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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC, SAMSUNG ELECTRONICS CO., LTD., and SAMSUNG ELECTRONICS AMERICA, INC.
Petitioner,

v.

MULLEN INDUSTRIES LLC,
Patent Owner.

IPR2025-00019
Patent 9,204,283 B2

Before JEFFREY S. SMITH, MIRIAM L. QUINN, and BARBARA A. PARVIS, *Administrative Patent Judges.*

QUINN, *Administrative Patent Judge*.

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

I. INTRODUCTION

A. Background and Summary

Petitioner filed a Petition (Paper 4, "Pet.") requesting *inter partes* review of claims 1–20 of U.S. Patent No. 9,204,283 B2 (Ex. 1001, "the '283 patent") pursuant to 35 U.S.C. § 311(a). Patent Owner filed a Preliminary Response (Paper 8, "Prelim. Resp.") pursuant to 35 U.S.C. § 313.

Pursuant to 35 U.S.C. § 314(a), the Director may not authorize an *inter partes* review unless the information in the petition and preliminary response "shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition." For the reasons that follow, we institute an *inter partes* review as to claims 1–30 of the '283 patent on all grounds of unpatentability asserted in the Petition.

B. Related Matters

The parties state that the '283 patent is the subject of civil action in the United States District Court for the Eastern District of Texas (Case. No. 2:24-cv-00049-JRG) ("parallel district court litigation"). Pet. xiii; Paper 5, 1. The '283 patent was also the subject of IPR2023-00091, which was terminated after institution due to settlement. Pet. xiii; *Apple Inc. v. Mullen Industries LLC*, IPR2023-00091, Paper 17 (PTAB Nov. 7, 2023) (Termination).

C. The '283 Patent

The '283 patent, which was filed on August 3, 2006, is a continuation of U.S. Patent No. 9,635,540 filed on March 25, 2003, and claims the benefit of the filing date of Provisional application No. 60/367,967, filed on March

25, 2002. At this stage of the proceeding "the Board has no basis to presume that [the '283] patent is necessarily entitled to the filing date of its provisional application." *Dynamic Drinkware, LLC v. National Graphics, Inc.*, 800 F.3d 1375, 1380 (Fed. Cir. 2015). Patent Owner does not contend that the '283 patent is entitled to the filing date of its provisional application. *See generally*, Prelim. Resp. At this stage, we consider that the '283 patent is entitled to the benefit of the March 25, 2003 filing date.

The '283 patent "relates to systems and methods for remotely determining a device's location." Ex. 1001, 1:16–17. For example, the '283 patent describes "systems and methods for allowing a user of a cellular phone (e.g. a requesting user or a requester) to locate the position of a different user's cellular phone (e.g., requested user) based upon requestor-assigned access rights." *Id.* at 1:38–43.

Figure 2 of the ’283 patent is reproduced below:

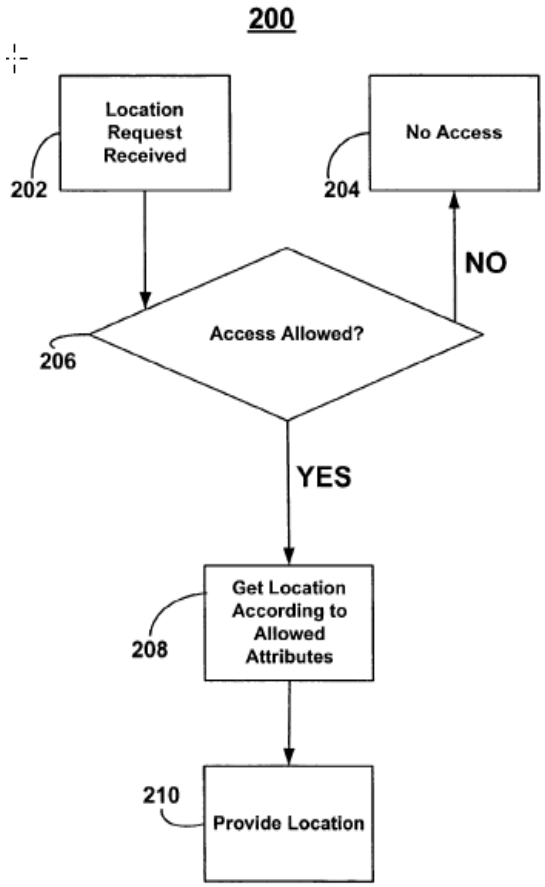

FIG. 2

Figure 2 of the ’283 patent depicts a flow chart for locating another user’s cell phone according to one embodiment. Ex. 1001, 4:48–50, Fig. 2. As shown, a request may be received from a first user for the location of a second user’s cell phone (step 202). *Id.* at 4:50–51. It is then evaluated if the first user is allowed to access the location of the second user (step 206). *Id.* at 4:51–53. If so, the location of the second user’s cell phone may be retrieved from a remote database, facility, distribution center, or any other system (step 208). *Id.* at 4:62–5:10, 5:11–14. The allowed location information of the second user may then be provided to the first user (step

210). *Id.* at 4:62–65. A cell phone or a position system is used to locate the user, but other means (e.g., the Internet) may be used to locate the desired user. *Id.* at 5:2–6; *see also id.* at 2:10–12 (listing satellite positioning systems such as the "Global Position[ing] System" (GPS)).

The '283 patent also describes display screens for the locate feature. For instance, a display screen is provided when a user requests the location of a different user, such as by displaying a list of user identifiers. *Id.* at 6:36-42. Another display screen is provided for a login feature. *Id.* at 9:39–50. The '283 patent describes that for user's to be identified, a user profile may be stored remotely from the device, and the user profile would be used as the locating identifier, with the cell phone they are logged allowing the location of the user. *Id.* According to the '283 patent, "[l]ogging into a device also adds a level of security to the present invention, especially when combined with a password." *Id.*

The '283 patent also describes that a map with a marker identifying a second user's location may be provided to a first user on their cell phone's display screen. Ex. 1001, 2:24–33; *see id.* at 8:27–38.

Figure 6 of the ’283 patent is reproduced below.

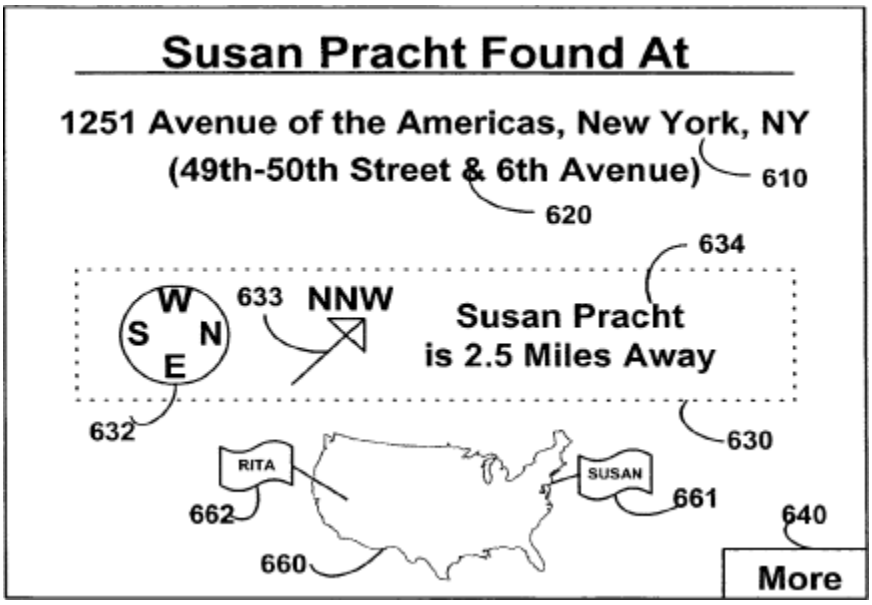

Figure 6 of the ’283 patent above depicts display screen 600 including various location information according to one embodiment. Ex. 1001, 7:21–23, Fig. 6. The ’283 patent describes that “[w]hen a location is retrieved for the requested user, the location may be displayed on Display Screen 600 through primary location information 610,” for example, country, state, city, exact location, or a combination thereof of location information. *Id.* at 7:23–29, Fig. 6 (item 610). What primary location information 610 may be provided depends on the scope of the requesting user’s access rights. *Id.* at 7:26–32.

D. Illustrative Claim

Challenged claim 1 of the ’283 patent recites:

> A method comprising:
>
> displaying on a first wireless telephonic device a plurality of users, wherein each one of said plurality of users is associated to a different one of a plurality of wireless telephonic devices;

receiving on said first wireless telephonic device a first manual input in a form of a selection of one of said plurality of users;

receiving on said first wireless telephonic device an input in a form of a login and a second manual input in a form of a password;

determining whether to allow access of location information for said one of said plurality of wireless telephonic devices associated to said selected one of said plurality of users, wherein said determination includes identifying said user of said first wireless telephonic device from said plurality of users using said login and determining said password is associated with said login and determining whether said selected one of said plurality of users has provided access rights for said location information to said user of aid first wireless telephonic device, and said first wireless telephonic device is operable to assign location access rights to said one of said plurality of wireless telephonic devices associated with said selected one of said plurality of users for obtaining a location of said first wireless tele phonic device;

transmitting said location information from a server to said first wireless tele phonic device; and

displaying said location information on said first wireless device.

Ex. 1001, 12:63–13:25.

E. Prior Art and Asserted Grounds

Petitioner asserts that claims 1–20 of the '283 patent are unpatentable on the following grounds:

Reference(s)	Basis	Challenged Claims
Sheha[1], Smith, [2] Carey[3]	§ 103	1, 2, 6–9, 13, 15–17
Sheha, Smith, Carey, Wako[4]	§ 103	3–5, 10–12, 14, 19, 20
Sheha, Smith, Carey, Engberg[5]	§ 103	18
Randall[6]	§ 103	1, 2, 6–9, 13, 15–17
Randall, Wako	§ 103	3–5, 10–12, 14, 19, 20
Randall, Engberg	§ 103	18

Pet. 2.

II. ANALYSIS

A. Discretionary Denial Under 35 U.S.C. § 314(a): Parallel District Court Litigation

Under 35 U.S.C. § 314(a), institution of *inter partes* review is discretionary. *See Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1367 (Fed. Cir. 2016); *see also* 35 U.S.C. § 314(a). In *Amazon Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 (PTAB Mar. 20, 2020) (precedential), the Board

[1] U.S. Patent No. 7,333,820 B2, filed on July 11, 2002 (Ex. 1005). Petitioner, relying on the testimony of Dr. Williams, contends that Sheha is entitled to the benefit of the July 17, 2001 filing date of Provisional Application No. 60/305,975, because the provisional application provides written description support for claim 1. Pet. 6 (citing Ex. 1002 ¶¶ 75–80). We remind the parties that "the provisional application must also provide written description support for the specific portions of the patent specification identified and relied on in the" asserted grounds. *In re Riggs*, Case No. 2022-1945 at *12 (Fed. Cir. Mar. 24, 2025). At this stage, Sheha qualifies as prior art because its filing date of July 11, 2002 is earlier than the claimed benefit of the provisional filing date of March 25, 2003.
[2] U.S. Patent No. 6,084,951, filed Apr. 23, 1997 (Ex. 1023).
[3] U.S. Patent No. 6,714,793 B1, filed Mar. 6, 2000 (Ex. 1024).
[4] U.S. Patent No. 6,415,224 B1, filed Feb. 6, 2001 (Ex. 1025).
[5] U.S. Patent No. 6,993,658 B1, filed Mar. 6, 2000 (Ex. 1026).
[6] U.S. Publication No. 2004/0024846 A1, filed Aug. 22, 2001 (Ex. 1007).

set forth six non-exclusive factors for determining "whether efficiency, fairness, and the merits support the exercise of authority to deny institution in view of an earlier trial date in the parallel proceeding." *Id.* at 6. These factors are as follows:

> 1. whether the court granted a stay or evidence exists that one may be granted if a proceeding is instituted;
>
> 2. proximity of the court's trial date to the Board's projected statutory deadline for a final written decision;
>
> 3. investment in the parallel proceeding by the court and the parties;
>
> 4. overlap between issues raised in the petition and in the parallel proceeding;
>
> 5. whether the petitioner and the defendant in the parallel proceeding are the same party; and
>
> 6. other circumstances that impact the Board's exercise of discretion, including the merits.

Id. at 5–6. In evaluating these factors, we take a holistic view of whether efficiency and integrity of the system are best served by denying or instituting review. *Id.* at 6.

1. Whether the court granted a stay or evidence exists that one may be granted if a proceeding is instituted

Patent Owner contends that "the evidence points to a stay not being entered in the district court litigation pre- or post-institution" because "Judge Gilstrap . . . has already denied Petitioner Samsung's request for a stay of the parallel district court case pre-institution" and "has ordered that Samsung

may not refile any request for a district court stay until ***after*** 'the PTAB's institution decision on the last of the pending IPRs.'"[7] Prelim. Resp. 26.

Given that the District Court denied Samsung's motion to stay "**WITHOUT PREJUDICE** to refiling of the same within fourteen (14) days following the PTAB's institution decision on the last of the pending IPRs" (Ex. 2008, 3), we decline to speculate whether the District Court will grant a stay. Thus, we find that factor 1 is neutral.

2. Proximity of the court's trial date to the Board's projected statutory deadline for a final written decision

Patent Owner contends that the "district court trial is set for November 3, 2025, which is more than six months before the earliest expected date of a FWD (mid-May 2026) in this Petition." Prelim. Resp. 29.

Petitioner contends that a "motion is pending to transfer the district-court proceeding to the Northern District of California (Ex-1036, 8)." Pet. 76. However, on March 25, 2025, the District Court denied the motion to transfer. Ex. 2026. Thus, we find that factor 2 weights in favor of exercising discretion.

3. Investment in the parallel proceeding by the court and the parties

Patent Owner contends that the parties "have prepared and exchanged infringement and validity contentions, presented initial disclosures," have begun claim construction discovery and fact discovery, and will brief claim construction by the time the Board decides whether to institute. Prelim.

[7] From September 30, 2024 through December 30, 2024, Petitioner filed or co-filed with Google LLC eleven *inter partes* review petitions challenging all claims of the patents asserted in the parallel district court litigation. *See* Ex. 2008, 2 n.2.

Resp. 31. Patent Owner contends that "Petitioners waited over eight months after the district court complaint was filed to submit [the Petition]." *Id.* at 32.

Petitioner contends that the "parties have invested little in invalidity-related issues, the scheduled *Markman* hearing is over seven months away (Ex-1038, 3), and 'a significant portion of work remains to be done in the district court proceeding—e.g., the completion of fact and expert discovery and dispositive motions.'" Pet. 76–77. Petitioner contends that "Petitioner filed this Petition less than five months after receiving Mullen's infringement contentions and about four months before any statutory bar." *Id.*

We agree with Petitioner that much work remains in the district court case as it relates to invalidity because discovery is in its early stages and a *Markman* hearing has not yet occurred. Petitioner filed the Petition nine months after Patent Owner filed its complaint in district court and five months after Patent Owner served its infringement contentions. Prelim. Resp. 32. The instant Petition largely copies from previously filed petitions. Although the filing of the Petition does not seem diligent, the timing overall does not outweigh the limited investment in the district court litigation. Thus, we determine that this factor is neutral.

4. Overlap between issues raised in the petition and in the parallel proceeding

Patent Owner contends that "Petitioners challenge most of the ***same*** claims in their Petition . . . that they do in their invalidity contentions at the district court" and "rely on the same references in the Petition as they do in the parallel district court litigation." Prelim. Resp. 33. Additionally, we

note that the defendant's invalidity contentions include system prior art and other invalidity defenses rooted on lack of written description, indefiniteness, enablement, and obviousness-type double patenting that cannot be asserted in an IPR. Ex. 2014, 27–29, 42–49.

Petitioner "stipulates that, if the [PTAB] . . . institutes this IPR petition on the grounds presented therein, then Samsung will not pursue in the [parallel district court] litigation any grounds that were raised or reasonably could have been raised in the IPR." Ex. 1079; *Sotera Wireless, Inc. v. Masimo Corp.*, IPR2020-01019, Paper 12 (PTAB Dec. 1, 2020).

We find that Petitioner's stipulation mitigates some, but not all of the concerns of overlap, and weighs against exercising discretionary denial.

5. Whether the petitioner and the defendant in the parallel proceeding are the same party

Patent Owner contends that the parties to this proceeding are the same parties in the parallel district court litigation. Prelim. Resp. 33. We note that Google LLC is not a party to the litigation, but is a named RPI in this *inter partes* review. *Id.* at 34; Pet. xii. Because of the involvement of a non-defendant, even if an RPI here, this factor is neutral.

6. Other circumstances that impact the Board's exercise of discretion, including the merits

Patent Owner contends that "the Petition (i) strategically chose not to address known disputes over the claim terms' meaning and (ii) misreads both the claims and the cited references, which demonstrates the weakness of the Petition." Prelim. Resp. 36.

We disagree. The issues raised by Petitioner are similar, if not identical, to those raised in IPR2023-00091, which we instituted. We also

disagree, on this record, that Petitioner misreads the claims and the cited references, as discussed below in both our claim construction and our analyses of the Sheha and Randall grounds.

With regard to the merits, we find that the merits are strong. Patent Owner's arguments to the contrary are rooted primarily on a claim construction position that we do not adopt because it is contrary to the express disclosure of the '283 patent. Reading the claims as narrowly as Patent Owner urges would read out an express embodiment. And we are persuaded, at this juncture, by Petitioner's arguments and evidence, as discussed below, that Sheha and Randall both disclose that embodiment.

As discussed in detail below, at this stage of the proceeding, we find that Petitioner has shown that, for the claims discussed in this Decision, the '283 patent recites well-known and obvious features of locating a wireless device from another wireless device in the manner claimed. This factor weighs against exercising discretionary denial.

7. Conclusion

Having considered the factors above, including the timing of the proceedings, the amount of effort that has been and is yet to be expended in the parallel district court litigation, Petitioner's *Sotera* stipulation, and the merits of Petitioner's challenges, we find that, taken as a whole, the factors do not favor exercising discretion to deny institution. Although the earlier trial date weighs in favor of discretionary denial, the remaining factors are either neutral or weight against discretionary denial. Accordingly, we decline to exercise discretion to deny institution.

B. Level of Ordinary Skill in the Art

Petitioner contends that a person of ordinary skill "would have had a bachelor's degree in computer science, computer engineering, electrical engineering, or a similar degree, with one or two years of experience with wireless networks and devices, such as cellphones and personal digital assistants ("PDAs") as well as wireless positioning technologies, such as GPS or triangulation." Pet. 4. (citing Ex. 1003 ¶¶ 50-54). Petitioner further contends that "[m]ore education could compensate for less practical experience, and vice versa." *Id*. Patent Owner does not propose a level of ordinary skill.

The level of ordinary skill in the art usually is evidenced by the references themselves. *See Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001); *In re GPAC Inc.*, 57 F.3d 1573, 1579 (Fed. Cir. 1995); *In re Oelrich*, 579 F.2d 86, 91 (CCPA 1978). As Petitioner's description of a person of ordinary skill appears commensurate with the subject matter before us, we apply Petitioner's definition for purposes of this Decision.

C. Claim Interpretation

We interpret the challenged claims,

> using the same claim construction standard that would be used to construe the claim in a civil action under 35 U.S.C. 282(b), including construing the claim in accordance with the ordinary and customary meaning of such claim as understood by one of ordinary skill in the art and the prosecution history pertaining to the patent.

37 C.F.R. § 42.100(b) (2022). "In determining the meaning of [a] disputed claim limitation, we look principally to the intrinsic evidence of record, examining the claim language itself, the written description, and the

prosecution history, if in evidence." *DePuy Spine, Inc. v. Medtronic Sofamor Danek, Inc.*, 469 F.3d 1005, 1014 (Fed. Cir. 2006). Claim terms are given their plain and ordinary meaning as would be understood by a person of ordinary skill in the art at the time of the invention and in the context of the entire patent disclosure. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1313 (Fed. Cir. 2005) (en banc). "There are only two exceptions to this general rule: 1) when a patentee sets out a definition and acts as his own lexicographer, or 2) when the patentee disavows the full scope of a claim term either in the specification or during prosecution." *Thorner v. Sony Comput. Entm't Am. LLC*, 669 F.3d 1362, 1365 (Fed. Cir. 2012). Any special definition for a claim term must be set forth in the specification with reasonable clarity, deliberateness, and precision. *In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994).

We construe expressly only those claim terms that require analysis to determine whether to institute inter partes review. *See Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999) (holding that "only those terms need be construed that are in controversy, and only to the extent necessary to resolve the controversy").

Petitioner has not proposed a particular construction for any recited claim term. Pet. 5. However, Patent Owner proposes construction of a phrase that is recited in the three independent claims. Prelim. Resp. 10–11. According to Patent Owner, the Board should construe the following:

> 1. Claim 1 – "said first wireless telephonic device is operable to assign location access rights to said one of said plurality of wireless telephonic devices associated with said selected one of said plurality of users for obtaining a location of said first wireless telephonic device"

2. Claim 8 – "said wireless device is operable to assign location access rights to said first wireless telephonic device for obtaining a location of said wireless device"

3. Claim 15 – "said first wireless device is operable to assign a second permission to said second wireless device for obtaining second location information of said first wireless device"

Id. These three phrases refer to assigning "location access rights" or assigning "permission." Patent Owner contends that Petitioner ignores the claim language that requires the "assig[ed] location access right" and the "permission" to be provided ***by a specific device***, such as the same "first wireless device" recited in claim 1. *Id*. at 11–12. Patent Owner further contends that Petitioner incorrectly argues that the "location access right" and "permission" can be satisfied when a group policy allows the device to access location information, because under the plain claim language the permission/right is provided ***to a specific device***. *Id.* at 12. According to Patent Owner, Petitioner improperly rewrites this claim term as "a policy that may result in allowing said one of said plurality of wireless telephonic devices associated with said selected one of said plurality of users to obtain a location of said first wireless telephonic device." *Id*.

Patent Owner contends that a group policy that allows a group to access location information may be an empty set, or the group members may change over time. Prelim. Resp. 13. According to Patent Owner, the group policy imposes risk of erroneously allowing or disallowing access to location information, because a user may forget that the group is allowed access when adding a member to the group, or a user may forget that a member was deleted from the group. *Id*. at 14. Patent Owner contends that the '283 patent recognizes this risk in describing that "[o]ne object of the

present invention is to provide a security feature which allows a user to limit and/or deny location access to a particular user." *Id*. at 14 (citing Ex. 1001, 1:44-46. Patent Owner provides additional arguments to support its contention that the claimed "permission," read in light of the Specification, excludes a group permission. *Id*. at 15-21.

We disagree with Patent Owner on this record. The language of claims 1, 8, and 15, quoted above, recite that the "wireless" telephonic "device is operable to assign location access right to" one other wireless telephonic devices (claims 1 and 8) and that the "first wireless device is operable to assign a second permission to said second wireless device" (claim 15). The claim language does not limit the location access rights to be assigned only to the one other device, at the exclusion of other devices. Nor does the language regarding assigning a "permission" limit that assignment to a single (and only to the) second wireless device. The ordinary and customary meaning of "assigning . . . to said one of said plurality of wireless devices, "assigning . . . to said first wireless telephonic device" or "assign a second permission to said second wireless device" encompasses a right or permission that allows other devices, in addition to the recited device, to access location information.

The disclosure in the written description is consistent with the ordinary and customary meaning. Although the written description states that an object of the invention is to provide a security feature which allows a user to limit or deny access to a particular user, the written description discusses other purposes served by the assignment of access rights or permissions. For example, the written description discloses that "[u]sers may be added, individually or in groups, to a list of users with location

access rights to a specific user by that specific user. A specific user may, at any time, modify, delete, or add users allowed to access his or her location." Ex. 1001, 3:22-26. The written description further discloses that "a user may organize his/her user list into groups and assign access rights to that group (e.g., family member user group, close friend user group)." *Id*. at 12:56–58.

The fact that the written description of the '283 patent sets forth multiple objectives to be served by the access rights or permission confirms that these terms should not be construed as limited to a single target device. *Phillips*, 415 F.3d at 1327. Further, because the written description here includes an embodiment where a user assigns access rights to a group, we are persuaded that the scope of the disputed claim terms encompasses a group permission. *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1583 (Fed. Cir. 1996) (holding that interpreting a claim to exclude an embodiment disclosed in the written description "is rarely, if ever, correct and would require highly persuasive evidentiary support, which is wholly absent in this case.").

At this stage, we interpret the scope of the "assign access rights" and "assign a second permission" phrases discussed above to encompass at least the disclosed embodiment of assigning access rights to a group. Ex. 1001, 12:56–58.

D. Ground 1: Obviousness based on Sheha, Smith, and Carey

Petitioner contends that claims 1, 2, 6–9, 13, and 15–17 are unpatentable over Sheha, Smith, and Carey. Pet. 2, 6–35.

1. Overview of Sheha (Ex. 1005)

Sheha relates to systems for obtaining real-time remote and local position information in a mobile environment for mapping, routing, and direction finding purposes. Ex. 1005, 1:16–18, 2:60–63.

Figure 3 of Sheha is reproduced below.

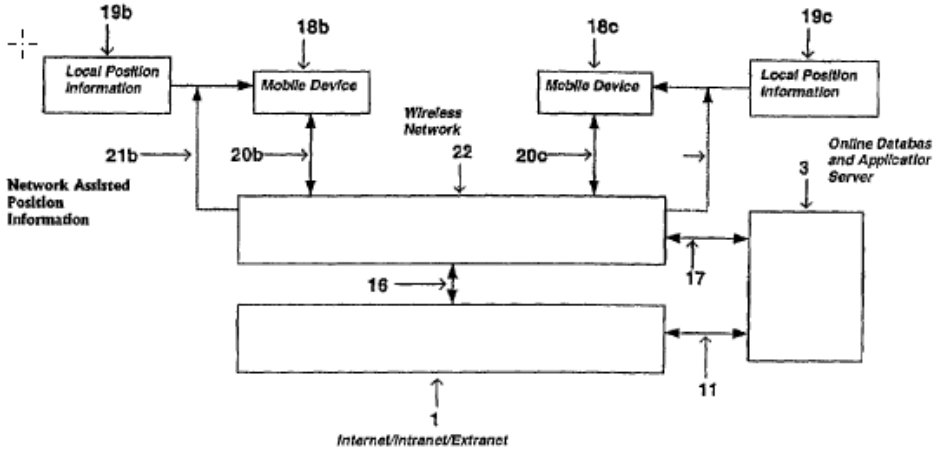

Figure 3 of Sheha "illustrates how a typical mobile-to-mobile connection can be established using a plurality of different telephone and/or computing devices." Ex. 1005, 6:45–47, Fig. 3. As shown, "a user placing a . . . call from a mobile device 18b . . . inputs a telephone number of another mobile device 18c," and "the position information of each device can be updated in the [application server] ODAS 3 prior to establishing the . . . call, depending on each mobile device's 18b and 18c privacy settings." *Id.* at 10:66–11:8. "The position information is calculated . . . by . . . an onboard positioning information device 19b . . . connected to the mobile device 18b, or by receiving position information from the wireless network 22 using a network assisted positioning approach 21b." *Id.* at 11:15–20. "When a mobile device 18b dials a telephone number, the position information and destination telephone number is transferred to the wireless network 22 by . . . wireless connection 20b." *Id.* at 11:12–15. Through various means, the

ODAS 3 may receive "both the originating and destination telephone numbers, users account information, and position information for both mobile devices 18b and 18c." *Id.* at 11:20–37. "In one embodiment, prior to the destination mobile device 18c receiving the telephone call from the originating mobile device 18b, the wireless network sends the position information, obtained from the ODAS 3, in the form of [] Map Caller-ID" information received by "both the originating and destination mobile device." *Id.* at 11:37–44. "[M]obile devices 18b and 18c continually send their updated position information to the ODAS 3," and "[t]he ODAS 3 periodically updates each mobile device with the other's position information, thus providing real-time driving directions and route information." *Id.* at 11:44–51.

According to Sheha, "[a] mobile or landline device can also request position information of another mobile or landline device by only specifying a telephone number, without having to initiate a telephone call." Ex. 1005, 11:55–58. "When a mobile device's position information is requested, the system, based on privacy settings, responds with the appropriate position information to the requesting user's device." *Id.* at 12:1–4. In another embodiment, a user can request the position of a mobile device using authorization and authentication protocols that identify users that are permitted to access this information. *Id.* at 11:61–12:1, 12:4–7.

2. Analysis of Claim 1

Petitioner contends that Sheha discloses most of the limitations of claim 1, with the addition of Smith's functionality of contact lists and buttons to allow the user to interact with the device and the contact list. Pet.

9. Petitioner further relies on Carey as disclosing how the authentication information would be entered on a cell phone device. *Id.* at 10.

For claim 1, the Petition substantially relies on Sheha's group database and authorization and authentication protocols by which a user can define a group of specific users that have access to the user's location information. Pet. 16–17 (citing Ex. 1005, 11:55–12:7, 4:59–5:20, 13:65–14:2, 14:54–61, 19:9–13; Ex. 1003 ¶¶ 130, 131); Pet. 20–21. According to Petitioner, Sheha discloses that permissions can be established by the mobile device's privacy information. Pet. 16–17. The Petition further identifies the Sheha user's account having a username and password for the online database and application server (ODAS) and that such login information is used to authenticate the user as being "genuine." *Id.* at 18–19 (citing Ex. 1005, 8:40–53; Ex. 1003 ¶ 140). This authorization results in determining whether the user has permission to obtain the location of a requested device. *Id.* at 19 (citing Ex. 1005, 5:21–46, 11:63–12:7; Ex. 1003 ¶ 140).

Patent Owner takes issue with Petitioner's reliance on Sheha as disclosing the "location access rights" and the manner in which the claim determines to allow access of location information. According to Patent Owner, Sheha discloses that each device has privacy settings that either allow or prevent location information from being sent only *during a call*. Prelim. Resp. 49. Patent Owner contends that sending or receiving location information according to privacy settings for a call does not depend on access rights provided for another device, but on privacy settings for location requests during the call. *Id*. at 49–50.

Patent Owner further contends that Sheha discloses that users can define a group of specific users that have access to location information in a group database. Prelim. Resp. 51. Patent Owner contends that the group database is used for landline-to-landline requests, not mobile-to-mobile requests. *Id*. at 51–52. Further, Patent Owner contends that the group policy stored in the database is not "location access rights" or a "permission" provided to a specific device to access location information as claimed. *Id*. at 52. Finally, Patent Owner contends that the group database does not provide the advantages of eliminating security risks and improving system security as disclosed by the '283 patent. *Id*. at 52–53.

We disagree with Patent Owner's arguments. With respect to Sheha's privacy settings, Petitioner contends that each device establishes privacy settings and that configuring those settings includes defining the group permissions. Pet. 23. Thus, Petitioner contends, a mobile device provides permission for a requesting device to access its location information, just as the requesting device can also establish permissions for other devices to access its location. *Id.* (citing Ex. 1005, 5:3–9, 11:10–54, 11:55–12:7; Ex. 1003 ¶¶ 156, 157). On this record, Sheha discloses that location information for both landline phones and mobile phones is stored in the ODAS, and that a mobile device can request the location of either a landline phone or a mobile phone. Ex. 1005, 11:55–12:7.

With respect to Patent Owner's contention that Sheha's groups are used in the context of landline-to-landline requests, not mobile-to-mobile requests, Petitioner contends that Sheha discloses that the mobile-to-mobile embodiment uses the same authorization protocols as the landline

embodiments. *Id*. at 17 (citing Ex. 1005:12:4–7). Petitioner contends that even if Sheha does not explicitly disclose using the group database permissions in the mobile-to-mobile embodiment, a person of ordinary skill in the art would have done so to yield the same benefit as doing so for the landline embodiment, namely, allowing a user to specify a group of other users who have permission to access location information without initiating a phone call. *Id*. at 18 (citing Ex. 1007 ¶¶ 52, 70, 136, 144–148; Ex. 1003 ¶¶ 135–138). On this record, we agree with Petitioner. In particular, we note Sheha's teaching that "[i]n another embodiment, users can define a group of specific users that have access to [location] information" and that "a user can request the position of a mobile device, similarly to requesting the position of a landline device." Ex. 1005, 11:55–12:7.

Further, as noted in our claim construction analysis, we do not agree with Patent Owner's contention that the claim requires assigning access rights or a permission for a single device. This narrow reading of the claim language is not commensurate with the scope of the claim as discussed above. The claim does limit the assignment of access rights or permission to only the device recited. Rather, when read in light of the Specification, the assignment of rights or permission as recited must encompass one or more permissions given the disclosed embodiment of assigning access rights to a group. Ex. 1001, 3:22–26, 12:56–58.

On the present record, Petitioner has shown that Sheha teaches defining a group of specific users that have access to the location information of a mobile device using a group database and protocols to identify users that are permitted to access the location information.

Ex. 1005, 11:63–12:7. Further, on this record, we agree with Petitioner and credit Mr. Williams's testimony that a user can define a group of one, and that assigning a permission to a single individual was known in the art. Pet. 20–21, 23–24; Ex. 1003 ¶¶ 147–149, 158; Ex. 1007 ¶¶ 52, 70, 136, 144–146; Ex. 1015, 13:1–13:9. At this stage, we are preliminarily persuaded that a user who defines a group of one or more users that have access to the location of that user's mobile device as taught by Sheha teaches the "assign[ing] location access rights" as required by claim 1.

For the remaining limitations of claim 1, Petitioner provides sufficient argument and evidence showing that the combined teachings of Sheha, Smith, and Carey teach or suggest those limitations. Pet. 10–16, 24–26. Patent Owner does not address any other limitations of claim 1. Nor does Patent Owner challenge the proffered reasons to combine the asserted teachings.

Based on the evidence and arguments currently of record, for purposes of institution, we determine that Petitioner demonstrates a reasonable likelihood that independent claim 1 is unpatentable over Sheha, Smith, and Carey.

3. Independent claims 8 and 15

Petitioner relies, for the most part, on its contentions with respect to claim 1 for how the combination of Sheha disclose the subject matter of independent claims 8 and 15. *See* Pet. 29–34. Patent Owner relies on the arguments directed to independent claim 1, which we addressed above in connection with our analysis of claim 1 under Ground 1. *See* Prelim. Resp.

46 (referencing that the arguments made for claim 1 apply to similar limitations in claims 8 and 15).

Based on our analysis of claim 1, and review of Petitioner's additional contentions and corresponding evidence directed to claims 8 and 15, we determine that Petitioner demonstrates a reasonable likelihood that independent claims 8 and 15 are unpatentable over Sheha, Smith, and Carey.

4. Dependent Claims 2, 6, 7, 9, 13, 16, and 17

Petitioner contends that claims 2, 6, 7, 9, 13, 16, and 17 are unpatentable over Sheha, Smith, and Carey. Pet. 26–35. Patent Owner does not offer any specific arguments with respect to these claims. *See* Prelim. Resp. Based on the record before us, we are persuaded that the Petition sufficiently shows that claims 2, 6, 7, 9, 13, 16, and 17 are unpatentable over Sheha, Smith, and Carey.

D. Remaining Grounds Based on Sheha, Smith, and Carey in Combination with Others

Petitioner relies on the combination of Sheha, Smith, Carey and further with Wako to present a challenge of obviousness for claims 3–5, 10–12, 14, and 19–20. Pet. 2; 35–42. Petitioner further relies on the addition of Engberg to the combination of Sheha, Smith, and Carey to contend that claim 18 is unpatentable. *Id.* at 2; 43–44. Patent Owner does not offer any specific arguments with respect to these grounds. Based on the record before us, we are sufficiently persuaded that the Petition shows that claims 3–5, 10–12, 14, and 18–20 are unpatentable over these grounds.

E. Ground 5: Obviousness Based on Randall

Petitioner contends that claims 1–2, 6–9, 13, and 15–17 are unpatentable over Randall.

1. Overview of Randall (Ex. 1007)

Randall "relates to a method of enabling a wireless information device to access data services," where the wireless information device includes radio telephones and smart phones. Ex. 1007 ¶ 2. A "directory application (which contains a user's contacts list, and is capable of acting as a directory for any other name/contact data) [and] a location application (which gives a user's location and includes digital maps) . . . might all be resident on a device." *Id*. at ¶ 9.

A user might choose to subscribe to a service which allows others to track his or her location. Ex. 1007 ¶ 21. The user's friends or parents who wish to track the user's location might have applications resident on their devices which allow them to see the user's current telephone number and address. *Id*. A map application could show friends and parents their position on digital maps and also show the position of the user. *Id*.

An ADS system information distribution architecture includes internet servers hosting extensible databases which can be accessed by the wireless information devices. Ex. 1007 ¶ 29. A database can define which entities can read different fields. *Id*. ¶ 47. For example, Alice can give Bob rights to read only certain fields in her database, such as location information. *Id*. ¶¶ 47, 144. When Bob's device sends Alice's ADS number to the server, the server recognizes Bob's device and allows that device to read Alice's information held on the database which is specified as being accessible to

Bob. *Id*. ¶ 49. Access rights can be associated with individual entities, and can also be associated with groups of entities. *Id*. ¶ 70.

2. Analysis of claim 1

Petitioner relies on Randall as teaching or suggesting all the limitation of claim 1. Pet. 44–62. In particular, Petitioner describes Randall's i-Data database, which includes one field for "GPS location," which stores the device's location. *Id.* at 55 (citing Ex. 1007 ¶¶ 503–512, 116–136). Petitioner also relies on Table 1 of Randall, reproduced below, and showing a row of the table highlighted in yellow. Pet. 56.

TABLE 1

Alice's iData

Field/Attribute	Category	Details	i-Groups
First name	personal	Alice	all
Family name	personal	Edwards	all
Title	work	European Marketing Manager	all

TABLE 1-continued

Alice's iData

Field/Attribute	Category	Details	i-Groups
Company Name	work	Wireless Information Device gets R Us	all
Company Address	work	1 Science Park Rd, London, N1	all
Company E-mail	work	alice.edwards@Wireless Information Device getsrus.com	business 1
Company switchboard	work	0207 200 2000	all
Company Direct	work	0207 200 2012	business 1
Mobile Phone	work	0840 1234 567	business 1, friends
Home Phone 1	work	0208 341 1234	friends, family
Home Address	work	25 The Gables, Hampstead, London, NW3	family
My photo	photos		friends
Childhood photo	photos		family
Home note	notice	Sorry about dinner ⊗	partner
Work note	notice	In a meeting with Tim till 7pm	work 1
My mood now	mood	Very tired	all
Tel Call Subject		"Dinner Tonight"	
Bluetooth	location	Bluetooth pods 1000–1020 . . . Sentinel room 2 . . .	
GPS	location	London W1, Seymour St.	partner
Hobby	preferences	Photography, travel	friends
Book	preferences	Maverick	friends
AlbumOfTheWeek	InstaPoll		friends

Randall, Table 1 (annotated).

Table 1 of Randall shows a view of the data stored in the ADS System Database about Alice: Alice's iData. Ex. 1007 ¶ 505. The highlighted row shows a "Field/Attribute" of GPS, having a location "Category" and belonging to an "i-Group" of partner. Randall describes that the "i-Group" controls what data other people see. *Id.* ¶ 509. In this instance, Alice has provided access to her GPS location to the "partner" group. According to Petitioner, Randall's users can authorize certain people to track the location of GPS wireless information device. Pet. 57. And that sensitive information is only available to people in certain i-Groups, allowing a user (like Alice in the example above) to control what data other users see. *Id.* (citing Ex. 1007 ¶¶ 509, 136).

Petitioner also points out Randall's authentication feature, where a user has to enter a PIN or answer authentication questions. Pet. 53–54. This authentication can be used for access control both locally and on the server, corroborating that it is input locally on the wireless device. *Id.* at 45 (citing Ex. 1007 ¶ 380; Ex. 1003 ¶ 281).

Patent Owner contends that "Randall does not disclose or suggest the '283 Patent's claimed features that the same device that is operable to have its location determined is operable to provide . . . a permission for another specific device to access the location information." Prelim. Resp. 53. Patent Owner contends that Randall is silent as to how definitions of which entities can read different fields are established. *Id*. at 53–54 (citing Ex. 1007 ¶ 47). Patent Owner contends that granting access rights to a group as taught by Randall does not teach the claimed providing a permission for a wireless device according to Patent Owner's construction of this term. *Id*. at 54.

We are not persuaded by Patent Owner's arguments. On this record, Randall does not disclose that a user would use one device, such as a personal computer, to indicate to a database that the database should store location information of another device of the user, such as a mobile telephone. Rather, Randall discloses that a wireless information device performs the functions disclosed by Randall, where the wireless information device "cover[s] any kind of device with one or two way wireless information capabilities and includes without limitation radio telephones, smart phones, communicators, personal computers, computers and application specific devices." Ex. 1007 ¶ 2. We are sufficiently persuaded, on this record, that Randall teaches that the same wireless information device that is operable to have its location determined is also operable to provide a permission for another specific device to access the location information.

With respect to Patent Owner's contention Randall does not teach providing a permission for a wireless device under Patent Owner's construction because a group policy is not a permission for a specific person, we disagree for the reasons given in our construction of this term and for the reasons given in our analysis of the Sheha, Smith, and Carey ground discussed above.

Further, even under Patent Owner's narrower construction, Randall discloses that "a user can also specify the remote database access rights given to different people or groups," that "[a]ccess rights can be associated with individual entities, and can also be associated with groups of entities," and that "[s]ome users will be prepared to allow specific people access to

more of their data than others," where "[t]hese specific people or groups of people . . . are referred to as Buddies." Ex. 1007 ¶¶ 52, 70, 146.

Based on the evidence and arguments currently of record, for purposes of institution, we determine that Petitioner has demonstrated that Randall teaches the features recited in this limitation of claim 1.

Based on the evidence and arguments currently of record, for purposes of institution, we determine that Petitioner demonstrates a reasonable likelihood that independent claim 1 is unpatentable over Randall.

3. Independent claims 8 and 15

Petitioner relies, for the most part, on its contentions with respect to claim 1 for how the combination of Randall disclose the subject matter of independent claims 8 and 15. *See* Pet. 64–67. Patent Owner relies on some the arguments directed to independent claim 1. *See* Prelim. Resp. 54–55 (referencing limitations of claims 8 and 15).

Based on our analysis of claim 1, and review of Petitioner's additional contentions and corresponding evidence directed to claims 8 and 15, we determine that Petitioner demonstrates a reasonable likelihood that these claims are unpatentable over Randall.

4. Dependent Claims 2, 6, 7, 9, 13, 16, and 17

Petitioner contends that claims 2, 6, 7, 9, 13, 16, and 17 are unpatentable over Randall. Pet. 62–67. Patent Owner does not offer any specific arguments with respect to these claims. *See* Prelim. Resp. Based on the record before us, we are persuaded that the Petition sufficiently shows that claims 2, 6, 7, 9, 13, 16, and 17 are unpatentable over Randall.

F. Remaining Obviousness Based on Randall and Others

Petitioner relies on the combination of Randall with Wako to present a challenge of obviousness for claims 3–5, 10–12, 14, and 19–20. Pet. 2; 68–74. Petitioner further relies on the addition of Engberg to Randall's teachings to contend that claim 18 is unpatentable. *Id.* at 2; 74–75. Patent Owner does not offer any specific arguments with respect to these grounds. Based on the record before us, we are sufficiently persuaded that the Petition shows that claims 3–5, 10–12, 14, and 18–20 are unpatentable over these grounds

III. CONCLUSION

Based on the arguments presented in the Petition, we conclude that Petitioner has demonstrated a reasonable likelihood of prevailing with respect to at least one claim of the '283 patent challenged in the Petition. Accordingly, we institute a trial on all claims and all grounds asserted in the Petition. The Board has not made a final determination under 35 U.S.C. § 318(a) with respect to the patentability of the challenged claims.

IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that, pursuant to 35 U.S.C. § 314(a), an *inter partes* review of claims 1–20 of the '283 patent is instituted with respect to all grounds set forth in the Petition; and

FURTHER ORDERED that, pursuant to 35 U.S.C. § 314(c) and 37 C.F.R. § 42.4(b), *inter partes* review of the '283 patent shall commence on the entry date of this Decision, and notice is hereby given of the institution of a trial.

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