

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AKTANA, INC.,
Petitioner

v.

VEEVA SYSTEMS, INC.,
Patent Owner

Case IPR2024-01443

U.S. Patent No. 9,055,023

Title: SYSTEM AND METHOD FOR CONTROLLING
ELECTRONIC COMMUNICATIONS

PETITION FOR *INTER PARTES* REVIEW OF
U.S. PATENT NO. 9,055,023

CHALLENGING CLAIMS 1-8, 10-14, AND 17-25
UNDER 35 U.S.C. § 312 AND 37 C.F.R. § 42.104

TABLE OF CONTENTS

	<u>Page</u>
I. Mandatory Notices.....	1
A. Real Parties-In-Interest.....	1
B. Related Matters.....	1
C. Counsel	1
D. Service Information.....	1
II. Fees	2
III. Certification Of Grounds For Standing	2
IV. Identification Of Challenge And Relief Requested.....	2
A. Identification Of Prior Art.....	2
B. Statutory Grounds Of Unpatentability	4
V. Overview Of The '023 Patent.....	4
A. Purported Invention.....	4
B. Prosecution History	7
VI. Overview of Farnsworth.....	8
VII. Level Of Ordinary Skill In The Art.....	12
VIII. Claim Construction.....	12
IX. Specific Grounds For Challenge.....	12
A. Ground I: Farnsworth in view of Liebenberg	13
1. Claim 1	13
2. Claim 2.....	37

Petition for *Inter Partes* Review of U.S. Patent No. 9,055,023
Claims 1-8, 10-14, and 17-25

3.	Claim 3	38
4.	Claim 4	38
5.	Claim 5	42
6.	Claim 6	43
7.	Claim 7	44
8.	Claim 8	45
9.	Claim 10	45
10.	Claim 11	48
11.	Claim 12	48
12.	Claim 18	49
13.	Claim 19	53
14.	Claim 21	55
15.	Claim 22	56
16.	Claim 24	56
17.	Claim 25	58
B.	Ground II: Farnsworth in view of Liebenberg and Amstutz	58
1.	Claim 5	58
2.	Claim 6	61
3.	Claim 7	62
4.	Claim 17	62
C.	Ground III: Farnsworth in view of Liebenberg and Harrell	64

Petition for *Inter Partes* Review of U.S. Patent No. 9,055,023
Claims 1-8, 10-14, and 17-25

1.	Claim 13	64
2.	Claim 14	67
3.	Claim 19	67
4.	Claim 23	68
D.	Ground IV: Farnsworth in view of Liebenberg and Xu	69
1.	Claim 20	69
X.	Discretionary Factors Favor Institution	82
A.	<i>Fintiv</i> Factors Favor Institution	82
1.	No Evidence Regarding A Stay	82
2.	Parallel Proceeding Trial Date	83
3.	Investment In Parallel Proceeding	83
4.	Overlapping Issues With The Parallel Proceeding	83
5.	Identity Of Parties	84
6.	Other Circumstances, Including The Merits	84
B.	<i>Advanced Bionics</i> Factors Favor Institution	84
C.	<i>General Plastic</i> Factors Favor Institution	85
XI.	Conclusion	85

** All annotations, coloring, and emphases are added unless otherwise noted.

TABLE OF AUTHORITIES

Page(s)

Cases

<i>Allergen USA, Inc. v. Prolenium US Inc.</i> , No. 1:20-cv-00104, Dkt. No. 34 (D. Del. July 16, 2020).....	83
<i>Apple Inc. v. Fintiv, Inc.</i> , 2020 WL 2126495 (PTAB Mar. 20, 2020)	83
<i>Bionics v. MED-EL Elektromedizinische Geräte GmbH</i> , No. IPR2019-01469, 2020 WL 740292 (PTAB Feb. 13, 2020)	85
<i>Godbersen-Smith Constr. Co. v. Guntert & Zimmerman Constr. Div., Inc.</i> , No. IPR2021-00234, 2021 WL 2035091 (PTAB May 21, 2021).....	86
<i>KSR Int'l Co. v. Teleflex Inc.</i> , 550 U.S. 398 (2007).....	31, 61, 67, 79
<i>Nidec Motor Corp. v. Zhongshan Broad Ocean Motor, Co.</i> , 868 F.3d 1013 (Fed. Cir. 2017)	12
<i>PEAG LLC v. Varta Microbattery GmbH</i> , No. IPR2020-01213, 2021 WL 54768 (PTAB Jan. 6, 2021).....	84
<i>Phillips v. AWH Corp.</i> , 415 F.3d 1303 (Fed. Cir. 2005)	12
<i>SITO Mobile R&D IP, LLC v. World Wrestling Ent., Inc.</i> , No. 1:21-cv-00721, 2021 WL 7628181 (D. Del. Dec. 20, 2021)	83
<i>Sotera Wireless, Inc. v. Masimo Corp.</i> , No. IPR2020-01019, 2020 WL 7049373 (PTAB Dec. 1, 2020).....	84

Statutes

35 U.S.C. § 314(a)	4
35 U.S.C. § 325(d):	85, 86
35 U.S.C. §102(a)(1).....	3

Petition for *Inter Partes* Review of U.S. Patent No. 9,055,023
Claims 1-8, 10-14, and 17-25

35 U.S.C. §102(a)(2).....	3
35 U.S.C. §112.....	3

Rules

37 C.F.R. § 42.100(b)	12
37 C.F.R. 42.104(b)(4)-(5).....	12

Petition for *Inter Partes* Review of U.S. Patent No. 9,055,023
Claims 1-8, 10-14, and 17-25

PETITIONER’S EXHIBIT LIST

Petitioner Exhibit No.	DESCRIPTION
1001	U.S. Patent No. 9,055,023 (“’023 Patent”)
1002	Declaration of Dr. Daniel P. Lopresti
1003	File History of the ’023 Patent
1004	<i>Veeva Sys. Inc. v. Tact.AI Techs, Inc.</i> , No. 23-cv-1032 (JFM), Dkt. No. 90 (D. Del. July 11, 2024) (“Amended Scheduling Order”)
1005	United States Patent Publication No. 2014/0208391 (“Farnsworth”)
1006	United States Patent Publication No. 2012/0221663 (“Liebenberg”)
1007	United States Patent Publication No. 2004/0054610 (“Amstutz”)
1008	United States Patent Publication No. 2011/0313828 (“Harrell”)
1009	United States Patent Publication No. 2008/0155025 (“Xu”)
1010	<i>SITO Mobile R&D IP, LLC et al v. World Wrestling Entertainment, Inc.</i> , No 1:21-cv-00721, 2021 WL 7628181 (D. Del. Dec. 20, 2021)
1011	<i>Allergen USA, Inc. v. Prolenium US Inc.</i> , No. 1:20-cv-00104, Dkt. No. 34 (D. Del. July 16, 2020)
1012	Lex Machina Statistics for Time-to-Trial in U.S. District Court for the District of Delaware (Patent Cases) (last accessed Sept. 12, 2024)
1013	Memorandum, “Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court Litigation” (June 21, 2022)

Petition for *Inter Partes* Review of U.S. Patent No. 9,055,023
Claims 1-8, 10-14, and 17-25

Aktana, Inc. the “Petitioner,” requests *inter partes* review of claims 1-8, 10-14, and 17-25 of U.S. Patent No. 9,055,023 (the “’023 Patent”) (EX1001).

I. Mandatory Notices

A. Real Parties-In-Interest

Petitioner identifies itself as a real party-in-interest (“RPI”).

B. Related Matters

The ’023 Patent is currently asserted against Petitioner in *Veeva Systems, Inc., v. Tact.ai Technologies, Inc. and Aktana, Inc.*, No. 1:23-cv-01032 (D. Del.). Petitioner is concurrently filing another petition for *inter partes* review of U.S. Patent No. 9,391,937.

C. Counsel

Petitioner is filing a Power of Attorney appointing the practitioners associated with Customer Number 132,593. Petitioner designates the following lead and back-up counsels:

Lead Counsel	Back-up Counsel
Yung-Hoon Ha (Reg. No. 56,368) Desmarais LLP 230 Park Ave New York, NY 10169 Telephone: (212) 351-3400 Email: yha@desmaraisllp.com	Laura Avena (Reg. No. 78,920) Desmarais LLP 230 Park Ave New York, NY 10169 Telephone: (212) 351-3400 Email: lavena@desmaraisllp.com

D. Service Information

Post and hand delivery: Desmarais LLP

Petition for *Inter Partes* Review of U.S. Patent No. 9,055,023
Claims 1-8, 10-14, and 17-25

230 Park Ave, New York, NY 10169

Telephone: 212-351-3400

Email: AktanaIPRService@desmaraisllp.com

Please address all correspondence to counsel identified above. Petitioner consents to electronic service by email at:

AktanaIPRService@desmaraisllp.com

II. Fees

Petitioner is concurrently submitting the required fees for this Petition. The Board is authorized to charge Desmarais LLP's deposit account, No. 50-6822, for any fee deficiency.

III. Certification Of Grounds For Standing

Petitioner certifies that the '023 Patent is available for *inter partes* review and that Petitioner is not estopped or barred from requesting this *inter partes* review.

IV. Identification Of Challenge And Relief Requested

Petitioner requests *inter partes* review and cancellation of claims 1-8, 10-14, and 17-25 of the '023 Patent.

A. Identification Of Prior Art

The following references are pertinent to the grounds of unpatentability explained below:

1. U.S. Patent Publication No. 2014/0208391 ("Farnsworth") (EX1005),

Petition for *Inter Partes* Review of U.S. Patent No. 9,055,023
Claims 1-8, 10-14, and 17-25

published July 24, 2014, filed March 15, 2013, and having an effective filing date of January 22, 2013, is prior art under 35 U.S.C. §102(a)(2).¹

2. U.S. Patent Publication No. 2012/0221663 (“Liebenberg”) (EX1006) published August 30, 2012, is prior art under 35 U.S.C. §102(a)(1).

3. U.S. Patent Publication No. 2004/0054610 (“Amstutz”) (EX1007) published March 18, 2004, is prior art under 35 U.S.C. §102(a)(1).

4. U.S. Patent Publication No. 2011/0313828 (“Harrell”) (EX1008) published December 22, 2011, is prior art under 35 U.S.C. §102(a)(1).

5. U.S. Patent Publication No. 2008/0155025 (“Xu”) (EX1009) published June 26, 2008, is prior art under 35 U.S.C. §102(a)(1).

¹ The '023 Patent has an earliest possible effective filing date of May 6, 2013, and is subject to AIA statute. Petitioner reserves the right to challenge the earliest priority date and the patentability of claims under 35 U.S.C. §112 in other proceedings.

B. Statutory Grounds Of Unpatentability

Petitioner requests cancellation of claims 1-8, 10-14, and 17-25 of the '023 Patent under 35 U.S.C. § 103 based on the following Grounds.

Ground	35 U.S.C.	Claims	Prior Art References Relied Upon
I	§103	1-8, 10-12, 18, 19, 21, 22, 24, 25	Farnsworth in view of Liebenberg
II	§103	5-7, 17	Farnsworth in view of Liebenberg and Amstutz
III	§103	13, 14, 19, 23	Farnsworth in view of Liebenberg and Harrell
IV	§ 103	20	Farnsworth in view of Liebenberg and Xu

This Petition demonstrates that there is a reasonable likelihood that Petitioner would prevail with respect to at least one of the challenged claims. *See* 35 U.S.C. § 314(a).

V. Overview Of The '023 Patent

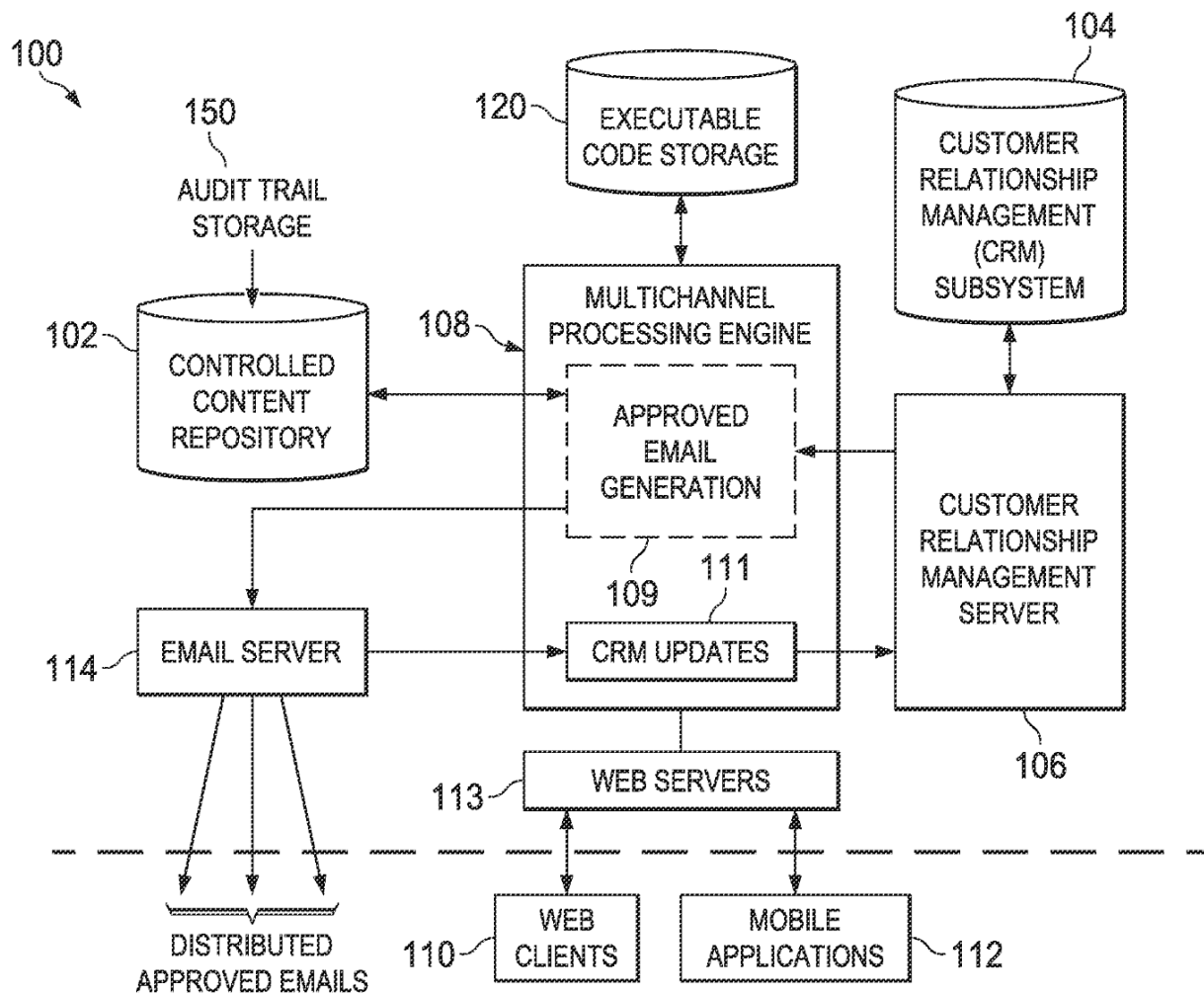
A. Purported Invention

The '023 Patent relates to a “system and method for controlling electronic communications.” EX1001, Title. The '023 Patent purports to solve problems associated with “the risks (regulatory or otherwise) of sending ... electronic communications” utilizing “a system and method for generating an ‘approved’ email communication.” EX1001, 1:26-29, 3:20-21. EX1002, ¶41.

The method involves a sender “access[ing] a list of email templates which have been pre-generated with approved content and then aligned with various customer attributes such as regulatory limitations, [and] customer preferences.”

EX1001, 3:21-24. The approved email is generated by “interfac[ing] between a repository of approved content items and templates along with customer relationship management (CRM) information...” EX1001, 3:28-30. EX1002, ¶42.

A controlled content repository is populated with content built by authorized users. EX1001, 11:26-29. The controlled content repository’s content “may be accessed on a regulated basis and used to generate approved electronic communications.” EX1001, 4:19-20. The “regulated basis may be determined, in part, by ... customer profile information, customer preferences, and regulatory limitations[.]” EX1001, 4:20-26. EX1002, ¶43.



EX1001, Fig. 1.

“The multichannel processing engine 108 may apply” alignment rules to determine which content is available for a recipient and provide the sender with “approved email templates and pieces of content” to “construct an approved email communication.” EX1001, 5:28-31. EX1002, ¶44.

“[M]ultichannel processing engine 108 may be coupled to an email server 114” to distribute the approved emails. EX1001, 3:67-4:1. “[T]he approved email

may be once again checked for accuracy and validity by the system before release to the email server.” EX1001, 3:50-52. Thus, once the approved email is sent from the email server, “the content received and viewable by the customer has been verified ... as being compliant, approved content.” EX1001, 3:57-59. EX1002, ¶46.

B. Prosecution History

The application for the '023 Patent, which included original claims 1-20, was filed on May 6, 2014, claiming priority to U.S. provisional application Nos. 61/820,029 (filed May 6, 2013) and 61/828,034 (filed May 28, 2013). *See* EX1001, Cover, EX1003, 5; 8, 62-65. EX1002, ¶48.

On September 14, 2014, the Examiner rejected all pending claims under §102 over US 2007/0073699 (“Reed”). EX1003, 100-106. EX1002, ¶50.

Applicant’s October 13, 2014 Response amended the pending claims and argued that Reed fails to disclose the new limitation “providing the first item of approved content for selection by a sender after a determination that the first item of approved content is authorized to be made available to the first customer in accordance with the at least one set of alignment rules.” EX1003, 117-124. Applicant also added five dependent claims. EX1003, 122-123. EX1002, ¶¶51-54.

On December 4, 2014, the Examiner issued an Office Action rejecting all pending claims under §103 over Reed and other references. *See id.*, 697-705. EX1002, ¶¶55-56.

Applicant's March 6, 2015 Response further amended the claims. Applicant argued that "establishing an access protocol for the controlled content repository ... providing the first item of approved content within the controlled content repository for selection by a sender after a determination that the first item of approved content within the controlled content repository is authorized to be made available to the first customer in accordance with the at least one set of alignment rules" is "wholly missing" from the combination of the applied references. EX1003, 720-728 (emphasis in original). EX1002, ¶¶57-59.

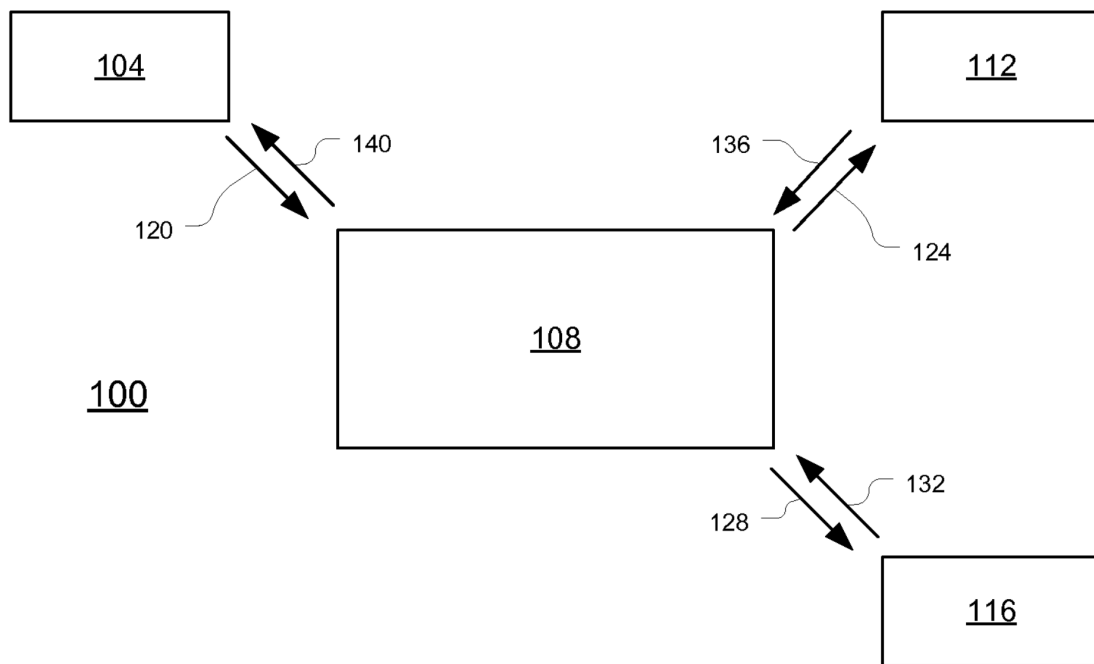
On March 20, 2015, the Examiner issued a Notice of Allowance and the '023 Patent issued on June 9, 2015. EX1003, 738-745, 786; EX1001, Cover. EX1002, ¶60.

VI. Overview of Farnsworth

U.S. Patent Application Publication No. 2014/0208391 ("Farnsworth") discloses "methods, systems and storage media associated with publication of message content." EX1005, Abstract. Like the '023 Patent, Farnsworth recognized the challenge in distributing message content to authorized recipients. *See* EX1005, [0003] ("Traditional efforts ... require[] significant computational resources to provide access and control of the content to be incorporated into the message, as well as human resources to direct the creation of the message."). And like the '023 Patent, Farnsworth describes "generating and transmitting electronic messages

having digital content items to one or more designated recipients at the receipt of a message construct.” EX1005, [0023]. EX1002, ¶66.

Figure 1 illustrates a network “within which a message management service may be employed.” EX1005, [0005], [0024].



EX1005, Fig. 1. Message manager 108 is “communicatively coupled to a receiving device 112” “through one or more communication networks.” EX1005, [0024]. Message manager 108 handles “construction and/or delivery of an electronic message to a recipient.” EX1005, [0025]. EX1002, ¶67.

Figure 4 shows that message manager 108 includes a message management node 404 and an administration console 408. EX1005, [0008], [0047]. EX1002, ¶69.

108

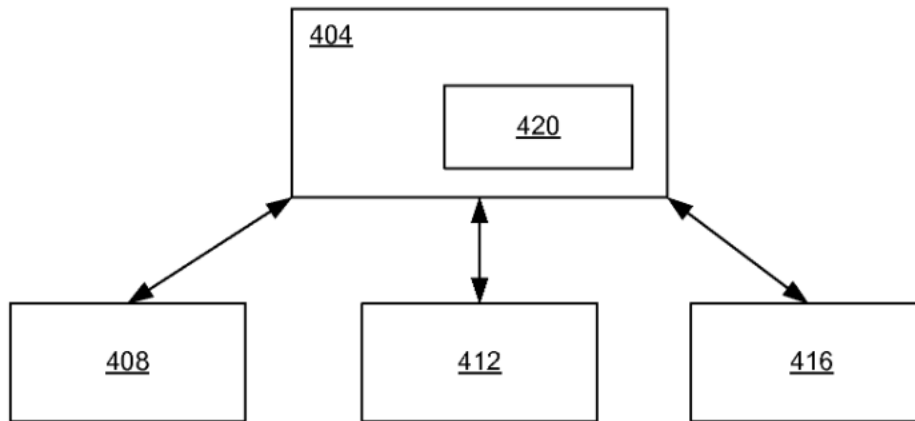


FIG. 4

EX1005, Fig. 4. Administration console 408 provides authoring services “to facilitate creation and/or editing of the message creation specification 420, locally stored content, rules, and other administrative tasks.” EX1005, [0048]. Message management node 404 includes additional components, such as content component 516, as shown below in Figure 5. EX1005, [0009], [0051]. Content component 516 “may include a document repository 532 having, e.g., text and/or binary elements, a media repository 536 having, e.g., audio and/or video elements, suitable to provide accessible storage of the various types of digital content elements.” EX1005, [0057]. EX1002, ¶¶69-71.

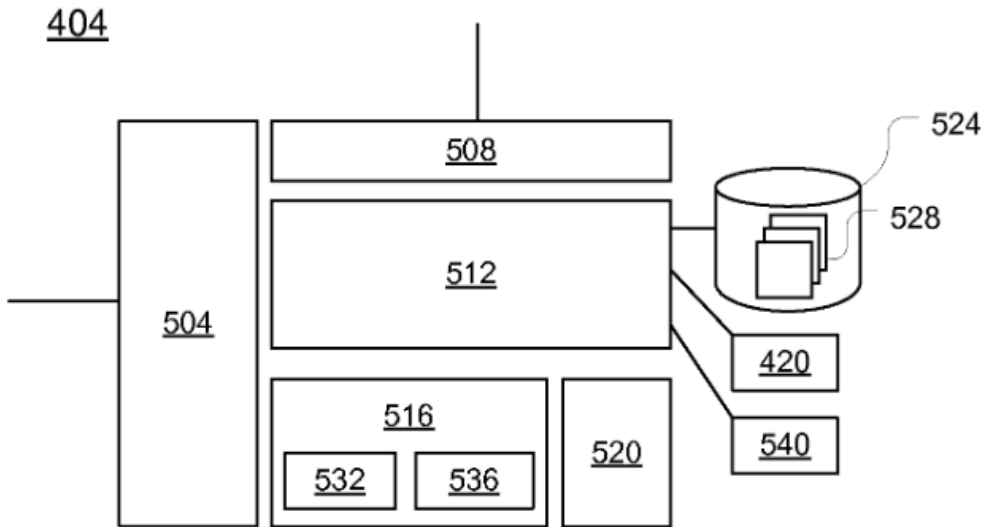


FIG. 5

EX1005, Fig. 5. EX1002, ¶70.

Message management node 404 may also include a message creation component 512 that generates a derived message “according to the message creation specification.” EX1005, [0055]. In some instances, the message may be created using a template from template database 524 “that is suitable for delivery of the digital content element deemed to satisfy the requested content information.” EX1005, [0055]. In addition, message management node 404 further determines whether “an authorized recipient [] is authorized [to receive the created message] based on recipient and or message content information,” based on approval procedures and/or the application of business rules. EX1005, [0080]-[0082]. EX1002, ¶¶71-73.

VII. Level Of Ordinary Skill In The Art

A person having ordinary skill in the art (“POSITA”) would have had, as of the earliest claimed priority date of May 6, 2013, a bachelor’s degree in computer science or a related field, such as computer engineering, electrical and computer engineering, or the like, and a minimum of two to three years of experience related to information management, analytics, and storage; electronic messaging; computer software systems; or software engineering. A higher level of education or specific skill might make up for less experience, and vice versa. EX1002, ¶¶29.

VIII. Claim Construction

The claims should be construed “in accordance with the ordinary and customary meaning of such claims 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); *see also Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (*en banc*). Moreover, the Board “need[s] only construe terms ‘that are in controversy, and only to the extent necessary to resolve the controversy.’” *Nidec Motor Corp. v. Zhongshan Broad Ocean Motor, Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017). Petitioner submits no terms require construction for the purposes of this IPR. EX1002, ¶¶77.

IX. Specific Grounds For Challenge

The sections below, as supported by Dr. Lopresti’s Declaration, demonstrate how the claims are unpatentable. 37 C.F.R. 42.104(b)(4)-(5). EX1002, ¶¶78.

A. Ground I: Farnsworth in view of Liebenberg

1. Claim 1

- i. [1Pre] A machine-implemented method for generating approved electronic messages, the method comprising:

Farnsworth discloses a machine-implemented method (*e.g.*, message manager 108) for generating an approved electronic message (*e.g.*, electronic message 124). EX1002, ¶¶80-86.

First, Farnsworth discloses “generating ... electronic messages.” Farnsworth teaches a message manager 108 that “*generate[s]* an electronic message 124[.]” EX1005, [0026]; *see also* Abstract, [0002]. Electronic message 124² may be “an electronic mail (e-mail).” EX1005, [0028].

² Farnsworth identifies message 124 interchangeably as an “electronic message” and “derived message.” EX1005, [0025-0026].

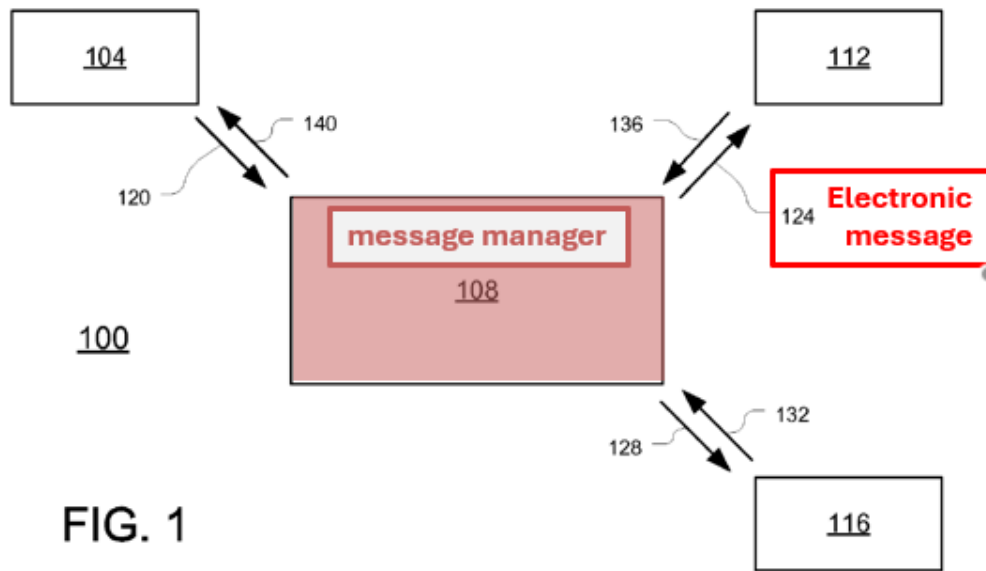


FIG. 1

EX1005, Fig. 1. EX1002, ¶82.

Second, Farnsworth discloses generating an “**approved**” **electronic message 124**. Farnsworth teaches that **message manager 108** contains a “message management node 404 [which] *may obtain approval* for the message.” EX1005, [0084].

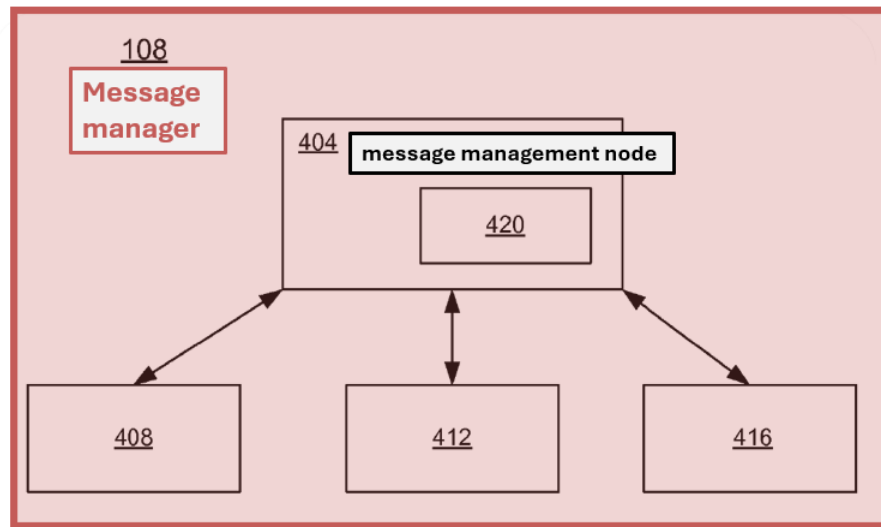
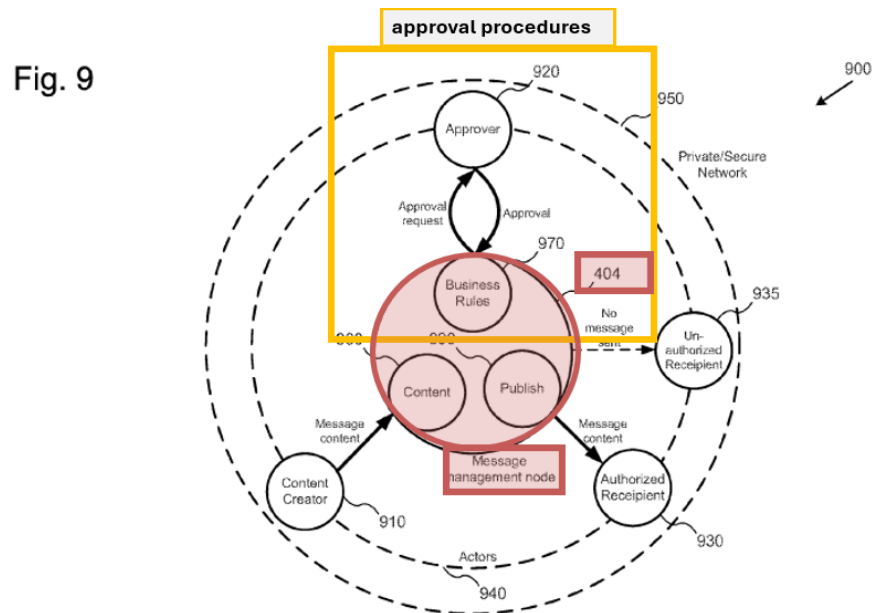


FIG. 4

EX1005, Fig. 4; *see also* Fig. 10. This “message management node 404 may be configured to provide for delivery of messages based on one or more business rules,” using the **approval** procedures, such as depicted in Figure 9. EX1005, [0079]-[0082].



EX1005, Fig. 9; *see also* [0080]-[0082] (“[B]usiness rules 970 may be configured to determine that an authorized recipient 930 is **authorized** ... to receive the particular message content.”) Fig. 12, [0091]-[0093] (“[M]essage management node [404] may provide the message content to the approver actor.... [O]ne or more approvers 920 may **approve** based on message content, content creator identity, or both.”), [0076]-[0078], [0085]. EX1002, ¶¶83-85.

Finally, Farnsworth discloses a “**machine-implemented** method” because Farnsworth teaches using **message manager 108**, which may be represented on various digital systems “to facilitate creation and/or transmission” (*i.e.*, generation) of electronic messages, including “wireless mobile phones, palm sized personal digital assistants, notebook computers, desktop computers, servers, set-top boxes, game consoles and the like.” EX1005, [0029]-[0030]; *see also* [0035], [0084]. EX1002, ¶86.

- ii. [1A] establishing a **controlled content repository**, the **controlled content repository** being **securely** and **controllably accessed**;

Farnsworth discloses establishing a **controlled content repository** (*e.g.*, **content component 516**), the controlled content repository being **securely** and **controllably accessed** (*e.g.*, through **secure** networks and **authoring services** for an **authorized administrator** to create and access content). EX1002, ¶¶87-91.

First, Farnsworth discloses “establishing a ... **content repository**.” Farnsworth’s message management node 404 “may include ... a **content component 516**” used to store digital content elements. EX1005, [0051], [0057]. Farnsworth teaches the creation of such stored content through authoring services “to facilitate creation and/or editing of ... locally stored content.” EX1005, [0048]; *see also* [0052]-[0053]. EX1002, ¶88.

Second, the creation of this content is “**controlled**” through administration console 408,³ which “may provide authoring services for an authorized administrator.” EX1005, [0048]. Farnsworth teaches that such controlled digital content may be locally maintained in **content component 516**, which “include[s] a document repository 532 having, e.g., text and/or binary elements, a media repository 536 having, e.g., audio and/or video elements, suitable to provide accessible storage of the various types of digital content elements.” EX1005, [0057]; *see also* [0052]-[0053].

³ Administration console 408 is a component of message manager 108 that is coupled to message management node 404. EX1005, Fig. 4, [0047]. EX1002, ¶89.

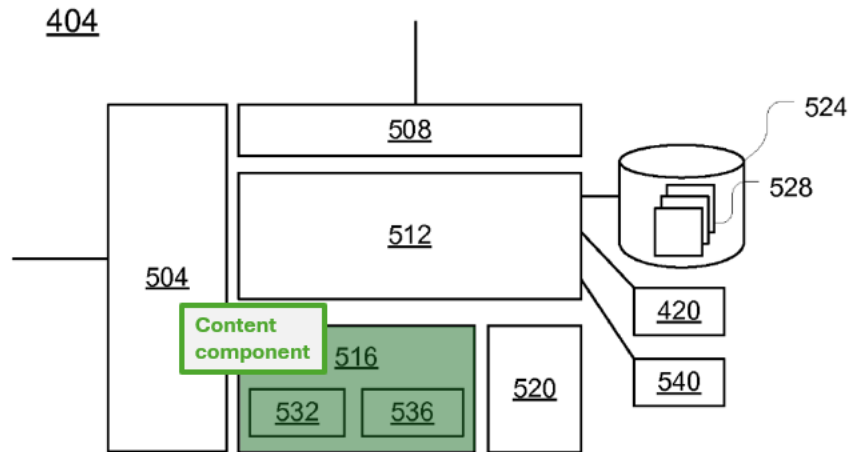


FIG. 5

EX1005, Fig. 5; *see also* [0080] (“[C]ontent creator 910 may provide message content to one or more content modules 980 of the message management node 404.”). EX1002, ¶¶88-89.

Third, Farnsworth teaches accessing **content component 516** “**securely**.” Farnsworth teaches that “network interactions,” which include accessing **content component 516**, may take place in a **secure network**. EX1005, [0077] (“In various embodiments, *network security may be provided via various means*, including, but not limited to, **virtual private networks**, **encryption** of wireless network communication, encryption of messages use of wired networks, and/or **authentication** of one or more actors involved in message activities such as message creation, publication, provision, delivery, and/or receipt. **Security** may additionally be provided ... through permission-based provisioning of message content.”);

[0080] (“[M]ulti-point publication system 900 may ... interact with various actors 940 in a private and/or **secure** network 950[.]”); *see also* [0078]. EX1002, ¶90.

Fourth, Farnsworth’s **content component 516** is also “controllably accessed,” such as “through **permission-based** provisioning of message content.” EX1005, [0077]. For example, Farnsworth’s “administration console 408 may provide **authoring services for an authorized administrator**. The authoring services may include services to facilitate creation and/or editing of ... locally stored content,” which includes information stored in **content component 516**. EX1005, [0048]. In other words, Farnsworth teaches use of “authoring services for an authorized administrator” (*e.g.*, “**controlled**” authoring), as well as maintenance of authorized message content and approval procedures (*e.g.*, “**controlled**” content), including use of a “rules component 520.” EX1005, [0048]; *see also* [0068], [0080]. EX1002, ¶91.

iii. [1B] establishing an **access protocol for the controlled content repository**

Farnsworth discloses establishing an **access protocol** (*e.g.*, **permission-based security** and **business rules stored in the rules component 520**) for the **controlled content repository** (*e.g.*, **content component 516**). EX1002, ¶¶92-93.

As explained in Section IX.A.1.ii (limitation 1A), Farnsworth teaches **permission-based security protocols** to secure and **control access** to the **content**

component 516. Farnsworth further discloses that content in **content component 516** is accessed based on established **business rules stored in rules component 520**. See EX1005, [0068] (“In some embodiments, the rules component 520 may maintain and manage **business rules** associated with the composition and delivery of the derived message 124.... The rules component 520 may additionally/alternatively provide rules adapted to ensure that the derived message 124 contains proper content based on sender identification, sender locale, recipient domain, date, etc.”).

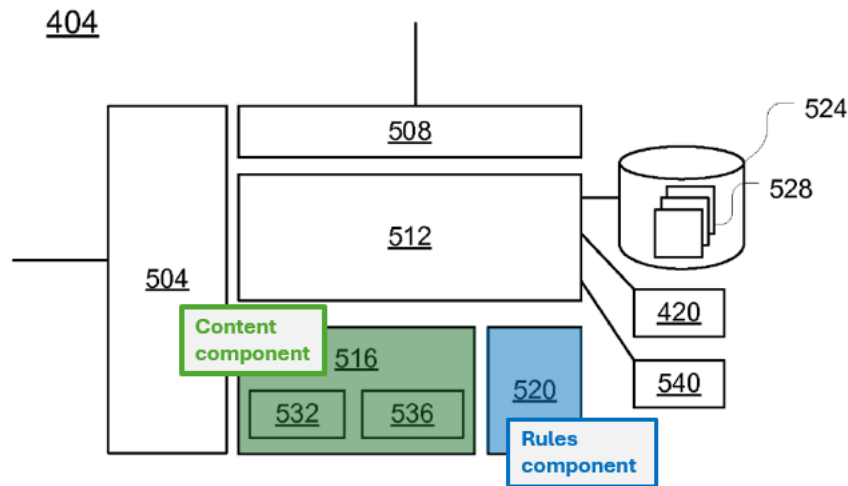


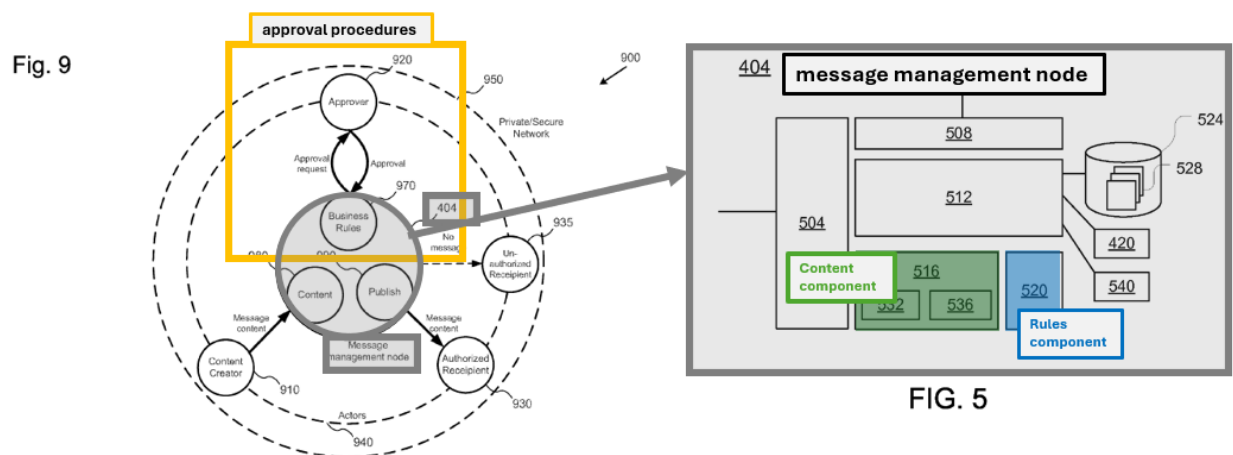
FIG. 5

EX1005, Fig. 5; *see also* [0078] (“[A] network may enforce authorization over the requested operation based on factors ... (such as, but not limited to: content, recipient, **business rules** etc.).”). EX1002, ¶93.

- iv. [1C] whereby **approved content** is stored in the **controlled content repository** according to the **access protocol** and

Farnsworth discloses that **approved content** (e.g., **content authored for storage by an authorized administrator**) is stored in the **controlled content repository** (e.g., **content component 516**) according to the **access protocol** (e.g., **permission-based access policies** and **business rules**). *See also* Section IX.A.1.iii [limitation 1B]. EX1002, ¶¶94-97.

First, Farnsworth discloses that content stored in **content component 516** is **approved content**. For example, Farnsworth discloses that “various actors, such as content creators [and] *approvers*,... may interact through the message management node” containing **content component 516**, “to create, publish, *approve*, and/or receive *message content*.” EX1005, [0077].



EX1005, Figs. 5 & 9. EX1002, ¶95.

Second, Farnsworth teaches that the content is “*stored* ... according to the *access protocol*.” Farnsworth teaches providing *authorized* actors restricted ability to author and store content in *content component 516*. For example, Farnsworth teaches that “administration console 408 may provide authoring services for an *authorized* administrator ... includ[ing] services to facilitate *creation and/or editing* of ... locally *stored content*.” EX1005, [0048]. Farnsworth’s “network may enforce *authorization* over the requested operation based on factors such as, but not limited to, actor identity and/or the requested operation’s content[] ... such as, but not limited to: *content*[.]” EX1005, [0078]. Moreover, this content is managed based on established *business rules* stored in rules component 520. *See* EX1005, [0068] (“[R]ules component 520 may maintain and manage *business rules* associated with the composition and delivery of the derived message 124.... [R]ules component 520 may additionally/alternatively provide rules adapted to ensure that the derived message 124 contains *proper content* based on sender identification, sender locale, recipient domain, date, etc.”). EX1002, ¶¶96-97.

- v. [1D] whereby the *access protocol* comprises at least *one set of alignment rules* for determining if a *first item of approved content* within the *controlled content repository* can be made available to a *first customer* via an *electronic message*;

Farnsworth discloses an *access protocol* (e.g., *permission-based access policies* and *business rules*) that comprises at least *one set of alignment rules* (e.g.,

business rules that align recipient authentication information with content privacy or legal information) for determining if a first item of approved content (e.g., a particular item of authorized content) within the controlled content repository (e.g., content component 516) can be made available to a first customer (e.g., authorized recipients 930) via an electronic message (e.g., electronic message 124). EX1002, ¶¶98-104.

First, as discussed in Section IX.A.1.iii [limitation 1B], Farnsworth discloses an “access protocol” in the form of permission-based access policies and business rules stored in rules component 520 that manage how content is accessed and delivered. EX1005, [0068]. A subset of these rules ensure that content is legally compliant, maintains privacy, and is deliverable by aligning content and recipient data to confirm content is sent to appropriate recipients, which corresponds to the “at least one set of alignment rules” limitation. EX1005, [0068] (“[R]ules component 520 may ensure that messages comply with legal statutes and/or corporate branding policies ... before the derived message 124 is transmitted.”), [0077]-[0083]. EX1002, ¶¶99-100.

Second, Farnsworth discloses that such **alignment rules**⁴ can be used “for determining if a **first item of approved content** within the **controlled content repository** can be made available.” Farnsworth’s **alignment rules** are applied to “information that is directly and/or indirectly related to content that the recipient is, or may be, interested in.” EX1005, [0025]. For example, Farnsworth’s “network may enforce authorization over the requested operation” such as sending an **electronic message** with **approved content**, “based on factors such as, but not limited to, actor identity and/or the requested operation’s contents (such as, but not limited to: content, recipient, **business rules** etc.).” EX1005, [0078]; *see also* [0079]. Farnsworth also discloses that **approved content** may be stored in **content component 516**, as explained in Section IX.A.1.iv [limitation 1C]. EX1005, [0057]. EX1002, ¶¶100-102.

Farnsworth further teaches using **business rules** for an “**approval** process” to confirm a **particular item** of **content** only includes content that is approved based on a **specific recipient’s** status and the type of content. EX1005, [0082] (“*[M]essage content may be subject to approval before publication.... [C]ontent*

⁴ The ’023 Patent explains that “alignment rules ... determine specific pieces of approved content that are available to the selected customers from the controlled content repository.” EX1001, 12:3-6. EX1002, ¶98.

creator 910 may be determined to be authorized or not authorized to send **particular** message **content**, based on approval by one or more approvers 920, *applications of business rules 970*, or both.”). EX1002, ¶102.

Third, Farnsworth teaches determining whether such content “can be made available to a **first customer** via an **electronic message**” by applying **business rules** (and the subset of **alignment rules** thereof) that are specific to each recipient and allow for determination of whether a **particular item** of **content** can be provided to a specific “**first customer**.” Farnsworth explains that “sending device 104 may transmit an electronic message ... to the message manager 108, including construct information for construction and/or delivery of an **electronic message** to a **recipient**.” EX1005, [0025]. Moreover, Farnsworth’s **business rules** allow for determination of who is an **authorized recipient** (e.g., a “**first customer**”) of said **electronic message**. EX1005, [0085] (“[I]dentification of **authorized recipients 930** may be performed based on an audience rule or other **business rule 970**.”). For example, “message management node 404 may be configured to determine, based on various information, one or more **recipients** for a[n **electronic**] **message**” which includes the **particular item** of **content** “based on the **business rules**.” EX1005, [0079]. EX1002, ¶¶103-104.

Farnsworth discloses additional **recipient** information used to determine whether **particular approved content** can be sent to the **specific recipient**.

“[R]ecipient information may include information confirming the recipient’s ability to receive **certain types** of **restricted message content**,” *e.g.*, if the user can receive the **particular approved content**. EX1005, [0087] (“[T]he message management node may receive recipient authentication information, security information, legal information, etc.”). Farnsworth further discloses that “message content may be modified, reduced, and/or augmented ... based at least in part on the *identity of a requesting* recipient,” *i.e.*, determining if **a first item of approved content** can be made available to a **first customer**. EX1005, [0085]. EX1002, ¶104.

vi. [1E] storing the **approved content** within the **controlled content repository**,

Farnsworth discloses limitation [1E]. *See* Section IX.A.1.iv [limitation 1C]. EX1002, ¶¶95, 105.

vii. [1F] the **approved content** further being accessible according to the established **access protocol**;

Farnsworth discloses limitation [1F]. *See* Section IX.A.1.v [limitation 1D]; *see also* Sections IX.A.1.ii-IX.A.1.iv [limitations 1A-1C]. EX1002, ¶¶96-97, 99, 106.

viii. [1G] aligning the **approved content** within the **controlled content repository** with **information** from an **information management system**;

Farnsworth in view of Liebenberg renders obvious aligning the **approved content** (*e.g.*, Farnsworth’s **authorized content**) within the **controlled content**

repository (e.g., Farnsworth’s **content component 516**) with **information** (e.g., **information** related to Farnsworth’s recipient preferences and/or recipient demographics) from an **information management system** (e.g., Liebenberg’s **CRM system 60**). EX1002, ¶¶107-113.

First, as discussed in Sections IX.A.1.iv and IX.A.1.vi [limitations 1C, 1E], Farnsworth discloses “**approved content** within **controlled content repository**” through its teachings of **content component 516** containing **content** authored for storage by an authorized administrator. EX1002, ¶¶94-96, 105, 108.

Second, Farnsworth discloses “**aligning** the **approved content** within the **controlled content repository** with **information**” by using **information**, such as **recipient preferences**, to accomplish approval and creation of message content for authorized recipients. Farnsworth’s “message management node may receive **recipient information** for one or more message recipients to use to determine which recipients may be authorized to receive **message content**. In various embodiments, this **information** may include ... **recipient demographic information** [and] **recipient preferences**[.]” EX1005, [0087]. **Information** may also include **customer profile information**, e.g., “**information on recipient’s occupation**, interests, hobbies, **work address, home address**, timeframe for making a purchase of products/services, etc.” EX1005, [0025]. Additionally, “the publishing of the **message content** to authorized recipients 930 may be performed without

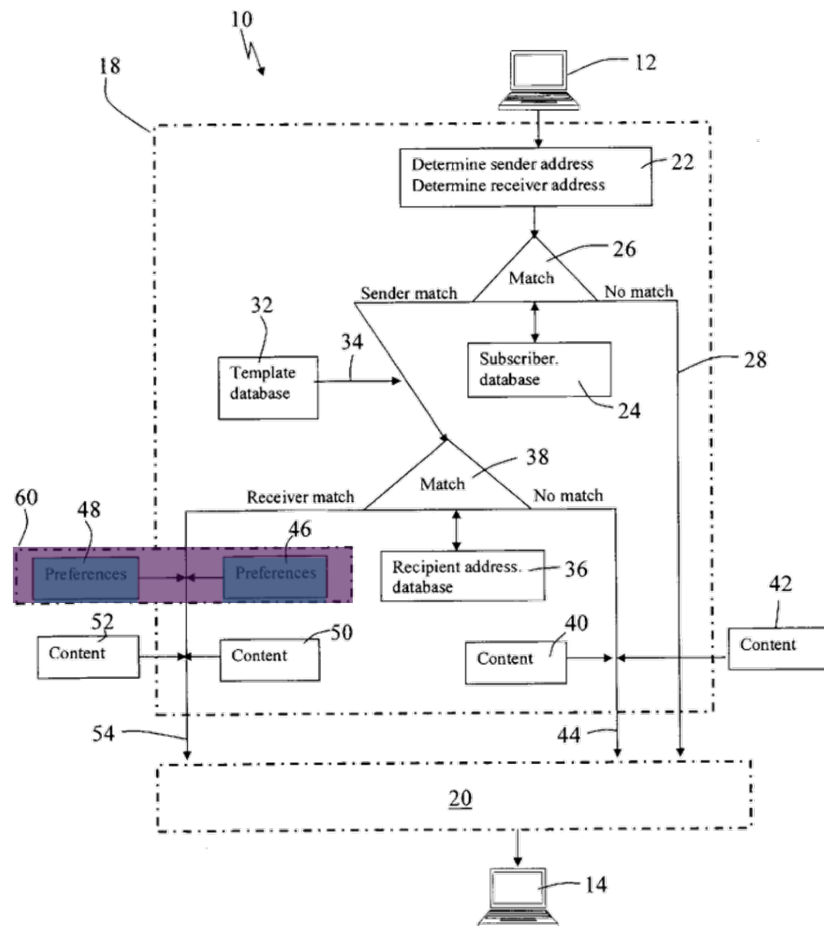
[recipient's] explicit request for the **message content**,” *e.g.*, by predicting what an authorized recipient would want to see based on **recipient preferences** or **customer profile information**. EX1005, [0081]. EX1002, ¶109.

Farnsworth also discloses that **business rules align approved content** within **content component 516** with **information** such as **recipient's personal information and preferences** to determine if it should be delivered to an authorized recipient. *See* Sections IX.A.1.iii, X.A.1.v, and IX.A.1.vii [limitations 1B, 1D, 1F]. For instance, Farnsworth discloses that “**business rules 970** may be configured to determine that an authorized recipient 930 is authorized based on **recipient** and or message content **information**, such as **recipient preferences**.” EX1005, [0080]. EX1002, ¶¶99-103, 110.

Third, although Farnsworth does not explicitly disclose that **recipient information** comes “from an **information management system**,” Farnsworth in view of Liebenberg renders obvious that such systems can be used with Farnsworth's system to store **recipient information**. Farnsworth's system is compatible with retrieving recipient preferences from various sources and utilizing the information in connection with various devices, including “third party device 116.” EX1005, [0031]. Farnsworth can send a “third-party notification” to aid in the transmission of **recipient information**, and Farnsworth contemplates this notification may “provide a local sales representative with **information** that a prospective customer

has inquired about one or more products and/or services.” *Id.* As such, a POSITA would have been motivated to store **recipient information** in an **information management system** and such configurations were known in the art before the earliest possible priority date of the '023 Patent. EX1002, ¶111.

For instance, Liebenberg discloses that “email is compiled by retrieving **recipient preferences** from a **customer relationship management (CRM) system** **60** and adding content from a dynamic content database 52 specific to the **recipient preferences**.” EX1006, [0039].



EX1006, Fig. 2. As shown in Figure 2, “mail server 18 interrogates the **CRM system 60** for the **recipient’s preferences** and adds matched content files [from] the dynamic content database 52.” EX1006, [0039]; *see also* [0048], [0050] (“When an email is sent to one of the client’s [*sic*] in the **CRM system 60** from the agent ... the templated email is [] compiled by inserting content specific to the **client’s preferences** retrieved from the **CRM system 60**.”). **Customer relationship management (CRM) system** is an “information management system.” EX1002, ¶¶112-113.

Although Farnsworth includes use of **recipient information** as explained above, Farnsworth’s system does not expressly describe what system to use for the **storage** of such preferences. A POSITA would have been motivated to utilize a known **information management system**, particularly one designed for maintaining customer preferences, to accomplish the storage and retrieval of the disclosed recipient preferences, such as that disclosed by Liebenberg. It would have been obvious to combine Farnsworth and Liebenberg because both deal with compiling electronic messages based on recipient preferences and a POSITA would have been motivated to combine the systems given their technological overlap and common aims. Liebenberg discloses that “[c]ontent, from a dynamic database of different content files, is matched to the **recipient’s preferences** and inserted into the basic electronic message, thereby to compile the electronic message.” EX1006,

abstract. Similarly, Farnsworth discloses the creation of messages “[b]ased on application of one or more business rules” and evaluation of “authorized recipients.” EX1005, abstract. The modification amounts to nothing more than applying a known technique (Liebenberg’s CRM database) to Farnsworth’s system to achieve the same predictable result of generating approved emails. *See KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 416, (2007). EX1002, ¶¶114-115.

Given the technological overlap, a POSITA would have had a reasonable expectation of success in combining the systems. Both systems explicitly describe the use of **recipient preferences** (*i.e.*, information) and utilize such information in similar ways to generate electronic messages. EX1005, [0023] (“[T]he present invention may provide for the adaptation of the form and/or content of the electronic message based on capabilities and/or preferences associated with the message recipient.”); EX1006, [0048] (“[T]he templated email is compiled to include content specific to the recipient’s preferences [that] are stored in a recipient preference database[.]”). Therefore, a POSITA would have readily been able to combine the analysis of “recipient preferences” explicitly disclosed in Farnsworth with the storage and retrieval of “recipient preferences” explicitly disclosed in Liebenberg. EX1002, ¶¶117.

- ix. [1H] providing the **first item of approved content** within the **controlled content repository** for selection by a **sender** after a determination that the **first item of approved content** within the **controlled content repository** is authorized to be made available to the **first customer** in accordance with the at least **one set of alignment rules**; and

Farnsworth discloses providing the **first item of approved content** within the **controlled content repository** (e.g., **content component 516** providing **specific content** from among **authorized content**) for selection by a **sender** (e.g., a **user** interacting with user interface component 504 of message management node 404) after a determination that the **first item of approved content** within the **controlled content repository** is authorized to be made available to the **first customer** (e.g., **authorized recipients 930**) in accordance with the at least **one set of alignment rules** (e.g., **business rules that align** recipient authentication information with content privacy or legal information). EX1002, ¶¶118-122.

First, as discussed in Section X.A.1.v [limitation 1D], Farnsworth determines that the “**first item of approved content** within the **controlled content repository** ... is authorized to be made available to the **first customer** in accordance with the at least **one set of alignment rules**.” See also Sections IX.A.1.iii, IX.A.1.vii [limitations 1B, 1F]. EX1002, ¶¶98-104, 118.

Second, Farnsworth discloses “**providing**” **specific content** from among the **content** authored for storage by an authorized administrator, i.e., “**first item of**

approved content” within the **controlled content repository** “for selection” by the **user** interacting with the user interface of message management node 404. Farnsworth discloses a message management node 404 that is part of message manager 108 responsible for generating and delivering **approved content** in electronic message 124, as explained in Section IX.A.1.i [limitation 1Pre]. *See also* EX1005, Figs. 1, 4, [0047]-[0050]. Farnsworth further teaches that message management node 404 may allow for input from “various **actors**” who “may interact through the message management node to create, publish, approve, and/or receive message content.” EX1005, [0077]. EX1002, ¶¶119-120.

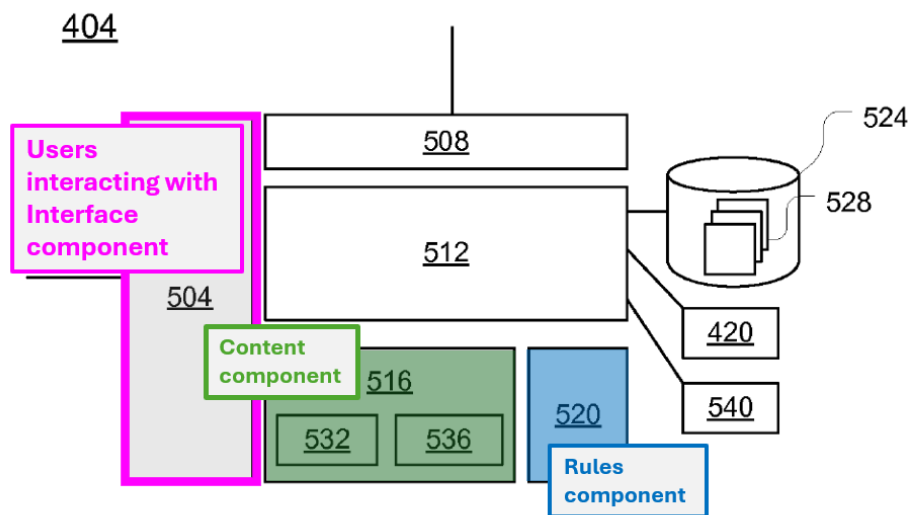


FIG. 5

EX1005, Fig. 5.

Farnsworth teaches that **approved content** is provided to message management node 404 for **user** selection. Message creation component 512 (a

component of message management node 404) may **select** digital **content** “in the generation of the derived message 124.” EX1005, [0056]. “[M]essage creation component 512 may also activate the content by accessing the **content component 516** to **select** the **one** or more **digital content elements** (616).” EX1005, [0057]. EX1002, ¶121.

Third, Farnsworth discloses message management node 404 “select[ing]” **specific content elements** within the **controlled content repository**. As discussed in Section IX.A.1.iv [limitation 1C], **approved content** is stored in **content component 516** before being provided to the message creation component 512 and delivery component 508 of message management node 404. EX1005, [0057]-[0062]. Farnsworth further teaches that a user can select **specific elements** from among such **approved content**. Farnsworth teaches that message management node 404 may be used to generate the derived message 124 according to “message template[s]” that relate to “the **requested content** information” and the “*selection* of the message template *and/or digital content*” retrieved from **content component 516**. EX1005, [0051], [0055]-[0057]. For example, Farnsworth includes an exemplary workflow identifying *selection* of **content**, including through reference to business rules “to ensure that the derived message 124 contains proper content.” EX1005, [0068].

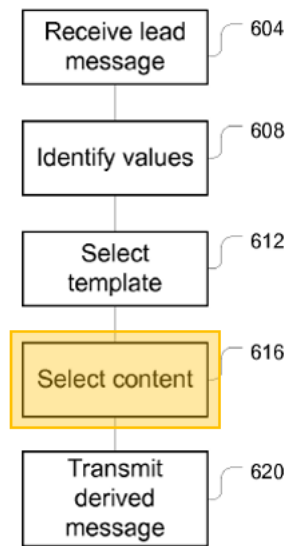


FIG. 6

EX1005, Fig. 6. EX1002, ¶122.

- x. [11] providing an approved **electronic message generating system** which generates an **electronic message** according to the **established access protocol** for sending the provided **first item of approved content** within the **controlled content repository** to the first **customer**.

Farnsworth discloses providing an approved **electronic message generating system** (e.g., **message creation component 512** within **message manager 108**) which generates an **electronic message** (e.g., **electronic message 124**) according to the established **access protocol** (e.g., **permission-based access policies** and **business rules**) for sending the provided **first item of approved content** (e.g., **requested content** among the **authorized content**) within the **controlled content**

repository (e.g., **content component 516**) to the **first customer** (e.g., **authorized recipients 930**). EX1002, ¶¶123-126.

First, as explained in Section IX.A.1.i [limitation 1Pre], Farnsworth teaches **message manager 108** “*generate[s]* an **electronic message 124**[.]” EX1005, [0026]; *see also* [0055]. EX1002, ¶126.

Second, as explained in Sections IX.A.1.iv, IX.A.1.v, and IX.A.1.ix [limitations 1C, 1D, 1H], Farnsworth discloses establishing an **access protocol** to determine whether a **first item of approved content** stored within the **controlled content repository** can be provided to a **first customer**. *See also* EX1005, [0025], [0057], [0078]-[0079]. EX1002, ¶¶95-104, 118-122, 124.

Third, Farnsworth discloses using **recipient** information to determine whether **particular approved content** can be sent to the **specific recipient**. EX1005, [0087] (“**[R]ecipient** information may include information confirming the recipient’s ability to receive **certain types of restricted message content**.”). Farnsworth further discloses that “message content may be modified, reduced, and/or augmented ... based at least in part on the *identity of a requesting* recipient,” *i.e.*, determining if a **first item of approved content** can be made available to a **first customer**. EX1005, [0085]. EX1002, ¶124.

Fourth, Farnsworth discloses “providing an approved electronic message **generating system** which generates an **electronic message** according” to such

established access protocols that contains such **first item of approved content**.

Farnsworth teaches “various embodiments of a process for configuring actor information and **business rules**.” EX1005, [0087]. As discussed in Sections X.A.1.i and X.A.1.v [limitations 1Pre, 1D], Farnsworth’s **message manager 108** generates an approved **electronic message** according to the **established access protocol** because **business rules** determine whether a **derived message** may be populated with **requested content** from the **content component**. EX1002, ¶¶125-126.

2. Claim 2

- i. [2] The method of claim 1, wherein the **information management system** is a **customer relationship management (CRM) system** or a **closed loop marketing (CLM) system**.

Liebenberg discloses an **information management system** that is a **customer relationship management (CRM) system**, e.g., **CRM system 60**. See Section IX.A.1.viii [limitation 1G]. **CRM system 60** is a “**customer relationship management (CRM) system**.” EX1006, [0048]. (“The recipient’s preferences are stored in a recipient preference database 46 or 48, which form part of the **customer relationship management (CRM) system 60**.”). EX1002, ¶127.

3. Claim 3

- i. [3] The method of claim 1, wherein the **information from the information management system** comprises information related to a customer profile, **customer preferences** or regulatory limitations.

As discussed in Section IX.A.1.viii [limitation 1G], Liebenberg discloses that information from **(CRM) system 60** comprises information related to **recipient preferences**. EX1002, ¶¶107-113, 128.

4. Claim 4

- i. [4A] The method of claim 1, further comprising: providing a **template** for the **electronic message**,

Farnsworth discloses providing a **template** (e.g., a **message template**) for the **electronic message** (e.g., **electronic message 124**).

Farnsworth discloses “generation of the **electronic message 124** through providing associations between requested content information, received from the sending device 104, and **message templates** and content controlled and accessible by the message manager 108[.]” EX1005, [0026]. “To generate the **derived message 124** the message creation component 512 may access a **message template database 524**, having a plurality of **message template candidates 528** stored therein, in order to select a **message template** that is suitable for delivery of the digital content element deemed to satisfy the requested content information (612).” EX1005, [0055]. EX1002, ¶129.

- ii. [4B] wherein the **template** is pre-generated with **approved content** and has **at least one customizable area**.

Farnsworth alone or in view of Liebenberg renders obvious a **template** (e.g., a “**message template**”) that is pre-generated with **approved content** (e.g., Farnsworth’s **authorized content**) and has **at least one customizable area** (e.g., **customizable** content selection in designated cells or fields). EX1002, ¶¶130-135.

First, Farnsworth discloses a “**template**” with “**at least one customizable area**.” Farnsworth discloses that “the cell selection and arrangement of the **message template 700** may be *customized based on a variety of factors* including, for example, requested content, the recipient, the seller, date, channel delivery, etc.” EX1005, [0069].

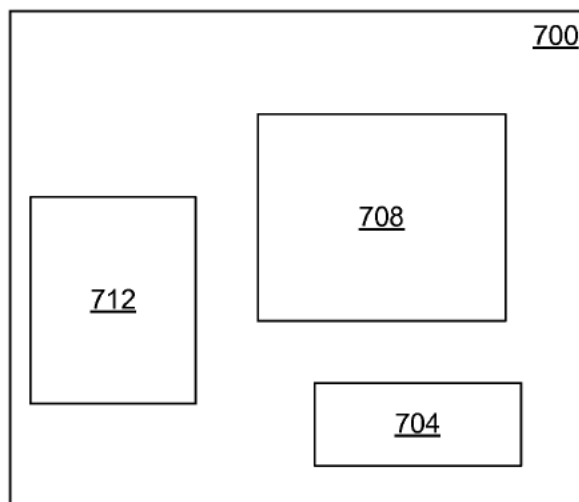


FIG. 7

EX1005, Fig. 7. EX1002, ¶131.

Farnsworth similarly discloses a user interface 300 that includes customizable content fields. Farnsworth teaches that the “requested content information field 308 may provide a user with a selection” (*i.e.*, a **template** with a **customizable** area) “of core-content candidates 312” which “may be presented to the user in a variety of ways such as, but not limited to, a check-the-box selection or through a pull-down menu.” EX1005, [0041]-[0043].

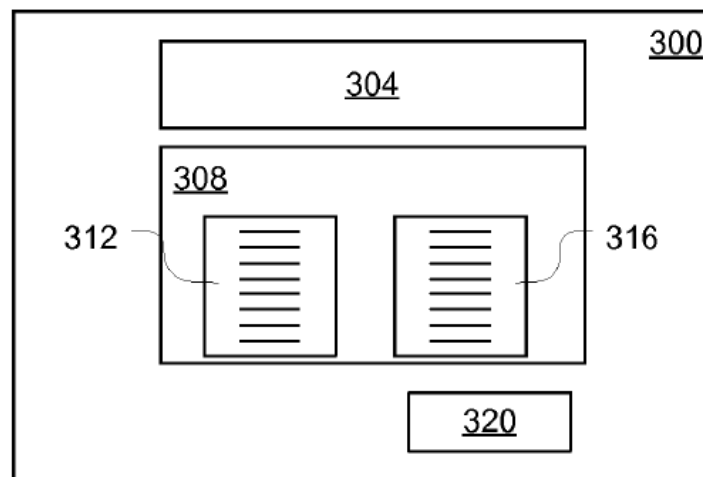


FIG. 3

EX1005, Fig. 3. EX1002, ¶132.

Second, Farnsworth discloses that the **customizable template** may be *pre-generated* with **approved content**. Farnsworth teaches that the **customizable**

template may include “core-**content** candidates” that are pre-generated for the template for selection by the user. EX1005, [0042]; *see also* [0041], [0043]. As discussed in Section IX.A.1.iv [limitation 1C], Farnsworth teaches that such content can be **approved content**. Farnsworth also teaches that templates may “provid[e] a reduced set of peripheral content queries,” which a POSITA would have understood to include a combination of customizable and pre-generated static content as part of the template taught by Farnsworth. EX1005, [0044]-[0045]; *see also* [0046] (“[O]ther embodiments, may provide a series of screenshots including the various fields.”), [0020]. EX1002, ¶133.

Alternatively, it would have been obvious to combine Farnsworth’s template with the **preset** capabilities explicitly disclosed in Liebenberg. Liebenberg discloses that the sender can retrieve a **template** with “code inserted into the basic email to **customise** [sic] the email” with “specific data and image types and **preset formatting** for the basic email[.]” EX1006, [0045]. “[T]he **templated** email is compiled by adding content in accordance with the code of its **template**.” EX1006, [0047]. Liebenberg discloses the template compilation consists of “content stored in a database 40 on the server 18 and/or or content from a dynamic database 42 outside the server.” EX1006, [0047]. EX1002, ¶134.

A POSITA would have been motivated to combine Farnsworth with Liebenberg at least because Farnsworth explicitly recognizes the need to “adapt the

requested content information field” to include “a reduced set” of queries for a user for certain senders. EX1005, [0044]. Liebenberg discloses a way to provide a basic email with “preset formatting” to accomplish such a goal. EX1006, [0045]. Moreover, a POSITA would have had a reasonable expectation of success when combining such templating tools because both references describe code-based templates for use in generating electronic messages. EX1005, [0035]-[0046]; EX1006, [0045]. *See also* Section IX.A.1.viii [limitation 1G]. EX1002, ¶135.

5. Claim 5

- i. [5] The method of claim 1, further comprising: providing a **hyperlink** to the **first item of approved content** and including the **hyperlink** in the **electronic message**.

Farnsworth discloses providing a **hyperlink** (*e.g.*, a **URL**) to the **first item of approved content** (*e.g.*, **requested content** among the **authorized content**) and including the **hyperlink** in the **electronic message** (*e.g.*, **electronic message 124**). EX1002, ¶¶136-137.

Farnsworth discloses that the **electronic message 124** (which contains **approved content** (*see* Sections IX.A.1.iv and IX.A.1.x [limitations 1C, 1I])) may contain digital content elements that “may be embedded within message template through techniques such as ... **uniform resource locators (URLs)**,” *i.e.*, **hyperlinks**. EX1005, [0058]. Farnsworth discloses that “a recipient may receive ... **links** to one

or more remotely located scripts or components[.]” EX1005, [0062]. Farnsworth also discloses that “[o]ther methods of **linking and/or embedding digital content elements** to a **message**” may be employed. EX1005, [0058]; *see also* [0085] (describing “publication of message content ... through a website”). EX1002, ¶137.

6. Claim 6

- i. [6] The method of claim 5, further comprising: directing the **first customer** to a **customer portal** through which the **first item of approved content** can be accessed.

Farnsworth discloses directing the **first customer** (*e.g.*, **authorized recipients 930**) to a **customer portal** (*e.g.*, **publicly-available facility for authorized recipients**) through which the **first item of approved content** (*e.g.*, **requested content** among the **authorized content**) can be accessed. EX1002, ¶¶138-139.

As discussed in Section IX.A.5.i [claim 5 (Ground I)], Farnsworth teaches “embed[ding] the **selected digital content** elements with the selected message template” through “the use of uniform resource identifiers (URIs) or uniform resource locators (URLs).” EX1005, [0058]. Farnsworth contemplates that message content may be published at a “**publicly-available facility** for **authorized recipients** ... through a website or other electronic means,” *i.e.*, via a **customer portal**. EX1005, [0085]. EX1002, ¶139.

7. Claim 7

- i. [7] The method of claim 6, wherein when the **first item of approved content** is **updated** after the **electronic message** is generated, the **first customer** is automatically directed to the **updated version**.

Farnsworth discloses that when the **first item of approved content** (e.g., **requested content** among the **authorized content**) is **updated** after the **electronic message** (e.g., **electronic message 124**) is generated, the **first customer** (e.g., **authorized recipients 930**) is automatically directed to the **updated version**. (e.g., Farnsworth's portal updated with **dynamic or modified content**). EX1002, ¶140.

First, as discussed in Section IX.A.1.x [limitation 1I], Farnsworth discloses generating an **electronic message 124** with a **first item of approved content**, and as discussed in Sections IX.A.5.i [claim 5 (Ground I)] and IX.A.6.i [claim 6 (Ground I)], Farnsworth discloses providing such **first item of approved content** via a hyperlink and/or portal. *See also* Sections IX.B.1.i [claim 5 (Ground II)] and IX.B.2.i [claim 6 (Ground II)]. EX1002, ¶141.

Second, Farnsworth discloses that the message **content** “may be published in an **adaptive** configuration,” meaning it “may be **modified**, **reduced**, and/or **augmented**” (i.e., **updated**) after publication. EX1005, [0085]. In other words, when a **first customer** follows a hyperlink and/or logs into a portal, they are “automatically” directed to the updated content. Therefore, Farnsworth teaches that

the **first customer** is automatically directed to an **updated** version of **approved content**. EX1002, ¶142.

8. Claim 8

- i. [8] The method of claim 1, further comprising: determining a **domain** the **electronic message** is **delivered through**.

Farnsworth discloses determining a **domain**⁵ (e.g., determining a **recipient domain**) the **electronic message** (e.g., **electronic message 124**) is delivered through. Farnsworth discloses that “[t]he rules component 520 may additionally/alternatively provide rules adapted to ensure that the **derived message 124** contains proper content based on ... **recipient domain**.” EX1005, [0068]. EX1002, ¶143.

9. Claim 10

- i. [10] The method of claim 1, further comprising: **verifying content** in the generated **electronic message** just before releasing it to a **server for sending the electronic message**.

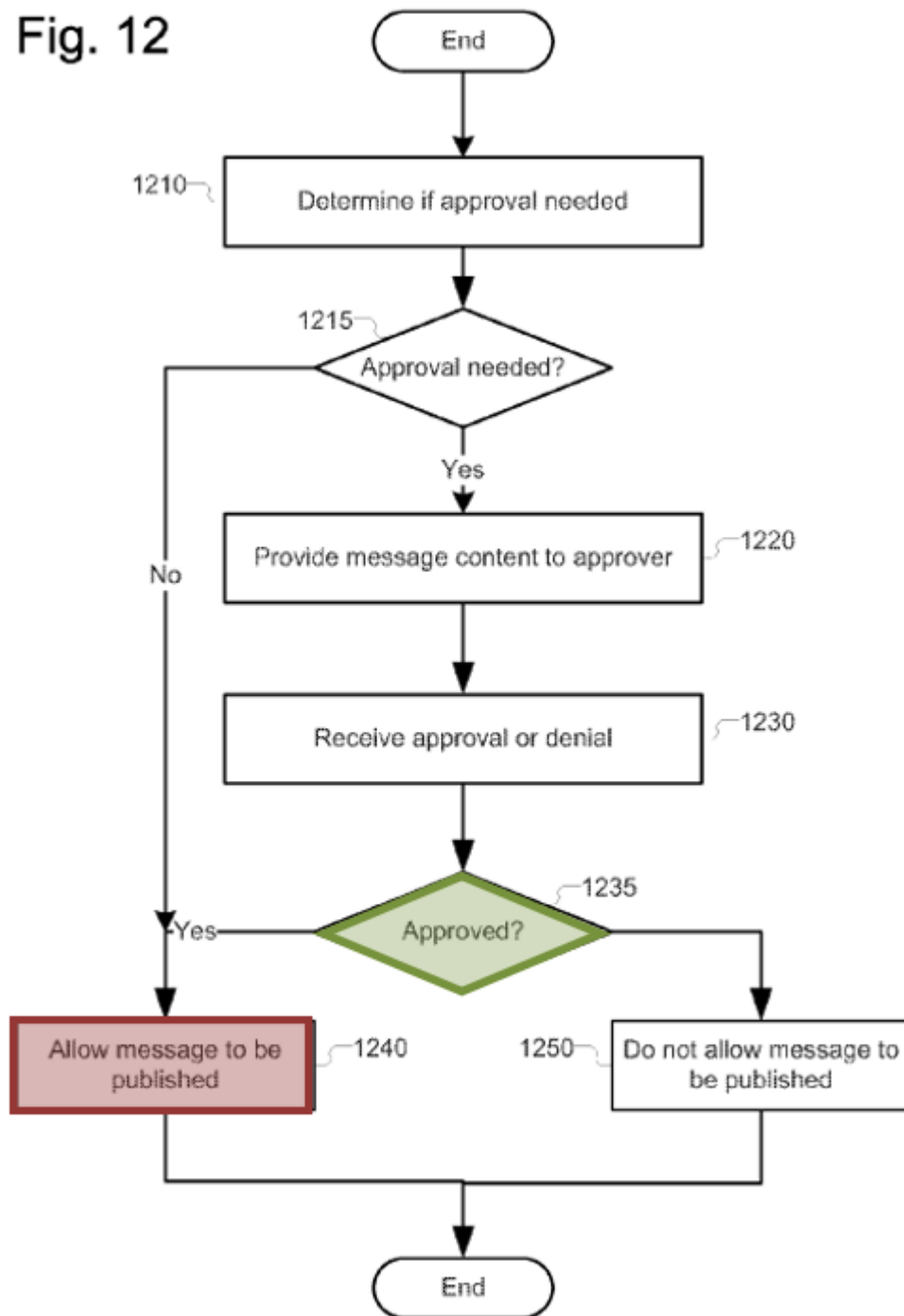
Farnsworth discloses **verifying content** (e.g., **sending content to approver 920** for verification) in the generated **electronic message** (e.g., **electronic message**

⁵ The '023 Patent explains that the “domain an email communication is delivered through” is the domain where a “customer ... would receive” an email. EX1001, 5:1-6. EX1002, ¶143.

124) just before releasing it to a **server for sending** (e.g., a **mail server** executing on message manager 108) the electronic message. EX1002, ¶¶144-145.

Farnsworth discloses **verifying the content** in the generated **electronic message** before sending the electronic message on a **server**. EX1005, [0082] (“[F]or example, message content may be sent to one or more approvers 920 for approval,” or verification, “prior to publishing the message content to an authorized recipient 930. In various embodiments, the **approver 920** may approve (or deny) the publication of the **message**[.]”). Farnsworth teaches that this **verification** may occur **just before** the message is released to the **server for sending**. EX1005, [0093] (“If at [approval] decision operation 1235 the approver 920 has approved the message content, then at operation 1240 the message management node 404 may allow the message content to be published.”); *see also* [0020], [0091].

Fig. 12



EX1005, Fig. 12. Publishing the message means making content available to a user, *e.g.*, by sending the message to an authorized recipient. EX1005, Fig. 10, [0083]-[0086]. Farnsworth discloses that the email is published for sending to “a mail

server ... that executes on the sending device 104 [or] message manager 108.”

EX1005, [0029]; *see also* [0030], [0052]. EX1002, ¶145.

10. Claim 11

- i. [11] The method of claim 1, wherein the **access protocol** is based on **regulatory restrictions**.

Farnsworth discloses an **access protocol** (*e.g.*, **business rules**) that is based on **regulatory restrictions** (*e.g.*, **business rules** related to compliance with **legal statutes**). As discussed in Section IX.A.1.v [limitation 1D], Farnsworth discloses that the **business rules** located in “rules component 520 may ensure that messages comply with **legal statutes**[.]” EX1005, [0068]. EX1002, ¶¶100, 146.

11. Claim 12

- i. [12] The method of claim 11, wherein the **access protocol** is further based on **customer profile information**.

Farnsworth discloses that the **access protocol** (*e.g.*, **business rules**) is further based on **customer profile information** (*e.g.*, **recipient demographics and personal information**).

Farnsworth discloses determining recipient preferences based on a recipient’s **customer profile information**, *e.g.*, “**information on recipient’s occupation**, interests, hobbies, **work address, home address**, timeframe for making a purchase of products/services, etc.” EX1005, [0025]. Farnsworth uses **recipient information** during the construction of an electronic message to a recipient, *e.g.*, retrieving

content from the content component. EX1005, [0025]. As discussed in Section IX.A.1.iii [limitation 1B], Farnsworth discloses an access protocol based on **business rules** used to retrieve content from the content component. A subset of these **business rules** “may be configured to determine that an authorized recipient 930 is authorized” to receive content “**based on recipient information**, such as recipient preferences” and “may include recipient demographic information.” EX1005, [0080], [0087]. EX1002, ¶¶92-93, 147.

12. Claim 18

i. [18Pre] A system for generating **approved electronic messages**, comprising:

Farnsworth discloses the preamble [18Pre]. As discussed in Section X.A.1.i [limitation 1Pre], Farnsworth discloses a method for generating **approved electronic messages**. Farnsworth also discloses “[e]mbodiments of methods, **systems** and storage media associated with publication of message content.” EX1005, abstract; *see also* [0006], [0008], [0015]. EX1002, ¶¶80-86, 148.

ii. [18A] a **controlled content repository** for storing **approved content** according to an **access protocol**,

Farnsworth discloses limitation [18A]. *See* Sections IX.A.1.iii and IX.A.1.iv [limitations 1B, 1C]. EX1002, ¶¶92-97, 149.

- iii. [18B] wherein the **access protocol** is based on **regulatory restrictions**, and

Farnsworth discloses limitation [18B]. See Section IX.A.10.i [claim 11].
EX1002, ¶¶146, 150.

- iv. [18C] comprises at least **one set of alignment rules** for determining if a **first item of approved content** within the **controlled content repository** can be made available to a **first customer** via an **electronic message**; and

Farnsworth discloses limitation [18C]. See Section IX.A.1.v [limitation 1D].
EX1002, ¶¶98-104, 151.

- v. [18D] an **approved electronic message generator**, coupled to the **controlled content repository**, coupled to an **application over a network**,

Farnsworth renders obvious an **approved electronic message** (e.g., **electronic message 124**) **generator** (e.g., **message creation component 512** within **message manager 108**), coupled to the **controlled content repository** (e.g., **content component 516**), coupled to an **application over a network** (e.g., **interface component 504**). EX1002, ¶¶152-155.

First, as discussed in Section IX.A.1.x [limitation 1I], Farnsworth teaches a **message creation component 512** within the **message manager 108** which “may identify the values of the message construct 120 (608) and may operate to *generate* the **derived message 124** according to the message creation specification.” EX1005, [0055]. For example, “[t]o generate the **derived message 124** the **message**

creation component 512 may access a message template database 524” to retrieve one of the “plurality of message template candidates 528 stored therein.” EX1005, [0055].

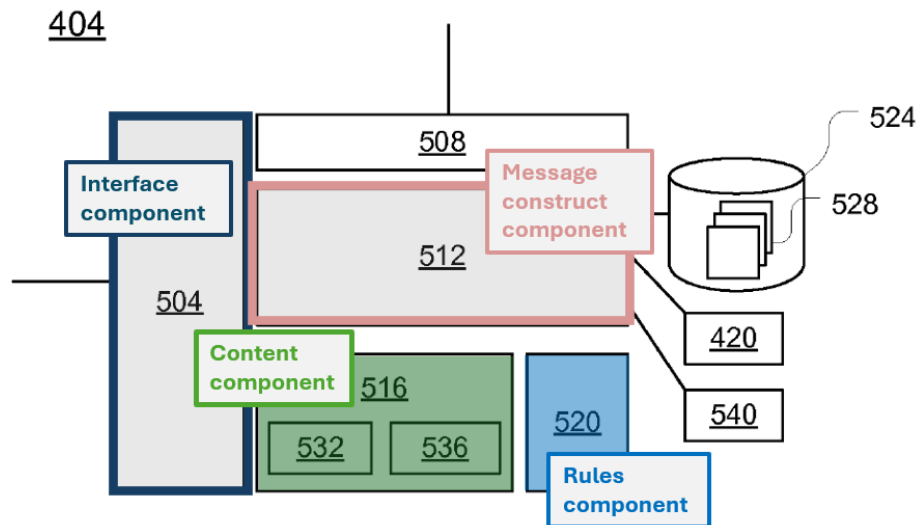


FIG. 5

EX1005, Fig. 5. EX1002, ¶153.

Second, Farnsworth’s **message creation component 512** is “*coupled*” to the **controlled content repository**. For example, Farnsworth’s message management node includes **message creation component 512** and **content component 516**. EX1005, Fig. 5, [0051]. The **message creation component** and the **content component** “cooperatively interact[] to obtain the [desired] outcome,” *e.g.*, retrieving content to populate a generated electronic message. EX1005, [0052]. EX1002, ¶154.

Third, both the **message creation component** and the **content component** are “coupled to an **application**⁶ **over a network**” that facilitates message composition and delivery. As shown in Figure 5, **message creation component 512** and the **content component 516** are also coupled to an **interface component 504** “to facilitate reception/transmission of electronic messages **over a network** from/to networked devices.” EX1005, [0054]. “[**I**]**interface component 504** may support **various application interfaces** for message composition and delivery” (EX1005, [0054]) which occurs “from one device to another **over the network.**” EX1005, [0028]; *see also* [0024]. EX1002, ¶155.

- vi. [18E] providing the **first item of approved content** within the **controlled content repository** for selection by a **sender** after a determination that the **first item of approved content** within the **controlled content repository** is authorized to be made available to the **first customer** in accordance with the at least **one set of alignment rules**, and

Farnsworth discloses limitation [18E]. *See* Section IX.A.1.ix [limitation 1H]. EX1002, ¶¶118-122, 156.

⁶ The '023 Patent describes an “application” as a program or interface connected to components, such as the controlled content repository. EX1001, 5:58-60 (describing “the controlled content repository 102 with additional specific **applications and interfaces connected thereto**”); *see also* 4:58-5:1. EX1002, ¶155.

- vii. [18F] generating an **electronic message** according to the **access protocol** for sending the **first item of approved content** within the **controlled content repository** to the **first customer**.

Farnsworth discloses limitation [18F]. *See* Section IX.A.1.x [limitation 1I].
EX1002, ¶¶123-126, 157.

13. Claim 19

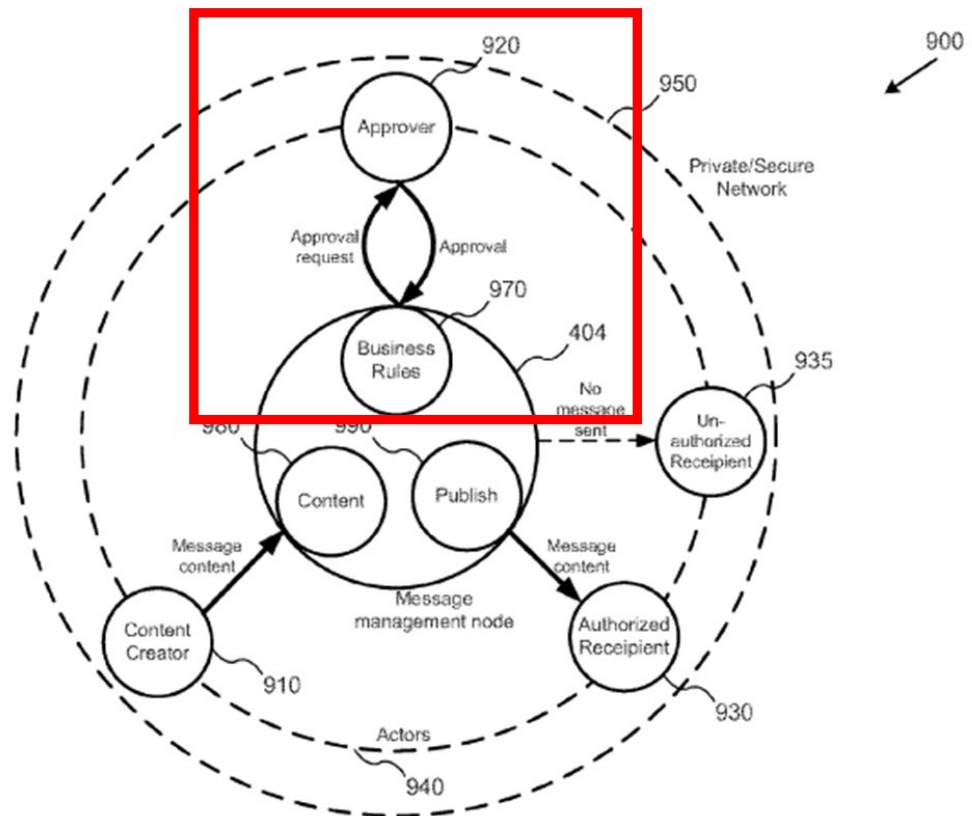
- i. [19] The system of claim 18, further comprising: a **regulatory compliance engine** for checking that the item of approved content is in compliance with **government regulations**.

Farnsworth discloses a **regulatory compliance engine** (*e.g.*, **rules component 520** in conjunction with approval policies) for checking that the item of approved content is in compliance with **government regulations**. EX1002, ¶¶158-159.

Farnsworth's **rules component 520** "may ensure that messages comply with legal statutes," "may facilitate the maintenance of privacy of ... content" and "may additionally/alternatively provide rules adapted to ensure that the derived message 124 contains proper content based on sender identification, sender locale, recipient domain, date, etc." EX1005, [0068]. Farnsworth explains that **rules component 520** can be created and manually maintained by authorized administrators (*i.e.*, individuals who ensure compliance with government regulations). EX1005, [0068]. Moreover, Farnsworth teaches that "**rules component 520** may be configured to

provide for fine-grained control over delivery of one or more messages,” *e.g.*, by requiring an approval check that an item of previously approved content is in compliance with government regulations through business rules or approval requests. EX1005, [0076].

Fig. 9



EX1005, Fig. 9; *see also* [0080] (“[B]usiness rules 970 may be configured to determine ... legal ... restrictions....”), [0082]. EX1002, ¶159.

14. Claim 21

- i. [21] The method of claim 1, further comprising: receiving a selection by a **sender** for the **first item of approved content** after the determination that the **first item of approved content** is authorized to be made available to a **first customer**.

Farnsworth discloses receiving a selection by a **sender** (e.g., a **user**) for the **first item of approved content** (requested content among the **authorized content**) after the determination that the **first item of approved content** is authorized to be made available to a **first customer** (e.g., **authorized recipients 930**). EX1002, ¶¶160-161.

As discussed in Section IX.A.1.ix [limitation 1H], Farnsworth discloses providing the “**first item of approved content** within the controlled content repository for *selection by a sender* after a determination that the **first item of approved content** within the controlled content repository is *authorized to be made available* to the **first customer** in accordance with the at least one set of alignment rules.” After receiving a *selection* from a **user**, “message creation component 512 may link and/or embed the *selected* digital content elements with the selected message template.” EX1005, [0058]; *see also* [0042], [0044], Fig. 10. EX1002, ¶¶118-122, 161.

15. Claim 22

- i. [22] The method of claim 1, wherein the **electronic message is generated** at least in part based on a selection by a **sender** for the **first item of approved content**.

Farnsworth discloses that the **electronic message** (e.g., **electronic message 124**) is **generated** (e.g., created by **message manager 108**) at least in part based on a **selection** by a **sender** (e.g., a **user**) for the **first item of approved content** (e.g., **specific content selected** from among the **authorized content**). EX1002, ¶¶162-163.

As explained in Sections IX.A.1.ix [limitation 1H] and IX.A.14.i [claim 21], Farnsworth discloses a **user** interacting with message management node 404 **selecting specific content elements** within the controlled content repository. As explained in Section IX.A.1.x [limitations 1I], Farnsworth discloses **generating** an **approved electronic message** containing such **selected content**. See also EX1005, [0042]. EX1002, ¶¶118-122, 160-161, 163.

16. Claim 24

- i. [24] The method of claim 1, wherein the determination that the **first item of approved content** is authorized to be made available to a **first customer** is based at least in part on a **customer profile, customer preferences, and an “opt-in” customer selection**.

Farnsworth discloses that the determination that the **first item of approved content** (e.g., **requested content** among the **authorized content**) is authorized to

be made available to a **first customer** (e.g., **authorized recipients 930**) is based at least in part on a **customer profile** (e.g., **information on recipient's occupation, etc.**), **customer preferences** (e.g., **recipient preferences**), and an **“opt-in” customer selection** (e.g., **request for information on a particular product or service**). EX1002, ¶¶164-167.

Farnsworth teaches that an item of **requested content** is made available to a **recipient** based at least in part on **customer preferences**, or “content that the recipient is, or may be, **interested in**.” EX1005, [0025]. Additionally or alternatively, Farnsworth discloses that an item of requested content may be made available to a recipient based at least in part on a **customer profile** containing “e.g., **information on recipient's occupation, interests, hobbies, work address, home address, timeframe for making a purchase of products/services, etc.**” EX1005, [0025]. Additionally or alternatively, Farnsworth discloses that an item of requested content may be **opted in by a customer selection**, e.g., may be explicitly requested by the recipient such as “a **request for information on a particular product and/or service**.” EX1005, [0025]. *See also* Sections IX.A.1.v, IX.A.1.viii, IX.A.1.ix [limitations 1D, 1G, 1H], and IX.A.3.i [claim 3]. EX1002, ¶¶165-67.

17. Claim 25

- i. [25] The method of claim 1, further comprising:
sending the **electronic message** to the **first customer**.

Farnsworth discloses sending an **electronic message** containing “message content to one or more **authorized recipients**.” EX1005, [0081]. Farnsworth’s “sending device” is “communicatively coupled ... to a receiving device,” where the **authorized recipient** receives the **electronic message**. EX1005, [0024]. The **electronic message** is sent “over appropriate channel delivery services including but not limited to simple messaging service (SMS), multimedia messaging service (MMS), the Internet and the like.” EX1005, [0028]. *See also* Section IX.A.1.x [limitation 1I]. EX1002, ¶168.

B. Ground II: Farnsworth in view of Liebenberg and Amstutz

1. Claim 5

- i. [5] The method of claim 1, further comprising:
providing a **hyperlink** to the **first item of approved content** and including the **hyperlink** in the **electronic message**.

Amstutz, like Farnsworth (*see* Section IX.A.5.i [claim 5]), discloses “providing a **hyperlink** to the **first item of approved content** and including the **hyperlink** in the **electronic message**.” EX1002, ¶169-171.

As discussed above in Section IX.A.1.x [limitation 1I], Farnsworth discloses generating an **electronic message** with a **first item of approved content**. As

explained in Section IX.A.5.i [claim 5], the **electronic message** can provide the **first item of approved content** in a variety of formats. *See also* EX1005, [0058]. EX1002, ¶169-170.

Farnsworth and Liebenberg are silent as to using a hyperlink. However, use of hyperlinks in an email to provide access to desired content were well-known in the art. For example, Amstutz describes providing financial advice using electronic communications. EX1007, [0165]-[0166] (“Goal status and remedial recommendations can be communicated through E-mail ... [with] regulatory compliant [financial] recommendations tailored to customer goals, needs and preferences.”). One specific way for the user to access the financial advice is through a **URL**. EX1007, [0135], [0320]. Amstutz further discloses that communication of financial advice to a user may “occur using the **hyper-text transfer protocol (http)** and/or the **hyper-text transfer protocol secure (https)** for secure communications.” EX1007, [0358]. A POSITA would have understood that using a **URL** or the **http** or **https** protocols would use a **hyperlink**. EX1002, ¶171.

It would have been obvious to further combine Amstutz with Farnsworth and Liebenberg (*see* Section IX.A.1.viii [limitation 1G]). As an initial matter all three references describe systems that deal with delivery of content via an electronic message. EX1005, [0025], [0030]; EX1006, [0039]; EX1007, [0116]-[0119]. Farnsworth teaches generally how to compose and deliver “messages comply[ing]

with legal statutes,” in part by ensuring that the messages contain “proper content.” EX1005, [0068]. Similarly, Liebenberg discloses providing content from a database to a customer according to certain specifics. EX1006, [0047]-[0050]. Amstutz aims at solving “regulatory compliance risks and tracking problems” in the area of financial advice delivery. EX1007, [0010]. EX1002, ¶172-73.

Additionally, as discussed above in Section IX.A.1.viii [limitation 1G], Farnsworth and Liebenberg render obvious using third-party systems, such as the CRM system. Similarly, Amstutz contemplates incorporating third-party systems, such as the CRM system taught by Liebenberg. EX1005, [0031]; *see also* EX1006, [0039], [0048]; EX1007, [0031]. The modification amounts to nothing more than applying a known technique (Amstutz’s system that uses hyperlinks in approved emails) to Farnsworth/Liebenberg’s system to achieve the same predictable result of generating approved emails. EX1002, ¶174.

Given the similarity among Farnsworth, Liebenberg, and Amstutz, a POSITA would have had a reasonable expectation of success when combining Farnsworth, Liebenberg, and Amstutz. The combination amounts to nothing more than a simple combination of known techniques (Farnsworth’s system to generate approved email combined with Liebenberg’s CRM database further combined with Amstutz’s specific delivery mechanisms (e.g., a hyperlink). *See KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 416, (2007). Hence, a POSITA would have readily been able to

combine Amstutz’s application of regulated financial advice content delivery within the message generation systems disclosed in Farnsworth and Liebenberg. EX1002, ¶175.

2. Claim 6

- i. [6] The method of claim 5, further comprising: directing the first customer to a customer portal through which the first item of approved content can be accessed.

To the extent Patent Owner argues Farnsworth’s publicly-accessible facility for authorized recipients” is not a customer portal (see Section IX.A.6.i [claim 6 (Ground I)]), it would have been obvious to modify Farnsworth by including a hyperlink to a customer portal (e.g., Amstutz’s customer “portal modules”). Amstutz teaches communication with customers through email with content in the form of “regulatory compliant [financial] recommendations tailored to customer goals, needs and preferences.” EX1007, [0166]-[0167]. Amstutz discloses delivery of financial recommendations through “[c]ustomer customized portal modules” and/or through a Portal system. EX1007 [0167], [0346]. Customers receiving Amstutz’s emails can “navigate to a URL” from an email which “provid[es] access to a platform incorporating the invention,” such as a portal. EX1007, [0135]; see also [0358]. Thus, Farnsworth in view of Liebenberg and in further view of Amstutz renders obvious claim 6. EX1002, ¶176-77.

3. Claim 7

- i. [7] The method of claim 6, wherein when the **first item of approved content** is **updated** after the **electronic message** is generated, the **first customer** is automatically directed to the **updated version**.

To the extent Patent Owner argues Farnsworth does not teach that the **first customer** is automatically directed to an **updated** version of **approved content**, *e.g.*, via **adaptive** content at a publicly-available facility (*see* Section IX.A.7.i [claim 7 (Ground I)]), Amstutz teaches that a portal website “reloads all **dynamic content**” after “comparing the latest version” of data “currently cached on the [portal] site” and “mark[ing] for regeneration” any outdated content. EX1007, [0126]. Thus, a POSITA would have found it obvious that when a customer accesses Amstutz’s portal, the customer will be redirected to **updated content**. EX1002, ¶178.

4. Claim 17

- i. [17] The method of claim 1, further comprising: storing **audit trail information** relative to the **controlled content repository** whereby compliance with **government regulations** for access of such **controlled content** can be audited.

Farnsworth in view of Amstutz renders obvious storing **audit trail information** (*e.g.*, Amstutz’s **audit trail information**) relative to the **controlled content repository** (*e.g.*, **content component 516**) whereby compliance with **government regulations** (*e.g.*, compliance with **legal statutes**) for access of such **controlled content** can be audited. EX1002, ¶¶179-182.

First, as discussed in Sections IX.A.1.iii [limitation 1B] and IX.A.10.i [claim 11], Farnsworth discloses the **access protocol** to **content component 516** is based on **government regulations**. See also EX1005, [0054], [0057], [0076]-[0079]. EX1002, ¶180.

Second, Amstutz further discloses that “a complete **audit trail containing information** required for **compliance oversight**” (*i.e.*, **government regulations**) “is maintained for all platform-based interactions.” EX1007, [0159]. Amstutz stores **audit trail information** in an external server or client. EX1007, [0159] & Fig. 2. EX1002, ¶181.

It would have been obvious to a POSITA to utilize the **compliance oversight** achieved by maintaining Amstutz’s **audit trail information** for at least the same reasons discussed in Section IX.B.1 [claim 5 (Ground II)]. Farnsworth discloses compliance with government regulations by limiting access to the content component to those who satisfy business rules which comply with legal rules as discussed in Sections IX.A.1.iii [limitation 1B] and IX.A.10.i [claim 11]. The combination of Farnsworth and Amstutz would simply include the predictable results of a tracking of such interactions. EX1002, ¶182.

C. Ground III: Farnsworth in view of Liebenberg and Harrell

1. Claim 13

- i. [13] The method of claim 1, wherein the **controlled content repository** is adapted to provide development and distribution of **promotional materials** as related to **regulatory restricted products**.

Farnsworth in view of Harrell renders obvious that the **controlled content repository** (e.g., **content component 516**) is adapted to provide development and distribution of **promotional materials** as related to **regulatory restricted products** (e.g., Harrell's **promotional materials** related to **pharmaceutical products**). EX1002, ¶¶183-186.

First, as discussed in Section IX.A.1.ii [limitation 1A], Farnsworth discloses **content component 516**, which is a **controlled content repository**. Farnsworth's **content component 516** further includes "document repository 532 having, e.g., text and/or binary elements, a media repository 536 having, e.g., audio and/or video elements, suitable to provide accessible storage of the various types of digital content elements." EX1005, [0057]. EX1002, ¶184.

Second, while Farnsworth does not specifically disclose that the **content component 516** is adapted to provide development and distribution of **promotional materials** as related to **regulatory restricted products**, Harrell discloses that one application of a **controlled content repository** is the development and distribution of **promotional materials** for **prescriptions** (i.e., a **regulatory restricted product**).

For example, Harrell discloses that drug manufacturers may **develop**, or “design and implement the discount incentive **promotions** for ... **prescription drugs**.” EX1008, [0061]. A drug manufacturer maintains a “**promotions database**” that contains the developed “**supplemental marketing literature**.” EX1008, [0089]; *see also* [0095], [0101]. EX1002, ¶185.

Harrell also discloses that the **controlled content repository** is adapted for the **distribution** of the developed **promotional materials**. For example, an “automated patient follow-up assistant subsystem 150 ... performs a send patient reminders ... which communicates electronically via email[.]” EX1008, [0094], [0110]. EX1002, ¶186.

A POSITA would have been motivated to combine Harrell with Farnsworth and Liebenberg to distribute **promotional materials** as related to **regulatory restricted products**. As discussed in Section IX.A.1.viii [limitation 1G], Farnsworth and Liebenberg generally teach an approved message generation system but are silent on its application to a particular industry. However, it would have been a trivial modification to POSITA to utilize Farnsworth’s approved message generation system for “drug promotion processes” of Harrell because distribution of such information must “conform to compliance regulations.” EX1008, [0013], [0025]. Allowing drug manufacturers to promote and manage drug samples and savings offers would have required “security operations to restrict access to sensitive

data.” EX1008, [0074]; *see also* [0026]. A POSITA would have understood that Farnsworth’s administration console would be appropriate for such a purpose. EX1005, [0048]. EX1002, ¶¶187-188.

Furthermore, as discussed in Section IX.A.1.viii [limitation 1G], Farnsworth and Liebenberg render obvious using third-party systems, such as the CRM system. Since Harrell distributes promotional material “[b]ased on preference of the patient,” a POSITA would be motivated to incorporate such a CRM system to store and retrieve updated patient preference data. EX1008, [0091], [0086]; EX1006, [0039], [0048]. EX1002, ¶189.

The combination amounts to nothing more than a simple combination of known techniques (Farnsworth’s system to generate approved email combined with Liebenberg’s CRM database further combined with Harrell’s distribution of promotional materials related to a restricted product i.e., a drug product) with no substantive change in their respective functions to achieve a predictable result. *See KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 416, (2007). Hence, a POSITA would have had a reasonable expectation of success when combining Harrell’s distribution of promotional materials related to drug products with Farnsworth’s message generation system. EX1002, ¶190.

2. Claim 14

- i. [14] The method of claim 13, wherein the **regulatory restricted products are prescription drugs**.

As discussed in Section IX.C.1.i [claim 13], Harrell discloses that the **regulatory restricted products are prescription drugs**. EX1008, [0004], [0021] [0025], [0061]. EX1002, ¶¶183-186, 191.

3. Claim 19

- i. [19] The system of claim 18, further comprising: a **regulatory compliance engine for checking that the item of approved content is in compliance with government regulations**.

Harrell, like Farnsworth, (*see* Section IX.A.13.i [claim 19 (Ground I)]), also discloses that the item of content is in compliance with **government regulations** for checking that the item of approved content is in compliance with **government regulations**. Harrell discloses that communication with patients in the form of “drug sample management and distribution” must “**conform to compliance regulations**.” EX1008, [0025]. Likewise, drug promotional materials within these communications “must comply to greater regulations and processes.” EX1008, [0004]. Harrell “restrict[s] access to sensitive data” so as not to draw “concern from the government.” EX1008, [0074], [0014]. Section IX.A.13.i [claim 19 (Ground I)]. EX1002, ¶192.

4. Claim 23

- i. [23] The method of claim 1, wherein the determination that the **first item of approved content** is authorized to be made available to a **first customer** is based at least in part on **regulatory limitations** for a **regulatory restricted product**.

Farnsworth in view of Harrell renders obvious that the determination that the **first item of approved content** is authorized to be made available to a **first customer** is based at least in part on **regulatory limitations** for a **regulatory restricted product** (*e.g.*, Farnsworth’s alignment rules in conjunction with **approval policies** and Harrell’s determination that **communications conform to compliance regulations** related to **pharmaceutical products**). EX1002 ¶¶193-194.

As discussed in Section IX.C.1.i [claim 13], Harrell discloses that **content** in the controlled content repository may include promotional materials and marketing literature for “**drug sample** management and distribution,” which must “**conform to compliance regulations**.” EX1008, [0025]. As discussed in Section IX.A.1.v [limitation 1D], alignment rules determine whether a **customer** is authorized to receive a **first item of approved content** from the controlled content repository. Farnsworth’s alignment rules require that message delivery “comply with **legal statutes**” or “**legal ... restrictions** on the ability of the recipient to receive the particular message content.” EX1005, [0068], [0080]. EX1002 ¶194.

D. Ground IV: Farnsworth in view of Liebenberg and Xu

1. Claim 20

- i. [20Pre] A non-transitory computer-readable medium for generating approved emails, the computer-readable medium comprising instructions that, when executed by a computer, cause the computer to:

Farnsworth discloses the preamble [20Pre]. As discussed in Sections IX.A.1.i and IX.A.12.i [limitations 1Pre and 18Pre], Farnsworth discloses a method (limitation 1Pre) and system (limitation 18Pre) for generating approved electronic messages. Farnsworth also discloses that the method or system for generating approved emails may be executed by a computer (*e.g.*, computing device containing message creation component 512 within the message manager 108) in a non-transitory computer-readable medium (*e.g.*, computer-readable memory such as RAM, ROM, DRAM, SRAM, EEPROM, or flash) comprising instructions (*e.g.*, programming logic). EX1002, ¶¶196-199.

First, Farnsworth discloses that the system for generating approved emails may be implemented using computer-readable memory such as RAM, ROM, DRAM, SRAM, EEPROM, or flash. EX1005, [0036], [0074]. This memory “may store working copies of an operating system” or “message construct component.” EX1005, [0035], [0072]. EX1002, ¶197.

Second, Farnsworth further discloses that the computer readable medium comprises instructions that are executed by a computer. Farnsworth’s approved

email generation method may be stored in “**programming logic** ... that may be embodied in **hardware or ... software instructions**.” EX1005, [0052]. Farnsworth discloses that components may be written in C++ and further discloses that an API based on a processing model may allow for user interactivity. EX1005, [0052]; *see also* [0035]. Farnsworth’s processor “may perform the function of executing programming instructions of OS,” for example, those written in C++, to enable the operation of various elements described therein. EX1005, [0038]. EX1002, ¶198.

Third, Farnsworth further discloses that the instructions may be executed by various digital systems “associated with the publication” (*i.e.*, generation) of electronic messages, including “wireless mobile phones, palm sized personal digital assistants, **notebook computers, desktop computers**, servers, set-top boxes, game consoles and the like.” EX1005, [0029], [0030], [0035]. *See also* Section IX.A.1.i [limitation 1Pre]. EX1002, ¶199.

ii. [20A] access an **information management system for customer information**;

Farnsworth and Liebenberg disclose limitation [20A] for at least the reasons discussed in Sections IX.A.1.v, IX.A.1.viii [limitations 1D, 1G], IX.A.2.i [claim 2], and IX.A.3.i [claim 3]. EX1002, ¶¶98-104, 107-113, 127-128, 200.

iii. [20B] receive selection of a **customer** and a **template**;

Farnsworth discloses receiving a selection of a **customer** (e.g., **recipient information**) and a **template** (e.g., a **message template** candidate 528). EX1002, ¶¶201-203.

First, Farnsworth discloses a computer receiving the selection of a **customer**. Farnsworth teaches that **message manager 108** may receive “construct information for construction and/or delivery of an electronic message to a recipient” which “may include **recipient information**.” EX1005, [0025]; EX1002 ¶202.

Second, Farnsworth discloses receiving the selection of a **template**. Farnsworth teaches that the disclosed message generating system includes the creation and use of **templates**. EX1005, [0048] (“Additionally, the authoring services may provide a message-template editing environment through which an *administrator* may compose/edit message **templates** including, for example, format definitions and/or **content definitions** for one or more of the cells within the **template**.”). *See also* Section IX.A.4.i [limitation 4A]. Farnsworth further discloses receiving “construct information for construction and/or delivery of an electronic message to a recipient” and that message manager 108 controls and accesses **message templates**. EX1005, [0025]. Farnsworth further teaches that components of message manager 108, e.g., message creation component 512, “may access a

message template database ... in order to *select* a **message template** that is suitable.”

EX1005, [0055]. EX1002 ¶203.

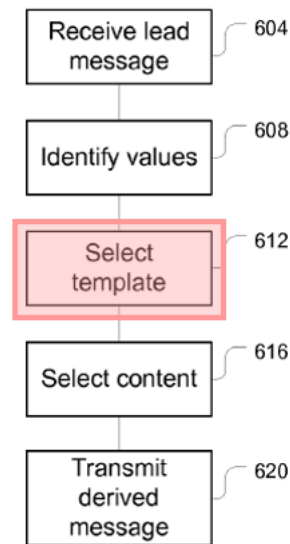


FIG. 6

EX1005, Fig. 6.

- iv. [20C] determine if a **selected customer** is approved to receive a **selected template** according to an **access protocol**;

Farnsworth in view of Xu renders obvious determining if a **selected customer** (e.g., Farnsworth’s **authorized recipients 930** entered into Xu’s “To” box 520) is approved to receive a **selected template** (e.g., a **message template** selected by Farnsworth’s message creation component 512 and/or Xu’s retrieve template button 515) according to an **access protocol** (e.g., **business rules** stored in Farnsworth’s rules component 520). EX1002, ¶¶204-214.

First, Farnsworth discloses an **access protocol** that relates to **customer** and **template** information. Farnsworth's system includes a "message template database 524[] having a plurality of message template candidates 528 stored therein." EX1005, [0055]. Farnsworth discloses that this collection of message templates may be managed based on established **business rules** stored in the rules component 520. *See* EX1005, [0068] ("In some embodiments, the rules component 520 may maintain and manage **business rules** associated with the composition and delivery of the derived message 124 and/or the notification message 128.").

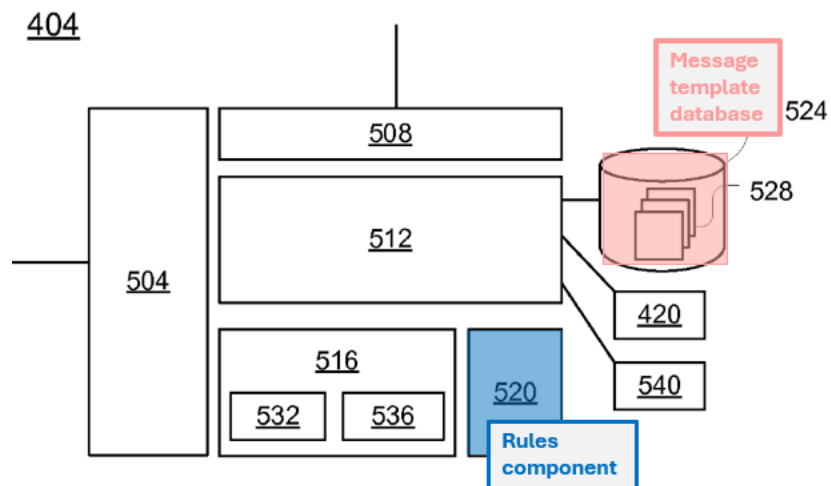
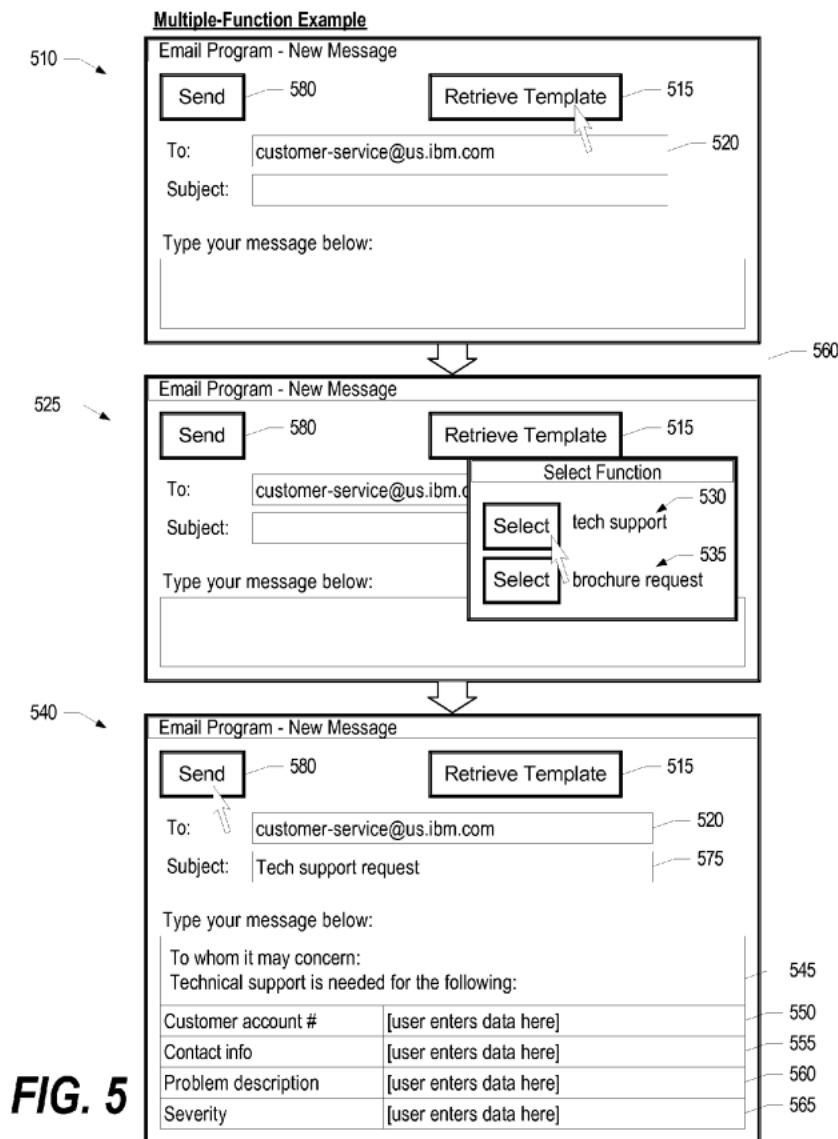


FIG. 5

EX1005, Fig. 5; *see also* [0078]; Section IX.D.1.iii [limitation 20B]. EX1002, ¶205.

Second, Xu provides additional details of how selection of a **customer** and **template** occurs using stored customer information. Xu teaches that a sender selects

a customer, for example, by typing a destination address in the “To” box. EX1009, [0034], Fig. 5.



EX1009, Fig. 5, [0041]. The sender is prompted select from **templates** that correspond to a given customer via “Retrieve Template.” EX1009, [0034]-[0035]. EX1002, ¶206.

Third, Xu discloses determining if a **selected customer** is approved to receive the **selected template** according to an **access protocol**. For example, Xu teaches that a sender types in a customer name, or account name, and creates a request “for all templates **associated** with the account name.” EX1009, [0037]; *see also* [0007] (“The email server selects a template, from a template storage, that **corresponds** to the email account name...”). An “account admin 210, manages the templates for one or more account names” by associating the template with the account name. EX1009, [0026]. For example, the account administrator can “register **templates** with **corresponding account names**,” approving use of the template for the customer. EX1009, [0021], [0028]. Xu’s template selection methods can therefore be used in connection with Farnsworth’s “**business rules** associated with the composition ... of the derived message 124,” which perform the same function to associate particular information with a particular customer, as discussed above in Section IX.A.1.v [limitation 1D]. EX1005, [0068]. EX1002, ¶207.

A POSITA would have been motivated to further combine Xu with Farnsworth and Liebenberg (*see* Section IX.A.1.viii [limitation 1G]) to determine if a selected **customer** is approved to receive a selected **template** according to an **access protocol**. Farnsworth explicitly teaches methods and systems for electronic message generation. Although Farnsworth does not provide explicit details for the steps of retrieving templates associated with a specific recipient, such a method

would have been obvious to a POSITA. For example, Farnsworth teaches exemplary uses of **business rules**, including to confirm approval for specific **customers** prior to generating a message using message management node 404, as discussed in Section IX.A.1.ix [limitation 1H]. *See also* EX1005, [0055], [0079], [0083]-[0084], Fig. 10. As explained above, Farnsworth teaches that message generation using message management node 404 (and its components such as message creation component 512 and message template database 524) includes the “select[ion of] a message **template** that is suitable for delivery of the digital content element deemed to satisfy the requested content information.” EX1005, [0054]-[0056]. Similarly, Liebenberg describes retrieving templates. EX1006, [0045] (“The server 18 includes a template database 32 of email templates[.]”). Likewise, Xu also describes retrieving templates, specifically with an implementation detail of determining if a selected **customer** is approved to receive a selected **template** according to an **access protocol**. EX1009, [0022] (“The present invention further includes a method, system, and computer program product for retrieving templates for use by a user of a computer system.”). As such, a POSITA would have been able to apply Xu’s **template** selection technique to that of Farnsworth’s template retrieval technique, because the modification amounts to nothing more than applying a known technique (Xu’s template selection method) to Farnsworth’s approved email generation technique to achieve the same predictable result. EX1002, ¶¶209-211.

With respect to template selection and message generation interfaces, both Farnsworth and Xu teach comparable systems that a POSITA would understand could be implemented together to yield the predictable result of an approved email generation. Farnsworth explicitly teaches that “[e]lectronic messages may be delivered according to a variety of message transfer protocols” and may be generated using “a variety of message types” and systems. EX1005, [0028]. Similarly, Xu teaches use of “any number of clients, email servers, and service providers,” “any type of network,” and various computer systems for email generation. EX1009, [0023]. Again, the combination amounts to nothing more than use of known technique (Xu’s template identification and selection) to a similar product (Farnsworth’s approved message generation using a selected template) in the same way to achieve predictable results. EX1002, ¶212.

Indeed, all three systems (Farnsworth, Xu, and Liebenberg) also explicitly describe the use of recipient information and utilize such information in similar ways to generate electronic messages. EX1005, [0023] (“[T]he present invention may provide for the adaptation of the form and/or content of the electronic message based on capabilities and/or preferences associated with the message recipient.”); EX1009, [0022] (“A user requests or selects the ‘retrieve template’ function in order to obtain the template that corresponds to a particular account name.”); EX1006, [0048]

(“[T]he templated email is compiled to include content specific to the recipient’s preferences [that] are stored in a recipient preference database[.]”). EX1002, ¶213.

Given the similarity among Farnsworth, Liebenberg, and Xu, a POSITA would have a reasonable expectation of success when combining Farnsworth with Xu (and, for other elements, Liebenberg). The combination amounts to nothing more than a simple combination of known techniques (Farnsworth’s system to generate approved email combined with Liebenberg’s CRM database further combined with Xu’s specific determination whether a selected **customer** is approved to receive a selected **template** according to an **access protocol**) with no substantive change in their respective functions to achieve a predictable result. *See KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 416, (2007). Hence, a POSITA would have had a reasonable expectation of success when combining Xu’s template retrieval method within Farnsworth’s non-transitory computer-readable medium for generating approved emails and using Liebenberg’s CRM system. EX1002, ¶¶208-214.

- v. [20D] provide the **selected template** for selection by a **sender** after a determination that the **selected template** is authorized to be made available to a **selected customer**;

Farnsworth in view of Xu renders obvious providing the **selected template** (e.g., a **message template** selected by Farnsworth’s message creation component 512 and/or Xu’s retrieve template button 515) for selection by a **sender** (e.g., a **user**)

after a determination that the **selected template** is authorized to be made available to a **selected customer** (e.g., **authorized recipients 930**). EX1002, ¶¶215-218.

First, as explained in Section IX.D.1.iv [limitation 20C], Farnsworth in view of Xu renders obvious determining whether a **selected template** is authorized to be made available to a **selected customer**. EX1002, ¶¶204-207, 216.

Second, Xu teaches providing the **selected template** for selection by a **sender** **after** a determination that the **selected template** is authorized to be made available to a **selected customer**. Xu discloses that a **sender** (e.g., “**a user** of the computer email program”) may retrieve one or more **templates** associated with a **customer** after selecting a **customer** as an intended recipient. EX1009, [0034]-[0035]; *see also* [0026], [0031], Fig. 3; Section IX.D.1.iv [limitation 20C]. EX1002, ¶217.

As explained above, it would have been obvious to a POSITA to combine the message generation and template selection of Farnsworth and Xu. *See* Section IX.D.1.iv [limitation 20C]. EX1002, ¶¶208-214, 218.

vi. [20E] construct an email **template;**

Farnsworth discloses limitation [20E]. *See* Section IX.A.4.i [limitation 4A]. EX1002, ¶¶129, 219.

- vii. [20F] access a **controlled content repository**, according to the **access protocol**, for a **first item of approved content** within the **controlled content repository** that the **selected customer** is approved to access; and

Farnsworth discloses limitation [20F]. See Sections IX.A.1.iv, IX.A.1.v, IX.A.1.vii, IX.A.1.ix [limitations 1C, 1D, 1F, 1H], and IX.D.1.v [limitation 20D]. EX1002, ¶¶94-104, 106, 118-122, 218.

- viii. [20G] generate an **electronic message** to the **selected customer**, which enables the **selected customer** to access the **first item of approved content** within the **controlled content repository** that the **selected customer** is approved to access,

Farnsworth renders obvious generating an **electronic message** (e.g., **electronic message 124**) to the **selected customer** (e.g., **authorized recipients 930**), which enables the **selected customer** to access the **first item of approved content** (e.g., **requested content** among the **authorized content**) within the **controlled content repository** (e.g., **content component 516**) that the **selected customer** is approved to access. EX1002, ¶221-225.

First, as discussed in Section IX.A.1.x [limitation 1I], Farnsworth teaches generating **electronic message 124** to the **authorized recipient 930** after confirming the **selected customer** is approved to access the **requested content**. EX1002, ¶¶123-126, 222.

Second, Farnsworth teaches that generated **electronic message 124** enables the **selected customer** to access the **approved content** from within the **controlled content repository** (e.g., **content component 516**). As discussed in Sections IX.A.5.i [claim 5 (Ground I)] and IX.A.6.i [claim 6 (Ground I)], Farnsworth teaches including a hyperlink to a website and/or portal for a **selected customer** to access **approved content**. See also Sections IX.B.1.i [claim 5 (Ground II)], IX.B.2.i [claim 6 (Ground II)]. EX1002, ¶¶136-139, 169-170, 176-177, 223.

Although Farnsworth does not explicitly identify where the content included at the website or portal is hosted, it would have been obvious to host the **approved content** from **content component 516**. Farnsworth teaches that the message content that is published at a publicly-available facility (*i.e.*, a portal) “may be modified, reduced, and/or augmented by the message management node 404.” EX1005, [0085]. A POSITA would have understood this disclosure to indicate that if message management node 404 is capable of altering the **content**, message management node 404 (which includes **content component 516**) is also able to host the **content** for the publicly-available facility. Therefore, it would have been obvious to a POSITA to use Farnsworth’s explicit disclosures of generating an **electronic message 124** to the **authorized recipients 930** which enables the **selected customer** to access the **approved content** from a website or portal in connection with hosting the content

for the website or portal at the **controlled content repository** for the **selected customer** to access. EX1002, ¶¶224-225.

ix. [20H] wherein the access protocol is based on regulatory restrictions.

Farnsworth discloses limitation [20H]. *See* Section IX.A.10.i [claim 11]. EX1002, ¶¶146, 226.

X. Discretionary Factors Favor Institution

The discretionary factors the Board employs for its institution decisions favor institution.

A. *Fintiv* Factors Favor Institution

The six *Fintiv* factors considered favor institution. *See Apple Inc. v. Fintiv, Inc.*, No. IPR2020-00019, 2020 WL 2126495, at *2 (PTAB Mar. 20, 2020).

1. No Evidence Regarding A Stay

No motion to stay has been filed, so this factor is neutral. Petitioner intends to move to stay the Parallel Proceeding, and judges in the District of Delaware have consistently granted stays in similar patent litigation cases, especially those where the petitions are instituted. *See, e.g.,* EX1010, *SITO Mobile R&D IP, LLC v. World Wrestling Ent., Inc.*, No. 1:21-cv-00721, 2021 WL 7628181 (D. Del. Dec. 20, 2021); EX1011, *Allergen USA, Inc. v. Prolenium US Inc.*, No. 1:20-cv-00104, Dkt. No. 34 (D. Del. July 16, 2020).

2. Parallel Proceeding Trial Date

No trial date is set in the co-pending litigation. *See* EX1004, Amended Scheduling Order. According to the median time-to-trial statistics for patent cases in the District of Delaware in the last five years, trial is not likely until May 2026, after the estimated time of the Board’s Final Written Decision. *See* EX1012. This factor favors institution, or at a minimum is neutral.

3. Investment In Parallel Proceeding

The co-pending litigation (and investment in that litigation) is still in its early stages. *See* EX1004, Amended Scheduling Order. The parties have not exchanged preliminary positions on claim construction, discovery is still in its initial phases, and there is a pending motion to dismiss before the district court. *See PEAG LLC v. Varta Microbattery GmbH*, No. IPR2020-01213, 2021 WL 54768, at *6 (PTAB Jan. 6, 2021). This factor favors institution.

4. Overlapping Issues With The Parallel Proceeding

Petitioner stipulates that if the IPR is instituted, Petitioner will not pursue in the district court any grounds of invalidity against the challenged claims that were or reasonably could have been asserted in the instant IPR petition. Such a broad stipulation “weighs strongly in favor of not exercising discretion to deny institution under 35 U.S.C. § 314(a).” *Sotera Wireless, Inc. v. Masimo Corp.*, No. IPR2020-01019, 2020 WL 7049373, at *7 (PTAB Dec. 1, 2020).

5. Identity Of Parties

Petitioner is the defendant in the litigation. This factor should not be a basis for denying institution.

6. Other Circumstances, Including The Merits

“[T]he PTAB will not deny institution of an IPR or PGR under *Fintiv* (i) when a petition presents compelling evidence of unpatentability.” Memorandum, “Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court Litigation,” 9 (June 21, 2022). Here, the evidence of unpatentability is compelling, and thus the PTAB should not deny institution under *Fintiv*. Accordingly, this factor favors institution.

B. *Advanced Bionics* Factors Favor Institution

The Board uses a two-prong test to determine whether it will deny institution under 35 U.S.C. § 325(d): (1) whether the same or substantially the same art or arguments were previously presented to the Office; and (2) if first part is satisfied, whether the Office erred in a manner material to the patentability of challenged claims. *See Bionics v. MED-EL Elektromedizinische Geräte GmbH*, No. IPR2019-01469, 2020 WL 740292, at *3 (PTAB Feb. 13, 2020).

The Board has held that the first prong of *Advanced Bionics* is not met where neither the combination references nor similar prior art was before the Examiner nor the prosecution history does not include any overlapping arguments directed to this

prior art. *Godbersen-Smith Constr. Co. v. Guntert & Zimmerman Constr. Div., Inc.*, No. IPR2021-00234, 2021 WL 2035091, at *4 (PTAB May 21, 2021). And in such a case, the Board “need not address part two of the analysis.” *Id.*

Farnsworth, Liebenberg, Amstutz, Harrell, and Xu were not cited during prosecution and are not cumulative of the art considered by the Examiner during prosecution. Therefore, discretionary denial under 35 U.S.C. §325(d) is inappropriate.

C. *General Plastic* Factors Favor Institution

The '023 Patent has not been challenged in any prior IPR petition, so none of the *General Plastic* factors apply to this Petition and favor institution.

XI. Conclusion

Petitioner respectfully requests that the Board institute *inter partes* review, hold the challenged claims unpatentable, and cancel the challenged claims.

Dated: September 20, 2024

Respectfully submitted,

/Yung-Hoon Ha/

Yung-Hoon Ha (Reg. No. 56,368)

DESMARAIS LLP

230 Park Ave

New York, NY 10169

212-808-1060 (telephone)

212-351-3401 (facsimile)

Counsel for Petitioner Aktana, Inc.

Petition for *Inter Partes* Review of U.S. Patent No. 9,055,023
Claims 1-8, 10-14, and 17-25

CERTIFICATION UNDER 37 C.F.R. § 42.24(d)

I hereby certify that this Petition for *Inter Partes* Review of U.S. Patent No. 9,055,023 has, excluding the portions exempted under 37 C.F.R. § 42.24(a), 13,897 words as counted by the word-processing system used to prepare this document, in compliance with 37 C.F.R. § 42.24(d).

Dated: September 20, 2024

Respectfully submitted,

/Yung-Hoon Ha/

Yung-Hoon Ha (Reg. No. 56,368)

DESMARAIS LLP

230 Park Ave

New York, NY 10169

212-808-1060 (telephone)

212-351-3401 (facsimile)

Counsel for Petitioner Aktana, Inc.

Petition for *Inter Partes* Review of U.S. Patent No. 9,055,023
Claims 1-8, 10-14, and 17-25

CERTIFICATE OF SERVICE

Under 37 C.F.R. §§ 42.6(e) and 42.126, the undersigned certifies that on September 20, 2024, complete copies of the foregoing and any accompanying exhibits were caused to be served by sending them via Federal Express Priority Overnight shipping, which is at least as fast and reliable as U.S. Priority Mail Express, to the correspondence address of record for U.S. Patent No. 9,055,023 as indicated in Patent Center:

BAKER & MCKENZIE LLP
PATENT DEPARTMENT
1900 North Pearl Street
Suite 1500
DALLAS, TX 75201
UNITED STATES

Dated: September 20, 2024

Respectfully submitted,

/Yung-Hoon Ha/

Yung-Hoon Ha (Reg. No. 56,368)

DESMARAIS LLP

230 Park Ave

New York, NY 10169

212-808-1060 (telephone)

212-351-3401 (facsimile)

Counsel for Petitioner Aktana, Inc.