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Paper 30
Entered: April 22, 2016

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

IRON DOME LLC,
Petitioner,

v.

CRFD RESEARCH, INC.,
Patent Owner.

Case IPR2015-00055
Patent 7,191,233 B2

Before JUSTIN T. ARBES, THOMAS L. GIANNETTI, and CHARLES J. BOUDREAU, *Administrative Patent Judges.*

ARBES, *Administrative Patent Judge.*

FINAL WRITTEN DECISION
*35 U.S.C. § 318(a) and 37 C.F.R. § 42.73*

# I. BACKGROUND

Petitioner Iron Dome LLC filed a Petition (Paper 1, "Pet.") seeking *inter partes* review of claims 1–6, 8–11, 13–15, 17, 18, 20, and 34 of U.S. Patent No. 7,191,233 B2 (Ex. 1001, "the '233 patent") pursuant to 35 U.S.C. §§ 311–19. On April 27, 2015, we instituted an *inter partes* review of claims 1, 4–6, and 8–11 on two grounds of unpatentability (Paper 10, "Dec. on Inst."). Patent Owner CRFD Research, Inc. filed a Patent Owner Response (Paper 16, "PO Resp."), and Petitioner filed a Reply (Paper 17, "Reply"). An oral hearing was held on January 19, 2016, and a transcript of the hearing is included in the record (Paper 29, "Tr.").

We have jurisdiction under 35 U.S.C. § 6(c). This final written decision is issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73.

For the reasons that follow, we determine that Petitioner has shown by a preponderance of the evidence that claims 1, 4–6, and 8–11 are unpatentable.

## *A. The '233 Patent*[1]

The '233 patent describes a system and method for "user-directed transfer of an on-going software-based session from one device to another device." Ex. 1001, col. 1, ll. 8–11. A user may have a number of communication-enabled devices (e.g., cellular telephone, wireless personal digital assistant (PDA), laptop computer, desktop computer) through which the user conducts software application sessions. *Id*. at col. 1, ll. 15–52. The

[1] The '233 patent also is the subject of Cases IPR2015-00259 and IPR2015-00627, in which *inter partes* reviews were instituted, and was the subject of Case IPR2015-00157, in which the request for *inter partes* review was denied.

user may conduct a session on one device and then decide to switch to another device. *Id*. at col. 1, ll. 53–59. For example, the user may want to switch from a stationary device to a mobile device, or to switch to a device with a different graphical user interface. *Id*. According to the ’233 patent, conventional systems that required the user to “discontinue the current session on the first device and reinitiate a new session on the second device” could entail inconveniences such as the history of the original session being lost or time delays involved in logging off and reinitiating. *Id*. at col. 1, ll. 59–66.

Figure 1 of the ’233 patent is reproduced below.

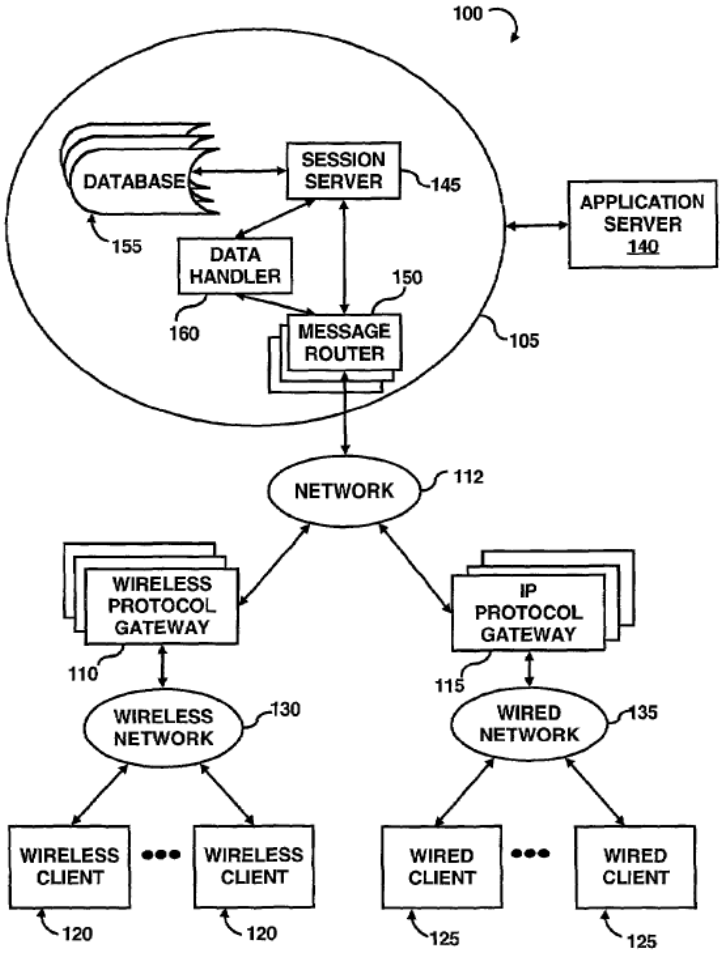


*Fig. 1*

Figure 1 depicts wireless clients 120 (e.g., a cellular telephone or PDA) and wired clients 125 (e.g., a desktop or laptop computer) of a user that connect over various networks to application services network 105. *Id*. at col. 4, ll. 4–11, 30–33, col. 5, ll. 3–6. Wireless clients 120 and wired clients 125 execute client programs that support session services for the respective devices, and are "configured to have a preferred mode of interaction, i.e., modality," such as a graphical user interface for transferring sessions between devices. *Id*. at col. 4, ll. 33–50. Application services network 105 provides session-based services (e.g., instant messaging, database querying), and application server 140 provides applications for those services (e.g., instant messaging application, database querying application), to wireless clients 120 and wired clients 125. *Id*. at col. 5, ll. 21–30.

The '233 patent describes the method of session transfer as follows: (1) a "redirect or transfer command" is sent from a first device (wireless client 120 or wired client 125); (2) session server 145 begins intercepting messages destined for the first device; (3) the first device transmits a "transaction or session history" to session server 145; (4) session server 145 retrieves the previously stored "device profile" of the second device to which the session is to be redirected, "convert[s] the stored messages [of the session history] into a data format" and/or modality compatible with the second device, and converts the "state" of the session to a state compatible with the second device; and (5) when the user activates the second device, session server 145 "pushes the converted session to the redirected device over the network 100 as a normal session with the converted transaction log." *Id*. at col. 7, l. 46–col. 8, l. 58, Figs. 3A–3B.

*B. Illustrative Claim*

Claim 1 of the ’233 patent recites:

> 1. A method for redirecting an on-going, software based session comprising:
>
> conducting a session with a first device;
>
> specifying a second device;
>
> discontinuing said session on said first device; and
>
> transmitting a session history of said first device from said first device to a session transfer module after said session is discontinued on said first device; and
>
> resuming said session on said second device with said session history.

*C. Prior Art*

The pending grounds of unpatentability in the instant *inter partes* review are based on the following prior art:

> Thomas Phan et al., *A New TWIST on Mobile Computing: Two-Way Interactive Session Transfer*, PROCEEDINGS OF THE SECOND IEEE WORKSHOP ON INTERNET APPLICATIONS (WIAPP 2001) (Ex. 1002, “Phan San Jose”); and
>
> Thomas Phan et al., *Handoff of Application Sessions Across Time and Space*, IEEE INTERNATIONAL CONFERENCE ON COMMUNICATIONS (ICC 2001) (Ex. 1003, “Phan Helsinki”).[2]

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[2] The copies of Phan San Jose and Phan Helsinki submitted by Petitioner include Library of Congress date stamps of August 28, 2001, and July 31, 2001, respectively. Petitioner further argues that Phan San Jose was printed in a book of articles presented at a symposium in San Jose, California, on July 23–24, 2001, and that Phan Helsinki was printed in a book of articles presented at a symposium in Helsinki, Finland, on June 11–14, 2001, both of which are consistent with what is listed on the cover pages of the references. *See* Pet. 3–4; Ex. 1002, 1; Ex. 1003, 1–6. Patent Owner does not dispute Petitioner’s contentions. Based on the record presented, we are persuaded

### *D. Pending Grounds of Unpatentability*

The instant *inter partes* review involves the following grounds of unpatentability:

| Reference(s) | Basis | Claim(s) |
|---|---|---|
| Phan San Jose | 35 U.S.C. § 102(a) | 1 |
| Phan San Jose and Phan Helsinki | 35 U.S.C. § 103(a) | 4–6 and 8–11 |

## II. ANALYSIS

### *A. Claim Interpretation*

The Board interprets claims using the "broadest reasonable construction in light of the specification of the patent in which [they] appear[]." 37 C.F.R. § 42.100(b); *see In re Cuozzo Speed Techs., LLC*, 793 F.3d 1268, 1278–79 (Fed. Cir. 2015), *cert. granted sub nom. Cuozzo Speed Techs. LLC v. Lee*, 136 S. Ct. 890 (mem.) (2016). Under this standard, we interpret claim terms using "the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description

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that Phan San Jose and Phan Helsinki are prior art printed publications under 35 U.S.C. § 102(a). *See Kyocera Wireless Corp. v. ITC*, 545 F.3d 1340, 1350–51 (Fed. Cir. 2008) (holding that a "reference is publicly accessible 'upon a satisfactory showing that such document has been disseminated or otherwise made available to the extent that persons interested and ordinarily skilled in the subject matter or art exercising reasonable diligence, can locate it'" (citation omitted)). Also, when citing the references, we refer to the page numbers added by Petitioner in the bottom-right corner of each page. *See* 37 C.F.R. § 42.63(d)(2).

contained in the applicant's specification." *In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997). We presume that claim terms have their ordinary and customary meaning. *See Trivascular, Inc. v. Samuels*, 812 F.3d 1056, 1062 (Fed. Cir. 2016) ("Under a broadest reasonable interpretation, words of the claim must be given their plain meaning, unless such meaning is inconsistent with the specification and prosecution history."); *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007) ("The ordinary and customary meaning is the meaning that the term would have to a person of ordinary skill in the art in question." (internal quotation marks omitted)). A patentee, however, may rebut this presumption by acting as his or her own lexicographer, providing a definition of the term in the specification with "reasonable clarity, deliberateness, and precision." *In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994).

*1. Previously Interpreted Terms*

In the Decisions on Institution in Cases IPR2015-00055, IPR2015-00157, IPR2015-00259, and IPR2015-00627, we interpreted various claim terms of the '233 patent as follows:

| Claim Term | Interpretation |
|---|---|
| "modality" | a preferred mode of interaction |
| "device profile" | information pertaining to the operation of a device, such as the data format or modality of the device |
| "in response to . . . activation of said second device" | in response to the second device being made active, such as by a user logging on to the second device |

| Claim Term | Interpretation |
|---|---|
| "session" | a series of information transactions between communicating devices during a particular time period |
| "discontinuing" | terminating or otherwise stopping, with the ability to be resumed |
| "discontinued" | terminated or otherwise stopped, with the ability to be resumed |
| "session transfer module" | computer hardware and/or software that participates in the transfer of a session |

*See* Dec. on Inst. 6–10; *DISH Network Corp. v. CRFD Research, Inc.*, Case IPR2015-00627, slip op. at 6–9 (PTAB June 3, 2015) (Paper 9); *Hulu, LLC v. CRFD Research, Inc.*, Case IPR2015-00259, slip op. at 6–9 (PTAB June 3, 2015) (Paper 8); *Unified Patents Inc. v. CRFD Research, Inc.*, Case IPR2015-00157, slip op. at 6–9 (PTAB Apr. 30, 2015) (Paper 8). The parties do not dispute these interpretations in their Patent Owner Response and Reply. We do not perceive any reason or evidence that compels any deviation from these interpretations. Accordingly, we adopt our previous analysis for purposes of this Decision. We also interpret one other limitation in claim 1.

*2. Ordering of the "Specifying" Step*

Although the parties do not address specifically how "specifying a second device" in claim 1 should be interpreted, the parties disagree as to whether the step must occur in a specific order with respect to the step of "discontinuing said session on said first device." Patent Owner argues in its Response that Phan San Jose's "pull" mode fails to disclose the "specifying" step because the user merely clicks "Suspend" to discontinue the session and

then chooses a particular device on which to resume the session at a later time. PO Resp. 14–18. At the hearing, Patent Owner argued that the "specifying" step must occur before the "discontinuing" step, citing as support an embodiment described in the Specification of the '233 patent. Tr. 33:5–19, 35:17–21. Petitioner disagreed, arguing that nothing in the claim language itself requires the "specifying" step to occur before the "discontinuing" step. Reply 2–4; Tr. 7:9–23. We agree with Petitioner.

To determine whether the steps of a method claim that do not otherwise recite an order must nonetheless be performed in a particular order, we first "look to the claim language to determine if, as a matter of logic or grammar, they must be performed in the order written." *Altiris, Inc. v. Symantec Corp.*, 318 F.3d 1363, 1369 (Fed. Cir. 2003). "If not, we next look to the rest of the specification to determine whether it 'directly or implicitly requires such a narrow construction.'" *Id.* at 1370 (citation and emphasis omitted); *see also Mformation Techs., Inc. v. Research In Motion Ltd.*, 764 F.3d 1392, 1398–99 (Fed. Cir. 2014) ("a claim 'requires an ordering of steps when the claim language, as a matter of logic or grammar, requires that the steps be performed in the order written, or the specification directly or implicitly requires' an order of steps" (citation omitted)).

Claim 1 requires certain steps to be performed before others. For example, the "transmitting" step must take place "*after* said session is discontinued on said first device" (emphasis added). Likewise, "conducting a session with a first device" logically must take place before "discontinuing said session on said first device." There is nothing in the language of the claim, however, expressly requiring "specifying a second device" to take place before "discontinuing said session on said first device" or requiring

such an order as a matter of logic or grammar. The "discontinuing" step, as well as the subsequent "transmitting" step, do not even refer to the second device.

Thus, we look to the Specification to determine whether it expressly or implicitly requires a particular order. The Specification discloses that "[t]he client software of the wireless/wired client devices, 120 and 125 may be . . . configured to provide a selection of devices that a transferring session may be redirected thereto," and "[t]he selection of the redirected device may . . . be forwarded from the user of a wireless/wired client device, 120 and 125 to the session server [145]." Ex. 1001, col. 4, ll. 53–61. Also, as shown in Figures 3A and 3B, session server 145 receives a "redirect or transfer command" from the first client device (step 305) before it begins intercepting messages destined for the first client device (step 310) and "access[es] the device profile of the selected second client (or redirected) device" (step 320). *Id.* at col. 7, l. 49–col. 8, l. 13. These portions of the Specification, however, describe only "exemplary" embodiments of the invention. *Id.* at col. 4, ll. 4–6, col. 7, ll. 46–49. They do not show, expressly or implicitly, that the "specifying" step of claim 1 must occur before the "discontinuing" step. Moreover, the Specification indicates the opposite, stating that "although the method of the present invention has been described by examples, the steps of the method may be performed in a different order than illustrated or simultaneously." *Id.* at col. 9, ll. 22–25.

Applying the broadest reasonable interpretation of the claims in light of the Specification, we do not interpret claim 1 to require that the "specifying" step take place before the "discontinuing" step.

*B. Anticipation Ground Based on Phan San Jose*

Petitioner argues that claim 1 is anticipated by Phan San Jose under 35 U.S.C. § 102(a). Pet. 7–11. We have reviewed the Petition, Patent Owner Response, and Reply, as well as the evidence discussed in each of those papers, and are persuaded, by a preponderance of the evidence, that claim 1 is anticipated by Phan San Jose.

*1. Phan San Jose*

Phan San Jose describes a research project called the "Interactive Mobile Application Support for Heterogeneous Clients (iMASH)," which allows physicians and staff at a hospital to use different types of devices (e.g., desktop and laptop computers, display tablets) and "seamlessly move an application's session from one machine to another machine" using the hospital's "network as a conduit." Ex. 1002, 5. The system provides for "Two-Way Interactive Session Transfer (TWIST)" by placing a set of middleware servers between the client devices and the application server, storing state data on the middleware servers for the user's session on a first device (e.g., textual annotations, user preferences, URL history), and transferring the data to the second device upon session handoff. *Id*. at 5–7.

Phan San Jose describes how the system could be used with a "Teaching File" Java applet that displays medical images and associated information, and allows users to create and modify instructional "teaching files." *Id*. at 10. In the Teaching File implementation, when a user requests a teaching file, the application server (AS) sends the image file (stored in the system's proprietary picture archiving and communication system (PACS) image format) to the middleware server (MWS). *Id*. at 10–11. The MWS

then "performs the image assembly on behalf of the client, including the conversion of the proprietary PACS image to [a] Java Image and the manipulation of that image according to the teaching file state description." *Id*. at 11. Phan San Jose describes two ways of performing the session handoff. *Id*. In the "pull" mode, "the user selects a 'Suspend' operation, his session shall be saved back to the MWS, allowing the application to terminate, and at a later time the session can be reinstantiated by the Teaching File application running on the target machine." *Id*. In the "push" mode, "the user can select the hostname of the target from a list. When the handoff occurs, the MWS will contact a daemon running on the target machine to immediately launch the Teaching File applet and automatically retrieve the session state . . . [and the] applet on the first client terminates when the state is fully reinstantiated on the second client." *Id*. Figure 5 of Phan San Jose is reproduced below.

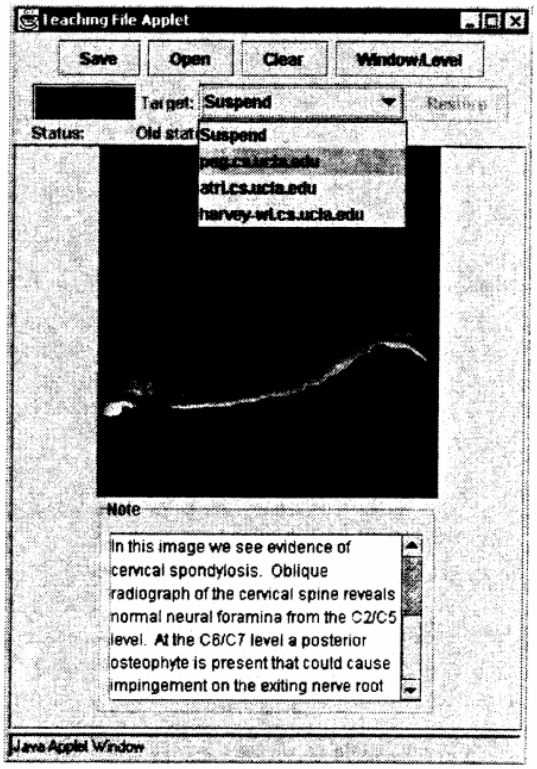

Figure 5 depicts the user interface of the Teaching File applet. *Id.* at 10. In the dropdown menu labeled "Target," the user is able to choose "Suspend" (corresponding to the "pull" mode) or one of three hostnames to which the session may be transferred (corresponding to the "push" mode). *Id.* at 10–11.

*2. Analysis*

Petitioner has presented sufficient evidence showing that Phan San Jose discloses every limitation of claim 1. For example, Petitioner explains how a physician conducts a session with a "first device" (e.g., a PDA), then discontinues the session on the "first device" by suspending the session, causing the physician's session history (e.g., user preferences, URL history) to be transmitted from the PDA to a "session transfer module" (i.e., the MWS), and chooses to reinstantiate the session on a "second device" (e.g., a desktop computer) using the previously saved session history. Pet. 9–11 (citing Ex. 1002, 5–7, 10).

Patent Owner makes two arguments. First, Patent Owner argues that Phan San Jose's description of the "push" mode does not disclose "transmitting a session history of said first device from said first device to a session transfer module *after* said session is discontinued on said first device." PO Resp. 11–14 (emphasis added). Patent Owner cites as support testimony from Prasant Mohapatra, Ph.D., which largely repeats Patent Owner's arguments in its Response. *See id.* (citing Ex. 2001 ¶¶ 22, 26, 29). As explained in the Decision on Institution, we agree with Patent Owner as to the "push" mode in Phan San Jose, but find Petitioner's contentions directed to the "pull" mode more persuasive. Dec. on Inst. 13–14.

Specifically, in the "pull" mode, "the user selects a 'Suspend' operation, his session shall be saved back to the MWS, allowing the application to terminate, and at a later time the session can be reinstantiated by the Teaching File application running on the target machine." Ex. 1002, 11; *see also id*. at 7 ("When the user decides to move his session he activates the handoff mechanism from his client software on $C_1$ to . . . suspend his session (to be later reinstantiated explicitly from another machine) . . . ."). Patent Owner agreed at the hearing that "[t]he pull mode teaches transfer after the session is discontinued." Tr. 21:3–9. Based on the record presented during trial, we are persuaded that Phan San Jose discloses the "transmitting" step recited in claim 1.

Second, Patent Owner argues that Phan San Jose's description of the "pull" mode does not disclose "specifying a second device." PO Resp. 8–9, 14–18 (citing Ex. 2001 ¶¶ 22, 25, 27–29). Patent Owner contends that in the "pull" mode, the user selects a "Suspend" operation without specifying a device on which to resume the session. *Id.* at 15–17. Selecting "Suspend" causes the session history to be sent to the MWS, then, *later*, if the "user wishes to resume a session [on a different device], the session state is 'pulled' from the MWS." *Id.* According to Patent Owner, there is no disclosure in Phan San Jose of the second device on which the session will be resumed being "specified." *Id.* We disagree.

To the extent Patent Owner's argument is that Phan San Jose does not specify a second device because the user does not identify a second device before selecting the "Suspend" operation, we are not persuaded. As explained above, we do not agree with Patent Owner that the claim requires the "specifying" step to take place before the "discontinuing" step. *See*

*supra* Section II.A.2. In other words, there is nothing preventing the specification of the second device from occurring after the user selects the "Suspend" operation, discontinuing the session and causing the session history to be transmitted to the MWS. The specification of the second device may take place at a later time, such as when the user chooses to resume the session on a different device.

To the extent Patent Owner's argument is that Phan San Jose does not specify a second device at all, we also are not persuaded. Petitioner contends that the second device is specified when the user takes action on the second device to resume the session. *See* Pet. 10; Reply 2–4. As Petitioner points out, Figure 2 of Phan San Jose shows that a physician may move from his PDA ("first device") to a desktop computer ("second device"). Pet. 10. Figures 1–3 of Phan San Jose are reproduced below.

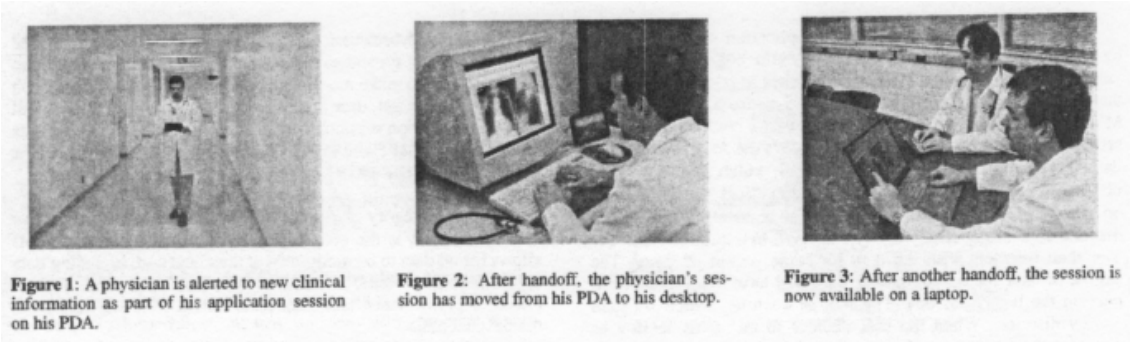

**Figure 1**: A physician is alerted to new clinical information as part of his application session on his PDA.

**Figure 2**: After handoff, the physician's session has moved from his PDA to his desktop.

**Figure 3**: After another handoff, the session is now available on a laptop.

As shown in the figures, the physician conducts an "application session" on his PDA in Figure 1, then on his desktop computer "[a]fter handoff" of the session to the new device in Figure 2, and then on his laptop computer "[a]fter another handoff" of the session in Figure 3. Ex. 1002, 6. The physician "recogni[zes] that his duties would be better served by migrating to another machine, indicating to the iMASH system to make it so (with something as simple as a push of a button), and then continu[es] his actions on the second machine." *Id.* "The iMASH runtime system provides the

mechanism to perform these actions seamlessly and automatically." *Id.* In the "pull" mode, the user would select "Suspend" on the PDA, then resume the session on the desktop computer by taking some action (e.g., clicking a button or buttons to log on) on the desktop computer. *See id.* at 6, 11; Ex. 2001, 13 (depicting a full-color version of Figure 5 of Phan San Jose). The session is "reinstantiated by the Teaching File application running on the target machine," and the target machine "retrieves the session state from the MWS." Ex. 1002, 11.

Petitioner's contention that the second device in Phan San Jose is specified when the user takes action on the second device to resume the session is persuasive. *See* Pet. 10; Reply 2–4. Claim 1 is broadly worded. It does not specify who or what does the specifying, or to whom or what the second device is specified. *See* Tr. 24:14–22 (acknowledging that the user or another entity could do the specifying). The claim only requires that the second device be specified. Phan San Jose discloses that the user chooses a device on which he or she wants to resume the session and takes action on that device to do so, which causes the Teaching File application on the second device to communicate with the MWS to retrieve the session history. We are persuaded that this constitutes "specifying" the second device.

Patent Owner argued at the hearing that at the time of resuming the session on the second device, the MWS may "know[]" the identification of the user (via the user logging on to the second device), but identifying a user is not the same as specifying a device. *Id.* at 22:15–23:5. Patent Owner further argued that the MWS would know an address (e.g., IP address) to which to send the session history, but that address may not be the actual

address of the second device because the device may be behind a firewall. *Id.* at 22:15–28:2, 41:2–9.

Patent Owner's arguments are not persuasive. First, as explained above, we do not see anything in the claim that would prohibit the user from specifying a second device by taking action on that particular device (as opposed to a different device) to resume the session. Second, even if the second device had to be specified to the MWS, the MWS in Phan San Jose must receive enough information from the second device to be able to distinguish the chosen second device from other potential devices, even if only by virtue of the second device's association with a user account; otherwise, the MWS would not be able to transmit the session history to the second device. *See* Reply 3; Ex. 1002, 6–9, 11 (describing how the MWS is able to communicate with both the first client device $C_1$ and the second client device $C_2$). Petitioner has provided sufficient evidence that Phan San Jose discloses "specifying a second device," as recited in claim 1.

Based on all of the evidence of record, we determine that Petitioner has shown, by a preponderance of the evidence, that claim 1 is anticipated by Phan San Jose under 35 U.S.C. § 102(a).

*C. Obviousness Ground Based on Phan San Jose and Phan Helsinki*

Petitioner argues that claims 4–6 and 8–11 are unpatentable over Phan San Jose and Phan Helsinki under 35 U.S.C. § 103(a). Pet. 7–9, 14–21. We have reviewed the Petition, Patent Owner Response, and Reply, as well as the evidence discussed in each of those papers, and are persuaded, by a preponderance of the evidence, that claims 4–6 and 8–11 are unpatentable over Phan San Jose and Phan Helsinki.

*1. Phan Helsinki*

Phan Helsinki pertains to the same iMASH research project as Phan San Jose, and describes the architecture and operation of the system in additional detail. Ex. 1003, 7. For example, Phan Helsinki explains that the "[m]iddleware servers fetch data based on user requests (or pre-fetch data based on prediction of [a] user's near-future need) and perform conversion as needed," and "[w]hen a user moves an on-going application session from one device to another, middleware servers act as a 'home' for the application state (including active connections, cached data, etc.) to facilitate migration between devices." *Id*. at 9. Phan Helsinki also describes the "Middleware-Aware Remote Code" (MARC) on the client device that facilitates "session saving and restoration," and the process by which a session is transferred using MARC and a web browser. *Id*. at 9–10.

*2. Level of Ordinary Skill in the Art*

"Section 103(a) forbids issuance of a patent when 'the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.'" *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007) (quoting 35 U.S.C. § 103(a)). In their papers, the parties do not state specifically what they believe to be the level of ordinary skill in the art for the '233 patent. Dr. Mohapatra, though, testifies that a person of ordinary skill in the art would have had "a Bachelor of Science degree in computer science or computer engineering with approximately 2 years of practical work experience or post-graduate research in a field such as computer

networking and/or distributed systems." Ex. 2001 ¶ 11. We agree with this assessment in part. Based on our review of the '233 patent, the types of problems and solutions described in the '233 patent and cited prior art, and the testimony of Patent Owner's declarant, we conclude that a person of ordinary skill in the art would have had a bachelor's degree in computer science or computer engineering (or its equivalent), and at least two years of experience with computer networking, distributed systems, or similar fields. *See, e.g.*, Ex. 1001, col. 1, ll. 5–67 (disclosing that "[t]he invention generally relates to session management in a distributed computer network," and describing issues in the prior art when a user has "several communication-enabled devices" and wants to switch between them). We apply this level of ordinary skill in the art for purposes of this Decision.

*3. Analysis*

Petitioner has presented sufficient evidence that the combination of Phan San Jose and Phan Helsinki teaches all of the limitations of claims 4–6 and 8–11, and that a person of ordinary skill in the art would have considered their teachings regarding the same research project together. *See* Pet. 7–9, 14–21. For example, with respect to claim 4, which recites "accessing a device profile of said second device" and "restructuring said session data[3] to conform with said device profile of said second device,"

[3] Claim 1 refers to a "session history" rather than "session data." Based on how the terms are used in the claims, and how "session history" is used in the Specification, we conclude that a person of ordinary skill in the art would understand the terms to refer to the same thing. *See, e.g.*, claims 1 ("resuming said session on said second device with said session history"), 4 ("restructuring said session data to conform with said device profile of said

Petitioner cites Phan San Jose's disclosure of client device characteristics stored in a device profile in the MWS and Phan Helsinki's disclosure of the same MWS performing data conversions as necessary for a second client device. *Id.* at 14–16 (citing Ex. 1002, 7, Ex. 1003, 9). Petitioner contends that Phan San Jose and Phan Helsinki "together describe the operation, architecture, and capabilities of the [iMASH] platform developed by the Thomas Phan group at UCLA," and Phan Helsinki "provides additional information about how the [iMASH] platform works." *Id.* at 8, 15.

Patent Owner acknowledges that Phan Helsinki describes the "pull" mode disclosed in Phan San Jose, and argues that Phan Helsinki likewise fails to teach or render obvious the step of "specifying a second device" in claim 1. PO Resp. 22–24. As explained above, we are persuaded that Phan San Jose alone discloses "specifying a second device." *See supra* Section II.B.2. Patent Owner's argument as to the challenged claims depending from claim 1, therefore, is not persuasive.

Based on all of the evidence of record, we determine that Petitioner has shown, by a preponderance of the evidence, that claims 4–6 and 8–11 are unpatentable over Phan San Jose and Phan Helsinki under 35 U.S.C. § 103(a).

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second device"), 8 ("reformatting said session history of said session to conform with said device profile of said second device").

## III. ORDER

Petitioner has demonstrated, by a preponderance of the evidence, that claim 1 is anticipated by Phan San Jose under 35 U.S.C. § 102(a) and that claims 4–6 and 8–11 are unpatentable over Phan San Jose and Phan Helsinki under 35 U.S.C. § 103(a).

In consideration of the foregoing, it is hereby:

ORDERED that claims 1, 4–6, and 8–11 of the ’233 patent have been shown to be unpatentable.

This is a final decision. Parties to the proceeding seeking judicial review of the decision must comply with the notice and service requirements of 37 C.F.R. § 90.2.

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