

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMAZON.COM, INC., AMAZON WEB SERVICES, INC., and
AMAZON.COM SERVICES LLC,

Petitioner,

v.

DATONICS, LLC,

Patent Owner.

Case: IPR2025-00873

U.S. Patent No. 10,984,445

**PETITION FOR *INTER PARTES* REVIEW
OF U.S. PATENT NO. 10,984,445**

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EXHIBIT LIST (37 C.F.R. § 42.63(E))

Exhibit	Description
1001	U.S. Patent No. 10,984,445 (“445 patent”)
1002	Declaration of Henry Houh, Ph.D.
1003	Prosecution History of U.S. Patent No. 8,280,758
1004	Prosecution History of U.S. Patent No. 8,244,574
1005	Prosecution History of U.S. Patent No. 8,589,210
1006	Prosecution History of U.S. Patent App. No. 14/080,999
1007	Prosecution History of U.S. Patent No. 10,984,445
1008	Prosecution History of U.S. Patent No. 11,093,970
1009	Prosecution History of U.S. Patent App. No. 17/401,052
1010	Zeff, R., et al., <i>Advertising on the Internet</i> , John Wiley & Sons, Inc., 1997 (“Zeff”)
1011	Mena, J., <i>Data Mining Your Website</i> , Digital Press, 1999 (“Mena”)
1012	U.S. Patent Publication No. 2004/0068477 (“Gilmour”)
1013	U.S. Patent No. 8,566,154 (“Merriman”)
1014	U.S. Patent No. 6,236,991 (“Frauenhofer”)
1015	U.S. Patent No. 8,880,677 (“Julia”)
1016	Assignment History for U.S. Patent No. 8,566,154
1017	Claim Construction Order and Memorandum in Support Thereof, <i>AlmondNet, Inc. et al. v. Amazon.com, Inc., et al.</i> , No. 6:21-cv-00898 (W. D. Tex. June 19, 2023), Dkt. 113
1018	Definition of “Query,” Brad Hansen, <i>The Dictionary of Multimedia Terms and Acronyms</i> (4th ed. 2005)

Petition for *Inter Partes* Review
U.S. Patent No. 10,984,445

Exhibit	Description
1019	Complaint for Patent Infringement, <i>AlmondNet v. Amazon.com</i> , No. 6:24-cv-00234 (W. D. Tex. May 3, 2024), Dkt. 1
1020	Exhibit A to Plaintiffs AlmondNet, Inc. and Datonics LLC's Disclosure of Preliminary Infringement Contentions as to Defendants, <i>AlmondNet, Inc. et al. v. Amazon.com, Inc., et al.</i> , No. 6:21-cv-00898 (W. D. Tex.), served March 7, 2025
1021	Scheduling Order, <i>AlmondNet, Inc. et al. v. Amazon.com, Inc., et al.</i> , No. 6:21-cv-00898 (W. D. Tex. Feb. 26, 2025), Dkt. 45
1022	Curriculum Vitae of Henry Houh, Ph.D.

The claims of U.S. Patent No. 10,984,445 (the “445 patent”) recite well-known and conventional technologies for exchanging and using profile information for targeted advertising. EX1001, 14:60-15:28. This Petition demonstrates the claims are unpatentable. EX1002, ¶¶98-222.

I. BACKGROUND

A. Targeted Advertising is Conventional

Targeted ads are often more effective than non-targeted ads. EX1013, 1:27-29; EX1002, ¶¶65-67. Before the Internet, advertisers targeted magazine ads to expected readers and TV ads to expected viewers. EX1013, 1:29-35. This targeting carried over to the Internet era and advanced to the point where advertisers could target specific ads to specific visitors across different websites. EX1010, 16; EX1012, [0004]; EX1013, 5:9-25; EX1002, ¶¶66-67.

B. Targeted Advertising uses Profiles

Online targeted advertising matches ad targeting criteria with information about the visitor to whom the ad will be shown. EX1010, 37-39; EX1013, 2:5-18; EX1002, ¶68. Information about a visitor is conventionally stored in a profile. EX1001, 4:43-56; EX1010, 95-96; EX1012, [0002]; EX1002, ¶¶68-69. A web server selects an ad for a visitor by matching the ad’s targeting criteria to the visitor’s profile. EX1010, 41; EX1002, ¶¶68, 75, 83.

1. Web Servers use Cookies to Identify Visitors and Build Profiles

“*Cookies* are small text files created by servers on visiting browsers’ hard disks that contain an identification code.” EX1011, 218-219; EX1010, 41; EX1002, ¶70. When a web server receives a request from a browser, the server checks whether it includes a cookie. EX1010, 41. If not, the server automatically generates a cookie containing a unique identifier and stores it on the visitor’s computer. EX1010, 41; EX1011, 219, 223; EX1002, ¶71. The visitor’s browser automatically includes the cookie in any subsequent requests to the same server. EX1010, 41; EX1011, 219, 223; EX1002, ¶72.

The cookie identifies the browser and the computer on which the browser is located. EX1011, 219, 225; EX1002, ¶73. A browser is often used by one person and the cookie may be said to identify that person (the website visitor) as well. EX1010, 41; EX1011, 219; EX1002, ¶73. Cookies are thus conventionally said to identify a browser, computer, and visitor. EX1002, ¶73.

Web servers use cookies to track visitors’ website activities. EX1001, 1:62-2:4, 3:5-23; EX1010, 19, 41; EX1011, 49, 222-223; EX1012, [0039]; EX1013, 4:34-36; EX1015, 1:26-28; EX1002, ¶74. A web server builds visitor profiles by storing the tracked activities in a database indexed by the cookie identifiers. EX1001, 4:53-56; EX1011, 49, 222-223; EX1002, ¶74. When a web server receives

a request from a visitor, it uses the cookie identifier received with the request as a database key to update or use the visitor's profile. EX1001, 4:53-56; EX1002, ¶¶74-75.

2. Advertising Companies Target Ads using Profile Information Collected from Multiple Sources

Companies providing targeted advertising gather as much profile information as possible because additional profile information leads to better targeting and more profitable advertising. EX1010, 95-96; EX1012, [0004]; EX1013, 1:27-28, 1:55-63; EX1015, 1:26-28; EX1002, ¶82. Advertising companies acquire profile information from a variety of different sources. EX1001, 2:27-34, 4:45-48; EX1011, 243; EX1012, [0033]. For example, advertising companies may collect profile information from multiple websites. EX1001, 2:27-34, 4:45-48; EX1002, ¶¶82-83.

3. Web Servers use Redirects to Pass Profile Information

One drawback of using cookies to identify visitors is web servers cannot read cookies placed by servers in other domains. EX1001, 1:34-39; EX1010, 40; EX1011, 219-220; EX1002, ¶76. As a result, different web servers often use different cookies for the same browser. EX1002, ¶77. Developers therefore created a technique, called a "redirect," allowing different web servers to recognize the same browser, even though web servers cannot read other servers' cookies. EX1001, 1:34-50; EX1002, ¶¶77-78.

A redirect occurs when a web server instructs a browser to obtain information from a different location. EX1017, 33-37; EX1001, 1:51-54; EX1002, ¶78. For example, a redirect occurs when a first web server sends the browser a page instructing the browser to request content from a second web server. EX1013, 4:62-5:2; EX1002, ¶78. The redirect allows the second web server to use its own cookie for the browser and recognize the visitor. EX1001, 1:54-61, 3:16-23; EX1013, 5:56-57; EX1002, ¶79.

Web servers use redirects to pass profile information about visitors to other servers. EX1002, ¶80. For example, a first web server can use a redirect to tell a second web server that a visitor visited a particular web page or performed another action at its website. EX1013, 4:62-5:3; EX1002, ¶80. The second web server can save the profile information in its own database and use its own cookie identifier as the key, so it can later provide the visitor with targeted ads. EX1001, 3:30-33, 4:53-56; EX1010, 41; EX1011, 224; EX1013, 5:9-31; EX1002, ¶¶79-82.

II. OVERVIEW OF THE '445 PATENT

A. Alleged Invention

The Background of the '445 patent describes prior art “behavioral targeting” (“BT”) companies that “specialize in targeting ads based on observed behavior of sites’ visitors.” EX1001, 1:26-65, 2:14-21. A BT company stores the observed behavior of a website visitor in a profile. *Id.*, 4:43-45; EX1002, ¶36.

The Background also describes other parties that cooperate with BT companies to provide targeted advertising. A “publisher” is an entity that controls a website. EX1001, 1:65-2:23. “A publisher may also be referred to as a ‘profile supplier’ when it transfers profile information, such as behavioral information, demographic information, etc. [about a website visitor] to a BT company.” *Id.*, 2:24-27. A “profile owner” or “PO company” is an entity that either owns visitor profiles or has “the right to resell the profiles on behalf of another profile owner.” *Id.*, 5:50-62. A “media property” is “any equipment that controls an ad space viewed by a visitor...or any ad space for which an entity is allowed to sell an advertisement and deliver it within the ad space.” *Id.*, 3:39-54, 5:40-49. EX1002, ¶37.

The Background discusses conventional technologies used to collect and exchange profile information. A “tag,” such as a cookie, is “a unique identifier used to mark a person electronically visiting a media property.” Ex1001, 3:25-29, 2:14-21. A BT company can place tags “on the computers of visitors to specific sections of a publisher’s website” to record the visitors’ behaviors. *Id.*, 1:65-2:4. A tag is also “used for the purpose of delivering additional ads to a visitor to one media property when that visitor is found later on other media properties, based on the visitor’s profile collected on the first media property.” *Id.*, 3:30-33. A BT company can use a redirect to cause the browsers of visitors to a media property’s web page

to contact the BT company's server, which lets the BT company place a cookie on the visitor's computer. *Id.*, 2:63-67, 3:16-19; EX1002, ¶¶38-40.

Within this conventional framework, the '445 patent purportedly discloses a way to more effectively monetize profile information used for targeted advertising. According to the patent, BT companies collect and use profile information to deliver ads on multiple websites. EX1001, 5:20-27. But a BT company may also make profiles available to owners of low-value ad space who prefer to monetize the ad spaces themselves rather than sell the space to profile owners. *Id.*, 5:32-39. The '445 patent proposes a solution that addresses this supposed opportunity by providing "collected profiles to media properties that will better monetize their low-value ad space." *Id.*, 6:63-7:4; EX1002, ¶¶41-42.

The '445 patent contains only two figures, which it describes using a single example. The first figure illustrates "a method for transferring collected profiles to media properties having specified interests:"

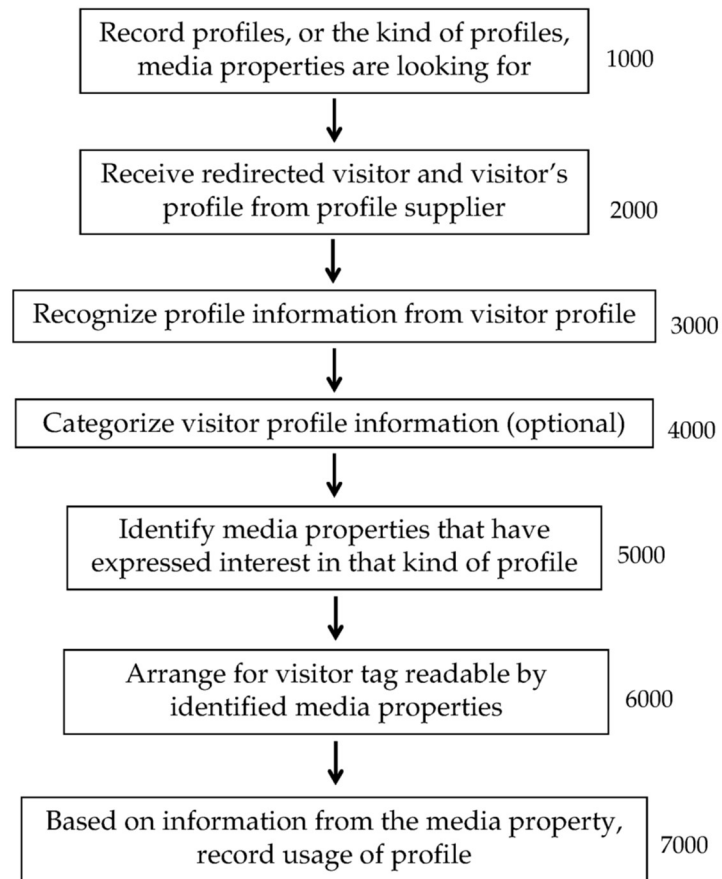


FIG. 1

EX1001, Fig. 1, 7:65-67. The second figure illustrates “entities and associated data flow useful with” the method of Figure 1:

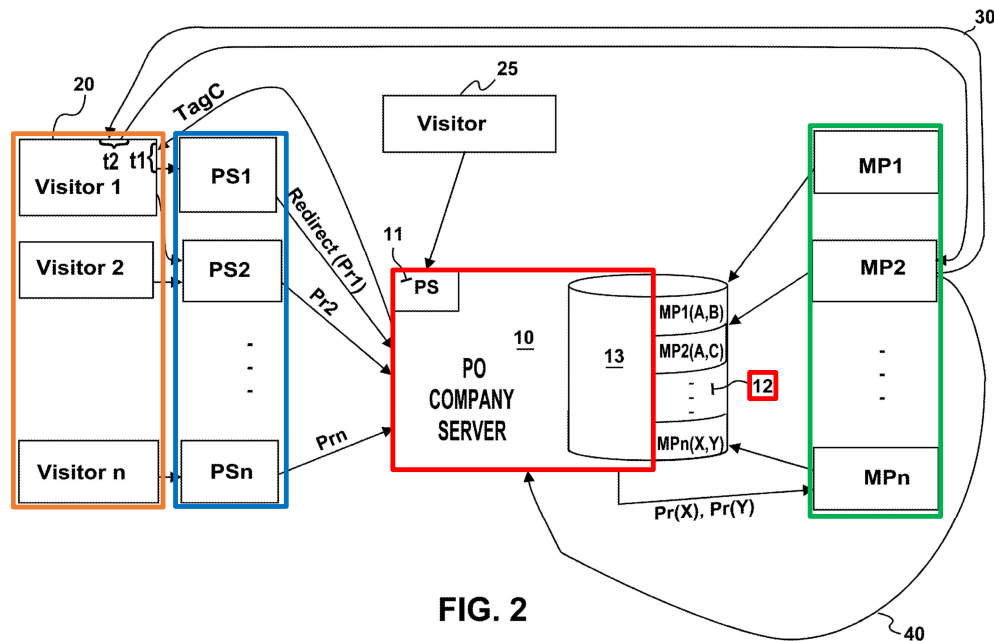


FIG. 2

Id., Fig. 2, 8:1-4; EX1002, ¶43.¹

The '445 patent describes Figure 1's method as follows. First, "[a] **PO company's database 12** records (FIG. 1, 1000) the profiles, or the kind of profiles, a **media property** (e.g., FIG. 2, MP1) is looking for." EX1001, 8:20-22. Second, "[a] **profile supplier** (e.g., FIG. 2, PS1) redirects (FIG. 1, 2000) a **visitor 20** to the **PO company 10** along with the visitor's profile (Pr1)." *Id.*, 8:31-33. Third and fourth, the **PO company** server recognizes (FIG. 1, 3000) and optionally categorizes (FIG. 1, 4000) profile information describing the **visitor** based on the user's actions at the **profile supplier**. *Id.*, 8:45-9:17. Fifth, "[t]he **PO company's** server 10 identifies

¹ Unless otherwise noted herein, all coloring/highlighting and emphasis is added.

(5000) the **media properties** (e.g., MP1 and MP2) that have asked to receive a visitor having” profile information like that recognized and categorized in steps three and four. *Id.*, 9:18-22. Thereafter, “the **PO company** arranges (6000) for the **visitor** (e.g., 20) to be tagged with a tag readable by the identified **media property** (e.g., MP1 or MP2), which can use the tag to recognize the visitor’s profile.” *Id.*, 9:22-25; *see also id.*, 9:34-10:20. Sixth, the **PO company** records (7000) that the **media property** used the profile. *Id.*, 9:26-28; EX1002, ¶44.

B. Independent Claim

The ’445 patent has a single independent claim drafted from the perspective of a **media property** (e.g., MP1 or MP2) receiving visitor profile information from a **PO company** (e.g., **PO company server 10**). EX1001, 14:60-15:28. The claim has three main limitations, labelled “(a),” “(b),” and “(c).” *Id.*; EX1002, ¶45.

Limitation [1.(a)] refers to a **media property** entity controlling a computer system that stores requested visitor profile information in a database, and the profile information is linked to a tag. EX1001, 14:61-15:3, 15:15-16. Limitation [1.(a)] refers to what the patent calls “another possible implementation (not shown)” in the figures where in step 6000 the **media property** “will store the tag and the profile in *its* central database.” EX1001, 10:12-20; EX1002, ¶¶45-47. In this implementation, “[t]he **PO company** can make a profile available to a **media property** using the same methods that **profile suppliers** use to give their profiles to PO companies,” i.e., the

method of step 2000. *Id.*, 10:21-23. The '445 patent describes step 2000 in a single paragraph, with only a single sentence of technical explanation: “[a] **profile supplier**...redirects...a **visitor 20** to a **PO company 10** along with the visitor’s profile.” *Id.*, 8:31-44; EX1002, ¶¶46-47.

Limitation [1.(b)] is a wherein clause reciting that the **profile owner** computer selects a **media property** entity that asked to receive a **visitor** with a given profile and arranges for electronic storage of a profile linked to the tag, where the tag is readable by the computer system controlled by the **media property** entity. EX1001, 15:3-20. The specification describes using redirection to place a tag (cookie) readable by the **media property** computer system but does not suggest this technique is inventive. *Id.*, 9:34-10:20. Instead, it says the tagging process is similar to the prior art. *Id.*, 10:58-67; EX1002, ¶48.

Limitation[1.(c)] recites that the **media property** entity later uses the tag “to access the profile information stored in the central database” and deliver a targeted ad to the **visitor**. EX1001, 15:20-28. The Background of the '445 patent repeatedly describes delivering an ad based on profile information as conventional. *See, e.g.*, 2:5-23, 2:38-43, 3:30-33, 3:39-54, 5:7-49; EX1002, ¶49.

C. Priority Date

The '445 patent claims the benefit of a provisional application filed on June 19, 2006 (the “effective filing date”) through a chain of continuation applications.

EX1001. This Petition shows the challenged claims are invalid as of the effective filing date.² EX1002, ¶¶22, 30, 35.

D. Prosecution History

The '445 patent is the fourth-filed continuation in a family of seven utility applications. The following table lists the applications in filing order, along with the corresponding patent numbers and the exhibit numbers of the applications' prosecution histories. The challenged patent is **bolded**.

Application Number	Patent Number / Status	Prosecution History
11/765,433	8,280,758	EX1003
13/170,110	8,244,574	EX1004
13/631,244	8,589,210	EX1005
14/080,999	Abandoned	EX1006
15/893,354	10,984,445	EX1007
16/425,259	11,093,970	EX1008
17/401,052	Pending	EX1009

EX1001; EX1002, ¶51.

While prosecuting parent Application No. 14/080,999, Patent Owner admitted “that no new or novel tag, linking, or storing technology has been invented” and “the invention makes use of conventional tagging technology (e.g. cookies as one

² Petitioner reserves the right to challenge the '445 patent's effective filing date.

example) and conventional linking and storing technologies for linking and storing information.” EX1006, 701 (quoting the Examiner’s interview summary). Instead, Patent Owner argued that the prior art did not teach a method of selecting a media property entity based on a comparison of (A) profile information about a visitor who electronically accessed electronic apparatus of a profile supplier with (B) a plurality of stored requests from different entities.” *Id.*; EX1002, ¶54.

Patent Owner raised a similar argument while appealing a final rejection of Application No. 17/401,052 (the “’052 application”). Here, Patent Owner distinguished the primary reference relied on in this Petition, Gilmour (EX1012), and told the Board that “the computer in Gilmour is not programmed to *automatically select* an ‘entity’ from a plurality of different media properties” and “[r]ather, each time Gilmour receives a request from a particular ‘requesting entity 50,’ the server 22 responds to *that specific* requesting entity.” EX1009, 455 (emphasis in original). The Board agreed. EX1009, 565; EX1002, ¶57.

III. IDENTIFICATION OF CHALLENGE

This Petition demonstrates that the challenged claims are invalid based on combinations of Gilmour with other references that neither the Examiner nor the Board considered.

A. Statutory Grounds

Petitioner requests *inter partes* review and cancellation of the challenged claims on the following grounds:

Ground	Claims	Statutory Basis	Prior Art
1	1, 8-11, 13	§103	Gilmour, Merriman, and Frauenhofer
2	12	§103	Gilmour, Merriman, Frauenhofer, and knowledge of a POSITA
3	2-7, 14	§103	Gilmour, Merriman, Frauenhofer, and Julia

Grounds 1-3 demonstrate that any differences between the claimed subject matter and the prior art are such that the subject matter, as a whole, would have been obvious to a person of ordinary skill in the art at the time of the effective filing date of the '445 patent ("POSITA"). *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007); EX1002, ¶¶22, 96-222.

B. Prior Art³

1. Gilmour

Gilmour is prior art under §102(b) because it published April 8, 2004, more than one year before the effective filing date of the '445 patent. EX1012; EX1002, ¶84.

Gilmour discloses a technique “for facilitating user-authorized disclosure of profile information to a requesting entity.” EX1012, Abstract. The requesting entity uses the profile information for targeted advertising. *Id.*, [0004], [0039]. Gilmour’s FIG. 3, shown below, illustrates the **requesting entity 50** and a **profile service provider 34**:

³ Pre-AIA 35 U.S.C. §102 applies to the '445 patent.

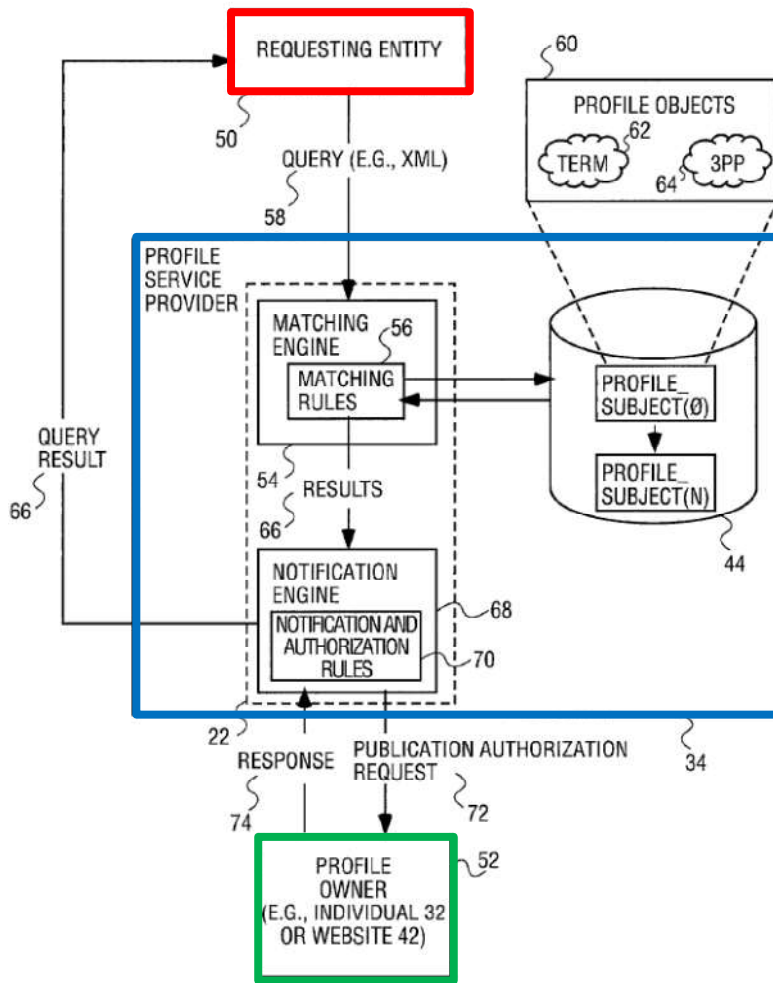


FIG. 3

EX1012, Fig. 3. The **profile service provider 34** constructs and maintains user profiles, which are based on activities at **websites 42**.⁴ *Id.*, [0037]-[0044]. A

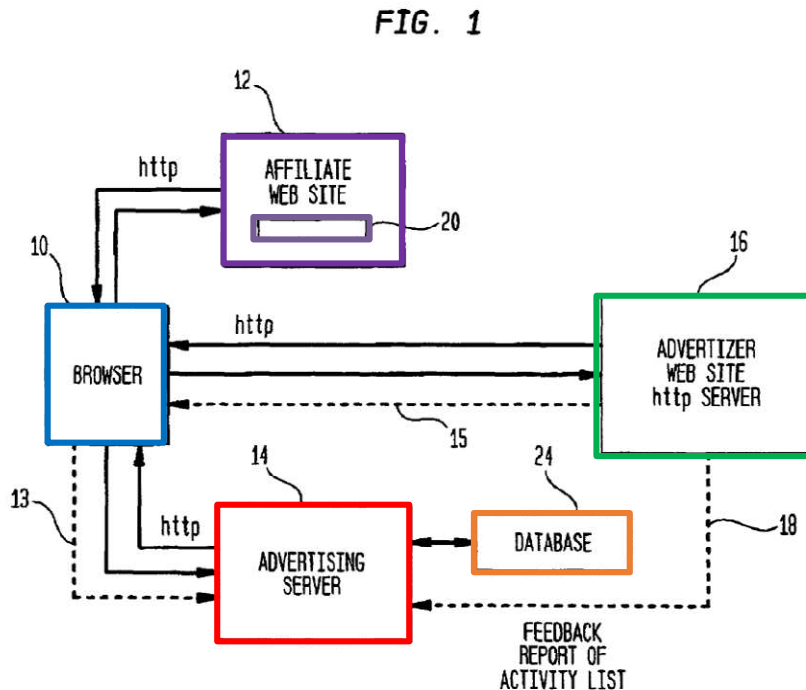
⁴ Gilmour describes a profile owner website. EX1012, [0045]. The Petition refers to this entity as a “website” to avoid confusion with the “profile owner” recited by the challenged claims.

requesting entity 50 sends a query to the profile service provider 34 for user profiles. *Id.*, [0050]. In response, the profile service provider performs “a search (e.g., a matching operation) against [the] profiles.” *Id.*, [0054], [0050]. The profile service provider then “produces a set of query results 66” to the requesting entity, “each result 66 comprising a collection of information retrieved from profiles 44 against which hits occurred for the search conducted by the [profile service provider’s] matching engine.” *Id.*, [0056]-[0058]; EX1002, ¶85.

2. Merriman

Merriman is prior art under §102(e) because it issued October 22, 2013, from an application filed February 26, 2002, years before the ’445 patent’s effective filing date. EX1013; EX1001; EX1002, ¶¶86-87. Merriman discloses “re-targeting,” a type of targeted advertising in which “a new follow up (re-targeted) advertisement from a specific advertiser who targeted [a] viewer previously, is selected for that viewer based on the viewer’s own past behavior at that specific advertiser’s web site.” EX1013, 3:30-34; EX1002, ¶89. This type of advertising is also known as “Boomerang,” and is mentioned in the ’445 patent. *See* EX1001, 1:26-61, 10:58-67; EX1002, ¶¶88-89.

Merriman illustrates the entities it uses in Figure 1.



EX1013, Fig. 1. Merriman’s system includes a **user browser 10**, and “at least one **affiliate web site 12**,” who is “a publisher or other content provider having advertising space 20 to fill,” an “**advertising server 14**,” and “**advertiser web sites 16**.” *Id.*, 4:27-39, 5:9-11. When a user uses the **browser 10** to access an **advertiser website 16**, the activities of the user at that site are communicated back to the **advertising server 14** using “spotlight tags,” which are redirect messages from the **advertiser website** to the **advertising server** that “provide[] real time reporting of user activities while the user is in the **advertising [sic, advertiser] web site 16**.” EX1013, 4:37-43, 4:51-5:2, 5:38-49; EX1002, ¶90.

3. Fraunhofer

Fraunhofer is prior art under §102(b) because it issued May 22, 2001, more than one year before the effective filing date of the '445 patent. EX1014; EX1002, ¶91.

Fraunhofer discloses “a system for gathering, categorizing, and delivering electronic content to users in response to user requests.” EX1014, 2:8-10. A server gathers content, such as web pages, from multiple sources and categorizes the content into “channels.” *Id.*, 2:46-54. The server stores the categorized content in a database. *Id.*, 4:44-48; EX1002, ¶92.

Fraunhofer’s server stores queries⁵ from end users specifying the areas of interest (topics) for which they desire to obtain information. EX1014, 2:66-3:5, 5:34-6:7. The server matches the users’ interests (found in the users’ queries) to the channels and sends content in those channels to the users. *Id.*, 4:44-52. The server can do the matching on an on-going basis as content is received, on a periodic basis, or at other times. *Id.*, 3:14-19; EX1002, ¶93.

4. Julia

Julia is prior art under §102(e) because it issued November 4, 2014, from an application filed January 3, 2006. EX1015; EX1002, ¶94.

⁵ Fraunhofer refers to a set of these queries as “user profiles.” EX1014, 5:40-43.

Julia discloses a technique “for delivering targeted media to a designated set of interconnected devices.” EX1015, 1:51-53, 6:10-12, 7:55-65, FIG. 3A-3B, Abstract, 2:7-13. Julia discloses building profiles of users based on their behaviors, such as their web browsing activities. *Id.*, 7:66-8:46, Abstract. The profile data for a user may be collected from multiple devices. *Id.*, 2:41-3:4, 9:26-31, 11:15-47, FIG. 5. Julia’s technique sends advertisements to the users based on their profiles. *Id.*, 2:7-55, 8:43-9:11, 10:17-11:13, FIG. 4B. The advertisements may be directed to, and customized for, the different user devices. *Id.*, 10:63-11:3, 12:25-61; EX1002, ¶95.

IV. LEVEL OF ORDINARY SKILL IN THE ART

A POSITA would have experience in online advertising and computer science. A POSITA’s education could include a bachelor’s degree in business or economics, with an emphasis on the use of technology in marketing or advertising, or have similar knowledge gained through actual work experience. Such a person could also hold a bachelor’s degree in computer science or equivalent industry experience, and work with a team that includes software engineers. A person could also have qualified with more formal education and less technical experience, or vice versa. EX1002, ¶¶30-34.

V. CLAIM CONSTRUCTION

Claims subject to *inter partes* review are “construed using the same claim construction standard that would be used to construe the 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). Further, “[a]ny prior claim construction determination concerning a term of the claim in a civil action...that is timely made of record in the *inter partes* review proceeding will be considered.” *Id.*

For the purposes of this Petition, Petitioner applies plain-and-ordinary meaning to all terms.⁶ EX1002, ¶¶52, 62-64.

VI. GROUND 1: CLAIMS 1, 8-11, AND 13 ARE OBVIOUS IN VIEW OF GILMOUR, MERRIMAN, AND FRAUENHOFER

A. Claim 1

[1.pre] “A method of causing delivery of electronic advertisements based on provided profiles comprising:”

Gilmour discloses the preamble. The Examiner of the ’052 application found that Gilmour teaches the same preamble. EX1009, 402-404. Patent Owner did not

⁶ Petitioner reserves the right to offer different claim constructions in other forums.

challenge this finding. *Id.*, 439-480, 511-525. The Examiner was correct. EX1002, ¶98.

Gilmour discloses a method. EX1012, Abstract, [0002], [0008]-[0009], [0022], [0072]-[0105]. The method causes delivery of electronic advertisements. *Id.*, [0004], [0034], [0039], [0084], [0105]. The electronic advertisements are based on provided profiles because they are based on profiles the profile service provider provides to requesting entities. *Id.*, [0042], [0050]-[0061]. For example, a requesting entity can identify a profile subject who is “a candidate for the purchase of a digital camera” and deliver to that subject “an offer to sell a camera at a very favorable purchase price.” *Id.*, [0084]; EX1002, ¶¶99-101.

***[1.a(i)] “(a) with a computer system automatically storing, in a central database associated with the computer system, profile information associated with a visitor, as a result of electronic receipt from a profile owner computer of indicia of the profile information, which profile information associated with the visitor matches a profile or kind of profiles requested by an entity controlling the computer system,...*”**

Gilmour alone and combined with Merriman discloses this limitation [1.a(i)]. The Examiner in the '052 application found that Gilmour discloses a near-identical limitation, the only difference is that limitation [1.a(i)] recites “a **central** database” rather than just “a database.” EX1009, 402-404; EX1001, 14:62-63. Patent Owner did not challenge the Examiner’s finding. EX1009, 453-459. Gilmour’s text

confirms the Examiner was correct, and also renders obvious the claimed “central database.” EX1002, ¶102.

FIG. 3 of Gilmour illustrates a profiling system having a **requesting entity 50** and **profile service provider 34**:

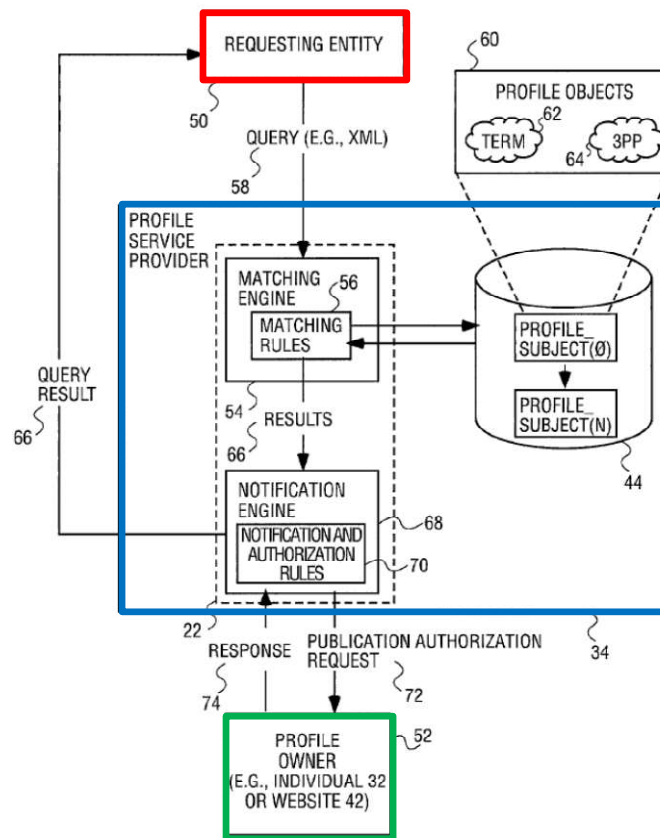


FIG. 3

EX1012, FIG. 3. The **profile service provider 34** constructs and maintains user profiles, which are based on user activities at **websites 42**. *Id.*, [0033]-[0034], [0037]-[0044]. A **requesting entity 50** sends a query to a matching engine in the

profile service provider and receives profile information in response. *Id.*, [0050], [0056]-[0057], [0061]; EX1002, ¶103.

[1.a(i)(1)] “with a computer system” and “profile owner computer”

Gilmour’s requesting entity 50 is the entity controlling the “computer system” of limitation [1.a(i)]. Gilmour explicitly discloses that the requesting entity has a “computer system.” EX1012, [0053]. A POSITA would have understood that the functions of the requesting entity 50 are performed “with a computer system” it controls. EX1002, ¶104.

Gilmour’s profile service provider 34 is a “profile owner computer.” Patent Owner defines a “profile owner” as “an entity that either owns profiles or has the right to resell profiles on behalf of another profile owner.” EX1006, 713. This definition is the plain-and-ordinary meaning of the term and consistent with disclosure in the ’445 patent. EX1001, 5:51-53; EX1002, ¶105.

Gilmour’s profile service provider 34 is a profile owner at least because it has the right to resell profiles on behalf of another profile owner—the website 42. EX1012, [0045] (website is also a profile owner). The profile service provider 34 provides “an outsourced profile construction, maintenance, access and brokerage function to sellers and marketers (e.g., the profile owner website 42).” EX1012, [0042], [0036], [0044]. The profile service provider 34 thus has the right to, and does, resell profile information on behalf of a website. *Id.*, [0042], [0045]. EX1002,

¶106. Gilmour further teaches that [profile service provider 34](#) operates a system which includes a computer. *Id.*, [0038], [0043], [0044], [0074]. Thus, Gilmour’s “[profile service provider 34](#)” includes a “profile owner computer.” EX1002, ¶107.

[1.a(i)(2)] “profile information associated with a visitor”

Gilmour discloses “profile information associated with a visitor.” Patent Owner defines “profile information” as including “any information characterizing a visitor/user (demographic), or describing what a visitor/user did (behavioral).” EX1006, 713; EX1003, 261, 299, 333, 376. This definition is the plain-and-ordinary meaning and consistent with the ’445 patent. EX1001, 2:24-34, 3:33-38, 4:43-48; EX1002, ¶108.

Gilmour’s [profile service provider](#) constructs and maintains [user profiles](#). EX1012, [0033]-[0034], [0037]-[0044], [0054]-[0055].

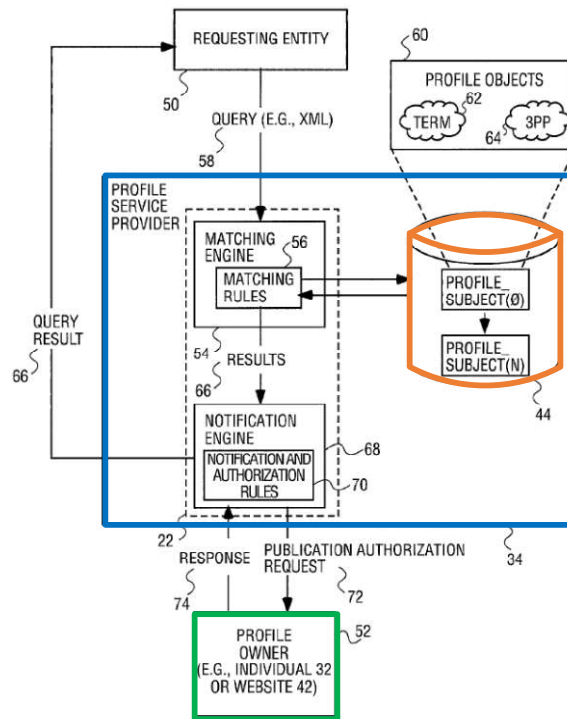


FIG. 3

Id., FIG. 3, [0054]-[0055]. Figure 3 illustrates that the **profile service provider 34** stores **profiles 44**. *Id.*, [0050], [0054], [0055]; EX1002, ¶109. Gilmour’s profiles describe what visitors did at **websites 42** and may include demographic information. EX1012, Abstract (a profile may include “profile information harvested by an external profile owner (e.g., a website)”), [0033]-[0035], [0037]-[0044]; EX1002, ¶110. Accordingly, Gilmour discloses “profile information associated with a visitor” because the profile information is associated with visitors to websites, characterizes the visitors, and describes what the visitors did at the websites. EX1002, ¶110.

[1.a(i)(3)] “automatically storing, in a central database associated with the computer system, profile information associated with a visitor, as a result of electronic receipt from a profile owner computer of indicia of the profile information,”

Gilmour alone and combined with Merriman discloses limitation [1.a(i)(3)].

EX1002, ¶111.

Starting with the second clause, Gilmour discloses the **requesting entity** computer system electronically receiving indicia of the **profile information** from the **profile service provider** computer (“as a result of electronic receipt from a profile owner computer of indicia of the profile information”). Gilmour discloses that the **requesting entity** sends a query 58 to the **profile service provider** and receives a query result 66 in response thereto. EX1012, [0050], [0056]-[0057], [0061]. This process is illustrated in FIG. 3 (**red arrows**):

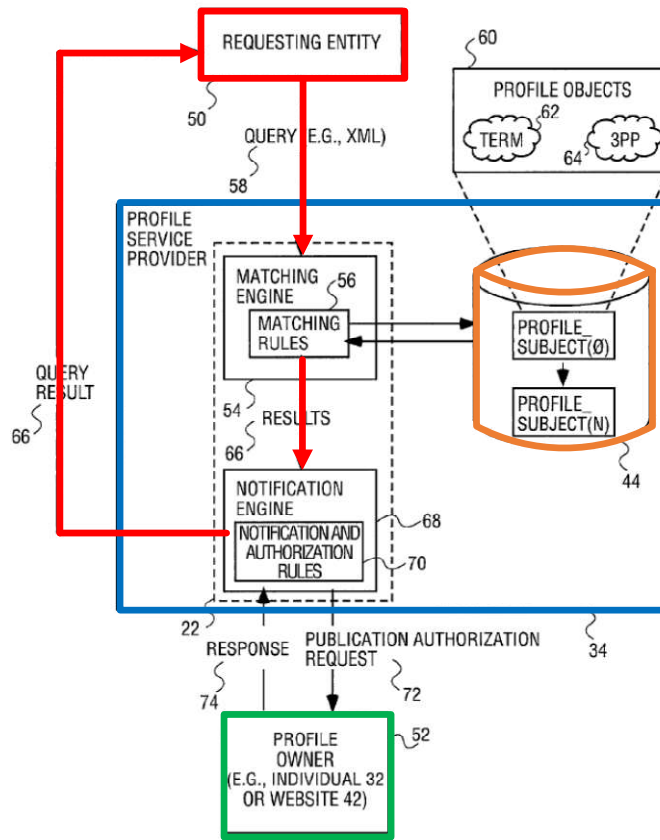


FIG. 3

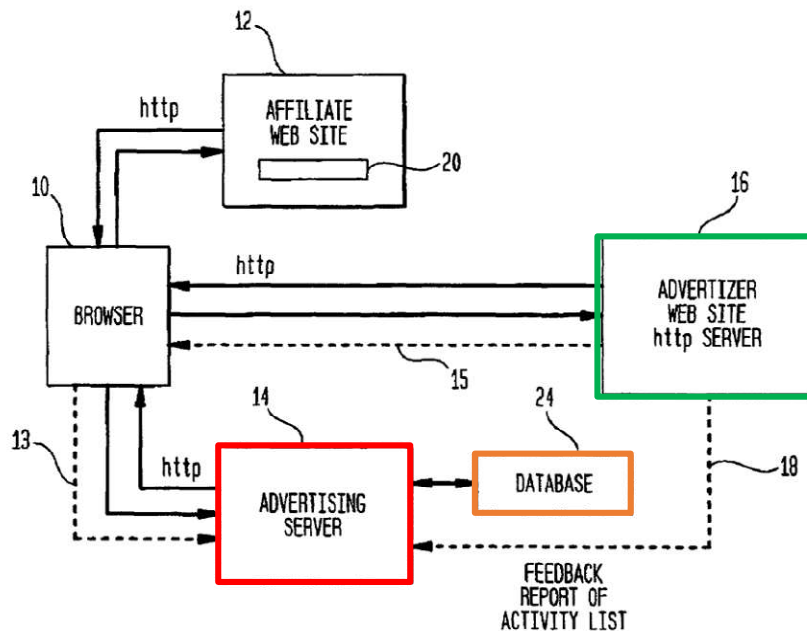
Id., Fig. 3, [0050], [0056]-[0057], [0061], [0080], [0082]. The query result 66 comprises “a collection of information retrieved from **profiles 44**” and “may include any or all information contained within a profile.” *Id.*, [0056]-[0057]. The query result is received electronically over a computer network. *Id.*, [0048]. EX1002, ¶112. The query result is indicia of the **profile information** because it indicates—points out—the **profile information** identified by the **profile service provider** in response to the query. EX1002, ¶113.

Gilmour does not say the **requesting entity** computer system stores the query result. Accordingly, Gilmour does not explicitly disclose “automatically storing, in a central database associated with the computer system, profile information associated with a visitor.” EX1002, ¶114. Still, the Examiner of the ’052 application found it obvious that Gilmour’s **requesting entity** stores the query result and Patent Owner did not contest it. EX1009, 402-403, 453-456, 511-515; EX1002, ¶120. Indeed, it was well-known by the effective filing date of the ’445 patent to store profile information in a centralized database. EX1010, 41, 50; EX1011, 17, 22, 38, 52, 60-65, 245, 278, 304; EX1012, [0028], [0029], [0037]-[0038], [0044], [0086]-[0090], [0093]; EX1002, ¶¶115-117.

Thus, it would have been obvious for Gilmour’s **requesting entity** computer system to store the **profile information** it receives from the **profile service provider** computer in a central database associated with the computer system. It also would have been obvious for the **requesting entity** to store the profile information in the database “automatically” because this is how computers operate. The **requesting entity** computer system stores the **profile information** “as a result of electronic receipt from a profile owner computer of indicia of the profile information” because the indicia indicate the requested **profile information**, and it is beneficial to store **profile information** for later use. EX1002, ¶¶118-119.

Furthermore, storing profile information in “a central database associated with the computer system” of the requesting entity would have been obvious in view of Merriman. Merriman discloses an **advertising server** that stores profile information received from **websites** in an associated **central database**:

FIG. 1



EX1013, Fig. 1, 3:44-46, 4:34-36, 5:22-24, 5:49-54, 5:61-63. The database is “central” because Merriman discloses a single database for storing the profile information. *Id.* The central database is associated with the advertising server because it is “local” to the advertising server. *Id.*, 4:34-36, 5:49-54, 5:61-63; EX1002, ¶121.

It would have been obvious to modify Gilmour in view of Merriman to have the requesting entity computer system use Merriman’s central database to

automatically store profile information as a result of electronic receipt of indicia of the profile information from the profile service provider so the requesting entity could easily retain, access, and use the profile information. Storing profile information in this way was well known in the art. EX1002, ¶122.

[1.a(i)(4)] “which profile information associated with the visitor matches a profile or kind of profiles requested by an entity controlling the computer system”

Gilmour discloses this limitation. Per limitation [1.a(i)(3)], Gilmour discloses that the **requesting entity** sends a query 58 to the **profile service provider**, receives in return a **query result 66** comprising indicia of the profile information, and stores the indicated profile information. EX1012, [0050], [0056]-[0057], [0061]. This process is illustrated in FIG. 3 (**red arrows**):

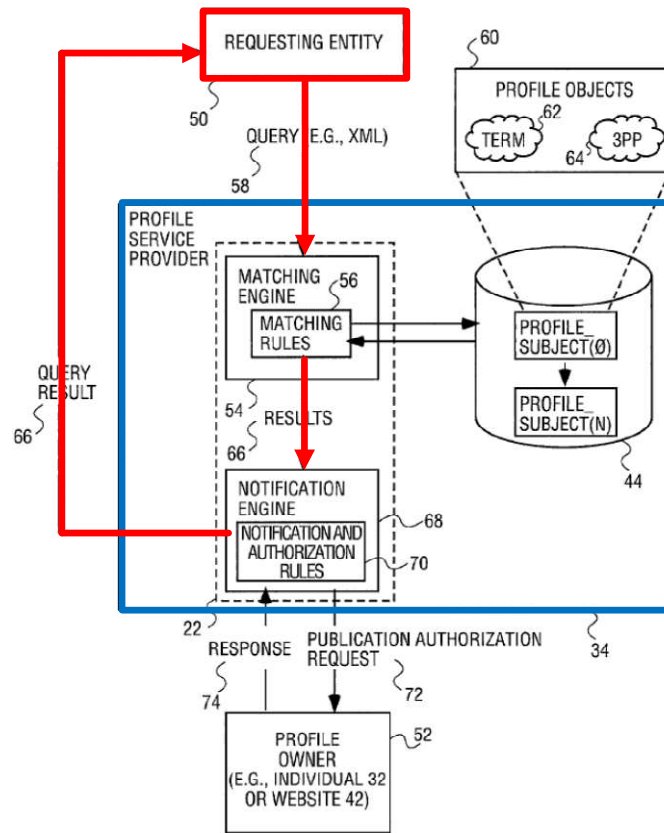


FIG. 3

Id., Fig. 3, [0050], [0056]-[0057], [0061], [0080], [0082]; EX1002, ¶123.

The query from Gilmour’s **requesting entity** to the **profile service provider** specifies a set of criteria for identifying matching profiles. EX1012, [0050], [0051], [0074], [0096].

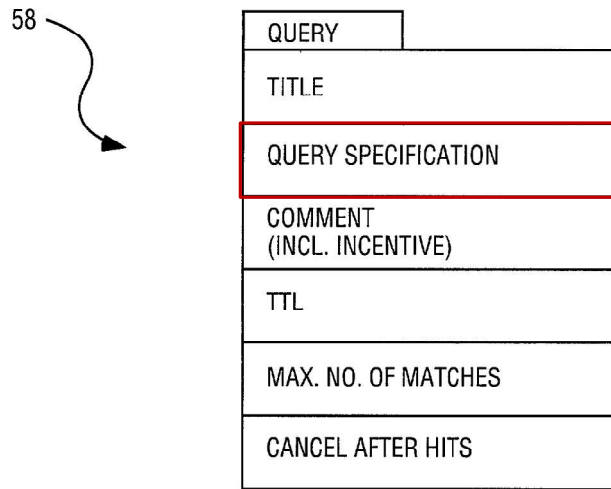


FIG. 4

Id., Fig. 4, [0014], [0050]-[0053], [0074]. The **requesting entity** is thus requesting to receive a profile or kind of profiles that satisfy the criteria specified by the query. EX1018, 3 (defining “query” as “[t]o request information from a database” and “[t]he request itself for particular information contained in a database”); EX1002, ¶124.

The **query result** that the **requesting entity** receives from the **profile service provider** includes indicia of the profile information matching the profile or kind of profiles requested by the requesting entity. The **profile service provider** includes “a **matching engine 54** that implements a set of matching rules 57 [*sic*, 56] to locate one or more profiles 44 based on a received query 58.” EX1012, [0050].

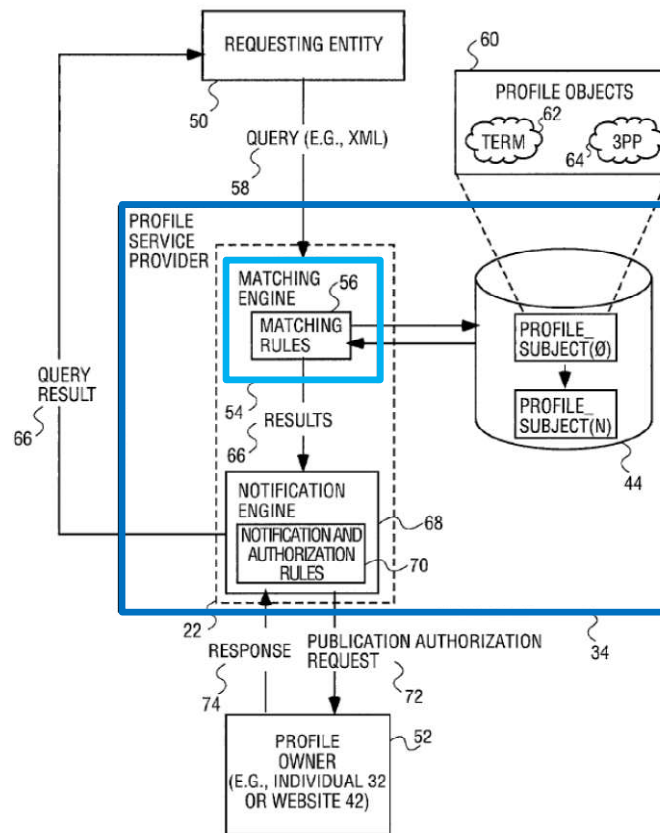


FIG. 3

Id., Fig. 3, [0013]. The **matching engine** specifically “applies matching rules 57 to identify matched profiles based on criteria specified within the query.” *Id.*, [0050]. [T]he **matching engine** 54 produces a set of query results 66, each result 66 comprising a collection of information retrieved from profiles 44 against which hits occurred for the search conducted by the **matching engine** 54.” *Id.*, [0056]. Thus, the profile information that is automatically stored in the central database associated with the requesting entity computer system “matches a profile or kind of profiles requested by an entity controlling the computer system.” EX1002, ¶¶125-127.

[1.a(ii)] “wherein a tag associated with a visitor device serves as a link to the profile information associated with the visitor;”

Gilmour in combination with Merriman discloses limitation [1.a(ii)]. Patent Owner defines “tag” as “any unique identifier (e.g., a cookie) used to mark a person electronically visiting a media property (such as a web site, TV channel, or the like) using any device.” EX1006, 713; EX1009, 294. This definition is the plain-and-ordinary meaning and consistent with the ’445 patent. EX1001, 3:24-29, 2:14-21, 2:50-51; EX1002, ¶128. As a result, limitation [1.a(ii)] merely recites conventional use of a cookie or other tag to store a unique identifier that links a visitor’s device to profile information. EX1001, 3:19-23; EX1006, 701. EX1002, ¶129.

Merriman discloses using a cookie in this way. It describes compiling “[a]n activity list (lists of user activities at the advertiser’s web site).” EX1013, 4:39-41. The activity list, which is profile information, is organized by a user ID “typically assigned arbitrarily using cookie enabled browser features.” *Id.*, 5:56-57. The activity list is stored in a database. *Id.*, 4:34-36. Merriman thus discloses that a tag associated with a visitor device (the cookie used by the “cookie enabled browser features”) includes a unique identifier that serves as a link to the profile information associated with the visitor (the activity list) stored in the database. This disclosure is consistent with how cookies are conventionally used to target advertisements

using profile information linked to identified visitors. EX1010, 39-43; EX1011, 222; EX1001, 3:19-23; EX1002, ¶130.

It would have been obvious to have Gilmour use a cookie associated with a visitor device to serve as a link to the profile information associated with the visitor as taught by Merriman. This use allows Gilmour's requesting entity computer system to recognize a visitor and access the visitor's profile information stored in a database for targeted advertising purposes. EX1012, [0039]; EX1013, 4:34-41, 5:56-57. Doing so combines prior art elements according to known methods to yield the predictable result of identifying the visitor and profile information about the visitor using conventional cookies, and a POSITA would have had a reasonable expectation that this conventional technique would be successful. EX1002, ¶131.

[1.b(i)] “(b) wherein the profile owner computer is programmed: (i) to automatically select a media property entity of a plurality of media property entities based on a comparison of (A) profile information about a visitor who electronically accessed electronic apparatus of a profile supplier with (B) a plurality of stored requests from the plurality of media property entities, one of which media property entities is the entity controlling the computer system, each stored request being for requested profiles or kinds of profiles, which plurality of stored requests includes the profile or kind of profiles requested by the entity controlling the computer system,”

Limitation [1.b(i)] is taught by Gilmour-Merriman in combination with Fraunhofer. EX1002, ¶¶132-165.

The Examiner in the '052 application found that Gilmour discloses a near-identical limitation. Patent Owner did not challenge the Examiner's finding, except

to argue that “the computer in Gilmour is not programmed to *automatically select* an ‘entity’ from a plurality of different media properties” because “each time Gilmour receives a request from a particular ‘requesting entity 50,’ the server 22 responds to *that specific* requesting entity” and, therefore, “does not perform any sort of comparison to choose the ‘requesting entity.’” EX1009, 455-456 (emphasis in original), 550. EX1002, ¶¶132-133.

The Board agreed with Patent Owner, finding that “there is no disclosure of selecting one of a plurality of entities for a given profile information, as claimed, in Gilmour.” EX1009, 564. The Board found that in Gilmour “profile information is sent to the requesting entity based on a policy set by the profile owner and not by the claimed comparison process” and “the Examiner does not explain how one of ordinary skill in the art would have known to cause Gilmore’s [*sic*] policy to be ‘based on a comparison of (A) profile information about a visitor who electronically accessed electronic apparatus of a profile supplier using a first visitor device, with (B) a plurality of stored requests from the plurality of media property entities.’” *Id.*, 565. EX1002, ¶134.

The Gilmour-Merriman-Frauenhofer combination remedies the deficiencies the Board noted for Gilmour. Gilmour-Merriman disclose a plurality of media property entities. Gilmour-Merriman-Frauenhofer discloses automatically selecting a media property entity of a plurality of media property entities based on the claimed

comparison. A POSITA would have been motivated to combine the references for the reasons provided below. EX1002, ¶135.

[1.b(i)(1)] “wherein the profile owner computer is programmed...”

Gilmour discloses that the profile owner computer is programmed to perform various functions. Gilmour's **profile service provider** is the claimed profile owner computer.

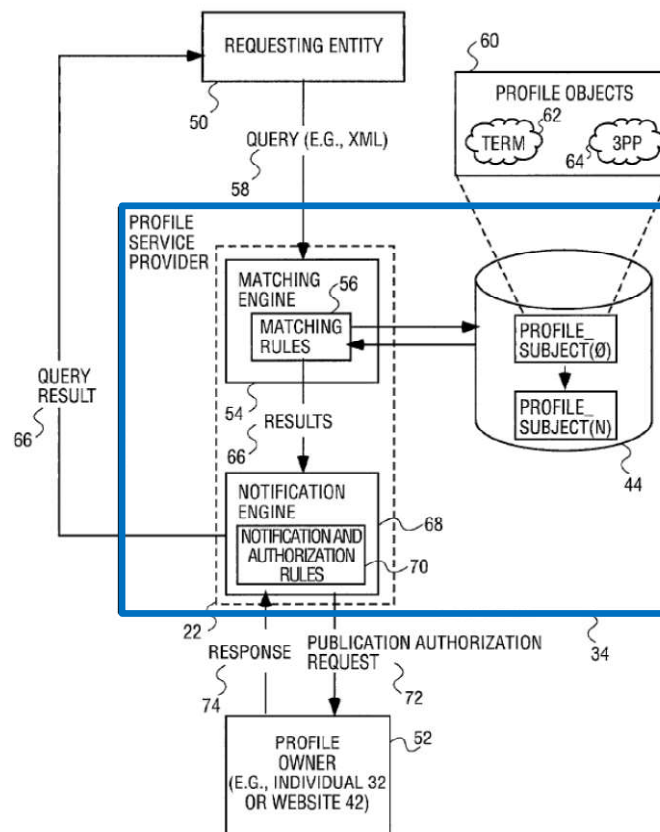


FIG. 3

EX1012, Fig. 3, [0027]-[0033], [0038], [0044]; *see also* limitation [1.a(i)(1)].

Gilmour discloses a “computer system 200 within which software, in the form of a

series of machine-readable instructions, for performing any one of the methods” discussed therein “may be executed.” EX1012, [0107]. A POSITA would have understood that Gilmour’s profile service provider functions are implemented using such a programmed computer system. *Id.*, [0107]-[0109]. EX1002, ¶136.

[1.b(i)(2)] “...(i) to automatically select a media property entity of a plurality of media property entities based on a comparison of (A) profile information about a visitor who electronically accessed electronic apparatus of a profile supplier with (B) a plurality of stored requests from the plurality of media property entities,”

Gilmour-Merriman-Frauenhofer discloses limitation [1.b(i)(2)]. Gilmour’s profile service provider compares profile information about a visitor who electronically accessed an electronic apparatus of a profile supplier with a request from a requesting entity. Gilmour discloses “profile information associated with a visitor” per limitation [1.a(i)(2)]. EX1012, [0033]-[0034], [0037]-[0044]. This profile information is “about” a visitor because it characterizes the visitor and describes what the visitor did on a website. *Id.*, [0038]. Moreover, Gilmour’s profile information is about a visitor “who electronically accessed [an] electronic apparatus of a” website—the web server. *Id.*, [0030]; EX1011, 70; EX1002, ¶137.

In Gilmour, that website is operated by a “profile supplier.”⁷ Patent Owner agreed with the Examiner that a “profile supplier” is “any entity that gathers and uses or transmits profile information.” EX1003, 261-262. This definition is the plain-and-ordinary meaning of the term and consistent with the specification of the challenged patent. EX1001, 2:24-27; EX1002, ¶138.

The entity operating the website is a profile supplier because it gathers profile information from users and uses that information itself. EX1012, [0038], [0039]. It is also a profile supplier because it transmits profile information to the profile service provider. *Id.*, [0042], [0043]. Thus, Gilmour discloses “profile information about a visitor who electronically accessed electronic apparatus of a profile supplier.” EX1002, ¶139.

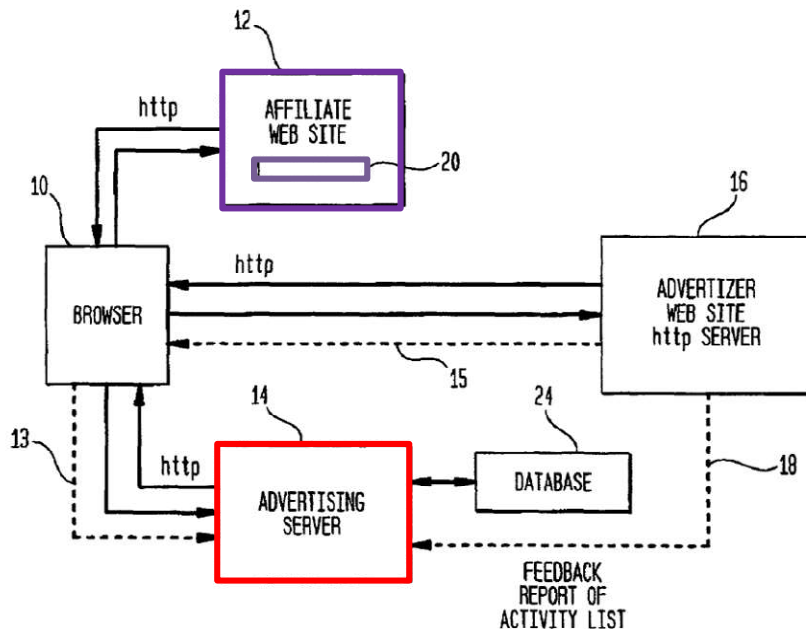
Gilmour’s profile service provider compares the profile information with a request from a requesting entity per limitation [1.a(i)(4)]. *Id.*, [0050]; EX1011, 165; EX1002, ¶140. But Gilmour does not explicitly disclose that the requesting entity is a media property entity. EX1002, ¶¶142-143. Patent Owner defined “media property entity” as “an entity that controls media property equipment.” EX1006,

⁷ The website publisher is also a profile owner per limitation [1.a(i)(1)]. These roles are not exclusive. EX1001, 2:21-29, 5:51-54, 5:66-6:2; EX1006, 714 (“[a] profile supplier can also be a profile owner”).

713; EX1007, 468-469. Patent Owner likewise defined “media property equipment” as “equipment, which is part of the computer system that controls an ad space viewed by a visitor, at least temporarily.” EX1006, 713; EX1007, 468-469. These definitions are the plain-and-ordinary meanings of these terms and consistent with specification. EX1001, 3:39-4:9; EX1002, ¶141.

Merriman discloses a “media property entity.” Merriman discloses at least one **advertising server 12** that controls an **ad space 20** on an **affiliate website 14**:

FIG. 1



EX1013, Fig. 1, 2:30-45, 2:58-62, 4:29-36, 5:9-32, 6:5-11. The **advertising server 14** is a computer server. *Id.*, 2:31-32. The **affiliate website**, in turn “is a publisher or other content provider having **advertising space** to fill,” e.g., a website viewed by a visitor. *Id.*, 4:30-31, 5:9-11. The **advertising server** “controls” the **ad space**

because it selects the ad the visitor sees in the space. *Id.*, 5:22-25. Accordingly, the **advertising server** is media property equipment because it is a computer server (“equipment, which is part of the computer system”) that controls an ad space viewed by a visitor, at least temporarily. The media property equipment is controlled by a media property entity, e.g., DoubleClick. EX1001, 1:26-61, 1:51-54, 4:2-9; EX1013, 5:15-19; EX1002, ¶¶143-144.

It would have been obvious for Gilmour’s requesting entity to control media property equipment that controls an ad space viewed by a visitor, as taught by Merriman. Gilmour discloses that the requesting entity uses received profile information to deliver advertisements. EX1012, [0004], [0082], [0084]. Merriman’s ad server likewise receives profile information and uses it for advertising. EX1013, 3:44-46. It would have been obvious to use Merriman’s ad server as one or more requesting entities within Gilmour’s system because an ad server could use the received profile information to better target advertisements in the ad spaces it controls. EX1012, [0084]; EX1013, 1:27-28, 1:62-67; EX1002, ¶¶145-146.

This is a combination of prior art elements according to known methods to yield predictable results. Both Gilmour and Merriman use conventional technologies, like cookies, to find and deliver ads to visitors. EX1012, [0039]; EX1013, 5:56-59. A POSITA would have found it obvious to use Merriman’s ad

server as one or more requesting entities within Gilmour's system, would have found the result of the combination predictable, and would have reasonably expected this combination of conventional technologies to be successful. EX1002, ¶147.

Gilmour-Merriman thus discloses that the claimed profile owner computer (Gilmour's profile service provider) performs a comparison of profile information about a visitor who electronically accessed an electronic apparatus of a profile supplier (Gilmour's website) with a request from a media property entity (Merriman's ad server acting as a requesting entity). EX1002, ¶148.

Gilmour-Merriman also discloses a plurality of media properties. Gilmour teaches a plurality of requesting entities. EX1012, [0043], [0105]. Merriman likewise teaches there may be a plurality of advertising servers. EX1013, 2:58-62; EX1002, ¶149. Gilmour also discloses that a query may remain active for a predetermined period of time, which suggests that the profile service provider stores queries. EX1012, [0052], [0092]; EX1002, ¶150.

Gilmour-Merriman does not disclose that the profile owner computer automatically selects a media property entity of a plurality of media property entities based on a comparison of the profile information with a plurality of stored requests from the plurality of media property entities. *Frauenhofer* combined with Gilmour and Merriman discloses these aspects of limitation [1.b(i)(2)]. EX1002, ¶150.

Frauenhofer “relates to gathering related content from internet . . . sources and providing access to same in response to user requests.” EX1014, 1:8-10. An end user creates a query that “specif[ies] the areas of interest for which that end user wishes to obtain electronic information.” EX1014, 2:66-67. A server assembles and stores a user profile based on the query. EX1014, 3:5-14, 5:34-47. The user profile is a request specifying the areas of interest for which an end user wishes to obtain electronic information. EX1014, 1:8-10, 2:8-14, 2:66-3:11, 5:7-12; EX1018, 3; EX1002, ¶151. The server then identifies content that matches the stored user profile (the stored request) and sends that content to the user. EX1014, 3:12-19. The server can send the matching content on an on-going basis, periodically, or upon user prompting. *Id.*; EX1002, ¶151.

Frauenhofer’s server stores a plurality of requests from a plurality of users. Fraunhofer explicitly discloses that the server stores a user profile. EX1014, 3:12-14. The server stores a plurality of profiles from a plurality of users because the server matches content to multiple user profiles. *See, e.g.*, EX1014, Abstract (“[a] system for . . . delivery [of content] in accordance with customized user profiles”), 2:21-27, 4:66-5:5, 6:55-56. Frauenhofer’s user profiles are requests and, therefore, Frauenhofer’s server stores a plurality of requests from a plurality of users. EX1002, ¶152.

Frauenhofer also discloses automatically selecting a user of a plurality of users based on a comparison of content with the plurality of stored requests from the users. Frauenhofer's server automatically matches content to user profiles (the stored requests):

Once the user profile has been developed, it is stored at the Customer Intranet Server for matching to assembled and categorized content. The system can be programmed to conduct on-going matching (i.e., checking every new document entry for a match with the user profile), periodic matching (e.g., every 12 hours), or matching only upon user prompting (e.g., only when a user connects to the Customer Intranet Server and asks for an update).

EX1014, 3:12-19. Matching content to a user profile selects the user associated with the profile. *Id.*, 2:8-10, 1:21-27, 4:48-52; EX1002, ¶153.

It would have been obvious to combine Frauenhofer's teachings with Gilmour and Merriman such that Gilmour's profile service provider (a) stores a plurality of requests from a plurality of media property entities and (b) automatically selects a media property entity of the plurality to receive profile information based on a comparison of visitor profile information to the stored requests. In this combination, a plurality of advertising servers like those taught in Merriman act as requesting entities and submit queries to Gilmour's profile service provider. EX1012, [0048], [0053]; EX1013, 4:31-36. The profile service provider stores the plurality of

queries, which are stored requests, and conducts on-going or periodic matching as taught by *Frauenhofer*. EX1014, 3:12-19. To perform the matching, the profile service provider compares visitor profile information to the requests as taught in *Gilmour* and automatically selects a requesting entity of the plurality to receive matching information as taught in *Frauenhofer*. EX1002, ¶154.

A POSITA would have been motivated to make this combination because it would conveniently allow *Gilmour*'s requesting entities (which are media property entities) to make initial requests to the profile service provider, and then automatically receive profiles matching the requests on an ongoing or periodic basis. A POSITA would have understood that visitor profiles change over time, as new visitors are detected, and existing visitors perform new actions at websites. EX1010, 41; EX1011, 39-40, 51; EX1012, [0025]; EX1013, 3:20-23; EX1002, ¶155. Matching stored requests to changing profile information over time would benefit all parties involved. For example, the profile service provider would have the opportunity to sell new or updated profiles to the requesting entities based on the stored requests, thereby generating additional revenue for the profile service provider and the websites. The requesting entities, in turn, would receive additional relevant profile information in a timely manner, without needing to submit additional queries, which would further the requesting entities' goal of "delivering the right ad

to the right person at the right time.” EX1010, 34; EX1013, 1:63-67. The visitors would receive more relevant advertising. EX1002, ¶155.

Given this environment, it would have been obvious to incorporate Fraunhofer’s teachings into the Gilmour-Merriman combination to provide the matching profile information to the requesting entities in a convenient and quick manner. EX1012, [0086]. Fraunhofer recognizes that “[a] huge quantity of information is being continuously created and made available via electronic communications systems” and “there is a need to deliver the information to people who have expressed an interest,” and Fraunhofer addresses this need with a solution that provides convenient and quick access to the information. EX1014, 1:13-15, 1:64-65. Therefore, a POSITA in possession of Gilmour’s “method and system to publish results of a search descriptive profiles” would have looked to Fraunhofer’s technique, which performs ongoing or periodic matching using stored queries (*id.*, 3:12-19), to provide profile information from the profile service provider to the requesting entities of Gilmour. EX1002, ¶156.

This is a combination of prior art elements according to known methods to yield predictable results and use of a known technique to improve a similar system in the same way. Both Gilmour and Fraunhofer disclose servers that receive queries from requestors, match queries against information, and provide information matching the respective queries to the respective requestors. EX1012, [0044];

EX1014, 3:12-19. Frauenhofer teaches that the queries may be stored and matched to newly received information. EX1014, 3:12-19. A POSITA would have found it obvious from Frauenhofer's teaching to modify Gilmour to store the queries from the requesting entities in the same way. The result of the modification would have been predictable, and a POSITA would have had a reasonable expectation of success, because the technologies involved are well-understood and Frauenhofer teaches that queries can be stored to produce beneficial results. EX1002, ¶157.

Finding limitation [1.b(i)(2)] obvious in view of Gilmour-Merriman-Frauenhofer does not conflict with the Board's analysis in the '052 application. The Examiner asserted Gilmour disclosed "automatically select[ing] a media property entity of a plurality of media property entities" because the "profiles are 'selectively publish[ed] to third parties'" according to a publication policy. EX1009, 404-405, 563. But the Board found "[i]t is not apparent and the Examiner does not explain how one of ordinary skill in the art would have known to cause Gilmore's [*sic*] policy to be" based on a comparison involving "'a plurality of stored requests from the plurality of media property entities.'" *Id.*, 565 (quoting the claim language at issue). The combination of Gilmour, Merriman, and Frauenhofer presented here does not rely on Gilmour's publication policy "to automatically select a media property entity" as claimed. Instead, it presents a new combination and explanation

addressing concerns the Board had with the Examiner's position. EX1002, ¶¶158-162.

[1.b(i)(3)] “one of which media property entities is the entity controlling the computer system, each stored request being for requested profiles or kinds of profiles, which plurality of stored requests includes the profile or kind of profiles requested by the entity controlling the computer system,”

Gilmour-Merriman-Frauenhofer discloses this limitation [1.b(i)(3)]. Gilmour discloses that one of the plurality of requesting entities is the entity controlling the computer system per limitation [1.a(i)(1)]. The requesting entity controlling the computer system of limitation [1.a(i)] provides a request to the profile service provider per limitations [1.a(i)(3)] and [1.a(i)(4)] and is one of the plurality of requesting entities of limitation [1.b(i)(2)]. Gilmour combined with Merriman discloses that requesting entities, including the requesting entity controlling the computer system, are media property entities per limitation [1.b(i)(2)]. EX1002, ¶163.

Gilmour-Merriman-Frauenhofer discloses that each stored request is for requested profiles or kinds of profiles. Gilmour discloses that a request from a requesting entity is a request for a profile or kinds of profiles per limitation [1.a(i)(4)]. Frauenhofer in combination with the other references discloses that the profile service provider stores a plurality of requests from a plurality of requesting entities per limitation [1.b(i)(2)]. Thus, a POSITA would have understood each

stored request of the plurality is for requested profiles or kinds of profiles. EX1002, ¶164.

Gilmour-Merriman-Frauenhofer also discloses that the plurality of stored requests **includes** the profile or kind of profiles requested by the entity controlling the computer system. Patent Owner appears to interpret the phrase “plurality of stored requests **includes** the profile or kind of profiles” to mean “the plurality of stored requests **includes requests for** the profile or kind of profiles” requested by the entity controlling the computer system. EX1019, 37; EX1020, 12. A POSITA would have understood that the plurality of stored requests includes requests for the profile or kind of profiles requested by the entity controlling the computer system because the stored requests include the request from the entity controlling the computer system. And the request from the entity controlling the computer system is for a profile or kind of profiles. EX1002, ¶165.

[1.b(ii)] “and (ii) when the media property entity is the entity controlling the computer system, to automatically arrange for electronic storage of a requested profile linked to the tag that is associated with the visitor device, the tag being readable by equipment that is part of the computer system of part (a);”

Gilmour-Merriman discloses this limitation [1.b(ii)]. Gilmour discloses that the requesting entity controls a computer system per limitation [1.a(i)(1)]. Merriman combined with Gilmour discloses that the requesting entity is a media property entity

per limitation [1.b(i)(2)]. Gilmour-Merriman thus discloses “when the media property entity is the entity controlling the computer system.” EX1002, ¶166.

Gilmour-Merriman also discloses that Gilmour’s profile service provider (the profile owner computer) is programmed “to automatically arrange for electronic storage of a requested profile.” The profile service provider automatically provides query results including indicia of profile information to the requesting entity. EX1012, [0047], [0056]-[0058], [0061], [0080]-[0081], [0091]; EX1002, ¶167. Gilmour alone and combined with Merriman discloses that the requesting entity automatically stores the indicated profile information in a central database as a result of electronic receipt of the indicia of profile information per limitation [1.a(i)(3)]. Gilmour’s profile service provider computer system thus automatically arranges for electronic storage of a requested profile by automatically sending the indicia of profile information to the requesting entity as query results and enabling the requesting entity to store the indicated profiles in its database. EX1002, ¶167.

The remainder of limitation [1.b(ii)] recites that the requested profile is linked to the tag associated with the visitor device, and the tag is readable by equipment that is part of the computer system of part (a). Merriman demonstrates that this part of limitation [1.b(ii)] is conventional. Merriman discloses a first server (Merriman’s advertiser website 16) linking a profile to a tag (a cookie) associated with a visitor device, where the tag is readable by a second server (Merriman’s advertising server

14), by redirecting a website visitor to the second server. EX1013, 5:43-51, 5:56-57; EX1006, 701; EX1002, ¶¶168, 174.

Merriman performs this redirection using a “spotlight tag” which is “a minimal graphic (e.g., a one pixel image) containing a redirect message.” EX1013, 4:54-57. The first server includes a spotlight tag in a web page it returns to the visitor’s browser and the tag causes the browser to request the graphic from the second server. *Id.*, 4:62-65. Merriman uses the redirection caused by the spotlight tag to convey profile information about the visitor from the first server to the second server in real time. *Id.*, 4:66-5:2. EX1002, ¶169. The second server to which the visitor is redirected uses a cookie to identify the visitor and associate the received profile information with that visitor. EX1013, 5:56-59; EX1011, 210, 218-223. This way, the visitor profile is linked to the tag associated with the visitor device, and the tag is readable by the server that received the profile information. *See* EX1001, 2:61-67, 3:16-23 (describing similar process); EX1002, ¶¶170-171.

In combination, Gilmour’s profile service provider computer system redirects a website visitor having a requested profile to the server of the requesting entity computer system using the technique taught in Merriman. For example, the profile service provider may send the visitor’s browser a web page having a spotlight tag that redirects the visitor’s browser to a location on a web server of the requesting entity computer system. The spotlight tag allows the requesting entity server to link

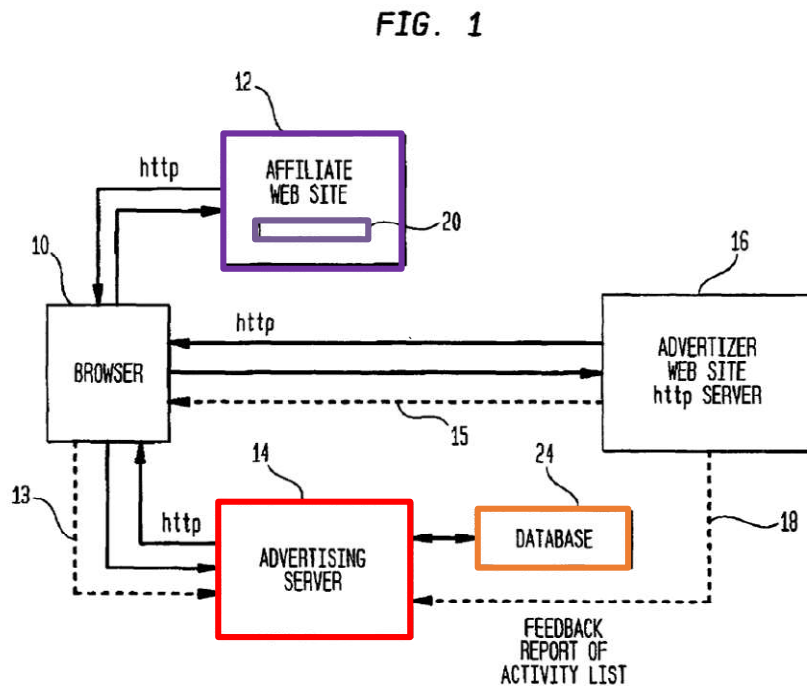
the visitor's profile to a tag (cookie) on the visitor's device readable by the requesting entity server. EX1002, ¶172.

A POSITA would have been motivated to combine the references in this way because it conveniently allows the requesting entity to identify visitors with matching profiles and provide them with targeted advertising. EX1012, [0039], [0042]-[0044], [0058], [0084], [0086], [0091]; EX1013, 5:56-67. A POSITA also would have been motivated because the combination beneficially operates in real time (EX1012, 4:51-54), which supports the "on-going matching" (EX1014, 3:12-19) performed by Gilmour-Merriman-Frauenhofer per limitation [1.b(i)(2)]. EX1002, ¶173. This is a combination of prior art elements according to known methods to yield predictable results. EX1006, 701; EX1001, 2:61-67, 3:16-23. A POSITA would have found the results of the combination predictable and had a reasonable expectation of success because using redirects and cookies in this manner was well understood. EX1002, ¶174.

[1.c(i)] "and (c) later, when the visitor device is available to receive an advertisement, with the computer system, (i) using the tag of part (a) that is associated with the visitor device to access the profile information stored in the central database, and . . ."

Gilmour-Merriman discloses this limitation. Per limitation [1.b(i)(2)], Gilmour's requesting entity is a media property entity with media property

equipment—Merriman’s **advertising server** controlling **ad space** on an **affiliate website**:



EX1013, Fig. 1, 2:30-45, 4:29-36, 5:9-32, 6:5-11; EX1002, ¶175.

Merriman discloses, that, later, after the **advertising server** receives profile information about a visitor, the visitor visits an **affiliate website** having an **ad space** controlled by the **advertising server**. EX1013, 5:9-13, 6:5-8. The visitor device is available at this point to receive an advertisement because the device downloads and displays a web page including the **ad space** from the **affiliate website**. *Id.*, 2:34-37, 5:9-13; EX1002, ¶176.

The **ad space** from the **affiliate website** redirects the visitor’s browser to the **advertising server** to obtain the ad. EX1013, 5:16-21, 6:5-11. The **advertising server**

receives the redirected request and uses the tag of part (a) associated with the visitor device (cookie) to access the profile information stored in the **central database** per limitation [1.a(i)(3)]. *Id.*, 2:31-45, 4:5-10, 5:9-32, 5:56-59; EX1001, 1:47-50; EX1002, ¶177.

[1.c(ii)] “(ii) using the profile information linked to the tag of part (a) to automatically cause delivery of an electronic advertisement to the visitor device, wherein the electronic advertisement is dependent on the profile information associated with the visitor.”

Gilmour-Merriman discloses this limitation. Merriman’s advertising server uses the profile information linked to the tag (cookie) to select an electronic advertisement targeted to the visitor. EX1013, 4:5-10, 5:22-24, 6:13-19. The selected ad is thus dependent on the visitor’s profile information. *Id.*, 6:18-19. The advertising server automatically causes delivery of the selected ad to the visitor device. EX1013, 5:22-25, 6:13-17; EX1002, ¶178.

B. Claim 8: “The method of claim 1 further comprising, after parts (a) and (c), with the computer system electronically reporting information about delivery of the advertisement to the visitor device that is available to receive an advertisement, which report is provided to a profile owner company controlling the profile owner computer.”

Claim 8 is obvious in view of Gilmour-Merriman-Frauenhofer. EX1002, ¶179. It would have been obvious from Gilmour’s disclosure that the requesting entity computer system, after parts (a) (automatically storing profile information) and (c) (automatically causing delivery of an electronic advertisement to the visitor

device), electronically reports information about delivery of the advertisement to the visitor device to the company controlling the profile service provider computer (the profile owner). Gilmour's "profile service provider 34 may operate to facilitate a transaction between a requesting entity and a [website], whereby the [website] is compensated (e.g., by means of a monetary payment) for the access" to a profile from the website. EX1012, [0046].

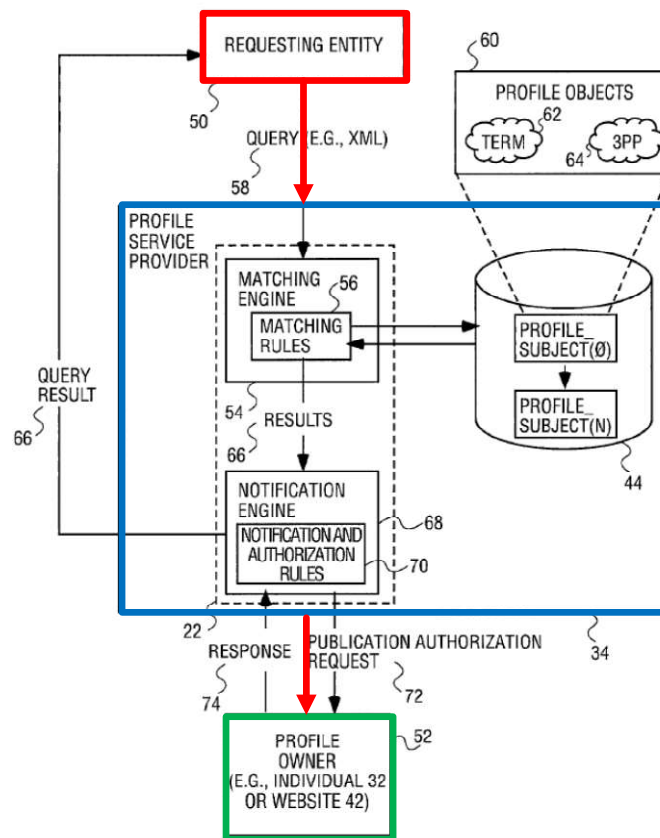


FIG. 3

EX1012, Fig. 3. For example, the **requesting entity** may make a payment to the **website** “dependent upon a number of transactions concluded between requesting entity 50 and profile subjects.” EX1012, [0085]; EX1002, ¶179.

It would have been obvious for the requesting entity computer system to electronically report information about delivery of the advertisement to the visitor device to the profile service provider computer system, and thus to a profile owner company controlling it. This would have allowed the profile service provider to act as an intermediary for the payments to the website based on the ad deliveries as taught by Gilmour. EX1012, [0046], [0085]; EX1010, 56, 61-62, 68; EX1002, ¶180.

C. Claim 9: “The method of claim 8 wherein reporting further comprises automatically electronically identifying to the profile owner company one of a plurality of profiles or kind of profiles used in association with delivery of the advertisement.”

Claim 9 is obvious in view of Gilmour-Merriman-Frauenhofer. The combination of references discloses reporting per claim 8. EX1002, ¶181.

It would have been obvious from Gilmour’s disclosure that the reporting comprises automatically electronically identifying to the company controlling Gilmour’s profile service provider one of a plurality of profiles or kind of profiles used in association with delivery of the advertisement. Per claim 8, Gilmour’s requesting entity compensates the website for access to profiles from the website. EX1012, [0046], [0085]. The profile service provider facilitates the payments and

transactions. *Id.*, [0046]. It would have been obvious for the requesting entity to automatically electronically identify to the profile service provider, and thus to the profile owner company controlling the profile service provider, the profile or kind of profile used in association with delivery of the advertisement, so the profile service provider could identify the profile supplier to compensate. EX1002, ¶182.

D. Claim 10: “The method of claim 1 wherein the profile owner computer is programmed to automatically select a media property entity using profile information about the visitor that was derived from the visitor’s activity using the visitor device.”

Claim 10 is obvious in view of Gilmour-Merriman-Frauenhofer. EX1002, ¶183.

Gilmour-Merriman-Frauenhofer discloses that “the profile owner computer is programmed to automatically select a media property entity” per limitations [1.b(i)(1)]-[1.b(i)(2)]. Gilmour-Merriman-Frauenhofer additionally discloses that the profile owner computer makes this selection using profile information about the visitor per limitations [1.a(i)(2)] and [1.b(i)(2)]. *Id.*

Gilmour further discloses that the “profile information about the visitor [] was derived from the visitor’s activity using the visitor device.” The profile information describes the visitor’s activities at websites per limitation [1.a(i)(2)]. EX1012, Abstract, [0033]-[0035], [0037]-[0044]. The visitor uses a device, e.g., a computer,

for these activities. *Id.*, [0039]. Therefore, the visitor profile information was derived from the visitor's activity using the visitor device. EX1002, ¶184.

E. Claim 11: “The method of claim 10 wherein the profile information was received by the profile-owner computer as a result of URL redirection from a website that is served by the electronic apparatus of the profile supplier, which website is accessed by the visitor device.”

Claim 11 is obvious in view of Gilmour-Merriman-Frauenhofer. EX1002, ¶185.

Gilmour-Merriman discloses that the “profile information was received by the profile-owner computer as a result of URL redirection from a website that is served by the electronic apparatus of the profile supplier, which website is accessed by the visitor device.” EX1002, ¶186. Gilmour discloses that the [profile service provider](#) receives profile information from a [website](#).

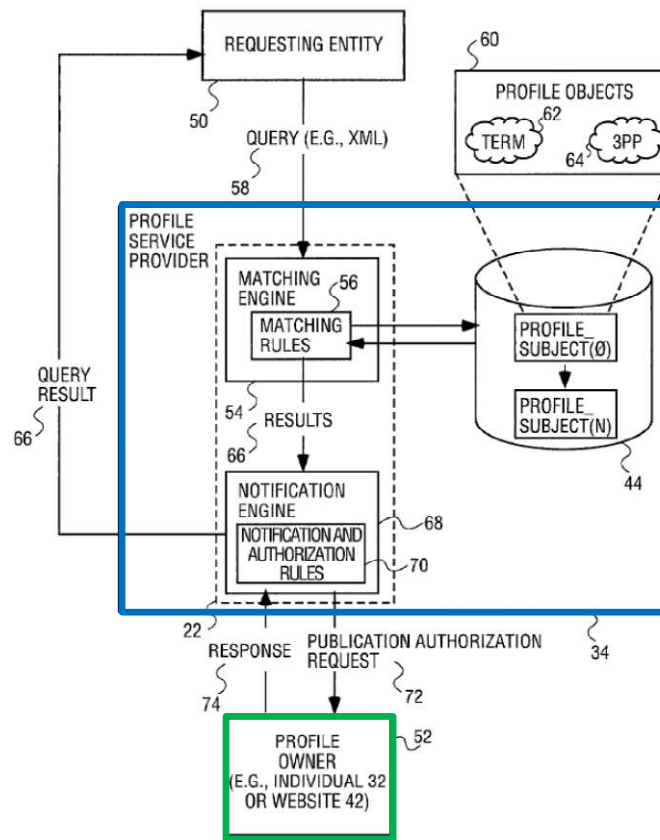


FIG. 3

EX1012, Fig. 3; EX1012, [0038]. The profile supplier operates the website per limitation [1.b(i)(2)]. EX1012, [0030], [0038], [0039], [0042]; EX1011, 70; EX1002, ¶186.

Gilmour also discloses that a website is served by a web server, which is an electronic apparatus of a profile supplier. EX1012, [0028]. The visitor uses a computer or other device to access the website per claim 10. EX1012, [0039]; EX1010, 43. Thus, Gilmour discloses that the claimed profile owner computer (Gilmour's profile service provider) receives profile information from a website

(Gilmour’s website) that is served by the electronic apparatus of the profile supplier (Gilmour’s website server), which website is accessed by the visitor device. EX1002, ¶187.

Gilmour does not disclose that the “profile information was received by the profile-owner computer as a result of URL redirection from a website.” Merriman teaches this. Per limitation [1.b(ii)], Merriman describes a spotlight tag which causes a redirect that “provides real time reporting of user activities while the user is in the advertising web site.” EX1013, 4:62-5:2, 4:54-57; EX1001, 4:43-45. Merriman thus discloses a computer receiving profile information because of URL redirection from a website. EX1002, ¶188.

It would have been obvious for Gilmour’s [website](#) to use Merriman’s URL redirection technique to submit profile information to the [profile service provider](#), such that the [profile service provider](#) receives the profile information because of URL redirection from the [website](#). For example, the [website](#) could include spotlight tags on its web pages that redirect visitors’ browsers to the [profile service provider](#). A POSITA would have been motivated to combine the references in this way to conveniently leverage conventional technology allowing the [website](#) to send profile information to the [profile service provider](#) in real time. EX1012, [0038], [0042]-[0044], [0086]; EX1013, 3:37-38, 4:51-54, 4:66-5:6; EX1002, ¶189. This is a combination of prior art elements according to known methods to yield predictable

results, which a POSITA would have reasonably expected to be successful.
EX1001, 2:61-67, 3:5-16, 6:41-44; EX1002, ¶190.

- F. Claim 13: “The method of claim 1 wherein the profile owner computer being programmed to automatically arrange for electronic storage of the profile information linked to the tag associated with a visitor device comprises the profile owner computer being programmed to perform automatic redirection to a URL provided by the selected entity to place the visitor device in communication with computer equipment controlled by the selected entity to enable storage, in a central database associated with the computer equipment of the selected entity, of the profile information linked to the tag that is associated with the visitor device.”**

Claim 13 is obvious in view of Gilmour-Merriman-Frauenhofer. Gilmour-Merriman discloses “the profile owner computer being programmed to automatically arrange for electronic storage of the profile information linked to the tag associated with a visitor device” per limitations [1.b(i)(1)] and [1.b(ii)]. Gilmour-Merriman-Frauenhofer also discloses the “selected entity” per limitation [1.b(i)(2)]; EX1002, ¶191.

Gilmour-Merriman further discloses that “automatically arrang[ing]...” comprises the “profile owner computer being programmed to perform automatic redirection to a URL provided by the selected entity to place the visitor device in communication with computer equipment controlled by the selected entity.” Per limitation [1.b(ii)], in Gilmour-Merriman, the profile service provider redirects a

website visitor having a requested profile to the requesting entity's server using Merriman's spotlight tag. EX1013, 4:51-5:2; EX1002, ¶192.

The spotlight tag causes "automatic redirection" because the spotlight tag causes the visitor's browser to automatically send a request to the requesting entity's server. EX1013, 4:62-65, 5:34-51. The redirection places the visitor device in communication with computer equipment controlled by the requesting entity because the device and computer equipment exchange information as a result of the redirect. EX1002, ¶193.

The automatic redirection is "to a URL provided by the selected entity" because in Gilmour-Merriman the selected entity provides the URL address of the graphical image—the address to which the user's browser is redirected. EX1013, 4:62-65, 5:34-51. While Merriman does not explicitly describe this URL, a POSITA would have understood that the selected entity provides the URL address of the spotlight tag because the selected entity receives, processes, and responds to the redirected request sent to that address. *Id.*, 1:52-54, 5:16-19, 5:46-49; EX1002, ¶194.

The automatic redirect also enables storage, in a central database associated with the computer equipment of the selected entity, of the profile information linked to the tag associated with the visitor device. The spotlight tag provides profile information from the profile service provider to the selected entity computer system.

EX1013, 4:66-5:2; EX1001, 4:43-45. The redirect thus enables the selected entity computer system to store the profile information in a central database per limitation [1.a(i)(3)]. The profile information is linked to a tag (cookie) associated with the visitor device placed and read by the selected entity computer system per limitation [1.a(ii)]. EX1013, 5:56-57; EX1002, ¶195.

VII. GROUND 2: CLAIM 12 IS OBVIOUS IN VIEW OF GILMOUR, MERRIMAN, FRAUENHOFER, AND KNOWLEDGE OF A POSITA

Claim 12: “The method of claim 1 wherein the tag comprises personally identifiable information identifying the visitor.”

Claim 12 is obvious in view of Gilmour-Merriman-Frauenhofer and the knowledge of a POSITA. Gilmour-Merriman discloses browser cookies, which are tags per limitation [1.a(ii)]. EX1012, [0039]; EX1013, 4:55-59. A POSITA would have known and found obvious that a cookie may store essentially any information, including “personally identifiable information identifying the visitor.” EX1011, 218-221; EX1002, ¶¶196-197.

The Background of the ’445 patent admits cookies can store personally identifiable information including, for example, a username. EX1001, 4:38-42. Zeff confirms that storing personally identifiable information in a cookie was known to a POSITA:

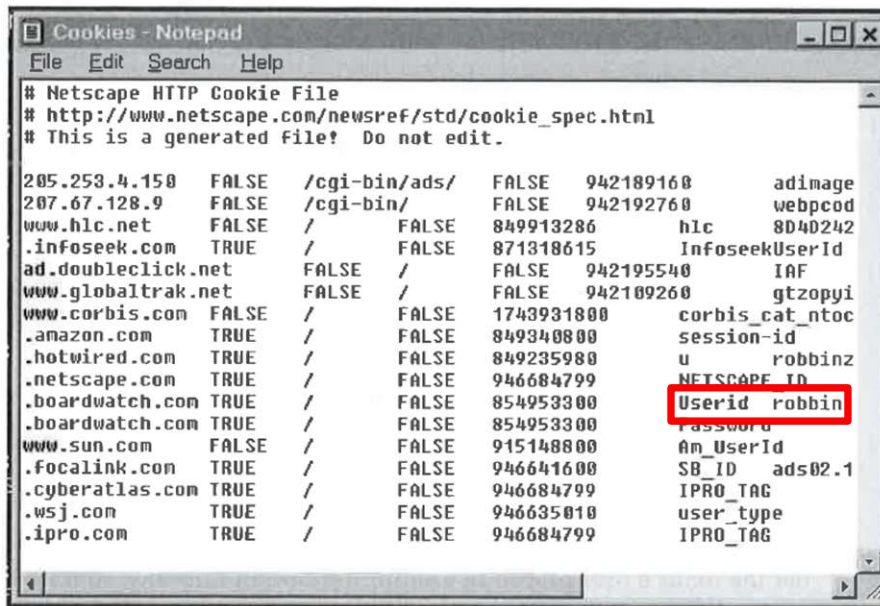


FIGURE 5.3 Information captured in a cookie file.

EX1010, 40. This figure shows a cookie file storing the username “robbin” which personally identifies one of Zeff’s authors, Robbin Zeff. *Id.*, 7; EX1002, ¶197.

Accordingly, a POSITA would have found it obvious to store “personally identifiable information identifying the visitor” in a cookie. Furthermore, a POSITA would have been motivated to store “personally identifiable information identifying the visitor” in the cookie to recognize the user and/or to use this information as a key to other information about the visitor stored in a database. EX1012, [0039]; EX1010, 41; EX1011, 49; EX1002, ¶198.

**VIII. GROUND 3: CLAIMS 2-7 AND 14 ARE OBVIOUS IN VIEW OF
GILMOUR, MERRIMAN, FRAUENHOFER, AND JULIA**

- A. Claim 2: “The method of claim 1 wherein the profile information associated with the visitor is derived from the visitor’s activity using a first device, and wherein the visitor device that is available to receive an advertisement is a second device of the visitor.”**

Claim 2 is obvious in view of Gilmour-Merriman-Frauenhofer combined with Julia (EX1015). Gilmour discloses that “the profile information associated with the visitor is derived from the visitor’s activity using a first device,” e.g., a client computer system, per limitations [1.a(i)(2)] and [1.a(ii)]. EX1012, Abstract, [0033]-[0044]. Gilmour also discloses a visitor device available to receive an advertisement per limitation [1.c(i)]. Gilmour does not disclose that profile information is derived from the visitor’s activity using a first device and the visitor device available to receive an advertisement is a second device. Julia teaches this. EX1002, ¶¶199-200.

Julia discloses a targeted advertising system in which a user may use multiple devices, including “any combination of computers, devices, applications, and network resources,” to visit websites. EX1015, 2:56-3:4, 4:30-48, 5:61-64, 6:27-36, 11:19-12:7, 12:26-13:10. Julia therefore discloses first and second devices of a visitor. EX1002, ¶201.

Julia also discloses collecting visitor profile information derived from the visitor’s activity using a first device. Julia describes a profile engine that builds

profiles based on a user's web browsing activities. EX1015, 2:44-50, 3:11-13, 4:30-5:5, 7:66-8:13. The profile information may be collected from a first device, such as a computer. *Id.*, 6:27-29, 8:38-42, 9:26-27; EX1002, ¶202.

Julia also discloses that the “visitor device that is available to receive an advertisement is a second device.” Julia discloses that an advertisement may be provided to any of the user's devices, e.g., the user's phone. EX1015, Abstract, 2:12-13, 2:34-50, 2:56-67, 3:27-30. The second device is available to receive an advertisement because Julia discloses delivering an ad to it. *Id.*, 12:46-61. Given this framework, it would have been obvious to derive profile information from the visitor's activity using a first device that is different from a second device that is available to receive an advertisement because Julia teaches the user may have multiple devices. EX1002, ¶¶203-204.

If Patent Owner argues claim 2 requires using different tags for the first and second devices, this too would have been obvious. Merriman discloses that a visitor's profile may incorporate and correlate multiple identifiers. EX1013, 2:5-30; *see* EX1011, 224 (websites correlate cookie identifiers). It would have been obvious to use a tag of a first visitor device to derive profile information and subsequently use a different tag to identify a second device of the visitor that is available to receive an advertisement. EX1002, ¶¶205-206.

It also would have been obvious to incorporate Julia's disclosures involving first and second devices into Gilmour-Merriman-Frauenhofer. This combination would enable better targeted advertising by providing profile information from more sources and delivering targeted ads to more visitor devices. EX1012, [0012]; EX1013, 1:27-29; EX1015, 1:22-25, 4:15-18, 12:26-38. It combines prior art elements according to known methods to yield predictable results, which a POSITA would have reasonably expected to be successful because the technologies involved were well understood. EX1002, ¶¶207-210.

B. Claim 3: “The method of claim 2 wherein the first device is a computer of the visitor and the second device is a mobile phone of the visitor.”

Claim 3 is obvious in view of Gilmour-Merriman-Frauenhofer-Julia for the same reasons as claim 2. Julia discloses that a first device can be a computer of the visitor and a second device can be a mobile phone of the visitor. EX1015, 2:62-65; EX1002, ¶211.

C. Claim 4: “The method of claim 3 wherein the tag identifies the mobile phone.”

Claim 4 is obvious in view of Gilmour-Merriman-Frauenhofer-Julia. Julia explains that different devices, including mobile phones, “may employ different web browsers, suited for the particular platform and capabilities of the respected devices.” EX1015, 12:49-50. A mobile phone browser may store a tag (cookie) that

identifies the browser and mobile phone on which it resides. EX1010, 40, 41; EX1011, 218-219; EX1015, 1:25-28. Therefore, it would have been obvious that the claimed tag identifies a mobile phone.⁸ EX1002, ¶212.

D. Claim 5: “The method of claim 3 wherein the profile owner computer is programmed to automatically select a media property entity using profile information about the visitor that was derived from the visitor’s activity using the computer of the visitor, which profile information was received by the profile-owner computer as a result of URL redirection from a website that is served by the electronic apparatus of the profile supplier, which website is accessed by the computer of the visitor.”

Claim 5 is obvious in view of Gilmour-Merriman-Frauenhofer-Julia. Gilmour-Merriman-Frauenhofer discloses that “the profile owner computer is programmed to automatically select a media property entity” per limitations [1.b(i)(1)]-[1.b(i)(2)] and claim 10. Gilmour-Merriman-Frauenhofer additionally discloses that the profile owner computer selects the media property entity using profile information about the visitor per limitations [1.a(i)(2)] and [1.b(i)(2)] and claim 10. Gilmour-Merriman-Frauenhofer-Julia discloses that the profile information about the visitor was derived from the visitor’s activity using the visitor

⁸ As explained for claim 2, the tag identifying the mobile phone may reference the same profile information as a different tag identifying a different device.

computer per claims 2, 3, and 10. EX1002, ¶213. Gilmour-Merriman discloses the remainder of claim 5 (“profile information was received . . .”) per claim 11. *Id.*

E. Claim 6: “The method of claim 2 wherein the second device is a computer and further comprising, after parts (a) and (c), with the computer system electronically reporting information about delivery of the advertisement to the second device, which report is provided to a profile owner controlling the profile owner computer.”

Claim 6 is obvious in view of Gilmour-Merriman-Frauenhofer-Julia. It would have been obvious that the second device is a computer because Julia discloses a visitor can use a variety of devices, including a computer, per claims 2 and 3. EX1015, 2:56-3:1, 4:23-5:1, 5:61-67, 12:34-61; EX1002, ¶214.

It would have been obvious from Gilmour’s disclosure that, after parts (a) (automatically storing profile information) and (c) (automatically causing delivery of an electronic advertisement to the visitor device), the requesting entity computer system electronically reports information about delivery of the advertisement to the second device to the profile owner controlling the profile service provider computer (the profile owner) per claims 2 and 8. EX1002, ¶215.

- F. Claim 7: “The method of claim 6 wherein electronically reporting comprises automatically placing the second device in communication with computer equipment controlled by the profile owner, via URL redirection from the computer system, when the computer system utilizes the tag to cause delivery of the advertisement.”**

Claim 7 is obvious in view of Gilmour-Merriman-Frauenhofer-Julia. Gilmour-Merriman discloses that the requesting entity computer system “utilizes the tag to cause delivery of the advertisement” per limitations [1.c(i)] and [1.c(ii)]. Gilmour discloses “the computer system electronically reporting information about delivery of the advertisement...to a profile owner controlling the profile owner computer” per claim 6. EX1002, ¶216.

Per limitation [1.b(ii)], Merriman discloses conveying (reporting) information between servers via URL redirection using spotlight tags. EX1013, 4:54-57, 4:62-5:2, 5:43-49. In combination, it would have been obvious for the requesting entity computer system (the claimed computer system) to report information about delivery of an advertisement to the profile service provider computer system (the claimed computer equipment controlled by the profile owner) using Merriman’s spotlight tag when the requesting entity computer system causes delivery of the advertisement. For example, it would have been obvious for the requesting entity computer system to use a spotlight tag reporting delivery of an advertisement to the profile service

provider computer while serving an ad to the visitor's browser because redirects are already used to serve ads. *Id.*, 6:8-11; EX1002, ¶¶217-218.

A POSITA would have been motivated to use spotlight tags for reporting information about ad delivery to conveniently, efficiently, and automatically implement the transaction-based payment models described in Gilmour. EX1012, [0085]. This is a combination of conventional prior art elements according to known methods to yield predictable results which a POSITA would have reasonably expected to be successful. EX1001, 6:41-44; EX1002, ¶219.

G. Claim 14: “The method of claim 1 wherein the apparatus of the profile supplier operates in the Internet and the equipment of the selected entity utilizes the profile data to cause delivery of the electronic advertisements on a television of the visitor.”

Claim 14 is obvious in view of Gilmour-Merriman-Frauenhofer-Julia. Gilmour discloses an apparatus of the profile supplier, e.g., a web server of a website, per limitation [1.b(i)(2)] and claims 5, 10, and 11. EX1012, [0030], [0038], [0039], [0042]; EX1011, 70. The apparatus operates “in the Internet” because web servers conventionally operate in and on the Internet. EX1012, [0027]; EX1013, 2, 31-45, 5:9-13; EX1011, 70, 90; EX1002, ¶220.

Gilmour-Merriman discloses that the equipment of the selected entity (e.g., Gilmour's requesting entity computer system) utilizes the profile data to cause delivery of the electronic advertisements to a visitor device per limitations [1.c(i)]

and [1.c(ii)]. EX1013, 4:5-10, 5:22-25, 6:13-19. Julia discloses that the visitor's device to which an ad is delivered is a television. EX1015, 2:41-67, 11:38-43, 12:27-30. A POSITA would have recognized the benefit of reaching visitors across multiple different devices to increase the opportunities to reach interested visitors with targeted advertisements and would have found it obvious to cause delivery of advertisements on a television. EX1015, 2:7-16, 2:41-42; EX1002, ¶¶221-222.

IX. CONCLUSION

For these reasons, Petitioner requests *inter partes* review and cancellation of the challenged claims.

X. DISCRETIONARY DENIAL IS UNWARRANTED⁹

Fintiv. The Board should not deny institution under §314(a). Neither discovery nor claim construction has begun in the parallel litigation, trial is not scheduled to begin before November 30, 2026, and the Court and parties have made only minimal investment in the parallel litigation. EX1021. Plus, this Petition's merits are compelling.

Advanced Bionics. The Board should not deny institution under §325(d). The Petition's application of Gilmour to the claims is consistent with the findings of the

⁹ Petitioner presents these arguments without waiving additional briefing under the USPTO's March 26, 2025 "Interim Process for Workload Management."

Office. Fraunhofer was not before the Examiner. Patent Owner cited Merriman and Julia in an IDS along with over 350 other references and there is no indication the Examiner understood the relevance of these particular references or considered their disclosures in the combinations established in this Petition.

XI. STANDING

Petitioner certifies under Rule 42.104(a) that Petitioner is not barred or estopped from requesting this *inter partes* review and the '445 patent is IPR eligible.

XII. MANDATORY NOTICES AND FEES

A. Real Party-in-Interest

Petitioner is the real party-in-interest. No other party directed, controlled, or funded this IPR proceeding.

B. Related Matters

Patent Owner asserts the '445 Patent against Petitioner in *AlmondNet, Inc. and Datonics LLC v. Amazon.com, Inc., et al.*, Western District of Texas, No. 6:24-cv-00234 (the "parallel litigation").

Petitioner is aware of the following additional related matters involving the '445 Patent and/or related patents:

Case Caption	Forum	Patents
<i>Datonics LLC v. Oracle Corp.</i> , Case No. 7-25-cv-00059	WDTX	10,984,445 8,589,210

Petition for *Inter Partes* Review
U.S. Patent No. 10,984,445

Case Caption	Forum	Patents
<i>AlmondNet, Inc. v. LiveIntent Inc.</i> , Case No. 1:24-cv-00831	DDE	8,959,146 8,494,904 8,677,398 10,984,445
<i>AlmondNet, Inc. v. Lotame Solutions Inc.</i> , Case No. 1:24-cv-00376	DDE	8,494,904 8,677,398 8,775,249 10,984,445 8,589,210
<i>AlmondNet, Inc. v. Oath Holdings Inc. and Yahoo Inc.</i> , Case No. 1:19-cv-00247	DDE	7,822,639 7,979,307 8,244,574 8,244,582 8,244,586 8,494,904 8,671,139 8,677,398 8,775,249 8,959,146 9,508,089

Case Caption	Forum	Patents
<i>AlmondNet, Inc. v. Yahoo! Inc.</i> , Case No. 1:16-cv-01557	EDNY	7,822,639 7,979,307 8,244,574 8,244,582 8,244,586 8,494,904 8,671,139 8,677,398 8,775,249 8,959,146 9,508,089

C. Lead and Backup Counsel

Pursuant to 37 C.F.R. §42.8(b)(3) and 42.10(a), Petitioner designates J. David Hadden, Reg. No. 40,629 as lead counsel and Brian M. Hoffman, Reg. No. 39,713, Saina Shamilov, Reg. No. 48,266, Kevin X. McGann, Reg. No. 48,793, Eric Y. Zhou, Reg. No. 68,842, and Jessica W. Lin, Reg. No. 69,920, as back-up counsel, each of Fenwick & West LLP.

D. Service Information

Petitioner consents to service by electronic mail at:

AlmondNet-IPR@fenwick.com.

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Petitioner's counsel may also be served by mail or hand delivery at Fenwick & West LLP, 801 California St, Mountain View, CA 94041. Petitioner's counsel may be reached by telephone at (650) 988-8500.

E. Fees

The Office is authorized to charge fees for this Petition to Deposit Account 19-2555.

Dated: April 18, 2025

FENWICK & WEST LLP

/J. David Hadden/

J. David Hadden

Reg. No. 40,629

Attorneys for Petitioner

Amazon.com, Inc., Amazon Web Services, Inc.,
and Amazon.com Services LLC

CERTIFICATION OF WORD COUNT

The undersigned certifies pursuant to 37 C.F.R. §42.24 that the foregoing Petition for *Inter Partes* Review, excluding any table of contents, mandatory notices under 37 C.F.R. § 42.8, certificates of service or word count, or appendix of exhibits, contains 12,659 words according to the word-processing program used to prepare this document (Microsoft Word).

Dated: April 18, 2025

FENWICK & WEST LLP

/J. David Hadden/

J. David Hadden

Reg. No. 40,629

Attorneys for Petitioner

Amazon.com, Inc., Amazon Web Services, Inc.,
and Amazon.com Services LLC

**CERTIFICATE OF SERVICE ON PATENT OWNER
UNDER 37 C.F.R. § 42.105**

I hereby certify, pursuant to 37 C.F.R. Sections 42.6 and 42.105, that a complete copy of the attached **PETITION FOR INTER PARTES REVIEW OF U.S. PATENT NO. 10,984,445**, including all exhibits (**Nos. 1001-1022**), is being served via Federal Express on April 18, 2025, upon Patent Owner by serving the correspondence address of record with the USPTO as follows:

Louis J. Hoffman, P.C.
Louis Hoffman
David Alavi
7689 East Paradise Lane, Suite 2
Scottsdale, AZ 85260

The foregoing was also served via Federal Express upon counsel of record for Patent Owner in the litigation pending before the U.S. District Court for the Western District of Texas entitled *AlmondNet, Inc. and Datonics LLC v. Amazon.com, Inc., et al.*, No. 6:24-cv-002348 (W.D. Tex.) as follows:

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Petition for *Inter Partes* Review
U.S. Patent No. 10,984,445

Dated: April 18, 2025

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