

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC., ROKU, INC., and SAMSUNG
ELECTRONICS CO. LTD.,
Petitioner,

v.

ALMONDNET, INC. and INTENTIQ, LLC,
Patent Owner.

IPR2023-01281¹
Patent 10,715,878 B2

Before KRISTEN L. DROESCH, STACEY G. WHITE, and
SCOTT B. HOWARD, *Administrative Patent Judges*.

WHITE, *Administrative Patent Judge*.

JUDGMENT
Final Written Decision
Determining No Challenged Claims Unpatentable
35 U.S.C. § 318

¹ Roku, Inc. filed a petition in IPR2024-00666 and was joined as petitioner in this proceeding. Samsung Electronics, Co., Ltd. filed a petition in IPR2024-00701 and was joined as a petitioner in this proceeding.

I. INTRODUCTION

Meta Platforms, Inc. (“Petitioner”) filed a Petition requesting an *inter partes* review of claims 1–4 and 6–23 of U.S. Patent No. 10,715,878 B2 (Ex. 1001, “the ’878 patent”). Paper 2 (“Pet.”). Trial was instituted on the asserted grounds of unpatentability. Paper 7 (“Inst. Dec.”), 23–24. Roku, Inc. and Samsung Electronics, Co., Ltd. joined this proceeding after institution (Papers 15, 16).

Intent IQ, LLC (“Patent Owner”) filed a Patent Owner Response (Paper 10, “PO Resp.”) to the Petition. Petitioner filed a Reply (Paper 12, “Reply”) to the Patent Owner Response. Patent Owner filed a Sur-reply (Paper 17, “Sur-reply”) to the Reply. An oral hearing was held on November 21, 2024, for which the transcript was entered into the record (Paper 28, “Tr.”).

We have jurisdiction under 35 U.S.C. § 6(b)(4) and § 318(a). This Decision is a final written decision under 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73 as to the patentability of claims 1–4 and 6–23 of the ’878 patent. For the reasons that follow, we conclude that Petitioner has not shown by a preponderance of the evidence that claims 1–4 and 6–23 of the ’878 patent are unpatentable.

A. Related Matters

The parties identify the following related district court proceedings: *AlmondNet, Inc. v. Meta Platforms, Inc.*, No. 4:23-cv-00438 (N.D. Cal); *AlmondNet, Inc. v. Samsung Elecs. Co.*, No. 4:22-cv-07515 (N.D. Cal.); *AlmondNet, Inc. v. Amazon.com, Inc.*, No. 6:22-cv-01204 (W.D. Tex.); *AlmondNet, Inc. v. Meta Platforms, Inc.*, No. 6:22-cv-01205 (W.D. Tex.); *AlmondNet, Inc. v. Microsoft Corp.*, No. 6:22-cv-01206 (W.D. Tex.);

AlmondNet, Inc. v. Roku, Inc., No. 6:21-cv-00731 (W.D. Tex.); *Roku, Inc. v. AlmondNet, Inc.*, No. 1:21-cv-01035 (D. Del.), *Roku, Inc. v. LinkedIn Corp.*, No. 1:23-cv-01373 (D. Del.). Pet. 1; Paper 4, 1, IPR2024-00666, Paper 5. Petitioner further indicates that the '878 patent was at issue in *Roku, Inc. v. Intent IQ, LLC*, IPR2022-01315 and *Samsung Electronics Co. v. Intent IQ, LLC*, IPR2022-01505 (institution denied in both). Pet. 2. Petitioner further identifies the following proceedings involving Petitioner and Patent Owner: IPR2022-00773, IPR2022-01064, and IPR2022-01436. Pet. 1–2.

B. The '878 Patent (Ex. 1001)

The '878 patent is titled “Targeted Television Advertisements Based on Online Behavior.” Ex. 1001, code (54). The '878 patent describes delivering targeted television advertisements “based on observed online (i.e., Internet) behavior of a television viewer without employing personally identifiable information.” *Id.* at 1:24–27. Figure 7, reproduced below, shows an exemplary system for serving targeted television advertisements based on a user’s online behavior (*id.* at 13:4–5).

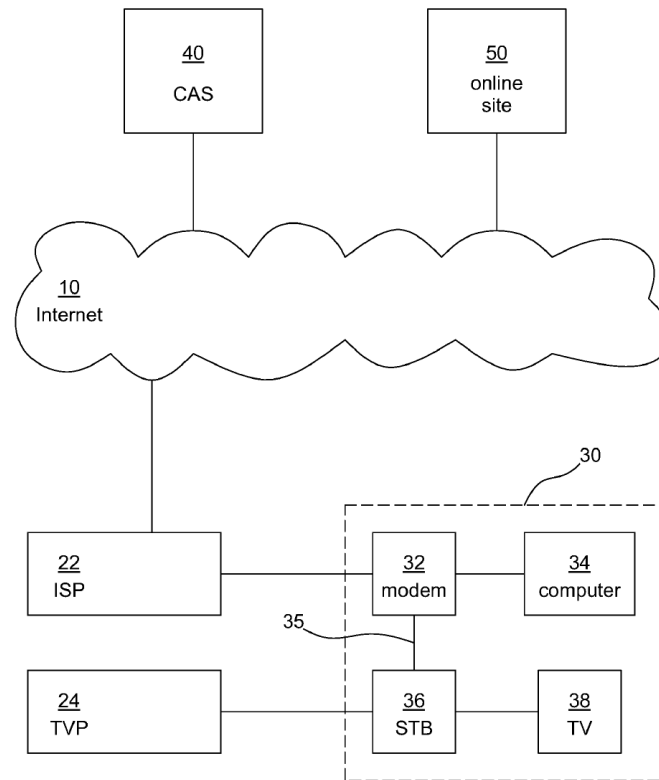


FIG. 7

Figure 7, reproduced above, depicts modem 32, computer 34, set-top box (STB) 36, and television 38 associated with user 30. *Id.* at 9:38–40, 9:50–54. Internet service provider (ISP) 22 assigns a dynamic IP address to modem 32. *Id.* at 9:57–61; 13:50–52. In Figure 7, STB 36 is connected to modem 32 via connection 35 to obtain online access via the same IP address at modem 32. *Id.* at 13:17–24. “For example, STB 36 can be connected to a local area network (LAN) that shares [modem] 32 for online access. In such an arrangement, network traffic is routed to a common IP address (i.e., the IP address of modem 32) for STB 36 and other devices [e.g., computer 34] connected to the LAN.” *Id.* at 13:24–46, 13:52–60. “The term ‘common IP address’ denotes the IP address of a modem or other online access device to which remote network traffic is routed for each of multiple devices sharing a common connection.” *Id.* at 13:34–37. “The common IP address is

dynamically assigned by ISP 22 to the user's modem 32 or other online access equipment.” *Id.* at 13:50–52. That common IP address comprises an electronic association between online access and STB IP addresses, which enables delivery of targeted television advertising to STB 36 based on online activity observed as originating from the common IP address of modem 32. *Id.* at 12:37–13:2, 13:17–22, 14:1–8.

C. Illustrative Claim

Petitioner challenges claims 1–4 and 6–23 of the '878 patent. Claims 1, 13, and 22 are independent. Claim 1 is illustrative of the claimed subject matter and reproduced below.

1. A method for identifying an association among multiple electronic devices of a group of devices connected through a common local area network (LAN) and using the association for cross-device action, the method comprising:

(a) with a computer system, determining an association between device identifiers of two or more Internet-accessing electronic devices based on electronically stored association-detection information about a plurality of Internet-accessing electronic devices, wherein the stored association-detection information for each of the plurality of Internet-accessing electronic devices includes:

(i) a device identifier;

(ii) at least one dynamically assigned IP address assigned to a modem that connects a router of the LAN to the Internet; and

(iii) at least one timestamp specifying a time when the Internet-accessing electronic device accessed the Internet via the router of the LAN;

(b) wherein determining the association in part (a) is done by using the stored association-detection information to determine that the two or more Internet-accessing electronic devices have separately accessed the Internet through a router

of the LAN during a predetermined period of time via a common IP address;

(c) wherein the computer system determining the association in part (a) is outside the LAN and is connected to the LAN through the Internet; and

(d) with the computer system, using the association determined in part (a) to utilize user profile information associated with the device identifier of a first of the associated Internet-accessing electronic devices, and comprising behavioral or demographic data collected via the first of the associated Internet-accessing electronic devices, to take an automatic action with respect to a second of the associated Internet-accessing electronic devices using the device identifier of the second of the associated Internet-accessing electronic devices.

Ex. 1001, 24:25–62.

D. Asserted Grounds of Unpatentability

Petitioner, supported by the Declarations of Christopher M. Schmandt (Exs. 1002, 1022), asserts the following grounds of unpatentability (Pet. 4)²:

² We apply the pre-AIA version of 35 U.S.C. § 103 because the claims at issue have an effective filing date prior to March 16, 2013, the effective date of the Leahy-Smith America Invents Act, Pub. L. No. 112-29, 125 Stat. 284 (2011) (“AIA”). See Ex. 1001, code (60); Pet. 5.

Claim(s) Challenged	35 U.S.C. §	Reference(s)/Basis
1, 2, 8–10, 13, 14, 19, 22	103	Baig, ³ Laidlaw, ⁴ Sitaraman, ⁵ Hahn ⁶
3, 4, 15, 16	103	Baig, Laidlaw, Sitaraman, Hahn, Xu ⁷
6, 7, 17, 18	103	Baig, Laidlaw, Sitaraman, Hahn, Gerace ⁸
11, 12, 20, 21, 23	103	Baig, Laidlaw, Sitaraman, Hahn, Xu, Gerace

II. ANALYSIS

A. Level of Ordinary Skill in the Art

In order to determine whether an invention would have been obvious, we consider the level of ordinary skill in the pertinent art at critical time. *Graham v. John Deere Co. of Kan. City*, 383 U.S. 1, 17 (1966). The resolution of this question is important because it allows us to “maintain[] objectivity in the obviousness inquiry.” *Ryko Mfg. Co. v. Nu-Star, Inc.*, 950 F.2d 714, 718 (Fed. Cir. 1991). In assessing the level of ordinary skill in the art, various factors may be considered, including the “type of problems encountered in the art; prior art solutions to those problems; rapidity with which innovations are made; sophistication of the technology; and educational level of active workers in the field.” *In re GPAC, Inc.*, 57 F.3d

³ U.S. Pat. Pub. 2008/0113674 A1, published May 15, 2008 (Ex. 1003, “Baig”).

⁴ U.S. Pat. Pub. 2004/0128547 A1, published July 1, 2004 (Ex. 1006, “Laidlaw”).

⁵ U.S. Pat. No. 6,427,170 B1, issued July 30, 2002 (Ex. 1007, “Sitaraman”).

⁶ Harley Hahn, *The Internet Complete Reference* (2d ed. 1996) (Ex. 1008, “Hahn”).

⁷ U.S. Pat. No. 7,730,030 B1, issued June 1, 2010 (Ex. 1009, “Xu”).

⁸ U.S. Pat. Pub. 2006/0282328 A1, published Dec. 14, 2006 (Ex. 1010, “Gerace”).

1573, 1579 (Fed. Cir. 1995). Generally, it is easier to establish obviousness under a higher level of ordinary skill in the art. *Innovention Toys, LLC v. MGA Entm't, Inc.*, 637 F.3d 1314, 1323 (Fed. Cir. 2011) (“A less sophisticated level of skill generally favors a determination of nonobviousness . . . while a higher level of skill favors the reverse.”).

Petitioner asserts that a person of ordinary skill in the art “would have possessed a bachelor’s degree in electrical engineering or computer science, and two years of work experience in the field of network-based computer systems, such as systems for sending and receiving information over local networks and wide area networks (such as the Internet or World Wide Web).” Pet. 5 (citing Ex. 1002 ¶¶ 10–14). Patent Owner does not challenge Petitioner’s description of the level of ordinary skill in the art. *See* Ex. 2001 ¶ 26 (adopting Petitioner’s proposed level of skill in the art for the purposes of this proceeding). We are persuaded that Petitioner’s description is consistent with the prior art and patent specification. Accordingly, we adopt Petitioner’s description.

B. Claim Construction

In an *inter partes* review proceeding, a patent claim shall be construed using the same claim construction standard that would be used to construe the claim in a civil action under 35 U.S.C. § 282(b). 37 C.F.R. 42.100(b) (2023). Our rule adopts the same claim construction standard used by Article III federal courts, which follow *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc), and its progeny. Under this standard, the words of a claim are generally given their “ordinary and customary meaning,” which is the meaning the term would have to a person of ordinary

skill at the time of the invention, in the context of the entire patent including the specification. *See Phillips*, 415 F.3d at 1312–13.

Petitioner “does not believe claim construction is necessary at this time.” Pet. 7. “Patent Owner does not contend that any terms in the challenged claims require express construction for purposes of evaluating the Petition’s invalidity grounds.” PO Resp. 7. We determine that no claim terms require express construction for purposes of this Decision. *See Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017) (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999) (“[O]nly those terms need be construed that are in controversy, and only to the extent necessary to resolve the controversy.”)).

C. Overview of the Asserted Prior Art

1. Baig (Ex. 1003)

a) Overview of Baig

Baig relates to providing services for mobile devices which are in communication with local area network wireless access points.

Ex. 1003 ¶ 2.

Figure 1 of Baig is reproduced below.

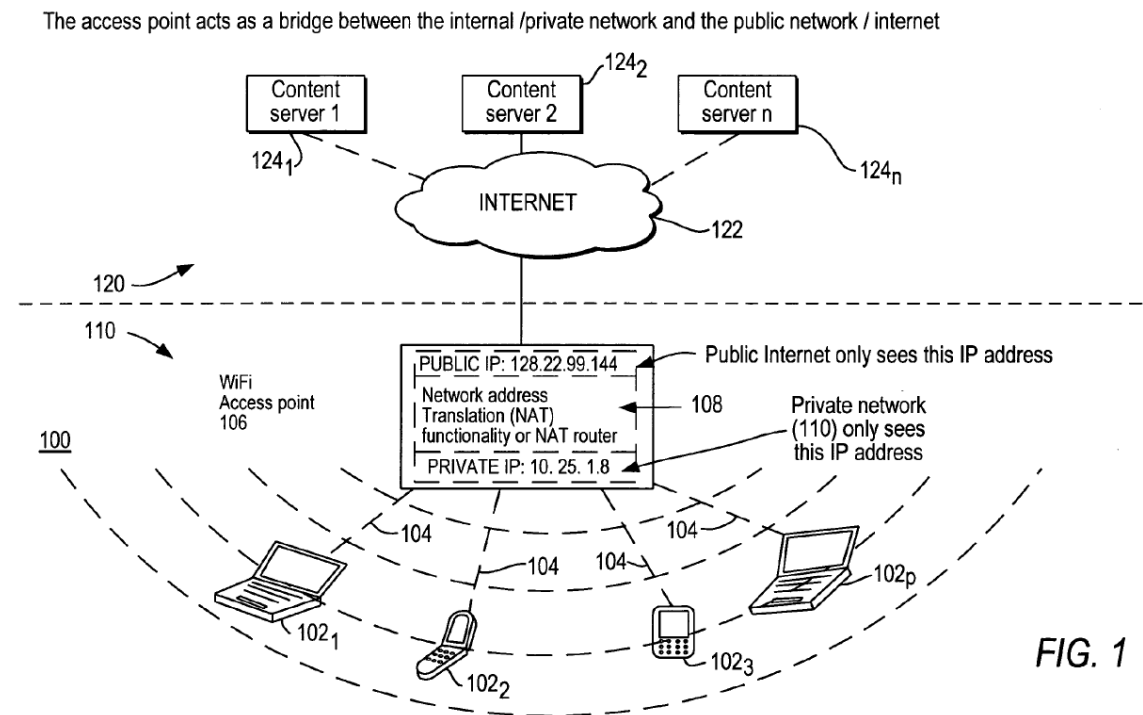


Figure 1 depicts a block diagram of communications network 100 including public wireless hotspot 110 communicably coupled to public network 120 via access point 106. *Id.* ¶¶ 13, 42. Public network 120 includes content servers 124₁, 124₂, 124_n that store and host information from websites. *Id.* ¶ 42. WiFi hotspot 110 enables at least one mobile device 102₁–102_p to communicate over local private network 104 and communicate with content servers 124₁, 124₂, 124_n over Internet 122. *Id.* ¶ 43.

Access point 106 includes a network address translation (NAT) router 108 that provides network address translation. *Id.* ¶ 43. Access point 106 utilizes a unique public IP address which relays data between public network 120 and wireless mobile devices 102 connected to local private wireless network 104. *Id.* ¶¶ 44–45. When mobile device 102 requests information from public network 120, it sends data packets

containing a local IP address to access point 106. *Id.* ¶ 45. All devices on local private network 104 use local IP addresses that are not visible to public networks. *Id.* Access point 106 interacts with public network 120 with a public IP address, which is visible to all devices on public internet 122. *Id.* Access point 106, which includes NAT router 108, replaces the local IP address with its own public IP address and forwards the packets to content server 124 on public network 120. *Id.* ¶¶ 46, 51. When public network 120 sends packetized information back to requesting mobile device 102, NAT router 108 replaces the public IP address with the local IP address for mobile device 102 and routes the packetized information to the requesting mobile device 102. *Id.* ¶ 46.

Baig also discloses a vicinity-based community service provider (VCSP) having at least one content server that discovers wireless users within physical vicinity of each other at a WiFi hotspot. *Id.* ¶¶ 38, 52. The VCSP content server includes programs and data for hosting a VCSP website. *Id.* ¶ 53. The VCSP server receives a login request from a user that is connected to a particular WiFi access point (hotspot), identifies the unique IP address of each WiFi access point, and identifies all users who have logged in from a common hotspot as having the same access point IP address, and forms a vicinity-based user group at each hotspot. *Id.* ¶¶ 38, 52, 55–59, Fig. 3. When a user at a hotspot logs onto the VCSP website, the user automatically becomes part of the vicinity-based user group, and then can access VCSP webpages to participate in or receive an offered service and communicate with other VCSP users via a chat room. *Id.* ¶ 59. Once the user logs into the VCSP website, the server presents a webpage to the user on his or her mobile device. *Id.* ¶ 74.

Figure 6 of Baig is reproduced below.

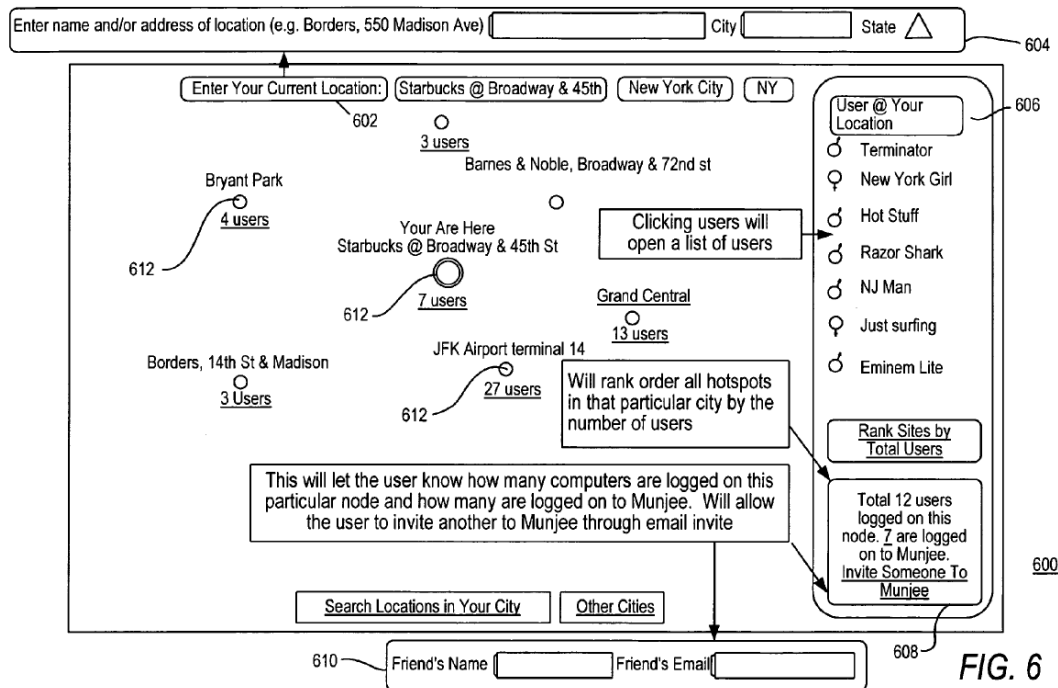


FIG. 6

Figure 6 depicts a graphical user interface displaying a webpage. *Id.* ¶¶ 18, 75. The webpage includes list 606 of other users by username (e.g., “Terminator,” “Just surfing”) at the present hotspot. *Id.* ¶ 76. List 606 includes gender symbols for each username. *Id.* at Fig. 6.

b) Entitlement of Baig to Earlier Effective Filing Date

Petitioner asserts that Baig is entitled to the November 10, 2006 filing date of Provisional Application No. 60/858,204 (Ex. 1004, “’204 Provisional”), and is prior art to the ’878 Patent under pre-AIA 35 U.S.C. § 102(e). Pet. 9. Petitioner asserts that the ’204 Provisional provides support for the disclosure of Baig and provides § 112 support for at least one claim in Baig. *Id.* Petitioner asserts that there are no material differences between Baig and the ’204 Provisional. *Id.* at 10 (citing Ex. 1002 ¶ 43 (citing Ex. 1005 (redline comparison of Ex. 1003 and Ex. 1004))). Petitioner further contends that the ’204 Provisional

includes 17 claims that are identical to the claims in Baig, and, therefore, provides written description support for the corresponding claims in Baig. *Id.* Petitioner also asserts the '204 Provisional provides enablement. *Id.*

Patent Owner has not challenged the status of Baig as prior art. *See* PO Resp. Based on our review of the complete record, we find that Petitioner has shown sufficiently that Baig is entitled to the earlier effective filing date of the '204 Provisional Application.

2. *Laidlaw (Ex. 1006)*

Laidlaw relates to session management in web applications. Ex. 1006 ¶¶ 1–2. Laidlaw describes secure session management using session tokens and cookies, and storing information in a session table. *Id.* ¶¶ 4, 6, 16.

3. *Sitaraman (Ex. 1007)*

Sitaraman relates to “managing IP addresses on a data communications network utilizing dynamic IP address assignment.” Ex. 1007, 1:6–10. Sitaraman describes the operation of the Dynamic Host Configuration Protocol (DHCP). *Id.* at 3:31–51.

4. *Hahn (Ex. 1008)*

Hahn, a textbook titled “The Internet Complete Reference,” describes automatically updating information displayed on a webpage. Ex. 1008, 3, 48. The webpage may tell the browser to reload itself automatically in a technique called “CLIENT PULL.” *Id.* Alternatively, a server may send new data on its own, without the browser making a request, in a technique called “SERVER PUSH.” *Id.*

5. *Xu (Ex. 1009)*

Xu relates to online virtual communities. Ex. 1009, 1:7–13. Xu discloses a user database storing user preferences or settings such as privacy and security settings, e.g., “if the user should be anonymous or invisible to the rest of the community.” *Id.* at 26:5–17.

6. *Gerace (Ex. 1010)*

Gerace relates to computer-based targeted advertising. Ex. 1010, codes (54), (57). Gerace discloses deducing a user’s demographic information from “shared behavior with other users (behavior or activities in common with) or shared relationships to other users.” *Id.* ¶ 83.

*D. Obviousness Over Baig, Laidlaw,
Sitaraman, and Hahn*

Petitioner asserts that claims 1, 2, 8–10, 13, 14, 19, and 22 are unpatentable under 35 U.S.C. § 103 as obvious over the teachings of Baig, Laidlaw, Sitaraman, and Hahn, citing the Declaration of Christopher M. Schmandt for support. Pet. 11–54 (citing Ex. 1002). Patent Owner opposes supported by the Declaration of Erik de la Iglesia. PO Resp. 8–35 (citing Ex. 2001).

1. *Independent Claims 1, 13, and 22*

Petitioner asserts that independent claims 1, 13, and 22 are unpatentable under 35 U.S.C. § 103 as obvious over Baig, Laidlaw, Sitaraman, and Hahn. Pet. 11–49, 52–54. Independent claim 1 recites, in relevant part, “using the stored association-detection information to determine that the two or more Internet-accessing electronic devices have separately accessed the Internet through a router of the LAN **during a predetermined period of time** via a common IP address.” Ex. 1001, 24:45–49 (emphasis added). Independent claims 13 (*id.* at 26:5–9) and 22 (*id.* at

27:33–28:3) each contain a substantially identical limitation. *See id.* at 52, 53 (citing Ex. 1002 ¶¶ 156, 160). In addition, Petitioner’s arguments and evidence for claims 13 and 22 are substantially identical to those proffered for claim 1. *See id.* at 52–54. As such, our analysis of the challenge to claim 1 applies with equal force to the challenges to claims 13 and 22. For the foregoing reasons, we find that Petitioner has not made a sufficient showing as to this limitation of the disputed claims.

Petitioner’s allegations are that the cited prior art shows that “each mobile device under the proposed combination would have had a ‘**device identifier**’ in the form of a cookie, which is electronically stored by the content server and used to identify the mobile device as currently logged-in.” Pet. 18–19 (citing Ex. 1002 ¶¶ 83, 87–92, Ex. 1006 ¶¶ 6, 16). Further, Petitioner contends that “identifying two mobile devices 102 that are logged on and connected using the same access point/hotspot discloses ‘**determining an association between**’ their respective device identifiers” because (1) the cookie/device identifier corresponds to a mobile device that is part of the same vicinity-based community and connected via the same access point and (2) the cookie/device identifier is used to identify each mobile device as being logged into the service in order to place it into a vicinity based community. *Id.* at 19. “The content server under the proposed combination thus determines ‘**an association**’ between device identifiers based on both the IP addresses of the devices (which are used to determine if they are connected via the same access point IP address) and their cookies.” *Id.* at 20. Petitioner argues that the “‘**stored association-detection information**’ would have included information stored by the content server in Baig to keep track of users who are currently logged in.” *Id.* at 21 (citing

Ex. 1002 ¶ 91, Ex. 1006 ¶ 16). Petitioner also directs us to Laidlaw’s discussion of a session table that could contain a cookie. *Id.*

As to the predetermined period of time, Petitioner explains that “the IP address of the access point **106** would have been a dynamically assigned IP address with a DHCP ‘lease’ time during which the address remains valid.” *Id.* at 37–38. Petitioner directs us to Sitaraman’s teaching that “[o]nce the lease expires, the IP address can be ‘recycled’ and given to another machine.” *Id.* (quoting Ex. 1007, 3:49–51). As such, Petitioner contends that “[m]obile devices **102** would thus have accessed the Internet via access point **106** during ‘**a predetermined period of time via a common IP address,**’ i.e., during the lease time that the dynamic IP address assigned to access point **106** remains valid.” *Id.* (citing Ex. 1002 ¶ 125).

Patent Owner argues that this is insufficient to meet the disputed claim limitation. PO Resp. 13–26. According to Patent Owner, the plain language of this limitation “requires a ‘determin[ation] that . . . two . . . devices have separately accessed the Internet through a router of the LAN during a predetermined period of time.’” *Id.* at 14. Patent Owner states that “[b]oth parties agree that this limitation does not describe ‘when the determination is made,’ but instead ‘requires that the system determines whether or not the accesses by [the] two electronic devices occurred within a predetermined period of time.’” *Id.* (citing Ex. 2003, 8:22–9:10; Ex. 2001 ¶¶ 52–53). Patent Owner argues that “the Petition does not even *allege* that the Baig combination determines whether or not accesses by the two electronic devices occurred within a DHCP lease time. Instead, the Petition only alleges that the two devices (at least in certain cases) would happen to perform accesses during a given time period.” *Id.* at 15. In addition, Patent

Owner contends that Baig's content server could not determine whether the mobile devices accessed the internet during the lease period because the content server would have no information about the lease period. *Id.* at 16–17.

We are persuaded by Patent Owner's arguments. First, we agree with Patent Owner that the plain language of the claim requires there to be a determination that devices accessed the LAN during the predetermined period of time. The claim language recites that the determining of limitation (a) (which recites the determination of an association between the identifiers) is done using the stored association-detection information (which is alleged to be the cookies and session table of the cited art) "to determine" that the mobile devices have separately accessed the internet through a LAN "during a predetermined period of time." *See* Ex. 1001, 24:29–49. Thus, we read this language to require that a determination be made that the required access occurred during a predetermined period of time. This reading of the claim language is accord with the opinion expressed by Petitioner's expert, Mr. Schmandt, at his deposition.

Q So is it your opinion that the—the limitation 1B requires that the system determines whether or not the accesses by the -- the two electronic devices occurred within a predetermined period of time?

A Yes.

Ex. 2003, 9:6–10.

Petitioner argues that "[i]n the context of the proposed combination, determining that access by the two or more electronic devices occurred 'during a predetermined period of time' is subsumed by the computer system's determination that the access occurred 'via a common IP address.'"

Reply 11. Patent Owner, however, provides persuasive argument and evidence that a determination that the devices accessed the internet via a common IP address does not necessarily satisfy the claim's requirement that there be a determination that the access occurred during a predetermined period of time.

Patent Owner notes, “the *actual* duration of a dynamic IP address being assigned to a device *is not coextensive with* the ‘predetermined’ DHCP lease duration.” Sur-Reply 5 (citing Ex. 2008 at 26:7-20). Patent Owner directs us to the deposition testimony of Petitioner's expert, Mr. Schmandt, in which he explained that an IP address could be renewed and that renewal could cause the same IP address to continue to be in use and thereby continue beyond the original lease period. Ex. 2008, 26:2–20. Petitioner's assertion that “[o]nce the IP address expires, the two or more mobile devices in Baig could no longer communicate with the server through the access point via that IP address” is insufficient because it does not account for the possible renewal of the lease. See Reply 11 (citing Pet. 37–38). Petitioner's cited reference, Sitaraman, provides further evidence on this point. Sitaraman states that “[d]uring the lifetime of the lease, the client will repeatedly ask the Server to renew. If the client chooses not to renew or if the client machine is shut down, the lease eventually expires. Once the lease expires, the IP address can be ‘recycled’ and given to another machine.” Ex. 1007, 3:45–51. Thus, as described in Sitaraman the recycling of IP addresses noted in Petitioner's challenge only occurs in the event of non-renewal of the lease. This accords with Patent Owner's argument that renewal of the lease would cause the life of the IP address to extend beyond the “predetermined time period” of the lease. As such, we

find that a determination that the devices accessed the internet with a common IP address is not sufficient to establish that the access occurred during a predetermined period of time.

Patent Owner's expert, Erik de la Iglesia states that a person of ordinary skill in the art

would understand that the question of whether two devices ***happen to*** access the Internet via an access point during a DHCP lease period is a different and separate question from the question of whether Baig's content server would ***determine*** that those two devices accessed the Internet via access point 106 during a DHCP lease period.

Ex. 2001 ¶ 57. We agree with his assessment and credit his testimony. Thus, in order for Petitioner's challenge to prevail Petitioner must show that the cited art teaches determining that the access occurred during a predetermined period of time. We, however, find that Petitioner has not provided evidence to establish this.

In its Reply, Petitioner asserts that Baig's content server is part of an Internet Service Provider ("ISP") and as such, would have been aware of the DHCP lease period. *Id.* at 18; *see also id.* at 16 (noting that Baig repeatedly states that the vicinity-based community service provided by the system is part of a "public network service provider," or "service provider."). We, however, agree with Patent Owner's argument that "Petitioner . . . does not explain ***how*** or ***why*** Baig's content server, even if part of an ISP, would have (1) obtained the DHCP information from a DHCP server or (2) used that information to perform the claimed 'determin[ation].'" Sur-Reply 16–17. We conclude that Petitioner has not established that even if the lease period were known to Baig's content server that the required determination would be made. It is not enough to simply be aware of the length of the lease

period. The claims require that a determination be made that the access occurred during the predetermined period. Here, even if Baig's server knows the time period for which a lease is assigned, there is no evidence to support an assertion that one of ordinary skill in the art would have understood Baig's server, even when viewed in light of the teachings of the other cited references, to make a determination that the access occurred during that time period.

Based on the evidence in the complete record, we are not persuaded that Petitioner has demonstrated by a preponderance of the evidence that the combination of Baig, Laidlaw, Sitaraman, and Hahn teaches or suggests all of the limitations recited in claims 1, 13, and 22.

2. Dependent Claims 2, 8–10, 14, and 19

Petitioner asserts that claims 2, 8–10, 14, and 19 are unpatentable under 35 U.S.C. § 103 as obvious over Baig, Laidlaw, Sitaraman, and Hahn, citing the Declaration of Christopher M. Schmandt for support. Pet. 49–53 (citing Ex. 1002). Petitioner's assertions do not remedy the above noted deficiency regarding the independent claims. Therefore, based on the evidence in the complete record, we are not persuaded that Petitioner has demonstrated by a preponderance of the evidence that the combination of Baig, Laidlaw, Sitaraman, and Hahn teaches or suggests all of the limitations recited in claims 2, 8–10, 14, and 19.

*E. Obviousness Over Baig, Laidlaw,
Sitaraman, Hahn, and Xu*

Petitioner asserts that claims 3, 4, 15, and 16 are unpatentable under 35 U.S.C. § 103 as obvious over Baig, Laidlaw, Sitaraman, Hahn, and Xu, citing the Declaration of Christopher M. Schmandt for support. Pet. 54–62 (citing Ex. 1002). Petitioner's assertions do not remedy the above noted

deficiency regarding the independent claims. Therefore, based on the evidence in the complete record, we are not persuaded that Petitioner has demonstrated by a preponderance of the evidence that the combination of Baig, Laidlaw, Sitaraman, Hahn, and Xu teaches or suggests all of the limitations recited in claims 3, 4, 15, and 16.

*F. Obviousness Over Baig, Laidlaw,
Sitaraman, Hahn, and Gerace*

Petitioner asserts that claims 6, 7, 17, and 18 are unpatentable under 35 U.S.C. § 103 as obvious over Baig, Laidlaw, Sitaraman, Hahn, and Gerace, citing the Declaration of Christopher M. Schmandt for support. Pet. 63–67 (citing Ex. 1002). Petitioner’s assertions do not remedy the above noted deficiency regarding the independent claims. Therefore, based on the evidence in the complete record, we are not persuaded that Petitioner has demonstrated by a preponderance of the evidence that the combination of Baig, Laidlaw, Sitaraman, Hahn, and Gerace teaches or at least suggests all of the limitations recited in claims 6, 7, 17, and 18.

*G. Obviousness Over Baig, Laidlaw,
Sitaraman, Hahn, Xu, and Gerace*

Petitioner asserts that claims 11, 12, 20, 21, and 23 are unpatentable under 35 U.S.C. § 103 as obvious over Baig, Laidlaw, Sitaraman, Hahn, Xu, and Gerace, citing the Declaration of Christopher M. Schmandt for support. Pet. 67–68 (citing Ex. 1002). Petitioner’s assertions do not remedy the above noted deficiency regarding the independent claims. Therefore, based on the evidence in the complete record, we are not persuaded that Petitioner has demonstrated by a preponderance of the evidence that the combination of Baig, Laidlaw, Sitaraman, Hahn, Xu, and Gerace teaches or at least suggests all of the limitations recited in claims 11, 12, 20, 21, and 23.

III. CONCLUSION

For the foregoing reasons, we determine Petitioner's challenges do not establish the unpatentability of claims 1–4 and 6–23 of the '878 patent. Our conclusions regarding the Challenged Claims are summarized below:

Claims Challenged	35 U.S.C. §	Reference(s)/Basis	Claims Shown Unpatentable	Claims Not Shown Unpatentable
1, 2, 8–10, 13, 14, 19, 22	103	Baig, Laidlaw, Sitaraman, Hahn		1, 2, 8–10, 13, 14, 19, 22
3, 4, 15, 16	103	Baig, Laidlaw, Sitaraman, Hahn, Xu		3, 4, 15, 16
6, 7, 17, 18	103	Baig, Laidlaw, Sitaraman, Hahn, Gerace		6, 7, 17, 18
11, 12, 20, 21, 23	103	Baig, Laidlaw, Sitaraman, Hahn, Xu, Gerace		11, 12, 20, 21, 23
Overall Outcome				1–4, 6–23

IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that Petitioner has not demonstrated by a preponderance of the evidence that any challenged claim of U.S. Patent No. 10,715,878 B2 is unpatentable; and

FURTHER ORDERED that, because this a Final Written Decision, parties to this proceeding seeking judicial review of this Decision must comply with the notice and service requirements of 37 C.F.R. § 90.2.

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