

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAP AMERICA, INC.,
Petitioner,

v.

CYANDIA, INC.,
Patent Owner.

Case IPR2024-01432
U.S. Patent No. 8,751,948

**PATENT OWNER'S PRELIMINARY RESPONSE
UNDER 37 C.F.R. § 42.107**

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PATENT OWNER'S EXHIBIT LIST

Exhibit	Description
2001	Order, <i>Netlist, Inc. v. Micron Technology, Inc., et al.</i> , Case No. 2:22-cv-00294-JRG, Dkt. No. 72 (E.D. Tex. March 12, 2024)
2002	Order, <i>Netlist, Inc. v. Samsung Electronics Co., Ltd, Samsung Electronics America, Inc., Samsung Semiconductor Inc.</i> , Case No. 2:22-cv-00293-JRG, Dkt. No. 180 (E.D. Tex. Oct. 17, 2023)
2003	Order, <i>Netlist, Inc. v. Samsung Electronics Co., Ltd, Samsung Electronics America, Inc., Samsung Semiconductor Inc.</i> , Case No. 2:22-cv-00293-JRG, Dkt. No. 689 (E.D. Tex. March 11, 2024)
2004	Excerpt from U.S. District Court – National Judicial Caseload Profile Federal for the Eastern District of Texas, available at https://www.uscourts.gov/sites/default/files/2024-12/fcms_na_distprofile0930.2024.pdf
2005	USPTO's June 21, 2022 Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court Litigation
2006	Docket Control Order, <i>Cyandia, Inc. v. SAP America, Inc. and SAP SE</i> , Case No. 2:24-cv-00096-JRG, Dkt. No. 32 (E.D. Tex. June 17, 2024)
2007	Declaration of James Hannah in Support of Patent Owner's Preliminary Response
2008	U.S. Patent Application No. 12/465,331 ("the May 2009 parent application")
2009	U.S. Patent No. 8,499,250
2010	U.S. Provisional Application No. 61/052,765

I. INTRODUCTION

Patent Owner respectfully requests that the Board deny the Petition because even with a combination of seven different references, Petitioner is unable to identify all limitations of the Challenged Claims¹ in the prior art. In order to account for the significant gaps between the art and the claims, Petitioner resorts to ignoring the plain language of the claims and mischaracterizing the disclosures of the art. Given the lack of compelling merits, the fact that trial is scheduled to conclude in the co-pending litigation six months before a Final Written Decision is due in this case, and Petitioner's failure to supply a *Sotera*-style stipulation, Cyandia respectfully requests that the Board decline to institute trial pursuant to the *Fintiv* framework.

The Board should also deny the Petition on the merits. The '948 Patent claims a system that presents users with an interactive "matrix" of authorized channels, each of which presents and enables a user to interact with "secure user-centric information." This approach collects users' most important information from across different platforms and puts it at their fingertips while maintaining strict security measures. The art of record is an amalgam of documents related, more or less, to various different products developed by IBM under the "Websphere" marketing

¹ Petitioner, SAP America, disputes the patentability of Claims 1-7, 10-11, 13, 18-19, 23, 29, and 35-36 ("the Challenged Claims") of U.S. Patent No. 8,751,948 ("the '948 Patent").

name. None of these documents disclose a matrix of channels that display and enable interaction with “secure user-centric information.” At best, the Websphere references disclose a set of static links or icons that a user may select in order to open a corresponding application.

The Websphere references also fail to identify with particularity “service support instructions that determine how the secure user-centric information behaves on at least one platform of the plurality of user platforms.” The disclosures that Petitioner cites with respect to this limitation—the synchronization of data across different devices—facially do not meet the claims.

Although there are a variety of reasons why the ‘948 Patent is valid over Petitioner’s asserted prior art references, this Preliminary Response focuses on only limited reasons why inter partes review should not be instituted. See *Travelocity.com L.P. v. Cronos Techs., LLC*, No. CBM2014-00082, Paper 12 at 10 (P.T.A.B. Oct. 16, 2014) (“[N]othing may be gleaned from the Patent Owner’s challenge or failure to challenge the grounds of unpatentability for any particular reason.”).

II. BACKGROUND

A. Cyandia

Cyandia was founded on the idea of helping users manage and display information coming from an increasing number of different applications. Rather

than force the user to chase down relevant information, the inventors conceived of a platform built on the premise that important information should be curated and served directly to the user. Their solution involved a novel system architecture that improved the management and utilization of the users' computers and also of the servers hosting applications and users' secure information.

After investing significant time and resources into research and development, Cyandia pioneered using an architecture that included a matrix of channels that provides a "cockpit" type view of the information important to the particular user that gives intelligent insights into a variety of different applications relevant to the user. These channels can be authorized to display secure information tailored to that particular user without needing them to open up individual applications. Cyandia developed a suite of technologies related to this concept, including those described and claimed in the '948 Patent.

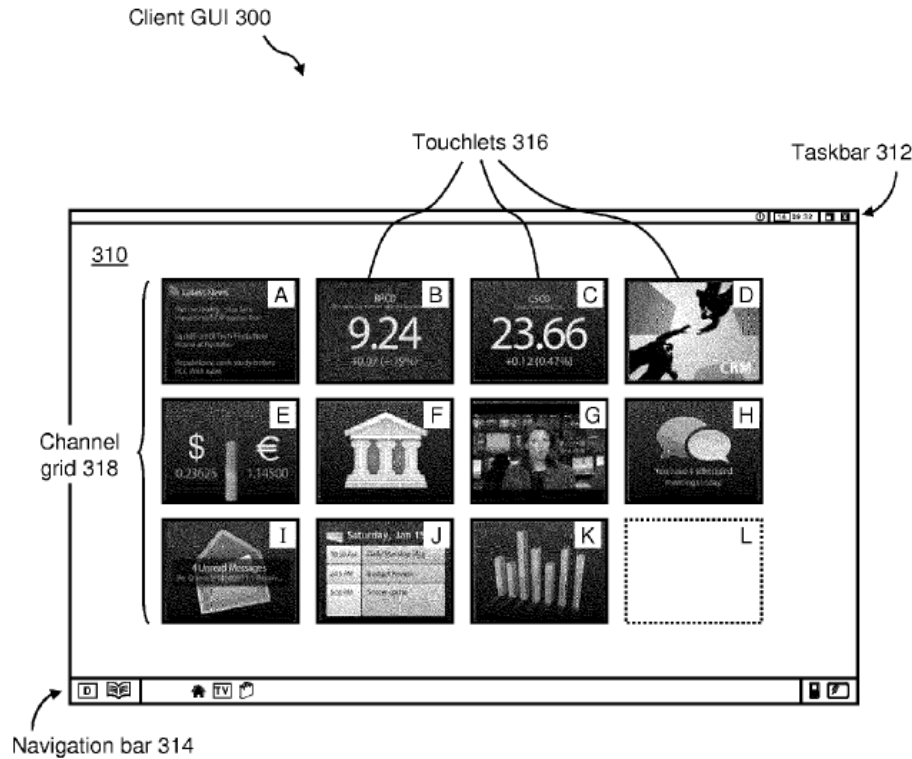
B. The State of the Art at the Time of the Invention

At the time of the invention of the '948 Patent, technology had made significant strides in creating digital content of many varieties. '948 Patent at 1:37-42. A common problem was the need to use dissimilar tools with many different types of data on different platforms, such as desktop computers and mobile devices. *Id.* at 1:37-47. Prior technologies were not up to the task because of their focus on creating different "windows" or "portals" containing icons that link to separate

applications. *Id.* at 1:37-58. These traditional systems were poorly suited for complex cross-platform information management because they required users to hunt down the information that was most important to review at that moment. *Id.*

C. The '948 Patent

The '948 Patent describes technology for presenting, managing, and interacting with different types of information from multiple information sources across multiple computer devices. '948 Patent at 1:66-2:13. In one embodiment, the '948 Patent describes “channel grid framework” with a matrix of channels authorized for the user, with these channels allowing for the user to receive or interact with secure user-centric information. *Id.* at Abstract and 2:4-18. Each channel in the “channel grid framework” displays and enables a user to interact with secure user-centric information. *Id.* at 5:33-36. Figure 12 of the '948 Patent, reproduced below, shows an exemplary channel grid framework, including a channel grid 318:



'948 Patent at Fig. 12. As demonstrated, information can be displayed directly to the users through these different channels while they are shown within a matrix.

The '948 Patent describes “the channel is a conduit for delivering information to a user (e.g., providing access to and interaction with information),” including a “visualization piece that is presented on the client device (e.g., user devices 118)” and an “integration piece residing at the server (e.g., application server 110).” '948 Patent at 8:63-9:3; *see also id.* at Fig. 2. The “visualization piece” of a channel is also referred to as a “touchlet.” *Id.* at 9:25-27 (“Each channel 200 may include a visual component 210 that is formed of a touchlet 212 and a channel application 214.”).

“Unlike standard icons and windows that are static and have little or no built-in intelligence, touchlets 212 have both static and dynamic behaviors, as well as intelligence.” *Id.* at 12:24-26. The '948 Patent further explains, “the context presented in each touchlet is designed to present only what is important to the user without saturating the user with content he/she does not want or need.” *Id.* at 12:41-44; Ex. 2008 at ¶ [22] (“Each channel may be configured to perform complex functions both in how the information is synthesized and delivered as well as what the user may do with it (as may be driven by the identify and authorization granted to the user).”).

The '948 Patent also discloses accessing and interacting with “secure user-centric information.” '948 Patent at 5:50-59. Examples of secure user-centric information include “one or more secure email services, one or more secure banking and/or financial accounts, one or more secure web-services accounts, and the like.” *Id.* at 15:65-16:1. The '948 Patent describes improving the operation of a user's system by managing the access rights and user authorization for the different channels, thereby allowing information from different applications, including secure information, to go directly to the user. *Id.* at Abstract. The '948 Patent further describes authorizing the channels so that the necessary secure information can be displayed directly to the user through the channel, rather than through a separate application. In particular, the specification describes a channel grid framework that

“[i]mplement[s] authorized channels through which the user receives and/or interacts with secure user-centric information.” *Id.* at Fig. 7A.

The '948 Patent, and the parent application it claims priority to, also include descriptions of alerts that can be used to notify a user of changes in response to secure user-centric information in the channels. *Id.* at Abstract; *see also*, Ex. 2008 at ¶ [0039]. These alerts are an additional way that the systems were improved to give the user the information they need in a timely manner.

III. THE BOARD SHOULD DENY INSTITUTION UNDER 35 U.S.C. § 314(a)

The Board should exercise its discretion to deny institution under 35 U.S.C. § 314(a) and *Apple Inc. v. Fintiv, Inc.*, No. IPR2020-0019, Paper 11 (P.T.A.B. Mar. 20, 2020) (precedential) (“*Fintiv*”) because the *Fintiv* factors overwhelmingly support denying institution. Moreover, the Board “retains discretion to deny institution for proceedings where abuse has been demonstrated.” Ex. 2005 at 4. The Board should exercise its discretion to deny institution.

A. *Fintiv* Factor 1: There is Little to No Likelihood That a Stay Would be Granted in District Court

Fintiv Factor 1 weighs in favor of discretionary denial because no motion to stay the case is pending, and Petitioner has presented no evidence that Judge Gilstrap would grant a stay if a trial is instituted. In fact, Judge Gilstrap frequently denies stays in such cases. Ex. 2001, *Netlist, Inc. v. Micron Tech., Inc.*, Civ. No. 2:22-cv-

00294JRG, Dkt. 72 (E.D. Tex. Mar. 12, 2024) (denying motion to stay pending instituted IPRs); Ex. 2002, *Netlist, Inc. v. Samsung Elec. Co.*, Civ. No. 2:22-cv-00293JRG (“*Netlist-Samsung*”), Dkt. 180 (E.D. Tex. Oct. 17, 2023) (denying motion to stay pending instituted IPRs); Ex. 2003, *Netlist-Samsung*, Dkt. 689 (E.D. Tex. Mar. 11, 2024) (same).

B. *Fintiv* Factor 2: The District Court’s Scheduled Trial Date is Roughly Six Months Before the Expected Date of Any Final Written Decision

Fintiv Factor 2 weighs in favor of discretionary denial because trial is scheduled to begin in the co-pending litigation on October 6, 2025, six months before a final written decision is due in the case. Ex. 2006 at 1. The median time to trial in the Eastern District of Texas, where the parallel proceeding is pending, is 21.9 months. Ex. 2004. According to that metric, the parties can expect trial to begin on December 12, 2025, which is roughly four months before a Final Written Decision would be expected in this case. Accordingly, the Board should exercise its discretion to deny institution in order to avoid duplication of efforts and “potentially conflicting outcomes.” Ex. 2005 (June 21, 2022, PTAB Interim Procedure for Discretionary Denials) at 5.

The Board routinely exercises its discretion to deny institution even when the period between the scheduled trial date and the projected deadline for a final written decision is far less than the four- or six-month period in this case. *See Samsung*

Display Co. v. Pictvia Displays Int'l Ltd., No. IPR2024-00855, Paper 12 at 2, 8-9 (P.T.A.B. Nov. 19, 2024); *see also, e.g., NXP USA, Inc. v. Impinj, Inc.*, No. IPR2021-01556, Paper 10 at 7-8 (P.T.A.B. Apr. 21, 2022) (two months between the scheduled trial and the deadline to reach a final written decision weighed in favor of discretionary denial); *eClinicalWorks, LLC v. Decapolis LLC*, No. IPR2022-00229, Paper 10 at 9 (P.T.A.B. Apr. 13, 2022) (one to two months between the scheduled jury trial and the deadline to reach a final decision weighed in favor of denial); *Immersion Sys. LLC v. Midas Green Techs., LLC*, No. IPR2021-01176, Paper 16 at 12-13 (P.T.A.B. Jan. 6, 2022) (three months between the scheduled trial date and the deadline to reach a final decision weighed in favor of exercising discretionary denial).

Given the trial schedule, it does not make sense to have the Board address patentability when it will have already been addressed at the District Court trial, particularly given the overlap of issues and the possibility of conflicting outcomes. Therefore, *Fintiv* factor 2 weighs in favor of the Board exercising its discretion to deny institution.

C. *Fintiv* Factor 3: Significant Investment in the Parallel Litigation Will Have Occurred by the Time the Board's Institution Decision is Due

The parties have already expended a significant amount of investment in the parallel litigation, having served infringement and invalidity contentions and claim

construction terms. By the projected institution date, the parties would have already expended significant time in discovery and will have also filed their joint claim construction statement and have completed the claim construction hearing. *See* Ex. 2006 at 3 (Scheduling Order). In nearly identical circumstances, the Board recently found Factor 3 to be neutral. *Samsung Elecs. Co. v. Empire Tech. Dev. LLC*, No. IPR2024-00896, Paper 15 at 13-14 (P.T.A.B. Dec. 13, 2024).

D. *Fintiv* Factor 4: There is Substantial Overlap Between the IPR Proceeding and the Parallel Litigation

Fintiv factor 4 weighs in favor of discretionary denial because “some of the claims challenged in the petition are also at issue in district court,” and the “petition includes the same or substantially the same claims, grounds, arguments, and evidence” as included in the parallel District Court litigation. *Fintiv* at 12-13. Here, Petitioner challenges every claim of the '948 Patent asserted in the parallel District Court litigation. Ex. 2007, Hannah Decl., ¶¶ 2-3. The Petition also “includes the same or substantially the same claims, grounds, arguments, and evidence” because there is substantial overlap between the primary references and arguments asserted in both forums. *Fintiv* at 12-13.

In the parallel litigation, Petitioner has asserted the WebSphere product, various WebSphere-related documents, and Austin-Lane as allegedly invalidating prior art. Ex. 2007, Hannah Decl., ¶¶ 2-3. Given Petitioner's litigation strategy, even a *Sotera*-style stipulation (which Petitioner has not provided) would result in

the “duplication of work and create the potential for inconsistent decisions.” *Cf. Apple Inc. v. Maxell, Ltd.*, No. IPR2020-00407, Paper 12 at 12 (P.T.A.B. Aug. 11, 2020). Thus, despite Petitioner’s statutory inability to raise the WebSphere product in this IPR, a substantial overlap of issues would remain even if Petitioner filed a *Sotera*-style or any other narrower case narrowing stipulation.

In view of the foregoing, *Fintiv* Factor 4 weighs strongly in favor of the Board exercising its discretion to deny institution.

E. *Fintiv* Factor 5: Petitioner is the Defendant in the Parallel Proceeding

Fintiv factor 5 weighs in favor of exercising discretionary denial because the parties are the same in both proceedings. *Fintiv* at 13-14.

F. *Fintiv* Factor 6: The Petition is Without Merit and SAP has Abused the Process

Fintiv factor 6 weighs in favor of discretionary denial because Petitioner fails to present a likelihood of success, much less “compelling evidence of unpatentability.” See § VII, *infra*; Ex. 2005 (June 21, 2022 PTAB Interim Procedure for Discretionary Denials) at 4-5, 9. Despite relying on thousands of pages of references, Petitioner fails to show a reasonable likelihood that any one of the Challenged Claims is unpatentable and, as such, the Board “has the authority . . . to exercise discretion to deny institution.” Ex. 2005 at 4.

In view of the foregoing, *Fintiv* Factor 6 weighs in favor of the Board exercising its discretion to deny institution.

* * * *

Each of the *Fintiv* factors is neutral or weighs in favor of denying institution, some strongly so. Cyandia respectfully requests, therefore, that the Board deny institution pursuant to 35 U.S.C. § 314(a).

IV. DESCRIPTION OF ALLEGED PRIOR ART

A. The WebSphere References

Petitioner relies on an amalgamation of different references for its Petition. For the independent claims alone, it relies on seven different separate references, with many developed at different times, by different parties, and related to different products. These references, combined, account for over three thousand pages. Of the seven references relied on by Petitioner for its combination, six² are related to the “WebSphere” marketing name, including:

² Although Petitioner states that it relies on “three WebSphere references,” it actually relies on six because the different volumes of WebSphere Everyplace Access (Exs. 1006-1009) were published at different times and concern different versions of the product. *See* Pet. at 32.

1. “IBM Rational Application Developer V6 Portlet Application Development and Portal Tools” published by IBM in August 2005 [Ex. 1004] (“Developer Guide”);
2. “Mastering IBM WebSphere Portal” (“Wiley Book”) published by Wiley Publishing Inc. in 2004 [Ex. 1005];
3. “IBM WebSphere Everyplace Access V5 Handbook for Developers and Administrators: Volume I: Installation and Administration,” (“Everyplace Administration Handbook”) published by IBM in May 2005 [Ex. 1006]
4. “IBM WebSphere Everyplace Access V5 Handbook for Developers and Administrators: Volume II: Application Development,” (“Everyplace Development Handbook”) published by IBM in March 2005 [Ex. 1007]
5. “IBM WebSphere Everyplace Access V5 Handbook for Developers and Administrators: Volume III: E-Mail and Database Synchronization,” (“Everyplace Email Handbook”) published by IBM in April 2005 [Ex. 1008]
6. “IBM WebSphere Everyplace Access V5 Handbook for Developers and Administrators: Volume IV: Advanced Topics,” (“Everyplace Advanced Topics Handbook”) published by IBM in March 2005 [Ex. 1009]

(collectively, “WebSphere References”).

These documents concern at least three different products, including IBM Rational Developer, IBM WebSphere Portal, and IBM WebSphere Everyplace Access for Multiplatform. These documents contain different version numbers and were published at different times. Furthermore, these documents are all user-facing documents and are intended to be consumed by the public. As such, they do not disclose many of the implementation details for the described products.

The WebSphere References also show screenshots from several different devices (e.g., desktop, PocketPC, phone, etc.) that do not display the information in the same manner. For example, the Everyplace Documents (Exs. 1006-1009) show many figures from a mobile device (a PocketPC) with a limited screen size. On these, the images shown take up the entire screen of the device. It is improper to conflate the operation of these different devices and they are not shown to operate or show information in the same way.

The WebSphere References discuss different applications and systems that were available through IBM. In some cases, they discuss a concept of a “portlet,” which provides a container for users to input their web-based content. Specifically, WebSphere Portal describes portlets as “a framework that lets you plug in new features or extensions.” Ex. 1004 at 8. The WebSphere References disclose that these portlets are items such as lists of public news articles or icons that allow a user to click on them to open up a separate application. *See, e.g., id.* at 49; Ex. 1006 at 30. Thus, the WebSphere portlet provides access to a variety of different content without providing the user a direct means to receive or interact with their information while the portlets are displayed in a matrix. As a result, the claimed receiving and interacting can only occur after a user clicks on the portal to open up a separate application and cannot occur within the matrix.

B. Austin-Lane Reference

Petitioner relies on U.S. Patent Application Publication 2004/0044736 (“Austin Lane”) for its alleged disclosure of how presence information may be used to determine where to direct a particular alert. See Ex. 1010 at Abstract, [0009], [0033]-[0035], [0055]-[0059], [0064], [0077].

V. LEVEL OF ORDINARY SKILL IN THE ART

A person of ordinary skill in the art (“POSITA”) as of May 2008 or May 2009 would have had a Bachelor’s degree in electrical engineering, computer science, or the like, and/or four or more years of experience in server-based applications. Additional experience may make up for a lack of education and vice versa.

VI. CLAIM CONSTRUCTION

A. “channel” (Independent Claims 1, 35, 36)

The term “channel” should be given its plain and ordinary meaning as used within the specification, which is: *a conduit for accessing and interacting with information, comprising a visual component to be presented on the at least one user platform and an integration component on an application server.*

This understanding is established in the ‘948 Patent, which states that “the channel is a conduit for delivering information to a user (e.g., providing access to and interaction with information).” ‘948 Patent at 8:63-66. In the specification, the channels are also described as including a “visualization piece that is presented on

the client device (e.g., user devices 118)” and an “integration piece residing at the server (e.g., application server 110).” *Id.* at 8:66-9:3. This further supports the construction of the term, “channel” as it would be understood by a POSITA in the context of the ‘948 Patent.

The ‘948 Patent’s channels include a visual component (presented on the user’s device) for displaying visual information to a user. For example, a channel may present streaming video, environmental monitoring, enterprise resource planning information, or any other suitable information. *Id.* at 8:66-9:3. The ‘948 Patent’s channels also include an integration component that extends interactive application functionality to the channels while they are being presented in the channel grid framework. *Id.* at 5:50-53 (“[T]he channel grid framework includes multiple user-selectable items that provide access to corresponding ‘channels’ by which respective portions of user-centric information are delivered to a user.”), 8:66-9:3 (“With respect to the PID application 112, the channel two pieces (1) a visualization piece that is presented on the client device (e.g. user devices 118) and (2) the integration piece residing at the server (e.g., application server 110)”), 12:41-44 (“[T]he content presented in each touchlet is designed to present only what is important to the user without saturating the user with content he/she does not want or need.”).

U.S. Patent No. 8,499,250, a parent of the '948 Patent, explains that “channels may be preconfigured and may contain any information format.” Ex. 2009 (the “'250 Patent”) at 4:6-7. The specification of the '250 Patent continues by describing a broad array of different types of channels showing different information, such as those for stream video, audio, environmental monitoring, enterprise resource planning information, etc. *Id.* at 4:7-20.

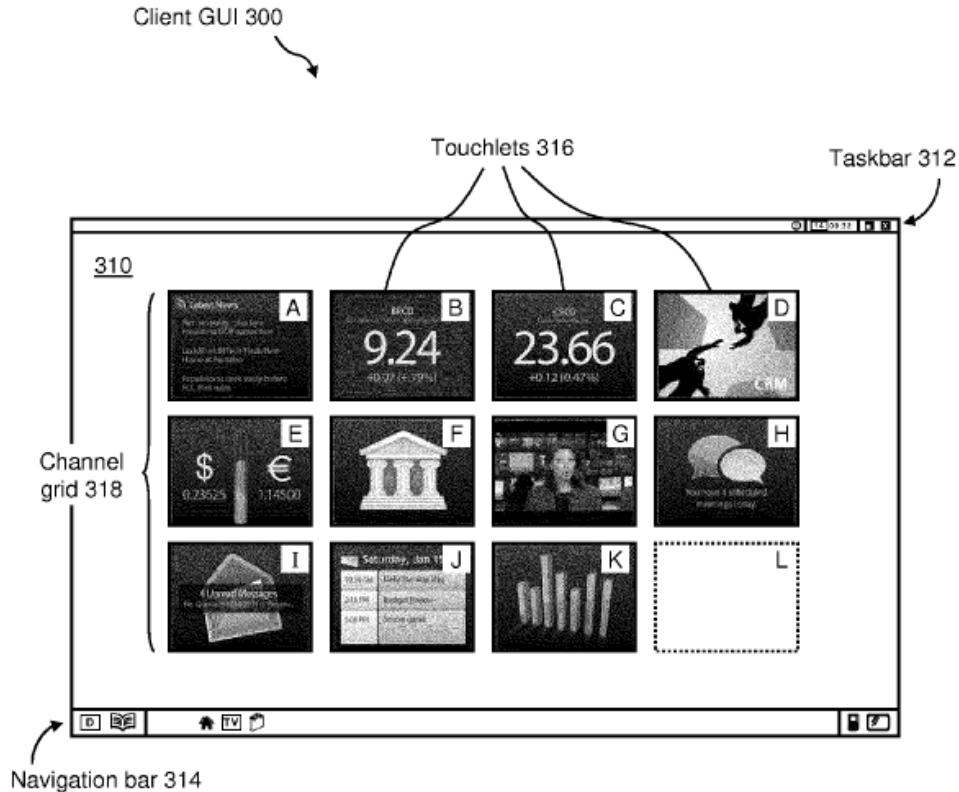
The Petitioner's proposed construction, “*a mechanism for providing the user access to and interaction with the user-centric information, comprising a visual component presented on the at least one user platform and an information delivery component on a server,*” is inconsistent with intrinsic record because it changes the descriptions and names of different components. Petitioner cites a section of the '948 Patent that describes a “visualization piece that is presented on the client device (e.g., user devices 118)” and an “integration piece residing at the server (e.g., application server 110)” to support its proposed construction, but it inexplicably changes the language to “information delivery components on a server.” '948 Patent at 8:66-9:3. It is not clear what Petitioner means to encompass with this language and gives no reason for altering the language used in the specification.

As such, Patent Owner's plain and ordinary meaning of the term should be adopted, and Petitioner's construction should be rejected.

B. “A matrix of a plurality of authorized channels through which the user receives and/or interacts with, via the at least one user platform, respective portions of the secure user-centric information” (Independent Claims 1, 35, 36)

The phrase “a matrix of a plurality of authorized channels through which the user receives and/or interacts with, via the at least one user platform, respective portions of the secure user-centric information” should be given its plain and ordinary meaning of: *a matrix of a plurality of channels available through the user platform that allow the user to receive and interact with the secure user-centric information presented through the matrix of authorized channels.* This plain and ordinary meaning stems directly from the plain language of the claim and merely clarifies that the user can receive and interact with secure user-centric information while viewing the channel in the matrix view (rather than clicking on an icon to call up a separate application).

Figure 12 of the '948 Patent illustrates an exemplary matrix of channels:



‘948 Patent at Fig. 12. This understanding is in the claim language and confirms that the secure user-centric information must be received or interacted with through a “channel” in the matrix, as opposed to through calling up a separate application (such as by clicking an icon). The specification of the ‘948 Patent confirms this construction in Figure 12, showing that the visual portions of the channels (labeled in the image as “touchlets”) are within the matrix on the Client GUI 300 and that they deliver user-centric information through this matrix interface. ‘948 Patent at 9:25-29 (describing the visual component of the channel being the touchlet).

As shown, the channels in the matrix interface deliver information specific to the user, like their chats, videos, and alerts. *See id.* at 12:1-11 (describing how the

touchlet can display dynamic data for the channel). As stated in the claim language, the channels allow for the interaction with or display of secure user-centric information within the matrix view. This understanding is further supported by step 710 in Figure 7A of the '948 Patent, which provides the first step in creating the matrix of channels is to “[i]mplement authorized channels through which the user receives and/or interacts with secure user-centric information.” *Id.* at Fig. 7A, 710. Only in the later step of 712 are the channels monitored for events, showing that the user-centric information is displayed through the channels themselves when they are first implemented in the matrix.

This claim meaning is further established by the 2008 provisional, which discloses that a channel may be “a dynamic window that provides access to specific data from an enterprise application(s)—could be from ERP or a Mashup from various systems to display unique attributes.” Ex. 2010 (U.S. Provisional 61/052,765) at 18. The 2008 provisional also states that a channel can be used to show user-centric information like alerts and real-time streaming of media content, and includes a figure labeled with a matrix of channels that display user-centric information like video feeds. *Id.* at 18-19.

While Cyandia's proposed construction is similar to the claim language as written, it is proposed because Petitioner misapplies this phrase throughout its Petition. In particular, the Petitioner points to disclosures describing generic icons

that do not display or allow for interaction with secure user-centric information within the channel grid framework. Pet. at 47-50. Petitioner's interpretation is inconsistent with the plain language of the claim, which requires the interactive display of secure, user-centric information on the channel while it is in the matrix. As discussed above, the '948 Patent includes descriptions of displaying information through these channels without needing to call up further functionality from an application.

Furthermore, while the specification of the related '250 Patent (the parent of the '948 Patent) does disclose an example where channels can be implemented through "static icons which may activate further functions and full motion multimedia," this is an example embodiment and does not change the claim requirement of a channel providing functionality with respect to the secure user-centric information in the matrix. '250 Patent at 6:32-40. As noted above, the plain claim language states that the "secure user-centric information" can be received and interacted with through "a matrix of a plurality of channels," and not solely through pulling up a separate application.

As such, Cyandia respectfully requests that the Board adopt its proposed construction of this term and reject Petitioner's tacit, overbroad interpretation.

VII. THE CHALLENGED CLAIMS ARE PATENTABLE

A. Neither WebSphere Portal nor Austin-Lane Expressly or Inherently Discloses Element [1.5]

The Petitioner has not established that its combination of the WebSphere References and Austin-Lane disclose channels that: (1) allow for receiving or interacting with secure user-centric information that is based on the user's access rights or security protocols or (2) are authorized before being in the matrix. Instead, Petitioner relies on the display of public information and the display of icons to meet this limitation. However, the display of icons does not meet this element because they do not show secure user-centric information, *e.g.* information that requires specific access rights from the user or based on the security protocols of the user's company. See '948 Patent at 15:65-16:1 (Describing the security protocols for the channels by stating "[f]or example, the user 116 may have one or more secure email services, one or more secure banking and/or financial accounts, one or more secure web-services accounts and the like.").

1. The WebSphere References Do Not Disclose a Matrix of Channels

Petitioner has not established that the art of record discloses the claimed matrix of channels. Instead, Petitioner points to a portlet webpage that aggregates non-secure, non-user-centric hyperlinks or displays a bank of static icons, which provide access to corresponding applications. Pet. at 49-50. Neither implementation

satisfies the claim language because the alleged “channels” do not show or allow interaction with secure user-centric information in a channel grid framework.

The '948 Patent distinguishes the invention from traditional feeds and static icons that do not receive and/or interact with user-centric information through channels in a matrix. '948 Patent at 12:24-26 (“Unlike standard icons and windows that are static and have little or no built-in intelligence, touchlets 212 have both static and dynamic behaviors, as well as intelligence.”); *id.* at 12:41-44 (“[T]he context presented in each touchlet is designed to present only what is important to the user without saturating the user with content he/she does not want or need.”); Ex. 2008 at ¶ [22] (“Each channel may be configured to perform complex functions both in how the information is synthesized and delivered as well as what the user may do with it (as may be driven by the identify and authorization granted to the user).”).

Petitioner's argument that a portal page or portlets meet this element is inconsistent with these distinctions because they merely represent traditional feeds (e.g., lists of public links) or non-interactive icons for mail, contact, calendar, etc. that do not allow for receiving or interacting with secure user-centric information while they are in the matrix.

Petitioner relies on figures for portlets that show that they provide no intelligence in the presentation of secure user-centric information as defined in the specification, and established in the claim language. '948 Patent at 11:59-63

(“Presentation of channel grids may change based upon user content or preferences. Generally, PID application 112 is capable to combine, screen and/or synthesize information in any way to present information in an intelligent manner to the user.”). Thus, this further establishes that the claim language of Element [1.5] is not disclosed by lists of links that do not provide the secure user-centric information that can be received or interacted.

Petitioner's Portlet Figure 2-1 in the Developer Guide Reference does not disclose this limitation because it consists of a collection of public links (not secure) that provide little to no intelligence based on the access rights of the user and do not allow the user to “receive” and “interact” with secure user-centric information:

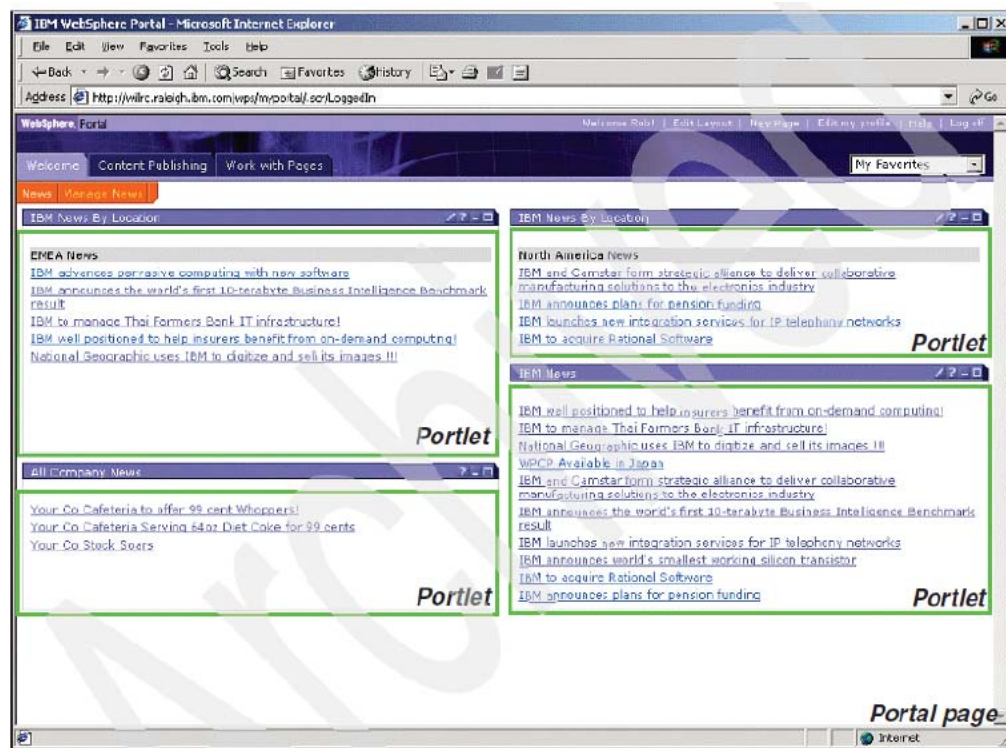


Figure 2-1 Portal page and portlets

Pet. at 49 (citing Developer Guide, EX 1004, 49). There is no showing that the information shown in these links is “secure user-centric information,” at least because it is a list of public links that are not disclosed to be sent from a secure server.

Next, both Cyandia and Petitioner's proposed constructions of “channel” require that the channel is able to both “receive” and “interact” with information, and, therefore, even if the links were “secure user-centric information,” they are public URL links to news articles that only allow for “receiving” information, and are not shown to allow any type of interaction with the information. Certainly, even if these links were clicked on to pull up the news article, there is no interaction with the portlet itself as this would be done in a separate display separate from the portlets in the portal page.

Petitioner also mixes and matches disclosures from different references related to a PocketPC implementation. However, these disclosures are based on a device with a limited screen and that does not describe channels as in the claim. For example, Petitioner's use of Figure 2-1 from the Everyplace Advanced Topics Reference does not disclose this limitation because it shows generic links that do not show receiving or interacting with secure user-centric information.

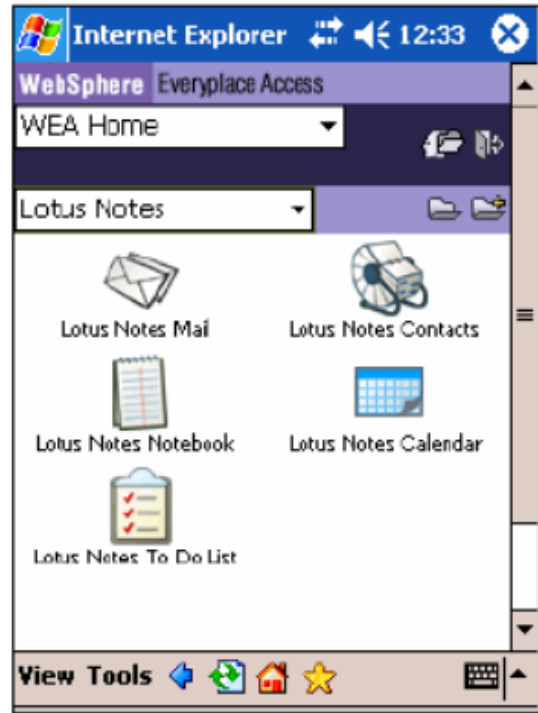


Figure 2-1 Lotus Notes PIM and e-mail portlets

Pet. at 50 (citing Everyplace Administration Handbook, Ex. 1006 at 30). These links cannot meet the required claim limitation because they would be the same for any user of the system and the icons are simply generic links to call the referenced applications.

Petitioner's argument that the user-centric information is displayed through the annotator's use of a separate pop-up application—such as providing a stock ticker—has not been shown to be available to display within the matrix and allow interaction with secure user-centric information. Pet. at 51. As an initial matter, the primary figure Petitioner relies on shows the annotated test portlet as a separate screen, and not as part of a matrix.



Figure 9-35 Portlet view after applying the annotator

Everyplace Development Handbook, Ex. 1007 at 287.

This image relied on by the Petitioner does not establish that this information is shown within the matrix, and similarly does not show that it is based on any access rights of that user, as required by the claims. Pet. at 51-52; Everyplace Development Handbook, Ex. 1007 at 287. Furthermore, there are disclosures showing that this type of information is only available after a portlet has been clicked on and when the annotator has been applied. Everyplace Email Handbook, Ex. 1008 at 182-183 (“Click each portlet icon to see the content of the portlet.”). This click and open type operation is also shown in other sections of the Everyplace Developer Handbook and supports that this is the correct interpretation of the figure referenced by Petitioner.

For example, the image below shows that the annotated portlet is provided first as an icon on the screen, and then, after it is selected, a full-screen view of the stock information will be presented on a separate full screen. This is confirmed by the description provided just above the image, which states that “11. Double-click

PDA_Annotate1 portlet. You will see the clipped IBM Stock price.” Ex.1007 at 320.

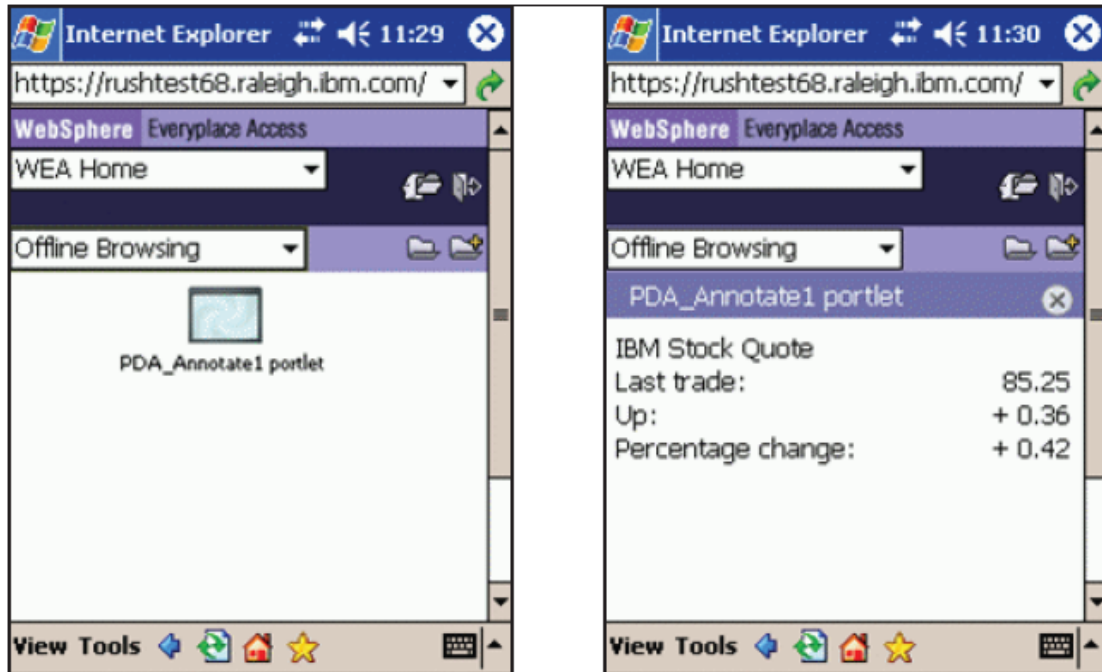


Figure 10-18 Running the portlet online

Everyplace Development Handbook, Ex. 1007 at 321. Therefore, there is no disclosure of the “annotated” portlet within a matrix as required by the claims. Furthermore, even if it was part of the matrix, nothing in the annotated portlet shows that the user is allowed to “interact” with the public stock data presented.

Petitioner also fails to disclose that the WebSphere References annotator is described as being meant to be a full-screen display of the Portlet as seen in Figure 9-46. As shown in the image below, this information is disclosed to be displayed on a screen separately, and not as part of the matrix.



Figure 9-46 Results and WAP device view

Everyplace Development Handbook, Ex. 1007 at 293 (providing the Annotation Test Portlet on the right and how the portlet is displayed on a WAP device on the left).

Petitioner also tries to use Figure 1-36 to show a portlet with information that the user can receive and/or interact with. But this figure does not show a matrix of channels and does not show the display of “secure user-centric information.”



Figure 1-36 Stock notification details

Everyplace Advanced Topics Handbook, Ex. 1009 at 48 (showing a notification provided by the WebSphere Portal). Similar to the Annotator portlet, this notification is not shown through “a matrix of a plurality of authorized channels” as

the '948 Patent requires. Rather, it is a singular notification that is provided to the user, as seen in Figure 1-38, where all that is disclosed is a full-screen notification message.



Figure 1-38 Stock notification in the BlackBerry emulator

Ex. 1009 at 50 (showing how the notification is provided to the user).

Additionally, the stock ticker data is not shown to be “secure” because it is not sensitive or otherwise confidential information envisioned by the ‘948 Patent. The ‘948 Patent describes examples of this type of information as “one or more secure email services, one or more secure banking and/or financial accounts, one or more secure web-services accounts, and the like.” ‘948 Patent at 15:65-16:1. The ‘948 Patent then further states that these are the “user’s secure accounts” that are associated with the user’s identity. *Id.* at 16:1-11. Public stock information is not disclosed to be secured, *e.g.*, from a secured user account or server.

Petitioner attempts to argue that everything in the portlets is “secure” because there is a disclosure of using SSL or encrypted communications within the WebSphere References and because WebSphere discloses a login screen. Pet. at 41. First, that anything using “SSL or encrypted communication” is secure is not supported by the specification and is inconsistent with how the specification discusses secure information, as discussed above. Petitioner provides no support from the ‘948 Patent for its understanding. Furthermore, just because the WebSphere references disclose an initial login screen, does not mean the data displayed is “secure” within the context of the claims because the specification specifically calls out types of certain information in “secure” accounts. Pet. at 41. Furthermore, the claim language requires that the user-centric information itself be “secure.” Simply logging into a system that displays public data does mean or imply that the channel displays or allows interaction with “secure” information.

Accordingly, while the ‘948 Patent does disclose a “stock ticker” as an exemplary channel, it does not describe the stock price information as “secure” information. *See, e.g.*, ‘948 Patent at 24:4-62. Instead, the specification discloses that a stock ticker relies on pulling together public information, such as from different web services like “Yahoo! Finance.” *Id.* at 24:48-62. This shows that the “stock ticker” example that is discussed by Petitioner, does not relate to the embodiments claimed in the ‘948 Patent that requires “secure user-centric

information.” This understanding that the “secure” in this requires that the information is not public and is of the type that requires security is further supported by the claims themselves, which always refer to the channels as “authorized” and note that they are “based at least in part on information access rights and/or security protocols respectively associated with the plurality of authorized channels” ‘948 Patent at Element [1.5]. As such, the Petitioner’s discussion of a “stock ticker” does not support its conclusion that this element is disclosed.

As a result, Petitioner again fails to show how the stock notification can be included in “a channel grid framework including a matrix of a plurality of authorized channels” as required by the ’948 Patent.

2. There is Not Disclosure of the Claimed “Authorized” Channels in a Matrix

Petitioner also failed to establish that the channels are “authorized” when they are displayed in a matrix as part of the channel grid framework displaying secure user-centric information. See ‘948 Patent at Claim 1. In particular, there is no analysis by the Petitioner or identified disclosure showing that portlets are described in the WebSphere References as being authorized before they are displayed within a portal page. Pet. at 54-58.

Instead, Petitioner appears to assume that because the system describes an initial login screen, this means that the portlets are authorized. Pet. at 56. However, an initial login requirement does not imply that any of the portlets on the portal page

are authorized, let alone authorized before they are displayed. For example, the Developer Guide (Ex. 1004) specifically discloses that a session is not created for a portlet until “the user initially accesses a portlet....” Ex. 1004 at 124. As the WebSphere references show that portlets are displayed to the user before they are accessible, this indicates that they are not authorized until after the user attempts to access them and a session is created. Accordingly, while Petitioner cites the WebSphere Everyplace Access Login and the Sametime Connect messaging login as showing authorized channels, the cited disclosure only shows a log-in screen for the entire system, not the authorization of specific portlets. Pet. at 56-57.

The Sametime Connect login also does not support authorization of a channel when it is displayed in a matrix because it does not show that this login is performed at the channel level to determine if a portlet will be displayed. Instead, this application is displayed and then can be logged into if selected. Ex. 1006 at 377-378. This is consistent with how Sametime Connect is described as a separate product and not as a portlet built into the portal page as a portlet. Pet. at 57; Everyplace Administration Handbook, Ex. 1006 at 16 (“Provides mobile access to the server-based Lotus Sametime service . . . Sametime Server is a separately available product and is not included in the Everyplace Access products.”). This conclusion is further supported by the Everyplace Administration Handbook, which

shows “Sametime Connect” as a separate application in the “Programs” folder accessed by selecting the Sametime Connect icon:

1. Select **Start** → **Programs** and then select the **Sametime Connect** icon, as shown in Figure 10-2.

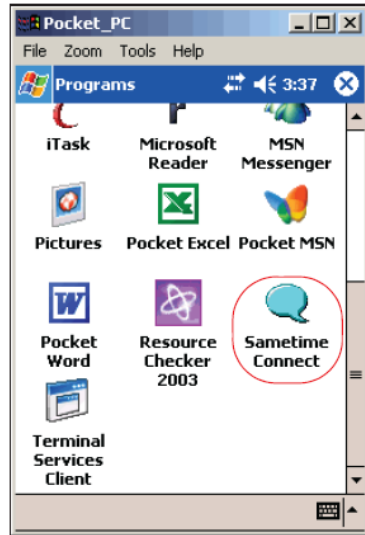


Figure 10-2 Starting Sametime on Pocket PC

Ex. 1006 at 377.

Petitioner also fails to show how the data retrieved from Sametime messaging is displayed by the portlets in such a way that the user can receive or interact with the data. Rather, Petitioner argues that “the user’s access rights are portlet-specific” without any further explanation or clarification. Pet. at 57. In particular, there is no showing that Sametime messaging is authorized when displayed in the portal page. Finally, Petitioner’s argument that there are access rights assigned to a user’s role does not change that there is no disclosure that the channels are authorized when part of the channel grid framework. Pet. at 57-58. Furthermore, the roles identified do not indicate that they are relevant to any portals that are displayed.

For these reasons, Petitioner's arguments fail because they do not show that the channels are authorized as required by the Challenged Claims.

For at least the reasons described above, WebSphere does not meet independent claim element [1.5] because of WebSphere's lack of disclosing a "matrix of a plurality of authorized channels through which the user receives and/or interacts with, via the at least one user platform, respective portions of the secure user-centric information" as required by the '948 Patent.

B. The WebSphere References Do Not Disclose Service Support Instructions that Determine How Secure, User-Centric Information Behaves in a Channel

Petitioner has also not established that WebSphere References disclose "establishing a user profile to identify user preferences, platform identities, and service support instructions that determine how the secure user-centric information behaves on the at least one user platform" because there is no disclosure of a user profile with service support instructions that determine how the secure user-centric information behaves on the at least one user platform. '948 Patent at Claim 1; Pet. at 62.

For this element, Petitioner does not point to any specific instructions, but alleges that they would have been understood or obvious given the functionality disclosed in WebSphere and statements that it provides a "consistent look and feel."

Pet. at 62. However, the claim language requires more than providing a “consistent look and feel,” it requires instructions that specify how specific secure user-centric information behaves on the user platform (e.g., a computer, phone, etc.). Nothing in the WebSphere references, or Petitioner’s arguments regarding the same, discloses a user profile storing instructions that dictate how secure user-centric information behaves on a platform. *See* Pet. at 59-63.

Nor does Petitioner explain how or why achieving a “consistent look and feel” would require such service support instructions. Pet. at 61-63. Indeed, Petitioner does not point to any “instructions” responsible for achieving a “consistent look and feel,” it points to “user preferences” within the user profile. Pet. at 61 (“As another example of user preferences, the WebSphere references describe how the user can select themes, which dictate ‘the overall look and feel of the portal,’ and skins, which dictate ‘the look and feel of each portlet.’”). Accordingly, Petitioner has not shown how there is any disclosure of “service support instructions that determine how the secure user-centric information behaves on at least one platform of the plurality of user platforms” as used within the claims.

To overcome this deficiency, Petitioner states that “[w]hen developing Portal pages, [r]endering of page components is done using JSPs, images, style sheets, and other resources.” Pet at 61. These are recitations of standard markup languages that would modify the style of the website. These markup languages are not meant

to synthesize or screen information based on secure user-centric information. The support instructions for the '948 Patent allow the information to be user-centric by screening and/or synthesizing the information, so the user can receive the information that is most relevant to their user profile. See '948 Patent at 11:59-63, 12:24-26, 12:30-35, 12:41-44.

The '948 Patent's support instructions are not meant to customize the "overall look and feel of the portal," as the Petition alleges. The Petition does not show the specific requirements of including instructions in a user profile that tie secure user-centric information with how it is displayed on the specific platform. Further, WebSphere References provide that "[p]age aggregation is the process that collects information about the user's choices, the device being used and selected portlets, then takes that information and combines it to create a display that is appropriate for the device." See Pet. at 62; Developer Guide, Ex. 1004 at 27.

Unlike the '948 Patent, there is no intelligence or complex action done by the WebSphere Portal. Rather, the WebSphere portal takes information from multiple sources, such as multiple icons, and displays it to the user without disclosing any intelligence, such as combining, screening, or synthesizing. Importantly, WebSphere is not disclosing that there are "service support instructions that determine how the secure user-centric information behaves on the at least one user platform."

For at least these reasons, Petitioner has not established that the WebSphere references disclose or suggest “establishing a user profile to identify user preferences, platform identities, and service support instructions that determine how the secure user-centric information behaves on the at least one user-platform,” as recited in each independent claim of the '948 Patent.

VIII. CONCLUSION

For all of these reasons, Patent Owner accordingly requests that the Board deny institution of *inter partes* review of the Challenged Claims of the '948 Patent.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH 37 C.F.R. § 42.24

The undersigned hereby certifies that the portions of the above-captioned **PATENT OWNER'S PRELIMINARY RESPONSE** specified in 37 C.F.R. § 42.24 has 7,465 words in compliance with the 14,000 word limit set forth in 37 C.F.R. § 42.24(b)(1). This word count was prepared using the Microsoft Word word-processing system used to prepare this paper.

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CERTIFICATE OF SERVICE

The undersigned certifies, in accordance with 37 C.F.R. § 42.6(e), and pursuant to agreement by the parties that filing with the Board through the P-TACTS constitutes electronic service if Patent Owner send an email notifying Petitioner of the filing, service was made on the Petitioner as detailed below.

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