UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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LIBERTY MUTUAL INSURANCE CO.
Petitioner

v.

PROGRESSIVE CASUALTY INSURANCE CO.
Patent Owner

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Case CBM2013-00002 (JL)
U.S. Patent No. 7,877,269

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Before JAMESON LEE, JONI Y. CHANG, and MICHAEL R. ZECHER,
Administrative Patent Judges.

LEE, *Administrative Patent Judge*

DECISION
Institution of Covered Business Method Patent Review
37 C.F.R. § 42.208

I. INTRODUCTION

On October 2, 2012, Liberty Mutual Insurance Company ("Liberty") filed a petition ("Pet.") requesting review under the transitional program for covered business method patents of U.S. Patent 7,877,269 ("the '269 patent")(Ex. 1001). Paper 1. Patent owner, Progressive Casualty Insurance Company ("Progressive"), filed a preliminary response ("Prel. Resp.") on January 4, 2013. Paper 9. We have jurisdiction under 35 U.S.C. § 324.

The standard for instituting a covered business method patent review is set forth in 35 U.S.C. § 324(a), which provides:

> THRESHOLD –The Director may not authorize a post-grant review to be instituted unless the Director determines that the information presented in the petition filed under section 321, if such information is not rebutted, would demonstrate that it is more likely than not that at least 1 of the claims challenged in the petition is unpatentable.

Liberty challenges claims 1-59 of the '269 patent under 35 U.S.C. §§ 102 and 103 as being unpatentable. Pet. 14-79. Taking into account Progressive's preliminary response, we conclude that the information presented in the petition demonstrates that it is more likely than not that claims 1-59 are unpatentable. Pursuant to 35 U.S.C. § 324 and section 18(a) of the Leahy-Smith America Invents Act ("AIA"), we hereby authorize a covered business method patent review to be instituted as to claims 1-59.

A. Standing

Section 18 of the AIA governs the transitional program for covered business method patent reviews. Section 18(a)(1)(B) of the AIA limits such reviews to persons or their privies that have been sued or charged with infringement of a covered business method patent.

Liberty indicates that the '269 patent was asserted against it in *Progressive Cas. Ins. Co. v. Allstate Ins. Co. et al.,* Case No. 1:11-cv-00082, pending in the U.S. District Court for the Northern District of Ohio. Pet. 5. Progressive does not dispute that it asserted the '269 patent against Liberty.

B. Covered Business Method Patent

Under § 18(a)(1)(E) of the AIA, the Board may institute a transitional proceeding only for a patent that is a covered business method patent. Section 18(d)(1) of the AIA defines the term "covered business method patent" to mean:

> a patent that claims a method or corresponding apparatus for performing data processing or other operations used in the practice, administration, or management of a financial product or service, except that the term does not include patents for technological inventions.

The legislative history explains that the definition of covered business method patent was drafted to encompass patents "claiming activities that are financial or complementary to financial activity." 157 Cong. Rec. S5432 (daily ed. Sept. 8, 2011) (statement of Sen. Schumer).

Section 18(d)(2) of the AIA provides that "the Director shall issue regulations for determining whether a patent is for a technological

invention." The legislative history points out that the regulation for this determination should only exclude "those patents whose novelty turns on a technological innovation over the prior art and are concerned with a technical problem which is solved with a technical solution and which requires the claims to state the technical features which the inventor desires to protect." 157 CONG. REC. S1364 (daily ed. Mar. 8, 2011) (statement of Sen. Schumer).

Pursuant to that statutory mandate, the Office promulgated 37 C.F.R. § 42.301(b) to define the term "technological invention" for the purposes of the transitional program for covered business method patents. Therefore, for determining whether a patent is for a technological invention in the context of the transitional program for covered business method patents, 37 C.F.R. § 42.301(b) identifies the following for consideration:

> whether the claimed subject matter as a whole recites a technological feature that is novel and unobvious over the prior art; and solves a technical problem using a technical solution.

The determination of whether a patent is eligible for covered business method patent review is based on what the patent claims. A patent having even just one claim directed to a covered business method is eligible for review even if the patent includes additional claims.[1]

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[1] *Transitional Program for Covered Business Method Patents – Definitions of Covered Business Method Patent and Technological Invention; Final Rule*, 77 *Fed. Reg.* 48734, 48736 (Aug. 14, 2012) (Response to Comment 8).

Claim 53 of the '269 patent relates to how to provide an insurance service. Claim 53 begins with this preamble: "An on-line **insurance policy service** system**"** (emphasis added). Claim 53 ends with the recitation: "wherein the existing **insurance policy** comprises a **health, a property-casualty, or a liability insurance policy**" (emphasis added). Claim 53 also recites an interface that "enables **an insurance policy holder** to access personal and historical **insurance information** remotely through a policy accessible network and software linked to the **insurance information**," and a visual output configured "to transmit display data that renders a visual of the **insurance policy parameter** of the **insurance policy holder**" (emphasis added).

In addition, claim 53 recites three software modules (emphasis added):

> (1) an information module "to identify the **insurance policy holder** and verify an **insurance policy parameter** of an existing **insurance policy of that insurance policy holder** in response to data received from the **insurance policy holder** through the publicly accessible network and the interface";

> (2) an **insurance policy adjustment** module "that adjusts an **insurance policyholder's selected insurance policy parameter** in real time in response to second data received **from the insurance policyholder** through the publicly accessible network and the interface";

> (3) a payment module "that determines a cost of the **adjustment to an insurance premium** in response to the adjustment of the **insurance policyholder's** selected **insurance policy parameter**"

The insurance policy adjustment module also "communicates to the interface an acknowledgment comprising the **change in the insurance premium** resulting from the adjustment in the **insurance policyholder's** selected **insurance policy parameter**" (emphasis added).

It cannot be reasonably disputed that Progressive claims "an apparatus for performing data processing or other operations used in the practice, administration, or management of a financial product or service." Any one of health insurance, property-casualty insurance, and liability insurance as is recited in claim 53 is a financial product, and the activities recited in claim 53 about the insurance policy together constitute a financial service.

The question at issue here centers on the "technological invention" exception to a covered business method patent.

To qualify under the "technological invention" exception to covered business method patent review, it is not enough that the invention makes use of technological systems, features, or components. The exception is not that the claimed invention makes use of technology. We agree with Liberty that the subject matter of claim 53 does not satisfy the "technological invention" exception to covered business method patent review.

In determining whether a patent is for a technological invention, the following shall be considered (37 C.F.R. § 42.301(b)):

1. recites a technological feature that is novel and unobvious over the prior art, and
2. solves a technical problem using a technical solution.

With respect to the first prong, Progressive's argument (Prel. Resp. 7:4-5) that claim 53 as a whole is directed to technological features is misplaced. As we discussed above, simply making use of technology is not the test for meeting the "technological invention" exception. In that regard, the Office Patent Trial Practice Guide, 77 *Fed. Reg.* 48764 (Aug. 14, 2012), states:

> The following claim drafting techniques would not typically render a patent a technological invention:
>
> (a) Mere recitation of known technologies, such as computer hardware, communication or computer networks, software, memory, computer-readable storage medium, scanners, display devices or databases, or specialized machines, such as an ATM or point of sale device.

Progressive does not contend that any of the claimed components of claim 53 by themselves constitute a new technological feature, only that the combination of claim elements as a whole forms a new technological feature. The latter is unpersuasive in light of: (1) the claim itself, (2) the specification, and (3) the state of the art at the time of Progressive's invention.

As we have presented above, the insurance nature of the data being collected, transferred, received, and processed is not only an intended use of the claimed apparatus, but is fully integrated into every aspect and element of claim 53 such that it appears that the claimed invention as a whole has no other use but to collect, transfer, receive, and process insurance information in the particular manner as specified in the claim. If stripped of everything

related to collection and maintenance of insurance data and insurance policy parameters, there is nothing left but generic and well known components used in their ordinary manner to achieve a predictable result, such as an interface, a computer system that facilitates data transfer from the interface, software modules, and a visual output. In that regard, we see no technical innovation such as a faster computer and interface, and Progressive has identified none. The innovation colorably stems from the insurance nature of the data collected, transferred, received and processed.

The specification of the '269 patent does not describe any faster computer, more efficient interface, or a visual output with higher resolution. Instead, the specification omits detailed instructions on how to assemble and form each of the technical components and generally discusses simply what is to be accomplished. That is an indication that the technology used for practicing the claimed invention is merely conventional and well known to one with ordinary skill in the art.

Progressive argues that within the congressional record of the Leahy-Smith America Invents Act, Pub. L. No. 112-29, § 18, 125 Stat. 284, 331, are two examples of subject matter not covered under a covered business method patent review (Prel. Resp. 3:16 to 4:10):

> 1. A patent for a trading strategy would be subject to review, while an electronic trading tool, such as graphical user interface or network, which allows an electronic trader to place a trade order with an electronic exchange, would not. *See*, *e.g.*, Ex. 2004, at 2, 157 Cong. Rec. S5428 (daily ed. September 8, 2011)(statements of Sen. Schumer and Sen. Durbin)(discussing the *software tools* used to implement trading strategies).

2.   A patent that is directed at machinery to count, sort, and
authenticate currency and paper instruments also would not be
subject to review. *See, e.g., id.* (confirming that the technology
used to "count, sort, and authenticate currency and paper
instruments" are technological inventions).

The argument is unpersuasive. With respect to the first example, the

premise is that the trading strategy is not claimed and that the electronic

trading tool is itself novel and nonobvious apart from its association with the

trading strategy. In that regard, we have already noted that the Office Trial

Practice Guide provides that claim drafting techniques such as the inclusion

of known technologies would not typically render a patent a technological

invention. 77 *Fed. Reg.* 48764 (Aug. 14, 2012). With regard to the second

example, the subject matter of claim 53 is not directed at machinery to

count, sort, and authenticate currency and paper instruments.

We note that even the processing of data in an on-line network setting

in real-time was well known at the time of Progressive's invention, as is

evidenced by this definition of "real-time" from the IEEE Standard

Dictionary of Electrical and Electronics Terms, Sixth Edition (1996):[2]

Pertaining to a system or mode of operation in which
computation is performed during the actual time that an
external process occurs, in order that the computation results
can be used to control, monitor, or respond in a timely manner
to the external process. *Contrast*: batch. *See also*:
conversational; interactive; interrupt; on-line.

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[2]A copy of the IEEE dictionary definition of "real-time" is attached to this
opinion.

A system including software that processes data sent over a public network, *i.e.*, the Internet, in real-time is also described in "*Marketing of Insurance Over the Internet*," National Association of Insurance Commissioners (1998). Ex. 1007.

The specification of the '269 patent does not indicate that the named inventors were the first to invent on line processing of data in real-time. Nor does Progressive make that assertion in its preliminary response.

Therefore, on this record, the subject matter as a whole of claim 53 does not recite a novel and unobvious technical feature. All of the components as claimed, except the insurance nature of the data being processed, are known and operated in their ordinary and predictable manner.

We also conclude that the subject matter of claim 53 as a whole does not use a technical solution to solve a technical problem.

Progressive is correct that general classification of the '269 patent in the Patent and Trademark Office is of little relevance because the issue concerns a statutory "exception." However, the invention of claim 53 still does not solve a technical problem with a technical solution because there simply was no technical problem to be solved given the state of the technology at the time of Progressive's invention.

According to Progressive, the claimed modules provide a technical solution to the technical problem of allowing direct verification of insurance policy parameters by a user in real-time, direct adjustment of insurance policy parameters by a user in real-time, and direct confirmation back to the user in real-time, all without need of assistance from an insurance agent or

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representative. Prel. Resp. 12:1-14. However, the assertion is unpersuasive. It is misplaced because: (1) the technology useable for implementing direct and real-time identification of a user and direct and real-time verification of insurance parameter on-line over a publicly accessible network was generally available and required no technical innovation; (2) the technology useable for implementing real-time adjustment of a user's insurance policy parameters on-line over a publicly accessible network was also generally available and required no technical innovation; and (3) the technology useable for direct confirmation back to the user requesting the change in insurance parameters was also generally available and required no technical innovation. There was no technical problem in need of a technical solution.

Progressive asserts that "[t]raditionally, it was not possible to service insurance without the assistance of an insurer, agent, or representative." Prel. Resp. 10:11-13. Progressive further asserts: "Instead, once a customer purchased his/her insurance, the consumer had to work with an agent or other insurance company representatives in person to effect desired changes in his or her policy, such as adding or deleting a driver, changing, adding or deleting a vehicle, or changing policy limits, coverages or deductibles." Prel. Resp. 10:13-17. Those assertions do not relate to any "technical problem," but to a mere tradition which took time to change. Also, Progressive's characterization that it was "not possible to service insurance without the assistance of an insurer, agent, or representative" is incorrect from the point of view of the state of the art of the technology in

existence at the time of the invention, as we have already discussed at length above.

Therefore, the second prong for qualifying as a "technological invention" is also not satisfied.

For the foregoing reasons, the subject matter of claim 53 is not a "technological invention" under 37 C.F.R. § 42.301(b). Accordingly, the '269 patent is eligible for a covered business method patent review.

C. Prior Art Relied Upon

Liberty relies upon the following prior art references:

Lockwood	US 4,567,359	Jan. 28, 1986	Ex. 1008
Tawil	US 5,225,976	July 6, 1993	Ex. 1006

"*Marketing of Insurance Over the Internet*," National Association of Insurance Commissioners (1998)(Ex. 1007)(hereinafter "NAIC").

"*CIGNA© P&C Introduces ComputerGuard(TM) Insurance; Fills the Coverage Gaps Left by Many Homeowners Policies*," PR Newswire (Apr. 14, 1999)(Ex. 1004)(hereinafter "the ComputerGuard press release").

D. Alleged Grounds of Unpatentability

Liberty seeks review of claims 1-59 of the '269 patent based on the following alleged grounds of unpatentability:

1. claims 1-10, 12-16, 23-42, and 44-59 as anticipated under 35 U.S.C. § 102 by NAIC (Pet. 14-40);

2. claims 1-59 as unpatentable under 35 U.S.C. § 103(a) over NAIC (*id*. at 40-44);

3.   claims 10-12, 17-22, 29, and 54-56 as unpatentable under 35
U.S.C. § 103(a) over the combination of NAIC and Lockwood (*id*. at 44-49);

4.   claims 1-26, 28, 30-35, 37-43, 45-55, and 57-59 as anticipated
under 35 U.S.C. § 102 by the ComputerGuard press release (*id*. at 49-73);

5.   claims 1-59 as unpatentable under U.S.C. § 103(a) over the
ComputerGuard press release (*id*. at 73-77); and

6.   claims 35, 36, and 57-59 as unpatentable under 35 U.S.C.
§ 103(a) over the combination of the ComputerGuard press release and
Tawil. *Id*. at 77-79.

E. The Invention of the '269 Patent

The invention of the '269 patent generally relates to an insurance data
communication and processing system. Ex. 1001, spec. 1:12-19. In
particular, the insurance data processing system allows a policyholder to
access, view, and update insurance policy information via the Internet.
Ex. 1001, spec. 2:62-65. After the policyholder is authenticated, the system
retrieves and displays the information requested by the policyholder.
Ex. 1001, spec. 2:65-3:2. The system employs a friendly user-interface that
guides the policyholder through various activities. Ex. 1001, spec. 2:65-67.
Those activities include, but are not limited to: (1) reviewing billing
information, (2) making a payment via a credit card or on-line check, (3)
reviewing policy information, (4) reviewing state specific contract
information, (5) quoting and endorsing for vehicle replacement, (6) making
address changes, and (7) reviewing claim information. Ex. 1001, spec. 2:67-
3:4. The system displays both the premium amount and variance, and

updates the file of the policyholder at the request of the policyholder without the need for personal handling by an individual representative of the insurer or an independent agent. Ex. 1001, spec. 3:4-8.

Figure 2, which is reproduced below, illustrates a block diagram that identifies the principal processing modules of the insurance data processing system. Ex. 1001, spec. 2:48-49.
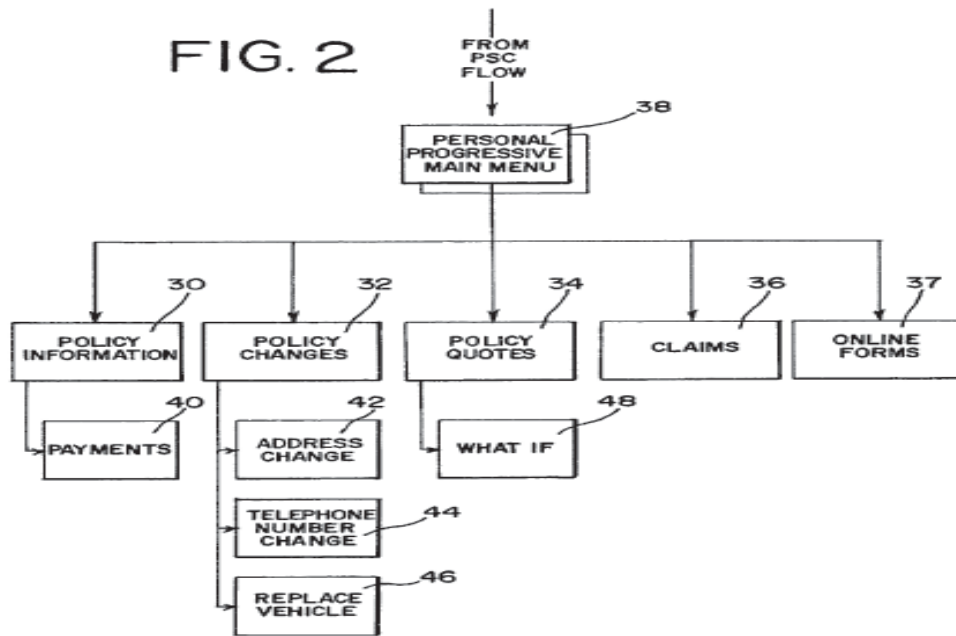
The insurance data processing system illustrated in Figure 2 is segregated into four critical areas of content: (1) policy information 30; (2) policy changes 32; (3) policy quotes 34; and (4) claims information 36. Ex. 1001, spec. 5:43-46. A prospective user can navigate to each module from the Personal Progressive main menu 38 by accessing web pages that specifically are designed to guide the policyholder to the desired information via clicks on alternative query marks or via input of necessary information. Ex. 1001,

spec. 5:46-51. Figure 2 also illustrates another module 37 that provides the policyholder with the ability to acquire on-line forms typically comprising duplicate insurance forms, such as identification cards and declaration page sets. Ex. 1001, spec. 5:55-58. As is shown in Figure 2, a payment module 40 can be accessed through the policy information module 30. Through the payment module 40, a prospective user can select a payment amount via the current amount due, and either pay in full or just the minimum amount using an on-line check or credit card. Ex. 1001 6:21-29.

F. Illustrative Claim

Claims 1, 10, 13, 15, and 53 are independent claims. Independent claim 1 is illustrative:

> 1. An on-line insurance policy service system comprising:
>
> a computer system that enables an insurance policyholder to access insurance data of an existing insurance policy remotely through a publicly accessible network and executes software embodied on a computer readable medium linked to the insurance data;
>
> an information module embodied on the computer readable medium and running on the computer system that identifies the insurance policyholder and verifies an insurance policy parameter of that insurance policyholder in real-time in response to data received from the insurance policyholder through a publicly accessible network;
>
> *an insurance policy adjustment module* embodied on the computer readable medium and running on the computer system *that adjusts an insurance policyholder's selected insurance policy parameter within the existing insurance policy in real-time in response to second data received from the*

insurance policyholder through the publicly accessible network; wherein the insurance policy adjustment module generates an insurance document customized to the insurance policyholder and sends the customized insurance document to the insurance policyholder in response to the second data received from the insurance policyholder through the publicly accessible network; and

wherein the existing insurance policy comprises a health, a property-casualty, or a liability insurance policy.

Ex. 1001, claims—spec. 9:2-31 (emphasis added).

II. FINDINGS OF FACT

The following findings of facts are supported by a preponderance of the evidence.

A. NAIC

1.   NAIC provides a detailed discussion of the Internet as it relates to insurance transactions, possible transactional guidelines, and other issues relating to on-line insurance transactions. Ex. 1007, pg. 1.[3] NAIC discloses that the Internet provides email and home page capabilities that allow a prospective consumer to communicate with insurance companies about changes to their respective insurance policies. Ex. 1007, pg. 4; *see also* pg. 9. NAIC discloses that the Internet provides instantaneous confirmation that an insurance company has complied with a consumer's instruction(s). *Id.* In addition, NAIC discloses that by establishing websites on the Internet,

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[3] All references to the page numbers in NAIC refer to the page numbers located at the bottom, middle portion of each page.

insurance companies have the ability to conduct instant transactions and communications. Ex. 1007, pg. 8; *see also* pg. 20.

2. NAIC discloses that automation vendors design websites that are integrated with agency management systems. Ex. 1007, pg. 17. NAIC discloses that those websites permit policyholders to access their insurance companies electronically to examine billing status, determine the type and amount of coverage, make changes to their policy, request quotes, and obtain information about other types of insurance coverage. *Id*. According to NAIC, the insurance industry views those websites as an opportunity to operate an insurance agency that is accessible to policyholders and consumers 24 hours a day. *Id*.

B. *Lockwood*

3. Lockwood generally relates to a system for automatically dispensing information, services, and products to customers in a self-service fashion. Ex. 1008, spec. 1:6-8. In particular, Lockwood discloses that the system may be used for automatically dispensing insurance quotations and policies. Ex. 1008, spec. 1:8-10.

4. Figure 1 of Lockwood, which is reproduced below, illustrates a system that comprises a data processing center 1 that includes a central processing unit 22 and memory 23. Ex. 1008, spec. 5:37-38.
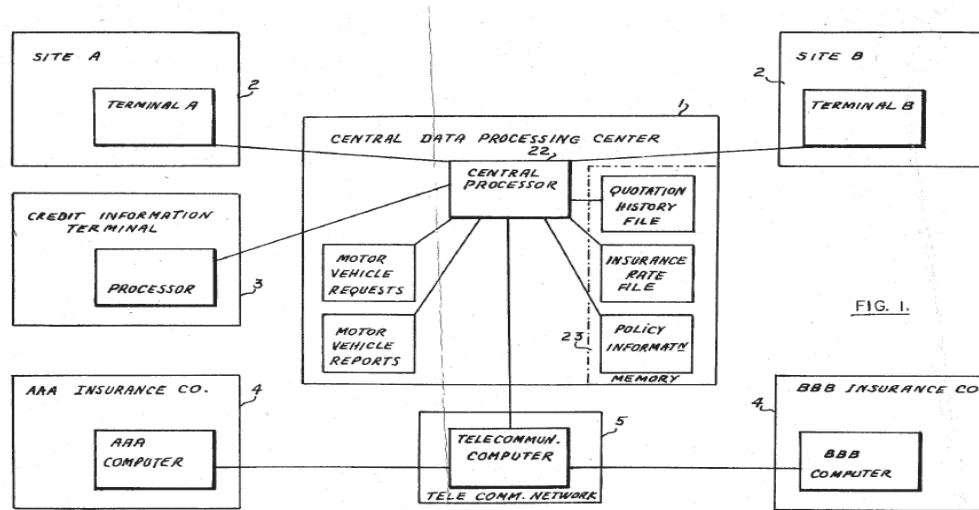
FIG. I.

Referring to Figure 1, Lockwood discloses that the processing unit 22 operates in response to program instructions to perform insurance quotation calculations based on customer information received from a terminal. Ex. 1008, spec. 3:51-55; 5:44-49; *see also* spec. 6:3-14.

5.   Lockwood discloses that all operations with respect to obtaining information, checking credit, transmitting information to respective companies, and issuing policies are carried out automatically. Ex. 1008, spec. 9:16-20.

III. CLAIM CONSTRUCTION

During a covered business method patent review, the Board construes claims by applying the broadest reasonable interpretation in light of the specification. 37 C.F.R. § 42.300(b). If the specification does not set forth an explicit or special definition for a claim term, we resort to its ordinary and customary meaning as would be understood by one with ordinary skill in the art. *See Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005)

(en banc). In some cases, the ordinary and customary meaning of a claim term as would be understood by one with ordinary skill in the art may be readily apparent even to lay judges, and claim construction in such cases involves little more than the application of the widely accepted meaning of commonly understood words. *See id.* at 1314.

Liberty has identified seven claim terms and its claim construction for those terms. Pet. 11-13. Those claim terms are listed as follows: (A) "enable[s] an insurance policyholder to access . . . insurance data/information;" (B) "information module," "insurance policy adjustment module," "payment module," "payment enablement module," "claims information module," and "policy quote(s) module;" (C) "insurance policy parameter;" (D) "real-time," "in response to and at the same rate;" (E) "personal security code;" (F) "adjustment;" and (G) "insurance document." As a step in our analysis for determining whether to institute a covered business method patent review, we will address each claim term identified by Liberty in turn.

A. *"Enable[s] an insurance policyholder to access . . . insurance data/information"*

Liberty construes the claim phrase "enable[s] an insurance policyholder to access . . . insurance data/information" to mean enabling an insurance policyholder or someone acting on his or her behalf to access insurance information located elsewhere. Pet. 12. Liberty contends that the specification of the '269 patent does not limit that claim phrase to direct

access by a policyholder. *Id*. In response, Progressive contends that Liberty's claim construction with respect to the claim term "insurance policyholder" is unreasonable. Prel. Resp. 15-18. Progressive argues that throughout the specification, the claim term "insurance policyholder" describes a person who holds ownership in an existing insurance policy rather than a person, such as an insurance agent or other insurance company personnel, acting on behalf of the insurance policy holder. *Id*. at 16-17 (citing to Ex. 1001, Abstract; spec. 1:41-53, 2:62-65, and 3:7-8). Moreover, Progressive alleges that the use of the claim term "an insurance policyholder" throughout the specification is consistent with its common understanding in the industry. *Id*. at 17. Progressive directs us to a dictionary of insurance terms that defines a "policyholder" as an "individual or other entity who owns an insurance policy" and "synonymous with policyowner." *Id*. at 17-18 (citing to Ex. 2007, Harvey W. Rubin, Dictionary of Insurance Terms, 3rd ed. (1995)).

Upon reviewing the specification, we do not find an explicit or special definition for the claim term "insurance policyholder." Therefore, we resort to its ordinary and customary meaning as would be understood by one with ordinary skill in the art. *See Phillips*, 415 F.3d at 1312. We agree that the dictionary definition offered by Progressive amounts to the broadest reasonable interpretation of the claim term "insurance policyholder." However, the claim phrase "enable[s] an insurance policyholder to access . . . insurance data/information" does not require the insurance policyholder to personally access the insurance information and, therefore, should not be

construed so narrowly to preclude someone acting on behalf of the insurance policyholder. We can find nothing in the specification indicating that access by an insurance policyholder is limited only to direct access by the insurance policyholder and excludes indirect access through someone acting on behalf of the insurance policyholder.

While we agree with Progressive that the claim term an "insurance policyholder" by itself constitutes a person who owns an existing insurance policy rather than someone acting on his or her behalf (Prel. Resp. 16-18), the key issue here centers on the entire claim phrase "enable[s] an insurance policyholder to access . . . insurance data/information." Progressive identifies two statements in the specification that purportedly support its view that access by an insurance policyholder must mean direct access by the insurance policyholder without someone acting on his or her behalf. *Id.* In one, the specification of the '269 patent states that:

> [t]he present invention contemplates a new and improved insurance policy service and delivery system for communicating changes in policy parameters to an insurer via an Internet on-line automated system, thereby obviating representative or agent personal involvement in the interfacing and communicating of policy parameter changes, policy changes and associated charge adjustments between the customer and the insurer.

Ex. 1001, spec. 1:51-58. In the other, the specification of the '269 patent states that "[a]ny way the insurer can reduce personnel involvement in addressing policyholder services is a way that can improve efficiency and reduce costs—costs that can be eliminated to result in lower rates to a

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consumer buying the insurance." Ex. 1001, spec. 1:46-50. However, those statements are inapposite because they pertain to allowing direct access by an insurance policyholder without personnel involvement from the insurer and do not prohibit indirect access through someone acting on behalf of the insurance policyholder, *e.g.*, an adult child acting on behalf of an elderly parent.

B. "Information module," "insurance policy adjustment module," "payment module," "payment enablement module," "claims information module," and "policy quote(s) module"

Liberty construes those claim terms to mean software associated with the functions as named for each "module" in the corresponding claims. Pet. 12 (citing to Ex. 1001, Abstract; spec. 3:27-31, 5:44-49). Progressive does not challenge Liberty's claim construction with respect to those claim terms. Because Liberty's claim construction is consistent with the specification of the '269 patent, we agree with Liberty's claim construction.

C. "Insurance policy parameter"

Liberty construes the claim term "insurance policy parameter" to mean any information relating to an insurance policy. Pet. 12 (citing to Ex. 1001, spec. 2:16-22, 3:35-4:44). Progressive does not challenge Liberty's claim construction with respect to that claim term. Because Liberty's claim construction is consistent with the specification of the '269 patent, we agree with Liberty's claim construction.

D. *"Real-time" and "in response to at the same rate"*

Liberty construes those claim terms to mean at the same or substantially the same time. Pet. 13 (citing Ex. 1001, spec. 2:3-7, 3:16-19). In response, Progressive contends that Liberty's proposed claim construction with respect to those claim terms is unreasonable because "substantially" is a relative term that does not provide a standard for measuring degree or scope. Prel. Resp. 18. Moreover, Progressive argues that Liberty does not identify an explicit or special definition for the claim terms "real-time," "in response to," and "at the same rate" in the intrinsic record and, therefore, Liberty has not overcome the presumption that those claim terms take on their ordinary and customary meaning. *Id.* at 19.

1. *"Real-time"*

Upon reviewing the specification, we do not find an explicit or special definition for the claim term "real-time." Therefore, we resort to its ordinary and customary meaning as would be understood by one with ordinary skill in the art. *See Phillips*, 415 F.3d at 1312. Accordingly, we construe the claim term "real-time" as "pertaining to a system or mode of operation in which computation is performed during the actual time that an external process occurs, in order that the computation results can be used to control, monitor, or respond in a timely manner to the external process. *Contrast*: batch. *See also*: conversational; interactive; interrupt; on-line." The IEEE Standard Dictionary of Electrical and Electronics Terms, 6th ed. (1996).

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2. *"In response to and at the same rate"*

Our findings and determination regarding the claim term "in response to and at the same rate" are set forth in Section IV ("All Alleged Grounds of Unpatentability as to Claims 10-12") of this decision.

E. *"Personal Security Code"*

Liberty construes the claim term "personal security code" to mean data personal to a user that provides secure access to information. Pet. 13 (citing to Ex. 1001, spec. 3:11-15, 5:11-43). In response, Progressive contends that the Liberty's proposed claim construction is unreasonable to the extent that the code is personal to a user other than the insurance policyholder. Prel. Resp. 18. However, we note that Liberty's proposed claim construction does not include code that is personal to a user other than the insurance policyholder. Because Liberty's claim construction is be consistent with the specification of the '269 patent, we agree with Liberty's claim construction.

F. *"Adjustment"*

Liberty construes the claim term "adjustment" to mean any change, modification, or update. Pet. 13 (citing to Ex. 1001, spec. 1:61-2:7, 7:62-8:17). Progressive does not challenge Liberty's claim construction with respect to that claim term. Because Liberty's claim construction is consistent with the specification of the '269 patent, we agree with Liberty's claim construction.

G. "Insurance document"

Liberty construes the claim term "insurance document" to mean any document related to an insurance policy. Pet. 13 (citing to Ex. 1001, independent claim 1). Progressive does not challenge Liberty's claim construction with respect to that claim term. Because Liberty's claim construction is consistent with the specification of the '269 patent, we agree with Liberty's claim construction.

IV. ALL ALLEGED GROUNDS OF UNPATENTABILITY AS TO CLAIMS 10-12

Liberty alleges that claims 10-12 are unpatentable under 35 U.S.C. §§ 102 and 103 based on various combinations of NAIC, Lockwood, the ComputerGuard press release, and Tawil. (Pet. 14, 41, 44, 49, and 73.) As a first step in our analysis for determining whether Liberty's petition has demonstrated that it is more likely than not that claims 10-12 are unpatentable over the cited prior art, we determine the meaning of the claims. *Oakley, Inc., v. Sunglass Hut Int'l*, 316 F.3d 1331, 1339 (Fed. Cir. 2003) (Both anticipation and obviousness are two step inquiries; the first step is to determine the scope and meaning of the claims being challenged, and the second step in the analysis requires a comparison of the properly construed claim to the prior art.). We also review the specification because it is always highly relevant to the claim construction analysis. *Phillips*, 415 F.3d at 1317 (The specification is the single best guide to the meaning of a disputed term.)

Based on our claim construction analysis, we discern no reasonable construction that can properly be adopted which would render claims 10-12 definite, and we cannot find sufficient written description for the claimed subject matter. Because the claims fail to particularly point out and distinctly claim an invention and are not supported by the original disclosure, we deny the prior art grounds of unpatentability asserted by Liberty as to claims 10-12.[4] *See In re Steele*, 305 F.2d 859, 862-63 (CCPA 1962) (the prior art grounds of unpatentability must fall, *pro forma*, because they are based on speculative assumption as to the meaning of the claims). Rather, we authorize a covered business method patent review of claims 10-12 based on the grounds of unpatentability under 35 U.S.C. § 112, ¶ 2, as being indefinite, and under 35 U.S.C. § 112, ¶ 1, as failing to comply with the written description requirement.[5]

Patent claims serve an important public notice function. *See General Elec. Co. v. Wabash Appliance Corp.*, 304 U.S. 364, 369 (1938). The scope of the claims must be sufficiently definite to inform the public of the bounds of the protected invention, *i.e.*, what subject matter is covered by the exclusive rights of the patent. *Halliburton Energy Servs. v. MI, LLC*, 514

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[4] Our decision in this regard is based solely on the indefiniteness and lack of written description of the claimed subject matter and does not reflect on the adequacy of the prior art evidence applied in support of the asserted grounds.

[5] Section 4(c) of the AIA re-designated 35 U.S.C. § 112, ¶¶ 1 and 2, as 35 U.S.C. §§ 112(a) and (b). Because the '269 patent has a filing date before September 16, 2012 (effective date), we will refer to the pre-AIA version of 35 U.S.C. § 112.

F.3d 1244, 1249 (Fed. Cir. 2008). The test for whether a claim meets the
definiteness requirement is whether a person of ordinary skill in the art
would have understood the scope of the claim when read in light of the
specification. *Exxon Research and Engineering Co. v. United States*, 265
F.3d 1371, 1375 (Fed. Cir. 2001); *Personalized Media Communications v.
Int'l Trade Comm'n*, 161 F.3d 696, 705 (Fed. Cir. 1998).

In this proceeding, we determine that one of ordinary skill in the art
could not have discerned the scope of claims 10-12 because the phrase "in
response to and at the same rate" as used in the claims is indefinite.
Claims 11-12 depend from claim 10. Claim 10 is representative and recites:

An on-line insurance policy service system comprising:

a browser that enables an insurance policyholder to
access remote insurance information and software linked to the
remote insurance information;

a publicly accessible network that facilitates data
transfers from the browser;

an information module remote from the browser coupled
to the publicly accessible network that *identifies* the insurance
policyholder and *verifies* an insurance policy parameter of that
insurance policyholder **in response to and at the same rate**
data is received from the insurance policyholder through the
publicly accessible network and the browser; and

an insurance policy adjustment module remote from the
browser coupled to the publicly accessible network that *adjusts*
an insurance policyholder's selected insurance policy parameter
in response to and at the same rate *second data is received*
from the insurance policyholder through the publicly accessible
network and the browser;

>   a payment module remote from the browser coupled to
> the publicly accessible network that determines a cost of the
> adjustment to an insurance premium in response to the
> adjustment of the insurance policyholder's selected insurance
> policy parameter;

>   wherein the insurance policy adjustment module
> communicates to the browser an acknowledgement comprising
> the change in the insurance premium resulting from the
> adjustment in the insurance policyholder's selected insurance
> policy parameter. Emphasis added.

Liberty contends that the phrase "in response to and at the same rate"
and the term "real-time" have the same construction, namely "at the same
time or substantially the same time." Pet. 13. We do not agree with
Liberty's contention.

Liberty fails to explain how "rate" and "time," which are different
measures, could have the same meaning. The term "rate" has the meaning
of "a certain amount of one thing considered in relation to a unit of another
thing"[6] (*e.g.*, 100 Megabits **per** second). In contrast, "real-time" relates to
an absolute time interval and not something that is "per" unit-time or "per"
anything. A time interval or duration is not a rate. We conclude that the
phrase "in response to and *at the same rate*" does not have the same
meaning as "real-time."

The problem we have with the claim language is that it requires the
insurance system to *identify* and *verify* the policyholder information *at the*

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[6] *Random House Webster's College Dictionary* (2nd ed. 1999).

same rate as *data is received* from the policyholder, and requires the insurance system to *adjust* a parameter **at the same rate** as *second data is received* from the policyholder. The claim requires the insurance system to perform those functions ("identifying," "verifying," and "adjusting") at the same rate as the data transfer rate of the policyholder information sent over a public network. However, it is ambiguous which rates as to identifying, verifying, and adjusting are compared with the data transfer rate of a public network (*e.g.*, the Internet and bits per second). Possible choices range from user level rates such as "policies per day" to computer execution level rates such as "instructions per cycle" and include everything in between. At each level, the conceptual focus is different and the unit rate is different, thus leading to ambiguity on which rate is to be compared with the data transfer rate on a public network.

Even assuming that the language is merely broad and that the processing rate at any one of the multitude of levels which can be used for comparison with the data transfer rate of a public network, it is ambiguous what test or standard is to be used to determine when it is the case that a processing rate is the same as a data transfer rate. One with ordinary skill in the art would not know whether the limitation is or is not met and thus whether an element is or is not within the scope of the claim.

The specification contains no guidance on what processing rate at which level and moment is to be compared to a data transfer rate, and provides no standard for determining when it is the case that a processing rate is deemed to be the same as a data transfer rate. We discern no

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reasonable construction that can properly be adopted which would render the claims definite. Based on this record, a preponderance of evidence supports the conclusion that claims 10-12 are indefinite.

We further conclude that the original disclosure of the '269 patent lacks written description for the subject matter of claims 10-12. *See In re Wright*, 866 F.2d 422 (Fed. Cir. 1989); *In re Rasmussen*, 650 F.2d 1212, 1214 (CCPA 1981) (An amendment to the claims must be supported by the original disclosure of the invention.). The test for determining compliance with the written description requirement under 35 U.S.C. § 112, ¶ 1, is whether the disclosure of the application as originally filed reasonably conveys to the artisan that the inventor had possession at that time of the later claimed subject matter. *Ariad Pharm., Inc. v. Eli Lilly & Co.*, 598 F.3d 1336, 1351 (Fed. Cir. 2010) (en banc); *In re Kaslow*. 707 F.2d 1366, 1375 (Fed. Cir. 1983).

Here, none of the originally-filed claims of the '269 patent contains the phrase "in response to and *at the same rate*." When Progressive amended the claim[7] to overcome the Examiner's obviousness rejection by changing "in *real-time* in response to data received from the insurance policyholder" to "in response to and *at the same rate* data is received from the insurance policy holder," Progressive did not point out the portion of the specification that supports the amended claim. Application 11/580,324, Amendment filed Sept. 1, 2010, pages 4 and 14. In fact, the specification of

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[7] Amended claim 45 was issued as claim 10 in the '269 patent.

the '269 patent contains no description of the matter added by the amendment.

The specification merely describes the invention as providing "real-time" communications between the policyholder and the insurer's computer system, but nothing on data transfer rates or system performance rates. (*See, e.g.*, '269 patent, col. 1:62-67 ("In accordance with the present invention, there is disclosed a method and apparatus for Internet on-line insurance policy service and delivery for *real-time* automated selective adjustment…"); col. 2:3-7 ("A policy adjustment module selectively communicates parameter changes made by the user to the insurer's computer system and the computer than generates in *real-time* the resulting policy cost attributable to the parameter change.")(Emphasis added.)). As we concluded above, "in response to and *at the same rate*" does not have the same meaning as "real-time." Therefore, the specification fails to provide written description support for the claim limitations that contain the phrase "in response to and *at the same rate*."

For the foregoing reasons, we authorize a covered business method patent review of claims 10-12 based on the grounds of unpatentability under 35 U.S.C. § 112, ¶ 2, as being indefinite, and under 35 U.S.C. § 112, ¶ 1, as failing to comply with the written description requirement. We recognize that the parties have not had the opportunity to brief us on those issues. As provided in Section VII ("Order") of this decision, we authorize Liberty to file a brief as to those issues. Progressive may reply to Liberty's brief in its patent owner response and/or file a motion to amend the claims.

V. ALLEGED GROUNDS OF UNPATENTABILITY BASED IN WHOLE OR IN PART ON NAIC AS TO CLAIMS 1-9 and 13-59

A. 35 U.S.C. § 103(a) Ground of Unpatentability — Claims 1-9 and 13-59 as Unpatentable Over NAIC

1. Principles of Law

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

2. Contentions

Liberty contends that claims 1-9 and 13-59 are unpatentable over NAIC. Pet. 40-44. In particular, Liberty asserts that the claimed subject matter recited in claims 1-9, 13-16, 23-42, and 44-59 would have been obvious to one of ordinary skill in the art in view of NAIC's express disclosure. *Id*. at 15-41. In addition, Liberty alleges that NAIC teaches the claimed subject matter recited in claims 17-23, and 43. *Id*. at 41-44.

In response, Progressive contends that Liberty fails to satisfy is burden of showing that claims 1-9, 13-16, 23-42, and 44-59 would have

been unpatentable over NAIC. Prel. Resp. 59. Progressive argues that

Liberty fails to provide sufficient analysis or explanation regarding why one

of ordinary skill in the art would have found the claimed subject matter

obvious. *Id.* at 60. Progressive also asserts that NAIC fails to disclose an

insurance policy adjustment module that adjusts an insurance policyholder's

insurance parameter in real-time and in response to data received from the

insurance policyholder through the publicly accessible network, as required

by independent claims 1, 13, 15, and 53. Prel. Resp. 36-54. We do not

agree with Progressive's arguments.

3. Analysis

NAIC discloses allowing a prospective consumer to communicate

with insurance companies about changes to their respective insurance

policies via the Internet. Pet. 18-21 (citing to Ex. 1007, pgs. 4 and 9).

NAIC also discloses that the Internet provides each consumer with

instantaneous confirmation that their insurance company has complied with

his or her instructions. *Id.* In addition, NAIC discloses that insurance

companies may establish websites on the Internet, thereby providing

consumers with the ability to conduct instant transactions and

communications. Ex. 1007, pg. 8; *see also* pg. 20. The reference in NAIC

to instantaneous confirmation of compliance with customer instructions

reflects a mode of operation in which action is performed during the actual

time that the instructions occur, such that the results are timely with respect

to the instructions. Therefore, consistent with our claim construction *supra,*

we conclude that one of ordinary skill in the art would have understood that

NAIC teaches the claimed "insurance policy adjustment module" feature and corresponding "real-time" adjustment aspect required by independent claims 1, 13, 15, and 53. Contrary to Progressive's arguments (Prel. Resp. 59), Liberty has met its burden of demonstrating that claims 1-9, 13-16, 23-42, and 44-59 are more likely than not unpatentable over NAIC.

We are not persuaded by Progressive's argument that Liberty fails to provide sufficient analysis or explanation regarding why the claimed subject matter recited in claims 1-9, 13-16, 23-42, and 44-59 would have been obvious to one with ordinary skill in the art. Prel. Resp. 60. In the petition, Liberty provides a detailed claim chart that indicates the textual portions of NAIC relied upon to teach the claimed subject matter recited in those claims. Pet. 15-41.

We are not persuaded by Progressive's argument that Liberty's alleged obviousness challenge over NAIC does not provide any new analysis, facts, evidence, or explanation relating to the knowledge of those skilled in the art. Prel. Resp. 60. NAIC is a white paper, *i.e.*, an authoritative report or guide, which by itself reflects the appropriate skill level in the insurance-related art. Ex. 1007, pg. 8—Executive Summary. *See Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001).

For the foregoing reasons, we conclude that Liberty's petition demonstrates that it is more likely than not that claims 1-9, 13-16, 23-42, and 44-59 of the '269 patent would have been unpatentable over NAIC. With respect to claims 17-23 and 43, Progressive relies upon essentially the same arguments presented for independent claim 15. Prel. Resp. 61-62. The

explanations provided by Liberty as to how NAIC teaches the claimed

subject matter recited in claims 17-23 and 43 appear to have merit and are

otherwise unrebutted. Therefore, we also conclude that Liberty has

demonstrated that it is more likely than not that claims 17-23, and 43of the

'269 patent would have been unpatentable over NAIC.

B. 35 U.S.C. § 103(a) Ground of Unpatentability — Claims 17-22, 29, and 54-56 as Unpatentable Over the Combination of NAIC and Lockwood

1. Contentions

Liberty contends that claims 17-22, 29, and 54-56 are unpatentable

over the combination of NAIC and Lockwood. Pet. 44-49. In particular,

Liberty asserts that the claimed subject matter recited in claims 17-22, 29,

and 54-56 would have been obvious to one of ordinary skill in the art in

view of the collective teachings of NAIC and Lockwood. *Id*. at 45-49. In

addition, Liberty provides an articulated reason with a rational underpinning

to justify the legal conclusion of obviousness. *Id*. at 44-45.

In response, Progressive contends that Liberty only relies upon

Lockwood for the features unique to claims 17-22, 29, and 54-56, and does

not explain how Lockwood overcomes the shortcomings of NAIC for the

other features recited in independent claims 15 and 53. Prel. Resp. 62-63.

Therefore, Progressive argues that Liberty fails to demonstrate that it is more

likely than not claims 17-22, 29, and 54-56 are unpatentable over the

combination of NAIC and Lockwood for the same reasons discussed above

with respect to independent claims 15 and 53. *Id*. at 62-63.

2. Analysis

Progressive relies upon essentially the same arguments set forth in response to the alleged anticipation challenge of independent claims 15 and 53 based on NAIC to rebut the alleged obviousness challenge of claims 17-22, 29, and 54-56 based on the combination of NAIC and Lockwood. As set forth in our discussion of the alleged obviousness challenge of independent claims 15 and 53 based on NAIC, we found those arguments unpersuasive. In particular, we addressed Progressive's arguments as to whether NAIC teaches the claimed "insurance policy adjustment module" feature and corresponding "real-time" adjustment aspect required by independent claims 15 and 53, and ultimately determined that the textual portions of NAIC relied upon by Liberty—namely Ex. 1007, pgs. 4, 8, 9, and 20—teach that disputed claim limitation. Moreover, the explanations provided by Liberty as to how the combination of NAIC and Lockwood teaches the claimed subject matter recited in claims 17-22, 29, and 54-56 appear to have merit and are otherwise unrebutted.

For the foregoing reasons, we conclude that Liberty's petition demonstrates that it is more likely than not that claims 17-22, 29, and 54-56 of the '269 patent would have been unpatentable over the combination of NAIC and Lockwood.

C. 35 U.S.C. § 102 Ground of Unpatentability — Claims 1-9, 13-16, 23-42, and 44-59 as Anticipated by NAIC

Liberty contends that claims 13-16, 23-42, and 44-59 are anticipated under 35 U.S.C. § 102 by NAIC. Pet. 14-40. This alleged anticipation

challenge is unnecessary because it is cumulative in light of our conclusion that it is more likely than not that the same set of claims are unpatentable over NAIC. *See* 37 C.F.R. § 42.208(b). Accordingly, we deny Liberty's petition with respect to claims 13-16, 23-42, and 44-59 of the '269 patent on the ground of anticipation by NAIC.

VI. ALLEGED GROUNDS OF UNPATENTABILITY BASED IN WHOLE OR IN PART ON THE COMPUTERGUARD PRESS RELEASE

A. *Principle of Law*

Under section 18(a)(1)(C) of the AIA, a petitioner in a transitional proceeding who challenges the validity of one or more claims in a covered business method patent on grounds of unpatentability raised under §§ 102 and 103 may only support such grounds on the following basis:

> (i) prior art that is described by section 102(a) of such title (as in effect on the day before such effective date); or
> (ii) prior art that—
> (I) discloses the invention more than 1 year before the date of the application for patent in the United States;
> (II) would be described by section 102(a) of such title (as in effect on the day before the effective date set forth in section 3(n)(1)) if the disclosure has been made by another before invention thereof by the applicant for patent.

B. *Introduction*

In the petition, three grounds of unpatentability asserted by Liberty are based in whole or in part on the ComputerGuard press release. The ComputerGuard press release introduces a new ComputerGuard system

offered by CIGNA© Property & Casualty. Ex. 1004, pg. 1.[8] The
ComputerGuard press release does not expressly describe all of the claimed
subject matter recited in the '269 patent. Consequently, Liberty relies upon
Fenton as extrinsic evidence to establish that certain claim features are
inherently disclosed in the ComputerGuard system described in the
ComputerGuard press release. Pet. 49-50. Fenton is a U.S. patent
application (09/329,659) that was filed at the Office on June 10, 1999.
Ex. 1005. The '269 patent was filed at the Office on October 13, 2006, but
claims priority to U.S. patent application 09/364,803 filed on July 30,
1999—now U.S. Patent No. 7,124,088. Ex. 1001. Consequently, Fenton
was not published prior to July 30, 1999, and, therefore, does not qualify as
prior art under section 18(a)(1)(C) of the AIA. Nonetheless, Liberty relies
upon two figures in Fenton that nominally pertain to a ComputerGuard
system and the CIGNA© copyright to show what Liberty asserts must be
necessarily present in the ComputerGuard press release.

C. Contentions

Liberty contends that Fenton supports grounds of unpatentability
under 35 U.S.C. §§ 102 and 103 that are based in whole or in part on the
ComputerGuard press release because Fenton is evidence of features
necessarily present in the ComputerGuard system described in the
ComputerGuard press release. Pet. 49-50.

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[8] All references to the page numbers in the ComputerGuard press release
refer to the page numbers located in the top, right-hand corner of each page.

In response, Progressive contends that Liberty bears the burden of proving that Fenton was accessible to the public before July 30, 1999. Prel. Resp. 21-23. Progressive asserts that Fenton was not publically accessible before July 30, 1999, and, therefore, does not qualify as prior art under Section 18(a)(1)(C). *Id*. at 22. Further, Progressive contends that Liberty fails to explain why the features disclosed in Fenton are necessarily present in the ComputerGuard system described in the ComputerGuard press release—a crucial requirement for inherency. *Id*. at 23-28. We are persuaded by Progressive's arguments.

D. Analysis

We begin our analysis by determining whether the ComputerGuard press release qualifies as prior art for purposes of a covered business method patent review. According to section 18(a)(1)(C) of the AIA, a reference qualifies as prior art if it meets the requirements of 35 U.S.C. § 102(a) or it discloses the invention more than one year before the critical date of the covered business method patent in question. In this case, the '269 patent is accorded the benefit date of July 30, 1999. Ex. 1001. The publication date on the ComputerGuard press release is April 14, 1999. Ex. 1004, pg. 1. As such, ComputerGuard was publicly accessible more than three months prior to the accorded benefit date of the '269 patent—July 30, 1999. Therefore, we conclude that the ComputerGuard press release qualifies as prior art under 35 U.S.C. § 102(a), which in turn qualifies the ComputerGuard press release as prior art under section 18(a)(1)(C) of the AIA.

Although the ComputerGuard press release is the prior art reference underlying the three alleged grounds of unpatentability, Liberty cites primarily to Fenton and not to the ComputerGuard press release to support those grounds of unpatentability. Pet. 50-73. The ComputerGuard press release does not disclose specific structure or operative steps. According to Liberty, what is not expressly disclosed by the ComputerGuard press release, but necessary present to support the three alleged grounds of unpatentability based in whole or in part on the ComputerGuard press release, is disclosed in Fenton. Pet. 49-50. Therefore, Liberty relies on Fenton as extrinsic evidence for what is allegedly inherent in the ComputerGuard press release. *Id*. There are several problems with Liberty's approach.

First, Fenton by itself does not qualify as an applicable prior art reference and, therefore, cannot be applied directly against claims 1-59 of the '269 patent. Second, Fenton's disclosure also cannot be applied indirectly through the ComputerGuard press release that allegedly describes a common system. That is because Liberty relies on the ComputerGuard press release only as a publication describing a system named ComputerGuard. We do not know that an "actual" working system named ComputerGuard was known or used by others in this country prior to the accorded benefit date of the '269 patent—July 30, 1999. Therefore, even assuming that Fenton's disclosure is directed to the same ComputerGuard system described in the ComputerGuard press release, on this record, that disclosure was simply not in the public domain in any form (*e.g.*, in print or

as embodied in an actual working system) prior to the accorded benefit data
of the '269 patent—July 30, 1999.

Finally, for reasons discussed below, Liberty has not shown a
sufficient tie or link between Fenton and the ComputerGuard press release to
support its assertion that Fenton's disclosure is inherently contained in the
ComputerGuard system described in the ComputerGuard press release.
There is no requirement that one of ordinary skill in the art would have
recognized the inherent disclosure *at the time of invention*, but only that the
subject matter is in fact inherently disclosed in the prior art reference.
Schering Corp. v. Geneva Pharm. Inc., 339 F.3d 1373, 1377 (Fed. Cir.
2003)(emphasis added). However, according to the Federal Circuit:

> To establish inherency, the extrinsic evidence must make clear
> that the missing descriptive matter is necessarily present in the
> thing described in the reference, and that it would be so
> recognized by persons of ordinary skill. Inherency, however,
> may not be established by probabilities or possibilities. The
> mere fact that a certain thing may result from a given set of
> circumstances is not sufficient.

In re Robertson, 169 F.3d 743, 745 (Fed. Cir. 1999) (citations and internal
quotation marks omitted).

Here, Liberty attempts to establish that Fenton discloses various
inherent features of the ComputerGuard system described in the

ComputerGuard press release by pointing to specific figures and their corresponding description in Fenton. Pet. 49 (citing to Ex. 1005, pgs. 6-21,[9] Figs. 4-7G). According to Liberty, Figure 6F of Fenton illustrates a webpage printout of a ComputerGuard system, and Figure 6G of Fenton illustrates a webpage that was copyrighted by CIGNA© in 1999. *See id.* Liberty appears to assert that because Figure 6F of Fenton illustrates a ComputerGuard system, and CIGNA© issued the ComputerGuard press release, the ComputerGuard system disclosed in Fenton must be the same as the ComputerGuard system described in the ComputerGuard press release. *See id.* Based on those connections, Liberty relies upon Fenton to disclose the inherent features of the ComputerGuard system described in the ComputerGuard press release. Pet. 50-73.

The connections alleged by Liberty between the ComputerGuard systems described in both the ComputerGuard press release and Fenton are tenuous at best. For instance, it is mere speculation that the webpage illustrated in Figure 6F is directed to the same system described in the ComputerGuard press release, let alone that it is the same version of the system described in the ComputerGuard press release. Liberty simply has not shown that Figures 6F and 6G of Fenton and their corresponding description indeed disclose the same version of the same system presented in the ComputerGuard press release. *See Robertson*, 169 F.3d at 745. Therefore, we are not persuaded by Liberty's argument that the disclosure in

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[9] All references to the page numbers in Fenton refer to the page numbers located in the bottom, middle portion of each page.

Fenton is inherently contained in the ComputerGuard system described in the ComputerGuard press release.

For the foregoing reasons, we conclude that Liberty's petition has not demonstrated that is more likely than not that claims 1-9 and 13-59 of the '269 patent would have been unpatentable under 35 U.S.C. §§ 102 or 103(a) based in whole or in part on the ComputerGuard press release.

VII. ORDER

It is

ORDERED that pursuant to 35 U.S.C. § 324(a) and section 18(a) of the AIA, a covered business method patent review is hereby instituted as to claims 1-59 of the '269 patent for the following grounds of unpatentability:

A. claims 1-9 and 13-59 as unpatentable under 35 U.S.C. § 103(a) over NAIC;

B. claims 17-22, 29, and 54-56 as unpatentable under 35 U.S.C. § 103(a) over the combination of NAIC and Lockwood; and

C. claims 10-12 as unpatentable under 35 U.S.C. § 112, ¶ 2, as being indefinite, and under 35 U.S.C. § 112, ¶ 1, as failing to comply with the written description requirement;

FURTHER ORDERED that a covered business method patent review is hereby denied as to claims 1-59 of the '269 patent for the following grounds unpatentability:

A. claims 1-10, 12-16, 23-42, and 44-59 as anticipated 35 U.S.C. § 102 by NAIC;

B. claims 10-12 as unpatentable under 35 U.S.C. § 103(a) over NAIC;

     C. claims 1-26, 28, 30-35, 37-43, 45-55, and 57-59 as anticipated

        under 35 U.S.C. § 102 by the ComputerGuard press release;

     D. claims 1-59 as unpatentable under U.S.C. § 103(a) over the

        ComputerGuard press release; and

     E. claims 35, 36, and 57-59 as unpatentable under 35 U.S.C. § 103(a)

        over the combination of the ComputerGuard press release and

        Tawil;

FURTHER ORDERED that pursuant to 35 U.S.C. § 324(d) and 37 C.F.R. § 42.4, notice is hereby given of the institution of a trial. The trial will commence on the entry date of this decision;

FURTHER ORDERED that Liberty is authorized to file a brief limited to issues regarding the grounds that claims 10-12 are unpatentable under 35 U.S.C. § 112, ¶ 2, as being indefinite, and under 35 U.S.C. § 112, ¶ 1, as failing to comply with the written description requirement; the page limit for the brief is 5 pages; the brief must be filed no later than **five business days** from the entry date of this decision; and

FURTHER ORDERED that an initial conference call with the Board is scheduled for 2:00 PM on March 13, 2013. The parties are directed to the Office Trial Practice Guide, 77 *Fed. Reg*. 48756, 48765-66 (Aug. 14, 2012) for guidance in preparing for the initial conference call, and should come prepared to discuss any proposed changes to the Scheduling Order entered herewith and any motions the parties anticipate filing during the trial.

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The IEEE Standard Dictionary of Electrical and Electronics Terms

Sixth Edition

Standards Coordinating Committee 10, Terms and Definitions
Jane Radatz, Chair

This standard is one of a number of information technology dictionaries being developed by standards organizations accredited by the American National Standards Institute. This dictionary was developed under the sponsorship of voluntary standards organizations, using a consensus-based process.

realm *See:* area.

real number A member of the set of all positive and negative numbers, including integers, zero, mixed, fractional, rational, and irrational numbers. (C) 1084-1986w, 610.5-1990

real storage (1) The main storage portion of a virtual storage system. *Contrast:* virtual storage. (C) 610.12-1990
(2) The main storage in a virtual storage system. *Note:* Although real storage and main storage are physically identical, conceptually real storage represents only parts of the range of addresses available to the user of a virtual storage system, whereas, the main storage includes the total range of addresses available to the user. (C) 610.10-1994

real time (1) (emergency and standby power) (processing) Pertaining to the actual time during which a physical process transpires or pertaining to the performance of a computation during the actual time of related physical processing in order that results of the computation can be used in guiding the physical process. (IA) 446-1987s
(2) (analog computer) Using an ordinary clock as a time standard, the number of seconds measured between two events occurring in a physical system. By contrast, computer time is the number of seconds measured, with the same clock, between corresponding events in the simulated system. The ratio of the time interval between two events in a simulated system to the time interval between the corresponding events in the physical system is the time scale. Computer time is equal to the product of real time and the time scale. Real-time computation is computer operation in which the time scale is unity. Machine time is synonymous with computer time. *See also:* scale factor. (C) 165-1977w
(3) (software) Pertaining to a system or mode of operation in which computation is performed during the actual time that an external process occurs, in order that the computation results can be used to control, monitor, or respond in a timely manner to the external process. *Contrast:* batch. *See also:* conversational; interactive; interrupt; on-line. (C) 610.10-1994, 610.12-1990
(4) (modeling and simulation) In modeling and simulation, simulated time with the property that a given period of actual time represents the same period of time in the system being modeled; for example, in a simulation of a radar system, running the simulation for one second may result in the model advancing time by one second; that is, simulated time advances at the same rate as actual time. *Contrast:* fast time; slow time. (C) 610.3-1989
(5) An event or data transfer in which, unless accomplished within an allotted amount of time, the accomplishment of the action has either no value or diminishing value. (C/DIS) 1278.2-1995
(6) The real time, in seconds and fraction thereof, of acquisition of the spectrum. It is expressed as 14 characters including decimal point with leading zeros interpreted as zeros. (NPS) 1214-1992
(7) The actual time in the real world during which an event takes place. *Synonyms:* actual time; true time. (C) 610.10-1994

real-time clock A device that signals the computer at regular intervals in order that it may keep up with some external event. *See also:* time-of-day clock. (C) 610.10-1994

real-time printout (sequential events recording systems) The recording of actual time that an input signal was received as correlated to a time standard. (PE) [1], [5]

real-time service A service that satisfies timing constraints imposed by the service user. The timing constraints are user specific and should be such that the user will not be adversely affected by delays within the constraints. (C/DIS) 1278.2-1995

real-time system A system in which the correctness of a computation depends not only upon the results of the computations but also upon the time at which the outputs are generated. (BA/C) 896.3-1993

real-time testing (test, measurement, and diagnostic equipment) The testing of a system or its components at its normal operating frequency or timing. (MIL) [2]

real type A data type whose members can assume real numbers as values and can be operated on by real number arithmetic operations; such as addition, subtraction, multiplication, division, and square root. *Contrast:* character type; enumeration type; integer type; logical type. (C) 610.12-1990

real user ID (1) The attribute of a process that, at the time of process creation, identifies the user who created the process. This value is subject to change during the process lifetime. *See also:* user ID. (C/PA) 1003.5-1992, 9945-1-1996, 9945-2-1993
(2) The attribute of a process that, at the time of process creation, identifies the user who created the process. This value is subject to change during the process lifetime. *See also:* user ID. (C/PA) 1003.5b-1995

real variable A variable that may assume only real-number values. (C) 1084-1986w

real-world time The actual time in the real world, expressed as Universal Coordinated Time (UTC). (C/DIS) 1278.1-1995

reasoning system In the context of AI-ESTATE, a system that can combine elements of knowledge to draw conclusions. (ATL) 1232-1995

reassembly The function in the DQDB layer that provides for the reconstruction of an initial MAC protocol data unit (IMPDU). Reassembly is performed by concatenating the segmentation units received in derived MAC protocol data units (DMPDUs). This is the inverse process to segmentation. (C/LM) 8802-6-1994

reboot fileset A fileset which, if installed, requires reboot of the operating system to complete its installation, and denoted by having the value of its *is_reboot* attribute set to true. (C/PA) 1387.2-1995

rebooting An implementation-defined procedure generally used to terminate and then restart operations on the target system. (C/PA) 1387.2-1995

recalescent point The temperature at which there is a sudden liberation of heat when metals are lowered in temperature. *See also:* coupling; induction heating. (IA) 169-1955w, 54-1955w

receipt of a CCS message *See:* receipt of a CCS signal.

receipt of a CCS signal Occurs when the signal or complete message becomes available for acceptance by the processor (that is, stored in the input buffer). *Synonym:* receipt of a CCS message. (COM) 973-1990w

receipt of a per-trunk-signaling supervisory signal Occurs when the state transition that begins the signal is received (that is, E-lead signal or loop open or closure). All times noted are exclusive of hit timing. (COM) 973-1990w

receive (1) The acoustic output of a telephone set due to an electrical input to the telephone set or connecting test circuit. (COM) 269-1992
(2) The acoustic output of a handset or headset due to an electrical input to the device or connecting test circuit. (COM) 1206-1994

receive channel A channel used within a data circuit to receive data. *Contrast:* transmit channel. (C) 610.10-1994

receive characteristic (telephony) The acoustic output level of a telephone set as a function of the electrical input level. The output is measured in an artificial ear, and the input signal is obtained from an available constant-power source of specified impedance. (IA) [123], 169-1955w

received power (mobile communication) The root-mean-square value of radio-frequency power that is delivered to a load that correctly terminates an isotropic reference antenna. The reference antenna most commonly used is the half-wave dipole. *See also:* mobile communication system. (VT) [37]

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ratch′et wheel′, *n.* a wheel, with teeth on the edge, into which a pawl drops or catches, as to prevent reversal of motion or convert reciprocating motion into rotatory motion. [1770–80]

rate[1] (rāt), *n., v.,* rat•ed, rat•ing. —*n.* **1.** the amount of a charge or payment with reference to some basis of calculation: *a high rate of interest on loans.* **2.** a certain amount of one thing considered in relation to a unit of another thing: *at the rate of 60 miles an hour.* **3.** a fixed charge per unit of quantity: *a rate of 10 cents a pound.* **4.** degree of speed or progress: *to work at a rapid rate.* **5.** assigned position in any of a series of graded classes; rating. **6.** the premium charge per unit of insurance. **7.** a charge by a common carrier for transportation. **8.** a wage paid on a specified time basis: *an hourly rate.* —*v.t.* **9.** to estimate the value or worth of; appraise. **10.** to esteem, consider, or account: *He is rated a fine writer.* **11.** to fix at a certain rate, as of charge or payment. **12.** to value for purposes of taxation or the like. **13.** to make subject to the payment of a certain rate or tax. **14.** to place in a certain rank or class, as a ship or a sailor. —*v.i.* **15.** to have value or standing: *a performance that didn't rate very high.* —*Idiom.* **16.** at any rate, a. in any event; in any case. b. at least. [1375–1425; late ME *rate* monetary value, estimated amount < ML *rata* < L (*prō*) *ratā* (*parte*) (according to) an estimated (part)]

rate[2] (rāt), *v.t., v.i.,* rat•ed, rat•ing. to chide vehemently. [1350–1400; ME (*a*)*raten,* perh. < Scand] —**rat′er,** *n.*

ra•tel (rāt′l, rät′l), *n.* a badgerlike carnivore, *Mellivora capensis,* of Africa and India. Also called **honey badger.** [1770–80; < Afrik < dial. D *ratel,* var. of *raat* honeycomb; perh. elliptically from a compound with this word, referring to the animal's fondness for honey]

rate′ of exchange′, *n.* EXCHANGE RATE. [1720–30]

rate•pay•er (rāt′pā′ər), *n.* **1.** a person who pays a regular charge for the use of a public utility. **2.** *Brit.* a taxpayer.

rat•er (rā′tər), *n.* a person or thing that is of a specific rating (usu. used in combination): *The show's star is a first-rater.* [1605–15]

rat•fink (rat′fingk′), *n. Slang.* FINK (defs. 3, 4). [1960–65]

rat•fish (rat′fish′), *n., pl.* (*esp. collectively*) -fish, (*esp. for kinds or species*) -fish•es. a spotted chimaera, *Hydrolagus colliei,* of the Pacific Ocean from Alaska to Baja California, having a ratlike tail. [1880–85]

rathe (rāth), *adj. Archaic.* early. [bef. 900; ME; OE *hræth, hræd* quick, active; c. D *rad,* ON *hrathr*]

Ra•the•nau (rät′n ou′), *n.* Walther, 1867–1922, German industrialist.

rath•er (rath′ər, rä′thər), *adv.* **1.** to some extent: *rather good.* **2.** in some degree: *I rather expect you'll regret it.* **3.** more properly or justly: *The contrary is rather to be supposed.* **4.** sooner: *to die rather than yield.* **5.** more truly: *He is a painter or, rather, a watercolorist.* **6.** on the contrary: *It's not generosity, rather self-interest.* —*Idiom.* **7.** had or would rather, to prefer that or to: *I had much rather we not stay.* [bef. 900; ME; OE *hrathor,* comp. of *hræth* quick, RATHE]

raths•kel•ler (rät′skel′ər, rat′-, rath′-), *n.* a restaurant or bar located below street level. [1895–1900, *Amer.;* < G *Rat(h)skeller* lit., the cellar of a town hall]

rat•i•cide (rat′ə sīd′), *n.* a substance for killing rats. [1840–50]

rat•i•fy (rat′ə fī′), *v.t.,* -fied, -fy•ing. to confirm by expressing consent, approval, or formal sanction: *to ratify a constitutional amendment.* [1325–75; < MF *ratifier* < ML *ratificāre* = L *rat(us)* calculated (see RATE[1]) + -*i*- -*i*- + -*ficāre* -FY] —**rat′i•fi•ca′tion,** *n.*

rat•ing (rā′ting), *n.* **1.** classification according to grade or rank, as in the armed forces. **2.** the estimated credit standing of a person or firm. **3.** a percentage indicating the number of listeners to or viewers of a radio or television broadcast. **4.** a designated operating limit for a machine, based on specified conditions.

ra•tio (rā′shō, -shē ō′), *n., pl.* -tios. **1.** the relation between two similar magnitudes with respect to the number of times the first contains the second: *the ratio of 5 to 2, written 5:2 or 5/2.* **2.** proportional relation; rate: *the ratio between acceptances and rejections.* **3.** the relative value of gold and silver when both are used as a country's monetary standard. [1630–40; < L *ratiō* reckoning, proportion]

ra•ti•oc•i•nate (rash′ē os′ə nāt′, -ō′sə-, rat′ē-), *v.i.,* -nat•ed, -nat•ing. to reason logically. [1635–45; < L *ratiōcinātus,* ptp. of *ratiōcinārī* to calculate, reason = *ratiō* (see RATIO) + -*cinārī* to act (in the manner specified), prob. extracted from *vāticinārī;* see VATICINATE] —**ra′ti•oc′i•na′tion,** *n.* —**ra′ti•oc′i•na′tor,** *n.*

ra•tion (rash′ən, rā′shən), *n.* **1.** a fixed allowance of food, esp. for one day. **2.** an allotted amount. —*v.t.* **3.** to distribute as rations (often fol. by *out*): *to ration out food to an army.* **4.** to provide with or put on rations. **5.** to restrict consumption of: *to ration meat.* [1540–50; < F < L *ratiō;* see RATIO]

ra•tion•al (rash′ə nl, rash′nl), *adj.* **1.** based on or agreeable to reason: *a rational decision.* **2.** exercising reason: *a rational negotiator.* **3.** sane; lucid: *The patient seems rational.* **4.** *Math.* **a.** capable of being expressed exactly by a ratio of two integers. **b.** (of a function) capable of being expressed exactly by a ratio of two polynomials. —*n.* **5.** RATIONAL NUMBER. [1350–1400; ME *racional* < L *ratiōnālis* = *ratiōn-* (s. of *ratiō*) REASON + -*ālis* -AL[1]] —**ra′tion•al•ly,** *adv.* —**ra′tion•al•ness,** *n.*

ra•tion•ale (rash′ə nal′), *n.* **1.** the fundamental reason or reasons serving to account for something. **2.** a statement of reasons or principles. [1650–60; < L: neut. of *ratiōnālis* RATIONAL]

ra•tion•al•ism (rash′ə nl iz′əm), *n.* **1.** the principle or habit of accepting reason as the supreme authority in matters of opinion, belief, or conduct. **2. a.** a philosophic doctrine that reason alone is a source of knowledge and is independent of experience. **b.** a doctrine that all knowledge is expressible in self-evident propositions or their consequences. **3.** a doctrine that human reason, unaided by divine revelation, is an adequate or the sole guide to all attainable religious truth. [1790–1800] —**ra′tion•al•ist,** *n.*

ra•tion•al•i•ty (rash′ə nal′i tē), *n., pl.* -ties. **1.** the state or quality of being rational. **2.** the possession or exercise of reason. **3.** agreeableness to reason. **4.** a reasonable view, practice, etc. [1560–70; < LL *ratiōnālitās* reasonableness. See RATIONAL, -ITY]

ra•tion•al•ize (rash′ə nl īz′, rash′nl-), *v.,* -ized, -iz•ing. —*v.t.* **1.** to ascribe (one's actions) to causes that seem reasonable but do not reflect true, unconscious, or less creditable causes. **2.** to make conformable to reason. **3.** *Math.* to eliminate radicals from (an equation or expression): *to rationalize the denominator of a fraction.* —*v.i.* **4.** to invent plausible explanations for actions that are actually based on less acceptable causes. **5.** to employ reason. [1810–20] —**ra′tion•al•i•za′tion,** *n.* —**ra′tion•al•iz′er,** *n.*

ra′tional num′ber, *n.* a number that can be expressed exactly by a ratio of two integers. [1900–05]

rat•ite (rat′īt), *adj.* **1.** having a flat, unkeeled sternum, as an ostrich, cassowary, emu, or moa. —*n.* **2.** a bird having a ratite sternum. [1875–80; < L *rat(is)* raft + -ITE[2]]

rat•line or **rat•lin** (rat′lin), *n.* any of the small ropes or lines that cross the shrouds of a ship horizontally and serve as steps for going aloft. [1475–85; earlier *ratling, radelyng,* of obscure orig.]

ra•toon (ra tōōn′), *n.* **1.** a sprout or shoot from the root of a plant, esp. a sugarcane, after it has been cropped. —*v.i., v.t.* **2.** to put forth or cause to put forth ratoons. [1625–35; < Sp *retoño* sprout, der. of *retoñar* to sprout again in the fall]

rat′ race′, *n.* an exhausting and usu. competitive routine activity.

rats•bane (rats′bān′), *n.* **1.** rat poison. **2.** the trioxide of arsenic.

rat′ snake′, *n.* any of several harmless New and Old World snakes, of the genus *Elaphe,* that feed chiefly on small mammals and birds. Also called **chicken snake.** [1855–60]

rat's′ nest′, *n.* MARE'S NEST (def. 2).

rat′-tail′ cac′tus, *n.* a cactus, *Aporocactus flagelliformis,* of Mexico, having slim cylindrical stems that are easily trained into strange designs, and crimson flowers. [1895–1900]

rat•tan (ra tan′, rə-), *n.* **1.** Also called **rattan′ palm′.** any of various climbing palms of the genus *Calamus* or allied genera. **2.** the tough stems of such palms, used for wickerwork, canes, etc. **3.** a stick or switch of rattan. [1650–60; by uncert. mediation < Malay *rotan,* alleged to be a der. of *rout* scrape off, with -*an* nominalizing suffix]

rat•teen (ra tēn′), *n. Obs.* a heavy, napped woolen fabric. [1675–85; < F *ratine,* ptp. of *ratiner* to make a nap on cloth]

rat•ter (rat′ər), *n.* a rat-catching animal. [1825–35]

rat•tle (rat′l), *v.,* -tled, -tling, *n.* —*v.i.* **1.** to make a rapid succession of short, sharp sounds: *The doors rattled in the storm.* **2.** to move noisily: *The car rattled along the back roads.* **3.** to chatter: *rattling on about his ailments.* —*v.t.* **4.** to cause to make a rattling noise: *to rattle a doorknob.* **5.** to impel with a rattling noise: *The wind rattled the metal can across the roadway.* **6.** to utter or perform in a rapid or lively manner (usu. with *off*). **7.** to disconcert; confuse. **8.** *Hunting.* to stir up (a cover). —*n.* **9.** a rapid succession of short, sharp sounds. **10.** a contrivance that makes a rattling sound, esp. a baby's toy filled with small pellets that rattle when shaken. **11.** the series of horny, interlocking hollow rings at the end of a rattlesnake's tail, with which it produces a rattling sound. **12.** a rattling sound in the throat, as a death rattle. [1250–1300; ME *ratelen* (v.), *ratele* (n.)]

rat•tle•brain (rat′l brān′), *n.* a silly or easily distracted person. [1700–10] —**rat′tle•brained′,** *adj.*

rat•tler (rat′lər), *n.* **1.** a rattlesnake. **2.** one that rattles. [1400–50]

rat•tle•snake (rat′l snāk′), *n.* any of several New World pit vipers of the genera *Crotalus* and *Sistrurus,* having a rattle at the end of the tail. [1620–30, *Amer.*]

timber rattlesnake, *Crotalus horridus,* length 3 1/2 to 6 ft. (1 to 1.8 m)

rat′tlesnake root′, *n.* any of certain composite plants of the genus *Prenanthes,* whose roots or tubers have been regarded as a remedy for snake bites, as *P. serpentaria* or *P. alba.* [1675–85]

rat•tle•trap (rat′l trap′), *n.* a shaky object, as a rickety vehicle.

rat•tling (rat′ling), *adj.* **1.** brisk: *a rattling pace.* **2.** splendid; fine. —*adv.* **3.** very: *a rattling good time.* [1350–1400] —**rat′tling•ly,** *adv.*

rat•tly (rat′lē), *adj.* tending to rattle; making a rattle. [1880–85]

rat•trap (rat′trap′), *n.* **1.** a device for catching rats. **2.** a run-down, filthy, or dilapidated place. **3.** a daunting situation. [1425–75]

rat•ty (rat′ē), *adj.,* -ti•er, -ti•est. **1.** full of rats. **2.** of or characteristic of a rat. **3.** wretched; shabby. **4.** irritable; angry. [1860–65]

rau•cous (rô′kəs), *adj.* **1.** harsh; strident: *raucous laughter.* **2.** rowdy; disorderly: *a raucous party.* [1760–70; < L *raucus* hoarse, harsh, rough; see -OUS] —**rau′cous•ly,** *adv.* —**rau′cous•ness,** *n.*

raunch (rônch, ränch), *n.* **1.** smuttiness; vulgarity. —*adj.* **2.** using or