

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TABLEAU SOFTWARE, LLC,
Petitioner,

v.

iCHARTS LLC,
Patent Owner.

IPR2024-01389
Patent 8,520,000 B2

Before DAVID C. McKONE, JASON M. REPKO, and
IFTIKHAR AHMED, *Administrative Patent Judges*.

Opinion for the Board filed by *Administrative Patent Judge* McKONE

Opinion Dissenting filed by *Administrative Patent Judge* REPKO

McKONE, *Administrative Patent Judge*.

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

Introduction

A. Background and Summary

Tableau Software, LLC (“Petitioner”) filed a Petition (Paper 2, “Pet.”) requesting *inter partes* review of claims 1–4 of U.S. Patent No. 8,520,000 B2 (Ex. 1001, “the ’000 patent”). iCHARTS LLC (“Patent Owner”) filed a Preliminary Response to the Petition (Paper 7, “Prelim. Resp.”).

We have authority to determine whether to institute an *inter partes* review. *See* 35 U.S.C. § 314 (2016); 37 C.F.R. § 42.4(a) (2019). The standard for instituting an *inter partes* review is set forth in 35 U.S.C. § 314(a), which provides that 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.” For the reasons explained below, we do not institute an *inter partes* review of the ’000 patent.

B. The ’000 Patent

The ’000 patent relates to computer software for sharing and embedding interactive charts. Ex. 1001, 1:18–20. Figure 43 is reproduced below:

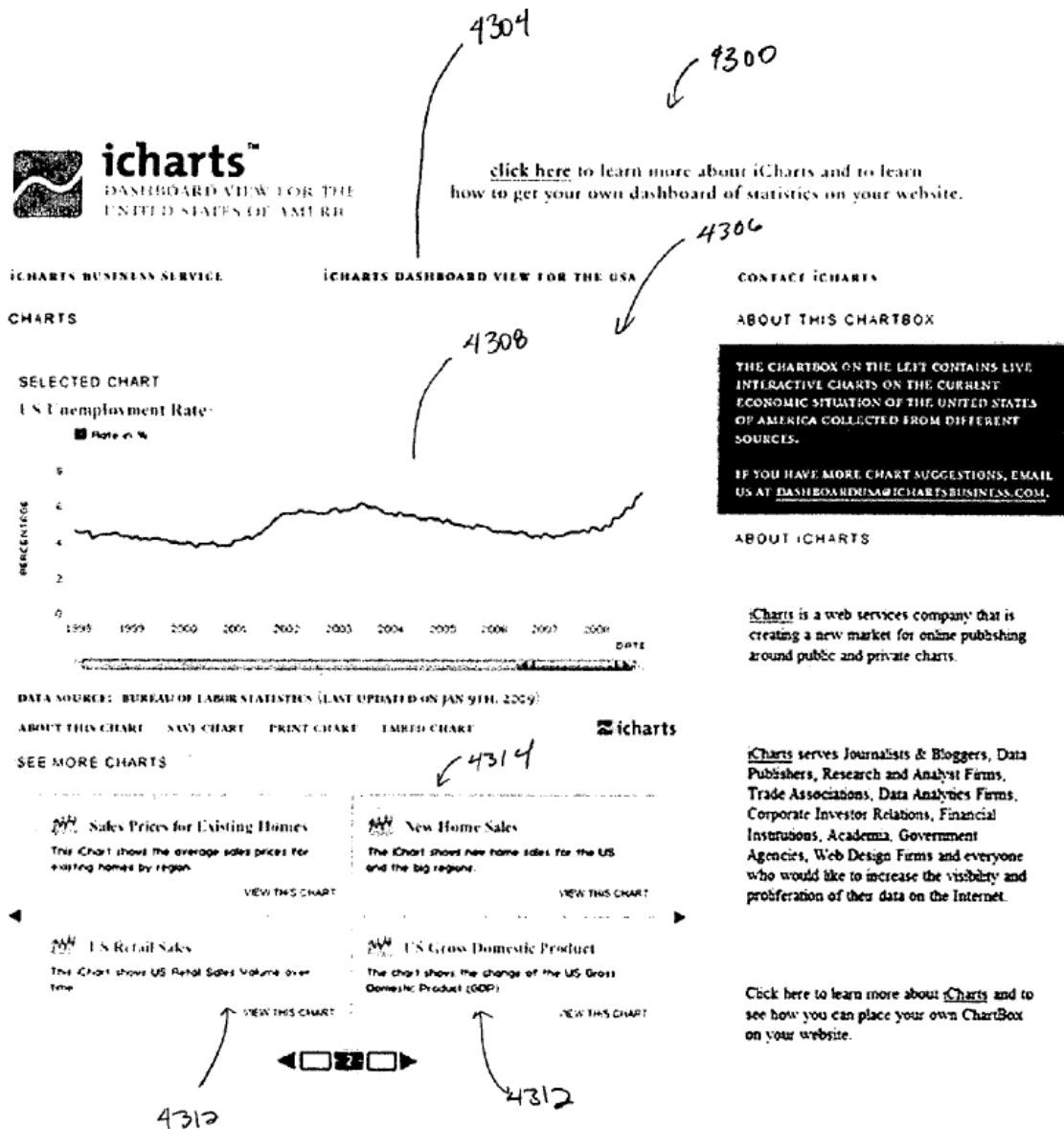


Figure 43

Figure 43 is a screen shot of business services website 4300. *Id.* at 15:49–51. Chart box 4304 is embedded on website 4300 to display an interactive chart. *Id.* at 15:51–55. The chart is added to chart box 4304 by another website (shown in Figure 45) that allows a user to generate, purchase, manipulate, and select the interactive chart. *Id.* at 15:55–55–58.

Figure 45 is reproduced below:

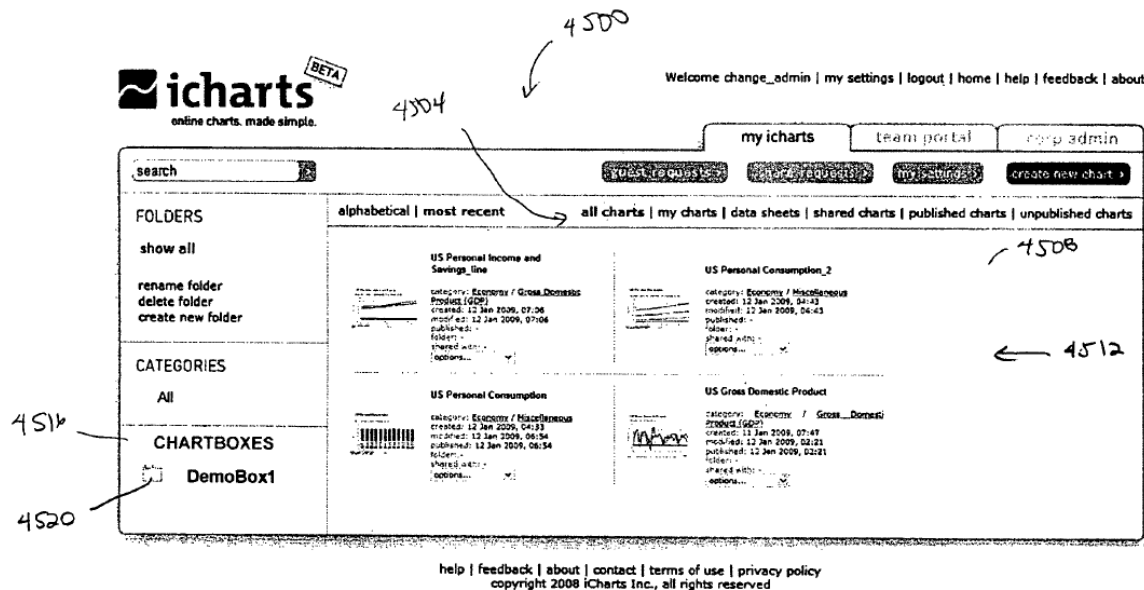


Figure 45

Figure 45 is a screen shot of user interface 4500. *Id.* at 16:25–29. The user selects interactive charts for inclusion in chart box 4304 (of Figure 43) using toolbar 4504. *Id.* at 16:29–31. The user selects interactive chart 4512 for display in chart box 4304 by dragging and dropping the chart onto chart box folder 4520. *Id.* at 16:38–41. Chart box folder 4520 is connected to chart box 4304 such that retrieve code for the data feed displays interactive chart 4512 in chart box 4304. *Id.* at 16:35–38.

Claim 1, reproduced below, is illustrative of the claimed subject matter (bracketed numbering supplied to track numbering presented in the Petition at Appendix A):

1. [1P] A computer-implemented method comprising:
 - [1A] receiving a selection, on a first website, of at least one interactive chart from a plurality of interactive charts;
 - and

- [1B] displaying, in response to the selection the at least one interactive chart embedded in a chart box on a second website, wherein the chart box is a web widget,
- [1C] wherein the at least one interactive chart is generated on a generation interface configured to allow a user to generate the interactive chart with a chart template from a chart template store,
- [1D] wherein the at least one interactive chart, when displayed on the second website in the absence of the generation interface, enables a user to a) render the chart, b) obtain input from a user and c) rerender the chart using the input thereby enabling the interactive chart to retain interactivity,
- [1E] wherein the selection is made by dragging and dropping the at least one interactive chart from the plurality of charts into a chart box folder connected to the chart box such that retrieve code for data feed displays the at least one interactive chart on the first website, and
- [1F] wherein the at least one interactive chart is automatically displayed on the second website using a data feed from the first website to the second website upon the dragging and dropping selection.

C. Evidence

Petitioner relies on the following patent evidence.

Name	Patent Document	Exhibit
Rostoker	US 2008/0127052 A1	1005
Bales	US 2007/0113194 A1	1006
Jou	US 2003/0071814 A1	1007
Clark	US 2006/0112123 A1	1010
Strong	US 2006/0202064 A1	1067

Petitioner relies on the following non-patent literature evidence.

Name	Non-Patent Literature Title	Author	Exhibit
QlikView Manual	QlikView Reference Manual, Book I: Installation and Script	QlikTech Int'l AB	1008
QlikView Server ¹	QlikView Server Reference Manual	QlikTech Int'l AB	1009

Petitioner further relies on the Declaration of Christopher Schmandt (Ex. 1003).

Patent Owner relies on the Declaration of Jeffrey Miller, Ph.D. (Ex. 2001).

D. Prior Art and Asserted Grounds

Petitioner asserts that claims 1–4 would have been unpatentable on the following grounds:

Claim(s) Challenged	35 U.S.C. §	Reference(s)/Basis
1–4	103(a) ²	Rostoker, Strong
1–4	103(a)	Rostoker, Strong, Jou
1–4	103(a)	Rostoker, Strong, Clark
1, 3, 4	103(a)	QlikView Manuals, Bales

¹ Petitioner refers to QlikView Manual and QlikView Server, together, as QlikView Manuals. Pet. 11.

² The Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112-29, 125 Stat. 284, 287–88 (2011), amended 35 U.S.C. § 103. Because the ’000 patent was filed before March 16, 2013, the effective date of the relevant amendment, the pre-AIA version of § 103 applies.

II. ANALYSIS

A. Claim Construction

We construe a claim “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) (2019); *see also Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc). Neither party proposes construing any claim term. Pet. 6; Prelim. Resp. 36. Based on the record before us, we do not find it necessary to provide express claim constructions of any claim terms. *See Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017) (noting that “we 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)).

B. Obviousness over Rostoker and Strong

Petitioner contends that claims 1–4 would have been obvious over Rostoker and Strong. Pet. 19–61.

A claim is unpatentable under 35 U.S.C. § 103 “if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.” We resolve the question of obviousness 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;³ and (4) objective evidence of nonobviousness, i.e., secondary considerations.⁴ *See Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966).

For the reasons explained below, we are persuaded that Petitioner has not made a sufficient showing as to at least one claim.

1. Analysis of Claim 1

Rostoker relates to software for developing custom business applications. Ex. 1005 ¶ 2. Figure 1 of Rostoker, reproduced below, illustrates an example:

³ The parties do not dispute that a skilled artisan “would have had a B.S. degree in Computer Science, Computer Engineering, or equivalent experience relating to computing, as well as two to three additional years of academic or industry experience related to web application development and data visualization services.” Pet. 6 (citing Ex. 1003 ¶ 85); Prelim. Resp. 35–36.

⁴ The record does not include allegations or evidence of objective indicia of nonobviousness.

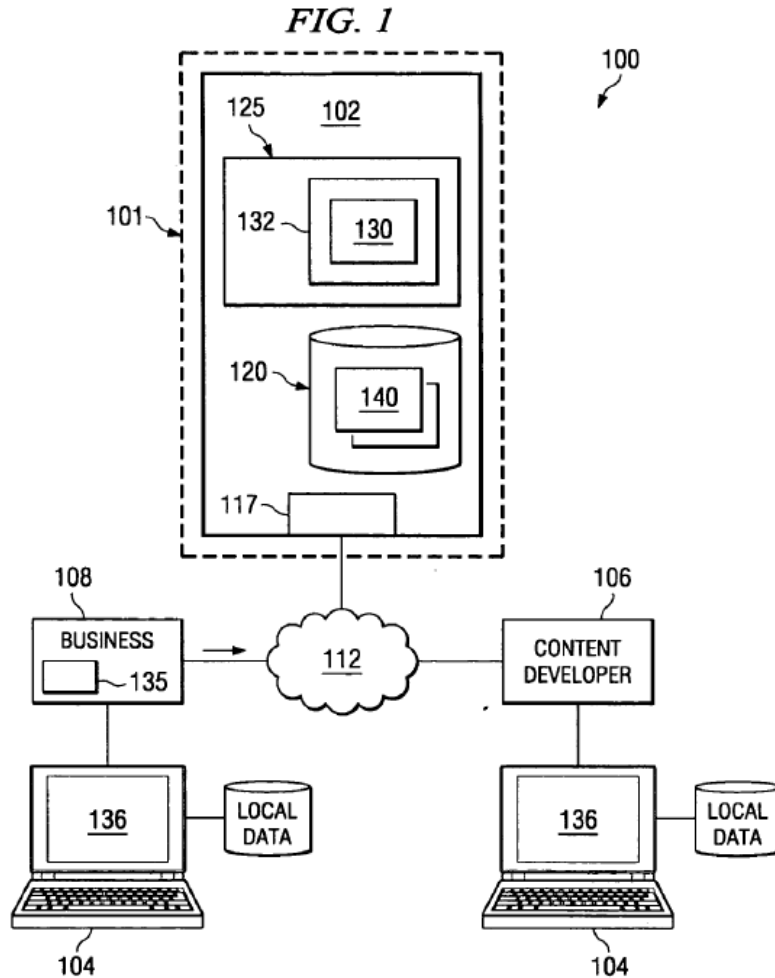
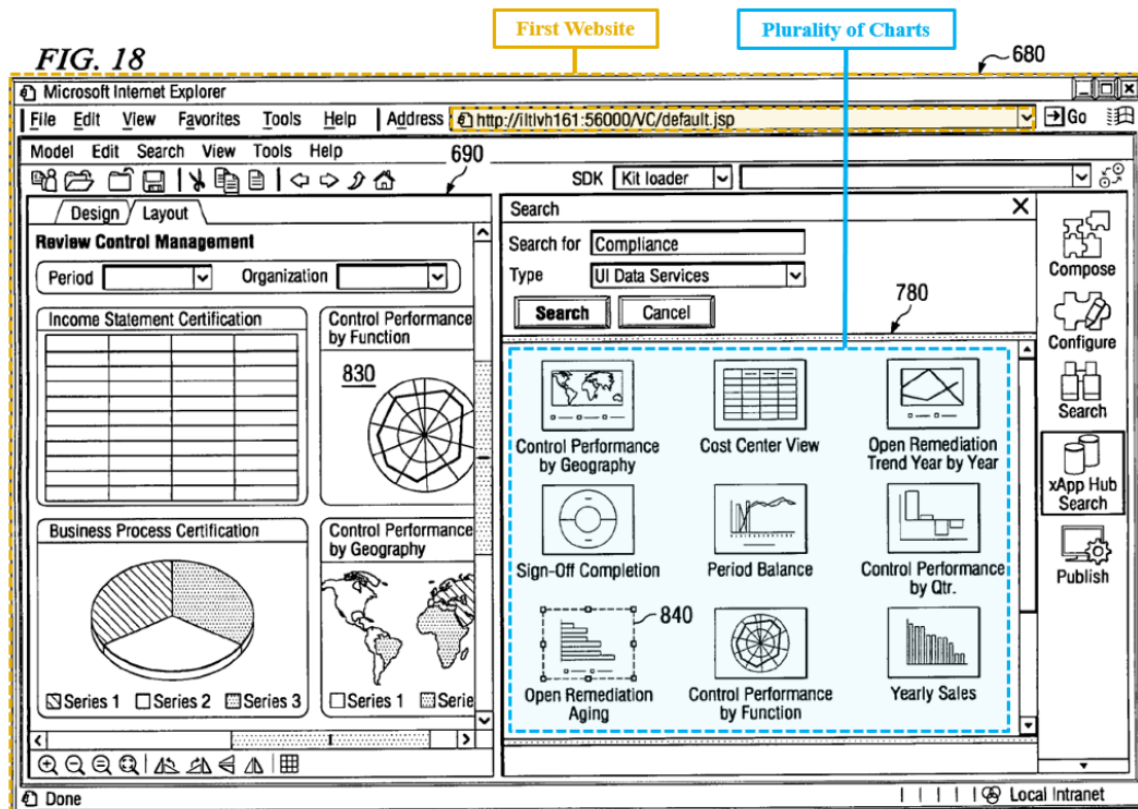


Figure 1 is a block diagram of system 100 for presenting, providing, and managing enterprise application content and data services 104 via content provider 101. *Id.* ¶ 18. Content provider 101 can be a storefront, hub, or retailer of business content and solutions and is an aggregated place for businesses 108 and users to evaluate and consume reusable analytics, components, or data services 104. *Id.* The storefront can be accessed in a stand-alone fashion, such as a website. *Id.* Content provider 101 uses component manager 130 to present data services 140 to businesses 108 or their individual users. *Id.* ¶ 19.

a. Claim limitation [1A]

Petitioner contends that Rostoker teaches claim limitation [1A], “receiving a selection, on a first website, of at least one interactive chart from a plurality of interactive charts.” Pet. 21–27. Petitioner contends that Rostoker’s content provider 101, which can be accessed as a website, corresponds to “a first website.” *Id.* at 22–23 (citing Ex. 1005 ¶¶ 6, 18, 19, 21, 29, 67, Figs. 1, 18 (showing a URL in an “address” bar); Ex. 1003 ¶¶ 175–177). An annotated version of Rostoker’s Figure 18 is reproduced below:



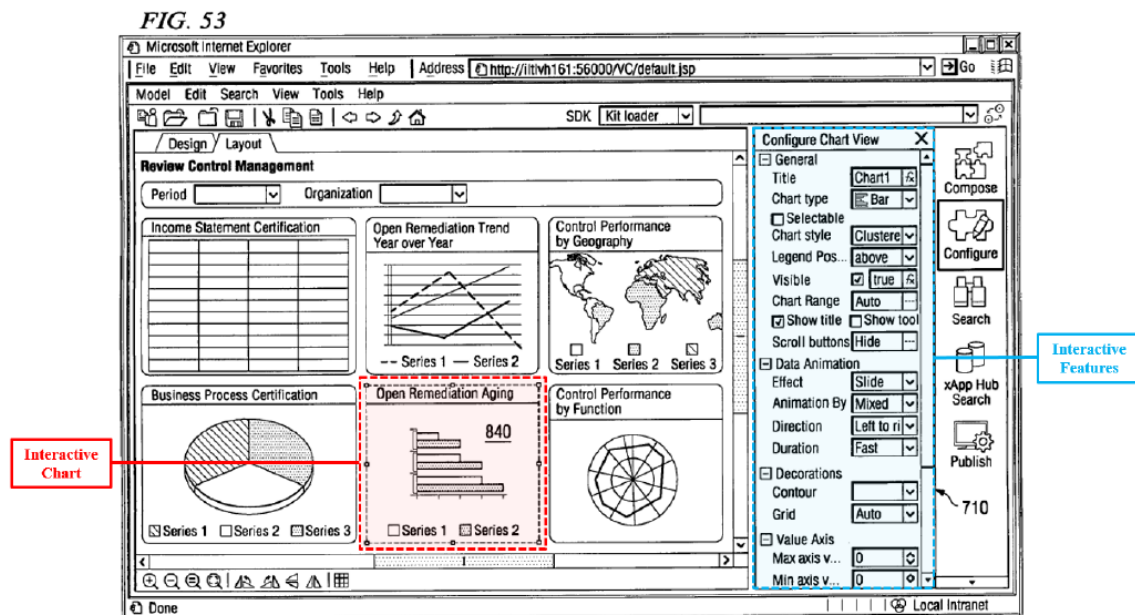
EX1005, FIG. 18 (annotated).

Figure 18 is a screen shot of a user interface. Ex. 1005 ¶ 16. Petitioner adds yellow annotation to label the address bar with a URL for a “First Website” and blue annotation to show “Plurality of Charts.” Pet. 24. According to

Rostoker, “[t]he xApp 830 is shown added to UI 690 as well as a third xApp 840 selected in the field 780 in FIG. 18.” Ex. 1005 ¶¶ 67. Petitioner contends that this shows selection of at least one chart from a plurality of charts by a user. Pet. 24–27 (citing Ex. 1005 ¶¶ 6, 8, 67, Figs. 14, 18, 19; Ex. 1003 ¶¶ 178–180).

The parties dispute whether Rostoker teaches selection of an “interactive” chart. Petitioner has four theories as to how Rostoker teaches interactive charts.

First, Petitioner argues that Rostoker’s Figure 53 (annotated version reproduced below) shows a “Configure Chart View” toolbar that can be used to make the chart selectable, scrollable, or animated. Pet. 27.



EX1005, FIG. 53 (annotated).

Figure 53 is a screen shot of a user interface used for configuration and gap-filling of xApp 840. Ex. 1005 ¶¶ 16, 71. Petitioner annotates xApp 840 in red with the label “Interactive Chart” and a “Configure Chart View” box in blue with “Interactive Features.” Pet. 27 (citing Ex. 1005 ¶ 71, Fig. 53;

Ex. 1003 ¶ 181). In its description, Rostoker states that “[i]n FIG. 53, xApp 840 is selected and the toolbar 710 lists the tools for configuring the xApp 840.” Ex. 1005 ¶ 71. Mr. Schmandt largely copies the Petition in his testimony as to this point. Ex. 1003 ¶ 181.

For claim limitation [1D], which addresses the interactivity of a chart “displayed on the second website in the absence of the generation interface,” Petitioner argues that “as explained for [1A], Rostoker teaches that its charts contain ‘interactive’ features, such as changing the selection in a drop-down list and clicking buttons that ‘cause a table included with the application to switch between a table view and a chart view,’” and that “the chart is modified in response to the user input.” Pet. 44–45 (citing Ex. 1005 ¶ 75, Figs. 53, 57, 70–72; Pet. § V.A.2). We read Petitioner’s argument for limitation [1A] to be that Figure 53 shows configuring a chart to be selectable and to include scrolling and data animations after the chart is published and displayed on a second website.

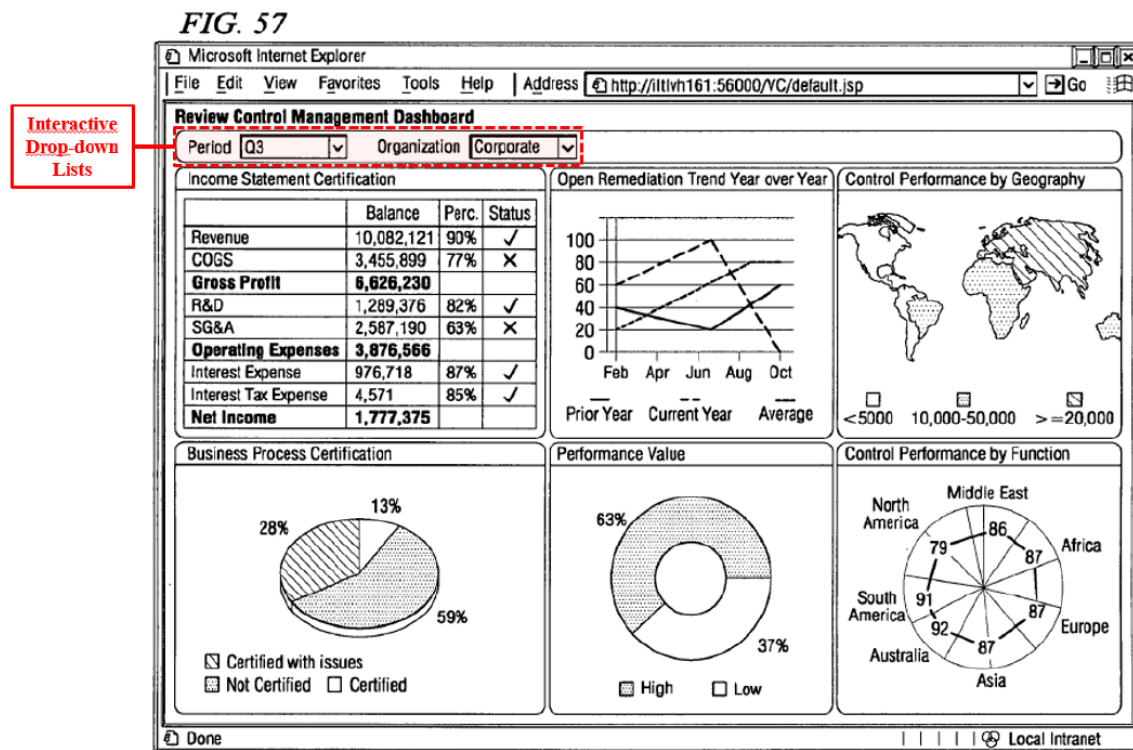
Patent Owner contends that the charts shown in field 780 are static, not interactive, and that Figure 57, which shows a chart after execution or publication, shows only static charts with no controls that would allow a user to interact with the charts. Prelim. Resp. 40–41 (citing Ex. 1005 ¶¶ 59, 71, Figs. 54–57; Ex. 2001 ¶¶ 136–139). According to Patent Owner, “the various tools and controls allowing one to manipulate and change the charts disappear once the charts are in the new or modified application, as shown in FIG. 57.” *Id.* at 41. Indeed, Figure 57 (annotated version reproduced below) does not depict any animation, selectability, or scrolling features in the charts included in that example.

Petitioner does not explain what “Selectable”⁵ means or why it connotes interactivity, and does not explain why a “Data Animation Effect” would be interactive.⁶ These aspects of Figure 53 do not appear to show interactivity. Thus, the issue is whether selecting a choice other than “Hide” for “Scroll buttons” in box 710 of Figure 53 adds to chart 840, once published, a feature that allows a user to interact with that chart via scrolling, or whether “Scroll buttons” refers to some other feature of the configuration process (such as the scroll buttons shown in Figure 53 for scrolling through the various charts in the layout). Both experts provide conclusory testimony stating how they view Figure 53. Ex. 1003 ¶ 181 (“For example, Figure 53 of Rostoker shows the ‘Configure Chart View’ toolbar, which includes multiple ‘interactive’ features, such as making the chart ‘Selectable’ (suggesting interactivity using an input device such as a mouse), including ‘Scroll buttons’ to scroll the chart, and adding ‘Data Animation[s].’”); Ex. 2001 ¶ 141 (“Schmandt relies on the ‘Configure Chart View’ toolbar of FIG. 53 of Rostoker, but he is confusing the configuration step 330 of Rostoker with the *end result*.”). Petitioner invites us to speculate as to the behavior of features that are depicted in Figure 53 but otherwise are not described in any meaningful detail by Rostoker. We conclude that this is insufficient to show a reasonable likelihood of prevailing.

⁵ It is unclear from Figure 53 whether “Selectable” is stand-alone choice or is part of “Selectable chart style.”

⁶ The ’000 patent describes “[e]xemplary interactive features includ[ing] . . . an animation feature . . . which [is] selectable or deselectable by the user.” Ex. 1001, 5:15–20. Petitioner does not point to any evidence that Rostoker’s charts, once published, would have an animation feature that is selectable and deselectable by the user.

In Petitioner’s second theory of how Rostoker shows interactive charts, pointing to Figure 57 (annotated version reproduced below), Petitioner argues that a skilled artisan would have understood that changing selections in the “Period” and “Organization” drop-down lists would change the data in one or more selected charts. Pet. 28 (citing Ex. 1005, Fig. 57; Ex. 1003 ¶ 182).



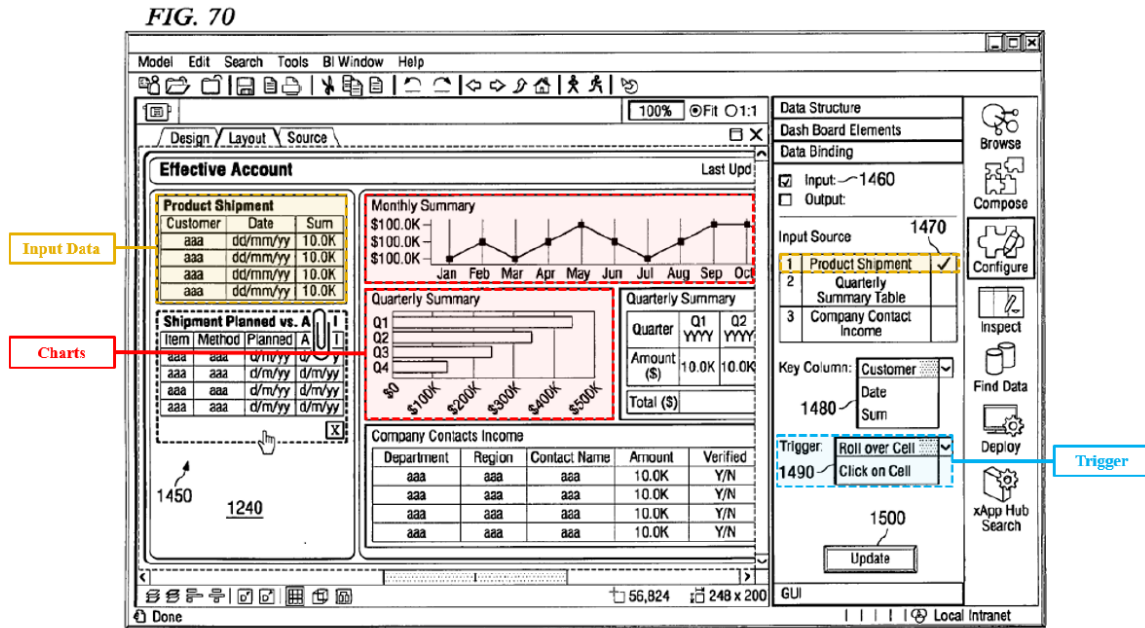
EX1005, FIG. 57 (annotated).

Figure 57 is a screen shot of a user interface used for configuration and gap-filling of xApp 840. Ex. 1005 ¶¶ 16, 71. Petitioner annotates the “Period” and “Organization” drop-down lists in red with the label “Interactive Drop-down Lists.” Pet. 28. Petitioner argues that interaction through the use of these drop-down lists would have beneficially allowed users to view data specific to selected periods and organizations. *Id.* at 28–29 (citing Ex. 1003 ¶¶ 110–114, 182–183).

Patent Owner argues that Petitioner misreads Figure 57 and that, instead, a skilled artisan “would understand that the changing of the Period or Organization would result in the display of entirely different static charts associated with the newly selected Period or Organization, not a change in the configuration of the presently shown static charts.” Prelim. Resp. 42 (citing Ex. 2001 ¶ 142).

According to Rostoker, “[i]n FIG. 56, the Publish button 1210 is selected, causing each of the xApps included in the new application to be executed or otherwise prototyped. FIG. 57 shows the new or modified application after execution.” *Id.* ¶ 71. Rostoker does not describe the functionality of the “Period” and “Organization” drop-down lists. Ex. 1005 ¶ 71. However, the charts shown in Figure 57 do not appear to have either period or organization as parameters that might be changed. This suggests that changing selections in the “Period” and “Organization” menus will result in different charts being displayed. Thus, in the absence of description in Rostoker specifying the function of the “Period” and “Organization” menus, Patent Owner’s proposal as to their functions is more plausible. In any case, Petitioner’s evidence as to Figure 57 is insufficient to show a reasonable likelihood of prevailing.

In Petitioner’s third theory, referring to Figure 70 (annotated version reproduced below), Petitioner argues that a skilled artisan would have understood that Click on Cell trigger 1490 would allow a user to change Monthly and Quarterly Summary information displayed in the “Product Shipment” table. Pet. 29 (citing Ex. 1005, Fig. 70; Ex. 1003 ¶¶ 184–185).



EX1005, FIG. 70 (annotated).

Figure 70 is a screen shot of a user interface used for adapting an xApp into a desired application. Ex. 1005 ¶¶ 17, 72. Petitioner annotates trigger 1490 in blue with the label “Trigger,” the “Product Shipment” table of box 1450 in yellow with the label “Input Data,” and the “Monthly Summary” and “Quarterly Summary” charts in red with the label “Charts.” Pet. 29. Petitioner argues that allowing a user to change the summary information would have beneficially allowed a user to drill down into summary data for each individual customer. Pet. 29–30 (citing Ex. 1003 ¶ 185).

Patent Owner argues that Petitioner again mistakenly relies on a configuration step to show interaction, while a skilled artisan would have understood the end result after configuration to be a static chart. Prelim. Resp. 42–43 (citing Ex. 2001 ¶ 143).

As to Figure 70, Rostoker states that

the user may configure data to be input or output by the added file as well as other configuration options for the added file. For example, in toolbar 710 a checkbox 1460 is selected,

indicating what data from the added file may input to or output from the application as well as a trigger to cause the input or output of the data. Similarly, a checkbox 1470 is selected, indicating that a Product Shipment data set is to be used as input data. Also, the user may identify a “key column” of the file inserted with a drop-down list 1480 and may identify a trigger by drop-down list 1490. An Update button 1500 may be selected to update the configuration of the component 1450.

Ex. 1005 ¶ 74. Figure 70 is a screen shot of a user interface for adapting an xApp into a desired application, and does not purport to show what a user would see after the application is published. *Id.* ¶ 72. The better reading of Rostoker is that the interactions Petitioner points to are used in the configuration of a chart that will appear in the application, and are not indicative of interactions that might be performed with a chart displayed on a published application or dashboard. Thus, Petitioner’s evidence as to Figure 70 is insufficient to show a reasonable likelihood of prevailing.

In Petitioner’s fourth theory, referring to Figures 71 and 72 (annotated versions reproduced below), Petitioner argues that button object 1530 allows a user to interactively show and hide a chart view. Pet. 30–31 (citing Ex. 1005 ¶ 75, Figs. 71, 72; Ex. 1003 ¶ 186).

FIG. 71

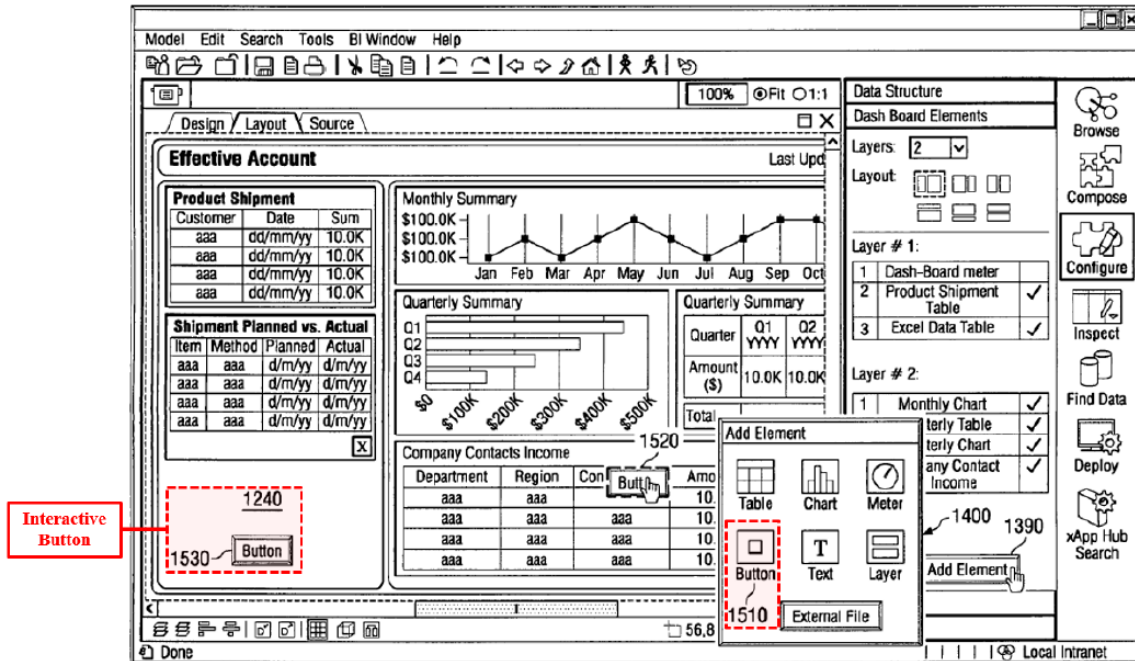
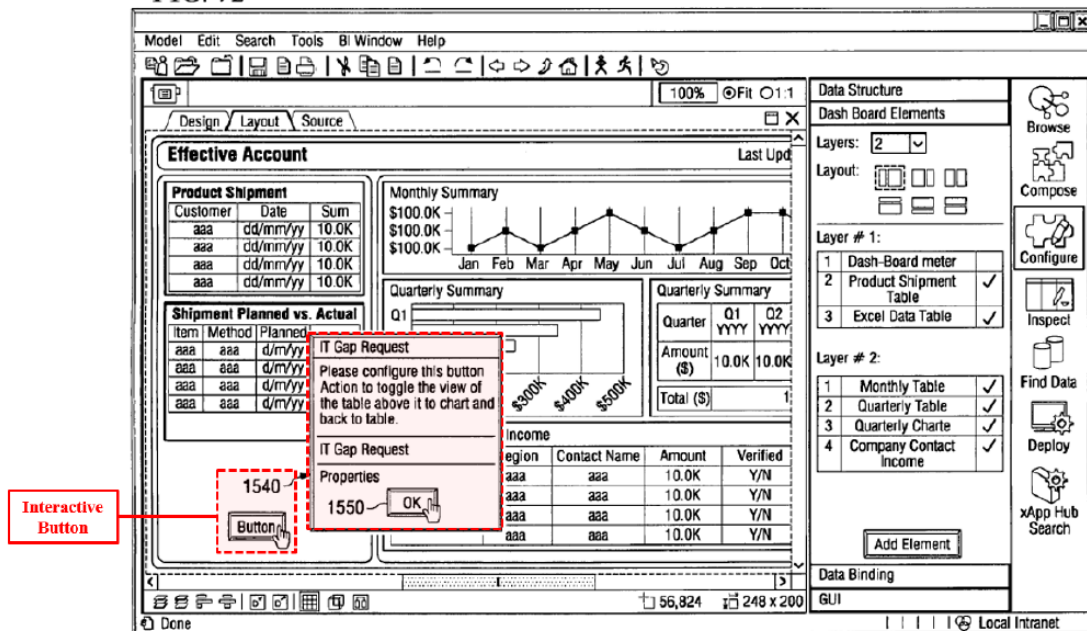


FIG. 72



EX1005, FIGs. 71, 72 (annotated).

Figures 71 and 72 are screen shots of a user interface used for adapting an xApp into a desired application. Ex. 1005 ¶¶ 17, 72. Petitioner adds red outlining to buttons 1510 and 1530 of Figure 71 and labels button 1530 with

“Interactive Button.” Pet. 30. Petitioner adds red outlining to button 1540 and IT Gap Request box of Figure 72 and labels button 1540 “Interactive Button.” *Id.*

Patent Owner argues that Petitioner again cites to interactions during Rostoker’s configuration step to show interaction with a chart after the application is published. Prelim. Resp. 43 (citing Ex. 2001 ¶ 144). According to Patent Owner, a skilled artisan “would understand that those interactive features are available during the configuration stage 330 and not after the charts are part of the new or modified application after execution, as shown in FIG. 57.” *Id.* (citing Ex. 2001 ¶ 145).

According to Rostoker,

FIG. 71 . . . shows a new component being added by selection of the Add Element button 1390. The button icon 1510 is selected from the window 1400, creating an object 1520 that may be dragged and dropped to a desired position. As indicated, the object 1520 is added to the first layer 1240, creating a button component 1530. In FIG. 72, a to-do list 1540 is displayed, prompting the user to define a function to be performed by the added button object 1530. By selecting the OK button 1550, configuration options are displayed in the toolbar 710, as shown in FIG. 73. A pie chart icon 1560 is selected from the toolbar 710 and dragged and dropped to the button object 1530. Consequently, the user indicates that the button object 1530 is to cause a table included with the application to switch between a table view and a chart view, as indicated in the to-do list 1540. Thus, within the workbench 680, the user may define functionality of a component, which may be completed by an information technology specialist at a later time, for example. Therefore, as shown in FIG. 74, the button object 1530 includes a pin and note icon 1570, indicating that a gap to be filled by the information technology specialist.

Ex. 1005 ¶ 75. Figures 71–74 do not purport to show what a user would see in a published application. Rather, “FIGS. 71–74 show how the user may

define a gap in the application to be filled by an information technology specialist.” *Id.* Thus, Petitioner has not shown sufficiently that Figures 71–74 show the claimed interactivity. Moreover, even if toggling between a chart and a table is a feature of the published application, Petitioner has not shown persuasively that toggling between a chart and something else is interaction with that chart. Thus, Petitioner’s evidence as to Figures 71 and 72 is insufficient to show a reasonable likelihood of prevailing.

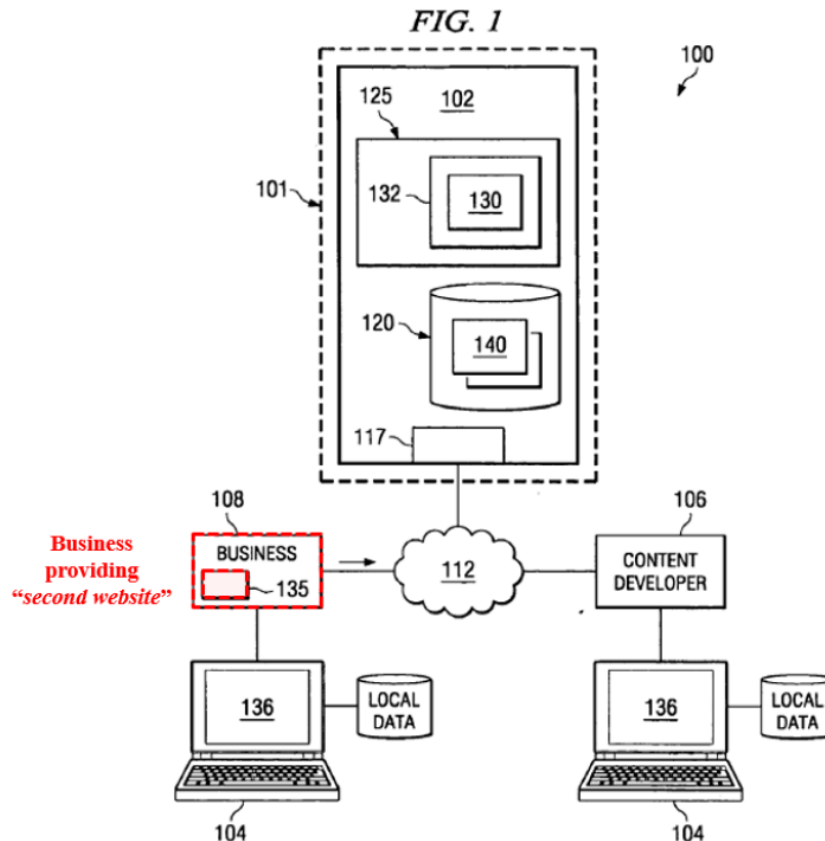
In sum, we are not persuaded that Petitioner has shown sufficiently that Rostoker and Strong teach or suggest claim limitation [1A].

b. Claim limitation [1B]

The parties dispute whether Rostoker and Strong teach claim limitation [1B], “displaying, in response to the selection the at least one interactive chart embedded in a chart box on a second website, wherein the chart box is a web widget.” Specifically, the parties dispute whether Rostoker teaches displaying the interactive chart “on a second website.”

As noted above, Petitioner contends that the “first website” is the website provided by Rostoker’s server 102 of content provider 101. Pet. 22–23 (citing Ex. 1005 ¶¶ 6, 18, 19, 21, 29, 67, Fig. 1, Fig. 18 (Petitioner’s annotations labeling the graphical user interface of Figure 18 as a “First Website” and highlighting the URL in the interface’s Address field); Ex. 1003 ¶¶ 175–177), 36 (citing Ex. 1005 ¶¶ 5–6).

As to a second website, Petitioner contends that Rostoker teaches deploying and storing an application within business 108, separate from content provider 101. *Id.* at 36 (citing Ex. 1005 ¶¶ 21–22, Fig. 1; Ex. 1003 ¶¶ 197–198). Annotated Figure 1 is reproduced below:



EX1005, FIG. 1 (annotated).

Figure 1 is a block diagram of system 100 for presenting, providing, and managing enterprise application content and data services 104 via content provider 101, with Petitioner's additions of red boxes around business 108 and application 135 and the annotation "Business providing 'second website'" next to box 108. Ex. 1005 ¶ 18; Pet. 37. It appears to be Petitioner's theory that, because application 135 is depicted as a box within business 108, business 108 implements a web server that serves application 135 as a website separate from content provider 101. Pet. 36–37; Ex. 1003 ¶¶ 177–178.

Petitioner's citations do not show that application 135 is deployed to, stored at, or served by a server at business 108. "Generally, the content provider 101 uses a component manager 130, or other similar information

hub of enterprise knowledge and components, to present a plurality of data services 140 to businesses 108, or their individual users, as well as other companies and users in the network.” Ex. 1005 ¶ 19.

In certain situations, the content provider 101 may provide or utilize a bank of easily searched xApps and xApp components (services/queries with prebuilt UIs) that can be recomposed/adapted to customer, such as illustrated business 108, needs. . . . The solution can enable the creation, adaptation, configuration, or other development of an analytical application 135 or a dashboard by a non-technical user or a semi-technical business analyst in a very intuitive fashion.

Id. ¶ 21. “For example, the non-technical user or business analyst may more easily develop composite applications 135 (or xApps) . . .” *Id.* ¶ 22.

Petitioner does not explain where its citations show that applications 135 are deployed to, stored at, or served from servers at business 108. Rather, Petitioner’s citations show that a user at business 108 can access content provider 101 across network 112 to create, adapt, configure, and develop applications 135, but not where they are deployed or stored. Ex. 1005 ¶¶ 19–22.

Petitioner argues that a skilled artisan “would have understood that businesses, such as business 108 of Rostoker, often provide their own web services to make business applications accessible within the business’s local network,” and refers specifically to the “Publish” and “Deploy” functions depicted in Figure 56 (reproduced below) and Figure 57 (annotated version reproduced below). Pet. 37–38 (citing Ex. 1005 ¶¶ 4, 28; Ex. 1003 ¶¶ 199–200).

FIG. 56

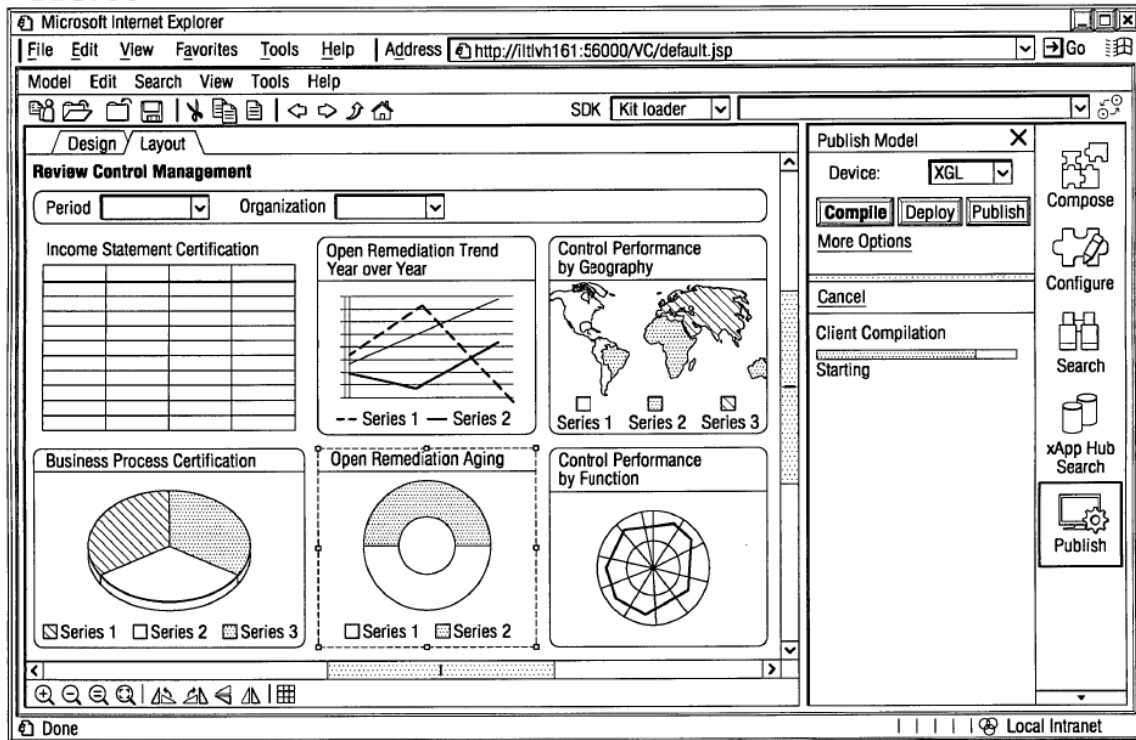
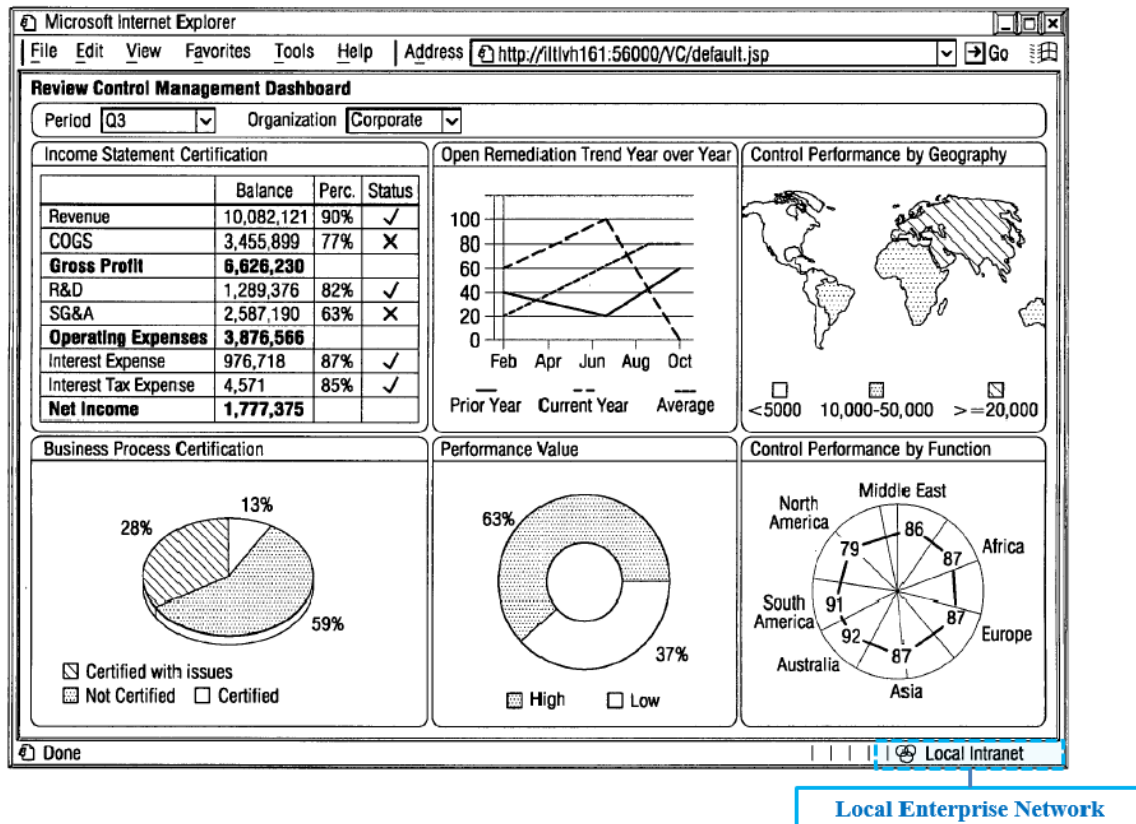


Figure 56 is a screen shot of a user interface used for configuration and gap-filling of xApp 840. Ex. 1005 ¶¶ 16, 71.

FIG. 57



EX1005, FIG. 57 (annotated).

Annotated Figure 57 is a screen shot of a user interface used for configuration and gap-filling of xApp 840, with Petitioner’s label of “Local Enterprise Network” added to “Local Intranet” in the lower-right corner. Ex. 1005 ¶¶ 16, 71; Pet. 38. “In FIG. 56, the Publish button 1210 is selected, causing each of the xApps included in the new application to be executed or otherwise prototyped. FIG. 57 shows the new or modified application after execution.” Ex. 1005 ¶ 71.

Figures 56 and 57, however, do not show developing application 135 on one website and deploying it on another. For example, the URLs depicted in the Address fields of both Figures 56 and 57 are the same, and are also the same as the URL depicted in Figure 18 that Petitioner contends

shows a first website (Pet. 24). In other words, in Rostoker's described embodiment, the application during development (as shown in Figures 18 and 56) and the application after being deployed (as shown in Figure 57) are served from the same website. Petitioner's annotation of "Local Intranet" on Figure 57 does not suggest otherwise, as the same "Local Intranet" is depicted in Figures 18 and 56. Prelim. Resp. 45 (citing Ex. 2001 ¶ 155). Thus, in the example of Figures 18, 56, and 57, client 104 at business 108 is accessing content provider 101 over network 112 (here, a local intranet) to develop and to deploy and view application 135.

Petitioner argues that a skilled artisan "would have been motivated to allow business applications to be deployed to a separate website local to an enterprise to ensure published business applications are not accessible outside of the local enterprise network," and that "in such a case, a [person of ordinary skill in the art] would have understood the published application (for example, as shown in Rostoker's Figure 57) to be accessed and displayed on '*a second website*' provided by the enterprise network." Pet. 38 (citing Ex. 1003 ¶ 201). In the example of Figures 18, 56, and 57, at least, the applications 135 already would be deployed local to the enterprise, so it is unclear from Petitioner's argument why a skilled artisan would have deployed applications 135 to a separate website. Prelim. Resp. 45 (citing Ex. 2001 ¶ 155).

Finally, Petitioner argues that "providing Rostoker's published applications '*on a second website*' would have been a mere design choice resulting in the same function of displaying the published application within a web browser." Pet. 38–39 (citing Ex. 1003 ¶ 202; *Electronic Arts Inc. v. Terminal Reality, Inc.*, IPR2016-00928, Paper 28 (FWD) at 22–23 (PTAB Oct. 23, 2017)). A design choice might be obvious if that choice is a

member of a finite number of predictable choices. *See Uber Techs., Inc. v. X One, Inc.*, 957 F.3d 1334, 1340 (Fed. Cir. 2020) (“A person of ordinary skill would therefore have two predictable choices for when to perform plotting, providing them with a simple design choice as to whether to plot server-side or terminal-side.”) (citing *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 417 (2007); *ACCO Brands Corp. v. Fellowes, Inc.*, 813 F.3d 1361, 1367 (Fed. Cir. 2016)). Here, Petitioner and Mr. Schmandt do not show that their proposed modification of Rostoker was a choice from a finite number of predictable choices. Pet. 38–39; Ex. 1003 ¶ 202. *See Philip Morris Prods. S.A. v. Int’l Trade Comm’n*, 63 F.4th 1328, 1347–48 (Fed. Cir. 2023) (“The Commission also did not err in finding that Philip Morris’s expert testimony did not establish that only a limited number of design choices were available to the skilled artisan. . . . Importantly, Philip Morris still has not cited to any evidence supporting its argument that there were only three design choices, let alone that it is undisputed that there are only three such choices.”)).

We also disagree that publishing an application on the first website would have resulted in the same function as publishing the application on a second website. The conclusory statement in the Petition does not explain why this would have been so. Pet. 38–39. *See Ex parte Maeda*, Appeal No. 2010-09814, Slip op. at 6–7 (Oct. 23, 2012) (informative) (“We discourage examiners from relying on ‘design choice’ because it is generally a mere conclusion, which is no substitute for obviousness reasoning based on factual evidence. Nonetheless, ‘design choice’ may be appropriate where the applicant fails to set forth any reasons why the differences between the claimed invention and the prior art would result in a different function or give unexpected results.”). If we accept Petitioner’s citation to paragraph

202 of Mr. Schmandt’s testimony as an incorporation by reference of that testimony as its argument,⁷ Mr. Schmandt testifies that “[b]oth Intranet-based and Internet-based applications were well known and used by enterprises at the time of the ’000 patent,” and that a skilled artisan would have needed to weigh security concerns to decide whether to provide enterprise applications through a local web server within an enterprise intranet or over the Internet. Ex. 1003 ¶ 202 (citing Ex. 1064, 1).

Mr. Schmandt’s testimony does not support the argument that publishing an application on a first website or a second website would have resulted in the same function. Thus, Petitioner’s argument is not persuasive. *Cf. Virtek Vision Int’l ULC v. Assembly Guidance Sys., Inc.*, 97 F.4th 882, 888 (Fed. Cir. 2024) (“There was no evidence that there are a finite number of identified, predictable solutions. There is no evidence of a design need or market pressure. In short, this case involves nothing other than an assertion that because two coordinate systems were disclosed in a prior art reference and were therefore ‘known,’ that satisfies the motivation to combine analysis. That is an error as a matter of law. It does not suffice to simply be known. A reason for combining must exist.”).

In sum, we are not persuaded that Petitioner has shown sufficiently that Rostoker and Strong teach or suggest claim limitation [1B].

c. Claim limitation [1F]

The parties dispute whether Rostoker and Strong teach claim limitation [1F], “wherein the at least one interactive chart is automatically

⁷ Our rules preclude this. *See* 37 C.F.R. § 42.6(a)(3) (“Arguments must not be incorporated by reference from one document into another document.”).

displayed on the second website using a data feed from the first website to the second website upon the dragging and dropping selection.” For claim limitation [1E], Petitioner contends that Rostoker teaches “wherein the selection is made by dragging and dropping the at least one interactive chart from the plurality of charts into a chart box folder.” Pet. 45–47 (citing Ex. 1005 ¶¶ 6, 61, Fig. 18; Ex. 1003 ¶¶ 220–221). Specifically, Rostoker describes that “[t]he new component, object, or feature may be dragged and dropped or otherwise imported into the application and configured, such as binding the new component with a separate component, without exposure to the application code or model.” Ex. 1005 ¶ 61. However, Petitioner concedes that “Rostoker does not expressly disclose that ‘*the at least one interactive chart is automatically displayed on the second website . . . upon the dragging and dropping selection,*’” as recited in claim limitation [1F]. Pet. 54. Petitioner contends that Strong teaches this feature. *Id.* at 54–56 (citing Ex. 1067 ¶¶ 3, 26, 27).

Strong relates to sharing files among multiple computing devices, and keeping the data in-sync and in real-time across all of the user’s computers connected to a network. Ex. 1067 ¶ 22. “If the user makes a change on one computer to the database or a file, the change is synchronized to the server and synchronized in real-time to the user’s other computers.” *Id.* Figure 2 of Strong is reproduced below:

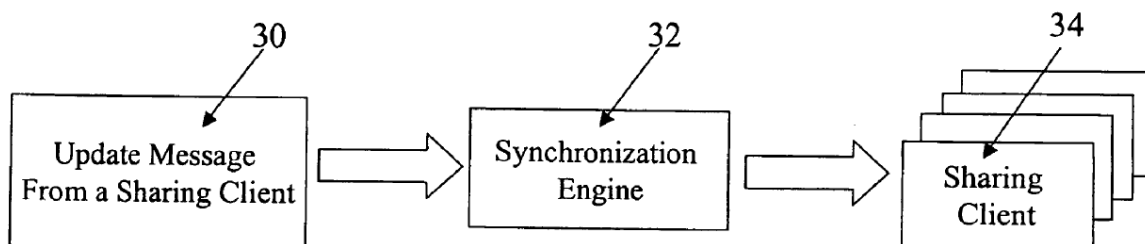


Figure 2 is a schematic depicting a paradigm for synchronizing a data object among clients. *Id.* ¶ 26. Updates 30 from sharing client 34 are sent to synchronization engine 32, which forwards or updates a copy of a data object on each sharing client 34. *Id.* For example,

if changes are made by one of the sharing clients 34 to a particular data object, an update message 30 is sent from the particular sharing client to the synchronization engine 32. The synchronization engine, in turn, will make the particular adjustment to the original or copy of the data object on the server and distribute the data object out to each of the sharing clients 34.

Id. ¶ 27.

Citing Strong, Petitioner contends that a skilled artisan “would have understood that automatically publishing applications upon modification (e.g., selecting a new chart) would reduce the burden on developers to publish updated applications, as well as ensure users of Rostoker’s application are always viewing the latest version.” Pet. 54–55 (citing Ex. 1005 ¶¶ 26, 27; Ex. 1003 ¶¶ 231–233). According to Petitioner, “[a]pplying Strong’s techniques to Rostoker’s application publishing process would enable applications to be automatically published and deployed upon detection of a change, such as dragging and dropping a chart into the application.” *Id.* at 55 (citing Ex. 1003 ¶¶ 234–235). Petitioner contends that, although Strong describes its technique in the context of file sharing, a skilled artisan would have applied the techniques to distribution of Rostoker’s data objects (e.g., Flash and Java objects) in order to reduce the burden on developers to publish updated applications and ensure that users of Rostoker’s application are always viewing the latest version. *Id.* at 55–56 (citing Ex. 1003 ¶ 235). Petitioner argues that publishing applications upon detection of a change would have been an “obvious variant” of waiting for a

user to expressly click a publish button and, thus, would have been using a known technique to improve a similar device. *Id.* at 56 (citing Ex. 1003 ¶ 237). Mr. Schmandt's testimony on this point largely repeats the arguments in the Petition. Ex. 1003 ¶¶ 230–237.

Patent Owner argues that Strong does not mention xApps, the types of objects discussed in Rostoker, and does not teach dragging and dropping as a method of causing a system to synchronize. Prelim. Resp. 51 (citing Ex. 2001 ¶ 186). Patent Owner further argues that Rostoker does not teach a second website or the need to synchronize between a first and a second website. *Id.* Thus, Patent Owner argues, a skilled artisan would not have looked to Strong to improve Rostoker. *Id.*

We share Patent Owner's concerns. Rostoker includes no teaching of synchronizing objects or xApps across multiple computers, such as multiple websites. Thus, we are not persuaded that a teaching of automatically synchronizing files among multiple computers would provide a sufficient reason or motivation to modify Rostoker to automatically publish an application or dashboard upon dragging and dropping an object onto that dashboard. Indeed, Rostoker's discussion of publishing a modified application is in the context of first selecting xApp 840 to add to Rostoker's user interface and then modifying that xApp 840 prior to publishing the application with the xApp. Ex. 1005 ¶ 71. Strong does not provide a reason to publish the application immediately upon selecting xApp 840 (e.g., by dragging and dropping xApp 840 into the Review Control Management window 690 of Figures 18 and 19) before xApp 840 is configured, modified, gap-filled, and made ready for publishing, as shown in Figures 20–56. Ex. 1005 ¶¶ 67, 71.

In sum, we are not persuaded that Petitioner has shown sufficiently that a skilled artisan would have modified Rostoker per the teachings of Strong to arrive at claim limitation [1F].

d. Claims 2–4

Claims 2–4 depend from claim 1. Petitioner’s arguments and evidence for claims 2–4 do not remedy the deficiencies in Petitioner’s showing for claim 1. Pet. 59–60. Accordingly, Petitioner has not shown sufficiently that Rostoker and Strong teach claims 2–4.

2. Conclusion as to Claims 1–4

For the reasons discussed above, we find that Petitioner does not demonstrate that Rostoker and Strong teach or suggest all of the limitations recited in claim 1–4 or that Petitioner articulates sufficient reasoning with rational underpinning to combine the teachings as discussed above. According, we find that Petitioner does not demonstrate a reasonable likelihood of showing that claims 1–4 are unpatentable as obvious over Rostoker and Strong.

C. Obviousness over Rostoker, Strong, and Jou

Petitioner contends that claims 1–4 would have been obvious over Rostoker, Strong, and Jou. Pet. 61–64. In particular, referring to claim limitation [1A], Petitioner contends that, “to the extent argued that Rostoker does not expressly disclose the recited ‘*interactive*’ features of the ’000 patent, Jou discloses such ‘*interactive*’ features, which a [person of ordinary skill in the art] would have found useful with Rostoker’s charts.” *Id.* at 61.

Jou relates to “an interactive system and method of visualizing business data organized according to the dimensional model.” Ex. 1007 ¶ 2. Jou’s system “is implemented in the form of an application running under an operating system, preferably under the MS Windows operating system, using facilities and methodologies of the Windows environment . . . , such as the point-and-click graphical user interface,” and “the visualizations are distributed by a server as HTML files over a TCP/IP network, preferably an intranet or Internet, and are viewed using a client software and a Web browser.” *Id.* ¶ 34. Figure 2B of Jou is reproduced below:

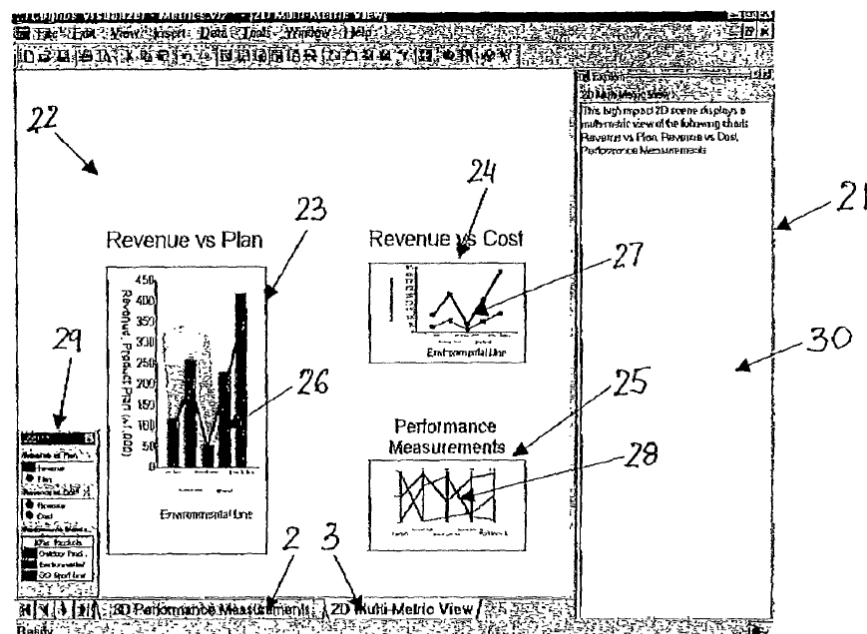


FIG. 2B

Figure 2B is a screenshot showing a second sheet of a two-sheet business data visualization that was hidden behind a first sheet (shown in Figure 2A). *Id.* ¶¶ 19–20, 36–37.

Sheet 21 is in the foreground, and corresponds to tab 3 (hidden sheet 1, shown in Figure 2A, corresponds to tab 2). *Id.* ¶ 37. Sheet 21

includes two-dimensional scene 22 with panels 23, 24, 25, each holding chart 26, 27, 28, respectively. *Id.* Jou discusses various techniques for filtering the data shown in the charts, including filtering by location, level, range of numeric or textual data, drilling up or down, and zooming in or out. *Id.* ¶¶ 38–41, 44, 49.

Petitioner contends that these filters described in Jou are interactive features of the charts. Pet. 61–63 (citing Ex. 1007 ¶¶ 10, 13, 14, 36, 38–41, 44, 49, Fig. 2B; Ex. 1003 ¶¶ 249–252). Petitioner argues that Rostoker is concerned with development of business applications and that a skilled artisan would have incorporated Jou’s interactive features into the system of Rostoker-Strong to enable users to better visualize and explore business data. *Id.* at 63–64 (citing Ex. 1005 ¶ 4; Ex. 1007 ¶¶ 8, 9; Ex. 1003 ¶ 253). Petitioner further argues that a skilled artisan would have had a reasonable expectation of success incorporating Jou’s interactive features into the system of Rostoker-Strong because Java and Flash can enable interactions and Rostoker describes interactive features that are executable within a Flash or Java runtime. *Id.* at 64 (citing Ex. 1005 ¶ 50, Fig. 2A; Ex. 1003 ¶ 154).

Patent Owner responds that Rostoker only allows interactivity with the charts during the configuration step and that none of Rostoker, Strong, and Jou teaches mechanisms that would permit Rostoker’s charts to be interactive after the configuration step of Rostoker or the synchronization step of Strong. Prelim. Resp. 54–55 (citing Ex. 1005, Fig. 3; Ex. 2001 ¶ 202).

We agree with Patent Owner. At most, Jou teaches that it was known to interact with charts in a Windows environment or a browser window. Ex. 1007 ¶ 34. But Rostoker already teaches that a user could interact with a chart, via a graphical user interface in a web browser, while configuring the

chart. Ex. 1005 ¶¶ 67–75. Petitioner does not explain persuasively why a skilled artisan, per the teachings of Jou, would have made Rostoker’s published charts interactive. Mr. Schmandt’s testimony that a skilled artisan “would have been motivated to incorporate Jou’s additional ‘interactive’ features into Rostoker-Strong’s system to enable users to better visualize and explore business data,” is not supported by his citations to Jou, at least as to whether a skilled artisan would have modified Rostoker’s published charts. Ex. 1003 ¶ 253 (citing Ex. 1007 ¶¶ 8, 9). Petitioner’s argument that Flash and Java could enable interactive features, at most, show that a skilled artisan could have implemented interactive features with Rostoker’s published charts. This is insufficient because it does not provide evidence of a reason why a skilled artisan would have made these modifications. *See Auris Health, Inc. v. Intuitive Surgical Operations, Inc.*, 32 F.4th 1154, 1158 (Fed. Cir. 2022) (“The motivation-to-combine inquiry asks whether a skilled artisan ‘not only could have made but would have been motivated to make the combinations . . . of prior art to arrive at the claimed invention.’” (quoting *Belden Inc. v. Berk-Tek LLC*, 805 F.3d 1064, 1073 (Fed. Cir. 2015) (emphasis omitted))). Thus, we are not persuaded that Petitioner is likely to show that a skilled artisan would have incorporated Jou’s interactive features into the system of Rostoker-Strong to make Rostoker’s published charts interactive.

Patent Owner further argues that, even if Jou supplies the missing limitation for claim limitation [1A], Petitioner does not contend that Jou teaches transmitting an interactive chart to a second website for display, as is missing in Rostoker for claim limitations [1B] and [1D], as detailed above. Prelim. Resp. 55. We agree with Patent Owner. Even if a skilled artisan were to incorporate Jou’s interactive features into Rostoker’s published

charts, the combination still does not show claim limitations [1B], [1D], and [1F], for the reasons given above.

Accordingly, we find that Petitioner does not demonstrate a reasonable likelihood of showing that claims 1–4 are unpatentable as obvious over Rostoker, Strong, and Jou.

D. Obviousness over Rostoker, Strong, and Clark

Petitioner contends that claims 1–4 would have been obvious over Rostoker, Strong, and Clark. Pet. 65–68. In particular, referring to claim limitation[1B], Petitioner argues that “to the extent argued that Rostoker does not expressly disclose that its ‘*interactive chart*’ is displayed ‘*on a second website*,’ Clark also provides such teaching.” *Id.* at 65.

Clark relates to business data visualization and publishing systems that have spreadsheet user interfaces. Ex. 1010 ¶ 3. Figure 2 of Clark is reproduced below:

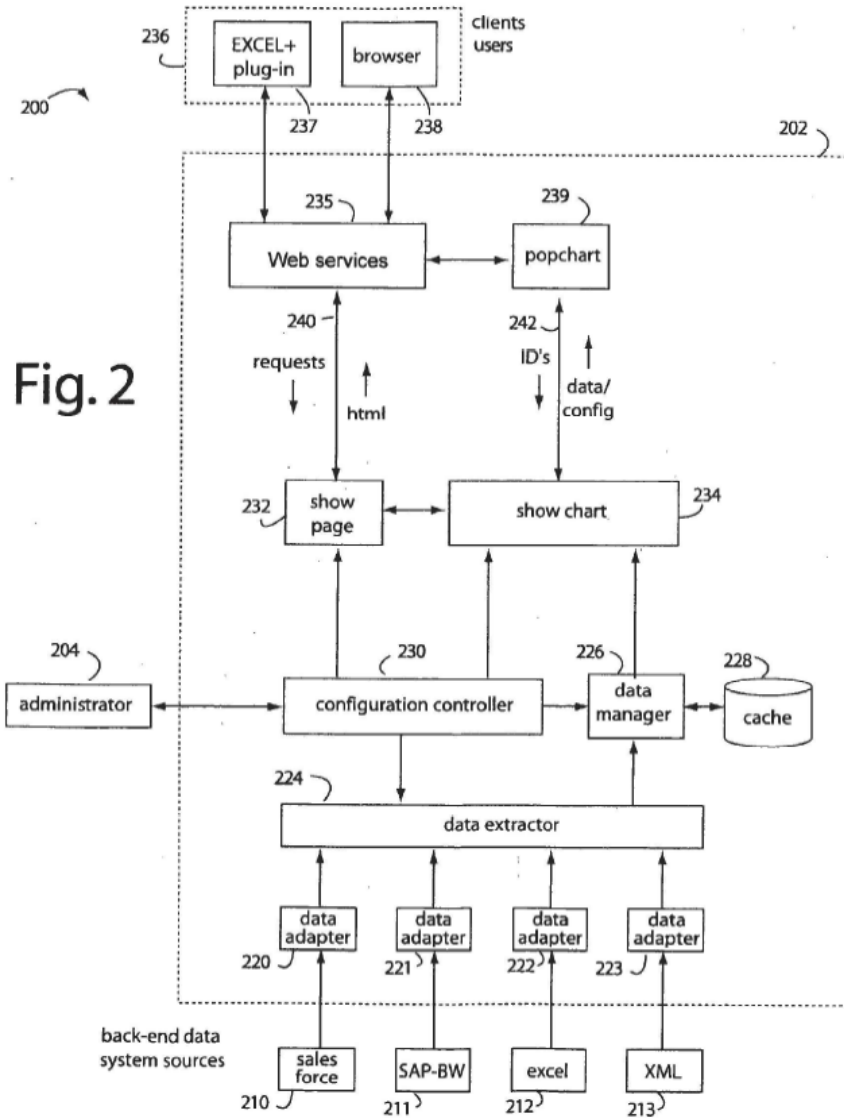


Figure 2 is a functional block diagram of business data visualizer 200.

Id. ¶¶ 33.

System 200 can publish standalone dashboards, portals, and web pages. *Id.* ¶ 49. Web services API 235 provides an Internet presence for Internet-based client users 236, who have EXCEL spreadsheet application and plug-in 237 and browser 238. *Id.* ¶ 46. Pop-chart application 239 can be implemented using commercial chart application programs (e.g., POPCHART and Optimap products). *Id.* ¶¶ 47, 52. Client connection 240

receives requests for business intelligence and, in response, an HTML message is sent that builds a webpage in the user's browser. *Id.* ¶ 48.

Petitioner contends that Clark describes an enterprise portal, residing on a company's intranet site, that is separate from the web-based interface for creating and publishing business dashboards. Pet. 66 (citing Ex. 1010 ¶¶ 49, 52, 117, 137; Ex. 1003 ¶¶ 260–261). Petitioner argues that a skilled artisan would have incorporated Clark's technique of publishing interactive charts to a business's intranet to enable Rostoker's applications to be integrated into enterprise portals. *Id.* at 66–67 (citing Ex. 1010 ¶ 49; Ex. 1005 ¶¶ 5, 21–22, 28, Fig. 1; Ex. 1003 ¶ 262). According to Petitioner, this would enable a business to internally host and present business applications created using the Rostoker-Strong system. *Id.* at 67 (citing Ex. 1003 ¶ 163).

Patent Owner argues that Clark's reference to an enterprise portal does not teach displaying an interactive chart on a second website, and that Clark does not disclose any specifics regarding the interaction between enterprise portals and external portals. Prelim. Resp. 60–61 (citing Ex. 1010 ¶¶ 49, 117; Ex. 2001 ¶ 218). Patent Owner further argues that Clark does not teach or suggest that the enterprise portal is separate from the web-based interface. *Id.* at 61–62 (citing Ex. 2001 ¶ 219).

Paragraph 117 of Clark states that “the system,” which appears to be a reference to system 200, can “create web pages, dashboards, and portals, or publish content to groupware and external portals.” Paragraph 137 of Clark states that “[t]he system,” again system 200, can “enable an enterprise to visualize its information assets,” and that a dashboard “could also be published on the company's intranet to enhance collaboration between employees.” Mr. Schmandt testifies that a skilled artisan would have

understood a portal to be a website that serves as a gateway to the Internet and an enterprise information portal as a portal or gateway that allows internal and external users in an enterprise to access information from intranets, extranets, and the Internet. Ex. 1003 ¶ 260 (citing Ex. 1066, 11–12). However, Petitioner points to nothing in Clark that suggests that external portals and intranets are separate websites from system 200 rather than embodiments of system 200. Thus, we are not persuaded that Clark supplies the teaching of claim limitation [1B] not shown in Rostoker and Strong.

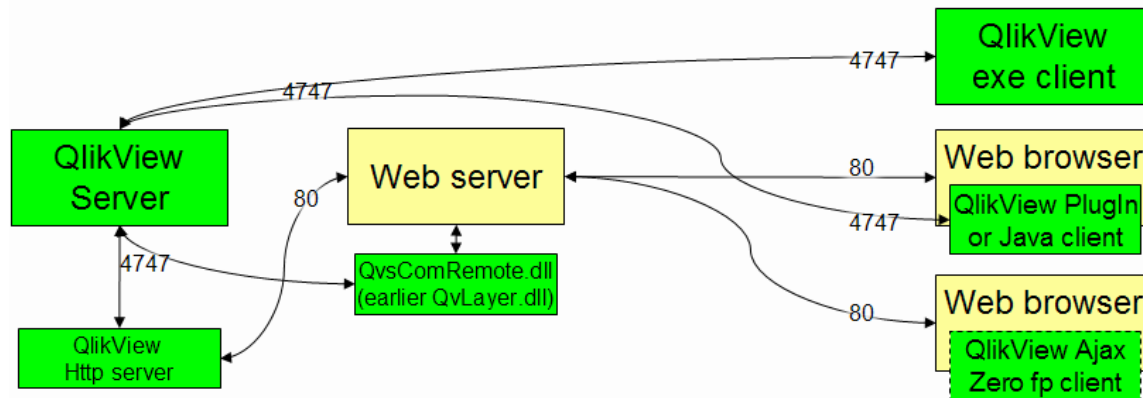
Accordingly, we find that Petitioner does not demonstrate a reasonable likelihood of showing that claims 1–4 are unpatentable as obvious over Rostoker, Strong, and Clark.

E. Obviousness over QlikView Manuals and Bales

Petitioner contends that claims 1, 3, and 4 would have been obvious over QlikView Manuals and Bales. Pet. 68–96. Petitioner contends that a skilled artisan would have combined the teachings of the two QlikView manuals because they describe the same product and cross-reference each other. *Id.* at 68–69 (citing Ex. 1008, 1, 19, 33; Ex. 1009, 1, 26, 114; Ex. 1003 ¶¶ 267–268). Petitioner further argues that a skilled artisan would have sought the teachings of Bales to explain how to update published content dynamically, and applies Bales for claim limitations [1E] and [1F]. *Id.* at 69–72, 85–94.

The parties dispute whether QlikView Manuals teach claim limitation [1B], “displaying, in response to the selection the at least one interactive chart embedded in a chart box on a second website, wherein the chart box is a web widget.” QlikView Server describes a server that “provides a

platform for hosting, distributing, and sharing QlikView information over the Internet/Intranet.” Ex. 1009, 9.⁸ QlikView Server describes multiple client types available to connect to the server, including Java Objects, QlikX, and AJAX, which are “based on the concept of placing individual sheet objects from a QlikView document in an HTML environment.” *Id.* The figure at page 98 of QlikView Server is reproduced below:



The figure above is a block diagram of a QlikView server communicating with a web server, web browsers, and QlikView clients. *Id.* at 98.

A QlikView exe client, for example a Windows client, can communicate directly with the QlikView server using a QlikView protocol, and does not require a Web server to maintain a connection. *Id.* at 97–98. Plug-in clients, such as Java clients, which run in web browsers, can communicate directly with the QlikView server, but must first establish a connection with the Web server serving a page containing the Java applet. *Id.* AJAX clients must establish and maintain communication with the QlikView server through the Web server. *Id.*

⁸ We refer to the numbering at the bottom-center of the pages of the QlikView references, rather than the number at the bottom-left or bottom-right.

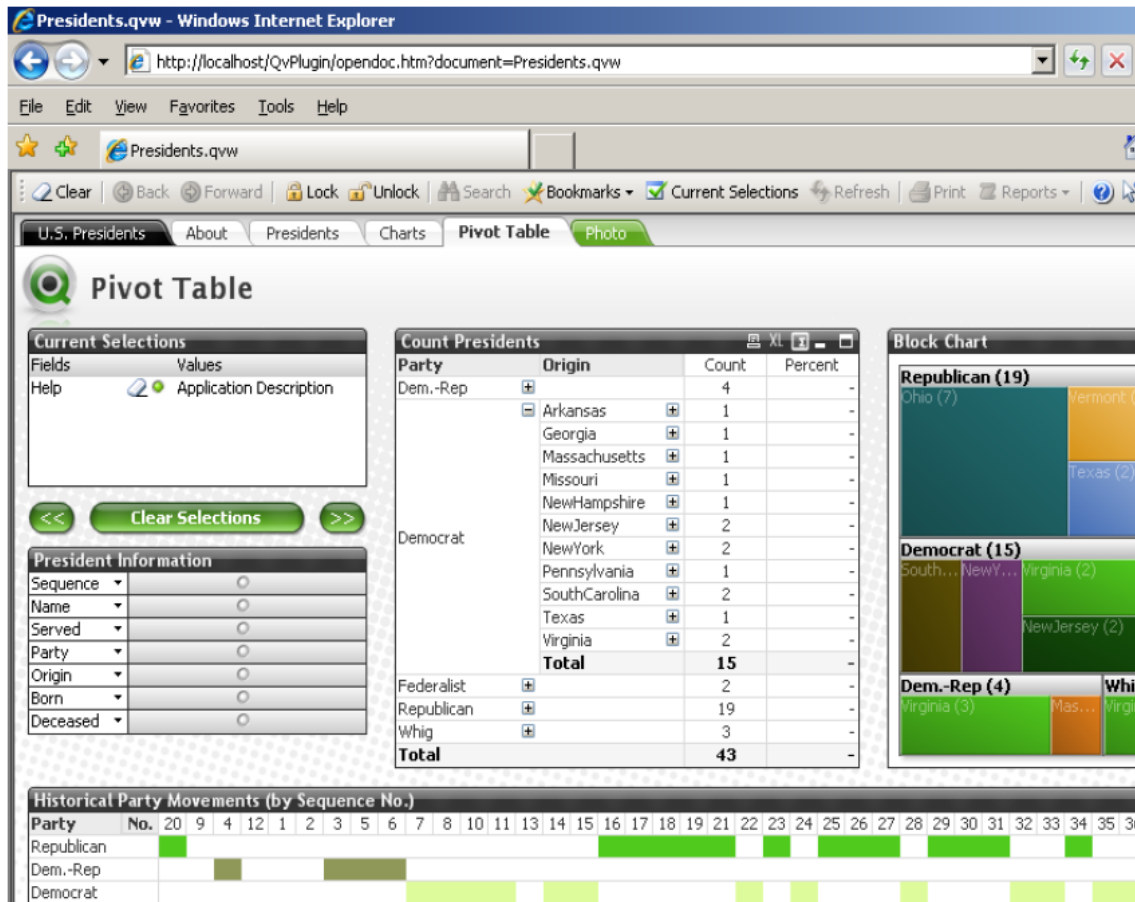
Claim limitation [1A] recites “receiving a selection, on a *first website*, of at least one interactive chart from a plurality of interactive charts.”

Petitioner points to figures shown on pages 129 and 139 of QlikView Server to show examples of a “first website.” Pet. 73–74 (citing Ex. 1008, 880; Ex. 1009, 129, 139; Ex. 1003 ¶¶ 284–288). Those figures are reproduced below.



QlikView Java client in Internet Explorer.

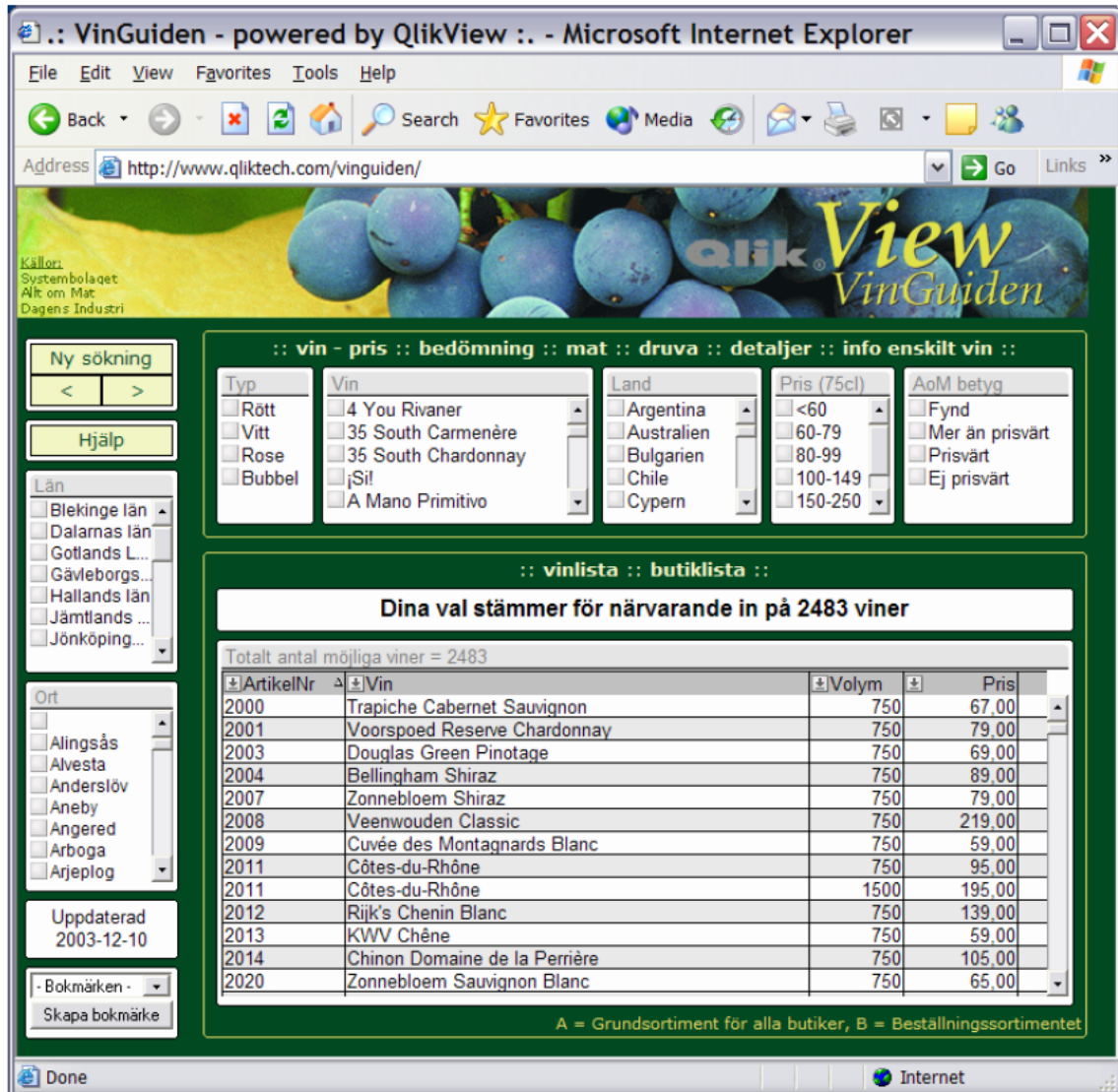
The figure above is a screen shot of a Java client viewed in an Internet Explorer window. *Id.* at 129.



QlikView plug-in client in Internet Explorer.

The figure above is a screen shot of a QlikView plug-in client viewed in an Internet Explorer window. *Id.* at 139.

As to claim limitation [1B], Petitioner points out that QlikView Server states that “[t]he QlikView Objects Clients (Java Objects, QlikX, and AJAX) are based on the concept of placing individual sheet objects from a QlikView document in an HTML environment.” Pet. 75–76 (quoting Ex. 1009, 9; citing Ex. 1003 ¶ 301). Petitioner cites the figure on page 133 of QlikView Server (reproduced below) as evidence of a second website.



QlikView Java Objects client in Internet Explorer.

The above figure is a screen shot of a QlikView Java Objects client viewed in an Internet Explorer window. Ex. 1009, 133.

Petitioner argues that “[t]he second website is different than the first website because it uses a different web client and a different URL.” Pet. 76 (citing Ex. 1009, 123 (“Any combination of client types is allowed”), 134, 144, 157; Ex. 1003 ¶ 302). As Petitioner observes, the URLs displayed in the Address fields of the figures on pages 129 and 139 of QlikView Server are “http://localhost/QvJava/opendoc.htm?document=Presidents.qvw” and

“http://localhost/QvPlugin/opendoc.htm?document=Presidents.qvw,” respectively, while the URL in the Address field of the figure on page 133 is “http://www.qliktech.com/vinguiden/.” *Id.* Mr. Schmandt largely repeats this argument in his testimony, without adding to it materially. Ex. 1003 ¶ 302.

Patent Owner argues that, regardless of how the clients are configured, at least one network communication path must exist between the QlikView server and the client; “[t]hus, the QlikView clients must establish and maintain a connection to the QlikView server to display and interact with the QlikView documents that are hosted on the QlikView server,” whether that connection be direct or indirect. Prelim. Resp. 68–69 (citing Ex. 1009, 9, 96; Ex. 2001 ¶ 252). Accordingly, Patent Owner argues, the Web server shown in the figure at page 98 of QlikView Server is just a conduit between the QlikView server and the QlikView clients. *Id.* at 69 (citing Ex. 2001 ¶ 253). We agree with Patent Owner that the figure on page 98 of QlikView Server suggests that the QlikView server is serving the charts, whether directly to a client or indirectly via the Web server to a client. Ex. 1009, 98.

Patent Owner argues that the QlikView server is responsible for opening, hosting, and calculating the charts shown in the various QlikView clients. Prelim. Resp. 70 (citing Ex. 1009, 123). We agree. QlikView Server states: “A QlikView client is required for display and usage of an existing QlikView document (.qvw file). While the QlikView Server is responsible for opening, hosting, and calculating the document, the clients are required for user interaction and presenting the document and its objects.” Ex. 1009, 123. Thus, Patent Owner argues, a skilled artisan “would understand that the Web browsers shown and described in the

QlikView Manuals are for interacting with the QlikView Server and for viewing documents that reside on the QlikView Server.” Prelim. Resp. 71. Dr. Miller testifies that “the QlikView charts that are generated on the QlikView Server remain on the QlikView server for display.” Ex. 2001 ¶ 259. Patent Owner argues that “some types of QlikView clients communicate directly with the QlikView Server to view the chart residing on the QlikView Server while other types of QlikView clients employ a Web browser to view the chart residing on the QlikView Server.” Prelim. Resp. 73 (citing Ex. 1009, 98; Ex. 2001 ¶ 260).

Patent Owner argues that the different URLs depicted in the figures at pages 129, 133, and 139 of QlikView Server do not evidence different first and second websites. Prelim. Resp. 73–74. In support of this argument, Dr. Miller testifies that

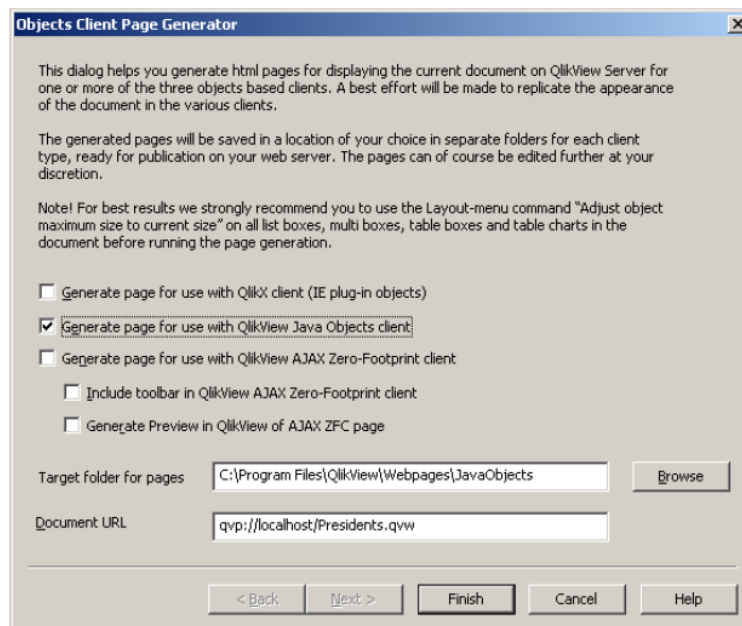
The cited URLs “http://localhost/QvJava. . .” and http://localhost/QvPlugin. . . are to local hosting, which a [person of ordinary skill in the art] would understand to mean not accessing the web. Petitioner is also confusing a web page with a website. A [person of ordinary skill in the art] would understand that a single forward slash in a URL references a web page of a website and that a web page is not a website. The local hosting examples pointed to by the Petitioner both refer to “localhost” and do not reference different websites—indeed, there is not a reference to a website at all.

Ex. 2001 ¶ 262.

We agree that the different URLs depicted, but not described, in the figures at pages 129, 133, and 139 of QlikView Server do not support Petitioner’s argument that QlikView Manuals show first and second websites. As noted above, the figure at page 98 of QlikView Server shows that the QlikView server serves the charts displayed in the QlikView clients. The figures at 129, 133, and 139 are simply screen shots of what might be

viewed using a particular QlikView client. Petitioner points to nothing in QlikView Manuals that would suggest that the different clients are served objects from different websites. Rather, the different URLs appearing in the address fields of the figures appear to be no more than the URLs of the servers on which the QlikView server software happened to be running when the author of the document captured the screen shot of the Internet Explorer window for that particular client.

The figure on page 134 of QlikView Server is reproduced below:



*The **Objects Client Page Generator** for Java Objects client.*

The above figure is a screen shot of an Objects Client Page Generator for a Java Objects client. Ex. 1009 at 134. According to QlikView Server, the “Document URL” field “[s]pecifies the target document URL on the QlikView Server where the pages are to be run.” *Id.* We note that the URL specified in the figure on page 134 is “qvp://localhost/Presidents.qvw.” *Id.* To the extent Petitioner is arguing that a Java Objects client receives its data from a different website than a Java client or a QlikView plug-in client because the figure at page 133 of QlikView Server has a URL with

“www.qliktech.com,” the URL on page 134 suggests otherwise, as it shows the Java Objects client pointing to the same “localhost” as in the figures at pages 129 and 139 of QlikView Server. *See also id.* at 157 (showing the same “localhost” URL for an AJAX Zero-Footprint client). Again, “localhost,” rather than “www.qliktech.com,” appears in the Document URL field because that is the server that happened to be running the QlikView software when the author of the document captured the image in the figure.

In sum, Petitioner has not shown that QlikView Manuals teach both “receiving a selection, on a first website, of at least one interactive chart,” as recited in claim limitation [1A] and “displaying, in response to the selection the at least one interactive chart embedded in a chart box on a second website,” as recited in claim limitation [1B], because QlikView Manuals do not teach selecting a chart on a first website and displaying the chart on a second website different from the first. Petitioner does not cite Bales as curing this deficiency. Pet. 75–76. Nor do Petitioner’s arguments and evidence as to dependent claims 3 and 4 cure this deficiency. *Id.* at 94–95.

Accordingly, we find that Petitioner does not demonstrate a reasonable likelihood of showing that claims 1, 3, and 4 are unpatentable as obvious over QlikView Manuals and Bales.

III. CONCLUSION

We have reviewed the Petition and Patent Owner’s Preliminary Response, and have considered all of the evidence and arguments presented by Petitioner and Patent Owner. We find that Petitioner has not demonstrated a reasonable likelihood of showing that at least one claim of the ’000 patent is unpatentable. Accordingly, we decline to institute *inter partes* review of any claim of the ’000 patent.

IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that *inter partes* review of claims 1–4 of U.S. Patent No. 8,520,000 B2 is not instituted with respect to any ground of unpatentability set forth in the Petition.

IPR2024-01389
Patent 8,520,000 B2

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TABLEAU SOFTWARE, LLC,
Petitioner,

v.

iCHARTS LLC,
Patent Owner.

IPR2024-01389
Patent 8,520,000 B2

Before DAVID C. McKONE, JASON M. REPKO, and
IFTIKHAR AHMED, *Administrative Patent Judges*.

REPKO, *Administrative Patent Judge*, dissenting.

I respectfully dissent from the Majority because I believe it is reasonably likely that Petitioner would prevail in showing that claim 1 is unpatentable over Rostoker and Strong.

I. ROSTOKER AND STRONG

A. Interactive Charts

Petitioner has sufficiently shown that Rostoker generates interactive charts. Pet. 27–31. According to the Petition, Rostoker allows the user to enable interactive features of the charts. *Id.* at 27 (citing Ex. 1005 ¶ 71). Rostoker generates executable GUI language (XGL) and then compiles the XGL to Flash or Java. Ex. 1005 ¶ 50, *cited in* Pet 35. The paragraph quoted by Petitioner expressly states that the XGL supports interactions:

The XGL representation may be used for generating representations of various different GUIs and supports various GUI features including full windowing and componentization support, rich data visualizations and animations, rich modes of data entry and *user interactions*, and flexible connectivity to any complex application data services.

Ex. 1005 ¶ 43 (emphasis added), *quoted in* Pet. 35. The Petition then provides four specific examples: buttons for scrolling the chart and adding animations (Pet. 27), drop-down lists for changing the period and organization depicted by the plots (*id.* at 28), a click-on-cell trigger for manipulating the displayed information (*id.* at 29), and a button for switching between a table and chart view (*id.* at 30–31).

Patent Owner argues that Rostoker publishes only static charts without interactive controls. Prelim. Resp. 40–43. According to Patent Owner, the only interactions occur during Rostoker’s configuration step, not after publication. *Id.* at 41–42 (citing Ex. 2001 ¶ 138); *see also id.* at 47.

Patent Owner argues that Rostoker lacks a chart box that is a web widget. *Id.* at 46–48. In Patent Owner’s view, Rostoker’s “Open Remediation Trend Year over Year” field of Figure 57 is a field of a static chart. *Id.* at 46. I disagree.

Patent Owner’s arguments ignore the context in which Rostoker’s Figure 57 is described. *See id.* at 40–43, 46–48. Petitioner relies on the configuration screen to show the available options for configuring interactive charts. *See* Pet. 41–44. Petitioner notes that Figure 57 shows an example of what can be generated by the configuration screen. *Id.* at 50 (characterizing Figure 57 as “showing execution of published application”). It is irrelevant that Figure 57 does not illustrate all the possible interactive options identified in the Petition. *See id.* at 27–31 (describing four interactive elements).

As for the “Period” and “Organization” drop-down control, one of the four interactions relied upon by Petitioner, Patent Owner argues that “changing of the Period or Organization would result in the display of entirely different static charts associated with the newly selected Period or Organization, not a change in the configuration of the presently shown static charts.” Prelim. Resp. 42 (citing Ex. 2001 ¶ 142). Likewise, the Majority explains that “the charts shown in Figure 57 do not appear to have either period or organization as parameters that might be changed.” Maj. Op. 15.

In my view, this is a factual issue best resolved during trial. Even so, at this stage and on this record, I agree with Petitioner that the lists would serve little purpose unless changing the selection in a drop-down list (e.g., setting the Organization to “Corporate”) would also change the data in one or more of the selected charts, including the “Open Remediation Trend Year over Year.” *See* Pet. 28–29, 33. Petitioner’s explanation here is consistent

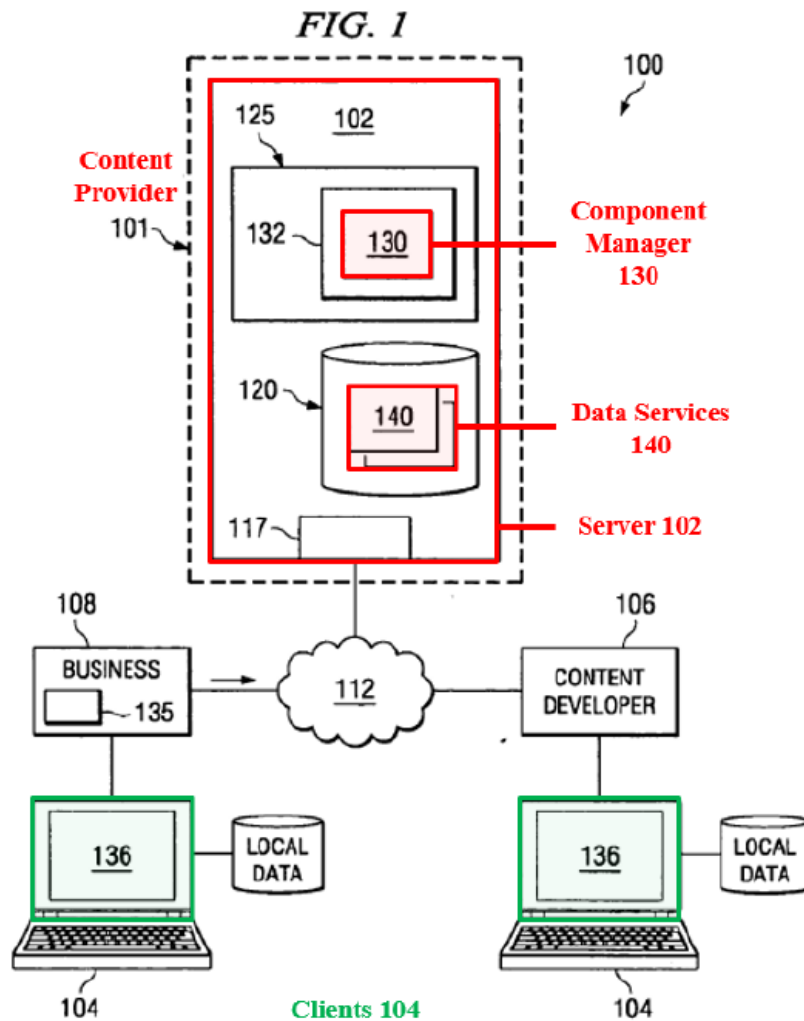
with Rostoker’s description that the interfaces support user interaction (Ex. 1005 ¶ 43, *quoted in* Pet. 35) and that the components can perform “queries” (*id.* ¶ 4, *quoted in* Pet. 14).

Thus, I disagree with the Majority that Petitioner has not sufficiently shown that Rostoker generates interactive charts.

B. Second website

Petitioner has sufficiently shown that Rostoker displays the interactive chart on the second website. Pet. 32–39. According to the Petition, “Rostoker’s ‘Publish’ function allows the user to ‘Deploy’ an application, such as deploying ‘applications 135’ to an enterprise network associated with the business.” *Id.* Petitioner argues that Rostoker’s Figure 57 shows that the published application is accessible via the enterprise network because it is a screenshot of a browser displaying the words “Local Intranet” in the bottom corner. *Id.* at 38–39 (citing Ex. 1005, Fig. 57). Under Petitioner’s reasoning, the enterprise network provides the claimed “second website.” *See id.*

Petitioner argues that Rostoker’s Figure 1 shows business 108—separate from content provider 101—providing the claimed “first website” and storing composite applications 135 (xApps). *Id.* at 36 (citing Ex. 1005 ¶¶ 21–22). Rostoker’s Figure 1 is shown below with Petitioner’s annotations. *Id.* at 15.



Petitioner’s annotated figure shows content provider 101 with server 102 (red). *Id.* According to Rostoker, “the component manager 130 is a hosted solution on a *remote* server 102 providing an easy-to-use interface for disparate data services 140 to at least one business 108 or user.” Ex. 1005 ¶ 28, *quoted in* Pet. 58 (emphasis added). Content provider 101 may be a storefront that “can typically be accessed in a stand-alone fashion (such as a website).” *Id.* ¶ 18, *quoted in* Pet. 22. Rostoker’s Figure 1 shows that content provider 101 has interface 117. *Id.*, Fig. 1. Network 112 can be

the internet. *Id.* ¶ 27. That is, business 108 communicates with content provider 101’s website over the internet. *See id.*

Patent Owner argues that “Rostoker includes no disclosure of interface 117 being a network interface to a second website.”

Prelim. Resp. 44. In Patent Owner’s view, the local intranet shown in Figure 57 does not disclose transmission to a second website. *Id.*

Patent Owner’s arguments are inconsistent with how Rostoker’s vendor-business interaction works. The Petition relies on the relationship between the vendor and the business customer: “server 102, one or more clients 104, one or more content developers (or vendors) 106, [and] one or more businesses 108, at least some of which *communicate across network 112*.” Pet. 14–15 (citing Ex. 1005 ¶29) (emphasis added). Network 112 can be the internet. Ex. 1005 ¶ 27. The business can locally deploy the application received over the network. *Id.* at 37 (citing Ex. 1005 ¶¶ 4, 28). Thus, Rostoker describes a business that (1) obtains content by interacting with a retailer’s website and then (2) deploys that content on its local network. *See, e.g.*, Ex. 1005 ¶¶ 4, 28–29.

I disagree with the Majority and Patent Owner that Petitioner has not sufficiently supported its argument about the local network. Figure 57 is a screenshot of a web browser: “Microsoft Internet Explorer.” *Id.*, Fig. 57. The web browser displays the custom application. *Id.* ¶ 17. In sum, Rostoker describes a vendor’s storefront accessible via the internet (*id.* ¶ 18, *cited in* Pet. 14), a business that communicates with that storefront (*id.* ¶ 29, *cited in* Pet. 15), and the custom content provided to the business from the vendor is located on the “Local Intranet” and displayed in Internet Explorer (*id.*, Fig. 57, *cited in* Pet. 38).

Thus, in my view, Petitioner has sufficiently shown that Rostoker displays the interactive chart on the second website. Pet. 32–39.

C. Data feed

Patent Owner argues that Rostoker lacks a retrieve code for a data feed. Prelim. Resp. 50. Patent Owner argues that “Petitioner is misguided in relying on data services 140 and local memory 120 of Rostoker for support for retrieve code for a data feed.” *Id.* In Patent Owner’s view, “a retrieve code for a data feed refers to a specific set of instructions that is used to access and download data from a data feed source.” *Id.* (citing Ex. 2001 ¶ 178).

I disagree and find Petitioner’s reasoning about data services 140 sufficient at this stage: the Petition explains that Rostoker’s content provider 101 uses component manager 130 to present data services to business 108. Pet. 50 (citing Ex. 1005 ¶ 19). As with the other limitations discussed above, Patent Owner ignores the vendor-customer relationship that is the basis for Petitioner’s challenge. *See, e.g.*, Pet. 14–15; Section I.B *supra*. In particular, Rostoker’s Figure 1 shows data services 140 stored in the server’s memory. *See* Ex. 1005, Fig. 1, *cited in* Pet. 52. Under Rostoker’s vendor-customer relationship, data is downloaded from a data feed source because the customer obtains it from the business. *See* Pet. 52 (annotating Rostoker’s Figure 1 with data services 140).

Thus, in my view, Petitioner has sufficiently shown that Rostoker teaches the data feed limitations.

D. Automatic Display

Patent Owner argues that one of ordinary skill in the art would not have looked to Strong because it discloses synchronizing files, which is from a different field of endeavor than sharing and updating charts. Prelim. Resp. 51.

“To be considered within the prior art for purposes of the obviousness analysis, a reference must be analogous.” *Circuit Check Inc. v. QXQ Inc.*, 795 F.3d 1331, 1335 (Fed. Cir. 2015) (citing *Wang Labs. v. Toshiba Corp.*, 993 F.2d 858, 864 (Fed. Cir. 1993)). “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) (quoting *In re Bigio*, 381 F.3d 1320, 1325 (Fed. Cir. 2004)) (emphasis added).

Here, Patent Owner essentially argues under the field-of-endeavor test for analogous prior art. *See* Prelim. Resp. 51. But even if the reference is not within the field of the inventor’s endeavor, Strong is at least reasonably pertinent to a particular problem with which the inventor is involved: synchronization. “Although the dividing line between reasonable pertinence and less-than-reasonable pertinence is context dependent, it ultimately rests on the extent to which the reference of interest and the claimed invention relate to a similar problem or purpose.” *Donner Tech., LLC v. Pro Stage Gear, LLC*, 979 F.3d 1353, 1359 (Fed. Cir. 2020). In determining pertinence to the inventor’s problem, one or more particular problems could be at issue. *Id.* Here, it is apparent from the record that the challenged patent’s

interactive charts relate to several problems, including automatically refreshing and synchronizing data. *See, e.g.*, Ex. 1001, 8:40–46. At this stage, the weight of the evidence indicates that the analogous-art issue is best answered during trial. “A petitioner is not required to anticipate and raise analogous art arguments in its petition; instead a petitioner can use its reply to respond to” analogous art arguments raised by Patent Owner. *Sanofi-Aventis*, 66 F.4th at 1379 (citing 37 C.F.R. § 42.33).

Patent Owner argues that there are insufficient teachings in Rostoker or Strong showing “how to modify Rostoker to include the file synchronization feature of Strong to arrive at the claimed invention.” Prelim. Resp. 52. In Patent Owner’s view, Strong does not disclose any process to synchronize using dragging and dropping or updating charts. *Id.* at 52–53. Yet a person of ordinary skill in the art is a person of ordinary creativity, not an automaton. *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 421 (2007). Petitioner’s obviousness analysis can consider “the inferences and creative steps that a person of ordinary skill in the art would employ”—it “need not seek out precise teachings directed to the specific subject matter of the challenged claim.” *Id.* at 418. Here, I find Petitioner’s explanation sufficient at this stage: “Applying Strong’s techniques to Rostoker’s application publishing process would enable applications to be automatically published and deployed upon detection of a change, such as dragging and dropping a chart into the application.” Pet. 55 (citing Ex. 1003 ¶¶ 234–235). Petitioner reasons that “since server 102 provides Rostoker’s ‘modeling environment,’ Rostoker’s system is already configured to detect modifications to applications as they are developed.” *Id.* at 56 (citing Ex. 1005 ¶¶ 19, 40; Ex. 1003 ¶ 238).

E. Remaining limitations

I have reviewed Petitioner's arguments and evidence submitted in connection with the remaining limitations. Patent Owner has not presented arguments specifically directed to those limitations. I find Petitioner's analysis to be sufficient at this stage and on this record. Thus, it is reasonably likely that Petitioner would prevail in showing that claim 1 is unpatentable over Rostoker.

II. CONCLUSION

Because, in my view, there is a reasonable likelihood that Petitioner would prevail with respect to at least one of the claims challenged in the Petition, I would institute an *inter partes* review.

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