UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,
Petitioner,

v.

MOBILE DATA TECHNOLOGIES LLC,
Patent Owner.

IPR2024-00248
Patent 9,032,039 B2

PETITIONER'S REPLY

I. INTRODUCTION

Patent Owner's challenges to the instituted grounds rely primarily on proposed constructions for "**mobile device**," "**wireless network**," and "**wireless networking functionality**" that conflict with the intrinsic record's express definitions and ignore its other clear disclosures. Yet even if the Board were to accept these erroneous constructions, they would fail to differentiate the prior art.

Patent Owner further contends that the combination of Neibauer with Cheng is deficient because Cheng purportedly does not disclose a mobile device user's ability to provide input for a website. These arguments overlook Cheng's disclosures of mobile device profiles that specify what types of input the mobile device can provide (such as text, photos, and files)—profiles that are then used in converting webpages for those mobile devices. Patent Owner's arguments also ignore the fact that providing input to a website was basic Internet functionality disclosed in Cheng that would have fallen within a skilled artisan's knowledge.

Patent Owner also attacks the combination with Squibbs by impermissibly attacking Squibbs individually as presenting location data on a PC rather than through the claimed mobile information channel. This argument ignores the proposed combination, which would have integrated the location data into the mobile information channels in Neibauer, presented through a laptop computer or through a handheld mobile device using the techniques described in Cheng.

II. CLAIM CONSTRUCTION

Patent Owner proposes constructions for (1) "**mobile device**," (2) "**wireless networking functionality of the mobile device**," and (3) "**wireless network**." Petitioner has addressed these constructions in the interests of completeness, but as explained in **Part III** below, the prior art renders the claims obvious even if the Board were to adopt the (erroneous) constructions proposed by Patent Owner.

A. "mobile device"

Patent Owner contends that "**mobile device**" should be construed as "a portable device with limited display space and limited navigational capabilities that connects to a mobile site and/or mobile information channel via a wireless network." (Response, 9.) The apparent purpose of Patent Owner's construction is to exclude conventional laptop computers. (*Id.*, 11-14.)

Patent Owner ignores the express definition in the written description, which states: "The term 'mobile device' ***as used herein*** is intended to include, without limitation, any type of portable information processing device capable of being configured for communication over a network." ('039, 4:26-29 (emphasis added).) This language, which includes the phrase "as used herein," plainly reflects the applicants' intention to provide an express definition. *See, e.g.*, *Sony Interactive Enter. LLC v. Intellectual Pixels Ltd.*, 2023 WL 6773879, at *4 (Fed. Cir. Oct. 13, 2023) ("The use of the phrase 'as used herein' signals that this sentence is

definitional."); *Abbott Labs. v. Andrx Pharms., Inc.*, 473 F.3d 1196, 1210 (Fed. Cir. 2007) (holding that specification "unambiguously provides definitions of other claim terms" by using the phrase "as used herein"); *see also* EX1041, ¶¶9-10. "When a patentee explicitly defines a claim term in the patent specification, the patentee's definition controls." *Martek Biosciences Corp. v. Nutrinova, Inc.*, 579 F.3d 1363, 1380 (Fed. Cir. 2017). Accordingly, to the extent "**mobile device**" requires construction, it should be construed based on its express definition.

This definition also encompasses a laptop computer as it only requires a ***portable*** device, which can encompass a wide range of devices and is not limited only to handheld or small form-factor computers. (EX1041, ¶11; EX1034, pp.412-13).) This is conclusively confirmed by the fact that, immediately after the express definition quoted above, the written description provides a list of exemplary mobile devices that includes "a laptop computer." ('039, 4:32.)[1]

Patent Owner contends that "laptop computer" in the patent only refers to a subset of laptops having "limited capabilities," but cites nothing in the intrinsic record to support this position. (Response, 11-12.) This argument is further contradicted by the patent's explicit identification of a "palmtop computer" as an exemplary mobile device. ('039, 4:31-32.) A palmtop is effectively a smaller,

[1] In fact, the written description provides a list of exemplary "non-mobile" devices, and that list does not include a laptop computer. ('039, 4:44-47.)

laptop-like computer that already embodies the very limitations Patent Owner seeks to impose on laptops generally. (EX1041, ¶13; EX1034, p.389.) In that same section, the written description lists "a hand-held computer" and "a tablet computer" as additional examples of mobile devices. ('039, 4:32-33.) The inclusion of these smaller mobile computers undermines Patent Owner's claim that the term "laptop computer" must be narrowly construed. (EX1041, ¶12.) In fact, the written description makes clear that "the invention does not require the use of any particular type or configuration of mobile device." ('039, 14:45-49.)

Patent Owner's proposed construction would also impose "limited display space and limited navigational capabilities" as requirements for a mobile device—criteria that appear nowhere in the term's express definition. This phrase surfaces only once—in the Background section of the patent—describing "typical" mobile devices. ('039, 1:44-48 ("… limited display space and navigational capabilities ***of typical mobile devices***.") (emphasis added).) Nothing in the patent suggests that every mobile device must have those limitations, nor can this phrase override the broader express definition presented later in the patent.

Finally, Patent Owner's own extrinsic evidence undermines its construction. Although Patent Owner insists that a mobile device must have "limited display space and limited navigational capabilities," it quotes from a NIST definition of "mobile device" that on its face encompasses laptop computers with WiFi wireless connections. (Response, 14-15 (quoting EX2011).) Patent Owner also asserts that the "IBM Workpad z50" was a laptop computer that satisfies its definition. (Response, 11-12.) But as Patent Owner's cited evidence reveals, the IBM Workpad z50 (at right) was a practically a full-sized laptop computer with a large screen and keyboard. (EX2021, 3 ("[T]he build quality of the IBM shows through, with a firm, well spaced out, 95% size keyboard.").)

B. "wireless networking functionality of the mobile device"

Patent Owner argues that "**wireless networking functionality of the mobile device**" means "functionality implementable by a mobile device via a wireless network independent of the Internet." (Response, 16.) This construction should also be rejected as it is unsupported by the intrinsic evidence. To the extent the phrase requires express construction (it does not), it should simply be construed as functionality implementable over a wireless network. (EX1041, ¶37.)

The key issue with this construction is the phrase, "***independent of the Internet***," which is unsupported and in fact contradicted by the intrinsic evidence.

The written description discloses examples of wireless networking functionality including messaging actions, collaboration actions, and location actions, but never once suggests that these functionalities must be implementable ***independent*** of the Internet. The written description instead merely states that these actions are "implementable ***over the wireless network***" ('039, 5:51-63 (emphasis added)). Functionality can be "implementable over the wireless network" (*id.*), while also utilizing the Internet to provide that functionality. (EX1041, ¶¶31-34.) The written description discloses several examples of this.

For example, the written description expressly identifies "email" and "MMS" as examples of "wireless networking functionalities." ('039, 18:16-22 ("… a mobile website integrating existing wireless networking functionalities, such as … MMS… [and] email….").) Both of these functionalities utilize the Internet to function. (EX1041, ¶34.) For example, the experts for both sides agree that "email" uses SMTP, the standard protocol for sending and receiving email messages over the Internet. (EX2007, ¶89; EX1033, 67:9-16; EX1041, ¶34.) The same is true for "MMS," an industry standard for sending multimedia messages between mobile devices, that likewise uses the Internet. (EX2007, ¶89; EX1033, 67:9-16, EX1041, ¶34.) The written description also discloses an embodiment in which collaboration, messaging and location actions – examples of wireless networking functionalities – provided through M-Channels on mobile sites accessible via the Internet. (EX1041,

¶33 (citing '039, 8:5-15, 7:62-67, 5:43-46, 10:19-23).) The fact that Patent Owner's proposed construction would exclude these embodiments from the scope of the claim is further evidence that its construction is incorrect.

C. "wireless network"[2]

Patent Owner argues that "**wireless network**" should be construed as "a network separate from the internet that facilitates connection to the internet by a mobile device." (Response, 15.) This construction should also be rejected. To the extent this term requires any construction , it should be construed as a network that allows a device to communicate wirelessly over a network. (EX1041, ¶29.)

Patent Owner's only basis for insisting that a wireless network must be "separate from the Internet" is the description and illustration of Figure 1A, which shows two distinct network clouds (wireless network **12** and Internet **14**). (Response, 15-16.) But Figure 1A is merely a high-level functional block diagram, and nothing in the written description indicates any actual physical separation. The written description makes clear, moreover, that the arrangement in Figure 1A is exemplary. ('039, 4:1-4 ("The network configuration of system **10** [in Figure 1A] illustratively comprises wireless network **12** and Internet **14**. However, ***the***

[2] "**Wireless network**" is not recited in the challenged claims. Petitioner nevertheless addresses Patent Owner's proposed construction because of incorporation of this term into Patent Owner's proposed construction of "**wireless networking functionality of the mobile device**," separately addressed above.

invention does not require this particular network arrangement.") (emphasis added).) The patent goes on to identify a number of suitable networks including the Internet, multiple cellular networks, "as well as ***portions or combinations*** of these and other networks." ('039, 4:4-13 (emphasis added).) The written description thus fully contemplates that a network can include combinations of networks, such as a combination of the Internet with a known cellular network. This further contradicts Patent Owner's assertion that a wireless network must remain separate from the Internet. (EX1041, ¶27.)

This is further supported by the patent's express reference to "***the mobile Internet***" as an example of a wireless network— thus making clear that a wireless network can be combined with the Internet. ('039, 10:19-23 ("By utilizing the content management site, system users can create one or more personal or business mobile sites with various sets of features, and then share such sites via <u>the mobile Internet or ***other wireless network***</u> with friends, family, colleagues, or other groups of any type.") (emphasis added).) This makes sense because, once a mobile device is connected to the Internet through a wireless network, the mobile device is considered part of the Internet. (EX1041, ¶28.) Patent Owner's proposed construction should therefore be rejected.

III. ARGUMENT

A. Ground 1: The Challenged Claims Are Obvious Over Neibauer in View of Cheng and Squibbs

1. The Combination Utilizes a "Mobile Device"

Patent Owner's arguments focus on independent claim 19 and primarily rely on Patent Owner's proposed construction of "**mobile device**" that was already addressed—and shown to be flawed—above. Even if that construction were adopted, it still would not distinguish the proposed combination.

This is because the proposed combination would still disclose the ability to access the features of Neibauer through non-laptop devices that meet even Patent Owner's narrow definition. For example, the combination of Neibauer and Cheng discloses multiple different examples of handheld mobile devices capable of accessing webpages including Palm devices, Pocket Internet Explorer devices, and smart phones. (Cheng, 2:4-15; *see also id.*, 5:11-25, 7:50-58, 9:47-59.) The Palm devices mentioned in Cheng are examples of well-known personal digital assistant (PDA) devices that had limited display space and navigational capabilities. (EX1041, ¶7.) Patent Owner's expert acknowledged that PDA devices satisfied Patent Owner's mobile device definition. (EX1033, 41:10-15, 42:1-15, 44:6-16.) Neibauer, for its part, also discloses examples of PDA devices including Palm and Windows CE devices. (Neibauer, p.171 (00116), ¶3; EX1041, ¶8.) Under the proposed combination, the features of Neibauer would have been accessible using

PDAs, mobile telephones, among others. (EX1041, ¶19; Petition, 18-26.) Patent Owner does not dispute that these are all mobile devices under its definition.

Patent Owner also argues that Neibauer does not disclose the ability to access a "mobile site" (Response, 38-40), but the claims do not recite a mobile site. Nevertheless, the '039 patent makes clear that a "mobile site" can include a website, or even portions of a website. ('039, 7:62-67.) The website disclosed in Neibauer qualifies as a mobile site because it can be accessed from a mobile device, *e.g.* a laptop computer. And to the extent the Board were to adopt Patent Owner's narrower construction of "mobile device," a mobile site would still be obvious based on Neibauer in view of Cheng as described in the Petition. (Petition, 18-26.)

2. Patent Owner's Arguments About Cheng Ignore its Disclosures and Grossly Understate the State of the Art as of June 2002

Patent Owner argues that "Cheng's proxy server model would not have supported two-way content sharing for mobile devices," because it instead "discloses a unidirectional re-formatting of a conventional source website for viewing on a circa 2000 mobile device." (Response, 37.)[3] But Cheng discloses bidirectional communication that includes receiving content from a mobile device.

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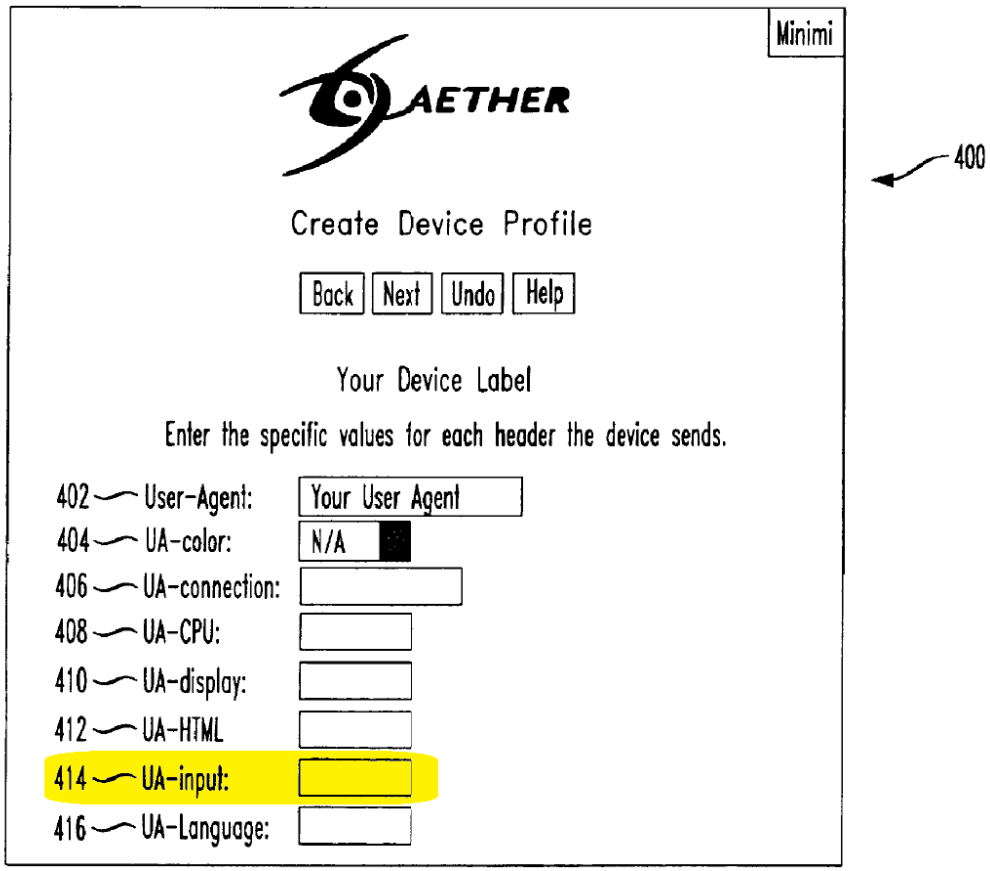
[3] Patent Owner also incorrectly argues that "Petitioner not advancing any grounds using Neibauer without Cheng." (Response, 44 n.2.) The Petition made clear that its analysis relied on Cheng (and the Yahoo! Mobile disclosures in Neibauer) to the

For example, Cheng discloses creation of device profiles for mobile devices that specify, among other things, the types of web user input (including text, files and images) that the mobile devices can support:

FIG. 4



Create Device Profile Page

(Cheng, Fig. 4 (highlighting added).)

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extent the term "**mobile device**" were construed as requiring a handheld device. (Petition, 18-22.) Patent Owner also suggests that Petitioner's analysis of limitation 19**[d]** depends on Cheng, but it does not. (Response, 44 n.2.) The Petition only cited Cheng there as additional support for the unremarkable proposition that other club members in Neibauer could upload photos to a group photo album, a feature already disclosed by Neibauer. (Petition, 43.)

Figure 4 shows a screen display for inputting of data to define a profile for a particular type of user-agent (UA) (*i.e.* mobile device). (Cheng, 8:4-8, 8:47-62.) Field **410** (UA-display), for example, allows input of information about the type of display used by the mobile device. (Cheng, 8:33-36, 8:47-51.) Field **412** (UA-HTML) is used to "specify the version of HTML of the mobile device **108**." (Cheng, 8:35-36; *see also id.*, 8:47-51.) Field **414** (UA-input) shown in highlighting above "is used to specify the types of input fields (e.g., password field, ***text box, image, file***, etc.) of the mobile device **108** screen display." (Cheng, 8:36-39 (emphasis added).) The device profile information then enables proxy server **110** to identify mobile device **108** and determine which webpage conversions to perform for that device. (Cheng, 8:54-62, 7:59-65; *see also id.*, 5:26-29 ("It should also be understood that in addition to providing a device profile for an individual mobile device **108**, device profiles can also be created for a group of mobile devices **108**, as well as all mobile devices **108**.").)

Cheng thus confirms that a mobile device user can provide text, image, and file data input for transmission to a website. (EX1041, ¶63.) There would be no reason for Cheng to store the types of input supported by a mobile device in a device profile if, as Patent Owner insists, the proxy server in Cheng could not convert webpages that received those types of inputs from users. (EX1041, ¶64.) Notably, neither Patent Owner nor its expert addresses these disclosures from Cheng.

Patent Owner's argument that Cheng only provides "unidirectional" flow of information to the mobile device also cannot be reconciled with the fact that mobile device **108** in Cheng issues a request **106** for an original webpage using a standard HyperText Transport Protocol (HTTP) request well-known in art. (Petition, 24-25; Cheng, Fig. 1, 2:19-21, 3:58-4:2, 7:65-8:2.) Patent Owner contends that this request is just a request to access a webpage. (Response, 47.) But a skilled artisan would have understood that user input to the website—whether it be in the form of text, files or images—would have been provided from the mobile device via the HTTP request sent from the browser. (EX1041, ¶65.) This was a standard feature of HTML and HTTP, and part of basic knowledge of skilled artisans, to enable users to input data through a webpage for transmission to a website. (*Id.*, ¶¶60-61; EX2038, pp.429-30, 445-46.) Patent Owner's expert admitted, in fact, that standard Internet techniques and HTTP requests (such as HTTP POST) that were well-known prior to June 2002 allowed upload of a photo file (or any other type of data) to a website. (EX1033, 30:3-31:13, 32:20-34:2.) This is consistent Cheng's disclosure of mobile device profiles for specifying "the types of input fields (e.g., password field, text box, image, file, etc.) of the mobile device **108** screen display" (Cheng, 8:36-39), confirming that the proxy server in Cheng can convert and adapt webpages that seek this type of input from mobile device users. (EX1041, ¶¶61-62, 67.)

Patent Owner also contends that "[t]he technology needed to provide user-interactive features were outside the capabilities of mobile devices at that time and what Neibauer discusses in Chapter 7, such as the required screen size, mobile device memory, processing power, and wireless bandwidth." (Response, at 36-37.) Patent Owner's argument fails to recognize that Neibauer was published during the formative stages of the World Wide Web and disclosed features that relied only on basic, early web-based technologies. (EX1041, ¶¶59-60, 73-75.) These technologies, being relatively straightforward in nature, would not have posed significant challenges when adapted or scaled down for mobile devices with smaller screens. Patent Owner's expert acknowledged, in fact, that the webpages in Neibauer rely on rudimentary first-generation (pre-2004) web technologies, commonly known as Web 1.0. (EX2007, ¶43; EX1033, 70:10-19, 71:20-72:2; EX1041, ¶¶58-60.) For example, consider Figure 21-10 of Neibauer showing the club photo album webpage:

The James Bond Movie Series
The James Bond place to talk about the movies.

Category: James Bond Serie
Club Type: Liste

Blueraja's BOND GIRL Album

Back To: Album List

Created by blueraja3 on 22-Nov-1999

Add Photo

Showing 1 - 12 of 12 photos | View Thumbnails

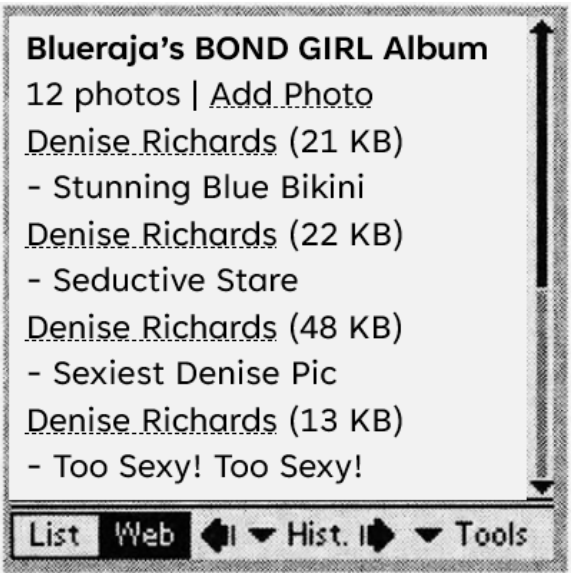
Photo Name and Caption	Contributor	Size	Posted	Edit	Delete
Denise Richards - Stunning Blue Bikini	blueraja3	21 KB	22-Nov-1999		
Denise Richards - Seductive Stare	blueraja3	22 KB	22-Nov-1999		
Denise Richards - Sexiest Denise Pic	blueraja3	48 KB	22-Nov-1999		
Denise Richards - Too Sexy! Too Sexy!	blueraja3	13 KB	22-Nov-1999		
Famke Janssen - Modeling Lingerie	blueraja3	53 KB	22-Nov-1999		
Famke Janssen - Sexiest Bond Girl Ever	blueraja3	13 KB	22-Nov-1999		
Famke Janssen - Sexy Black Leather	blueraja3	10 KB	22-Nov-1999		

FIGURE 21-10 Club photo album

(Neibauer, p.478 (00162), Fig. 21-10.) Figure 21-10 shows a simple webpage with little more than text and hyperlinks requiring only basic HTML. (EX1041, ¶¶51-52, 74-75.) The exemplary photos in the album vary in size from approximately 10 to 53 kilobytes (10 KB–53 KB). Such relatively small file sizes were common for digital images in the early 2000s, and could have been transferred within seconds via widely available wireless networks prior to June 2002, such as 3G, GSM/GPRS, and GSM. (EX1041, ¶¶48-50, 52-56.)

And converting Neibauer's webpages for a handheld mobile device using the techniques of Cheng would have been straightforward. Cheng itself explains its

webpage conversion techniques can be applied to "all web pages." (Cheng, 2:29-32, 12:32-35 ("Global conversions are rules that change or format web content on all web pages **104** for either one type of device or all devices."); *see also id.*, 12:29-31 ("The number of possible conversions is virtually infinite, and may include any of the appropriate combinations of methods and transforms.").) For example, the photo album page above would have been converted for a smaller screen mobile device by simply moving options onto multiple screens, removing unnecessary fields and/or placing additional information below the hyperlinked photo name and caption. (EX1041, ¶¶47, 73-75.) Here is one exemplary conversion of the photo album page using the techniques of Cheng, created by Petitioner's expert:



(EX1041, ¶75.) These types of adaptations were well-known and commonplace, and the particular adaptation here is consistent with the exemplary screen displays in Neibauer for the Yahoo! Mobile service reproduced in Patent Owner's response,

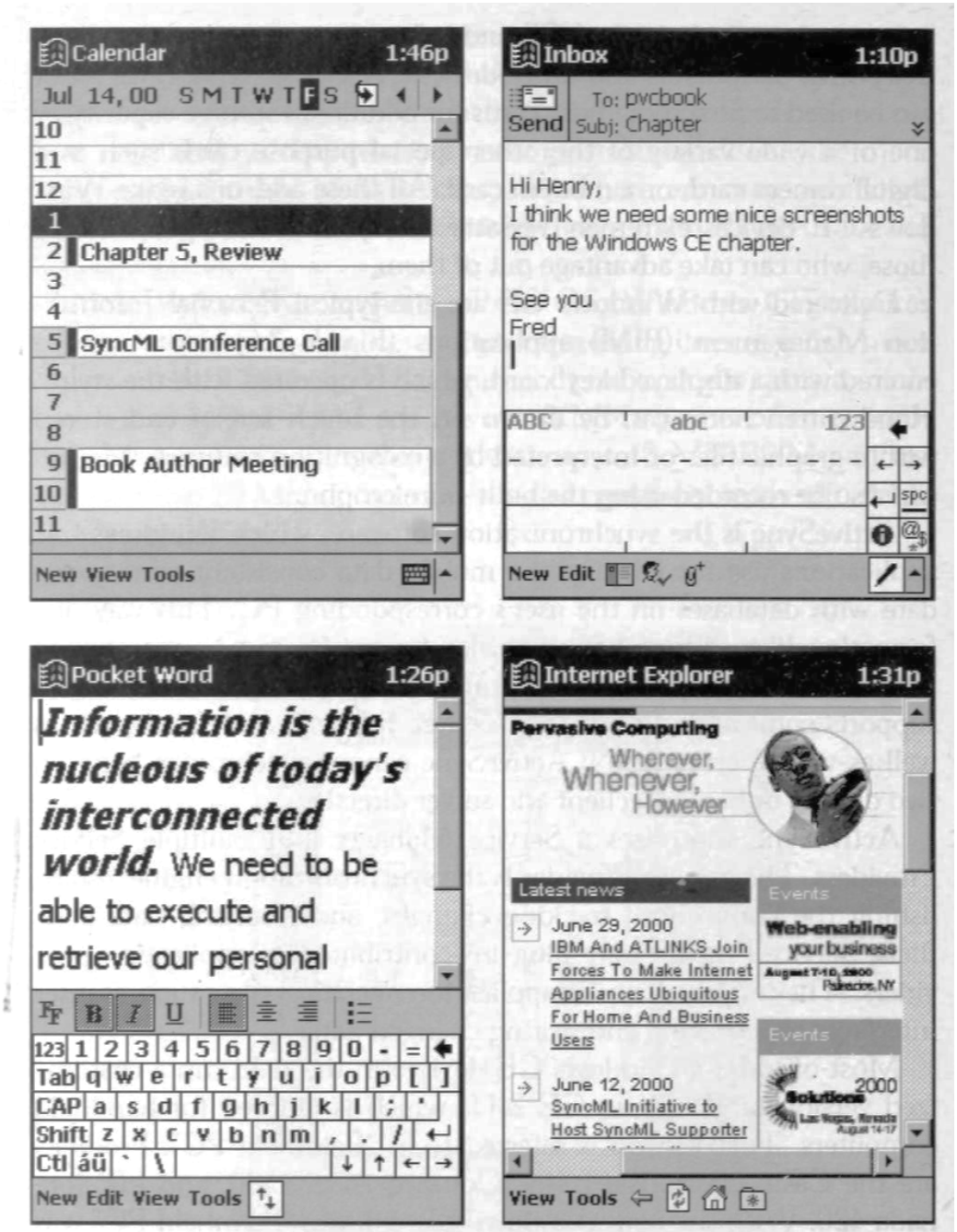
which show the ability to divide functionality across multiple screens with lists of clickable items:

(Neibauer, p.171 (00116) (quoted in Response at 41-42).) It thus would have been obvious to convert the webpages in Neibauer for a smaller screen mobile device using the techniques in Cheng. (Petition, 22-26; EX1041, ¶¶47, 74-75, 104-105.)

And those smaller devices were far more capable as of June 2002 than Patent Owner suggests. (Response, 36-37, 42; EX2007, ¶¶35-39.) Patent Owner also suggests that PDA screens only supported text and could not view images (Response, 42), but this is incorrect. Cheng refutes this suggestion by disclosing techniques for scaling and/or changing the resolution of webpage images for the mobile device. (Cheng, 10:63-11:12.) It was also well-known that commercially-available Pocket PC PDA devices, for example, had color touchscreen displays and ran mobile versions of popular applications such as Microsoft Word, Microsoft Mail, and Internet Explorer. (EX1041, ¶¶39-45.) For example, the figure below from a contemporaneous textbook describing commercially-available mobile devices

available prior to June 2002, shows screen displays of a Pocket PC PDA running mobile versions of Microsoft Calendar, Microsoft Word, Microsoft Mail, and the Microsoft Internet Explorer web browser:

Figure 2.6: PocketPC Version of Calendar, Mail, Word, and Internet Explorer



(Hansmann, *Pervasive Computing Handbook* (2001) (**EX1035**), p.38, Fig. 2.6; EX1041, ¶43.) The bottom right of Figure 2.6 shows a web page displayed on the Pocket PC version of Internet Explorer with various sections that include links and graphical images, with scroll bars available on the right and bottom to allow the user to see more of the web page on the screen. (*Id.*) Additionally, "sub-notebook" mobile computers such as the Hewlett-Packard (HP) Jornada 820 had even larger screens that were comparable to the monitors on some PC desktop computers. (EX1041, ¶44 (citing EX1035, pp.40-41 (Table 2.1).) Notably, Patent Owner expressly identifies the HP Jornada 820 in its Response as an example of a mobile device that would meet even its narrow definition. (Response, 11-12.)

The amount of adaptation and conversion of the webpages in Neibauer would have depended, of course, on the particular capabilities of the target mobile device. (EX1041, ¶47.) Laptop or sub-notebook computers would have been able to present the Neibauer interfaces with little or no adaptation, while smaller screen devices such as handheld PDAs may have required more adaptation and streamlining to adapt the webpage features. (*Id.*) Cheng further explains that "[m]obile devices **108** generally come in a variety of different sizes and have a variety of different screen interfaces," and thus, Cheng "provides the ability to uniquely tailor web page **104** content for specific mobile devices **108**." (Cheng, 5:11-15.) This is fully contemplated by Cheng which, as explained, converts webpages using mobile device

profiles that specify the capabilities of the mobile devices, such their screen types, HTML versions and the types of user input they support. (EX1041, ¶¶62-63.)[4]

Patent Owner also argues that the combination of Neibauer with Squibbs is deficient because Squibbs displays location information on a PC, not through the claimed application-based information channel. (Response, 30-33.) This argument impermissibly attacks the references individually. *See, e.g.*, *Bradium Techs. LLC v. Iancu*, 923 F.3d 1032, 1050 (Fed. Cir. 2019) ("A finding of obviousness… cannot be overcome 'by attacking references individually where the rejection is based upon the teachings of a combination of references.'") (citation omitted). Under the proposed combination, location information would have been provided to mobile devices as part of the mobile information channel disclosed in Neibauer, and to the extent required by the claims, converted for a handheld mobile device under the further combination with Cheng. (Petition, 36-39, 22-26; EX1041, ¶¶88-89.) To the extent the conversion of location information for display on a handheld a mobile device would have required shrinking the images or streamlining the user interface,

[4] Patent Owner also argues that mobile device web browsing was limited to certain protocols such as WAP, iMode, compact HTML, among others. (Response, 45-46.) But Cheng expressly discloses conversion techniques for "HTML-based mobile devices." (Cheng, 7:59-8:2, 8:34-36.) Regardless of whether a mobile device used WAP, HTML, or some other web page description language, it would have been obvious to convert the relied-upon features of Neibauer into a form suitable for display on a handheld mobile device. (Petition, 22-26; EX1041, ¶105.)

this would have been obvious and within the knowledge of a skilled artisan. (EX1041, ¶89; *see also* Cheng, 10:63-11:12 (describing techniques for scaling and reducing resolution of images for mobile devices).) And as noted above, handheld mobile device displays were far more capable than Patent Owner suggests and would have been capable of displaying location information. (EX1041, ¶¶89, 40-47.)

3. The Combination Discloses the Claimed "Wireless Networking Functionality of the Mobile Device"

Patent Owner next argues that Neibauer does not disclose the claimed "**wireless networking functionality of the mobile device**." (Response, 48-56.) Because Patent Owner's proposed construction is without merit, Neibauer alone discloses this limitation. Alternatively, the features in Neibauer would have been converted for use with handheld mobile devices using the techniques described under the further combination with Cheng.

And even if the Board adopted Patent Owner's construction, it would still not distinguish the prior art because the proposed combination discloses that construction. This is because Petitioner did not just rely on Neibauer for this claim limitation; it also alternatively pointed to Squibbs to map the claimed "**wireless networking functionality of the mobile device**" to location information about the mobile device. (Petition, 31.) As explained in Squibbs, one way for a mobile device to obtain its location information uses a built-in GPS receiver. (Petition, 31-32

(citing Squibbs, ¶¶0003-0004).) It was well-known that obtaining location information of the mobile device through GPS was a wireless networking functionality that was ***independent*** of the Internet, as location information is calculated by the device using GPS signals wirelessly received from satellites. (Squibbs, ¶¶0004 ("… digital camera **3** equipped with a GPS receiver for determining camera location using signals ***from satellites 2***…..") (emphasis added); *see also* EX1041, ¶113.) For limitation 19**[b]**, therefore, "**information associated with at least one wireless networking functionality of the mobile device**," corresponds to location information obtained as a result of GPS signals received independent of the Internet. That location information is then received by the server from the mobile device. (Petition, 36-37.)

Patent Owner makes a number of other arguments about Squibbs that again attack the references individually and ignore the proposed combination. *See Bradium Techs. LLC*, 923 F.3d at 1050. For example, Patent Owner argues that Squibbs "uses separate devices to send photo data and location data to the network store[.]" (Response, 53.) This assertion is false, as the cell phone in Squibbs could send both pieces of information. (Petition, 36 (citing Squibbs, ¶0101).) As the Petition explained, the claim is agnostic to the device used to originally generate the data that is sent to the server. (Petition, 37 n.3.)

Patent Owner also incorrectly asserts that the motivation to combine Neibauer and Squibbs is based on hindsight. (Response, 53-54.) As explained in the Petition, the motivation comes from Squibbs itself, which explains that classification and organization of photos was a longstanding issue. (Petition, 38 (quoting Squibbs, ¶0002).) This motivation is further underscored by the other disclosures in Neibauer, described in the Petition, describing placement of annotations on maps to identify the location of events. (Petition, 38-39.) Patent Owner claims that none of the photos or albums described in Neibauer "are even remotely related to a location" (Response, 55), but Neibauer makes clear that a Yahoo! club can be created for a wide variety of reasons, including "any topic that interests you or as a home page where friends and family can stay in touch." (Neibauer, p.473 (00157).) Neibauer, in fact, identifies "Travel" as one type of club. (Neibauer, p.473 (Figure 21-6 (listing "Travel" under "Clubs Directory" heading).) A skilled artisan would have understood, as previously explained, that "[t]he ability to associate a location with a digital photo would have provided a clear benefit by improving the classification and enjoyment of uploaded photos." (Petition, 38; EX1002, ¶124.)

4. The Combination Discloses the Claimed "Wireless Network"

Patent Owner also appears to argue that the proposed combination does not disclose a "**wireless network**." (Response, 23-24.) But the challenged claims do not recite this term. To the extent this argument is based on Patent Owner's

incorporation of "**wireless network**" into its proposed construction of "**wireless networking functionality**," both constructions are wrong as stated in **Part II**.

In any event, known cellular communications networks satisfy even Patent Owner's construction of "**wireless network**," such as the GSM network. (EX1041, ¶26.) This network was separate from the Internet, for example, because GSM was capable of communication tasks (such as telephone calls) that did not depend on Internet functionality or connectivity. (EX1041, ¶26.) There were several other well-known cellular networks prior to June 2002, including GSM/GPRS and 3G, that were likewise separate from the Internet but used to facilitate connection to the Internet via a mobile device. (EX1041, ¶¶26, 49-50.) As Patent Owner's expert explains in his declaration, "[t]he 3G network was introduced in 2001. That advance marked the beginning of widespread use of the internet on mobile phones." (EX2007, ¶40.) The written description also mentions 3G and ubiquitous Wi-Fi networks as suitable examples of wireless networks. ('039, 4:8-12.) In fact, when asked to describe an exemplary wireless network that met Patent Owner's definition, Patent Owner's expert identified his home Wi-Fi wireless network. (EX1033, 58:6-59:5.) All of these were wireless networks used by mobile devices prior to June 2002, each independently satisfying even Patent Owner's (erroneous) construction.

5. The Remaining Claims in Ground 1 Are Unpatentable

Patent Owner's arguments about the remaining challenged claims merely rely on and/or refer back to arguments addressed above made in connection with claim 19. (Response, 58-59.) These remaining claims are unpatentable for the same reasons as claim 19.

B. Ground 2

With respect to **Ground 2**, Patent Owner's arguments merely refer back to arguments about claim 19. (Response, 59-60.) Patent Owner does not attempt to distinguish Bandera for the elements for which it was cited for claim 21. (*Id.*)

C. Grounds 3-4

With respect to **Grounds 3-4**, Patent Owner's arguments for this ground merely refer back to arguments about claim 19. (Response, 60-61.) The Board also need not consider this ground. The Petition included these grounds to address a claim construction in pending litigation for which neither party advocates here. Patent Owner agrees that these grounds are moot. (Response, 60-61.)

D. Neibauer is Analogous Art

Patent Owner also argues that Neibauer is not an analogous reference. (Response, 24-26.) But Patent Owner is wrong.

The Federal Circuit under *KSR* "construe[s] the scope of analogous art broadly[.]" *Wyers v. Master Lock Co.*, 616 F.3d 1231, 1238 (Fed. Cir. 2010).

Neibauer is analogous art under both prongs of the analogous art test. (Petition, 25 (citing EX1002, ¶101).)

Patent Owner also neglects to mention that the PTAB relied on Neibauer in the successful *inter partes* reexamination that resulted in cancellation of all claims of U.S. Patent No. 8,135,801 (the direct parent to the '336 patent challenged in IPR2024-00246), which the Federal Circuit unanimously affirmed. (EX1024.) This further demonstrates that Neibauer is sufficiently analogous to serve as an invalidating prior art reference.

1. Neibauer Is in the Same Field of Endeavor

The patent itself identifies its "Field of the Invention" broadly as "relat[ing] generally to network-based communication systems, and more particularly to techniques for information content management in such systems." ('039, 1:28-30.) These features are reflected throughout the claims through management of content through the recited application-based information channels.

Neibauer is an analogous reference because it discloses "functionality for managing information content accessible through the Internet, through a series of web-based information channels that provide the ability to exchange messages and collaborate among multiple users[.]" (EX1002, ¶101.) The Petition further explained that "Neibauer discloses a method for managing information content

because a club founder can manage the information on a club such as messages and photos shared with other members of the club." (Petition, 12-13.)

Neibauer's presence in the same field of endeavor is further demonstrated by their striking similarities. For instance, Yahoo! Clubs features discussed in Neibauer closely parallel the mobile information channels described in the patent's written description, including message boards/forums, photo sharing, news, links, and calendaring/events. (*Compare* Neibauer, pp.477, 479-80 (00161-00164) *with* '039, 8:21-35.) Patent Owner's assumption that a skilled artisan would have disregarded Neibauer because its audience includes non-technical individuals is unsupported. (Response, 25-26.) The absence of any highly technical description in Neibauer is immaterial because a skilled artisan would have already possessed the basic knowledge needed to implement the discussed features. (EX1041, ¶¶95-96, 70; EX1002, ¶106.) If anything, Neibauer would have been ***more*** pertinent to a skilled artisan given its focus on the well-recognized Yahoo! service, as compared to an obscure patent application that few have ever read. (EX1041, ¶96.)

2. Neibauer Is Reasonably Pertinent

Even if the Board were to find that Neibauer is not in the same field of endeavor, it would still be reasonably pertinent to problems facing the inventors, including "how to implement a web-based system for managing information content and making that content available to users over the Internet using web-based user

interfaces." (EX1002, ¶98; *see also* EX1041, ¶96.) Neibauer offers detailed, step-by-step descriptions of the user interfaces for message board, chat, and photo sharing. (Neibauer, pp.468-472 (00152-00156) (message board), 456-464 (00140-00148) (chat), 477-479 (00161-00163) (photo sharing).) These details surpass the level of detail in the patent, which merely lists such features as exemplary "M-Channels" without further explanation. ('039, 8:21-35.)

Patent Owner's arguments regarding the problems facing the inventors read the patent's disclosures too narrowly. The same section of the patent Background cited by Patent Owner identifies other problems with conventional techniques that go beyond display and navigational capabilities of some mobile devices, such as their failure to integrate messaging, collaboration and location-based services, and their unsuitability for unsophisticated users. ('039, 1:57-2:3) The written description also makes clear that the alleged invention can be used with "a wired local area network (LAN)" ('039, 4:7-8), and that user terminals used by end users "may comprise a non-mobile device, including, by way of example, a desktop personal computer" ('039, 4:44-47). Neibauer is pertinent to address the broader problems of content management and integration identified in the patent. And even if mobile device disclosures were required to show analogousness, Neibauer also describes Yahoo! Mobile features that would have provided a motivation to convert

the relied-on Yahoo! Clubs webpages for handheld mobile devices, as described in the Petition. (Petition, 19, 25-26.)

IV. CONCLUSION

The Board should find all challenged claims unpatentable.

Dated: January 10, 2025

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH WORD COUNT

Pursuant to 37 C.F.R. § 42.24(d), I certify that this reply complies with the type-volume limits of 37 C.F.R. § 42.24(c)(1) because it contains 5,587 words, according to the word-processing system used to prepare this reply, excluding the parts of this reply that are exempted by 37 C.F.R. § 42.24(c).

DATED: January 10, 2025

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CERTIFICATE OF SERVICE

I hereby certify, pursuant to 37 C.F.R. Section 42.6, that a complete copy of the attached **PETITIONER'S REPLY** and related documents are being served via electronic mail on the 10th day of January 2025 upon the Patent Owner's attorneys of record in this proceeding as follows:

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