UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,
Petitioner,

v.

MOBILE DATA TECHNOLOGIES LLC,
Patent Owner.

IPR2024-00249
Patent 9,619,578 B2

PETITIONER'S REPLY

I. INTRODUCTION

Patent Owner's challenges to the instituted grounds rely primarily on proposed constructions for "**application-based information channel**," "**mobile device**," and "**wireless networking functionality of the mobile device**" 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.

Finally, Patent Owner insists that Neibauer is not analogous because it targets non-technical audiences. This argument ignores Neibauer's prior use by the PTAB in invalidating another other patent in this family, demonstrating that it is at least as analogous as the hundreds of other references cited during prosecution that were never used to reject claims. Patent Owner cites no authority for the proposition that an end-user-oriented publication cannot be an analogous reference.

II. CLAIM CONSTRUCTION

Patent Owner proposes constructions a number of terms in the challenged claims. (Response, 21-31.) 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 them.

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, 24.) The apparent purpose of Patent Owner's construction is to exclude conventional laptop computers. (*Id.*, 26-29.)

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." ('578, 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." ('578, 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, 26-27.) This argument is further contradicted by the patent's explicit identification of a "palmtop computer" as an exemplary mobile device. ('578, 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. ('578, 4:50-51.) 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." ('578, 15:21-25.)

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

[1] In fact, the written description provides a list of exemplary "non-mobile" devices, and that list does not include a laptop computer. ('578, 4:63-67.)

only once—in the Background section of the patent—describing "typical" mobile devices. ('578, 1:42-46 ("… 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, 29-30 (quoting EX2011).) Patent Owner also asserts that the "IBM Workpad z50" was a laptop computer that satisfies its definition. (Response, 26-27.) 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. "application-based information channel"

Patent Owner puzzlingly argues that "**application-based information channel**" should be construed as "a component of a mobile site configured to permit a wide variety of mobile devices to send and receive content over a wireless

network." (Response, 21.) This is puzzling because, for the exact same phrase in co-pending IPR2024-00248, Patent Owner's Response advocates for a different construction, *i.e.*, "a computer program-based medium for transferring information," the construction adopted in the Petition. (*See* IPR2024-00248, Paper 26, at 17; *see also* Petition, 25-26.) Patent Owner's expert also adopts this interpretation. (EX2007, ¶72.) Patent Owner does not explain why it is advocating for two very different constructions of the identical phrase in these two closely-related IPRs.

Nevertheless, the construction argued here should be rejected. The primary flaw with Patent Owner's construction here is its reference to "***a wide variety***" of mobile devices. This language appears only once in the patent, in a sentence that states: "The mobile devices **15** ***can*** collectively comprise ***a wide variety*** of different devices configurable over the network **12**." ('578, 4:43-45 (emphasis added).) All this does is describe the multiplicity of "mobile devices **15**" (**15-1** through **15-*n***) in Figure 1 connected to wireless network **12**. And the patent uses permissive language, stating only that mobile devices **15** devices "**can**" comprise a wide variety of different devices. This statement also has nothing to do with the claimed mobile information channel; it merely describes an exemplary network configuration for use with the broader invention.

Patent Owner also relies on a passage near the end of the written description stating that the system is configured to operate "from any type of user device running

any operating system." ('578, 19:12-18; Response, 21-22.) But the portion of the written description cited by Patent Owner merely describes the ability of a mobile device to access a mobile site using a standard browser, without requiring particular client-side software. ('578, 19:5-12.) It does not purport to describe characteristics of the claimed application-based information channel.

C. "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, 30.) Although this term does appear in the challenged claims of the '578 patent, Patent Owner does ***not*** reference or rely on this construction for any of its arguments that attempt to distinguish the prior art. (Response, 41-42.) Patent Owner's proposed construction is thus irrelevant to this IPR. Nevertheless, to the extent considered, this construction 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***" ('578, 6:5-17 (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." ('578, 18:65-19:4 ("… 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 '578, 8:30-40, 8:20-25, 5:64-67, 10:48-52).) 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.

D. "wireless network"

Patent Owner has argued in the other pending IPRs that "**wireless network**" term should be construed as "a network separate from the internet that facilitates connection to the internet by a mobile device." Although Patent Owner does not expressly argue for construction of this term for the '578 patent, some of its arguments appear to assume this interpretation. (Response, 9, 30-31.) In any case, any such construction should 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 illustration in Figure 1A, which shows two distinct network clouds (wireless network **12** and Internet **14**). (Response, 30-31.) 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. ('578, 4:19-22 ("The network configuration of system **10** [in Figure 1A] illustratively comprises wireless network **12** and Internet **14**. However, ***the 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." ('578, 4:22-32 (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. ('578, 10:48-52 ("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.)

III. ARGUMENT

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

1. The Combination Discloses an "Application-Based Information Channel"

(a) Patent Owner's Proposed Constructions, Even if Adopted, Would Not Distinguish the Prior Art

Patent Owner's arguments focus on independent claim 1 and primarily rely on Patent Owner's proposed constructions that were already addressed—and shown to be flawed—above. Even if those constructions were adopted, they 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 a "***wide variety***" of non-laptop mobile devices, thus satisfying Patent Owner's proposed constructions of "**application-based information channel**" and "**mobile device**." 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.) Patent Owner does not dispute that these devices provide a wide variety of mobile devices, even under its own definition. Under the proposed combination, therefore, the features of Neibauer would have been accessible using a wide variety of mobile devices including laptop computers, PDAs, mobile telephones, among others. (EX1041, ¶19; Petition, 24-26.)

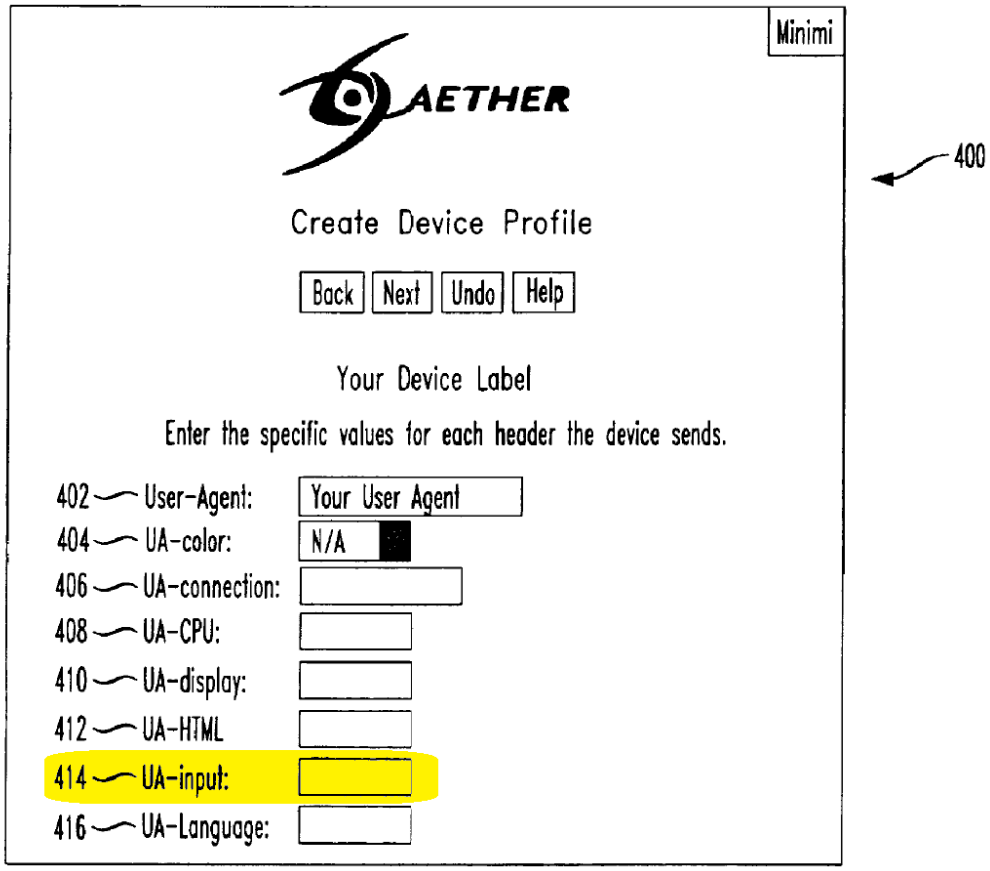
The testimony of Patent Owner's expert further confirms that the "***wide variety***" language in the proposed construction does not distinguish the prior art. Patent Owner's expert testified at his deposition that multiple devices of the same type—such as the same type of PDA but supplied by different vendors—can supply a "wide variety" of mobile devices. (EX1033, 54:20-56:6.) Patent Owner's construction thus does not require a wide variety of different ***types*** of mobile devices (even though the prior art discloses this). It was commonplace for multiple vendors (such as Compaq and Hewlett-Packard (HP)) to produce mobile devices of the same type (*e.g.* Pocket PC devices, laptop computers) that ran the same operating system and software applications, had substantially similar screen and navigational capabilities, and competed directly against each other. (EX1041, ¶23.)

(b) Patent Owner's Arguments About Cheng Ignore its Disclosures and Understate the State of the Art as of June 2002

Patent Owner argues that "though Cheng does disclose *transmitting* content *to* a mobile device, it does not teach anything with respect to *receiving* content *from* a mobile device, as required by the claims." (Response, 39 (italics in original).) But Cheng discloses the ability to receive content from a mobile device.

For example, Cheng discloses creating 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 ("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, 19-20; Cheng, Fig. 1, 2:19-21, 3:58-4:2, 7:65-8:2.) 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 the combination of Neibauer and Cheng would have required undue experimentation. (Response, 17.) But Patent Owner's argument is based largely on the false premise that Cheng does not support uploading content from mobile devices. Patent Owner also 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 before June 2002. (EX1041, ¶¶53-56.)

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

(Neibauer, p.171 (00116).) It thus would have been obvious to convert the webpages in Neibauer for a smaller screen mobile device using the techniques in Cheng. (Petition, 21-26; EX1041, ¶¶47, 74-75, 104-105.)

And those smaller devices were far more capable as of June 2002 than Patent Owner suggests. (Response, 2; EX2007, ¶¶35-39.) 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.) 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 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.)

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, 18-20.) 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, 20-22; 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 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.)

Patent Owner also ambiguously argues that the proposed combination would have required a new "up-conversion functionality" to up-convert data from a mobile device before it is transmitted to the web server. (Response, 15-16.) It is unclear what Patent Owner means by "up-conversion," but to the extent this term was meant to suggest that data provided ***from*** the mobile device ***to*** the website would need to be manipulated or modified on its way to the web server, Patent Owner does not explain why such a step would have been required. The only required conversion would have been, for a smaller screen mobile device, of the webpage sent ***to*** the smaller screen mobile device ***from*** the web server. Under the proposed combination, uploaded data would have simply been passed through from mobile device **108** through proxy server **110** to the origin web server **104**. (EX1041, ¶¶66, 119.)

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, 16.) But this argument, again, cannot be reconciled with Cheng's disclosure of mobile device profiles that fully contemplate 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 even 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 other 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.)

2. The Proposed Combination Discloses Limitations 1[a]-1[c]

Patent Owner next argues that Neibauer does not disclose limitation 1**[a]** through 1**[c]**, but these arguments are based on the flawed constructions of "**mobile device**" and "**application-based information channel**," designed to exclude laptop computers. (Response, 39-44.) Because these arguments fail, Neibauer alone discloses this limitation. Alternatively, the mobile information channel features in Neibauer would have been converted for use with handheld mobile devices using the techniques described under the further combination with Cheng.

Patent Owner further suggests (but does not appear to directly argue) that the proposed combination does not disclose communication over a "**wireless network**." But this argument similarly depends on a proposed construction that would require a wireless network be separate from the Internet. (Response, 9.) Because this construction is incorrect as stated in **Part II.D** above, any such arguments fail.

And even if the Board adopted that construction, it would not distinguish the prior art. The Petition identified known cellular communications networks as providing examples of a "**wireless network**," such as the GSM network. (Petition, 46-47.) 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 could be used to facilitate connection to the Internet via a mobile device. (EX1041, ¶¶26, 49-50.) As Patent Owner's expert explains, "[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. ('578, 4:26-30.) In fact, when asked to describe an exemplary wireless network that met Patent Owner's definition, he identified a 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.[2]

[2] Patent Owner does not appear to make separate arguments about the combination with Ausems and only discusses Ausems in an introductory section. (Response, 10.) Patent Owner says that Ausems does not disclose how to transmit digital images but also acknowledges that the Petition did not depend on Ausems for that feature. (*Id.*) Nevertheless, contrary to Patent Owner's suggestion, Ausems discloses wireless transmission of images from the PDA. (Petition, 23-24; Ausems, 5:63-65.) Moreover, technologies for wirelessly transmitting digital images over the Internet were well-known by June 2002. (EX1041, ¶¶85, 49-53.)

3. The Remaining Claims in Ground 1 Are Unpatentable

Patent Owner's arguments about the remaining claims merely rely on and/or refer back to arguments addressed above against independent claim 1. (Response, 44-46.) These claims thus are unpatentable for the same reasons as claim 1.

B. Ground 2

With respect to **Ground 2**, Patent Owner's arguments for this ground merely refer back to arguments about claim 1. (Response, 46-47.) The Board also need not consider this ground. The Petition clarified that this ground was included solely to address a claim construction in pending litigation for which Petitioner does not advocate here. (Petition, 65-66, 26-27.) Patent Owner likewise does not advocate for that construction, making these grounds moot.

C. Neibauer is Analogous Art

"The scope of the prior art includes all analogous art." *Donner Tech., LLC v. Pro Sage Gear, LLC*, 979 F.3d 1353, 1359 (Fed. Cir. 2020). 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, 21 (citing EX1002, ¶104).)

Patent Owner 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.

1. Neibauer Is in the Same Field of Endeavor

Patent Owner acknowledges that "[t]he Board must 'determine the appropriate field of endeavor by reference to explanations of the invention's subject matter.'" (Response, 53 (citation omitted).) Patent Owner then ignores this principle by neglecting to discuss the patent's own identification of its "Field of the Invention," broadly described as "relat[ing] generally to network-based communication systems, and more particularly to techniques for information content management in such systems." ('578, 1:26-28.) These features are reflected throughout the claims through management of content through the claimed 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, ¶104.) 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, 11-12.)

Neibauer's presence in the same field is further demonstrated by the striking similarities with the patent. For instance, Yahoo! Clubs features in Neibauer closely parallel the "mobile information channels" described in the written description, including message boards/forums, photo sharing, news, links, and calendaring/events. (*Compare* Neibauer, pp.477, 479-80 (00161-00164) *with* '578, 8:46-60.) Patent Owner's claim that "the only similarity between the field of Neibauer and the claimed invention is that both generally relate to the Internet" (Response, 53) is unfounded.

Patent Owner's position basically assumes that a skilled artisan would have disregarded Neibauer because its audience includes non-technical individuals, but Patent Owner cites no authority supporting this proposition. To the contrary, the Federal Circuit has repeatedly relied on publications aimed at the general public—like user manuals or popular consumer guides—as prior art. *See, e.g.*, *Adasa Inc. v. Avery Dennison Corp.*, 55 F.4th 900, 910-11 (Fed. Cir. 2022) ("*RFID for Dummies*" book); *Firstface Co. v. Apple Inc.*, 859 F. App'x 579, 579-80 (Fed. Cir. 2021) (Apple iOS User Guide); *Facebook, Inc. v. Pragmatus AV, LLC*, 582 F. App'x 864, 866 (Fed. Cir. 2014) (America Online user guide).

The absence of a 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, ¶100.) If

anything, Neibauer would have been ***more*** pertinent given its focus on the well-recognized Yahoo! service, as compared to an obscure patent application that few ever have 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, ¶104; *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. ('578, 8:46-60.)

Patent Owner's assertion that Neibauer fails to address the limitations of some mobile devices reads 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 mobile device display and navigational capabilities, such as failure to integrate messaging, collaboration and location-based services, and their unsuitability for unsophisticated users. ('578, 1:56-2:2.) The

written description also makes clear that the alleged invention can be used with "a wired local area network (LAN)" ('578, 4:25-26), and that user terminals used by end users "may comprise a non-mobile device, including, by way of example, a desktop personal computer" ('578, 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 providing a motivation to convert the relied-on Yahoo! Clubs webpages for handheld mobile devices, as described in the Petition. (Petition, 16-17, 21-22.)

IV. CONCLUSION

The Board should find all challenged claims unpatentable.

Dated: January 10, 2025

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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 5,586 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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