

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ADOBE INC.,
Petitioner,

v.

EXPRESS MOBILE, INC.,
Patent Owner.

IPR2021-01228
Patent 9,063,755 B2

Before JEFFREY S. SMITH, AARON W. MOORE, and
KRISTI L. R. SAWERT, *Administrative Patent Judges*.

SAWERT, *Administrative Patent Judge*.

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

I. INTRODUCTION

Adobe Inc. (“Petitioner”) filed a Petition for *inter partes* review of claims 1, 3, 5–7, 11, 12, 14, 16–18, and 22 of U.S. Patent No. 9,063,755 B2 (Ex. 1001, “the ’755 patent”). Paper 2 (“Pet.”). Express Mobile, Inc. (“Patent Owner”), filed a Preliminary Response. Paper 11 (“Prelim. Resp.”). On our authorization, Petitioner filed a Reply (Paper 13) and Patent Owner filed a Sur-Reply (Paper 14).

Under 35 U.S.C. § 314 and 37 C.F.R. § 42.4(a), we have authority to institute an *inter partes* review if “the information presented in the petition . . . and any response . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a). After considering the Petition, the Preliminary Response, the Reply, the Sur-Reply, and the evidence of record, we determine the information presented does not show a reasonable likelihood that Petitioner would prevail in establishing the unpatentability of at least one of the challenged claims of the ’755 patent. Accordingly, we do not institute an *inter partes* review of claims 1, 3, 5–7, 11, 12, 14, 16–18, and 22 of the ’755 patent on the grounds asserted in the Petition.

II. BACKGROUND

A. Related Matters

The parties identify several district court proceedings involving the ’755 patent. Pet. 86–89; Paper 5, 2–4 (Patent Owner’s Mandatory Notices). The parties also identify several Board proceedings involving the ’755 patent and related patents. Pet. 86; Paper 5, 2, 4–5.

B. Real Parties in Interest

Petitioner identifies Adobe Inc. and X.Commerce Inc. as real parties in interest. Pet. 86. Patent Owner identifies Express Mobile, Inc., as the real party in interest. Paper 5, 2.

C. Overview of the '755 patent

The technical field of the '755 patent relates to a platform for authoring software code for mobile devices. Ex. 1001, 1:8–10. A user of the authoring platform provides instructions for a mobile device in the form of device-specific instructions, referred to as a Player, and device-independent instructions, referred to as an Application. *Id.* at 5:8–15. The authoring tool can produce a plurality of Players for different devices, and a plurality of Applications for displaying pages on the devices. *Id.* at 5:42–49. The Player transforms device-independent instructions of the Application into device-specific instructions that are executable by the device. *Id.* at 5:56–58. Thus, the authoring tool can be used to design device-independent Applications, and can generate Players that specific devices then use to generate displays from the Applications. *Id.* at 6:12–17.

Figure 2A is reproduced below.

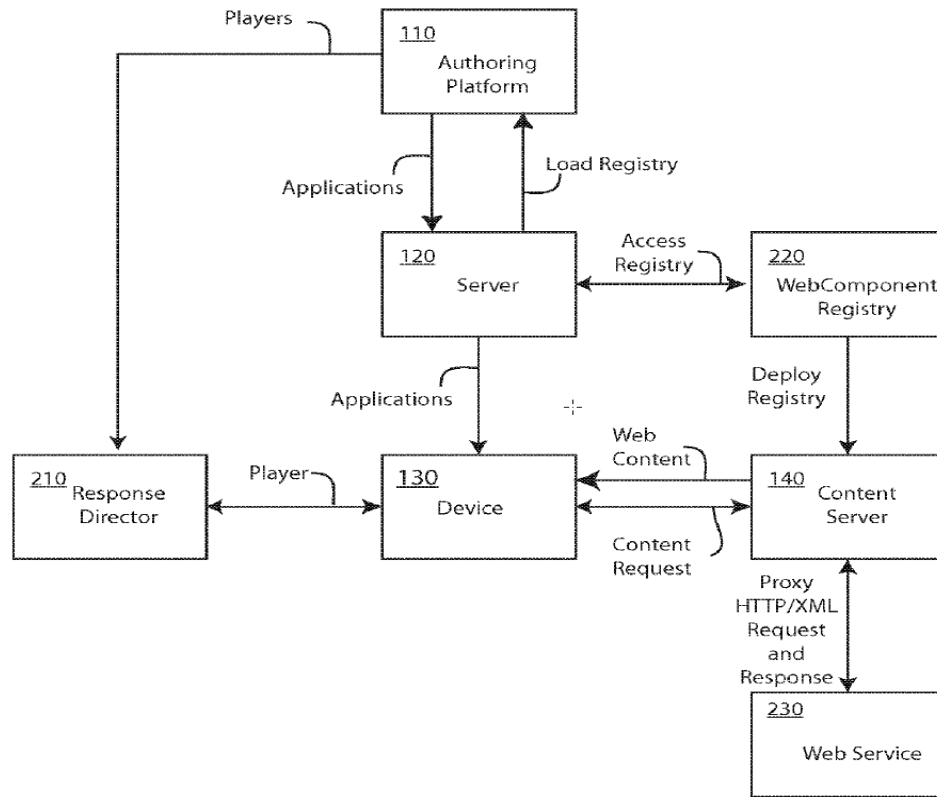


FIG. 2A

Fig. 2A “is a schematic of an embodiment of system illustrating the communications between different system components.”
Ex. 1001, 2:21–23.

Figure 2A illustrates the communications between different system components. *Id.* at 2:21–23. Authoring platform 110 generates one or more Players which are provided to response director 210. *Id.* at 8:7–9. Device 130 requests a Player from response director 210, and receives and installs the Player. *Id.* at 8:9–11. Web service 230 is a plurality of services obtainable over the Internet. *Id.* at 8:18–19. Each web service is identified in an entry in web component registry 220. *Id.* at 8:19–22. Web component registry 220 is provided through server 120 to authoring platform 110 so that a user of the authoring platform may bind web services 230 to elements to be displayed on device 130. *Id.* at 8:22–26. A web component registry 220

for each registered web service 230 is loaded into authoring platform 110. *Id.* at 8:54–56. The user of the authoring platform can then assign components of any web service 230 to an Application without any need to write code. *Id.* at 8:56–58.

D. The Challenged Claims

Petitioner challenges claims 1, 3, 5–7, 11, 12, 14, 16–18, and 22 of the '755 patent. Pet. 2. Claim 1 (directed to a system) and claim 12 (directed to a method) are independent. Claim 1 is reproduced below.

1. A system for generating code to provide content on a display of a device, said system comprising:

computer memory storing a registry of:

- a) symbolic names required for evoking one or more web components each related to a set of inputs and outputs of a web service obtainable over a network, where the symbolic names are character strings that do not contain either a persistent address or pointer to an output value accessible to the web service, and
- b) the address of the web service;

an authoring tool configured to:

define a user interface (UI) object for presentation on the display, where said UI object corresponds to the web component included in said registry selected from the group consisting of an input of the web service and an output of the web service,

access said computer memory to select the symbolic name corresponding to the web component of the defined UI object,

associate the selected symbolic name with the defined UI object,

produce an Application including the selected symbolic name of the defined UI object, where said Application is a device-independent code, and

produce a Player, where said Player is a device-dependent code;

such that, when the Application and Player are provided to the device and executed on the device, and when a user of the device provides one or more input values associated with an input symbolic name to an input of defined UI object,

- 1) the device provides the user provided one or more input values and corresponding input symbolic name to the web service,
- 2) the web service utilizes the input symbolic name and the user provided one or more input values for generating one or more output values having an associated output symbolic name,
- 3) said Player receives the output symbolic name and corresponding one or more output values and provides instructions for a display of the device to present an output value in the defined UI object.

Ex. 1001, 37:5–46.

E. Asserted Evidence

Petitioner submits the following evidence:

Evidence	Exhibit No.
Declaration of Ian Cullimore, Ph.D.	1002
U.S. Patent Publ. No. 2007/0118844 A1 (published May 24, 2007) (“Huang”)	1005
U.S. Patent Publ. No. 2006/0200749 A1 (published Sept. 7, 2006) (“Shenfield”)	1007

F. Asserted Ground of Unpatentability

Petitioner asserts the following ground of unpatentability:

Claims Challenged	35 U.S.C. §	References
1, 3, 5–7, 11, 12, 14, 16–18, 22	103(a) ¹	Huang, Shenfield

Pet. 2.

III. ANALYSIS

Petitioner contends that claims 1, 3, 5–7, 11, 12, 14, 16–18, and 22 of the '755 patent are unpatentable under 35 U.S.C. § 103 as obvious over prior-art references Huang and Shenfield. A patent claim is unpatentable under § 103(a) if the differences between the claimed subject matter and the prior art are such that the subject matter, as a whole, would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of underlying factual determinations, including (1) the scope and content of the prior art; (2) any differences between the claimed subject matter and the prior art; (3) the level of ordinary skill in the art; and (4) when in evidence, objective indicia of non-obviousness.² *Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966).

¹ The Leahy-Smith America Invents Act, Pub. L. No. 112-29, 125 Stat. 284 (2011) (“AIA”), amended 35 U.S.C. § 103. Because the '755 patent has an effective filing date before the effective date of the applicable AIA amendments, we refer to the pre-AIA version of 35 U.S.C. § 103.

² With respect to the fourth *Graham* factor, the parties at this time do not present arguments or evidence regarding objective indicia of non-obviousness. Therefore, the obviousness analysis at this stage of the proceeding is based on the first three *Graham* factors.

“In an [*inter partes* review], the petitioner has the burden from the onset to show with particularity why the patent it challenges is unpatentable.” *Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1363 (Fed. Cir. 2016) (citing 35 U.S.C. § 312(a)(3) (requiring *inter partes* review petitions to identify “with particularity . . . the evidence that supports the grounds for the challenge to each claim”)). This burden of persuasion never shifts to Patent Owner. *See Dynamic Drinkware, LLC v. Nat’l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015) (discussing the burden of proof in *inter partes* review).

A. Level of Ordinary Skill in the Art

We consider the asserted grounds of unpatentability in view of the understanding of a person of ordinary skill in the art. In assessing the level of ordinary skill in the art, various factors may be considered, including the “type of problems encountered in the art; prior art solutions to those problems; rapidity with which innovations are made; sophistication of the technology; and educational level of active workers in the field.” *In re GPAC Inc.*, 57 F.3d 1573, 1579 (Fed. Cir. 1995) (quoting *Custom Access, Inc. v. Jeffrey-Allan Indus., Inc.*, 807 F.2d 955, 962 (Fed. Cir. 1986)). “[O]ne or more factors may predominate.” *Id.*

Citing the Declaration of Dr. Cullimore, Petitioner contends that an ordinarily skilled artisan at the time of the invention “would have had a B.S. in Computer Science, Computer Engineering, or equivalent, plus two years working experience.” Pet. 3 (citing Ex. 1002 ¶ 15). Petitioner also contends that “[m]ore education can supplement practical experience and vice-versa.” *Id.* Patent Owner does not propose an alternative assessment of the level of ordinary skill in the art. *See generally* Prelim. Resp.

To the extent necessary, and for this Decision, we adopt Petitioner’s assessment of the level of ordinary skill in the art as it is consistent with the ’755 patent and the asserted prior art. *See Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001).

B. Claim Construction

In this *inter partes* review, we apply the same claim construction standard that would be used in a civil action under 35 U.S.C. § 282(b). 37 C.F.R. § 42.100(b). In applying this standard, we generally give claim terms their ordinary and customary meaning as would be understood by an ordinarily skilled artisan at the time of the invention and in the context of the entire patent disclosure. *See id.*; *see also Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–14 (Fed. Cir. 2005) (en banc).

Petitioner lists the constructions of certain claim terms in co-pending district-court litigations, and contends that “district courts’ constructions are stipulated or consistent with the intrinsic record.” *Id.* at 10–13. Patent Owner does not propose construing any claim terms. *See generally* Prelim. Resp. Because our determination below is not impacted by Petitioner’s proposed claim constructions, we need not expressly construe any claim term for this Decision. *See Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017) (holding that only claim terms in controversy need to be construed, and only to the extent necessary to resolve the controversy (citing *Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999))).

C. The Asserted Prior Art

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

1. Huang

Huang discloses a system for using web services as a data source for a software application. Ex. 1005, code (57). Figure 1A, reproduced below, shows an example of the system.

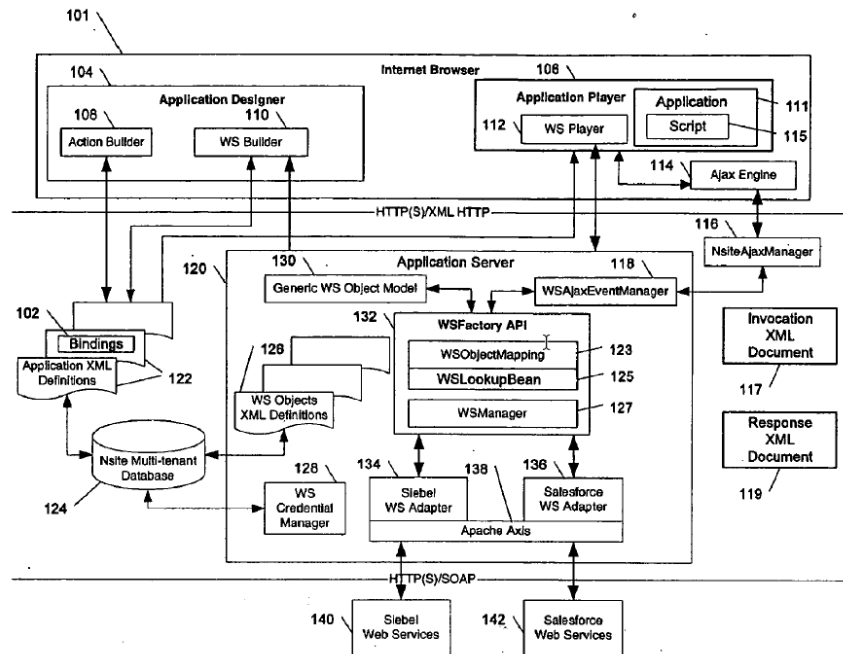


FIG. 1A

FIG. 1A “is an illustrative drawing of a system for developing and executing browser-based applications.” Ex. 1005 ¶ 9.

Figure 1A includes Application Designer 104 and Application Player 106. *Id.* ¶ 40. Application Designer 104 is a computer program that provides a user interface that allows a user to create application 111. *Id.* Application Player 106 is a computer program that executes application 111, receives values from web services, sends values to web services, and invokes other operations provided by web services. *Id.* Server 120 receives web service interaction requests from designer 104, such as a request for a list of objects provided by a web service, and interacts with web services provided by specific vendors. *Id.* ¶ 43. The components of server 120

Figure 1B shows application component 170, including value 192, which may be set by a user as a value of a text box or a drop-down list. *Id.* ¶ 57. Application component 170 is associated with script 196, which can access value 192. *Id.* Script 196 invokes engine 111 to perform web service interactions, such as setting and getting the value of web service attribute 155 associated with web service object 153 provided by vendor web service 156. *Id.* Each vendor web service 156 has a vendor-specific data model. *Id.* To allow designer 104 and player 106 to be vendor-independent and work with multiple web services without the need for vendor-specific code, generic WSOBJ 130 is provided to WSFactory server 120, which maps the generic WSOBJ to vendor-specific object 154. *Id.* Each vendor-specific object is mapped to the generic web services object by a definition stored in the XML mapping file. *Id.* ¶ 74. Applications interact with the generic web services object and need not contain hard-coded dependencies on vendor specific objects. *Id.*

2. Shenfield

Shenfield relates to “[a] system and method for converting a page-based application to a component based application configured for execution on a device.” Ex. 1007, code (57). According to Shenfield, page-based applications on web browsers “ha[d] a disadvantage of requesting pages (screen definitions in HTML) from the Web Service, which hinders the persistence of data contained in the screens.” *Id.* ¶ 5. Shenfield states that the disclosed conversion system and method transforms page-based applications to component-based applications “that can be run on client devices having a wide variety of runtime environments, as well as having a reduced consumption of device resources.” *Id.*

Shenfield's system comprises an "analyzer module for assembling a set of page metadata representing at least a portion of a selected page from the series of pages of the page-based application," "a data conversion module for converting the embedded data elements into a data component," "a message conversion module for converting the embedded messaging elements into a message component," and "a dependency module for generating a dependency link associated with an event corresponding to the embedded elements." *Id.* ¶ 8. Shenfield states that the dependency link describes "a workflow of the components in respect to operation of the component based application when executed on a user interface of the device." *Id.*

D. Asserted Obviousness over Huang and Shenfield

Petitioner contends that claims 1, 3, 5–7, 11, 12, 14, 16–18, and 22 of the '755 patent are unpatentable under 35 U.S.C. § 103(a) as obvious over Huang in view of Shenfield. Pet. 2, 13–76. In particular, Petitioner contends that Huang in combination with Shenfield teaches or suggests each and every limitation of the challenged claims. *Id.* Patent Owner opposes, relying on the Declaration of Kevin C. Almeroth, Ph.D. (Ex. 2003). Prelim. Resp. 8–33. In particular, Patent Owner argues that Huang and Shenfield fail to teach or suggest several claim limitations, including (1) "the device provides the user provided one or more input values and corresponding input symbolic name to the web service," *id.* at 11–19; and (2) "the web service utilizes the input symbolic name and the user provided one or more input values," *id.* at 19–22. We address these limitations below.

1. *“the device provides the user provided one or more input values and corresponding input symbolic name to the web service”*

Claim 1 recites that “the device provides the user provided one or more input values and corresponding input symbolic name to the web service.” Ex. 1001, 37:36–38. Petitioner contends that Huang discloses or renders this limitation obvious. Pet. 61–62. Petitioner does not rely on any of the teachings of Shenfield for this claim limitation.

Specifically, Petitioner maps the claimed “device” as a computer that hosts “Internet Browser 101,” *id.* at 59, and the claimed “symbolic name” to the name of a web service object, such as “OpportunityName,” as disclosed by Huang, *id.* at 61. Petitioner contends that an ordinarily skilled artisan would have understood that “*Huang* discloses that the user of the device provides one or more input values *associated with an input symbolic name to an input of the defined UI object* because . . . the user provides input to the web service, e.g., for setting an attribute of a web service object, which has a symbolic name (‘input symbolic name’) such as ‘OpportunityName.’” *Id.* (citing Ex. 1005, Fig. 4A). Petitioner contends that an ordinarily skilled artisan “would further have understood that a data value sent to a web service would be associated with symbolic name of the web service attribute bound to the application component because the web service would need this identifier to locate the attribute to which the input value relates.” *Id.* (citing Ex. 1002 ¶ 198).

Pointing to Figure 1D, Petitioner contends that “*Huang* shows that *the device provides the user provided one or more input values and corresponding input symbolic name to the web service.*” *Id.* (citing Ex. 1005, Fig. 1D). In particular, Petitioner contends that Figure 1D shows that “the value of the application component (‘BigCorp’) and the associated

symbolic name of the attribute (‘OppName’) can be sent to the web service, depending on the nature of the bindings.” *Id.* at 62 (citing Ex. 1005 ¶ 67).

Patent Owner, in response, argues that Huang fails to teach or suggest this claim limitation because Huang’s device does not provide “anything, including ‘one or more input values and corresponding input symbolic name’ ‘to the web service,’ as required by claim 1.” Prelim. Resp. 12. Specifically, Patent Owner argues that Huang’s device running the application player does not provide symbolic names to the web service, but instead, interacts with a generic web service object on an intermediary server. *Id.* at 13 (citing Ex. 1005 ¶ 57; Ex. 2003 ¶ 43). Patent Owner contends that this intermediary server converts the generic web service object and provides the result of the conversion to the web service. *Id.* at 13–14 (citing Ex. 1005 ¶ 57). Thus, according to Patent Owner, the device provides the input symbolic name to an intermediary server, which uses mapping to convert the input symbolic name, and then provides the converted name to the web service. *Id.* at 14–15 (citing Ex. 2003 ¶¶ 43–44).

Patent Owner also argues that Petitioner has not adequately explained how Huang’s device provides the input symbolic name to the web service. *Id.* at 17–19. Patent Owner contends that Dr. Cullimore’s statement—that an ordinarily skilled artisan “would have understood from Huang’s disclosures that Huang’s system associates the input value to the bound symbolic name, and both are sent to the web service because a POSITA would understand that raw data without any identifying information could not be used by a web service because the web service would have been unable to identify to what attribute the value relates”—is unsupported, and that Huang does not teach providing the symbolic name to the web service. *Id.* at 17 (citing Ex. 1002 ¶ 198). Patent Owner also contends that

Petitioner’s conclusion—that providing the symbolic name from the device to the web service would have been obvious—relies on hindsight and fails to account for Huang’s intermediary server and its function of converting information between the device and the web service. *Id.* at 17–18 (citing Ex. 1005 ¶ 169; Ex. 2003 ¶ 47). Patent Owner contends that, to the extent Huang’s device provides any input symbolic name, it only provides it to the intermediary server, which uses mapping to convert the name before it is provided to the web service. *Id.* at 18 (Ex. 2003 ¶ 47).

We agree with Patent Owner. As we stated previously,

Huang discloses that each vendor-specific object is mapped to the generic web service object by a definition stored in an XML mapping file. Ex. 1007 ¶¶ 44, 74. Huang discloses that WSOBJECTMapping 123 converts generic WS Object Model 130 to a vendor-specific adaptor, such as Siebel Web Service Adaptor 134 for interacting with Siebel Web Service 140. Ex. 1007 ¶¶ 44, 57. Contrary to Petitioner’s contention, Huang does not necessarily provide the claimed “input symbolic name” to the web service. Instead, Huang converts the input symbolic name to a vendor-specific adaptor, and uses the vendor specific adaptor to interact with the web service. Ex. 1007 ¶¶ 44, 57. On this record, we are not persuaded that Petitioner has sufficiently shown that the combination of Huang and Angelov teaches “the device provides . . . [the] corresponding input symbolic name to the web service” as recited in claim 1.

IPR2021-00709, Paper 7 (“the 709 Decision”), 14.

Although the Petition filed in IPR2021-00709 (“the 709 Petition,” Paper 1) presented an inherency argument, and Petitioner here presents an obviousness argument, we do not find this distinction persuasive, because the reasoning in both Petitions is similar. For example, Petitioner’s expert contends here that “*Huang’s* system associates the input value to the bound symbolic name, and both are sent to the web service because [an ordinarily

skilled artisan] would understand that raw data without any identifying information could not be used by a web service because the web service would have been unable to identify to what attribute the value relates.” Ex. 1002 ¶ 198; *see also* Pet. 61. This is substantially the same as the argument made in the 709 Petition—i.e., that “without the input symbolic name, *Huang’s* binding-based technique . . . would not be able to resolve which web service object to modify in response to the user’s request.” 709 Petition, 61. In this case, as in the 709 Petition, Petitioner does not address Huang’s disclosure of an intermediate server that converts a generic WS Object Model to a vendor-specific adaptor, then uses the vendor-specific adaptor to interact with the web service. On this record, we find that the web service, which receives a vendor-specific adaptor from the intermediate server, already knows to what attribute the value corresponds, without being modified in the manner proposed by Petitioner. *See* Ex. 2001 ¶¶ 46–47. Thus, a person of ordinary skill would not have had motivation to modify Huang so that “the device provides . . . [the] input symbolic name to the web service” as claimed.

Further, we agree with Patent Owner that Huang teaches away from the device providing the symbolic name to the web service. Patent Owner contends that Huang teaches away from a device directly communicating with a web service because Huang discloses that “[t]hat approach requires the application to know details about each vendor specific object, and ties the application to a particular web service vendor.” Prelim. Resp. 4–5 (quoting Ex. 1005 ¶ 74). In contrast, Petitioner, citing the same paragraph of Huang, contends that Huang teaches that the application on the device can call vendor specific objects directly, which teaches that conversion is not required. Reply 2–3 (citing Ex. 1005 ¶ 74).

“A reference may be said to teach away when a person of ordinary skill, upon reading the reference . . . would be led in a direction divergent from the path that was taken by the applicant.” *In re Fulton*, 391 F.3d 1195, 1201 (Fed. Cir. 2004). What the prior art teaches and whether it teaches toward or away from the claimed invention are determinations of fact. *Para-Ordnance Mfg., Inc. v. SGS Importers Int’l, Inc.*, 73 F.3d 1085, 1088 (Fed. Cir. 1995). Paragraph 74 of Huang, in its entirety, discloses:

One approach to invoking the web service object would be to call vendor-specific objects directly from applications. That approach requires the application to know details about each vendor specific object, and ties the application to a particular web services vendor. Therefore a generic web services object is introduced. Each vendor-specific object is mapped to the generic web services object by a definition stored in an XML mapping file. Applications interact with the generic web services object and need not contain hard-coded dependencies on vendor specific objects.

Ex. 1005 ¶ 74. In this paragraph, Huang is discussing the problem with calling a vendor-specific object directly from an application, and describing a solution of mapping each vendor-specific object to a generic web services object. *Id.* Huang teaches that with this solution, applications need not contain hard-coded dependencies on vendor specific objects. *Id.* Huang teaches that this solution allows the designer and the player to be vendor-independent and work with multiple web services without the need for vendor-specific code in the designer, player, or internet browser. *Id.* ¶ 57. A person of ordinary skill, upon reading Huang’s teaching that mapping each vendor-specific object to a generic web services object allows the designer and player to be vendor-independent, whereas calling vendor-specific objects without such mapping does not, would be led in a direction divergent from the path of “the device provides . . . [the] input symbolic

name to the web service” that was taken by the applicant. *Fulton*, 391 F.3d at 1201.

Lastly, we do not agree with Petitioner’s contention that Figure 1D of Huang shows an “express disclosure of this limitation” because the value “BigCorp” and term “OppName” are shown in the device and the web service. Pet. 62; Reply 2–4. Figure 1D, similar to Figure 1B, shows that an intermediate server converts generic object 130 to vendor-specific object 154 using mapping 123. Ex. 1005 ¶ 57; *see id.* ¶ 44.

2. “*the web service utilizes the input symbolic name and the user provided one or more input values*”

Claim 1 also recites that “the web service utilizes the input symbolic name.” Ex. 1001, 37:39–40. Petitioner contends that Huang discloses or renders this limitation obvious. Pet. 62–63. Petitioner does not rely on any of the teachings of Shenfield for this claim limitation.

Specifically, Petitioner contends that an ordinarily skilled artisan would have understood that Huang teaches this limitation because “*Huang discloses that an output of a web service can depend on an input value.*” Pet. 62 (citing Ex. 1005 ¶ 62). Petitioner also contends that by “requir[ing] both an input value and an identifier to understand what information it is receiving,” Huang’s web service “*thus utilizes the input symbolic name and the user provided one or more input values for generating one or more output values.*” *Id.* at 63 (citing Ex. 1002 ¶ 202).

Patent Owner, in response, argues that “the input symbolic name” receives antecedent basis earlier in the claim, and thus, must be “provided by the device.” Prelim. Resp. 19. Patent Owner argues that, as with the previous claim limitation, the web service of Huang “never receives the

input symbolic name from the device” and thus, the web service “can never utilize it.” *Id.* (citing Ex. 2003 ¶ 49).

Again, we agree with Patent Owner. Because the web service of Huang receives a converted name from the intermediary server, rather than “the input symbolic name” from the device as claimed, we are not persuaded that Petitioner has sufficiently shown that Huang teaches this limitation.

Supra § III.D.1.

3. Summary

For these reasons, we determine that Petitioner fails to sufficiently show for institution that Huang teaches or suggests each of these disputed limitations of claim 1. As noted above, Petitioner does not rely on the teachings of Shenfield for these limitations. Petitioner’s reliance on Shenfield for other claim limitations does not cure the deficiencies with respect to the two disputed claim limitations discussed above. The remaining challenged claims 3, 5–7, 11, 12, 14, 16–18, and 22 contain or depend from a claim containing limitations similar to those recited in claim 1. Because Petitioner has not shown sufficiently for institution a reasonable likelihood of prevailing with respect to claim 1, we also determine that Petitioner also has not shown sufficiently for institution a reasonable likelihood of prevailing with respect to claims 3, 5–7, 11, 12, 14, 16–18, and 22.

IV. CONCLUSION

For the foregoing reasons, we determine that the information presented in the Petition does not establish that there is a reasonable likelihood that Petitioner would prevail with respect to obviousness of

claims 1, 3, 5–7, 11, 12, 14, 16–18, and 22 of the '755 patent. Thus, we do not institute an *inter partes* review of the challenged claims.

V. DISCRETIONARY ISSUES

Because we deny institution on the merits, we do not reach the discretionary issues raised by Patent Owner. *See* Prelim. Resp. 33–58.

VI. ORDER

Accordingly, it is

ORDERED that the Petition is denied.

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Patent 9,063,755 B2

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