

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ACTIVISION BLIZZARD, INC.,
Petitioner,

v.

MILESTONE ENTERTAINMENT, LLC,
Patent Owner.

IPR2025-00709
Patent 10,650,635 B2

Before LINDA E. HORNER, SCOTT A. DANIELS, and
SCOTT C. MOORE, *Administrative Patent Judges*.

DANIELS, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
Determining Some Challenged Claims Unpatentable
35 U.S.C. § 318(a)

I. INTRODUCTION

Activision Blizzard, Inc., (“Activision,” or “Petitioner”), filed a Corrected Petition requesting *inter partes* review (“IPR”) of claims 1, 2, 4, 6, 8–10, 14–18, 21–23, 25, 27, and 29 of U.S. Patent No. 10,650,635 B2 (Ex. 1001, “the ’635 patent”). Paper 3 (“Pet.”). Milestone Entertainment, LLC (“Milestone” or “Patent Owner”) filed a Preliminary Response to the Petition. Paper 10 (“Prelim. Resp.”).

We instituted an *inter partes* review of claims 1, 2, 4, 6, 8–10, 14–18, 21–23, 25, 27, and 29 of the ’635 patent on all grounds asserted by Petitioner. Paper 13 (“Dec. Inst.”). Patent Owner timely filed a Patent Owner Response. Paper 17 (“PO Resp.”). Petitioner subsequently filed a Reply (Paper 19, “Pet. Reply”), and Patent Owner timely filed a Sur-Reply to Petitioner’s Reply (Paper 20, “PO Sur-Reply”).

Oral argument was held on June 23, 2026, in Alexandria VA and a transcript of the hearing is entered in the record. Paper 34.

We have jurisdiction under 35 U.S.C. § 6(b). This Final Written Decision is issued pursuant to 35 U.S.C. § 318(a). Having reviewed the arguments of the parties and the supporting evidence, we find that Petitioner has demonstrated by a preponderance of the evidence that certain challenged claims—i.e., claims 1, 2, 4, 6, 8, 10, 14–18, 21–23, 25, 27, and 29 of the ’635 patent—are unpatentable. Petitioner has not demonstrated by a preponderance of the evidence that claim 9 is unpatentable.

II. BACKGROUND

A. Real Parties in Interest

Petitioner identifies Activision Blizzard, Inc., “a wholly owned subsidiary of Microsoft Corporation,” as the real party in interest. Pet. 2.

Patent Owner identifies Milestone Entertainment, LLC as the real party in interest. Paper 4, 1.

B. Related Matters

The parties indicate that the '635 patent has been asserted in *Milestone Entertainment, LLC v. Activision Blizzard, Inc.*, 2:24-cv-04056 (C.D. Cal.). Pet. 2, Paper 4, 1.

Petitioner also identifies that it has challenged the following “related family members.”¹ Pet. 2.

U.S. Patent No.	IPR
8,529,336	IPR2025-00708
10,825,294	IPR2025-00710
11,335,164	IPR2025-00711
11,393,279	IPR2025-00712
11,501,607	IPR2025-00713

C. The '635 Patent (Ex. 1001)

The '635 patent, titled “System for Implementing Enhanced Gaming and Prizing Parameters in an Electronic Environment,” relates to ways to effect user experience in electronic games using virtual currency. Ex. 1001, code 54, Abstract. The '635 patent was filed October 7, 2019, and claims priority through a series of continuations to U.S. Patent 8,241,110, filed September 1, 2004, as PCT/US2004/028560. *Id.* codes 22, 63. The '635 patent broadly describes “[s]ystems, apparatus and methods . . . for enhanced electronic entertainment, such as game play, over remote communications networks.” *Id.* at 5:7–8.

¹ All of the proceedings were instituted by the Board with the exception of IPR2025-00713.

The '635 patent describes enhancing the user's game play experience with special forms of money or value where "[t]he games may be played either with real money, or may be played with virtual money, sometimes referred to as vCoins." *Id.* at 45:58–60. The '635 patent describes embodiments where the user can acquire virtual money such as vCoins through game play or cash purchase and that "vCoins provide the player with the perception of a big win since the numbers are larger than any corresponding monetary amount." *Id.* at 46:41–43.

Of notable interest in this proceeding, the '635 Patent explains that "by being virtual and corresponding to electronic amounts, [vCoins] may be altered or varied as desired." *Id.* at 46:43–45. In one embodiment "[a] vCoin will typically be a multiplier times the corresponding numeric monetary value, e.g., one dollar equals 500 vCoins." *Id.* at 14:14–16. The '635 patent describes further that "[t]he multiplier may be fixed over time and over games, or it may vary based on factors, such as time, game or player status." *Id.* at 14:19–21.

D. Illustrative Claim

Claim 1 is independent. Claims 2, 4, 6, 8–10, 14–18, 21–23, 25, 27, and 29 depend directly or indirectly from claim 1. Claims 1 and 9 are reproduced below with the limitation identifiers referenced in the Petition (Pet. 13–24), and with limitations of interest in claim 9 highlighted in italics:

1. [Preamble] A system for effecting user experience on a user communication device in a multi-level electronic game environment comprising:

[1.a] memory storing information on game play, the information including input received from the user, information relating to levels within the multi-level game and game display information for output to the user,

[1.b] a processor coupled to the memory generating game play information,

[1b.i] the game play information including game play with virtual money,

[1.b.ii] the virtual money being acquired through:

[1.b.ii.A] (1) game play and

[1.b.ii.B] (2) cash purchase,

[1.b.iii] the virtual money acquired by cash purchase being subject to a multiplier,

[1.b.iv] conversion of the virtual money into a non-cash good comprising an image to permit advancement to another level within the game, and

[1.c] memory storing account information which is increased and decreased through the user experience.

9. The system for effecting user experience in a multi-level electronic game environment of claim 1 *wherein the multiplier is variable over time.*

Ex. 1001, 46:61–47:14, 47:38–40 (emphasis added).

E. Prior Art and Asserted Grounds

Petitioner asserts that claims 1, 2, 4, 6, 8–10, 14–18, 21–23, 25, 27, and 29 are unpatentable based on the following grounds:²

² Petitioner supports its challenges with a Declaration of Dwight Crevelt (Ex. 1003). Patent Owner provides a Declaration by John Szeder (Ex. 2003).

Ground	Claim(s) Challenged	35 U.S.C. §	Reference(s)/Basis
1	1, 2, 4, 6, 8–10, 14–18, 21–23, 25, 27, 29	103(a) ³	Schneier, ⁴
2	1, 2, 4, 6, 8–10, 14–18, 21–23, 25, 27, 29	103(a)	Schneier, Okita, ⁵

III. PATENTABILITY ANALYSIS

A patent claim is unpatentable under 35 U.S.C. § 103(a) if the differences between the claimed subject matter and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of underlying factual determinations including: (1) the scope and content of the prior art; (2) any differences between the claimed subject matter and the prior art; (3) the level of ordinary skill in the art; and (4) when in evidence, objective evidence of nonobviousness.⁶ *Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966).

“In an [*inter partes* review], the petitioner has the burden from the onset to show with particularity why the patent it challenges is

³ The Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112-29, 125 Stat. 284, 287–88 (2011 amended 35 U.S.C. §§ 102–103, effective March 16, 2013). Because the application from which the ’635 patent issued has an effective filing date prior to March 16, 2013, the pre-AIA version of § 103 applies. *See* Ex. 1001, code 63.

⁴ Ex. 1008, U.S. Patent No. 5,970,143 (Oct. 19, 1999).

⁵ Ex. 1009, U.S. Patent Appl. Publ’n No. US 2003/0078102 A1 (Apr. 24, 2003).

⁶ Patent Owner does not present arguments or evidence of secondary considerations. Therefore, secondary considerations do not constitute part of our analysis.

unpatentable.” *Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1889, 1363 (Fed. Cir. 2016) (citing 35 U.S.C. § 312(a)(3) (requiring *inter partes* review petitions to identify “with particularity . . . the evidence that supports the grounds for the challenge to each claim”)). This burden of persuasion never shifts to Patent Owner. *See Dynamic Drinkware, LLC v. Nat’l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015) (discussing the burden of proof in *inter partes* review).

A. Level of Ordinary Skill in the Art

Petitioner asserts that a person of ordinary skill in the art at the time of the ’635 patent

would have had at least a bachelor’s degree in computer science or computer engineering, with at least three years of experience in game development . . . [a]dditional experience could substitute for less education, and additional education could likewise substitute for less experience.

Pet. 12 (citing Ex. 1003 ¶¶ 72–75).

Patent Owner states it “does not dispute Petitioners’ proposed level of skill, and under any level of skill a POSITA would not understand the asserted Grounds to raise any unpatentability issue.” PO Resp. 4. Patent Owner states further that “this [Patent Owner Response] and supporting declarations apply Petitioner’s proposed level of skill.” *Id.*

On this record, Petitioner’s proposed level of ordinary skill in the art is not contradicted and is consistent with the technology and descriptions in the ’635 patent and the asserted prior art references. *See Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001). For purposes of this Decision, we rely on Petitioner’s proposed level of ordinary skill in the art.

B. Claim Construction

In interpreting the claims of the '635 patent, we “us[e] the same claim construction standard that would be used to construe the claim[s] in a civil action under 35 U.S.C. [§] 282(b).” *See* 37 C.F.R. § 42.100(b) (2020). The claim construction standard includes construing claims in accordance with the ordinary and customary meaning of such claims as would have been understood by one of ordinary skill in the art in view of the specification and the prosecution history pertaining to the patent. *See id.*; *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–14 (Fed. Cir. 2005) (*en banc*).

Petitioner indicated in the Petition that “[t]his Petition establishes that the prior art meets each of the claim limitations under any reasonable construction.”[¶] Thus, no express construction is required.” Pet. 12–13 (citing Ex. 1003 ¶ 85).

In its Response, Patent Owner indicates that no constructions are necessary “because under any reasonable construction of the claim terms, the prior art fails to disclose or suggest the claimed features.” PO Resp. 4–5. Because there is no dispute between the parties as to any particular claim term and because the claims, as a whole, are reasonably clear on their face, no specific claim construction is necessary in this proceeding.

C. The Prior Art

Before turning to Petitioner’s asserted grounds of unpatentability, we provide a brief summary of the asserted references Schneier and Okita.

1. *Schneier*⁷ (Ex. 1008)

Schneier broadly describes an authentication and auditing system for computer generated gaming and “also provides for ‘pay-per-use’ in the home video game environment, where any game computer may be turned into a video game arcade machine by metering usage of the game computer and/or game programs that run on the game computer.” Ex. 1008 1:13–44. Schneier discloses “computer generated game tournaments in which players play the games on game computers and compete against each other by submitting the outcomes for those tournament games to the central computer, which certifies the outcomes and rates and ranks the players.” *Id.* at 1:25–30.

Schneier teaches that “tournament play contains variables which are read by the game computers and direct the game programs to set game parameters based on player’s individual ratings or other parameters.” *Id.* at 5:56–60. Schneier discloses that “game programs generate games that are typically segregated into various levels, where the player advances from level to level as the game proceeds.” *Id.* at 24:43–45. Schneier further discloses “[i]n an arcade-type embodiment, the player purchases ‘credits’ to enable game play. This enables players to call the central computer 12 and obtain codes for a specified number of game plays, as in an arcade environment.” *Id.* at 62:50–53.

In addition to “pay-to-play” scenarios, Schneier also discloses how game credits can be used to advance levels “to explore any of the first ten levels of a game, while any of the additional five bonus levels could be explored at a cost of one credit each.” *Id.* at 63:13–16. Schneier teaches

⁷ In many instances both parties refer to Schneier as “Schneier143.”

using credits to purchase special items in the game to advance levels, for example “while exploring a ten-level dungeon, the player could be charged an additional credit for the use of a special weapon, access to a map of the dungeon, or hints on avoiding traps.” *Id.* at 63:16–19. Also, Schneier describes that credits “per dollar” can vary, for instance “[a] purchase of ten credits may cost \$0.50 each while a purchase of twenty credits may cost \$0.30 each.” *Id.* at 63:31–34. In one example, Schneir explains that “[c]redit discounts can be offered to select players who have obtained certain certified titles. A five-star MORTAL KOMBAT player may receive a 10% discount on all credits.” *Id.* at 63:34–37.

2. *Okita (Ex. 1009)*

Okita is titled “Video Game System, Video Game Apparatus and Video Game Execution Control Method.” Ex. 1009, code 54. Okita’s video game system includes “a player information storage unit 371 that stores player information including information regarding virtual money used in the game.” *Id.* at Abstract. Okita discloses a “virtual money conversion unit 161*n* that performs conversion between virtual money and prescribed pseudo-values.” *Id.* Okita explains that pseudo-values, which are earned points in a video game, “refer[] to the player’s performance results in the game, and these points or results have values during the game.” *Id.* ¶ 4. Okita also describes the real money conversion unit 161*m* performs conversion of coins into virtual money “using a prescribed exchange rate.” *Id.* ¶ 72.

Okita's Figure 4 is reproduced below.

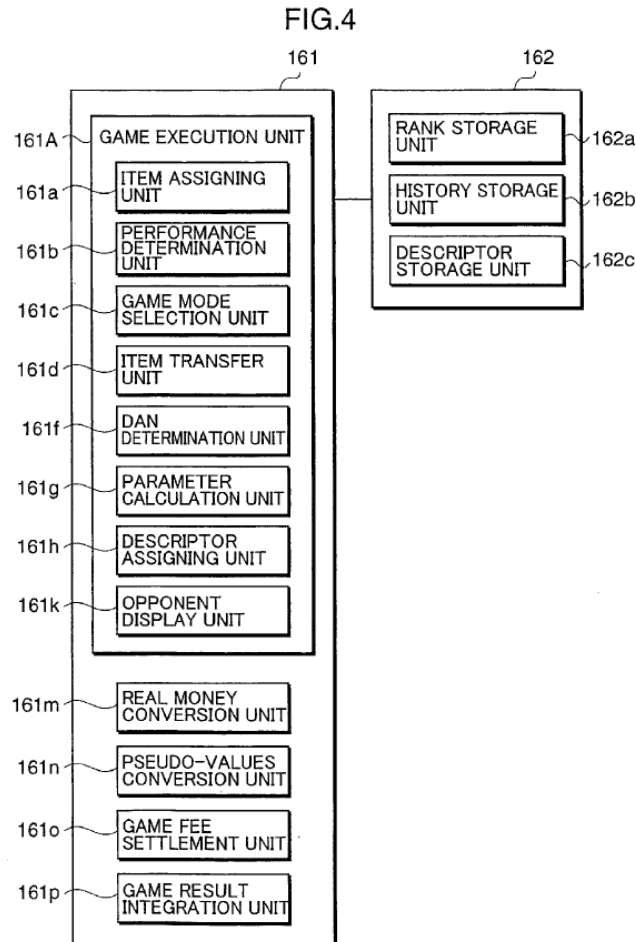


Figure 4 illustrates Okita's CPU 161 running a game execution unit 161A based on, *inter alia*, operation instructions from the player, a real money conversion unit 161m and a pseudo-values conversion unit 161n. *Id.* ¶ 67.

Okita further explains that in one embodiment “[t]he real money conversion unit 161m performs conversion of the coins received via the coin receiving unit 15 and virtual money using a prescribed exchange rate. The prescribed exchange rate here is a rate used in order to perform conversion between virtual money and real money.” *Id.* ¶ 71. Similarly, “The pseudo-values conversion unit 161n performs conversion between the prescribed

pseudo-values . . . and virtual money, using a prescribed exchange rate.” *Id.* ¶ 72.

D. Ground 1: Claims 1, 2, 4, 6, 8–10, 14–18, 21–23, 25, 27, and 29 – Alleged Obviousness over Schneier

In its Response, Patent Owner limits its arguments, and the dispute, to dependent claim 9. *See generally* PO Resp. Before addressing the merits of claim 9, we address independent claim 1 and the other challenged depending claims.

1. Claim 1

Petitioner argues that Schneier discloses or renders obvious a gaming system as recited in claim 1, disclosing central computer 12, game computers 14, memory 23, and a central processing unit 27 for receiving input from a user and storing and generating multi-level game play and game display information, the game play information including virtual money, i.e., credits, acquired through either game play or cash purchase. Pet. 13–18 (citing Ex. 1008, 10:10–20, 23–25, 11:56–58; Ex. 1003 ¶¶ 88–95). According to Petitioner, Schneier teaches that game play includes credits subject to a multiplier and that the credits can be converted into a non-cash good such as advancement to another game level and, Schneier explains how account information such as credits, player ratings, and reward points, can be changed based on play of the game. *Id.* at 19–27 (citing Ex. 1008, 1:40–45, 62:50–51, 63:1–5, 25–29; Ex. 1003 ¶¶ 96–113).

In its Preliminary Response as to claim 1, Patent Owner mainly argued that Petitioner failed to show that Schneier’s “‘credits,’ used to ‘pay-per-*use*’ of a game, are ‘virtual money’ as required by the claims” and that there is no disclosure in Schneier for conversion of credits to “non-cash

goods comprising an image” as required in limitation [1.b.iv]. Prelim. Resp. 6–7.

In our Institution Decision we determined that Schneier’s “credit” was commensurate with “virtual money” and that Schneier taught converting credits to obtain a “special weapon,” where

the ’635 patent expressly describes that the claimed “virtual money”, i.e., “vCoins may be acquired by purchase, or may be awarded in a non-cash purchase manner *such as provided for a credit.*” Ex. 1001, 46:7–9 (emphasis added). Moreover, as Petitioner points out, Schneier explicitly describes that a player can trade credits for goods and services. Pet. 22–23. For example, Schneier explains that the player “could be charged an additional credit for the use of a special weapon, access to a map of the dungeon, or hints on avoiding traps.” Ex. 1001, 63:17–19.

Inst. Dec. 13–14.

In its Response, Patent Owner does not contest these preliminary findings or provide further arguments to the contrary. Notably, Patent Owner does not provide any arguments as to claim 1 or dependent claims 2, 4, 6, 8, 10, 14–18, 21–23, 25, 27, and 29. *See, generally*, PO Resp. Accordingly, any such arguments have been waived.⁸

Having now considered the entirety of the record, specifically Petitioner’s evidence and arguments as to independent claim 1, we determine that Petitioner has shown by a preponderance of the evidence that Schneier renders obvious the subject matter recited in claim 1. Pet. 13–27.

⁸ *See* Paper 14, 10 (“Patent Owner is cautioned that any arguments not raised in the response may be deemed waived.”).

2. *Dependent claims 2, 4, 6, 8, 10, 14–18, 21–23, 25, 27, and 29*

Petitioner contends that Schneier discloses: the non-cash good is an image permitting advancing to another game level (claim 2), virtual money is acquired by non-cash purchase (claim 4), and the non-cash purchase utilizes an inducement (claim 6), that virtual money is used to advance to another game level (claim 8), and that the multiplier is variable based on player status (claim 10). Pet. 27–32. Petitioner argues that Schneier’s game play information further includes a leader board (claim 14), a player registration system (claim 15), an online registration system (claim 16), a game play analysis system (claim 17), and the game play analysis tracks user specific play (claim 18). *Id.* at 33–39. Petitioner argues further that Schneier discloses that the system includes: a game application that can be downloaded to a communications device, including a hand-held wireless device having a display (claims 21–23), the virtual money is not cashable (claim 25), the virtual money is awarded as a bonus (claim 27), and the virtual money is tracked (claim 29). *Id.* at 39–45.

Patent Owner does not contest Petitioner’s showing that Schneier renders obvious the subject matter of dependent claims 2, 4, 6, 8, 10, 14–18, 21–23, 25, 27, and 29. *See, generally*, PO Resp., *see also* PO Resp. 5–8 (Patent Owner’s arguments addressing mainly dependent claim 9). We have reviewed Petitioner’s arguments and the evidence and, based on our analysis, we find that Petitioner has shown by a preponderance of evidence that Schneier renders obvious the subject matter recited in these claims.

We now turn to the question of obviousness of dependent claim 9.

3. *Dependent claim 9*

Dependent claim 9 recites:

9. The system for effecting user experience in a multi-level electronic game environment of claim 1 *wherein the multiplier is variable over time.*

Ex. 1001, 47:38–40 (emphasis added).

Patent Owner focuses its Response on claim 9 arguing that “Petitioner has failed to identify any disclosure in Schneier143 (Ground 1), or Schneier143 in view of Okita (Ground 2), of Claim 9 of the 635 Patent’s ‘system for effecting user experience in a multi-level electronic game environment of claim 1 wherein the multiplier is variable over time.’” PO Resp. 5. Variability over time is important, Patent Owner argues, so that “the system may implement an ‘[e]nhanced multiplier’ to encourage game play ‘at times when other entertainment is available . . . as an inducement for the player to play the subject games.’” *Id.* (citing Ex. 1001, 46:1–6; Ex. 2003 ¶ 59). For this, and other reasons discussed below, we agree with Patent Owner.

a) *The Parties’ Arguments*

Petitioner initially argues that Schneier discloses that “the multiplier is variable over time,” as recited in claim 9 because Schneier teaches a discount credit pricing structure where “[t]he number of credits that a player receives *per dollar* may also be *variable*. A purchase of ten credits may cost \$0.50 each while a purchase of twenty credits may cost \$0.30 each.” Pet. 31 (quoting Ex. 1008, 63:31–34). Petitioner’s declarant, Mr. Crevelt, echoes this position, and points to the same disclosure in Schneier. Ex. 1003 ¶ 120.

In conjunction with the above argument, Petitioner contends that the “price per game” determined by meter 502 and the “updating cost

information protocol” illustrated in Figure 19 supports its position that Schneier teaches a “multiplier is variable over time.” Pet. 31–32 (citing Ex. 1008, 9:48–49, 55:18–20, 55:66–56:3, 63:45–52, Figs. 17, 19).

Petitioner argues further that Scheier also teaches an extended time credit purchase where “[t]he multiplier can change based on dollars spent. For instance, one credit may buy five minutes of play while two credits may buy *twelve minutes* of play.” *Id.* at 32 (citing Ex. 1008, 63:42–45). And, considering Schneider and the above arguments as a whole, Petitioner asserts that “the multiplier can change based on time. For instance, the multiplier may be reduced during a period of high demand, while also increased during a period of low demand.” *Id.* (citing Ex. 1003 ¶ 121).

Patent Owner responds that Schneier “does not disclose that a multiplier for cash purchases may be variable *over time*, as the claim requires.” PO Resp. 6. According to Patent Owner’s declarant, Mr. Szeder, to a person of ordinary skill in the art, the disclosure that a player can purchase ten credits for \$0.50 each and twenty credits for \$0.30 each “discloses only that the multiplier is different, at one point in time, depending on the number of credits purchased.” Ex. 2003 ¶ 60. Mr. Szeder continues, “Petitioners point to no disclosure in Schneier[] that the multiplier in this pricing may vary over time, and I am aware of none.” *Id.*

Patent Owner contends that Petitioner’s reliance on “Updating Cost Information protocol” and Figure 19 is misplaced. PO Resp. 6 (citing Pet. 31–32). Patent Owner argues that “Schneier143’s system can obtain updated cost information from a central computer . . . [b]ut this does not disclose that ‘virtual money acquired by cash purchase being subject to a multiplier’ where that ‘multiplier is variable over time,’ as in the 635 Patent Claim.” *Id.* And, as for Schneier’s purchase of either five or twelve minutes

of play, the extended time credit purchase, Patent Owner argues that this “discloses only that, at *one* moment in time, one credit may purchase a certain amount of time, and two credits may purchase a different amount of time.” *Id.* at 8.

Petitioner’s Reply argues that “Schneier143 discloses that this ‘multiplier’ may vary over time, for example, by varying the rates at different points of play, using an ‘Updating Cost Information protocol’ to change the price per game credit, or varying the rates depending on the time or day of play.” Pet. Reply 3–4 (citing Pet. 31; Ex. 1008, 62:48–50, 63:31–34, 45–52).

Patent Owner responds in its Sur-Reply that “none of Petitioner’s evidence showed a virtual currency whose value is subject to a multiplier that can vary *over time*.” PO Sur-Reply 2. Patent Owner specifically takes issue with Petitioner’s reliance on the “Updating Cost Information protocol” arguing that “Schneier’s protocol sets the values for game costs – for example, how much it costs to play a game on a per-use or per minute basis.” *Id.* Patent Owner also contends that the variable “rate” depending upon the time or day of play disclosure in Schneier is a new argument that Petitioner relies on for the first time in Petitioner’s Reply and should be disregarded. *Id.* at 4 (citing Pet. Reply 6; Ex. 1008, 62:46–49). And, in any event, Patent Owner contends that “rate” pertains to game cost, not a variable multiplier. *Id.*

b) Analysis

We organize our analysis, below, based on the arguments made by Petitioner as to Schneier’s discount credit pricing structure, updating cost information protocol, extended time credit purchase, and variable “rates.”

(1) *Discount Credit Pricing Structure*

The \$0.20 discount described by Schneier for purchasing 20 credits, rather than 10 credits, does not have a temporal component. Ex. 1008, 63:31–34. Rather, it describes an option for the user or player to obtain a discount at a particular point in time if the player is willing to purchase 20 rather than 10 credits. *Id.* Petitioner’s citations to this embodiment do not address the idea of a time component, i.e., “over time,” as required by claim 9. Pet. 31; Pet. Reply 3–7 (citing Ex. 1008, 63:31–34). In this embodiment the \$0.30 and \$0.50 multipliers are constant, and the user is simply choosing between two existing options at a particular time to potentially take advantage of a \$0.20 discount on credits. Comparatively, the \$0.30 and \$0.50 multipliers are different, but they are not “variable over time,” as required by claim 9. Ex. 1001, 47:38–40.

(2) *Updating Cost Information Protocol*

Next, we address Petitioner and Mr. Crevelt’s reliance on the “Updating Cost Information (Optional—Variable Costs)” portion of Schneier’s written description. Pet. 31–32; Pet. Reply 8–11. In this argument, Petitioner cites Schneier’s description of cost updating undertaken by meter 502, where Schneier explains that

the meter 502 can determine the price per game credit from the data or instructions associated with Software Control Block 706 of the game program 26. The price per game may be stored within the meter’s 502 non-volatile memory and can be manipulated with codes from the central computer 12 to alter or change the pricing structure for particular games via the Updating Cost Information protocol described above.

Ex. 1008, 63:45–52. This embodiment is mainly describing the “price per game,” and that the price per game “can be manipulated.” *Id.* We agree that Schneier teaches that the price per game can change. For example, Schneier

explains that “[g]ames may cost a different number of credits depending upon the difficulty setting. For example, the easiest setting may cost two credits while the most difficult setting may cost one credit per play.” *Id.* at 63:48–41. Here, “the pricing structure” is changing the cost of the game, yet the in-game value of a credit is not subject to a multiplier or somehow changing. In other words, only the cost of the game is changing, not the value of a credit used to play the game.

With respect specifically to “updating,” which arguably implies a later time, Mr. Crevelt points to Schneier’s Figure 19 and testifies that “Schneier¹⁴³ discloses that ‘[t]his protocol is used when the meter 502 requires **updated cost information** from the central computer 12 for metered programs 503 that the player is currently using.’” Ex. 1003 ¶ 120 (quoting Ex. 1008 at 55:66–56:3).

Schneier’s Figure 19 is reproduced below.

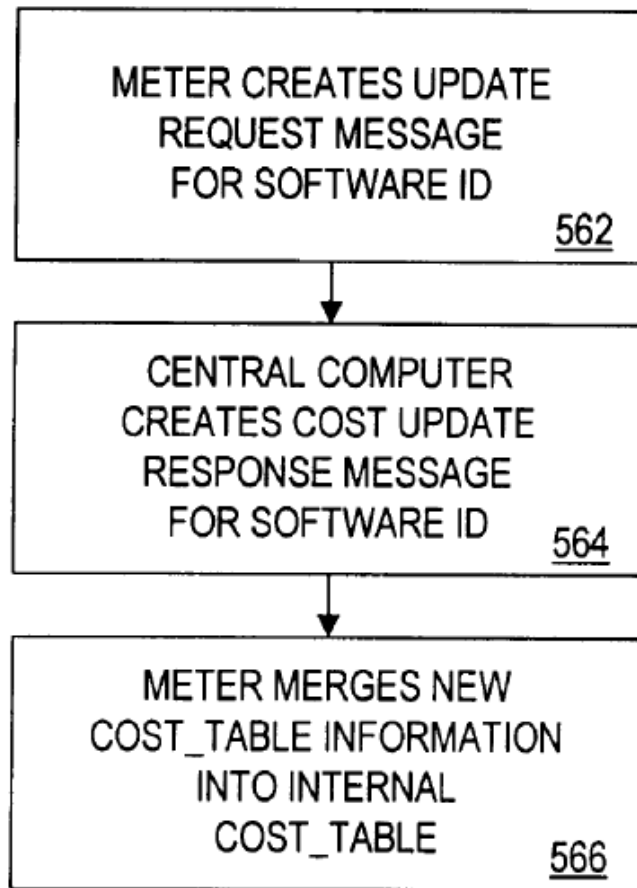


FIG. 19

Schneier’s Figure 19 describes the steps of meter 502 requesting updated cost information from central computer at step 562, central computer providing Update Response Message at step 564, and “[a]t step 566, the meter 502 merges the new Cost_Table information into its internal Cost_Table.” Ex. 1008, 56:12–28.

Mr. Crevelt’s citations to the “*updating* cost information protocol” and reliance on Figure 19 do not in any way explain how updating game costs by meter 502 with a new Cost_Table is relevant to a credit multiplier or even a multiplier being varied over time. Ex. 1003 ¶ 120. Considering this evidence, we determine that Petitioner and Mr. Crevelt’s reliance mainly

on snippets from Schneier’s “Updating Cost Information protocol” embodiment does not sufficiently explain why or how a person of ordinary skill in the art would have understood updating game cost to encompass varying a multiplier of credits over time.

We also note that during his deposition, Mr. Crevelt was given opportunity to clarify his testimony as to Figure 19 and explain the cost updating embodiment in Schneier, and mostly demurred. *See* Ex. 2004, 158:4–182:6. Explaining his reliance on Figure 19, Mr. Crevelt stated:

A: And whatever latest price from that updated cost information coming from the central site is -- is variable, it’s variable as time proceed[s]. It’s a -- it’s a, much of a complicated section, and -- but the information is in the Schneier patent and shows that it could have -- it should change over time.

Id. at 158:23–159:5. Mr. Crevelt further stated that:

A: . . . for a metered play where you’re buying so much time or so many credits or so many games on a specific game and when it runs out, then have you to buy more, and that variable can change over time.

Id. at 161:2–6. These explanations are unpersuasive because the testimony relates Schneier’s “updated cost,” with the claimed “multiplier” and “variable,” and does not adequately explain how they are equivalent or interconnected. *See, e.g., id.* at 160:16–23 (Mr. Crevelt testifying that “we can go from the description of figure 19, which starts at basically the top of column 56 in the Schneier patent, and . . . describes this process in detail of how the information is transferred from one place to the other and updated.”). Mr. Crevelt concludes that Schneier’s description is “complicated,” and from Figure 19 asserts the cost somehow includes a credit multiplier that “could” or “should” change over time. *Id.* at 158:23–159:5. Overall, this testimony fails to sufficiently explain or point to

persuasive evidence in Schneier as to how or why a person of ordinary skill in the art would have understood that the Figure 19 cost updating embodiment discloses a time-variable multiplier as required in claim 9.

(3) *Extended Time Credit Purchase*

Mr. Crevelt also testifies that Schneier teaches “[t]he multiplier can change based on dollars spent. ‘For instance, one credit may buy five minutes of play while two credits may buy *twelve minutes* of play.’” Ex. 1003 ¶ 121 (quoting Ex. 1008, 63:42–45). However, being rewarded for buying more credits at a particular point in time is not the same as changing the credit value *over time*—that is—the credit value is not changing due to a certain time frame, for example to encourage game play. *See* Ex. 1001, 14:22 (The ’635 patent describing that as an inducement “play during certain times may result in ‘double vCoins.’”). Here, the game-play time changes, as Mr. Crevelt aptly describes, “based on dollars spent.” Ex. 1003 ¶ 121.

Although this example in Schneier teaches different game play times for one versus two credits, this again is an option that can be exercised at a particular point in time while the credit value, itself, remains constant. Petitioner offers no persuasive explanation of how discounting game play time, i.e., giving more game play time relative to more credits used, varies a credit multiplier “over time” as claim 9 requires. *See* Ex. 1001, 47:38–40 (Claim 9 reciting “wherein the multiplier is variable over time.”).

(4) *Varying the Rates*

Although this argument in Petitioner’s Reply is somewhat of a late addendum to the “Updating Cost Information protocol” in Schneier, we address it for the sake of completeness. Petitioner cites to Schneier’s disclosure, for example at column 62:48–49, describing that “[r]ates for enabling play can be varied depending upon the time or day of play as well,”

because it comports with description of reducing or increasing costs based on demand. Pet. Reply 4, 6. Petitioner argues that “[b]ecause the data considered by meter 502 includes data relating to the time or day, Schneier¹⁴³ expressly discloses this limitation.” *Id.* at 6 (quoting Ex. 1008, 62:46–49).

As with “costs,” Petitioner appears to equate “[r]ates for enabling play” and the claimed time-variable multiplier yet does not adequately explain what Schneier’s “rate” is. Given a plain reading of the specification, Schneier’s “[r]ates for enabling play” indicate that meter 502 changes, e.g., reduces, *the number of credits required to play the game* during a time span. *See* Ex. 1008, 62:67–63:1 (Schneier explains that “[e]ach play results in the credit amount being decremented in the meter 502. When the purchased credit amount is exhausted, if the player desires to continue to play, he must purchase more credits from the central computer 12.”). This embodiment does not convey that the in-game credit *value* is being changed, just the player’s overall quantity of credits is decremented, i.e., reduced.

Considering Schneier’s description of “rates” and “cost” as a whole, it is the game cost that appears to vary, not the value of a credit. *See id.* at 63:7–8 (“Popular games may be made to require two or more ‘credits’ per play.”). Making a game worth one credit as opposed to two credits, or vice versa, is really just changing the cost of the game, and does not explain why or how a person of ordinary skill in the art would have used a multiplier to increase or decrease the credit value, even if the end result might be the same—that is—during certain time periods a player can play the game for longer or at a discount compared to other times.

4. *Conclusion as to claims 1, 2, 4, 6, 8–10, 14–18, 21–23, 25, 27, and 29 and Schneier*

Considering all the evidence and arguments presented by the parties in this case Petitioner has shown by a preponderance of the evidence that claims 1, 2, 4, 6, 8, 10, 14–18, 21–23, 25, 27, and 29 would have been obvious over Schneier. Petitioner has not shown by a preponderance of the evidence that dependent claim 9 would have been obvious over Schneier.

E. Ground 2: Claims 1, 2, 4, 6, 8–10, 14–18, 21–23, 25, 27, and 29 – Alleged Obviousness over Schneier and Okita

Because Petitioner has shown by a preponderance of the evidence that claims 1, 2, 4, 6, 8, 10, 14–18, 21–23, 25, 27, and 29 would have been obvious over Schneier, we determine that the claims are similarly obvious over Schneier and Okita.

With respect to dependent claim 9, the addition of Okita does not change our analysis above. Petitioner relies on the same arguments and evidence from Schneier for claim 9 in this second ground, as in the first. *See* Pet. 54 (Petitioner explaining that, apart from claim 1 “Schneier143 discloses all the additional limitations of the dependent claims 2, 4, 6, 8, 9, 10, 14–16, 17, 18, 21–23, 25, 27, and 29”) (citing Ex. 1003 ¶ 157). Accordingly, for the same reasons as set forth above in Section II.D.3.b(1)–(4), we are not persuaded that Petitioner has shown a preponderance of the evidence that dependent claim 9 is unpatentable.

IV. CONCLUSION

Petitioner has proven by a preponderance of the evidence that claims 1, 2, 4, 6, 8, 10, 14–18, 21–23, 25, 27, and 29 would have been obvious over Schneier.⁹

Petitioner has not proven by a preponderance of the evidence that dependent claim 9 would have been obvious in view of Schneier.

Petitioner has proven by a preponderance of the evidence that claims 1, 2, 4, 6, 8, 10, 14–18, 21–23, 25, 27, and 29 would have been obvious over Schneier and Okita.

Petitioner has not proven by a preponderance of the evidence that dependent claim 9 would have been obvious in view of Schneier and Okita.

Our conclusion is summarized in the following table.

Claim(s)	35 U.S.C. §	Reference(s) /Basis	Claim(s) Shown Unpatentable	Claim(s) Not Shown Unpatentable
1, 2, 4, 6, 8–10, 14–18, 21–23, 25, 27, 29	103	Schneier	1, 2, 4, 6, 8, 10, 14–18, 21–23, 25, 27, 29	9

⁹ Should Patent Owner wish to pursue amendment of the challenged claims in a reissue or reexamination proceeding subsequent to the issuance of this decision, we draw Patent Owner’s attention to the April 2019 Notice Regarding Options for Amendments by Patent Owner Through Reissue or Reexamination During a Pending AIA Trial Proceeding. *See* 84 Fed. Reg. 16,654 (Apr. 22, 2019). If Patent Owner chooses to file a reissue application or a request for reexamination of the challenged patent, we remind Patent Owner of its continuing obligation to notify the Board of any such related matters in updated mandatory notices. *See* 37 C.F.R. § 42.8(a)(3), (b)(2).

Claim(s)	35 U.S.C. §	Reference(s) /Basis	Claim(s) Shown Unpatentable	Claim(s) Not Shown Unpatentable
1, 2, 4, 6, 8–10, 14– 18, 21–23, 25, 27, 29	103	Schneier, Okita	1, 2, 4, 6, 8, 10, 14–18, 21– 23, 25, 27, 29	9
Overall Outcome			1, 2, 4, 6, 8, 10, 14–18, 21– 23, 25, 27, 29	9

V. ORDER

In consideration of the foregoing, it is hereby:

ORDERED, based on a preponderance of the evidence, that claims 1, 2, 4, 6, 8, 10, 14–18, 21–23, 25, 27, and 29 are unpatentable;

ORDERED, based on a preponderance of the evidence, that claim 9 is not unpatentable; and

FURTHER ORDERED, because this is a final written decision, the parties to this proceeding seeking judicial review of our Decision must comply with the notice and service requirements of 37 C.F.R. § 90.2

IPR2025-00709
Patent 10,650,635 B2

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