

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PLATFORM SCIENCE, INC.,
Petitioner,

v.

OMNITRACS, LLC,
Patent Owner.

IPR2021-00187
Patent 9,147,335 B2

Before BART A. GERSTENBLITH, JAMES J. MAYBERRY, and
FREDERICK C. LANEY, *Administrative Patent Judges*.

LANEY, *Administrative Patent Judge*.

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

I. INTRODUCTION

A. Background

Platform Science, Inc. (“Petitioner”) filed a Petition (Paper 2, “Pet.”) requesting institution of *inter partes* review of claims 1–22 (“the Challenged Claims”) of U.S. Patent No. 9,147,335 B2 (Ex. 1001, “the ’335 patent”). Omnitrac, LLC (“Patent Owner”) filed a Preliminary Response (Paper 8, “Prelim. Resp.”).

We have authority under 35 U.S.C. § 314 and 37 C.F.R. § 42.4(a) to determine whether to institute an *inter partes* review. The standard for instituting an *inter partes* review is set forth in 35 U.S.C. § 314(a), which provides that an *inter partes* review may not be instituted unless “there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” For the reasons set forth below, upon considering the Petition, Preliminary Response, and the evidence submitted, we determine that Petitioner has shown a reasonable likelihood that it would prevail in showing the unpatentability of at least one of the Challenged Claims. Accordingly, we grant institution of an *inter partes* review of the Challenged Claims of the ’335 patent based on all grounds raised in the Petition.

B. Related Proceedings

Petitioner and Patent Owner identify the following related matter: *Omnitrac, LLC and XRS Corp. v. Platform Science, Inc.*, 20-cv-0958 (S.D. Cal.). Pet. 68; Paper 5, 2 (Patent Owner Omnitrac, LLC’s Mandatory Notices Pursuant to 37 C.F.R. § 42.8), 1.

C. Real Parties in Interest

Petitioner identifies Platform Science, Inc. as the real party in interest. Pet. 68. Patent Owner identifies Omnitrac, LLC and XRS Corporation as the real parties in interest. Paper 5, 2.

D. The Asserted Grounds of Unpatentability and Declaration Evidence

Petitioner challenges the patentability of claims 1–22 of the ’335 patent on the following grounds:

Claim(s) Challenged	35 U.S.C. § ¹	Reference(s)/Basis
1–22	103(a)	Moses ²
1–22	103(a)	Levesque ³

Pet. 1. Petitioner supports its challenge with a Declaration by Scott Andrews (Ex. 1003).

E. The ’335 Patent

The ’335 patent, as its title suggests, generally relates to a system for generating real-time alert notifications. Ex. 1001, code (54). The ’335 patent suggests that, prior to the claimed invention, there were systems for tracking, managing, and maintaining a fleet of portable assets that generally monitored various performance parameters and performance parameters of the portable assets. *Id.* at 1:16–21. The asset tracking systems

¹ The Leahy-Smith America Invents Act (“AIA”) included revisions to 35 U.S.C. § 103 that became effective on March 16, 2013. Because the ’335 patent has an effective filing date before March 16, 2013, we apply the pre-AIA version of the statutory basis for unpatentability. *See* Ex. 1001, code (22).

² U.S. Patent App. No. 2006/0047543 A1, pub. Mar. 2, 2006 (Ex. 1005, “Moses”).

³ U.S. Patent No. 7,525,421 B2, iss. Apr. 28, 2009 (Ex. 1006, “Levesque”).

generated large volumes of real-time data that was saved to a back-end host system for processing and interpreting, which may have included events and observations for the portable assets that related to safety, compliance, fuel consumption, location, and workflow. *Id.* at 1:31–38.

The '335 patent indicates “a key challenge” with the previous asset tracking systems, however, was ensuring that they presented the user with the most relevant information at any particular instant. Ex. 1001, 1:39–42. Previous asset tracking systems, according to the '335 patent, had “no effective way to provide timely, relevant notifications/action recommendations based on detected conditions (e.g., based on real-time events/observations) that require immediate attention by fleet owners.” *Id.* at 1:44–48. The '335 patent describes the problem with earlier tracking systems as being that they required a user to manually interpret the collected data to take the appropriate corrective action and, given the volume of data and complexity of the issues, that was an “extremely difficult task.” *Id.* at 1:48–52. As a result, the '335 patent states that it was “desirable to be able to automatically review and analyze events and provide recommendations in real-time based on the analysis.” *Id.* at 1:53–55.

The '335 patent summarizes an embodiment of the claimed invention to address the problems with the previous asset management systems as follows. The system includes a database and processing engine that cooperate together to generate real-time alert notifications. Ex. 1001, 1:66–2:6. The database receives real-time event information and the processing engine analyzes the event information with respect to a plurality of stored events. *Id.* at 1:66–2:2. The processing engine determines whether the

event information meets a defined condition and, if so, an appropriate prescriptive action is selected to forward to a user. *Id.* at 2:3–6.

Figure 4, reproduced below, is illustrative of this exemplary embodiment.

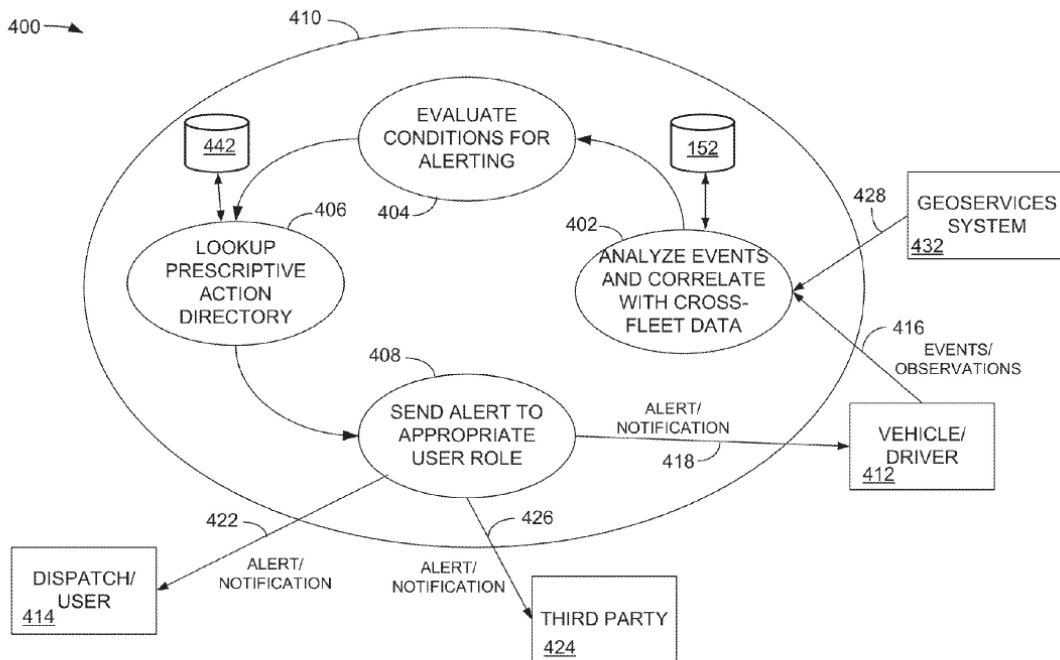


FIG. 4

Figure 4 is a block diagram in which “system 400 generates real-time proactive alert notifications and recommendations to different user roles based on evaluation of trigger events, observations and historical data.” Ex. 1001, 7:28–33. The diagram describes system 400 using a state diagram that illustrates the various states of the analysis and processing. *Id.* at 7:33–36.

In first state 402, the system 400 receives events and observations 416 relating to a vehicle, a driver, or a combination [thereof] . . . [that are] analyze[d] and evaluate[d] . . . as they flow through the system 400 by correlating the events/observations 416 with data

relevant to the analysis to determine whether the analyzed events/observations 416 meet a defined condition.

Id. at 8:6–14. “A defined condition may be one in which the events/observations 416 are considered to be such that an event notification is warranted.” *Id.* at 8:14–16. For example, safety data associated with a particular location “can be data relating to the subject driver and parameters that currently or will soon likely affect the subject driver at the subject location.” *Id.* at 8:18–21. Data warehouse 152 makes all of the data available for analysis. *Id.* at 8:33–35.

In second state 404, based on event type, different event conditions can be evaluated to determine whether to provide an alert or notification using rules for evaluation, which can be predetermined or user-configurable. Ex. 1001, 8:36–39. “On the basis of the evaluation performed in state 404, the system 400 can determine if there is an urgent/timely alert or notification,” which may be sent to the vehicle or driver 412; to the dispatch or user role 414; or to a third party 424. *Id.* at 8:50–56. “Details on what the alert should entail the audience for the alert, and the medium for the alert will be user configurable.” *Id.* at 8:56–58.

In third state 406, “system 400 maintains and accesses a directory 442 of prescriptive actions associated with different event types and trigger conditions.” Ex. 1001, 8:62–64. At this stage, the system “determines if there are recommended actions that can be taken based on the alert condition, and if so,” at fourth state 408, “forwards these recommended actions to the correct entity.” *Id.* at 8:67–9:3. The recommended actions taken from directory 442 of prescriptive actions may be user maintained and associated with specific event types. *Id.* at 9:13–15. “The system 400 can then lookup the recommended actions from the directory 442 based on

events/observations 416 and, if applicable, user-defined thresholds, to determine the correct or appropriate prescriptive action.” *Id.* at 9:15–19. The prescriptive actions may be directed to a particular user of the system, such as a driver, a dispatcher and a third party. *Id.* at 9:4–5.

F. Illustrative Claim

Claims 1, 8, and 17 are independent claims challenged in this proceeding. Claim 1 is illustrative of the claimed subject matter and is reproduced below with Petitioner’s bracketing added for reference:

[1.pre] A system for generating real-time alert notifications, comprising:

[1.a] a database for receiving in real-time at least one event; and

[1.b] a processing engine for analyzing the at least one event with respect to a plurality of stored events with respect to a plurality of stored events, the processing engine being further for:

[1.c] determining whether the at least one event meets a defined condition;

[1.d] if the at least one event meets the defined condition, selecting a prescriptive action from a directory of prescriptive actions, and [1.e] generating in real-time a proactive alert notification with the prescriptive action for a user, [1.f] wherein the prescriptive action is tailored based on a user role and contextual data related to the at least one event; and

[1.g] forwarding the prescriptive action to the user.

Ex. 1001, 10:49–64.

G. Level of Ordinary Skill in the Art

Petitioner, supported by Mr. Andrews’s testimony, proposes that a person of ordinary skill in the art at the time of the invention “would have had at least a Bachelor of Science Degree (or equivalent) in . . . electrical

engineering, computer engineering, computer science, or a related technical field, and at least 2–3 years of experience in the field of vehicle telematics systems.” Pet. 9 (citing Ex. 1003 ¶¶ 25–27).

Patent Owner “does not dispute Petitioner’s offered level of ordinary skill in the art” at this stage of the proceeding. Prelim. Resp. 9.

At this stage of the proceeding, we find Petitioner’s proposal consistent with the level of ordinary skill in the art reflected by the ’335 patent and the prior art of record, *see Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001); *In re GPAC Inc.*, 57 F.3d 1573, 1579 (Fed. Cir. 1995); *In re Oelrich*, 579 F.2d 86, 91 (CCPA 1978), and, therefore, we adopt Petitioner’s unopposed position as to the level of ordinary skill in the art for purposes of this Decision.

H. The Prior Art

Petitioner’s unpatentability contentions rely on the following prior art references: Moses and Levesque. Below is a summary description of these references.

1. Moses

Petitioner contends that Moses “qualifies as prior art under 35 USC 102(b) since Moses is a U.S. application that published March 2, 2006, more than a year before the earliest potential priority date of the ’335 patent, December 22, 2011 (‘Critical Date’).” Pet. 2. Moses, titled “Electronic Emergency Response Management System with Automated Rule-Based Alert Notifications and Response Deployment,” is generally related to “systems and methods for databases used in emergency response activities.” Ex. 1005, code (54), ¶ 1. Moses states that “there [was] a need in the art to monitor for a pattern of alerts for the purpose of predicting risks of a terrorist

event or accidents to carriers of hazardous materials” and “for assessing whether vulnerable targets are at risk, automating the reporting of threats, and initiating response deployment.” *Id.* ¶ 3. And to address this need, Moses teaches “provid[ing] an electronic emergency response management system with an automated rule-based alert notification and response deployment feature and method for using the same.” *Id.* ¶ 4.

Figure 2, reproduced below, illustrates the operational flow for an exemplary system that Moses teaches.

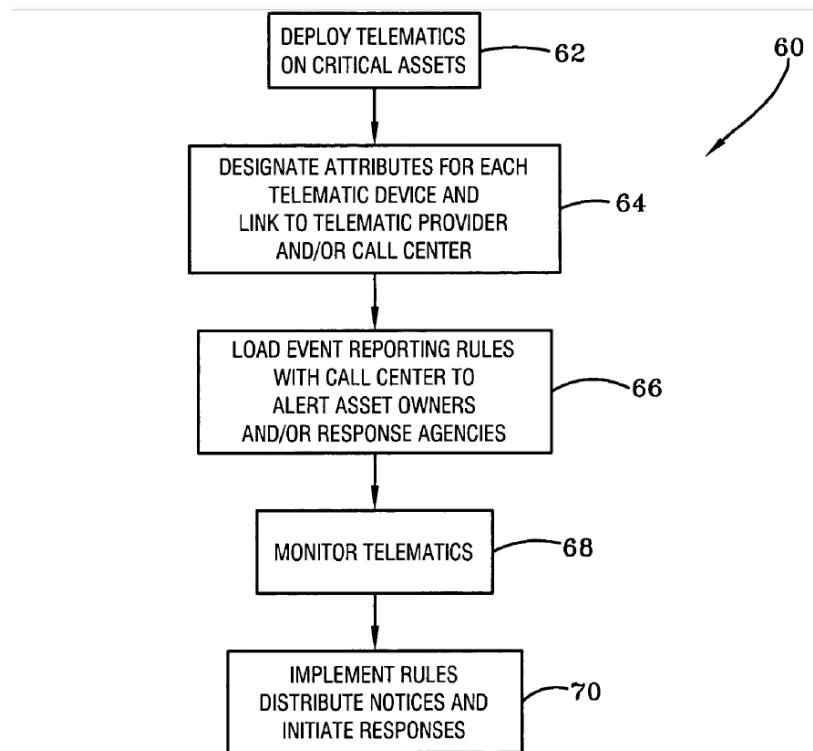


FIG-2

Figure 2 shows “an operational flow chart implemented by the system setting forth the steps for generating alert notifications.” Ex. 1005 ¶ 21. At first step 62, the owner provides a critical asset with telematics devices to generate information about the asset. *Id.* ¶ 38. The following step 64

includes establishing attributes for each telematics device and linking the device to a call center. *Id.* Next step 66 involves a critical asset owner loading event reporting rules with the call center database to alert asset owners and/or response agencies upon the occurrence of certain events associated with the telematics devices; the rules being modifiable on a periodic basis to accommodate additional or alternative conditions observed by the call center. *Id.* These “rules are installed in a rules engine software program maintained by the processor 29 [shown in Figure 1].” *Id.* Typically, the asset owners will provide instructions to the call center and preferably the instructions “describe steps to be taken or work to be performed when event messages or data is received from the telematics provider.” *Id.* “At step 68, the various telematics devices are monitored by the telematics provider and/or the call center and at step 70, the call center implements the rules and distributes the notices and initiates responses as instructed by the asset owners.” *Id.*

2. *Levesque*

Petitioner contends that Levesque “qualifies as prior art under 35 USC 102(b) since Levesque is a U.S. patent that issued April 28, 2009, more than a year before the Critical Date.” Pet. 2. Levesque, titled “Event Detection Module,” relates generally to a system and method for detecting events occurring in the environment using an event detection module for detecting and communicating a hazardous event. Ex. 1006, code (54), 1:18–21. Figure 5 in Levesque, reproduced below, is illustrative of such a system and method.

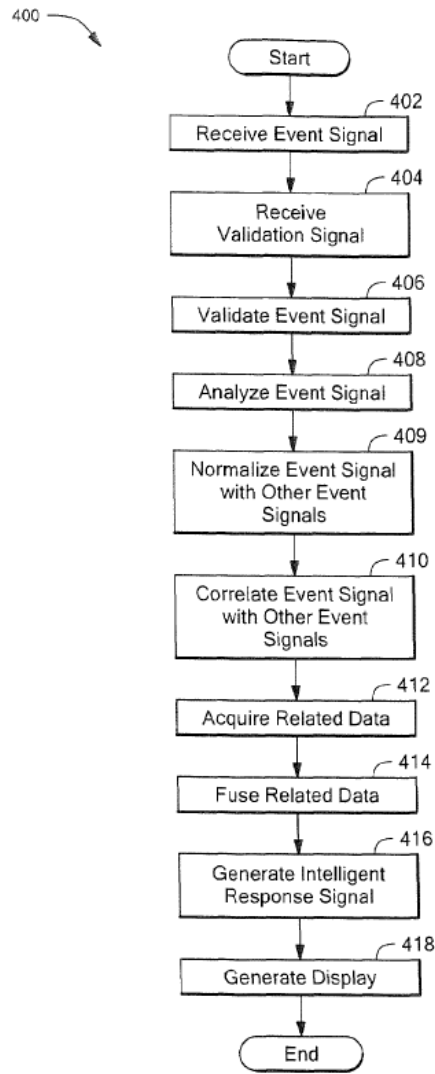


FIG. 5

Figure 5 “is a flow chart of a process for event detection and alert used by the central command center of [Figure] 2.” *Id.* at 3:21–22.

In block 402, the command center receives an event signal from an event module, which includes a sensor that collects event data. Ex. 1006, 4:3–22, 6:66–67. The command center receives a validation signal in block 404, which is used in block 406 to validate the event signal by determining whether an event has actually occurred, or instead, whether a

false alarm has been received in the event signal. *Id.* at 6:38–40, 10:1–5. The resulting validated event is analyzed at block 408 by, for example, an event analysis processor that may determine a characteristic of the event. *Id.* at 6:43–44, 10:6–7. “At block 409, the validated event signal is first normalized and then at block 410 it is correlated with other validated event signals.” *Id.* at 10:9–11. Next, at blocks 412 and 414, related data is acquired from a variety of databases (such as databases 134–142 and 150–156, shown in Figure 2) and fused with the validated event signal. *Id.* at 10:13–17. An intelligent response is then generated at block 416, which can include a variety of information such as “how to respond, how not to respond, a quantity of help needed, a type of help needed . . . required protective gear . . . and an evacuation plan.” *Id.* at 4:32–41, 10:18–21. Finally, at block 418, the validated event data may be displayed. *Id.* at 10:22–24.

II. CLAIM CONSTRUCTION

In this *inter partes* review, claims are construed using the same claim construction standard that would be used to construe the claims in a civil action under 35 U.S.C. § 282(b). *See* 37 C.F.R. § 42.100(b) (2020). The claim construction standard includes construing claims in accordance with the ordinary and customary meaning of such claims as understood by one of ordinary skill in the art at the time of the invention. *See id.*; *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–14 (Fed. Cir. 2005) (en banc). In construing claims in accordance with their ordinary and customary meaning, we take into account the specification and prosecution history. *Phillips*, 415 F.3d at 1315–17.

Additionally, only terms that are in controversy need to be expressly construed, and these need be construed only to the extent necessary to resolve the controversy. *See Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999) (holding that “only those terms need be construed that are in controversy, and only to the extent necessary to resolve the controversy”); *Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017) (citing *Vivid Techs.* in the context of an *inter partes* review). At this stage of the proceeding, however, the parties agree that the terms in the Challenged Claims are properly understood to have their ordinary and customary meaning. Pet. 2; Prelim. Resp. 9. Therefore, because no controversy regarding claim construction exists at this time, we need not construe expressly any claim terms for the purpose of this Decision.

III. ANALYSIS

Petitioner contends that the Challenged Claims are shown to be unpatentable by each of Moses and Levesque because the claimed subject matter would have been obvious to a skilled artisan at the time of the invention. Pet. 11–35, 41–67. Patent Owner disagrees and asserts that neither Moses nor Levesque have been shown to disclose the combination of elements recited in independent claims 1, 8, and 17. Prelim. Resp. 12–23, 29–35. In particular, Patent Owner asserts that the Petition fails to show Moses discloses “a database for receiving in real-time at least one event” and “selecting a prescriptive action from a directory of prescriptive actions”; and that the Petition fails to show Levesque discloses “a database for receiving in real-time at least one event,” “selecting a prescriptive action from a directory of prescriptive actions,” and “tailored based on a user role.”

Id. At this preliminary stage, Patent Owner has not raised any further dispute regarding whether the prior art discloses the remainder of the recited limitations of the Challenged Claims. *See generally id.* For the following reasons, at this stage of the proceeding, we do not find that the Petition is deficient in the manner Patent Owner asserts.

A. Legal Principles

The question of obviousness involves resolving underlying factual determinations, including (1) the scope and content of the prior art; (2) any differences between the claimed subject matter and the prior art; (3) the level of ordinary skill in the art; and (4) when available, objective evidence of nonobviousness such as commercial success, long felt but unsolved needs, and failure of others. *Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966); *see KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 407 (2007) (“While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors define the inquiry that controls.”). We note that neither party has provided an argument or evidence regarding any objective indicia of nonobviousness for our consideration at this stage of the proceeding. We note further that the level of ordinary skill in the art was addressed above (*see supra* § I.G), which defines the perspective from which we view the evidence considered for the remaining factors.

If “the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains,” 35 U.S.C. § 103 renders the claim obvious. *KSR*, 550 U.S. at 406. The Court in *KSR* set forth “an expansive and flexible approach” to the question of obviousness. *Id.* at 415.

Whether a patent claiming the combination of prior art elements would have been obvious involves determining whether any improvement amounts to more than the predictable use of prior art elements according to their established functions. *Id.* at 417. Reaching this determination, however, requires more than merely showing that the prior art includes separate references covering each separate limitation in a challenged claim. *Unigene Labs., Inc. v. Apotex, Inc.*, 655 F.3d 1352, 1360 (Fed. Cir. 2011). Rather, obviousness additionally requires that a person of ordinary skill at the time of the invention “would have selected and combined those prior art elements in the normal course of research and development to yield the claimed invention.” *Id.*

We must “determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue.” *KSR*, 550 U.S. at 418 (citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)). “[W]hen a patent claims a structure already known in the prior art that is altered by the mere substitution of one element for another known in the field, the combination must do more than yield a predictable result.” *Id.* at 416 (citing *United States v. Adams*, 383 U.S. 39, 50–51 (1966)).

1. *Evaluating the Claimed Subject Matter in View of Moses*

Element [1.a] of claim 1 recites “a database for receiving in real-time at least one event.” Ex. 1001, 10:51. Petitioner contends that a skilled artisan would have understood that the real-time event data received by the call center in Moses is stored in the database. Pet. 14 (citing Ex. 1003 ¶¶ 58–61). As support from Moses, Petitioner identifies the description of the assets (e.g., trucks) as having sensors for gathering real-time data about

their operation and the communication of that gathered data to the database maintained by the call center. *Id.* at 13 (citing Ex. 1005, code (57), ¶¶ 32, 35, 44).

Patent Owner asserts that “[a]lthough Moses discusses a “database,” it never discloses a database for receiving events.” Prelim. Resp. 20. Rather, according to Patent Owner, “Moses only discloses a database for ‘identifying critical assets, their physical attributes and their physical location,’ i.e., a database for storing factual information.” *Id.* (citing Ex. 1005 ¶ 17). Because the customary meaning of “event” refers to something that happens (e.g., the occurrence of something), Patent Owner asserts “[i]dentifying an asset’s physical attributes and physical location is merely descriptive of the objects the system is monitoring, and does not disclose an ‘event’.” *Id.* (citing Ex. 2006).

In addition, Patent Owner asserts that, even if Moses discloses a database for receiving events, “Moses does not disclose receiving events in real-time.” Prelim. Resp. 21. Patent Owner asserts that “[r]eceiving ‘real-time **data**’ via the beacon’ at the call center in Moses is not the same as a database receiving **events** in real-time.” *Id.* This is so, Patent Owner reasons, because the processor in Moses only uses the data after it is received “to ‘recognize’ possible events by ‘predicting the possibility of’ an event” and “[t]hese event predictions are inherently not ‘real-time’ because they rely on data transmitted previously.” *Id.* at 21–22 (citing Ex. 1005 ¶¶ 31–32).

At this stage of the proceeding, we find Petitioner’s evidence from Moses to be sufficient to disclose a database for receiving in real-time at least one event. For example, in paragraph 32 cited by Petitioner, Moses

teaches that the database at call center 12 receives real-time information about a truck speeding in a particular direction (indicating a deviation from an intended route), which at least suggests that the database at call center 12 receives information about something that is happening (i.e., a speeding truck traveling off-route) at the time at which it is happening (i.e., a real-time occurrence). Ex. 1005 ¶ 32. Although the data collected and communicated is factual information, on this record we do not find this to be a point of distinction. Data information that describes the occurrence of something happening is necessarily both information of an event and factual information. And, notably, neither party at this stage has argued that the term “event” has a specialized meaning in the context of the ’335 patent. Therefore, we find Petitioner has shown sufficiently for this stage of the proceeding that Moses discloses element [1.a].

Element [1.b] recites, “a processing engine for analyzing the at least one event with respect to a plurality of stored events with respect to a plurality of stored events.” Ex. 1001, 10:52–53. Petitioner contends that a skilled artisan “would have understood that Moses includes a processor 29 that analyzes event data with respect to a plurality of stored events.” Pet. 18 (citing Ex. 1003 ¶ 70). As support, Petitioner contends that Moses discloses that processor 29 is programed to continuously monitor the event data communicated by the sensors associated with critical assets and recognize whether one or more of the particularly defined events has occurred. *Id.* at 15–17 (citing Ex. 1005 ¶¶ 26, 31, 32, 43; Ex. 1003 ¶¶ 64–70). Petitioner contends the following is an example from Moses that illustrates analyzing at least one event with respect to a plurality of stored events:

The processor 29 may also be programmed to monitor multiple critical assets in conjunction with other current events and predict the possibility of a terrorist event. For example, if it is detected that four gasoline tanker trucks-critical assets-are diverted from their expected route of travel and are converging upon a civic landmark-a critical asset classified as a vulnerable target-, the processor 29 can automatically issue alert notices to authorities to stop the trucks in transit, block off the suspected target area, and alert the appropriate units capable of responding to a potential conflagration.

Id. at 17 (citing Ex. 1005 ¶ 32).

At this stage, Patent Owner does not dispute Petitioner's contention that Moses discloses this element. And on this record, we determine Petitioner has shown sufficiently that Moses discloses element [1.b].

Element [1.c] recites that the processing engine is for "determining whether the at least one event meets a defined condition." Ex. 1001, 10:55–56. Petitioner contends Moses discloses this limitation because it teaches that processor 29 will continuously monitor the sensor data provided by the assets to determine whether event data, either alone or collectively, meets a defined condition. Pet. 18–20 (citing Ex. 1005 ¶¶ 31, 32, 42; Ex. 1003 ¶¶ 73–78). For example, Moses states that "if a sensor 52a detects that a tanker truck 50a has spilled a large quantity of gasoline, this information is immediately transmitted by the beacon 54a to the call center 12 [and] [t]he processor 29 is programmed to recognize such an event." *Id.* at 18–19 (citing Ex. 1005 ¶ 31). Petitioner contends a skilled artisan would view the spillage of a large quantity of gasoline to be an example of a "defined condition" that processor 29 is programmed to determine occurred from the event data provided by sensor 52a. *Id.* at 19 (citing Ex. 1003 ¶¶ 73–74).

At this stage, Patent Owner does not dispute Petitioner’s contention that Moses discloses this element. And on this record, we determine Petitioner has shown sufficiently that Moses discloses element [1.c].

Element [1.d] recites, “if the at least one event meets the defined condition, selecting a prescriptive action from a directory of prescriptive actions.” Ex. 1001, 10:57–59. Because Moses discloses that processor 29 is capable of detecting whether four gasoline tanker trucks are off-route and converging upon a sensitive location from the event data provided by trucks’ sensors and, in response thereto, automatically providing an alert notice to the appropriate personnel to either stop the trucks in transit or block off the sensitive location, Petitioner contends a skilled artisan would view Moses’s system to suggest a processor programed to select a prescriptive action if event data is determined to meet a defined condition. Pet. 20–21 (citing Ex. 1005 ¶ 32; Ex. 1003 ¶¶ 79–85).

In addition, Petitioner contends Moses’s use of a rule-based system that is configured to implement “designated plans” depending on an analysis of the received event data shows processor 29 may select a prescriptive action from a directory of prescriptive actions. *Id.* at 21 (citing Ex. 1005 ¶ 36). This is so, Petitioner contends, because Moses teaches that the designated plans may be instructions describing steps to be taken or work to be performed when event messages are received and a skilled artisan “would have understood that response instructions (*i.e.*, ‘proscriptive actions’) ‘installed in a rules engine software program’ qualify as a ‘directory’ or other data repository.” *Id.* (citing Ex. 1005 ¶ 38; Ex. 1003 ¶¶ 83–85); *see also id.* at 21–22 (citing Ex. 1005 ¶¶ 43–44; Ex. 1003 ¶ 85).

Patent Owner contends that Petitioner fails to show Moses discloses “prescriptive actions” and, as a result, fails to establish Moses discloses a directory of prescriptive actions. *See* Prelim. Resp. 12–20. In particular, Patent Owner contends that “Moses only discloses ‘issu[ing] alert notices’ of events, not prescriptive actions, e.g., actions that recommend a response to an event.” *Id.* at 12 (citing Ex. 1001, 8:62–9:3; Ex. 1005 ¶¶ 26, 32, 37, 38). Patent Owner contends that the alert notices in Moses provide only factual information that allows the person receiving the notice to independently make their own decision about how to respond. *Id.* at 13 (citing Ex. 1005 ¶¶ 32, 37, 38). According to Patent Owner, the passage from Moses that says “stop the trucks in transit” and “block off the suspected area” is only describing “examples of what a user *can* do *after* the processor in Moses ‘automatically issue[s] alert notices.’” *Id.* at 14 (citing Ex. 1005 ¶ 32). Likewise, Patent Owner asserts that “the ‘designated plans’ discussed in paragraph [0036] are merely examples of what a particular government agency can do after the processor in Moses issues alert notices.” *Id.* at 15.

At this stage of the proceeding, Petitioner has shown sufficiently Moses discloses to a skilled artisan that processor 29 may select a prescriptive action from a directory of prescriptive actions when it is determined that an event message or data received from an asset meets a defined condition. Moses teaches that “[t]he system 10 can be further enhanced with the use of an automated rule-based alert notification *and response deployment* feature.” Ex. 1005 ¶ 35 (emphasis added). In paragraph 38 cited by Petitioner, Moses explains that the call center implements rules, which “are installed in a rules engine software program maintained by the processor 29,” to distribute “notices *and initiate*[]

responses as instructed” and that the instructions “preferably describe steps to be taken or work to be performed when event messages or data is received from the telematics provider.” Ex. 1005 ¶ 38 (emphasis added). As an example of initiating a response or response deployment, Moses teaches that, when processor 29 detects an event such as gasoline tankers deviating from their expected route and heading toward a vulnerable target, “the processor 29 can automatically issue alert notices to authorities *to stop the trucks in transit* [or] block off the suspected target area.” *Id.* ¶ 32.

Thus, contrary to Patent Owner’s assertion that Moses is limited to providing alert notices without any instruction for how personnel should respond to a particular event, Moses appears to expressly contemplate a system capable of automatically deploying and/or initiating a particular response (i.e., selecting a prescriptive action) to a detected event. Therefore, on this record, we determine Petitioner has shown sufficiently that Moses discloses element [1.d].

Element [1.e] recites “generating in real-time a proactive alert notification with the prescriptive action for a user.” Ex. 1001, 10:59–61. Petitioner contends that Moses “describes that its system ‘proactively communicate[s] the potential threat to the appropriate authority,’” which may include generating in real time “a prescriptive action for a user, such as stopping a truck in transit or blocking off an area.” Pet. 22–23 (citing Ex. 1005 ¶¶ 12, 31, 32, 34, 42; Ex. 1003 ¶¶ 86–89). At this stage, Patent Owner does not dispute Petitioner’s contention that Moses discloses this element. And on this record, we determine Petitioner has shown sufficiently that Moses discloses element [1.e].

Element [1.f] recites “wherein the prescriptive action is tailored based on a user role and contextual data related to the at least one event.”

Ex. 1001, 10:61–62. Petitioner contends that Moses discloses that the prescriptive actions are “tailored both on a user role (*e.g.*, owner of a trucking company that owns the truck in interest, or a particular emergency response unit) and on contextual data (*e.g.*, ambient weather, road conditions) related to the event in question.” Pet. 23 (citing Ex. 1003 ¶¶ 90–94); *see id.* at Pet. 23–25 (citing Ex. 1005 ¶¶ 32, 38, 39, 44; Ex. 1003 ¶¶ 90–94) (addressing element [1.f]). At this stage, Patent Owner does not dispute Petitioner’s contention that Moses discloses this element. And on this record, we determine Petitioner has shown sufficiently that Moses discloses element [1.f].

The last element of claim 1, [1.g], recites “forwarding the prescriptive action to the user.” Ex. 1001, 10:62–63. Petitioner contends that because Moses teaches automatically sending alert notices to authorities to take particular action, such as stop a truck in transit or block off a particular area, a skilled artisan would recognize the prescriptive actions were forwarded to a user (*i.e.*, the authorities). Pet. 25 (citing Ex. 1005 ¶ 32; Ex. 1003 ¶¶ 95–96). At this stage, Patent Owner does not dispute Petitioner’s contention that Moses discloses this element. And on this record, we determine Petitioner has shown sufficiently that Moses discloses element [1.g].

Therefore, for the foregoing reasons, Petitioner has established a reasonable likelihood that independent claim 1 would have been obvious in view of Moses.

Independent claims 8 and 17 include substantially similar elements to elements [1.a]–[1.g] of claim 1. *See* Ex. 1001, 11:13–27, 12:9–26. For

independent claims 8 and 17, Petitioner relies on the same evidence and contentions to show Moses discloses each of the substantially similar claim elements. *See* Pet. 30–31, 34–35. Likewise, Patent Owner contends the same deficiencies asserted against claim 1 apply to Petitioner’s unpatentability contentions of claims 8 and 17. *See* Prelim. Resp. 12–26. Therefore, for the same reasons discussed in the context of claim 1 and based on the current record, Petitioner has established a reasonable likelihood that independent claims 8 and 17 would have been obvious in view of Moses.

Petitioner asserts, with detailed citations to the record, that Moses discloses the subject matter of dependent claims 2–7, 9–16, and 18–22. Pet. 25–35. At this stage, Patent Owner does not separately dispute these contentions. We determine that, based on the current record, Petitioner has established a reasonable likelihood that dependent claims 2–7, 9–16, and 18–22 would have been obvious in view of Moses.

2. *Evaluating the Claimed Subject Matter in View of Levesque*

Petitioner asserts, with detailed citations to the record, that Levesque also discloses the subject matter of claims 1–22. Pet. 41–67. Although there are differences between the systems Levesque and Moses disclose, Levesque, like Moses, discloses a real time event alert system that detects events, which may be associated with related data, to provide an intelligent response signal and communicates the intelligent response signal to event responders. *See* Ex. 1006, code (57). Petitioner identifies structures and operations taught by Levesque that are similar to those that are taught by Moses to establish the elements of the Challenged Claims. *See* Pet. 41–67.

Patent Owner alleges that there are similar deficiencies with Levesque that were asserted to exist with Moses. Prelim. Resp. 26–29, 32–35. In addition, Patent Owner asserts that Petitioner fails to show Levesque discloses a prescriptive action “tailored based on a user role.” *Id.* at 29. Petitioner contends, however, that Levesque explains “[t]he intelligent response signal 128 can also include *specific response instructions* directed at a local POC, a regional POC, and a national POC,” and that a skilled artisan “would have understood that Levesque’s ‘specific response instructions’ would be tailored based on a user role.” Pet. 51–52 (citing Ex. 1006, 8:12–18; Ex. 1003 ¶ 197) (emphasis added by Petitioner); *see also id.* at 52–54 (citing Ex. 1006, 4:41–59; Ex. 1003 ¶¶ 198–199). On this record, we determine Petitioner has shown sufficiently that Levesque discloses a prescriptive action “tailored based on a user role.” Therefore, at this stage, after viewing the evidence and contentions asserted by Petitioner, we determine that Petitioner has established a reasonable likelihood that the Challenged Claims would have been obvious in view of Levesque.

IV. CONCLUSION

For the above reasons, we determine the information presented in the record establishes there is a reasonable likelihood that Petitioner would prevail with respect to at least one claim of the ’335 patent challenged in the Petition. Accordingly, we institute an *inter partes* review of claims 1–22 on all grounds presented in the Petition.

At this preliminary stage, we have not made a final determination with respect to the patentability of the Challenged Claims or any underlying factual or legal issue. Our final determination will be based on the record as developed during the *inter partes* review.

V. ORDER

Accordingly, it is:

ORDERED that, pursuant to 35 U.S.C. § 314(a), an *inter partes* review is instituted for claims 1–22 of the '335 patent on all grounds presented in the Petition; and

FURTHER ORDERED that pursuant to 35 U.S.C. § 314(c) and 37 C.F.R. § 42.4, notice is hereby given of the institution of a trial, which commences on the entry date of this Decision.

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