviousness challenge of claims 4, 5, 12, 13, and 18 based on Douglas, Klotsche, Virginia, and Koh, or Douglas, Klotsche, Virginia, Wager, and Koh.

III. CONCLUSION

For the foregoing reasons, we have determined that Petitioner has not established a reasonable likelihood of prevailing with respect to any claims. Thus, we do not institute an *inter partes* review.

IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that, pursuant to 35 U.S.C. § 314(a), the Petition is denied, and no *inter partes* review is instituted.

IPR2024-00618
Patent 10,061,812 B2

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