

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

FERID ALLANI,
Patent Owner.

IPR2025-00856
Patent 8,271,877 B2

Before JAMESON LEE, JEFFREY S. SMITH, and
BRIAN P. MURPHY, *Administrative Patent Judges*.

LEE, *Administrative Patent Judge*.

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

I. INTRODUCTION

Apple Inc. (“Petitioner”) filed a Petition for *inter partes* review of claims 1–19 (“challenged claims”) of Patent No. 8,271,877 B2 (Ex. 1001, “the ’877 patent”). Paper 1 (“Pet.”). Ferid Allani (“Patent Owner”) filed a Preliminary Response. Paper 9 (“Prelim. Resp.”). Petitioner filed a Preliminary Reply. Paper 13 (“Prelim. Reply”). Patent Owner filed a Preliminary Sur-reply. Paper 14 (“Prelim. Sur-reply”). Patent Owner’s request for discretionary denial was denied by the Acting Director of the U.S. Patent And Trademark Office and the Petition was referred to the Board. Paper 11.

We have authority to determine whether to institute an *inter partes* review. *See* 35 U.S.C. § 314 (2018); 37 C.F.R. § 42.4(a). An *inter partes* review may not be instituted unless the information presented in the Petition “shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a). The “reasonable likelihood” standard is “a higher standard than mere notice pleading” but “lower than the ‘preponderance’ standard to prevail in a final written decision.” *Hulu, LLC v. Sound View Innovations, LLC*, IPR2018-01039, Paper 29 at 13 (PTAB Dec. 20, 2019) (precedential).

We determine Petitioner has not demonstrated a reasonable likelihood that it would prevail in establishing the unpatentability of at least one of challenged claims 1–19 of the ’877 patent. Accordingly, the Petition is denied, and no trial is instituted.

II. BACKGROUND

A. *Real Parties in Interest*

Petitioner identifies Apple Inc. as real party in interest. Pet. 65.
Patent Owner identifies Ferid Allani as real party in interest. Paper 3, 2

B. *Related Matters*

The parties identify the following district court litigations as related matters:

Allani v. Apple Inc., Case No. 6:2024-cv-00304 (W.D. Tex.).

Allani v. Google LLC, Case No. 6:2024-cv-00305 (W.D. Tex.).

Pet. 65; Paper 3, 2.

C. *The '877 Patent*

The '877 patent issued from Application No. 10/169,355, which has a PCT filing date of December 29, 2000, from PCT Application No. PCT/FR00/03759, and claims priority to FR 99 16704, filed December 30, 1999. Ex. 1001, codes (21), (22), (30), (86).

The '877 patent relates to a method for accessing information sources and services on the Web, by use of a plurality of selection pages which are “beforehand locally stored” within a user device. Ex. 1001, 2:4–12. The '877 patent explains that “by locally implementing preliminary selection steps” and by finally emitting on the Internet only a complete address for accessing a well-targeted information source, “the mean time duration observed for accessing searched information is drastically reduced.” *Id.* at 2:27–32.

Claims 1 and 12 are independent and reproduced below:¹

[1(Pre)] A method for accessing information- or service-providing web sites, from a mobile communication device connected through a communication network and provided with a display, comprising:

[1(a)(1)] a preliminary search for information or service, locally performed within said communication device in different themes and sub-themes within a plurality of successively displayed selection pages,

[1(a)(2)] said selection pages being organized in a structure of tree menu and *beforehand locally stored* within said communication device,

[1(a)(3)] each said selection page comprising a set of icons including one or more direct access icons for directly accessing an information- or service-providing web site and one or more selection icons for locally accessing and displaying another selection page within said structure of tree menu,

[1(a)(4)] wherein at least one of said selection pages comprises two or more direct access icons, and

[1(b)] a step for emitting on the communication network, in response to a selection of a direct access icon in a selection page being currently displayed, an address of an information- or service-providing web site corresponding to said selected icon,

[1(b)(1)] said address being locally generated during the display and selection steps and directly accessing said information- or service-providing website.

Ex. 1001, 5:20–43 (emphasis added).

[12(Pre)] A device for accessing information- or service-providing web sites comprising a mobile communication device

¹ The bracketed headings correspond to those used by Petitioner to reference the claim elements. *See* Pet. 67. We use the same headings here for ease of reference, understanding, and consistency.

connectable through a communication network to the Internet, control and processing device or devices, data storage devices or devices, a display, and pointing and selection device or devices, said storage device or devices containing a plurality of selection pages each comprising a set of icons, characterized in that, for each said selection page, the set of icons includes one or more direct access icons for directly accessing an information- or service-providing web site and one or more selection icons for locally accessing another selection page within a structure of a tree menu, wherein at least one of said selection pages comprises two or more direct access icons, and in that the control and processing device or devices are programmed for:

[12(a)] enabling a preliminary search locally performed within said communication device in different themes and sub-themes within a plurality of selection pages organized in said structure of tree menu and *beforehand locally stored* in said data storage means within said communication device,

[12(a)(1)] each said selection page comprising a set of icons including one or more icons for directly accessing an information- or service-providing web site and one or more selection icons for locally accessing and displaying on the display means another selection page within said structure of tree menu, and

[12(b)] emitting on the communication network, in response to selecting a direct access icon by the pointing and selection device or devices in a selection page being currently displayed, an address of an information- or service-providing web site corresponding to said selected direct access icon,

[12(b)(1)] said address being locally generated during the preliminary search and selection steps.

Ex. 1001, 6:7–38 (emphasis added).

D. The Applied Prior Art and Declarations

Petitioner relies on the following references:

Name	Patent Document/Publication	Exhibit
Himmel ²	U.S. Pat. No. 6,037,934	1005
Rossmann ³	U.S. Pat. No. 6,119,155	1004
Boyle ⁴	U.S. Pat. No. 6,318,158	1007
King ⁵	U.S. Pat. No. 6,353,939 B1	1006

Petitioner relies on the Declaration of Benjamin B. Bederson, Ph.D. Ex. 1003. Patent Owner relies on the Declaration of Mahdi Eslamimehr, Ph.D. Ex. 2016.

E. The Asserted Grounds of Unpatentability

Petitioner asserts that the challenged claims of the '877 patent are unpatentable based on the following grounds (Pet. 4):

Claims Challenged	35 U.S.C. § ⁶	References/Basis
1–6, 9–15, 17–19	103(a)	Rossmann, Himmel, King
7, 8, 16	103(a)	Rossmann, Himmel, King, Boyle

III. ANALYSIS

A. Level of Ordinary Skill in the Art

Petitioner asserts that a person of ordinary skill in the art “would have had a bachelor’s degree in computer engineering, electrical engineering, or a

² Issued Mar. 14, 2000, and filed Nov. 21, 1997. Ex. 1005, codes (22), (45).

³ Issued Sep. 12, 2000, and filed Feb. 19, 1998. Ex. 1004, codes (22), (45).

⁴ Issued Oct. 24, 2000, and filed Apr. 30, 1998. Ex. 1007, codes (22), (45).

⁵ Issued Mar. 5, 2002, and filed April 30, 1998. Ex. 1006, codes (22), (45).

⁶ The Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112–29, 125 Stat. 284, 287–88 (2011), amended 35 U.S.C. §§ 102 and 103. Because the '877 patent has a PCT filing date before March 16, 2013 (the effective date of the amendments), the pre-AIA version of § 103 applies.

related field, with two to three years of experience with web-based information systems. Pet. 3.

Patent Owner asserts that a person of ordinary skill at the pertinent time “would be a person with a bachelor’s degree in computer science, computer engineering, or a closely related discipline and two years of relevant professional experience in software engineering or a similar field.” Prelim. Resp. 10.

We adopt Petitioner’s statement of the level of ordinary skill in the art. It is supported by the testimony of Dr. Bederson. Ex. 1003 ¶¶ 32–33, 37–39. Although Patent Owner has proposed a slightly different statement for the level of ordinary skill in the art, Patent Owner does not explain why Petitioner’s proposal is incorrect. We find Petitioner’s proposed level presents a better statement of the level of ordinary skill in the art because it requires experience with web-based information systems and Patent Owner’s proposal does not. As noted above, the ’877 patent relates to a method for accessing information sources and services on the Web. Ex. 1001, 2:4–12. Further, Petitioner’s proposal appears consistent with what is reflected by the content of the applied prior art. *Cf. Okajima v. Bourdeau*, 261 F.3d 1350, 1354–55 (Fed. Cir. 2001) (the applied prior art may reflect an appropriate level of skill).

B. Claim Interpretation

We use the same claim construction standard that would be used to construe a claim in a civil action under 35 U.S.C. § 282(b), including construing the claim in accordance with the ordinary and customary meaning of such claim as understood by one of ordinary skill in the art and the prosecution history pertaining to the patent. 37 C.F.R. § 42.100(b). The

claim construction standard set forth in *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc) is applicable.

Claim terms are generally given their ordinary and customary meaning as would be understood by one with ordinary skill in the art in the context of the specification, the prosecution history, other claims, and extrinsic evidence including expert and inventor testimony, dictionaries, and learned treatises, although extrinsic evidence is less significant than the intrinsic record. *Phillips*, 415 F.3d at 1312–17. Usually, the specification is dispositive, and it is the single best guide to the meaning of a disputed term. *Id.* at 1315.

If an inventor acts as his or her own lexicographer, the definition must be set forth in the specification with reasonable clarity, deliberateness, and precision. *Renishaw PLC v. Marposs Societa' per Azioni*, 158 F.3d 1243, 1249 (Fed. Cir. 1998). Only those claim terms that are in controversy need to be construed, and only to the extent necessary to resolve the controversy. *Realtime Data, LLC v. Iancu*, 912 F.3d 1368, 1375 (Fed. Cir. 2019) (“The Board is required to construe ‘only those terms . . . that are in controversy, and only to the extent necessary to resolve the controversy.’” (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999))).

For purposes of this Decision, we determine that the only term that needs to be construed is “beforehand locally stored” in claims 1 and 12.

“beforehand locally stored”

In pertinent parts, claims 1 and 12 recites, respectively:

[1(a)(1)] a preliminary search for information or service, locally performed within said communication device in different themes and sub-themes within a plurality of successively displayed selection pages,

[1(a)(2)] said selection pages being organized in a structure of tree menu and *beforehand locally stored* within said communication device,

Pet. 67 (emphasis added).

[12(a)] enabling a preliminary search locally performed within said communication device in different themes and sub-themes within a plurality of selection pages organized in said structure of tree menu and *beforehand locally stored* in said data storage means within said communication device,

Id. at 68 (emphasis added).

According to Patent Owner, the beforehand storing of the claimed selection pages is an implementation step “not performed by the user.” Prelim. Resp. 11–12 (citing 2:28–32, 2:59–65); Prelim. Sur-reply 1. The specification includes this sentence: “Furthermore, it is easy to conceive a process for downloading, periodically or on demand, an updating of a set of pages used in the method according to the invention, from a management server towards a plurality of office automation and communication apparatuses wherein this method is implemented.” Ex. 1001, 5:1–5. Petitioner asserts that the reference to “on demand” downloading does not exclude downloading by a user. Prelim. Reply 3. Patent Owner asserts, however, that the term “on demand” here refers to “an automated communication between hardware and/or software components, *i.e.*, a management server and office automation and communication apparatuses.” Prelim. Sur-reply 1–2. The parties further take opposing positions on whether claim 8 of the ’877 patent, and claim 9 of U.S. Patent No. 10,943,058, a patent which claims priority to the ’877 patent, supports their views. Prelim. Reply 3–4; Prelim. Sur-reply 2–3.

We need not resolve the above-identified dispute, because a different aspect of “beforehand locally stored” is determinative. Read in context, “beforehand locally stored” in both limitations 1(a)(2) and 12(a) refer back to the “preliminary search” action recited in limitation 1(a)(1) and in limitation 12(a) itself, respectively.

Thus, we construe “beforehand locally stored” to mean that the selection pages must already be stored within the communication device when the user begins the preliminary search, regardless of whether it was the user or an automated process that downloaded the selection pages to the communication device. This understanding stems from a plain reading of the claim language and does not leave room for reasonable doubt otherwise. Petitioner does not present any reason why the claims do not require the selection pages to have already been stored in the communication device when a user begins the preliminary search.

C. Alleged Obviousness of Claims 1–6, 9–15, and 17–19 over Rossmann, Himmel, and King

1. Overview of Rossmann (Exhibit 1004)

Rossmann discloses a method for accelerating navigation of hypertext pages in the Internet based on a compound request from mobile devices. Ex. 1004, 3:36–38; 4:20–23. A compound request comprises an antecedent request and a final request wherein the antecedent request comprises a sequence of intermediate requests. *Id.* at 3:8–10. A compound request is entered by a user and then parsed into an antecedent request and a final request. *Id.* at 3:26–30.

A user’s search for information begins as follows: “After a predefined key in the keypad 162 is pressed, the keypad module 170 causes the client module 146 to send a request to establish a connection, via the

UDP interface 160, with server device 144. The request generally comprises a URL identifying the server with which the client module 146 intends to exchange pertinent information.” *Id.* at 7:22–27. Rossmann describes:

According to one embodiment of the present invention, the server device 144 fetches corresponding decks from stored HDML decks 154 in response to the request from the mobile device 142. The server module 172 then transforms or compresses the correspond decks to a compiled version of HDML referred to as HDMLC, formerly known as terminal interaction language (TIL). HDML was formerly known as phone interaction description language (PIDL). Through the use of the UDP interface 152, the server module 172 sends the compiled HDML decks or HDMLC decks to the mobile device 142 using HTTP.

Id. at 7:56–66. Typically, upon establishment of communication with a server, the mobile device receives a single HDML deck from the server and stores the received deck in random access memory. *Id.* at 6:26–29. “Each deck has a unique address identifier such as a URL and includes one or more cards. A card includes the information required to generate a screen display on the display screen 116. Thus, a deck is simply a group of screen displays.” *Id.* at 6:32–36. Rossmann explains:

[E]ach interaction with the user of the mobile device 142 is described by a deck or a series of decks. Logically, the user retrieves an HDML deck stored in the memory 148 of the mobile device 142 after receipt from the server device 144 over the CDPD network 140. The user reviews the information displayed by cards in the deck and makes choices and/or enters requested information and then requests another deck.

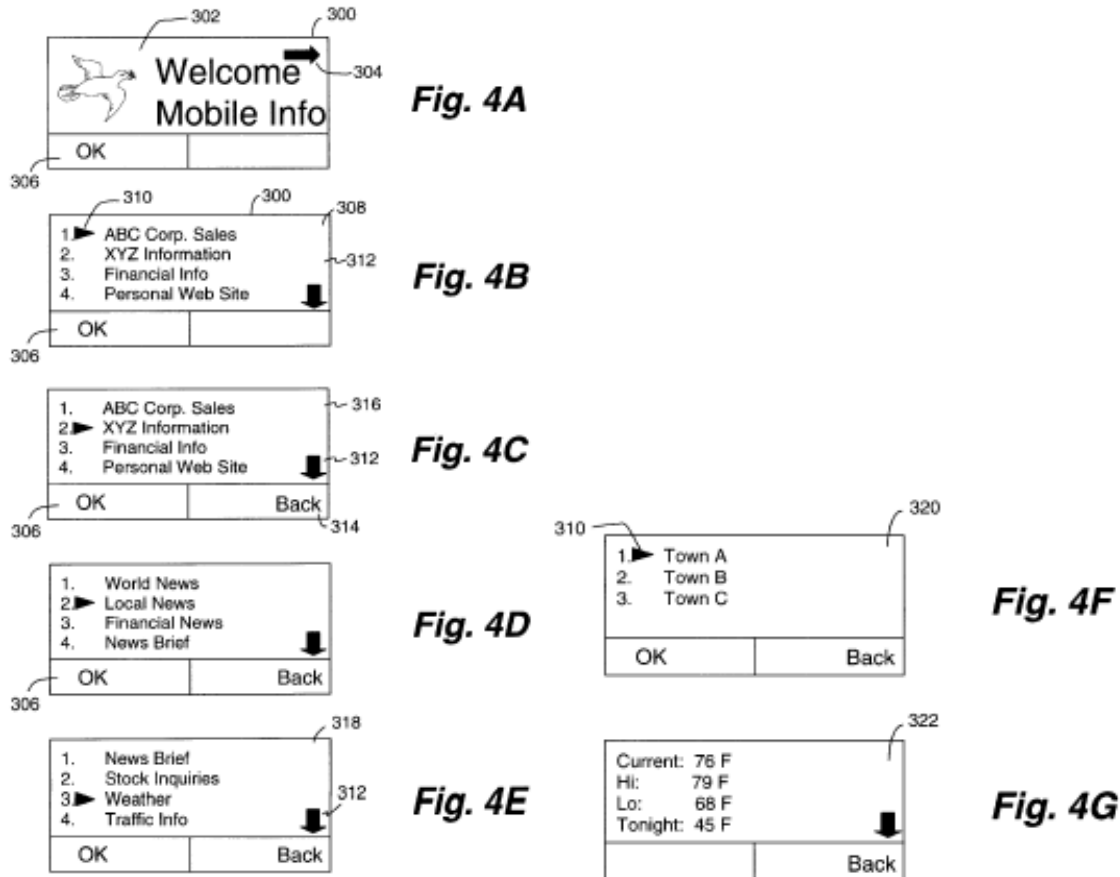
Id. at 8:35–42. Rossmann further describes:

In this embodiment, choice and entry cards prevent the user from moving to the next card until the user has entered the requested information. When the user reaches the last card in a deck and hits a corresponding soft key, a request for a new deck

is initiated. The deck requested is determined by either the deck that the user has completed, or by the choices made by the user.

Id. at 9:21–27.

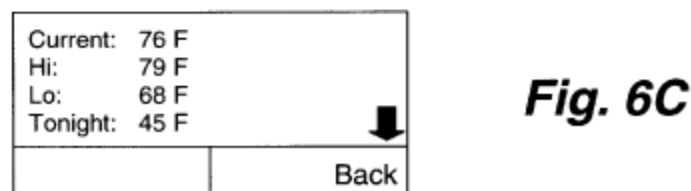
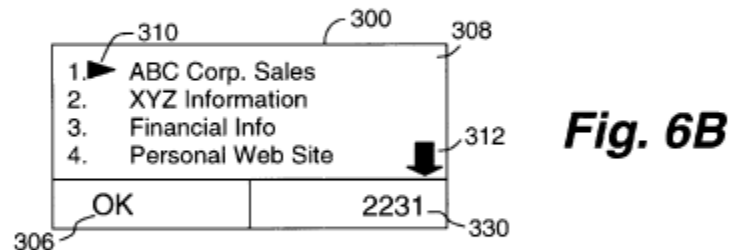
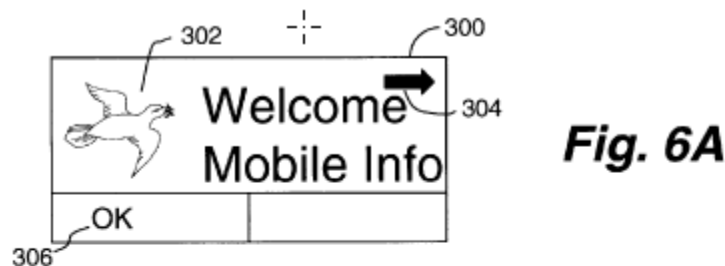
Figures 4A to 4G are reproduced below:



Figures 4A to 4G are a series of screen displays of a mobile device in communication with a server device hosting an information web service. Ex. 1004, 3:53–55. Upon establishment of communication between the user’s mobile device and the server device, an initial deck of cards, i.e., screen displays, is transmitted to the mobile device. *Id.* at 9:37–39. A user can navigate these screen displays in sequence, to arrive, eventually, at the desired information, the temperature for Town A. *Id.* at 9:37–12:17.

Rossmann discloses a quicker way to access the final page, by using compound requests which obviate the need to display multiple intermediate screen displays. Ex. 1004, 12:35–36.

Figures 6A-6C are reproduced below:



Figures 6A-6C display respective screen displays after receiving a compound request. Ex. 1004, 3:59–60. Rossmann describes:

To conform to the example in FIGS. 4A to 4G for clarity, a compound request “2231” is entered through the numbered keys in the keypad and echoed in the designated window 330 wherein “2” is the first request and thus must correspond to one item being in the display screen. The subsequent numerals “2” and “3” are the intermediate requests, each corresponding to an item in subsequent pages. “1” is the final request that also corresponds to an item in the last intermediate page and leads to the final page showing pertinent information in interest.

Id. at 12:60–13:2.

2. *Claims 1 and 12*

The dispositive issue pertains to the limitations 1(a)(1) and 1(a)(2) of claim 1 and limitation 12(a) of claim 12:

[1(a)(1)] a *preliminary search* for information or service, locally performed within said communication device in different themes and sub-themes within a plurality of successively displayed selection pages,

[1(a)(2)] said selection pages being organized in a structure of tree menu and *beforehand locally stored* within said communication device,

Ex. 1001, 5:24–29 (emphasis added).

[12(a)] enabling a *preliminary search* locally performed within said communication device in different themes and sub-themes within a plurality of selection pages organized in said structure of tree menu and *beforehand locally stored* in said data storage means within said communication device,

Id. at 6:23–28 (emphasis added).

Based on our discussion above in Section II.B, the proper construction of the language in these limitations is that the selection pages must be beforehand locally stored, where beforehand is assessed at the time of starting a preliminary search. Based on this construction, Petitioner has not sufficiently shown that Rossman discloses limitation 1(a)(2) and limitation 12(a), even for institution purposes.

Petitioner identifies Rossmann's cards as the claimed selection pages of claims 1 and 12. Pet. 18–19. Rossmann's cards, however, are not beforehand locally stored on the communication device at the time a user begins a preliminary search for information. Rather, on the record before us, at the time of starting a search for information, the user must request a connection to a server device at a desired host site, which request results in the server device at the host site sending one or more decks each including a

plurality of cards to the user's mobile device. Ex. 1004, 6:26–29; 7:22–27; 7:56–66. Thus, Rossmann's cards are not beforehand locally stored at the time the user commences a preliminary search. Petitioner's reliance on Himmel and on King do not make up for this deficiency.

In its Preliminary Reply, Petitioner asserts: “To the extent PO's constructions allow for use-downloaded selection pages but mandate these changes be downloaded at a specific time—before the user begins its preliminary search—Petitioner's art teaches this.” Prelim. Reply 4.

Petitioner explains:

Regardless, the Petition establishes in Rossmann's Figure 4 embodiment that an initial HDML deck of screen displays is downloaded and cached locally with two cards (Figs. 4A and 4B); after selecting XYZ Information in Figure 4B, a new deck is downloaded with displays for www.xyzinfo.com (Figs. 4C–4G); and a user *then* performs its preliminary search through the selection pages in that deck. Petition, 18–25. The exemplary selection pages in the second deck, Figures 4D and 4E, are searched after they were cached locally in RAM and therefore were downloaded before the user began its preliminary search. Thus, should the Board adopt PO's new claim scope (it should not), Petitioner's art nonetheless invalidates.

Prelim. Reply 5. The argument is unpersuasive. We agree with Patent Owner (Prelim. Sur-reply 4) that the step of “selecting XYZ Information in Figure 4B” is already within the preliminary search. Thus, as Patent Owner correctly notes, “the downloading of the new deck occurs after the preliminary search begins and does not meet the limitations of claims requiring selection pages to be ‘beforehand locally stored.’” *Id.*

Thus, Petitioner has not made a sufficient showing for limitation 1(a)(2) and limitation 12(a). Petitioner has not shown a reasonable

likelihood that it would prevail in establishing obviousness of independent claims 1 and 12 over Rossman, Himmel, and King.

3. *Claims 2–6, 9, 10, 11, 13–15, and 17–19*

Claims 2–6, 9, 10, and 11 each depend, directly or indirectly, from claim 1. Claims 13–15 and 17–19 each depend, directly or indirectly, from claim 12. The deficiency of the Petition with respect to claim 1, as discussed above, equally applies to claims 2–6, 9, 10, and 11. The deficiency of the petition with respect to claim 12, as discussed above, equally applies to claims 13–15 and 17–19. Petitioner has not shown a reasonable likelihood that it would prevail in establishing obviousness of any of claims 2–6, 9, 10, 11, 13–15, and 17–19 over Rossmann, Himmel, and King.

D. *Alleged Obviousness of Claims 7, 8, and 16 over Rossmann, Himmel, King, and Boyle*

Claim 7 depends from claim 1 and claim 8 depends from claim 7. Claim 16 depends from claim 12. Petitioner's reliance on Boyle does not make up for the deficiency of Petitioner's analysis for claims 1 and 12 based on Rossmann, Himmel, and King. Thus, the deficiency of Petitioner's analysis for claim 1 equally applies to claims 7 and 8, and the deficiency of Petitioner's analysis for claim 12 equally applies to claim 16.

Petitioner has not shown a reasonable likelihood that it would prevail in establishing obviousness of claims 7, 8, and 16 over Rossmann, Himmel, King, and Boyle.

IV. CONCLUSION

For the reasons discussed above, we determine that Petitioner has not demonstrated a reasonable likelihood that it would prevail in showing that at least one of challenged claims 1–19 of the '877 patent is unpatentable.

V. ORDER

Accordingly, it is:

ORDERED that, the Petition is *denied* and no *inter partes* review is instituted.

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