

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ASKELADDEN, L.L.C.,
Petitioner,

v.

JABAA, L.L.C.,
Patent Owner.

IPR2024-00916
Patent 7,480,637 B2

Before HYUN J. JUNG, MICHELLE N. WORMMEESTER, and
DONALD E. DAYBELL, *Administrative Patent Judges*.

JUNG, *Administrative Patent Judge*.

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

I. INTRODUCTION

A. Background and Summary

Askeladden L.L.C. (“Petitioner”) filed a Petition (Paper 3, “Pet.”) requesting institution of an *inter partes* review of claims 7–20 of U.S. Patent No. 7,480,637 B2 (Ex. 1001, “the ’637 patent”). Current assignee Jabaa, L.L.C. (“Patent Owner”) did not file a preliminary response.

Patent Owner also failed to file its mandatory notices required under 37 C.F.R. § 42.8(a)(2). *See also* Paper 4, 2 (stating “Patent Owner is advised of the requirement to submit mandatory notice information under 37 C.F.R. § 42.8(a)(2) within 21 days of service of the petition”). According to Petitioner, the Petition and supporting documents were served on May 24, 2024 by Federal Express to Mr. Douglas Kozlay (contact person according to Office records), Mr. Cortney S. Alexander (litigation counsel), and Jabaa, LLC (assignee). Pet. 98. After the Board sent a reminder to file mandatory notices by email, Mr. Alexander responded that he is not counsel of record in this proceeding. Ex. 3001.

Under 35 U.S.C. § 314, an *inter partes* review may not be instituted “unless . . . there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” Upon consideration of the Petition and for the reasons explained below, we determine that Petitioner has shown a reasonable likelihood of prevailing with respect to at least one of the challenged claims.

Thus, we institute an *inter partes* review of claims 7–20 of the ’637 patent on all presented challenges. 37 C.F.R. § 42.108(a) (“When instituting . . . review, the Board will authorize the review to proceed on all of the challenged claims and on all grounds of unpatentability asserted for

each claim.”); *see also SAS Inst. Inc. v. Iancu*, 138 S. Ct. 1348, 1359–60 (2018).

B. Real Parties in Interest

Petitioner identifies Askeladden, L.L.C. as a real party in interest. Pet. 1 (citing Ex. 1008; Ex. 1009). As noted above, Patent Owner has not yet filed its mandatory notices.

C. Related Matters

Petitioner lists eight terminated district court proceedings in which the ’637 patent has been involved. Pet. 1–2. Petitioner also identifies IPR2024-00915.¹ *Id.* at 2.

D. The ’637 Patent (Ex. 1001)

The ’637 patent issued on January 20, 2009 from an application filed on December 23, 2005. Ex. 1001, codes (22), (45). The ’637 patent discloses an Internet Transaction Authentication (“ITA”) apparatus. *Id.* at 3:27–28.

The apparatus includes electronics enclosure body 10 with “embedded electronics, including at least one printed circuit board (PCB) or printed circuit substrate such as circuit substrate 22” having “at least one processor or microcontroller such as processor 16.” Ex. 1001, 4:62–5:2. The apparatus also includes USB connector 12 that is coupled to circuit substrate 22 and extends out from body 10. *Id.* at 5:21–24. A biometric fingerprint

¹ Petitioner ranks the Petition in IPR2024-00915 above the present Petition. Paper 2, 1. We agree with Petitioner that the present Petition relies on different grounds and prior art combinations and that the claims challenged in this Petition differ significantly in scope with the claims challenged in IPR2024-00915. *Id.* at 3–4.

authentication component, such as integrated fingerprint sensor array 14, is provided and coupled to substrate 22. *Id.* at 5:25–27.

“[P]rocessor 16 is multifunctional, providing USB interface processing, fingerprint biometrics processing, transactions processing, and other processing” and “contains memory for the execution of programs plus communications buffers for sending and receiving data.” Ex. 1001, 5:9–11, 5:13–15. “Resident within and executing within the processor 16, is transaction security software.” *Id.* at 5:12–13.

When a customer uses a website, the website can “initiate a request for authentication of the customer before proceeding with the website application.” Ex. 1001, 5:65–6:2. In one example, an application service provider (“ASP”) can be used “to create a time-varying challenge that is sent unmodified via the internet through the host computer to the ITA,” and the challenge can be encrypted and decrypted using keys at the ITA and ASP. *Id.* at 6:3–10. The ITA can then inform the user that a transaction is being performed with a website known to the ASP. *Id.* at 6:10–13.

“If the user has achieved successful biometric authentication to the ITA, then the ITA will encrypt a packet of data containing the challenge concatenated with the identity of the ITA,” and the “packet is then transmitted without modification via the host computer 104 and the internet to the authentication service provider 108.” Ex. 1001, 6:15–21. After decrypting the packet with a key corresponding to the key in the ITA, “[i]f the decrypted data contains the original challenge and indicates proper authentication, then the ASP has verified that the identity of the ITA and the identity of the customer and returns this information to the website 106.” *Id.* at 6:21–26. The website can then proceed with the transaction. *Id.* at 6:27–28.

E. Illustrative Claim

The '637 patent includes 24 claims, of which Petitioner challenges claims 7–20 in this proceeding. Of the challenged claims, claims 7, 15, and 20 are independent. Claim 7 is reproduced below.

7. A method for securely processing and responding to a website-initiated transaction authentication request, comprising the steps of:

(1) receiving in a customer authentication apparatus said website-initiated transaction authentication message for cryptographically confirming the web site's identity and for requesting said apparatus provide a corroborating response including a biometric authentication of an enrolled customer and further including a cryptographic encapsulation of said response in order to prove that said response originates from a legitimate customer;

(2) biometrically authenticating said customer by said customer authentication apparatus prior to transmitting said response to said request;

(3) performing said cryptographic encapsulation of said response by said customer authentication apparatus only after successful completion of said biometric authentication of said customer using fingerprint biometrics;

(4) transmitting said response to said request; and

(5) verifying by at least one of said website and at least one external system that said response satisfactorily authenticates said customer.

Ex. 1001, 9:22–43.

F. Asserted Prior Art and Proffered Testimonial Evidence

Petitioner identifies the following references as prior art in the asserted grounds of unpatentability:

Name	Reference	Exhibit
Mathiassen	US 2004/0123113 A1, published June 24, 2004	1005
Ryan	US 2005/0109841 A1, published May 26, 2005	1006
Rescorla	Eric Rescorla, <i>SSL and TLS: Designing and Building Secure Systems</i> , Addison-Wesley	1015

	(2001)	
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Petitioner contends that Rescorla and Mathiassen are prior art under §§ 102(a) and 102(b) and Ryan is prior art under § 102(a).² Pet. 3–4. Petitioner also provides a Declaration of Dr. Henry Houh. Ex. 1003.

G. Asserted Grounds

Petitioner asserts that claims 7–20 are unpatentable on the following grounds:

Claims Challenged	35 U.S.C. §	References/Basis
7–9	103(a)	Rescorla, Mathiassen
10–14	103(a)	Rescorla, Mathiassen, Ryan
15–20	103(a)	Mathiassen, Rescorla, Ryan

Pet. 4.

II. ANALYSIS

A. Legal Standards

“In an [*inter partes* review], the petitioner has the burden from the onset to show with particularity why the patent [claim] it challenges is unpatentable.” *Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1363 (Fed. Cir. 2016). This burden of persuasion never shifts to Patent Owner. *Dynamic Drinkware, LLC v. Nat’l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015). The Board may authorize an *inter partes* review if we determine that the information presented in the Petition shows that there is a

² The relevant sections of the Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112–29, 125 Stat. 284 (Sept. 16, 2011), took effect on March 16, 2013. Because the ’637 patent issued from an application that was filed before that date, our citations to 35 U.S.C. §§ 102 and 103 in this Decision are to their pre-AIA versions. *See also* Pet. 3 n.1 (“The ’637 patent is a pre-AIA patent filed on December 23, 2005.”).

reasonable likelihood that Petitioner will prevail with respect to at least one of the claims challenged in the petition. 35 U.S.C. § 314(a).

Petitioner contends that the challenged claims of the '637 patent are unpatentable under § 103. Pet. 4. A claim is unpatentable under § 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 said 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) where in evidence, so-called secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966). When evaluating a combination of teachings, we must also “determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue.” *KSR*, 550 U.S. at 418 (citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)). Whether a combination of elements produces a predictable result weighs in the ultimate determination of obviousness. *Id.* at 416–417.

B. Level of Ordinary Skill in the Art

Petitioner argues that a person of ordinary skill in the art “would have had a bachelor’s degree in electrical engineering, computer engineering, computer science, or a related subject, and one to two years of work experience in electronic device design, secure electronic communications, or a related field” and that “[l]ess experience may be necessary with additional education and less education may be necessary with additional work experience.” Pet. 8 (citing Ex. 1003 ¶¶ 39–40).

Based on the preliminary record, we adopt Petitioner’s asserted level of ordinary skill to determine whether there is a reasonable likelihood that Petitioner would prevail with respect to at least one of the claims challenged in the Petition.

C. Claim Construction

In an *inter partes* review, the claims are 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), including construing the claim in accordance with the ordinary and customary meaning of such claim as understood by one of ordinary skill in the art and the prosecution history pertaining to the patent.

37 C.F.R. § 42.100(b) (2021); *see Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–13 (Fed. Cir. 2005) (en banc).

“Petitioner submits that for purposes of this proceeding, no claim term requires construction beyond its ordinary and customary meaning.” Pet. 9 (citing Ex. 1003 ¶¶ 41–43).

At this preliminary stage, we determine that express claim interpretation is not necessary to determine whether Petitioner shows a reasonable likelihood of prevailing. *Realtime Data, LLC v. Iancu*, 912 F.3d 1368, 1375 (Fed. Cir. 2019) (“The Board is required to construe ‘only those terms that . . . are in controversy, and only to the extent necessary to resolve the controversy.’”) (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999)).

D. Asserted Obviousness of Claim 7 Based on Mathiassen and Ryan

1. Rescorla (Ex. 1015)

Petitioner argues that Rescorla is a printed publication. Pet. 4–6. Rescorla states that “*Secure Sockets Layer (SSL)* is by far the most widely

deployed security protocol in the world” and describes that a primary use of SSL is to protect web traffic. *Id.* at xvii, 51. Rescorla also describes that an SSL handshake can include agreeing on algorithms to protect data, establishing set of keys to be used by the algorithms, and authenticating the client. *Id.* at 58, 96–98.

Figure 4.2 of Rescorla is below reproduced.



Figure 4.2 Client authentication timeline

Figure 4.2 shows a “[c]lient authentication timeline.”

Client authentication is initiated by the server sending a CertificateRequest message to the client. The client responds by sending a Certificate message (the same message that the server uses to transmit its certificate) and a CertificateVerify message. The CertificateVerify message is a string signed with the private key associated with the certificate that it transmitted. Client authentication is *always* initiated by the server. There is no

mechanism for the client to unilaterally offer client authentication.

Id. at 97; *see also id.* at 156 (describing that the certificate must contain an identity). Rescorla also describes “[b]iometric authentication measures such as fingerprint identification” for secure access control. *Id.* at 153.

2. *Mathiassen (Ex. 1005)*

An object of Mathiassen is to provide “a portable access device for being coupled to, and for allowing only authorized users access to, an access-limited apparatus, device, network or system, e.g. a computer terminal, an internet bank or a corporate or government intranet.” Ex. 1005

¶ 16. Figure 3a of Mathiassen is below reproduced.

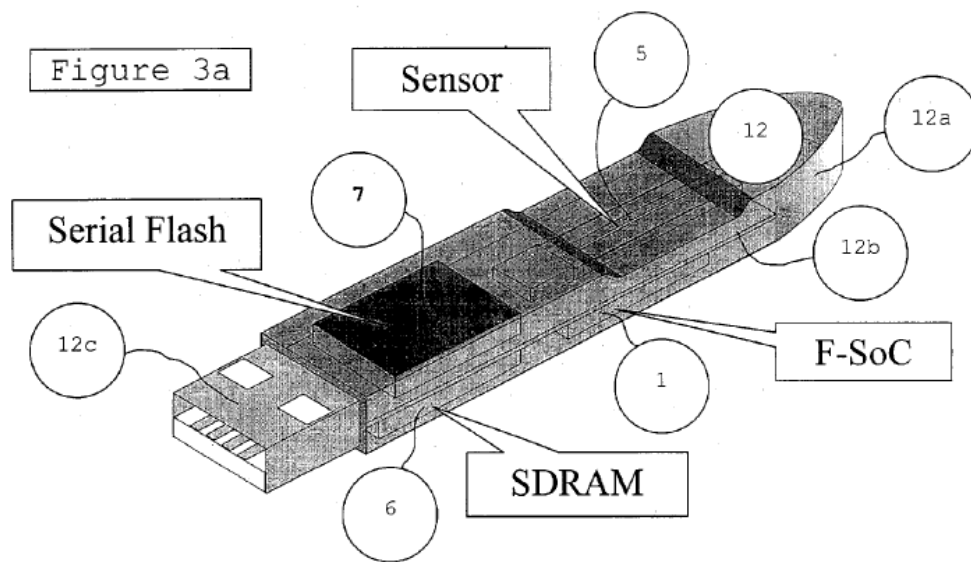


Figure 3a shows “a portable access device . . . in the form of a USB dongle.” Ex. 1005 ¶ 38. Portable device (12) includes housing (12A), an integrated circuit (“IC”) (1) mounted on printed circuit board (“PCB”) (12B) inside housing (12A), processor (2), a biometric sensor in the form of fingerprint sensor (5), and USB interface (12C). *Id.* ¶¶ 47–50, 53, 54, Fig. 2b. IC (1) can also have volatile memory (6C) and non-volatile memory (7A). *Id.* ¶ 52. Fig. 2b.

Mathiassen describes plugging portable device (12) into a USB port to initiate a connection after capturing a fingerprint image from sensor (5) and comparing it to stored fingerprint information. Ex. 1005 ¶¶ 65–74.

Mathiassen also describes a secure key for encrypting communication with a subset of its administrative software. *Id.* ¶¶ 77–83, 91–95, 97, 98.

3. *Independent Claim 7*

For “[a] method for securely processing and responding to a website-initiated transaction authentication request” (Ex. 1001, 9:22–24), Petitioner argues that, to the extent the preamble is limiting, “Rescorla discloses or renders it obvious because Rescorla describes an SSL handshake for authenticating an online transaction between a website and a client initiated by the website server.”³ Pet. 19–23 (citing Ex. 1003 ¶¶ 77–84; Ex. 1015, xvii, 9, 51, 58, 98, 202, 232, 256, 291, 293, 302, 326, 413, Fig. 4.2).

For the step of “receiving in a customer authentication apparatus said website-initiated transaction authentication message” (Ex. 1001, 9:25–26), Petitioner argues that “Rescorla discloses a client receiving ServerHello, Certificate, CertificateRequest, and ServerHelloDone messages (a *transaction authentication message*).” Pet. 24 (citing Ex. 1003 ¶ 85); *see also id.* at 24–25 (citing Ex. 1003 ¶¶ 86–88; Ex. 1015, Fig. 4.2). Petitioner relies on Mathiassen for describing a portable device that corresponds to the recited “customer authentication apparatus.” *Id.* at 26–27 (citing Ex. 1003 ¶¶ 84, 89–92; Ex. 1003, code (57), ¶¶ 48, 50, Fig. 3a).

Regarding “for cryptographically confirming the web site’s identity” (Ex. 1001, 9:26–27), Petitioner argues that “Rescorla explains how the client

³ We do not need to determine whether the preamble is limiting because we are persuaded on the present record that the prior art teaches it.

(a portable device like Mathiassen’s in the combination) uses the Certificate message (part of the *website-initiated transaction authentication message*) to authenticate the website server.” Pet. 27 (citing Ex. 1003 ¶ 94); *see also id.* at 28–29 (citing Ex. 1003 ¶¶ 95–97; Ex. 1015, 58, 156, Fig. 4.2).

Regarding “for requesting said apparatus provide a corroborating response including a biometric authentication of an enrolled customer” (Ex. 1001, 9:28–30), Petitioner argues that “Rescorla describes how the client (Mathiassen’s portable device in the combination) sends a Certificate message to the website server in response to a CertificateRequest (part of the *website-initiated transaction authentication message*)” and that both Rescorla and Mathiassen “describe accessing encryption keys using biometric authentication.” Pet. 30 (citing Ex. 1003 ¶ 101); *see also id.* at 31–32 (citing Ex. 1003 ¶¶ 102–107; Ex. 1015, 97, Fig. 4.2), 33–34 (citing Ex. 1003 ¶¶ 109, 110; Ex. 1005 ¶¶ 50, 60–62, 76, 78–85, 87).

As for “further including a cryptographic encapsulation of said response in order to prove that said response originates from a legitimate customer” (Ex. 1001, 9:30–32), Petitioner argues that “Mathiassen describes cryptographically encapsulating a message to a server confirming user authentication” and that Rescorla “explains that the Certificate and/or CertificateVerify messages are used to verify the identity of the client.” Pet. 34–35 (citing Ex. 1003 ¶¶ 113–115; Ex. 1005 ¶ 77).

For the step of “biometrically authenticating said customer by said customer authentication apparatus prior to transmitting said response to said request” (Ex. 1001, 9:33–35), Petitioner argues that “Mathiassen describes biometrically authenticating the user before transmitting a confirmation of user authentication to the server” and “Rescorla discloses the use of biometric verification to ‘control access’ to keys for encryption of a message

indicating user authentication.” Pet. 36 (citing Ex. 1003 ¶¶ 118, 119; Ex. 1015, 153); *see also id.* at 37–38 (citing Ex. 1003 ¶¶ 120–124; Ex. 1005 ¶¶ 49–50, 72, Figs. 2b, 3a).

For the step of “performing said cryptographic encapsulation of said response by said customer authentication apparatus only after successful completion of said biometric authentication of said customer using fingerprint biometrics” (Ex. 1001, 9:36–39), Petitioner argues that “Mathiassen describes biometrically authenticating the user before transmitting a cryptographically encapsulated confirmation of user authentication to the server.” Pet. 39–40 (citing Ex. 1003 ¶¶ 126–128; Ex. 1005 ¶¶ 65–77, 85).

For the step of “transmitting said response to said request” (Ex. 1001, 9:40), Petitioner argues that “Rescorla describes transmitting the Certificate and CertificateVerify messages.” Pet. 40 (citing Ex. 1003 ¶ 130); *see also id.* at 40–41 (citing Ex. 1003 ¶¶ 131; Ex. 1015, Fig. 4.2). Petitioner also argues that Mathiassen discloses transferring a message or communication. *Id.* at 41 (citing Ex. 1003 ¶ 132; Ex. 1005 ¶ 84).

For the step of “verifying by at least one of said website and at least one external system that said response satisfactorily authenticates said customer” (Ex. 1001, 9:41–43), Petitioner argues that “Rescorla explains how the website server uses the Certificate and CertificateVerify messages to ensure that the client was authenticated.” Pet. 42 (citing Ex. 1003 ¶ 134); *see also id.* (citing Ex. 1003 ¶¶ 135, 136; Ex. 1015, 108, 111, 202, 232). Petitioner also argues that Mathiassen discloses that a website is part of an external system, and, thus, Rescorla’s server would have been understood to host a website and be part of a network of servers corresponding to an external system. *Id.* at 43 (citing Ex. 1003 ¶¶ 137, 138; Ex. 1005 ¶¶ 51, 64,

Fig. 1b). Petitioner further argues that, to the extent the external system is separate from the website or the server hosting the website, Rescorla describes a key distribution system that would be an external system separate from the website. *Id.* at 43–44 (citing Ex. 1003 ¶¶ 137–138; Ex. 1006 ¶ 245; Ex. 1015, 8).

a) Reasons to Combine

Petitioner argues that Rescorla and Mathiassen are analogous art because they are in the same field of endeavor and reasonably pertinent to a problem of the '637 patent. Pet. 15–16 (citing Ex. 1001, code (57); Ex. 1003 ¶¶ 67–69; Ex. 1005, code (57); Ex. 1015, xvii, 96, 153).

Petitioner contends that “Rescorla shows that SSL protocols for securing communications were well known and widely implemented in the art” and “may be combined with biometric authentication” for accessing an encryption key. Pet. 12–13 (citing Ex. 1015, 153). Petitioner also contends that Mathiassen describes a similar use of biometric authentication and acknowledges the development of several handshake protocols. *Id.* at 13 (citing Ex. 1003 ¶¶ 62–64; Ex. 1005 ¶ 50), 14–15 (citing Ex. 1005 ¶ 84, 94; Ex. 1015, 98). Petitioner further contends that portable devices with processing capabilities for authentication were known. *Id.* at 15 (citing Ex. 1003 ¶ 66; Ex. 1005, Fig. 2a; Ex. 1006, Fig. 1A). According to Petitioner, one of ordinary skill in the art “would have looked to Rescorla for information about how to implement secure two-way communication using SSL protocols.” *Id.* at 12 (citing Ex. 1015, xvii).

Petitioner argues that one of ordinary skill in the art would have been motivated to combine Rescorla’s SSL/TLS handshake functions with Mathiassen’s portable device “to enhance security through biometric authentication,” “for increased interoperability,” and for the “security,

convenience, and adoption of biometric authentication.” Pet. 12 (citing Ex. 1003 ¶¶ 61–72), 16–17 (citing Ex. 1003 ¶ 70; Ex. 1005 ¶¶ 4, 12, 15, 47, 48; Ex. 1015, xvii), 19 (citing Ex. 1003 ¶ 76), 25–26 (citing Ex. 1003 ¶ 84), 27 (citing Ex. 1003 ¶¶ 91–92).

Petitioner also argues that one of ordinary skill in the art would have been motivated to use Mathiassen’s portable device for website authentication as described by Rescorla, for requesting the Certificate and CertificateVerify messages, and for biometrically controlled access to a secure key for authenticating a user to a server. Pet. 29 (citing Ex. 1003 ¶ 98; Ex. 1005 ¶¶ 12, 50, 82), 32–33 (citing Ex. 1003 ¶¶ 63, 108; Ex. 1015, 153), 34 (citing Ex. 1003 ¶ 111; Ex. 1015, 153).

In the proposed combination, Mathiassen’s biometric authentication would be implemented after a client receives Rescorla’s Handshake: Certificate Request message and before the client sends a Handshake: Certificate message; the response to the Certificate Request would include biometric authentication of the user; and Rescorla’s Certificate and CertificateVerify messages would be encrypted as described by Mathiassen. Pet. 13–14 (citing Ex. 1003 ¶ 65; Ex. 1015, 98, Fig. 4.2), 33 (citing Ex. 1003 ¶ 110), 35 (citing Ex. 1003 ¶ 116; Ex. 1005 ¶¶ 77–83). Petitioner argues that the proposed combination would not require specialized equipment and would not be limited to any specific protocol. *Id.* at 17 (citing Ex. 1003 ¶ 71; Ex. 1005 ¶¶ 65, 95).

The proposed combination of Rescorla and Mathiassen, Petitioner argues, would have rendered obvious several steps of claim 7. *E.g.*, Pet. 27 (citing Ex. 1003 ¶ 94), 30 (citing Ex. 1003 ¶ 100), 33 (citing Ex. 1003 ¶ 109), 34 (citing Ex. 1003 ¶ 112), 36 (citing Ex. 1003 ¶¶ 116, 117), 39

(citing Ex. 1003 ¶ 125), 40 (citing Ex. 1003 ¶¶ 129, 130), 41–42 (citing Ex. 1003 ¶ 133), 44 (citing Ex. 1003 ¶ 139).

Petitioner also argues that the proposed combination would have merely been prior art elements combined according to known methods to yield a predictable result. Pet. 17–18 (citing Ex. 1003 ¶ 73; Ex. 1015, xvii, 96). Petitioner further argues that one of ordinary skill in the art would have had a reasonable expectation of success in making the proposed combination. *Id.* at 18 (citing Ex. 1003 ¶¶ 74, 75; Ex. 1005 ¶¶ 6, 84, 95; Ex. 1015, xvii), 29–30 (citing Ex. 1003 ¶ 99; Ex. 1006 ¶ 249; Ex. 1021, code (57), ¶ 33).

b) Petitioner Shows a Reasonable Likelihood of Prevailing

Based on the present record, Petitioner shows a reasonable likelihood of prevailing in its challenge to claim 7 as unpatentable over Rescorla and Mathiassen.

E. Remaining Challenges

Petitioner argues with citations to the record that Rescorla and Mathiassen would have rendered obvious dependent claims 8 and 9. Pet. 44–48. In separate challenges, Petitioner contends with citations to the record that Rescorla, Mathiassen, and Ryan would have rendered obvious claims 10–14 and that Mathiassen, Rescorla, and Ryan would have rendered obvious claims 15–20. *Id.* at 50–94.

For the reasons discussed above, we preliminarily determine that Petitioner demonstrates a reasonable likelihood of prevailing with respect to its challenge to independent claim 7 based on Rescorla and Mathiassen. We, therefore, institute review on all challenged claims on all grounds set forth in the Petition. 37 C.F.R. § 42.108(a); *see also SAS*, 138 S. Ct. at 1354.

III. CONCLUSION

After considering the evidence and arguments presented in the Petition and the cited evidence, we determine that Petitioner has demonstrated a reasonable likelihood of prevailing in proving that at least one of claims 7–20 of the ’637 patent is unpatentable, and thus, we institute an *inter partes* review of all challenged claims on all presented challenges. 37 C.F.R. § 42.108(a).

At this stage of the proceeding, the Board has not made a final determination as to the patentability of any challenged claim or any underlying factual and legal issues.

In view of Patent Owner’s failure to file its mandatory notices, Patent Owner is cautioned that an “[a]bandonment of the contest” can be construed as a request for adverse judgment. 37 C.F.R. § 42.72(b)(4).

IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that, pursuant to 35 U.S.C. § 314(a), an *inter partes* review of claims 7–20 of U.S. Patent No. 7,480,637 B2 is instituted with respect to all grounds set forth in the Petition; and

FURTHER ORDERED that, pursuant to 35 U.S.C. § 314(c) and 37 C.F.R. § 42.4(b), *inter partes* review of U.S. Patent No. 7,480,637 B2 shall commence on the entry date of this Order, and notice is hereby given of the institution of a trial.

IPR2024-00916
Patent 7,480,637 B2

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