

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UBER TECHNOLOGIES, INC.,
Petitioner,

v.

ENOVSYS, LLC,
Patent Owner.

IPR2024-00826
Patent 6,441,752 B1

Before THOMAS L. GIANNETTI, MICHELLE N. WORMMEESTER, and
ANDREW L. NALVEN, *Administrative Patent Judges*.

GIANNETTI, *Administrative Patent Judge*.

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

I. INTRODUCTION

A. Background

Uber Technologies, Inc. (“Petitioner”) filed a Petition requesting *inter partes* review (“IPR”) of claims 1, 4, 6, 9, 14, and 15 of U.S. Patent No. 6,441,752 B1 (Ex. 1001, “’752 patent”). Paper 2 (“Pet.”). Patent Owner Enovsys, LLC filed a Preliminary Response. Paper 6 (“Prelim. Resp.”).

To institute an *inter partes* review, we must determine “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) (2018). For the reasons stated below, we determine that Petitioner has not established a reasonable likelihood that it would prevail with respect to any claim challenged in the Petition. We, therefore, deny institution of *inter partes* review.

B. Related Matters

The parties indicate the ’752 patent has been the subject of *Enovsys LLC v. Lyft, Inc.*, Case No. 5:23-cv-05157 (N.D. Cal.). Pet. 2; Paper 5, 1. Petitioner also identifies the following district court proceeding that involved the ’752 patent: *Enovsys LLC v. Uber Technologies, Inc.*, Case No. 5:23-cv-04549 (N.D. Cal.). Pet. 2.

C. The ’752 Patent (Ex. 1001)

The ’752 patent relates to telecommunication services and systems that convey the location of a mobile unit. Ex. 1001, 1:8–10. The patent describes “a telecommunication system that can provide location information pertaining to other communication targets that are present within a pre-specified geographic boundary.” *Id.* at 3:11–13. A general

overview of the system is illustrated in Figure 1 of the '752 patent, reproduced below:

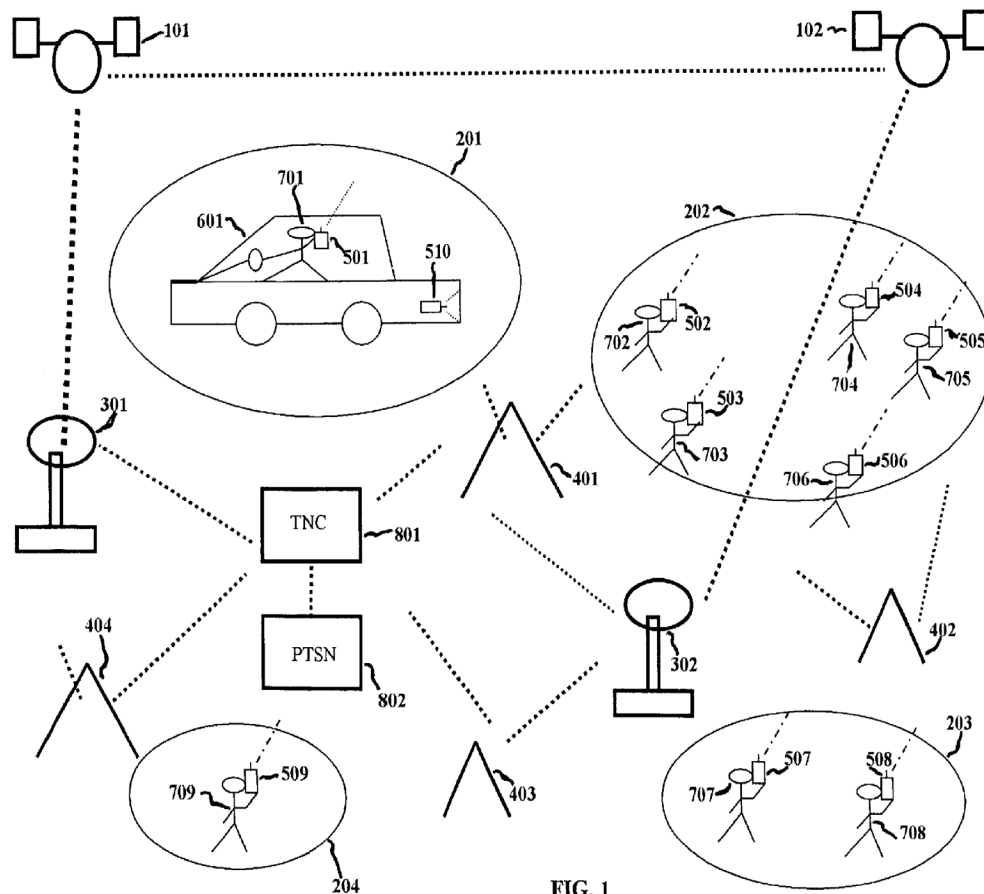


FIG. 1

Figure 1 depicts a network of portable remote units (PRU) 501–510 scattered through a wide geographic area. *Id.* at 3:67–4:2. Mobile users 701–709 are in possession of PRUs 501–509. *Id.* at 4:2–4. Geographic regions 201-204 may contain one or more portable mobile users 701–709. *Id.* at 4:4–6.

According to the '752 patent, PRU 501 used by a subscriber 701 in moving vehicle 601 can be tracked by clandestine unit 510, which is concealed in moving vehicle 601 by subscriber 704 in another geographic region 202 to keep track of the whereabouts of user 701. *Ex.* 1001, 4:59–66. The '752 patent explains that “[a]s vehicle 601 travels from one location to

the next, authorized users will be able to receive location information from PRU 510 whenever they poll for it.” *Id.* at 5:1–4. Noting that “[i]t is of utmost importance that a subscriber in possession of unit 501 should be able to determine it [sic] they are being tracked by another unit,” the ’752 patent describes a tracking feature provided in PRU 501 that subscriber 701 can activate at any point in time. *Id.* at 5:6–10. According to the ’752 patent, a tracked PRU 501, in tracking mode, “may simply alert a user in possession of the tracked PRU with the location information of any tracking device—PRU 510—that has resided within a pre-specified radius of the tracked PRU, with both units having traveled a minimum distance.” *Id.* at 5:12–17.

The ’752 patent explains that “[i]n tracking mode the geographic location of the tracked unit, . . . 501, is utilized to determine the geographic boundary where a search for possible tracking units 510 could be initiated.” Ex. 1001, 5:23–26. The ’752 patent describes that “[a]s the tracked unit 501 is moving, that unit or an appropriate network unit, may page for the location of other communication units within the tracking boundary of the tracked unit to disclose their location.” *Id.* at 5:34–38.

The ’752 patent further describes the tracking operation as follows:

At the first time interval, a list could be maintained of all the PRUs that responded within the specified geographic boundary defined for tracking. At subsequent time intervals, PRUs that where [sic] in the list at the first tracking interval and not responding in later intervals could be eliminated as possible tracking units.

Id. at 5:44–49. According to the patent, “[a]t the end of the tracking period, if there are any units in the tracking list and the minimum tracking distance was covered, such communication units are deemed to be tracking another and are reported to the requested party.” *Id.* at 5:50–53.

The '752 patent also describes disclosing a global location within a prescribed geographic boundary. Ex. 1001, 7:5–8. A PRU at the geographic location picking up a request must determine if it is within that boundary before providing its location to the network. *Id.* Figure 3 of the '752 patent (reproduced below) depicts a geographic location with mobile units M_1 – M_N , wherein the location is divided into cells C_i or grids G_i , also known as regions. Ex. 1001, 7:8–11.

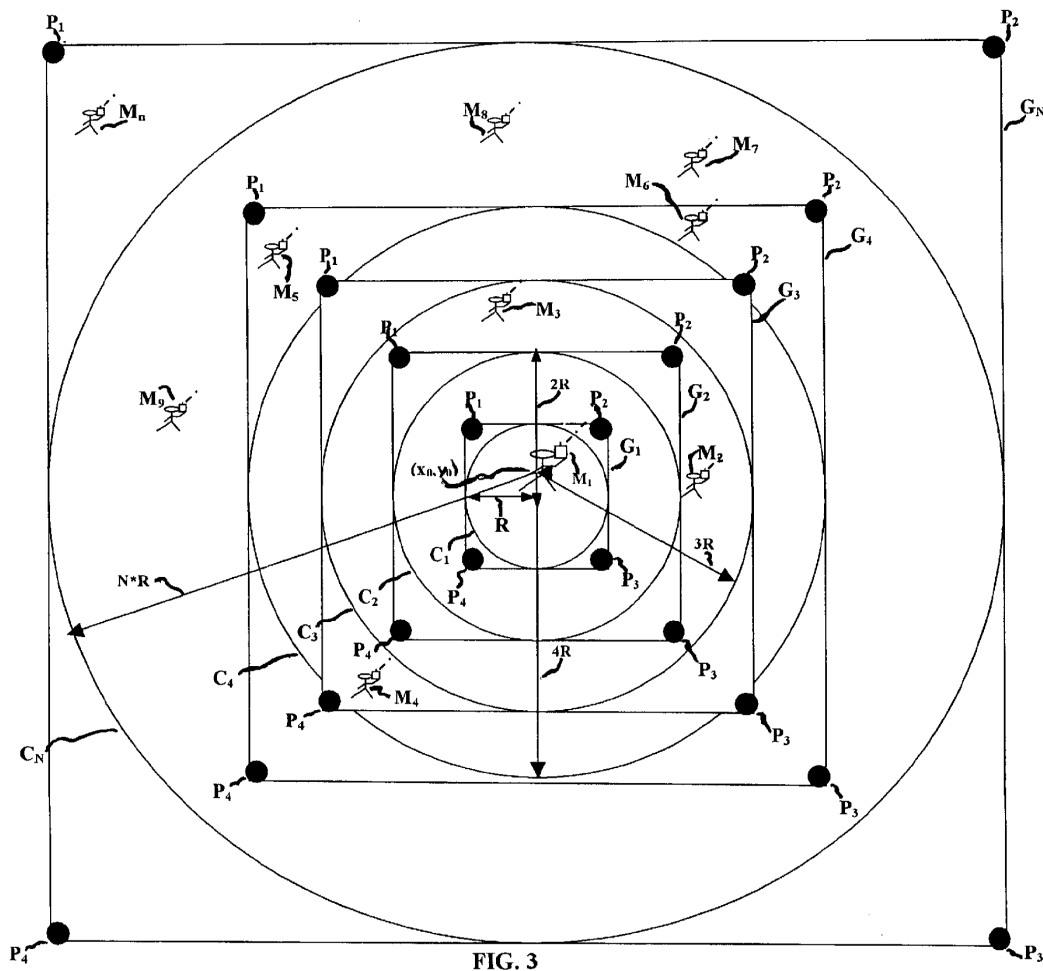


FIG. 3

In Figure 3, “cell C_1 is defined by radius R and its latitude and longitude information is that of mobile user $M_1 (x_0, y_0)$,” and “[g]rid G_1 is defined by four points P_1, P_2, P_3 and P_4 .” *Id.* at 7:13–16.

As shown in Figure 3, a distressed mobile user M may need to find where another party might exist in that geographic region. Ex. 1001, 7:22–24. Mobile user M₁ “could initiate a page from their PRU for the closest available PRUs that could be found in that geographic jurisdiction” and “provide its location, latitude and longitude (x₀,y₀) to the closest available ground station serving area C₁ or grid G₁.” *Id.* at 7:22–29. According to the ’752 patent, “[o]nce a ground station picks up this signal, it sends a page for all location reporting devices in the specified boundary surrounding mobile unit M₁ . . . to disclose their location.” *Id.* at 7:31–34. The ’752 patent explains that “[s]ubsequent searches will include incrementing the radii information to from C₁ . . . C_N or grid boundary information from G₁–G_N until a PRU within that geographic boundary responds or system limitations are encountered.” *Id.* at 7:49–53.

In Figure 3, when mobile unit M₁ initiates a search for possible portable remote units in its immediate area, the relevant ground control station sends three pages. Ex. 1001, 8:1–3. A first page covers cell C₁ or grid G₁, and (as no units are available in that area) a second page covers cell C₂ or grid G₂. *Id.* at 8:3–6. “Once a page is sent out for cell C₃, PRU, M₂ and M₃ will respond.” *Id.* at 8:7–8. According to the ’752 patent, the ground control station selects the unit closest to M₁ (in this case, M₂) and forwards its location to M₁. *Id.* at 8:9–12.

D. Illustrative Claims

The Petition challenges claims 1, 4, 6, 9, 14, and 15. Claims 1, 6, 9, and 14 are independent.

Claims 1, 6, and 14 are illustrative of the claimed subject matter and are reproduced below.¹

1[pre]. A method for providing the location of a portable mobile remote unit in a geographic region of a wireless network to a wireless consumer requesting the location of portable mobile remote units that are maintaining close proximity to the wireless consumer in the geographic region comprising:

1[A] i) obtaining the location of the wireless consumer at intervals over a period of time;

1[B] ii) requesting at each interval, at the network, that all mobile remote units within close proximity of the wireless consumer disclose their location to the network;

1[C] iii) maintaining a list of mobile remote units that provided their location at each interval after the request of (ii);

1[D] iv) from the list of (iii), forwarding the location of at least a mobile remote unit to the mobile consumer upon determination that the remote unit maintained close proximity to the mobile consumer over the period of time of (i).

6[pre]. A method for providing the location of portable remote units that exist within a prescribed geographic boundary to a wireless consumer requesting that information comprising:

6[A] i) receiving at the network a wider than normal prescribed geographic boundary to query for mobile remote units from the wireless consumer;

6[B] ii) splitting the geographic boundary of (i) into sub geographic regions to constitute the prescribed geographic boundary;

6[C] iii) requesting in the sub geographic region(s), the location of remote units that are present in each sub region;

¹ Paragraph labeling is based on labels provided by Petitioner.

6[D] iv) verifying after each request of (iii) in a sub region whether at least a portable remote unit disclosed a global location in the region;

6[E] v) maintaining a list of all remote units that disclosed their location after each request from the verification of step (iv);

6[F] vi) providing to the network and from the list of (v) the location of at least a remote unit that revealed its location in the sub region.

14[pre]. A communication system comprising:

14[A] a portable mobile remote unit;

14[B] a network of communication units;

14[C] means to obtain the location of the portable mobile remote unit;

14[D] means to obtain geographic boundary information in order to disclose a global location at the network;

14[E] means to provide the location of the portable mobile remote unit to the network upon determination that the portable mobile remote unit is within the geographic boundary obtained at the network;

14[F] means to determine and report to the system upon request that, another mobile remote unit of the network has tracked the portable mobile remote over a period of time.

Ex. 1001, 10:49–67, 11:50–12:3, 13:3–17.

The Petition groups the claims as follows: Proximity Alert Claims (claims 1, 4, 9, 14, and 15) and Geographic Boundary Claim (claim 6). Pet.

1. According to the Petition, the Proximity Alert Claims are directed to a “tracking mode,” that is, “determining if a user is being tracked by any other mobile unit.” *Id.* at 5. The Petition describes claim 6, the one Geographic Boundary Claim challenged, as directed to “specifying a geographic

boundary, splitting the boundary into subregions and verifying the location of remote units within the subregions.” *Id.* at 1.

E. Prior Art and Other Evidence

The Petition relies on the following references:

Name	Reference	Date	Exhibit No.
Layson’757	US 5,731,757	Mar. 24, 1998	1007
Layson’213	US 6,405,213 B1	Filed June 11, 1999	1008
Wang	US 5,365,451	Nov. 15, 1994	1009
IllinoisLaw	720 Ill. Comp. Stat. Ann. 5/12-7.3, as amended by 1995 Ill. Legis. Serv. P.A. 89-377 (H.B. 1792)	1995	1010
Suarez	US 6,212,393 B1	Filed Aug. 2, 1999	1013
Mintz	US 5,532,702	July 2, 1996	1014

In addition, Petitioner submits the Declaration of Scott Andrews in support of its Petition. Ex. 1002 (“Andrews Decl.”). Patent Owner submits the Declaration of Joseph C. McAlexander, III. Ex. 2001 (“McAlexander Decl.”).

F. Asserted Grounds of Unpatentability

Petitioner asserts that claims 1, 4, 6, 9, 14, and 15 are unpatentable based on the following grounds (Pet. 4):

Claim(s) Challenged	35 U.S.C. §	Reference(s)/Basis
1	103(a) ²	Layson’757, Layson’213

² The Leahy-Smith America Invents Act, Pub. L. No. 112-29, 125 Stat. 284 (2011), amended 35 U.S.C. §103 effective March 16, 2013. Because the

Claim(s) Challenged	35 U.S.C. §	Reference(s)/Basis
4	103(a)	Layson’757, Layson’213, Wang
9, 14	103(a)	Layson’757, Layson’213, IllinoisLaw
15	103(a)	Layson’757, Layson’213, IllinoisLaw, Wang
6	103(a)	Suarez, Mintz

II. ANALYSIS

A. Claim Construction

In an *inter partes* review proceeding, the Board applies the same claim construction standard as is applied in federal courts in a civil action under 35 U.S.C. § 282(b), which is generally referred to as the *Phillips* standard. *See* 37 C.F.R. § 42.100(b); *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc). Under the *Phillips* standard, “words of a claim ‘are generally given their ordinary and customary meaning.’” *Phillips*, 415 F.3d at 1312.

We construe only those claim terms and phrases necessary to our decision. *See, e.g., Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017) (“[W]e need only construe 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))).

1. Means-Plus-Function Terms

Challenged claims 14 and 15 recite elements using the word “means.” *See* Ex. 1001, 13:6–18, 13:20–22. The use of the word “means” in a claim

⁷⁵² patent has a filing date prior to the effective date of the applicable AIA amendment, we refer to the pre-AIA version of §103.

element creates a rebuttable presumption that 35 U.S.C. § 112 ¶ 6 applies.³ *See Williamson v. Citrix Online, LLC*, 792 F.3d 1339, 1348 (Fed. Cir. 2015) (en banc in relevant part). Construing a means-plus-function claim term is a two-step process. We must first identify the claimed function. Then, we must determine what structure, if any, disclosed in the specification corresponds to the claimed function. *Id.* at 1351 (citation omitted). The parties do not dispute that 35 U.S.C. § 112 ¶ 6 applies to those “means” elements recited in claims 14 and 15. *See* Pet. 8–12; Prelim. Resp. 11–19.

a. “means to obtain the location of the portable mobile remote unit” (Claim limitation 14[C])

Petitioner contends that the function is “to obtain the location of the portable mobile remote unit.” Pet. 9. Petitioner contends the corresponding structure is “an antenna 20 and a transceiver circuitry configured to receive signals, together with a control unit programmed to use such signals to determine location, and equivalents thereof.” *Id.* (citations and internal quotation marks omitted).

Patent Owner agrees that “[t]he function of this claim element is ‘to obtain the location of the portable remote unit.’” Prelim. Resp. 11. Patent Owner contends that “[t]he minimum structure for performing the recited function is ‘a control unit programmed to collect location data of a portable remote unit, and equivalents thereof.’” *Id.* at 11 (citing McAlexander Decl. ¶ 50); *see also id.* at 11–13.

³ Section 4(c) of the AIA re-designated 35 U.S.C. § 112, sixth paragraph, as 35 U.S.C. § 112(f). Because the application from which the ’752 patent issued was filed before the effective date of the relevant amendment, we refer to the pre-AIA version of § 112.

Addressing limitation 14[C], Patent Owner acknowledges that “although Petitioner’s proposed construction is flawed, the requisite means exists in Layson ’757’s system because central database system obtains offender and victim location data.” Prelim. Resp. 52 (citing McAlexander Decl. ¶ 191). For this reason, we determine that we do not need to expressly construe this claim term to resolve a controversy for this Decision.

b. “means to obtain geographic boundary information in order to disclose a global location at the network” (Claim limitation 14[D])

Petitioner contends that the function is “to obtain geographic boundary information in order to disclose a global location at the network.” Pet. 9. Petitioner contends the corresponding structure is “an antenna 20 and a transceiver circuitry 21 configured to receive signals that include geographic boundary information and to transmit location information, and equivalents thereof.” *Id.* at 10 (citations and internal quotation marks omitted).

Patent Owner agrees that the function of this element is “to obtain geographic boundary information in order to disclose a global location to the network.” Prelim. Resp. 13. Patent Owner contends “[t]he minimum structure for performing the recited function is ‘a network control unit programmed to receive information that identifies a contiguous area on earth, within the coverage area of the network, that can be individually queried to disclose a PRU’s global location located within that coverage area of the network, and equivalents thereof.’” *Id.* at 13–14 (citing McAlexander Decl. ¶ 52). Patent Owner continues, “[s]uch an interpretation is supported by the ’752 Patent’s specification, which describes that the network is divided into individually pollable areas so that query or search only involves

the PRUs currently located in such areas and not all the PRUs participating in the network wherever they may be located.” *Id.* at 14 (citing McAlexander Decl. ¶ 53; Ex. 1001, 7:22–34).

Having reviewed Patent Owner’s position on claim limitation 14[D], we determine that we do not need to expressly construe this claim term to resolve a controversy for this Decision. *See* Prelim. Resp. 52–54. Patent Owner does not base its arguments on the construction of this limitation. To the extent further clarification or explanation of this claim term is necessary, we do so in the context of our analysis of that term in Section II.G.4, *infra*.

c. “means to provide the location of the portable mobile remote unit to the network upon determination that the portable mobile remote unit is within the geographic boundary obtained at the network” (Claim limitation 14[E])

Petitioner contends the function is “to provide the location of the portable mobile remote unit to the network upon determination that the portable mobile remote unit is within the geographic boundary obtained at the network.” Pet. 10. Petitioner contends the corresponding structure is “an antenna 20 and a transceiver circuitry 21 configured to transmit location information, together with a control unit programmed to determine that the unit is within the geographic boundary, and equivalents thereof.” *Id.* (citations and internal quotation marks omitted).

Patent Owner agrees that “[t]his element functions ‘to provide the location of the portable mobile remote unit to the network upon determination that the portable mobile remote unit is within the geographic boundary obtained at the network.’” Prelim. Resp. 15. Patent Owner contends that “[t]he minimum necessary structure for performing the recited function is ‘a controller programmed to determine whether the location of a portable remote unit is within a specified contiguous area on earth and, upon

such determination, provide the location of the portable remote unit to another network component, and equivalents thereof.” *Id.* (citing McAlexander Decl. ¶ 57).

Having reviewed Patent Owner’s position on claim limitation 14[E], we determine that we do not need to expressly construe this claim term to resolve a controversy for this Decision. *See* Prelim. Resp. 54–55. Patent Owner does not base its arguments on the construction of this limitation. To the extent further clarification or explanation of this claim term is necessary, we do so in the context of our analysis of that term in Section II.G.4, *infra*.

d. “means to determine and report to the system upon request that, another mobile remote unit of the network has tracked the portable mobile remote over a period of time” (Claim limitation 14[F])

Petitioner contends that the function is “to determine and report to the system upon request that, another mobile remote unit of the network has tracked the portable mobile remote over a period of time.” Pet. 10.

Petitioner contends the corresponding structure is “a control unit programmed to: (1) receive, at intervals, the location of the tracked mobile unit, (2) receive the locations of other mobile units, during such intervals, (3) maintain a list of such other units within a predefined geographic boundary of the tracked unit for a period of time as the tracked unit and such other units have moved a minimum distance, together with a transmitter configured to transmit a message identifying such other unit(s), and equivalents thereof. The control unit may be within the tracked mobile unit or a network control center.” *Id.* at 10–11 (citations, footnote, and internal quotation marks omitted.)

Patent Owner agrees that “[t]his element functions ‘to determine and report to the system upon request that, [*sic*] another mobile remote unit of

the network has tracked the portable mobile remote over a period of time.” Prelim. Resp. 16 (second alteration in original). Patent Owner contends “[t]he minimum necessary structure to perform the recited function is ‘a control unit programmed to identify that another PRU within the same network boundary as the PRU has moved together with the PRU over a pre-specified distance while remaining within a pre-specified radius of it over a predefined time period, and equivalents thereof.’” *Id.* (citing McAlexander Decl. ¶ 58).

Having reviewed Patent Owner’s position on claim limitation 14[F], we determine that we do not need to expressly construe this claim term to resolve a controversy for this Decision. *See* Prelim. Resp. 55–57. Patent Owner does not base its arguments on the construction of this limitation. To the extent further clarification or explanation of this claim term is necessary, we do so in the context of our analysis of that term in Section II.G.4, *infra*.

e. “means to further determine if location disclosure for the remote unit is prohibited at a specific geographic boundary before sending its location to the network” (Claim 15)

Petitioner contends that the function is “to further determine if location disclosure for the remote unit is prohibited at a specific geographic boundary before sending its location to the network.” Pet. 11. Petitioner contends the corresponding structure is “a control unit programmed to (1) compare its current location to an exclusion zone; (2) if its current location is within the exclusion zone, abort; (3) otherwise, proceed to provide its current location to the network, and equivalents thereof.” *Id.* at 11–12 (citations omitted).

Patent Owner agrees that “[t]his element’s function is ‘to determine if location disclosure for the remote unit is prohibited at a specific geographic

boundary before sending its location to the network.” Prelim. Resp. 19. Patent Owner contends “[t]he minimum necessary structure to perform the recited function is a control unit programmed to: prior to sending a location of a remote unit to another network component, determining if the location of the remote unit is within a specified contiguous area on earth where disclosure of the remote unit’s location is prohibited, and equivalents thereof.” *Id.* (citing Ex. 1001, Fig. 6, 9:63–10:11; McAlexander Decl. ¶ 61).

Having reviewed Patent Owner’s position on claim 15, we determine that we do not need to expressly construe this claim term to resolve a controversy for this Decision. *See* Prelim. Resp. 57–58. Patent Owner does not base its arguments on the construction of this limitation. To the extent further clarification or explanation of this claim term is necessary, we do so in the context of our analysis of that term in Section II.G.5, *infra*.

2. Other Terms

Patent Owner offers the following additional constructions:

- a. *“portable mobile remote unit”/“mobile remote unit”/“communication unit”/“remote unit” (Claims 1, 4, 6, 9, 15)*

Patent Owner asserts that these terms are used interchangeably in the claims and refer to the same thing: “cell phones or other hand-carried wireless telecommunication devices used to communicate via the cellular telecommunication networks available to the general public.” Prelim. Resp. 6–9 (citing Ex. 1001, Fig. 1, 1:7–12, 1:60–66, 2:12–18, 2:26–44, 2:54–3:7).

Petitioner offers no explicit construction for these terms. We are not aware of any controversy between the parties over their meaning or whether they are “used interchangeably” that would affect this Decision. While we are not required to explicitly construe these terms, as in the parties’

submissions, we do not distinguish among them in this Decision. To the extent further clarification or explanation of this claim term is necessary, we do so in the context of our analysis *infra*.

b. “geographic region of a wireless network” (Claim 1 preamble)⁴

Patent Owner asserts that this term refers to “a specific coverage area of a wireless network that may be individually polled or queried for PRU information, such as location.” Prelim. Resp. 10.

Petitioner offers no explicit construction. Addressing the preamble of claim 1 and referring to Figure 1 of Layson ’757, Petitioner identifies the “geographic region served by cell site 26” as the claimed “geographic region of a wireless network.” Pet. 27–28 (citing Andrews Decl. ¶¶ 155–157).

Patent Owner responds that “[t]he ’752 Patent discloses a system that provides the location to a requesting PRU because there is good reason to do so, a wireless consumer participating in the network may need help from a nearby wireless consumer and the network accommodates such requests by polling the network region of the requesting wireless customer.” Prelim. Resp. 31 (citing McAlexander Decl. ¶ 37). Patent Owner continues, “Petitioner does not (and cannot) show that Layson ’757-Layson ’213 includes pollable geographic regions such that a victim in a geographic region of the network can request the location of other portable mobile remote units that are maintaining close proximity to the requesting wireless consumer’s PRU in that geographic region of the network.” *Id.* (citing McAlexander Decl. ¶ 107).

⁴ The similar term “geographic boundary” appears in claims 6, 14, and 15. See discussion of those claims in Sections II.G. and II.H, *infra*.

We agree with Patent Owner’s construction of the claimed “geographic region.” The ’752 patent describes polling specific sub-regions of the network for a PRU. Ex. 1001, 2:12–15, 7:22–34. As Mr. McAlexander testifies, “[a] PRU may choose to instruct the network to relay certain information to mobile units in a specific geographic region. That information would then be appended to the geographic boundary information and beamed in the specified geographic region.” McAlexander Decl. ¶ 49 (quoting Ex. 1001, 10:19–23) (alteration in original). For example, a nearby boundary can be polled for the locations of nearby wireless customers within proximity of a distressed wireless customer. As described in the ’752 patent,

a distressed mobile user M_1 may need to find where another party might exist in that geographic region. The user could initiate a page from their PRU for the closest available PRUs that could be found in that geographic jurisdiction. Looking at FIG. 3, mobile user M_1 will provide its location, latitude and longitude (x_0, y_0) to the closest available ground station serving area C_1 or grid G_1 . As stated earlier, appropriate terrestrial technology will be scattered in that region *to serve the PRUs in that area as shown in FIG. 1. Once a ground station picks up this signal, it sends a page for all location reporting devices in the specified boundary* surrounding mobile unit M_1 , FIG. 3 to disclose their location.

Ex. 1001, 7:22–34 (emphasis added).

As discussed *supra*, Petitioner presents no explicit construction of “geographic region” and does not provide persuasive support for its implicit construction. Mr. Andrews’s testimony simply mirrors the Petition’s implicit construction. Andrews Decl. ¶ 137 (equating “geographic region of a wireless network” with “the “geographic region served by network cell site

26”). Neither the Petition nor Mr. Andrews provides persuasive evidentiary support in the intrinsic record for this implicit construction.

3. Summary and Conclusion

For the reasons given, we adopt Patent Owner’s proposed construction of “geographic region” as “a specific coverage area of a wireless network that may be individually polled or queried for PRU information, such as location.” We determine that we do not need to expressly construe any other claim term for this Decision. *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.*, 200 F.3d at 803)). To the extent further clarification or explanation of any claim term is necessary, we will do so in the context of our analysis of that term, *infra*.

B. The Level of Ordinary Skill in the Art

Petitioner asserts that a person of ordinary skill at the time of the alleged invention “would have had a bachelor’s degree in electrical engineering, computer engineering, computer science, or a related field, and at least two years of experience in the research, design, development, and/or testing of GPS and related location tracking techniques, or the equivalent, with additional education substituting for experience and vice versa.” Pet. 8 (citing Andrews Decl. ¶¶ 25–26). Patent Owner does not dispute this contention or offer an alternative formulation. *See* Prelim. Resp. 6.

For the purpose of institution, we adopt Petitioner’s definition of a person of ordinary skill in the art because it is consistent with the level of skill reflected by the ’752 patent specification and the asserted prior art.

C. Principles of Law

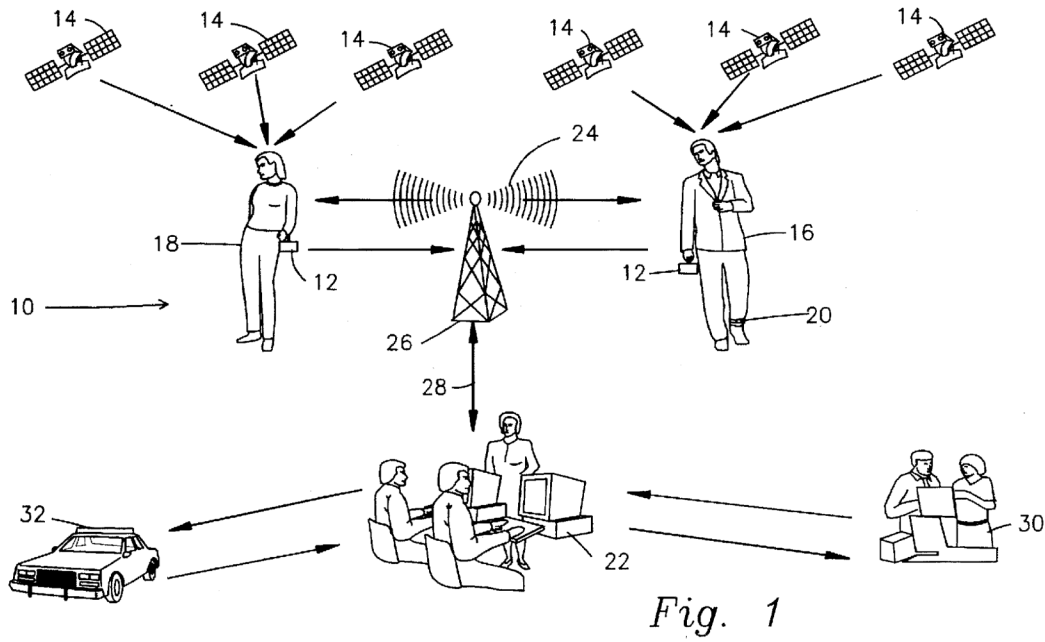
A claim is unpatentable under 35 U.S.C. § 103 if the differences between the claimed subject matter and the prior art are such that the subject matter, as a whole, would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. *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) if in evidence, so-called secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966).⁵

D. Overview of the Prior Art

1. Layson ’757 (Ex. 1007)

Layson ’757 is titled “Portable Tracking Apparatus for Continuous Position Determination of Criminal Offenders and Victims.” Ex. 1007, (54). Layson ’757 describes a portable tracking apparatus for continuous location determination of a subject that communicates with a body-worn, non-removable, tamper resistant transceiver and a central data-base system. *Id.*, Abstr. Figure 1 of Layson ’757, which is reproduced below, depicts a system incorporating the portable tracking apparatus. *Id.* at 2:27–28.

⁵ Petitioner does not present evidence related to secondary considerations.



As shown in Figure 1, system 10 incorporates “a portable tracking device 12 which receives communication signals from a global position satellite (GPS) 14 to determine the location of the subject (offender 16 or victim 18).” *Id.* at 2:46–49. To continuously report location of offender 16, “the offender 16 is fitted with a body-worn device 20 which is non-removable by the offender 16 and provides tamper detection to generate alarms should the offender 16 attempt to remove the body-worn device 20.” *Id.* at 2:50–54. When continuous location of victim 18 is desired, “the victim 18 can be provided a portable tracking device 12 and the body-worn device 20 can be a garment clip-on version.” *Id.* at 2:54–57.

Layson’757 explains that “[t]he communication from the subject’s portable tracking device 12 is routed to the central data-base system 22 where response decisions for notification to parole and probation 30, victims 18 and law enforcement 32 are made based on schedule rules and location constraints provided by the supervising agency such as parole and probation 30.” Ex. 1007, 3:3–8. According to Layson’757, “schedule rules are driven

by time of day and day of week as to where a subject's location is allowed or not allowed and describe the response actions taken by both the portable tracking apparatus and the central data-base system,” and “location constraints define locations and a distance radius which constitute a buffer area around a location.” *Id.* at 9:37–43.

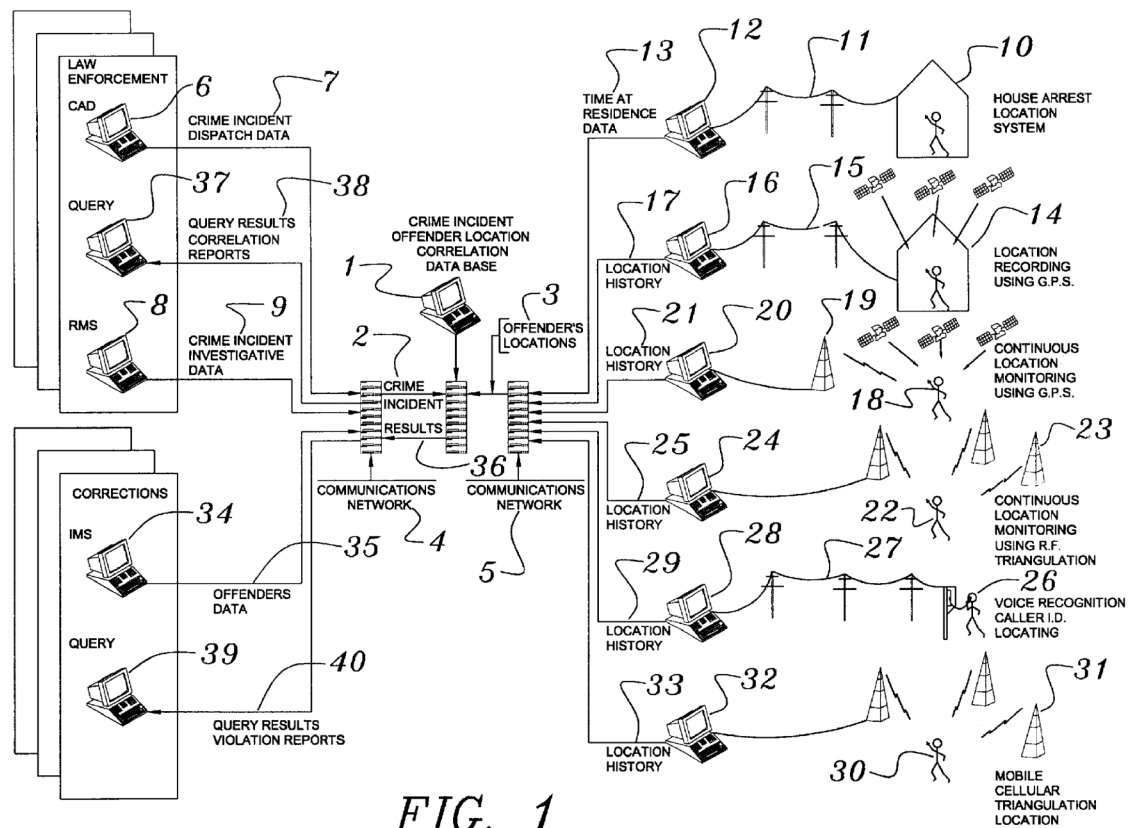
Layson '757 describes that “[t]he schedule rules and location constraints are sent from the central data-base system to the portable tracking apparatus where they are continuously processed.” Ex. 1007, 9:45–48. Layson '757 explains that “[a]t any time the central data-base system 22 may be commanded by law enforcement 32 or other agencies such as parole and probation 30 to query the portable tracking device 12 to ascertain the immediate status of the portable tracking device 12 and the location of the offender 16 or victim 18.” *Id.* at 3:18–23.

When the current location of a subject violates the schedule rules and location constraints of the subject, “the portable tracking apparatus notifies the subject and the central data-base system immediately.” Ex. 1007, 9:48–50; *see also id.* at 7:10–14. According to Layson '757, “[a]n offender's current position relative to any associated victim's current position is analyzed . . . to determine if any alarms to law enforcement or corrections, commands to the offender and warnings to the victim are required based on the dynamic movements of the offender and victim.” *Id.* at 8:13–19. Layson '757 explains that “[b]y including wider buffer zones for locations that are meant to include or exclude a subject, the portable tracking device provides advanced notification to victims far beyond the transmitter range of the subject's body-worn device.” *Id.* at 8:39–43.

2. Layson '213 (Ex. 1008)

Layson '213 is titled "System to Correlate Crime Incidents with a Subject's Location Using Crime Incident Data and a Subject Location Recording Device." Ex. 1008, (54). Layson '213 relates to "correlating crime incident data with the history of a subject's locations by using an all body worn, non-removable, tamper resistant location recording apparatus." *Id.* at 1:23–26.

Figure 1 of Layson '213, reproduced below, depicts "the end-to-end crime incident/subject location correlation system and its major subsystem elements for integrating subject locating methods with crime incident recording methods." Ex. 1008, 7:32–35.



As shown in Figure 1, crime incident/offender location correlation database 1 receives crime incident data 2, via a communication network 4, and

offender location data 3, via a communication network 5, on a continuous basis. *Id.* at 8:28–38. Law enforcement and corrections personnel use query terminal 37, 39 for structured queries. *Id.* at 20:40–42. According to Layson ’213, “law enforcement query terminal 37 receives automated correlation reports and query results 38 using its connection to the communications network 4.” *Id.* at 10:12–14.

Layson ’213 explains that “[r]esults 36 from the crime incident/offender correlation data base 1 are comprised of automated correlation of crime incidents to offender locations and structured queries entered by law enforcement personnel.” *Id.* at 10:14–18. Further, “corrections query terminal 39 receives automated violation reports and query results 40 using its connection to the communications network 4.” *Id.* at 10:19–21. “Results 36 from the crime incident/offender correlation data base 1 are comprised of automated offender violation reports and structured queries entered by corrections personnel.” *Id.* at 10:21–24.

3. *Wang (Ex. 1009)*

Wang is titled “Mobile Unit Tracking System.” Ex. 1009, (54). Wang relates to “tracking systems which maintain data describing the locations of mobile units.” *Id.* at 1:10–12.

Figure 1 of Wang, reproduced below, depicts “a region of the earth within which a communication network operates.” Ex. 1009, 2:21–22.

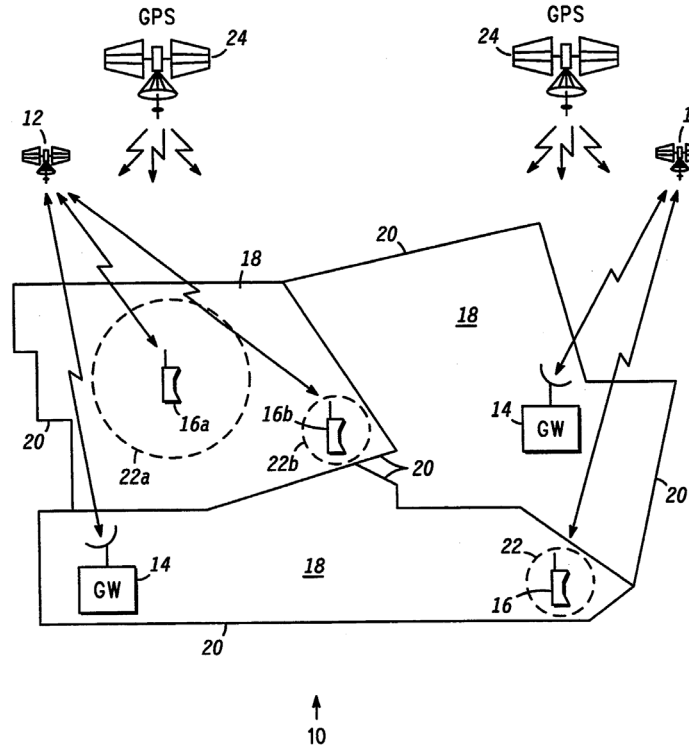


FIG. 1

In Figure 1, “[m]obile units 16 establish a data communication link with a nearby satellite 12, which may then relay the data communication to a nearby gateway 14.” *Id.* at 2:68–3:2. Mobile units 16 use “a satellite positioning system 24, such as the Global Positioning System (GPS),” to determine their own locations. *Id.* at 3:28–33.

Wang describes that “[m]obile units 16 operate, within any one of a number of different political jurisdictions 18,” that are “surrounded by political boundaries 20.” Ex. 1009, 3:3–5. According to Wang, “[n]etwork 10 needs to know with accuracy when mobile unit 16 crosses a boundary 20 so that frequency allocation, billing, tax, and other parameters may be set in accordance with the appropriate jurisdiction 18.” *Id.* at 3:6–10.

As shown in Figure 1, mobile unit 16a centrally located within jurisdiction 18 may move a relatively large distance (indicated by border

22a) before it nears boundary 20. *Id.* at 3:14–21. Consequently, network 10 needs only relatively inaccurate data concerning the location of mobile unit 16a. *Id.* at 2:16–18. In contrast, mobile unit 16b near boundary 20 needs relatively accurate location data because it may enter another jurisdiction by moving a relatively small distance, as indicated by the radius of border 22b. *Id.* at 3:22–27.

Each mobile unit 16 determines its own location and sends a location communication to a nearby “local” gateway 14 to inform network 10 of its location. Ex. 1009, 3:50–53. Upon receipt of the location communication, gateway 14 “generates data which define a border 22 and sends these border data back to the mobile unit 16.” *Id.* at 3:53–56. According to Wang, “when the mobile unit 16 goes outside the border 22, it sends a new location communication to network 10 and receives a new border definition in response.” *Id.* at 3:58–61.

4. IllinoisLaw (Ex. 1010)

IllinoisLaw is a portion of Laws of the State of Illinois, Public Act 89-0377, relating to criminal law, which states that it was compiled, printed, and distributed in 1995. Ex. 1010, 3–5.⁶ In Section 12-7.3, IllinoisLaw defines “stalking” as follows:

A person commits stalking when he or she, knowingly and without lawful justification, on at least 2 separate occasions follows another person or places the person under surveillance or any combination thereof and:

(1) at any time transmits a threat to that person of immediate or future bodily harm, sexual assault, confinement or restraint; or

⁶ Unless otherwise specified, citations to exhibits use the page numbers assigned by the parties and not the original page numbers.

(2) places that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement or restraint.

Id. at 9. According to IllinoisLaw,

“follows another person” means (i) to move in relative proximity to a person as that person moves from place to place or (ii) to remain in relative proximity to a person who is stationary or whose movements are confined to a small area.

Id. at 10 (italics in original, indicating new matter). IllinoisLaw states that “[f]ollows another person” does not include a following within the residence of the defendant.” *Id.*

5. Suarez (Ex. 1013)

Suarez is titled “Method and Apparatus for Communication within a Vehicle Dispatch System.” Ex. 1013, (54). Suarez relates to communication between a dispatch center and a plurality of wireless communication devices within a vehicle dispatch system. *Id.*, Abstr.

Figure 1 of Suarez, reproduced below, shows a block diagram of a vehicle dispatch system. Ex. 1013, 2:38.

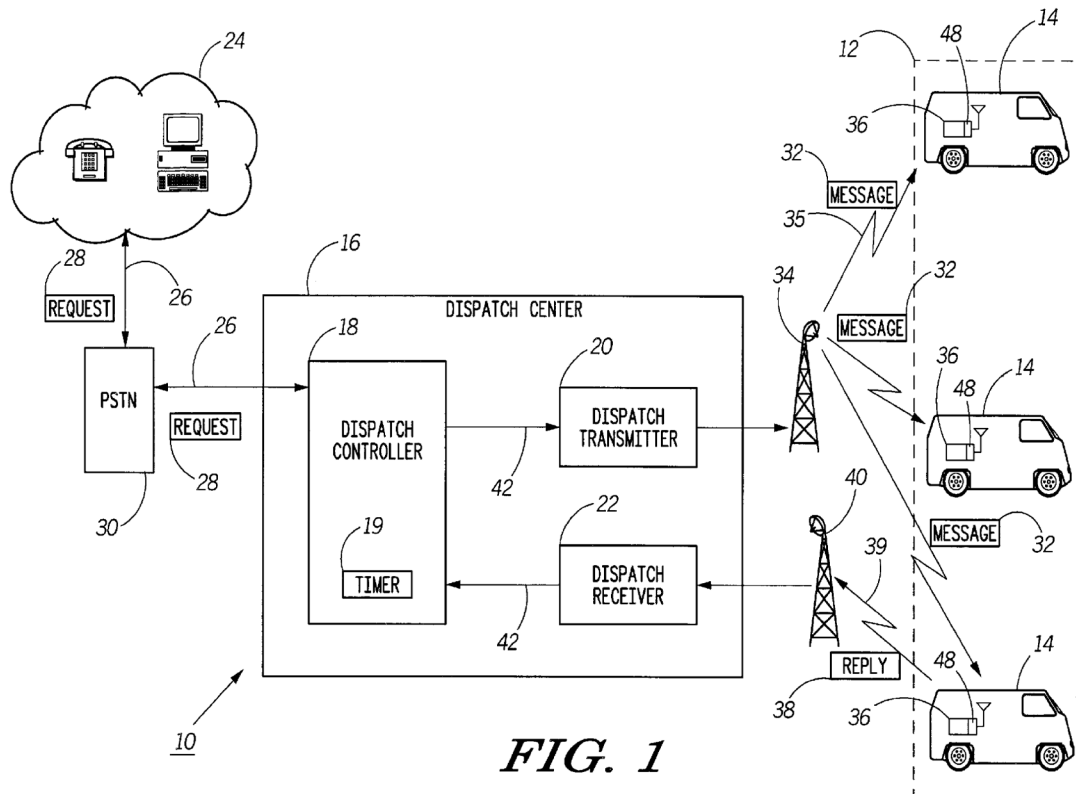


Figure 1 depicts vehicle dispatch system 10 for management of fleet 12 of vehicles 14, wherein message input device 24, such as a telephone or computer terminal, may communicate with a dispatch center 16 via, for example, through a conventional public switched telephone network (PSTN), radio frequency (RF) channels, satellite links, or Internet. *Id.* at 2:66–3:10. In dispatch center 16, “[t]he dispatch controller 18 encodes inbound requests for dispatch 28 into outbound assignment messages 32, and decodes inbound replies 38 from the vehicles 14 for matching of a request for dispatch 28 with a vehicle 14 that affirmatively replies.” *Id.* at 3:21–25. According to Suarez, dispatch controller 18 also “schedules the assignment message 32 for transmission by the dispatch transmitter 20, via a transmit antenna 34, to each vehicle 14.” *Id.* at 3:27–29. Each vehicle has “a wireless communication device 36 capable of receiving and processing the assignment messages 32.” *Id.* at 3:31–33.

Suarez describes that a vehicle's wireless communication device 36 has an assignment manager programmed to include a criteria parameter for comparison of the location parameter of assignment message 32 with a current location stored in a memory. Ex. 1013, 5:7–10, Fig. 2. According to Suarez, “[t]he criteria parameter . . . is a pre-set metric for filtering the assignment message 32 received by the wireless communication device 36 to be seen only by the vehicles 14 within the fleet 12 that meet the specified criteria.” *Id.* at 5:14–17. For example, the criteria parameter is a perimeter surrounding the assignment location established at a radius from the assignment location (*see id.* at 5:39–42, Fig. 4); the driving distance from the assignment location (*see id.* at 5:55–56, Fig. 5); or the vehicle travel time, i.e., the difference between a current time and an estimated arrival time (*see id.* at 6:15–17, Fig. 6).

6. Mintz (Ex. 1014)

Mintz is titled “Method and System for Obtaining Information from a Plurality of Remote Stations.” Ex. 1014, (54). Mintz describes a dispatch situation wherein a customer relays a request for service to a control center, which in turn broadcasts an invitation message to participants (e.g., taxis) in the area. *Id.* at 6:57–7:19, Fig. 1.

Figure 3 of Mintz is reproduced below:

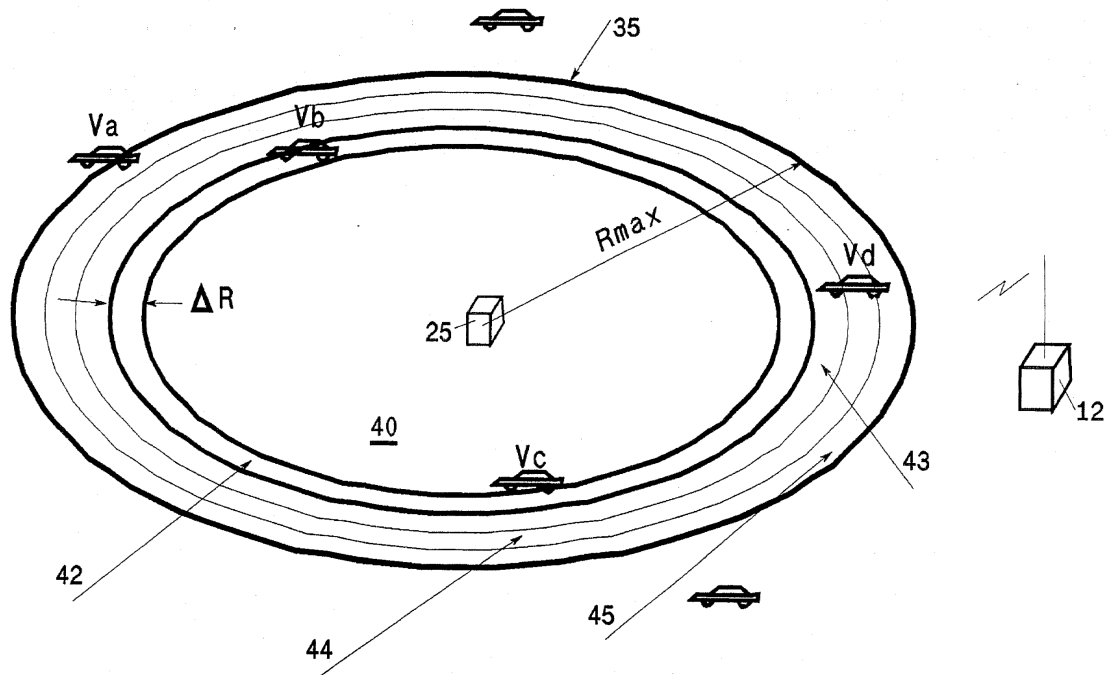


Fig 3

Figure 3 depicts customer 25 who has requested a taxi. Ex. 1014, 10:57–58. “Shown within a circular target area 40 centered about customer 25 and having a boundary 35 at different distances from customer 25 are four taxi vehicles designated as V_a , V_b , V_c , and V_d .” *Id.* at 10:58–62. Figure 3 shows that “[t]arget area 40 is split into a plurality of concentric sectors of which only the outermost sectors 42, 43, 44 and 45 are shown each having a width ΔR and being radially disposed with respect to the customer.” *Id.* at 10:64–67.

Control center 12 transmits a call message to all of the participants. Ex. 1014, 11:27–28. Upon receiving the call message, each participating taxi “determines its priority in accordance with the selection criteria, which, in the simplest case, is assumed to be solely the distance of the participant from the customer and within the maximum radius R_{max} .” *Id.* at 11:37–41. According to Mintz, vehicles V_b and V_c in the sector 42 closest to the

customer 25 are therefore assigned the highest priority and transmit an indication signal first. *Id.* at 11:41–44, 11:52–55.

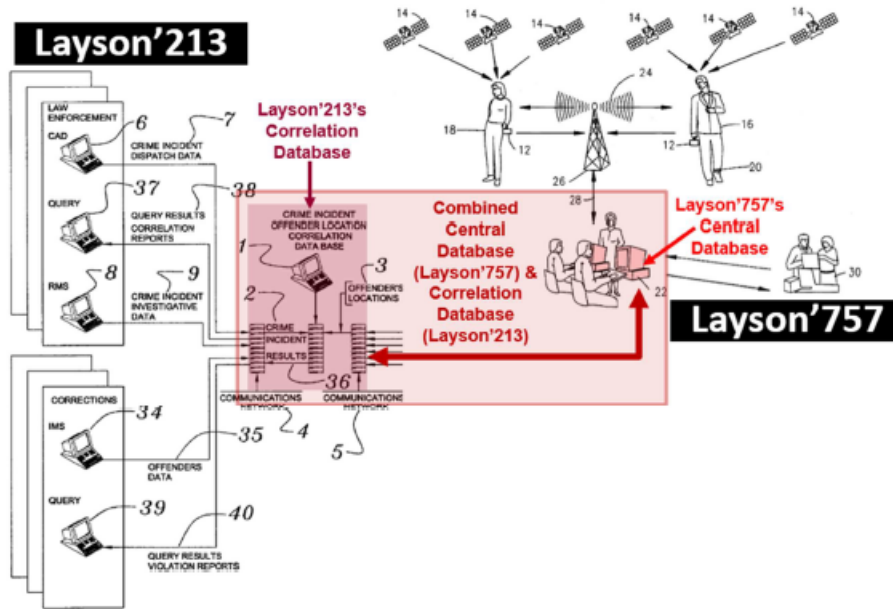
E. Obviousness of Independent Claim 1

Petitioner contends that claim 1 would have been obvious over Layson’757 and Layson’213. Pet. 23–45. Patent Owner disputes Petitioner’s contentions. Prelim. Resp. 28–38.

1. Motivation to Combine Layson’757 and Layson’213

Petitioner contends that a person of ordinary skill would have been motivated to combine the teachings of Layson’757 and Layson’213. Pet. 23–27; Andrews Decl. ¶¶ 146–154. Petitioner contends that “Layson’213 relates to the same subject matter—offender tracking—as Layson’757, and lists the same inventor—Hoyt M. Layson, Jr.—as Layson’757.” Pet. 25. Patent Owner also contends that “Layson’213 describes how a ‘correlation database’ receives offender location data, such as provided by Layson’757.” *Id.* at 24 (citation omitted).

Mr. Andrews provides supporting testimony. Mr. Andrews testifies that a person of ordinary skill “seeking to implement Layson’757’s system would have been motivated to incorporate the teachings of Layson’213’s complementary system for implementation details on Layson’757’s system’s capability to ‘build reports.’” Andrews Decl. ¶ 152. Mr. Andrews continues, “[a person of ordinary skill] would have been motivated to implement Layson’757’s central database to work with Layson’213’s corresponding teachings of its correlation database.” *Id.* Mr. Andrews presents the following illustration of the combined system:



Andrews Decl. ¶ 153. The above figure illustrates the combination of Layson'757 and Layson'213 asserted by Petitioner. *Id.*

Patent Owner responds that “[t]here is no reason, and Petitioner provides none, why a [person of ordinary skill] would add Layson'757’s victim locations into Layson'213’s crime/offender correlation database because a crime has to occur first and be reported before its details are logged in that database.” Prelim. Resp. 28 (citing McAlexander Decl. ¶¶ 96–97). Further, Patent Owner argues that “Petitioner’s proposal to modify Layson'757 to wait for a ‘loiter time’⁷ before reporting perimeter violations violates its own teaching that calls for ‘immediate’ alerts.” *Id.* (citing Ex. 1007, 9:48–54).

We determine that Petitioner has presented a sufficient motivation for combining the teachings of Layson'757 and Layson'213 as shown in the

⁷ “Loiter time” is useful in identifying violations. As described by Layson'213, “passing through an exclusion zone is permitted but loitering is not.” Ex. 1008, 23:31–36 (quoted at Andrews Decl. ¶ 88.)

above illustration. In addition to the reasons given by Petitioner, we note also that Layson’213 refers to Layson’757 and incorporates its disclosure by reference. *See* Ex. 1008, 2:26–30. While not determinative, this additional fact further suggests that a person of ordinary skill would have been motivated to consider the teachings of Layson’757 in implementing Layson’213.

We have considered, but are not persuaded by Patent Owner’s arguments concerning Petitioner’s reasoning to combine the Layson references. For the most part, Patent Owner argues the references separately and not the combination.

2. *Claim 1*

Petitioner provides an element-by-element analysis of claim 1 in relation to Layson’757 and Layson’213. Pet. 27–45. Patent Owner contests this analysis and contends that the combination of Layson’757 and Layson’213 does not teach the elements of claim 1 and therefore claim 1 would not have been obvious. Prelim. Resp. 30–38.

Claim 1 is reproduced in Section I.D, *supra*. We agree with Patent Owner that at least one limitation of claim 1 is not taught or suggested by the combination of Layson’757 and Layson’213. Our analysis focusing on disputed claim element 1[D] follows.⁸

⁸ Throughout this Decision, we use the labeling for claim limitations used by the parties.

1[D]: “iv) from the list of (iii), forwarding the location of at least a mobile remote unit to the mobile consumer upon determination that the remote unit maintained close proximity to the mobile consumer over the period of time of (i).”

Petitioner’s analysis of this claim limitation appears at pages 42–45 of the Petition. Petitioner identifies the victim disclosed in Layson’757 as the “mobile” or “wireless consumer” recited in the claim. Pet. 29, 62 n.6. Referring to claim element 1[D], Petitioner contends that “Layson’757 teaches determining that a mobile remote unit is in close proximity to the mobile consumer, by determining that the offender device (‘mobile remote unit’) is within the victim’s buffer zone (in ‘close proximity to the mobile consumer’).” Pet. 42–43. Referring to claim element 1[A], Petitioner contends that “Layson’213’s loiter time would have been chosen to cover two or more intervals over which the victim’s and offender’s location is reported, to ensure the close proximity time is sufficient to qualify as loitering, as opposed to transitory and inadvertent violations, and therefore identify intentional violations of the victim’s buffer zone.” *Id.* at 43–44. Finally, Petitioner contends that “Layson’757-Layson’213 further teaches forwarding the location of the offender’s portable tracking device to the victim (through their portable monitoring device), in response to determining that the offender maintained close proximity to the victim over the period of time.” *Id.* at 44. Petitioner continues that “[a person of ordinary skill in the art] would have been motivated to provide the victim with the location of an offender in violation of the victim’s buffer zone.” *Id.* at 45 (citing Andrews Decl. ¶ 199). Mr. Andrews testifies that “a person of ordinary skill in the art would have understood that Layson’757’s system provides notifications of buffer zone violations to victims to help those victims escape the threat posed by an approaching offender (Ex-1007, 1:12-

14), and that a victim would need knowledge of the offender's location to do so (or otherwise risk the victim fleeing in the direction of the offender).

Andrews Decl. ¶ 199. He continues, "Taylor teaches advising a restrictor person (e.g., a victim) of the position of a restrictee person (e.g., an offender) relative to the restrictor." *Id.* (citing Ex. 1011, 20:16–29).

Patent Owner responds that "[t]he combined system does not send an offender's location to a victim and Petitioner does not show otherwise."

Prelim. Resp. 37. We agree. We do not find in either Layson reference a teaching or suggestion that the offender's location is sent to the victim.

Layson '757 describes that "[t]he schedule rules and location constraints are sent from the central data-base system to the portable tracking apparatus where they are continuously processed." Ex. 1007, 9:45–48. As is described further in Layson '757, when the current location of a subject violates the schedule rules and location constraints of the subject, "the portable tracking apparatus *notifies the subject and the central data-base system immediately.*" Ex. 1007, 9:48–50 (emphasis added); *see also id.* at 7:10–14. There is no mention in Layson '757 of providing the offender's location to the victim, only to the central data base.

Mr. Andrews' testimony that "a victim would need knowledge of the offender's location to do so (or otherwise risk the victim fleeing in the direction of the offender[]" (Andrews Decl. ¶ 199) lacks support. He relies on Layson '757 as support for this statement, specifically, column 1, lines 12–14. But those lines relate generally to the Field of the Invention, and do

not describe disclosing the location of the offender to the victim.⁹ Nor does he provide adequate support for his opinion that “it was common in victim-offender tracking systems to provide the victim with the location of a nearby offender.” Andrews Decl. ¶ 199. He cites one passage from Taylor (Ex. 1011), a patent that is not included in any of the challenges before us. *Id.* Taylor is more focused on the “restrictor” person than the “restrictor,” and describes an ankle bracelet that delivers medication or electrical shocks to the wearer when engaging in prohibited activities. Ex. 1011, Abstr. It is in this context that Taylor states, in a single sentence: “It is also possible that human personnel at the central location would establish cellular communication with the restrictor person and advise the restrictor person of the position of the restrictor person relative to the restrictor person.” Ex. 1011, 20:24–28. We do not find this one isolated sentence in a reference not cited in the challenge as sufficient proof that it is well known to provide victims with the offender’s location.

We find more persuasive Mr. McAlexander’s explanation for why the offender’s location should *not* be disclosed to the victim: “For example, the victim knowing the offender’s location may be motivated to confront the offender.” McAlexander Decl. ¶ 141. Also pertinent is the disclosure in the Layson references that the central data base can alert law enforcement to protect the victim “based on the dynamic movements of the offender and victim.” Ex. 1007, 8:11–19. This additional protection diminishes further any need for the victim to know the exact location of the offender.

⁹ These lines from Layson’757 read as follows: “[This invention] further includes the capability to provide advance offender violation warning for victims beyond the confines of the victim’s home.” Ex. 1007, 1:12–14.

3. *Summary and Conclusion – Claim 1*

For the reasons given, we determine that Petitioner has not established a reasonable likelihood of prevailing on its challenge to claim 1 based on Layson’757 and Layson’213.

F. Obviousness of Dependent Claim 4

Claim 4 depends from claim 1. Ex. 1001, 11:27–35. Petitioner contends that claim 4 would have been obvious in light of the Layson references, further in view of Wang. Pet. 46–53. Petitioner contends that persons of ordinary skill would have been motivated to combine the teachings of Layson’757 and Wang. Petitioner asserts that in Layson’757’s tracking system, “each portable tracking device is configured to compare its position to location constraints sent from the central data-base system, and alert the central database in response to any violations of those constraints.” Pet. 46 (citing Ex. 1007, 9:45–50). Petitioner continues, referring to Wang’s Figure 1 (reproduced in Section II.D.3, *supra*), “Wang similarly teaches a ‘tracking system’ in which each mobile unit can operate within defined ‘borders’ provided by the network.” *Id.* (citation omitted).

Patent Owner responds that “Wang does not reasonably combine with the purported Layson’757–Layson’213 combined system because it renders both solutions unworkable.” Prelim. Resp. 39. Patent Owner explains that “Wang’s vehicle discloses its location once and only once for each ‘border’ in which it is located.” *Id.* In contrast, the Layson references “require[] a continuous update of offender and victim location to provide immediate updates of location perimeter violations and for the reporting of offender data into the correlation database.” *Id.* Patent Owner cites supporting

testimony from Mr. McAlexander. *Id.* (citing McAlexander Decl. ¶¶ 143–150).

We agree with Patent Owner’s reasoning. Wang teaches that the location of vehicles is reported once when the vehicles approach or cross a border. As described by Petitioner, referring to Wang’s Figure 1, “[w]hen a mobile unit is located within its border, it does not need to transmit its location to the network.” Pet. 16 (citing Ex. 1009, 3:56–58). According to Wang, “when the mobile unit 16 goes outside the border 22, it sends a new location communication to network 10 and receives a new border definition in response.” Ex. 1009, 3:58–61. In contrast, an offender’s location is continuously reported in Layson’757. *See* Ex. 1007, 2:50–54 (body-worn device provides continuous location of offender).

Furthermore, Wang does not address the other ways in which the combination of the Layson references fails to meet the limitations of claim 1, from which claim 4 depends. *See supra*, Section II.E.2. Consequently, for the reasons given above and also for those discussed for claim 1, Petitioner does not demonstrate a reasonable likelihood of prevailing on its challenge to claim 4 based on the Layson’757, Layson’213, and Wang.

G. Obviousness of Independent Claims 9 and 14 and Dependent Claim 15

Petitioner contends that claims 9 and 14 would have been obvious over Layson’757, Layson’213, and IllinoisLaw. Pet. 53–72. Petitioner provides an element-by-element analysis of these claims in relation to that combination of references. *Id.* at 57–72. Patent Owner responds that the combination of the Layson references and IllinoisLaw does not teach certain elements of claim 9 and 14, and therefore claims 9 and 14 would not have been obvious. Prelim. Resp. 43–57.

We first address whether the proofs of a motivation to combine these references presented by Petitioner are sufficient. We also discuss whether the cited references are analogous art to the '752 patent.

1. Motivation to Combine Layson '757, Layson '213, and IllinoisLaw

In Section II.E.1, *supra*, we determined that Petitioner has demonstrated a sufficient motivation to combine Layson '757 and Layson '213. Our focus here is on Petitioner's argument that a person of ordinary skill would have been motivated to further combine the teachings of those references with IllinoisLaw, an Illinois criminal statute.

Petitioner argues that "a [person of ordinary skill] would have been motivated to implement a system that identifies potential stalking incidents using the legal definition of the crime." Pet. 54. We are not persuaded by this argument. The parties have agreed (or at least not disputed) that the person of ordinary skill pertinent to this case is an engineer, not a lawyer. *See supra*, Section II.B. Specifically, as proposed by Petitioner, the person of ordinary skill "would have had a bachelor's degree in electrical engineering, computer engineering, computer science, or a related field, and at least two years of experience in the research, design, development, and/or testing of GPS and related location tracking techniques, or the equivalent, with additional education substituting for experience and vice versa." Pet. 8. This description is echoed by Mr. Andrews. *See Andrews Decl.* ¶ 25. Nowhere in Petitioner's or Mr. Andrews's description of the person of ordinary skill is there any mention of experience with legal subject matter, much less experience specifically with Illinois law. We are, therefore, not persuaded by Petitioner's argument that such a person of ordinary skill

would have looked to Illinois criminal law for a legal definition of stalking.
See Pet. 54.

2. *Whether IllinoisLaw is Analogous Art*

The Board requested and received supplemental briefing from the parties on whether IllinoisLaw is analogous art to the '752 patent. *See* Papers 7 (Petitioner's memo) and 8 (Patent Owner's memo). Petitioner argues that the "proximity alert" claims of the '752 patent (claims 1, 4, 9, 14, and 15) and IllinoisLaw "are in the same field of endeavor, each directed to solving the problem of identifying potentially abusive tracking." Paper 7, 1. Further, Petitioner asserts the development of tracking systems and anti-stalking legislation "were two sides of the same coin, propelled by the same government initiatives and funding sources." *Id.* In addition, Petitioner argues, "IllinoisLaw is also reasonably pertinent to the problem addressed, because it provides a definition of stalking that can be used to distinguish potentially abusive tracking from other, innocent behaviors." *Id.*

Patent Owner contends that "'IllinoisLaw' is not analogous art because it is neither within the field of the inventor's endeavor nor reasonably pertinent to the particular problem to which the challenged patent is directed." Paper 8, 1. Patent Owner continues, "[t]he field of endeavor is determined 'by reference to explanations of the invention's subject matter in the patent application, including the embodiments, function, and structure of the claimed invention.'" *Id.* at 2 (citing *In re Bigio*, 381 F.3d 1320, 1325 (Fed. Cir. 2004)).

We are not persuaded by Petitioner's argument that IllinoisLaw is analogous art to the '752 patent. "Two separate tests define the scope of analogous prior art: (1) whether the art is from the same field of endeavor,

regardless of the problem addressed and, (2) if the reference is not within the field of the inventor's endeavor, whether the reference still is reasonably pertinent to the particular problem with which the inventor is involved."

Sanofi-Aventis Deutschland GmbH v. Mylan Pharms. Inc., 66 F.4th 1373, 1377 (Fed. Cir. 2023). In evaluating whether a reference is analogous, the Federal Circuit has "consistently held that a patent challenger must compare the reference to the challenged patent." *Id.* "A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem." *In re ICON Health & Fitness, Inc.*, 496 F.3d 1374, 1379–80 (Fed. Cir. 2007).

Patent Owner argues that "the field of endeavor of the Challenged Patent is indisputably wireless telecommunication systems and services that request and process the position of portable mobile remote units." Paper 8, 2. Patent Owner continues, "Illinois Law's field of endeavor, such as it is, is the regulation of criminal conduct." *Id.* at 3. We agree with this analysis. Petitioner's attempts to bridge the gap between telecommunications and criminal law by characterizing "the development of tracking systems and anti-stalking legislation" as "two sides of the same coin." Paper 7, 1. This argument is unavailing. We see no evidence of overlap between the activities of Illinois legislators and those of the engineers of ordinary skill as defined by Petitioner as pertinent to the '752 patent, such that one can say they are in the same field of endeavor.

Nor can we say there is any persuasive evidence from Petitioner that the Illinois legislators and the engineers defined by Petitioner as persons of ordinary skill face the same problems in their work, or that their activities

are “intertwined.” *See* Paper 7, 3. We are more persuaded that Illinois’s legislators are not attempting to solve the technical problems addressed by persons of ordinary skill pertinent to the ’752 patent, and vice versa. *See* Paper 8, 4. For the reasons given, we determine that IllinoisLaw is not analogous art to the ’752 patent claims, and therefore IllinoisLaw is not available as a reference in this proceeding.¹⁰ *See Sanofi-Aventis*, 66 F.4th at 1377 (Board determination of obviousness reversed where reference relied on by the Board was not analogous art).

3. *Independent Claim 9*

Addressing Patent Owner’s argument that the references cited do not teach or suggest claim 9, we agree with Patent Owner that at least the “tracking period” limitation of claim 9 is not taught or suggested by the combination of Layson ’757, Layson ’213, and IllinoisLaw. Prelim. Resp. 44–51. Our analysis focusing on dispositive claim elements follows.

As background, we note that Petitioner identifies the Layson ’757 victim’s portable tracking device as the “first portable remote unit” in claim 9. Pet. 57. Petitioner asserts that Layson ’757 teaches obtaining the location of its portable tracking devices at the central data base, as recited in limitation 9[A]. *Id.* at 58. Petitioner asserts that Layson ’757 teaches obtaining the locations of offender tracking devices (“second

¹⁰ Petitioner states its reliance on IllinoisLaw is contingent on whether Patent Owner or the Board adopts a claim construction that requires a “minimum distance” as part of the algorithm that performs the recited function. *See* Pet. 11 n.4. Because Patent Owner has argued that a “minimum distance” between victim and offender is required in interpreting claims 9 and 14, we address IllinoisLaw in our analysis of those claims. *See* Prelim. Resp. 46–47 (claim 9), 56 (claim 14).

communication unit or tracking unit”) at the central database. *Id.* at 58–59. See limitation 9[B]. Our analysis of disputed limitations of claim 9 follows.

9[pre]: “A method for determining that a first portable remote unit associated with a network is being tracked by at least a second portable remote unit over a tracking period comprising:”

Petitioner relies on Layson’757 and IllinoisLaw to meet the “tracking period” recitation in claim 9.¹¹ Pet. 57. Parent Owner responds that this combination of references does not meet this limitation. Prelim. Resp. 44–45. At the outset, we note that we have concluded that IllinoisLaw is not analogous art and is therefore not available as a reference. However, there are additional reasons, discussed below, why the “tracking period” limitation is not met.

9[C]: “verifying whether the tracking and tracked unit(s) have traveled a minimum pre-specified distance over the tracking period;”

To meet the “tracking period” limitation, the Petition refers to the victim’s tracking device in Layson’757 and relies on the assumption that “a [person of ordinary skill] would have been motivated to ensure that any offenders whose locations correlated over time with the victim’s location had traveled together with the victim as the victim ‘move[d] from place to place’ to avoid false positives arising when an offender and victim are merely incidentally located in the same area over a period of time.” Pet. 59–60 (alteration in original). Therefore, Petitioner argues, “a [person of

¹¹ We assume, without deciding, that the preambles of the challenged claims are limiting as Patent Owner asserts. See, e.g., Prelim. Resp. 44 (asserting the claim 9 preamble is limiting). However, our conclusion does not depend on this, as our analysis includes other claim limitations (besides the preamble) that are not met by Petitioner.

ordinary skill] would have been motivated to implement a check for a minimum pre-specified distance of joint travel over a period of time (corresponding, for example, to the victim’s travel from work to home) to evaluate whether the offender ‘move[d] from place to place’ with the victim over the period of time, crossing the line into criminal stalking.” *Id.* at 60 (alteration in original).

Patent Owner responds that Petitioner’s analysis of “tracking period” as “a time period where an offender’s location is identified within a victim’s buffer distance” is “loiter time,” not a tracking period. Prelim. Resp. 46. Patent Owner explains the difference: “A loiter time is the maximum time that the offender may be located in an exclusion zone without the system reporting a violation. A tracking period is a time period over which the two units that are within a pre-specified radius of each other have traveled a minimum pre-specified distance together.” *Id.* at 46–47.

We agree with Patent Owner that Petitioner’s analysis of this limitation is unavailing. We agree that “tracking period” refers to the period during which two units move together over a pre-defined distance while within a specified proximity. Prelim. Resp. 49–50; Ex. 1001, 2:37–44, 5:12–17; McAlexander Decl. ¶ 38. For the reasons given, we agree with Patent Owner that Petitioner’s analysis refers to loiter time, and not to the recited “tracking period.” We agree also with Patent Owner’s explanation that loiter time and the claimed tracking period are not the same. Prelim. Resp. 46–47; McAlexander Decl. ¶ 183. Mr. McAlexander explains that “a loiter time can be used to eliminate a false positive if the offender is merely driving on a street that passes the victim’s house on their way elsewhere,” while “the tracking period of the claim is for a different purpose, mainly to

see whether two proximate units moved substantially together over the tracking period.” *Id.*

We find Petitioner’s arguments (and those of its expert, Mr. Andrews) on this issue to be speculative and in any case incorrect. For example, Mr. Andrews testifies that “for Element 9[B], a victim’s location (obtained from a victim portable tracking device) *may* be used as the location of a crime incident of potential stalking in a query of Layson’ 213’s correlation database.” Andrews Decl. ¶ 246 (emphasis added). Rather than providing persuasive evidence of what a person of ordinary skill would do, based on the prior art before us, they speculate on what modifications to Layson’213 and its correlation data base may have been possible, such as “ensur[ing] that any offenders whose locations correlated over time with the victim’s location had traveled together with the victim as the victim ‘move[d] from place to place.’” Andrews Decl. ¶ 247 (citing only IllinoisLaw, which we determine is non-analogous art).

We conclude that the Petition does not sufficiently demonstrate that the “tracking period” limitation is met. For the reasons given, we determine that Petitioner has not demonstrated sufficiently that claim 9 would have been obvious over Layson’957, Layson’213, and IllinoisLaw.

4. *Independent Claim 14*

We agree with Patent Owner that at least one limitation of claim 14 is not taught or suggested by the combination of Layson’757, Layson’213, and IllinoisLaw. Prelim. Resp. 51–56. Our analysis focusing on the dispositive claim elements follows.

Claim 14 is reproduced in Section I.D, *supra*. Petitioner identifies the victim’s portable tracking unit in Layson’757 as the “portable mobile remote

unit” in limitation 14[A]. Pet. 62. Petitioner identifies Layson’757’s portable tracking units as the “communication units” of limitation 14[B], and together with the central database, these form the claimed “network of communication units.” *Id.* at 62. Petitioner argues that each of Layson’757’s portable tracking devices provides the location information recited in limitation 14[C]. *Id.* at 64–65. Petitioner identifies the “another mobile remote unit” of limitation 14[F] with the offender’s device. *Id.* at 62 n.6.

14[D]: “means to obtain geographic boundary information in order to disclose a global location at the network;

Petitioner identifies the “geographic boundary information” recited in limitation 14[D] with the location constraints in Layson’757. Pet. 66–67. Petitioner argues that “[t]he central database [in Layson’757] sends ‘location constraints’ to each portable tracking device, which identify ‘buffer zones’ around locations meant to exclude a subject.” *Id.* at 67 (citations omitted). Petitioner asserts that in Layson’757, “[t]o enable the central database to accurately identify when an offender is located too close to a victim, or vice versa, each of the monitored subjects’ devices would receive location constraints from the central database (both offender and victim).” *Id.* (citing Ex. 1007, 1:17–18). Petitioner identifies the “location constraints” transmitted to the portable tracking devices as including the offender’s location, “[i]n particular, *the victim device would receive the associated offender’s location* and ‘buffer zone’ around that location.” *Id.* (citing Ex. 1007, 8:36–43) (emphasis added).

We disagree that Petitioner has shown that “the victim device would receive the associated offender’s location.” *See* Pet. 67. This argument is

not supported by Petitioner’s citations to Layson’757. *See id.* The first citation (Ex. 1007, 1:17–18) refers only to a general discussion of the prior art, and not a description of the system disclosed by Layson’757.

Specifically, it states “[c]urrently, determining the location of subjects, such as criminal offenders and victims, has only been possible by electronic monitoring means at fixed locations, such as the subject’s residence.” Ex. 1007, 1:16–19. The second citation (Ex. 1007, 8:36–43) refers to the central base system “contacting the portable tracking device and downloading schedule rules and location constraints to the portable tracking device.” The cited description does not explain which location constraints are downloaded to which devices, nor does it disclose downloading the offender’s location information to the victim’s portable tracking device.¹²

While Layson’757 leaves open the possibility that a victim may be required to wear a “body-worn device,” “when the continuous location for the victim . . . is desired,” the focus of the disclosure of that reference is on monitoring the continuous location of the stalker, not the victim. Ex. 1007, 2:54–58. Moreover, Petitioner fails to show us any disclosure in Layson’757 that the stalker’s location or location constraints would be shared with the victim. This failure is further discussed *infra*, and in Section II.E.2, *supra*.

In Layson’757, assuming that the location of the victim is being monitored (which, as noted, is the exception, not the norm), the victim’s location would be compared to the location constraints *for the victim*, not the

¹² Mr. Andrews relies on these same citations in his analysis of this limitation. *See* Andrews Decl. ¶ 269.

location constraints of the offender. This is apparent from the following description of Layson '757's flowchart, referring to Figure 6:

Once the status of the body-worn device has been established 138, *the current location is compared to the schedule rules and location constraints 140 of the subject*. If the current location complies with the schedule rules and the location constraints 142 *for the subject*, then the location and status data is stored 144 in the portable tracking apparatus to be transmitted to the central data-base system on the next scheduled communication 146. If the current location violates the schedule rules and location constraints *of the subject* then *the subject is notified* 148 and the response to the central data-base system is evaluated against the schedule rules and location constraints 150 *for the subject*.

Ex. 1007, 7:2–13 (emphasis added). Thus, as Layson '757 explains, “[o]nce the status of the body-worn device has been established, the current location is compared to the schedule rules and location constraints *of the subject*,” i.e., the location and location constraints of the person wearing the body-worn device. Ex. 1007, 7:3–5 (emphasis added) (reference numerals omitted). Layson '757 goes on to explain that the central data base (not the *victim's* portable device) compares the offender's location to the appropriate location constraints:

An offender's current position relative to any associated victim's current position is analyzed by data fusion to determine if any alarms to law enforcement or corrections, commands to the offender and warnings to the victim are required based on the dynamic movements of the offender and victim.

Ex. 1008, 13–19. Accordingly, Layson '757 does not teach or suggest downloading the stalker's location to the victim, as the central data base (not the victim) monitors the stalker's location.

Thus, for the reasons given, Petitioner has not sufficiently shown that that “the victim device would receive *the associated offender’s location and ‘buffer zone’* around that location.” Pet. 67 (emphasis added). Instead, a violation of the stalker’s location constraints or “buffer zone” by the stalker would result in an audible alarm from the stalker’s portable tracking device. See Ex. 1007, 3:51–60; Fig. 6. Accordingly, the Petition has not established sufficiently disclosure in “means to obtain geographic boundary information in order to disclose a global location at the network;”

14[E]: “*means to provide the location of the portable mobile remote unit to the network upon determination that the portable mobile remote unit is within the geographic boundary obtained at the network;*”

To meet this limitation, Petitioner relies on its argument discussed *supra*, that “[t]he location constraints provided to the victim’s portable tracking device include the offender location obtained at the network, together with a buffer zone around that location (‘geographic boundary’).” Pet. 69 (citing Ex. 1007, 8:36–43).¹³ For the reasons given above for limitation 14[D] and in Section II.E.2, we determine that Petitioner has failed to demonstrate sufficiently that this limitation is met. For the reasons given, Petitioner does not show that the Layson references, specifically Layson’757, disclose providing the victim’s tracking device with an offender’s location or constraints.

5. *Dependent Claim 15*

Claim 15 depends from claim 14 and therefore includes the limitations of that claim. Ex. 1001, 13:19–22. Petitioner contends that claim 15 would

¹³ This citation is a general discussion of downloading location constraints to portable tracking devices. It does not describe downloading the offender’s location to the victim.

have been obvious over Layson’757, Layson’213, IllinoisLaw, and Wang. Pet. 72–74.

Patent Owner responds that a person of ordinary skill would not have combined Wang with the Layson references. Prelim. Resp. 15–16. We agree. Wang teaches that the location of vehicles is reported once when the vehicles approach or crosses a border. As described by Petitioner, referring to Wang’s Figure 1, “[w]hen a mobile unit is located within its border, it does not need to transmit its location to the network.” Pet. 16 (citing Ex. 1009, 3:56–58). “However, when the mobile unit 16 goes outside the border 22, it sends a new location communication to network 10 and receives a new border definition in response.” *Id.* (citing Ex. 1009, 3:58–61). In contrast, an offender’s location is continuously reported in Layson’757. *See* Ex. 1001, 2:50–54 (body-worn device provides continuous location of offender).

Furthermore, Wang does not address the other ways discussed *supra* that the combination of the Layson references fails to meet the limitations of claim 14, from which claim 15 depends. Consequently, for the reasons given above and those discussed for claim 14, Petitioner does not demonstrate sufficiently that claim 15 would have been obvious over the Layson references, IllinoisLaw, and Wang.

6. *Summary and Conclusion – Claims 9, 14, and 15*

For the reasons given, we determine that Petitioner has not demonstrated sufficiently for institution that claims 9 and 14 would have been obvious over Layson’757, Layson’213, and IllinoisLaw, or that claim 15 would have been obvious over those references further in light of Wang.

H. Obviousness of Claim 6

Petitioner contends that claim 6 would have been obvious over Suarez and Mintz. Pet. 75–96. Patent Owner disputes Petitioner’s contentions. Prelim. Resp. 58–65.

1. Motivation to Combine Suarez and Mintz

Petitioner asserts that persons of ordinary skill would have combined the teachings of Suarez and Mintz. Pet. 75–77. Among other reasons, “[b]oth teach dispatching a mobile service provider (e.g., vehicle) to respond to a call for assistance.” *Id.* at 75. Further, Petitioner argues that “[a person of ordinary skill] would have been motivated to combine Mintz’s teaching of prioritizing responses by sector up to a maximum search radius in Suarez because, as Mintz explains, ‘it is desired to allocate the task of servicing the customer to the vehicle which is closest to him.’” *Id.* at 77 (citing Ex. 1014, 11:6–10). Petitioner provides supporting testimony from Mr. Andrews. Andrews Decl. ¶¶ 288–290.

Patent Owner argues that there would not have been a motivation to combine these references, and refers for its reasoning to its argument that the references do not disclose claim 6. Prelim. Resp. 58–59.

For the reasons given by Petitioner, we determine that Petitioner has demonstrated sufficiently a motivation to combine Suarez and Mintz. *See* Pet. 75–77.

2. Independent Claim 6

Claim 6 is reproduced in Section I.D, *supra*. We agree with Patent Owner that at least one limitation of claim 6 is not taught or suggested by the

combination of Suarez and Mintz. Prelim. Resp. 58–65. Our analysis focusing on the dispositive claim elements follows.

6[pre]: “A method for providing the location of portable remote units that exist within a prescribed geographic boundary to a wireless consumer requesting that information comprising:”

6[A]: “(i) receiving at the network a wider than normal prescribed geographic boundary to query for mobile remote units from the wireless consumer;”

As discussed *supra*, in Section II.D.5, Suarez relates to communication between a dispatch center and a plurality of wireless communication devices within a vehicle dispatch system. Petitioner identifies Suarez’s wireless communication devices 36 in each vehicle as the claimed portable remote units in the preamble and limitation 6[A] because the devices are in a moving vehicle. Pet. 78 (citing Ex. 1001, 4:59–61, 5:34–35).

Petitioner contends that the “‘message input device’ [e.g., a telephone or computer terminal] in Suarez corresponds to the claimed wireless consumer submitting a request for dispatch through a wireless connection.” Pet. 79. In addition, Petitioner argues “Suarez’s requests are sent to portable remote units that exist within a prescribed geographic boundary, including proximity to the assignment location and a specific radius around it.” *Id.* (citing Ex. 1013, 5:39–41). Petitioner argues that “Suarez’s vehicle dispatch center and fleet of vehicles comprise the network.” *Id.* at 80. Petitioner contends that “[a person of ordinary skill] would have found ‘a wider than normal prescribed geographic boundary to query for mobile remote units’ to be an obvious design choice, as disclosed by Mintz.” *Id.* at 85.

Patent Owner disputes this analysis. Prelim. Resp. 58–65. Patent Owner contends that the cited art does not disclose a request from a wireless consumer for the location of portable remote units within a prescribed geographic boundary by providing the locations of such portable remote units, using the recited steps. Prelim. Resp. 59 (citing McAlexander Decl. ¶¶ 218–223).

We agree with Patent Owner that Petitioner fails to demonstrate sufficiently that Suarez teaches or suggests a request from a wireless consumer for the location of a portable unit within a prescribed geographic area as recited in the preamble and limitation 6[A]. Prelim. Resp. 59. As described in Suarez, the wireless consumer does not request the location of portable units within a specific boundary. Instead, as described *supra*, Suarez describes that each vehicle’s wireless communication device 36 has an assignment manager programmed to include a criteria parameter such as driving distance for comparison of the location parameter of assignment message 32 with a current location stored in a memory. Ex. 1013, 5:7–10, Fig. 2. According to Suarez, “[t]he criteria parameter . . . is a pre-set metric for filtering the assignment message 32 received by the wireless communication device 36 to be seen only by the vehicles 14 within the fleet 12 that meet the specified criteria.” *Id.* at 5:14–17.

Petitioner does not identify sufficiently where Suarez teaches that the customer identifies the specific boundary (that is set by the assignment manager) or receives the specific location of the vehicles within that boundary. Instead, in Suarez, all vehicles in the fleet are polled, without regard to their location. Suarez’s dispatch center 16 receives the dispatch request 28 and generates an assignment message 32 that is sent to each

vehicle in the network, regardless of geographic boundary.” Prelim. Resp. 59–60 (citing Andrews Decl. ¶ 288); *see also* Ex. 1013, Abstr., 3:20–25.

6[B]: “ii) splitting the geographic boundary of (i) into sub geographic regions to constitute the prescribed geographic boundary;”

6[C]: “iii) requesting in the sub geographic region(s), the location of remote units that are present in each sub region;”

Petitioner contends that Figure 15 of Suarez shows a wider than normal prescribed geographic boundary, which it splits into sub geographic regions. Pet. 87–90. We agree with Patent Owner that these limitations are not met because “Suarez polls all units in the fleet, regardless of their location in the network,” therefore, Suarez does not disclose requesting the location of remote units that are present in each sub region. Prelim. Resp. 63–64; *see* discussion *supra*. Also pertinent is the construction we have adopted for similar claim term “geographic region of a wireless network.” *See supra*, Section II.A.2 (“The ’752 patent describes polling specific sub-regions of the network for a PRU.”) (citing Ex. 1001, 2:12–15, 7:22–34).

6[E]: “v) maintaining a list of all remote units that disclosed their location after each request from the verification of step (iv);”

6[F]: “vi) providing to the network and from the list of (v) the location of at least a remote unit that revealed its location in the sub region.”

Petitioner contends that when Suarez’s vehicle’s current location matches the requested location, indicating that vehicle exists within the geographic region, the vehicle’s affirmative reply includes the vehicle’s identification, current location, and estimated travel time to the assignment location which “a [person of ordinary skill] would have understood to be stored as a list in the dispatch center.” Pet. 94 (citing Andrews Decl. ¶ 313).

Patent Owner responds that there is no such list disclosed in Suarez. Prelim. Resp. 64–65. We agree. The testimony by Mr. Andrews cited by Petitioner (Andrews Decl. ¶ 313) is unsupported by evidence and is therefore not persuasive. PTAB Consolidated Trial Practice Guide 35 (Nov. 2019)¹⁴ (“Expert testimony that does not disclose the underlying facts or data on which the opinion is based is entitled to little or no weight.”) (quoting 37 C.F.R. § 42.65(a)). Even assuming the disclosure of the recited list were present in Suarez and Mintz, we agree also with Patent Owner that there is no disclosure in those references of reporting the location of the remote unit that revealed its location to another network component. Prelim. Resp. 65 (citing McAlexander Decl. ¶ 249). *See discussion supra*.

3. *Summary and Conclusion – Claim 6*

For the reasons given, we determine that Petitioner has not demonstrated sufficiently for institution that claim 6 would have been obvious over Suarez and Mintz.

III. CONCLUSION

For the foregoing reasons, we determine that Petitioner has not demonstrated a reasonable likelihood of prevailing in showing at least one of the challenged claims of the ’752 patent is unpatentable.

IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the Petition is *denied*, and no trial is instituted.

¹⁴ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

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For PETITIONER:

William Fink
Ben Haber
O'MELVENY & MYERS LLP
tfink@omm.com
bhaber@omm.com

For PATENT OWNER:

Sandeep Seth
SETHLAW, PLLC
ss@sethlaw.com

Stanley H. Thompson, Jr.
THOMPSON TECHNOLOGY LAW
stan@thompsontechlaw.com