UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,
Petitioner,

v.

MOBILE DATA TECHNOLOGIES LLC,
Patent Owner.

IPR2024-00250
Patent 9,922,348 B2

PETITIONER'S REPLY

I. INTRODUCTION

Patent Owner's challenges to the instituted grounds rely primarily on a proposed construction for "**mobile device**" that conflicts with the intrinsic record's express definition and ignores its other clear disclosures, which make clear that the term includes a conventional laptop computer. Yet even if the Board were to accept this erroneous construction, it would not differentiate the prior art in light of the further combination with Cheng, which discloses the use of mobile devices that indisputably satisfy Patent Owner's narrower construction.

Patent Owner 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 contends that converting the webpages from Neibauer based on the teachings of Cheng would not have had a reasonable expectation of success, but these arguments neglect the rudimentary nature of the relied-on webpage features of Neibauer, and vastly underestimate the state of mobile device

technology prior to June 2002. Patent Owner's remaining arguments suffer from numerous deficiencies, including attacking the references individually while also ignoring their clear disclosures.

II. CLAIM CONSTRUCTION

Patent Owner proposes a construction of "**mobile device**." Petitioner has addressed this construction in the interests of completeness, but as explained in **Part III** below, the prior art renders the claims obvious even if the Board adopted it.

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.*, 12-14.)

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." ('348, 4:45-48 (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." ('348, 4:51-52.)[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, 12-13.) This argument is further contradicted by the patent's explicit identification of a "palmtop computer" as an

[1] In fact, the written description provides a list of exemplary "non-mobile" devices, and that list does not include a laptop computer. ('348, 4:63-67.)

exemplary mobile device. ('348, 4:50-51.) A palmtop is effectively a smaller, 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. ('348, 4:51-52.) 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 explicitly states that "the invention does not require the use of any particular type or configuration of mobile device." ('348, 15:23-25.)

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. ('348, 1:45-49 ("… 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, 15 (quoting EX2011).) Patent Owner also asserts that the "IBM Workpad z50" was a laptop computer that satisfies its definition. (Response, 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.").) Patent Owner's proposed construction should therefore be rejected.

III. ARGUMENT

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

1. The Combination Utilizes a "Mobile Device"

Patent Owner's arguments focus on independent claim 1 and primarily rely on Patent Owner's proposed construction of "**mobile device**" that was already

addressed—and shown to be flawed—above. (Response, 29-31.) Even if that construction were adopted, it still would not distinguish the proposed combination.[2]

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.

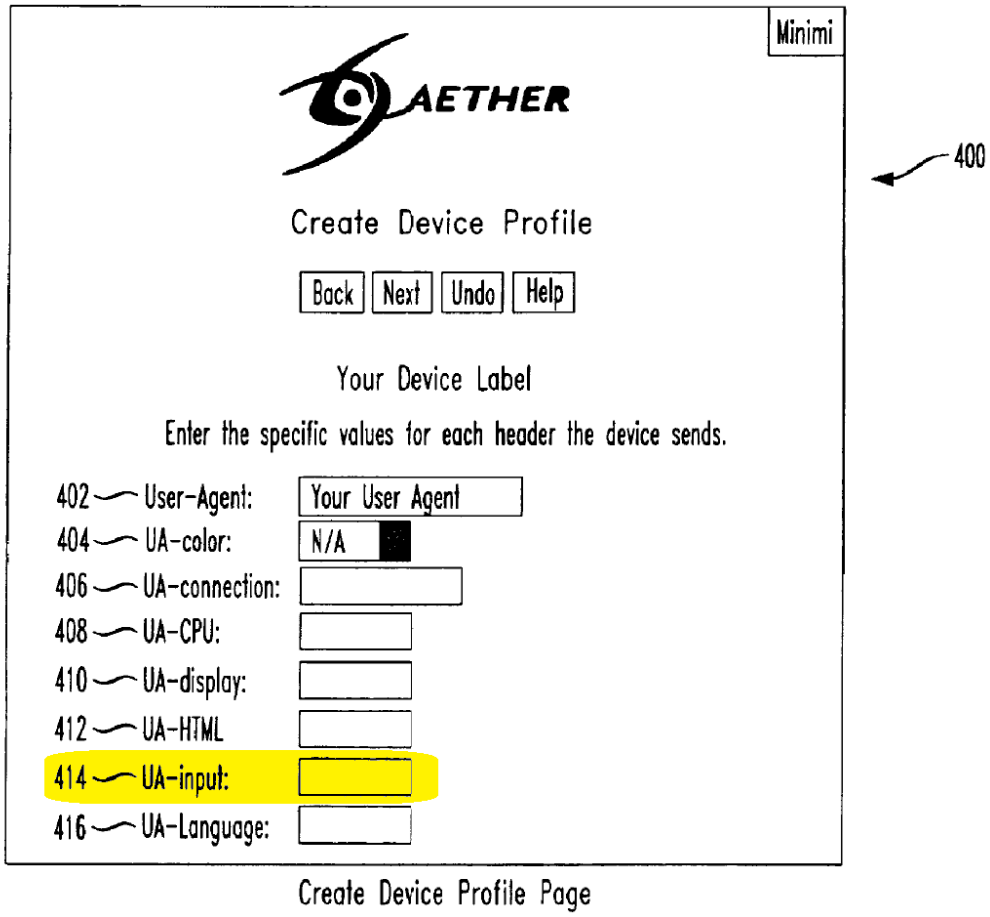
[2] Patent Owner asserts that Neibauer does not disclose information associated with "a wireless networking functionality of the mobile device" (Response, 21-22), but that language does not appear in the claims here.

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 only discloses a "one-way" transmission of data to a mobile device in response to a request from that device. (Response, 31-33.) But contrary to these arguments, Cheng discloses bidirectional communication that includes a website *receiving* content *from* a mobile device.

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).)

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.)

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 "one-way" 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 website request. (Response, 31.) 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 and HTTP techniques (such as the HTTP POST request) 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 suggests that the relied-on features of Yahoo! Clubs were not provided via a handheld mobile device because "memory, bandwidth, and screen space at the time were at a premium." (Response, 35.) Patent Owner relatedly

argues that the proposed combination lacks a reasonable expectation of success. (*Id.*, 41-42.) But Patent Owner's argument neglects 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, also reproduced in the Response:

The James Bond Movie Series Category: James Bond Serie
The James Bond place to talk about the movies. Club Type: Liste

Blueraja's BOND GIRL Album Back To: Album List

Created by blueraja3 on 22-Nov-1999

Showing 1 - 12 of 12 photos | View Thumbnails Add Photo

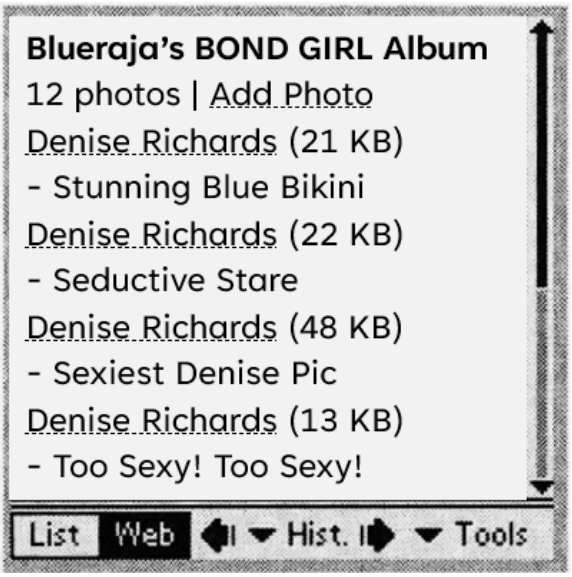
Photo Name and Caption	Contributor	Size	Posted	Edit	Delete
Denise Richards - Stunning Blue Bikini	blueraja3	21 KB	22-Nov-1999		
Denise Richards - Seductive Stare	blueraja3	22 KB	22-Nov-1999		
Denise Richards - Sexiest Denise Pic	blueraja3	48 KB	22-Nov-1999		
Denise Richards - Too Sexy! Too Sexy!	blueraja3	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 (cited in Response, 36).) 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 the particular adaptation here is consistent with the exemplary screen displays in Neibauer for the

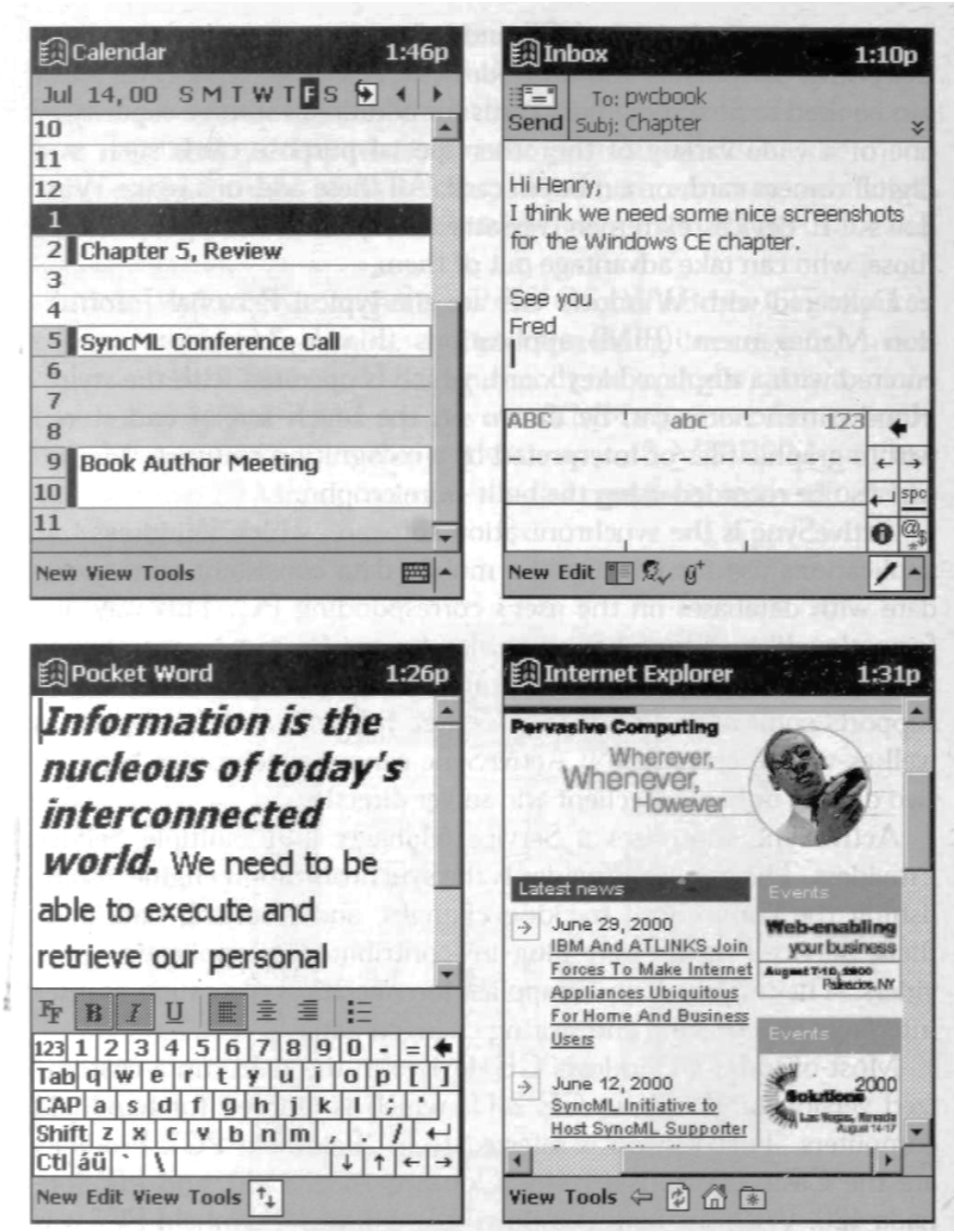
Yahoo! Mobile service reproduced in Patent Owner's response, which show the ability to divide functionality across multiple screens with lists of clickable items:

(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 had screens that were far more capable as of June 2002 than Patent Owner suggests. (Response, 1-2, 35-36, 42; EX2007, ¶¶35-39.) Cheng itself discloses techniques for scaling and/or changing the resolution of webpage images for the mobile device, confirming that handheld mobile devices were capable of presenting graphical images. (Cheng, 10:63-11:12.) It was also well-known that commercially-available Pocket PC PDA devices 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 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).) As noted in **Part II.A**, moreover, Patent Owner also concedes that the IBM Workpad z50—practically a full-sized laptop computer—meets its mobile device definition. (Response, 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.) Cheng 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.) For example, 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 those found on handheld PDAs may have required more adaptation and streamlining of webpage features for the device. (EX1041, ¶47.) 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.)

Patent Owner argues that Petitioner's arguments "treat[] Cheng like a mythical 'babel fish' that automatically and magically converts any website for use on any device." (Response, 41.) But Patent Owner does not explain why the conversion of the relied-on pages from Neibauer into a form suitable for a handheld mobile device would have been technologically difficult, particularly given the rudimentary nature of the web feature on which they rely. Federal Circuit law is also clear that Cheng is presumed enabling as to claimed and unclaimed material. *See In re Antor Media Corp.*, 689 F.3d 1282, 1287-88 (Fed. Cir. 2012) (citing *Amgen Inc. v. Hoechst Marion Roussel, Inc.*, 314 F.3d 1313, 1354-55 (Fed. Cir. 2003)). Moreover, Patent Owner's suggestion that Cheng is somehow deficient because it does not expressly describe every conceivable combination of website conversion is irrelevant; as explained above, the relied-on webpages from Neibauer are rudimentary and their conversion for handheld mobile devices would not have been technologically challenging.

Patent Owner also contends that Cheng's techniques would have been awkward and undesirable because mobile device users would have needed to know about the proxy server, or would have had to enter a decorated URL address to access the proxy server. (Response, 40-41.) This argument also ignores clear disclosures

in Cheng that if a mobile device "does not enable a proxy server **110** to be used, the present invention enables mobile devices to be ***redirected*** to proxy through the proxy server **110** by typing (or in some way, entering or implementing) the proxy server **110** address (location) and the URL of the desired web site **104** in, for example, the address field of the mobile device **108** browser." (Cheng, 6:43-50 (emphasis added).) The term "redirection" in the web context refers to a well-known mechanism in which a web site could send a message to a client web browser asking it to reconnect (redirect) using another URL. (EX1041, ¶102.) URL redirection was a feature built-into standard HTML (such as HTML redirect code 301), which allowed servers to instruct browsers to *automatically* redirect to another URL (or to redirect upon the user simply clicking a hyperlink). (*Id.*)

And even if the user had to manually enter an initial decorated URL to the proxy server (which would not have been required), the user would only need to do this once as they could simply "bookmark" the redirected page for future use. (EX1041, ¶102.) Cheng makes clear that, for *subsequent* URLs from the original web site after the initial access by the mobile device, those URLs are rewritten *automatically* to route through the proxy server **110** through a decorated URL, thus requiring no further user action. (Cheng, 6:59-62 ("For example, the proxy server ***automatically re-writes all of the other links*** within the site that are initially proxied to via the decorated URL.") (emphasis added).) This ability to rewrite URLs to route

through an intermediate proxy server was a basic property of web proxy servers that were common prior to June 2002. (EX1041, ¶102.)

Patent Owner also contends that Cheng's disclosure of caching features would have interfered with the ability of a mobile device to provide data to a website. (Response, 32-33.) But this argument, again, cannot be reconciled with Cheng's disclosure of mobile device profiles confirming that mobile device users can provide various types of input to a website. (Cheng, 8:36-39.) It is also questionable if the pages in Neibauer would be cached, as they are dynamically created for a logged-in user and thus not the types of static pages that would be accessed by a large number of users. (EX1041, ¶101.) In any case, Cheng describes caching as an "optional[]" feature of the webpage translation system (Cheng, 5:50-52), so to the extent caching created any issues, the feature could simply not be used. (EX1041, ¶101.)

3. The Prior Art Discloses Limitation 1[c]

Patent Owner also argues that the proposed combination does not disclose limitations 1**[c][1]** through 1**[c][3]**, but its arguments rest on its erroneous construction of "**mobile device**," addressed above, and its erroneous view that Cheng is limited to a one-way transfer of information and cannot be combined with Neibauer to provide the relied-on webpages to handheld mobile devices. (Response, 43-47.) These arguments fail for the reasons discussed above.

4. The Remaining Claims in Ground 1 Are Unpatentable

Patent Owner's arguments about independent claims 12, 13, and 17 merely rely on and/or refer back to arguments addressed above made in connection with claim 1. (Response, 47-49.) For dependent claims 2 and 3, Patent Owner also refers to its arguments about claim 1. (Response, 49-52.) These claims are unpatentable for the same reasons as claim 1.

Dependent claim 3: With respect to claim 3, Patent Owner acknowledges the two theories presented in the Petition but does not persuasively challenge either. (Response, 51-52.) The first theory in the Petition pointed to animated GIFs as an example of the claimed video data, and Patent Owner does not dispute this. Patent Owner's sole argument here is that the combination does not disclose *transmission* of data from a mobile device to a website, which was addressed above. (*Id.*)

For the second alternative theory in the Petition that pointed to Ausems, Patent Owner complains that the video capture in Ausems "is not analogous to the device captured data that is integrated 'into a web-based shared information channel.'" (Response, 52.) But this argument impermissibly attacks Ausems individually and ignores that Ausems was not relied upon for the claimed web-based shared information channel. *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 with Neibauer alone or in view of Cheng, the club photo sharing feature in Neibauer would have been adapted for users to upload video data captured using a mobile device in accordance with the teachings of Ausems. (Petition, 36.)

Patent Owner complains that Ausems does not disclose the particulars of how to wirelessly transmit digital images from a mobile device. (Response, 25.) But claims 2 and 3 do not recite limitations requiring transmission of data, and under the proposed combination, upload of photos would have been performed by the features of Neibauer, alone or in combination with Cheng as described for claim 1. (Petition, 23-25.) The proposed combination, in other words, does not rely on Ausems for transmission of image or video data from a mobile device.

And in any event, Patent Owner's expert concedes that Ausems <u>does</u> disclose that images can be sent from the PDA via the phone engine **210**, which may operate on a digital control channel. (EX2007, ¶¶139-140; Ausems, 5:63-65.) Patent Owner's contention that Ausems does not disclose how to transmit images or video from the PDA is irrelevant, as wireless networks capable of transmitting digital images over the Internet were well-known by June 2002. (EX1032, ¶¶85, 49-53.)

Patent Owner also misleadingly quotes from Ausems to argue that "PDA/wireless telephone combinations ***are unable*** *to* run application software packages or ***transmit and receive video data***." (Response, 25 (quoting Ausems 1:35-

37 (bold italics added by Patent Owner).) This quote comes from the Background section in Ausems discussing limitations of prior art devices. (Ausems, 1:30-45.) The later disclosure of Ausems discloses the ability to transmit video images, as explained in the Petition. (Ausems, 5:19-22; Petition, 25.)

Dependent claim 6: Patent Owner's arguments about claim 6 largely refer back to its arguments about claim 1. (Response, 52-54.) Patent Owner does not dispute that, under further combination with Cheng and/or Ausems, the proposed combination discloses and renders obvious the use of at least mobile telephone and GPS-based navigational mobile devices. (Petition, 36.)

Dependent claim 7: Patent Owner's arguments about claim 7 largely refer to its arguments about claim 1. (Response, 54-55.) Patent Owner again relies on the argument that Cheng does not disclose receipt of device-captured data from a mobile device, which as addressed above.

Dependent claims 8, 9, 14, 18: Patent Owner's arguments about these claim refer back to and rely on arguments about claim 1. (Response, 55-56.)

B. Ground 2

With respect to **Ground 2**, Patent Owner's arguments also refer back to arguments about claim 1, addressed above. (Response, 57-59.) Patent Owner also suggests that the combination of Neibauer with Squibbs for claims 4 and 5 is deficient because Squibbs displays location information on a PC, not through the

claimed web-based shared information channel. (Response, 56-57.) This argument impermissibly attacks the references individually. *See, e.g.*, *Bradium Techs. LLC*, 923 F.3d at 1050 ("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 web-based shared information channel described in Neibauer, and to the extent required by the claims, converted for a handheld mobile device under the further combination with Cheng. (Petition, 49-51, 17-22; 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, this would have been obvious, within the knowledge of a skilled artisan, and disclosed in Cheng. (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 were capable of displaying location information. (EX1041, ¶¶89, 40-47.)

C. Ground 3

With respect to **Ground 3** and the further combination with McElfresh, Patent Owner argues that "the ad selection in McElfresh is based [sic] up tracked user information that was typically available via mobile devices in 2002" (Response, 61;

EX2007, ¶408), but does not cite anything in McElfresh to support this ambiguous proposition. Patent Owner does not cite anything to suggest that McElfresh's advertisement delivery system requires users to provide particular input to the website in order to enable advertisement selection. And even if McElfresh did have such a requirement, Patent Owner's argument depends on the erroneous premise, addressed above, that a mobile device under the proposed combination would not have been able ***to*** provide information to the website used for use in ad selection. (Response, 61.) This argument fails for the reasons stated earlier.

Patent Owner also appears to argue that McElfresh does not disclose obtaining data from at least one data feed "**periodically**" because McElfresh purportedly requests an ad-request and response system that provides "on-the-fly" ad selection. (Response, 60.) But Patent Owner does not elaborate on this argument in any detail, and does not provide any proposed interpretation for "**periodically**." As explained in the Petition, when a web site wants to show a page, it contacts ad server component **112** in McElfresh, which responds by delivering a set of ads for display to the user. (Petition, 56.) Petitioner further explained that obtaining the feed containing a plurality of advertisements ("**data**" from "**at least one data feed**") would have occurred under the proposed combination "**periodically**," as claimed, "for example, when webpages of the club sharing photo sharing feature are being prepared for delivery to a user." (*Id.*; EX1002, ¶172.)

Patent Owner does not explain how obtaining data when webpages are being prepared for delivery does not disclose obtaining the data "**periodically**," which merely requires that the obtaining take from time to time. The claims do not require any fixed interval, and the step of obtaining the data would not need to occur all the time—it would only at those points in time when the user is accessing particular pages of the Yahoo! Clubs in Neibauer that incorporate the claimed "**web-based shared information channel**," such as the photo sharing feature. The fact that the data is obtained at the point when these ads are needed for delivery does not mean they are not obtained periodically as claimed. (EX1041, ¶91.)

In fact, the mechanism disclosed in McElfresh mirrors the disclosure in the '348 patent, which discloses "an XML/RSS feed" (which corresponds to the claimed "**data feed**") that can integrate information with the content "upon delivery[.]" ('348, 17:35-43 ("Selectable or uploadable content may include, for example, an XML/RSS feed…. Distribution, delivery and service options may include, for example… particular content to be combined or otherwise integrated with the content item ***upon delivery***, etc.") (emphasis added).) Patent Owner's arguments about McElfresh should therefore be rejected.

Patent Owner also asserts that the plurality of available advertisements in McElfresh is not a "**data feed**" because, according to Patent Owner, "a library of 'available' advertisements need not ever be provided to a user[.]" (Response, 62.)

But as the Petition noted, McElfresh itself explains that "the Rad Server **112** delivers a set of ads ***for display to the user***[.]" (Petition, 55 (quoting McElfresh, 8:10-14).) This argument also ignores the proposed combination; under the proposed combination with Neibauer, those ads would have been incorporated into webpages of the club photo sharing feature presented to the user. (Petition, 55-56, 58-60.)

D. Grounds 3-4

With respect to **Grounds 3-4**, Patent Owner's arguments for this ground merely refer back to arguments about claim 1. 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, 63-64.)

E. Neibauer is Analogous Art

Patent Owner also argues that Neibauer is not an analogous reference. (Response, 22-24.) 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, 18 (citing EX1002, ¶103).)

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." ('348, 1:29-31.) 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, ¶103.) The Petition further explained that Neibauer discloses a method in which "[a] club founder can manage the information on a club such as messages and photos shared with other members of the club." (Petition, 12.)

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* '348, 8:46-60.) Patent Owner's assumption that a skilled artisan would have disregarded Neibauer because its audience includes non-technical individuals is unsupported. (Response, 23-24.) 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, ¶102; *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. ('348, 8:46-60.)

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. ('348, 1:59-2:5) The written description also makes clear that the alleged invention can be used with "a wired local area network (LAN)" ('348, 4:25-26), and that user terminals "may comprise a non-mobile device, including, by way of example, a desktop personal computer" ('348, 4:63-67). Neibauer is pertinent to address these broader problems of content management and integration. And even if mobile device disclosures were required to show analogousness, Neibauer also describes Yahoo! Mobile features that provide a motivation to convert the relied-on Yahoo! Clubs webpages for handheld mobile devices. (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 5,589 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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