

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SECURUS TECHNOLOGIES, INC.,
Petitioner,

v.

GLOBAL TEL*LINK CORPORATION,
Patent Owner.

Case IPR2015-00156
Patent 7,551,732 B1

Before KEVIN F. TURNER, BEVERLY M. BUNTING, and
PATRICK M. BOUCHER, *Administrative Patent Judges*.

BUNTING, *Administrative Patent Judge*.

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

I. BACKGROUND

A. Introduction

Securus Technologies, Inc. (“Petitioner”), filed a Petition requesting an *inter partes* review of claims 1–27 of U.S. Patent No. 7,551,732 B2 (Ex. 1001, “the ’732 patent”) pursuant to 35 U.S.C. §§ 311–319. Paper 1 (“Pet.”). Global Tel*Link Corporation (“Patent Owner”), timely filed a Preliminary Response (“Prelim. Resp.”) to the Petition. Paper 11 (“Prelim. Resp.”). Taking into account the arguments presented in the Preliminary Response, we determined that the information presented in the Petition established a reasonable likelihood that Petitioner would prevail on its challenge of claims 1–8 and 11–27 (“the challenged claims”) of the ’732 patent under 35 U.S.C. § 102(e). Pursuant to 35 U.S.C. § 314, we instituted this trial on May 1, 2015, as to these claims based on the following asserted ground of unpatentability (“ground”):¹ claims 1–8 and 11–27 of the ’732 patent as anticipated under 35 U.S.C. § 102(e) by Rae. Paper 12 (“Decision on Institution” or “Dec. on Inst.”).

During the course of trial, Patent Owner timely filed a Patent Owner Response (Paper 21 (“PO Resp.”)), and Petitioner timely filed a Reply thereto (Paper 25 (“Pet. Reply”)). Patent Owner then filed Objections to Petitioner’s Reply Evidence (Paper 26). An oral hearing was conducted on January 11, 2016, and a transcript of the hearing is entered in the record. Paper 31 (“Tr.”).

¹ The Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112-29, took effect on March 18, 2013. Because the application from which the ’732 patent issued was filed before that date, our citations to 35 U.S.C. §§ 102 and 103 are to the pre-AIA version.

We have jurisdiction under 35 U.S.C. § 6(c). This Final Written Decision is entered pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73 as to the patentability of the challenged claims of the '732 patent. For the reasons that follow, we determine that Petitioner has demonstrated, by a preponderance of the evidence, that claims 1–8 and 11–27 of the '732 patent are unpatentable.

B. Related Matters

Patent Owner indicates that the '732 patent is the subject of the following civil actions: *Global Tel*Link Corporation v. Securus Technologies, Inc.*, No. 3:13-cv-00713-JRS (E.D. Va. filed October 21, 2013) and *Global Tel*Link Corporation v. Securus Technologies, Inc.*, Case No. 3:14-cv-0829K (N.D. Tex., filed March 5, 2014). Paper 10, 1. In addition, Petitioner identified the following petitions challenging the patentability of a certain subset of claims in the following patents owned by Patent Owner: U.S. Patent No. 7,783,021 (Case IPR2015-00153) and U.S. Patent No. 7,853,243 (Case IPR2015-00155). Pet. 1. We did not institute trial in Case IPR2015-0153, Paper 12 (PTAB May 1, 2015), and entered a Final Written Decision in Case IPR2015-00155, Paper 30 (PTAB April 7, 2016).

C. The '732 Patent (Ex. 1001)

The '732 patent, titled “Centralized Voice Over IP Recording and Retrieval Method and Apparatus” issued June 23, 2009, from U.S. Patent Application No. 11/005,816, filed on December 7, 2004. Ex. 1001, [54], [45], [21], and [22]. The '732 patent claims to the benefit of the filing date

of U.S. Provisional Application No. 60/527,918, filed on December 8, 2003.
Id. at [60].

The '732 patent relates generally to an apparatus and methodology for recording, at a centralized location, telephone conversations conducted at a remote location, such as penal institutions. Ex. 1001, 1:17–19. Figure 1 of the '732 patent is reproduced below.

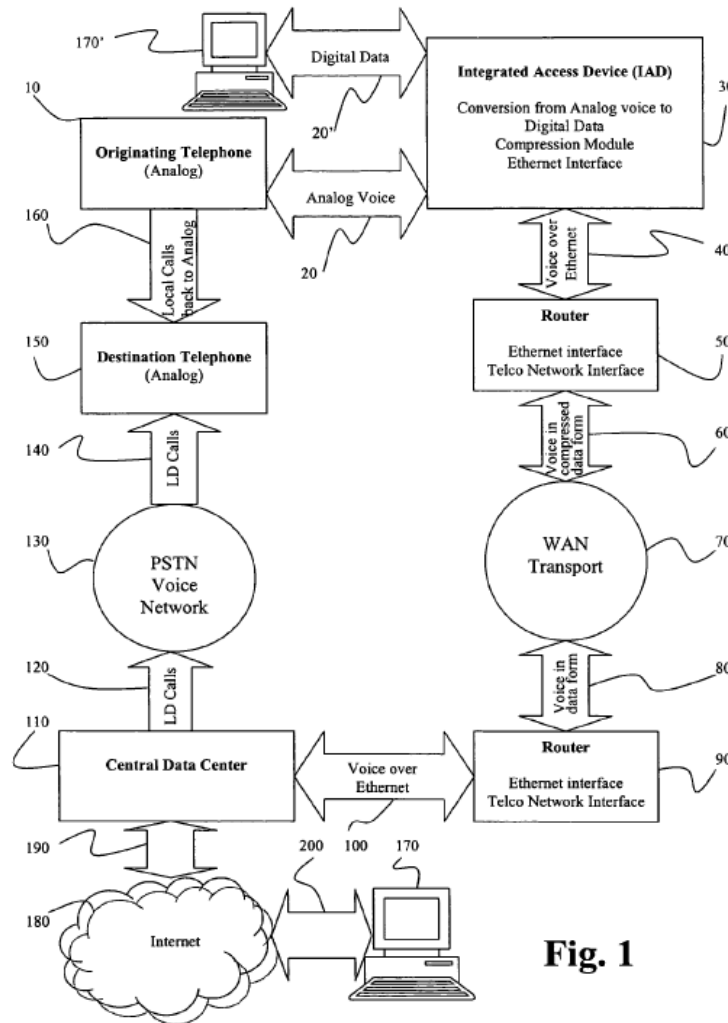


Figure 1 is a flow diagram illustrating the methodology for recording telephone conversations and storing at a central data center.

The audio recording system includes origination telephone 10, which, in the provided example, may be used by inmates of a penal facility to make telephone calls. *Id.* at 5:2–3. Conversations from the origination phone are transmitted as analog voice data 20 over a link to integrated access device (IAD) 30, for conversion to digital data, and the digital data are further processed into highly compressed data by a compression module within the IAD. *Id.* at 5:37–50. The IAD may be co-located at the same facility as the origination phone, or at a remote location. *Id.* The highly compressed data are routed to the central data center 110 via data circuits, such as Ethernet and telephone network interface and WAN 70, which may include the internet or other network capable of transporting data. *Id.* at 5:50–57. The highly compressed voice data are processed further for storage on storage device 220. *Id.* at 5:64–6:2. Workstation 170 is coupled to the central data center via the Internet 180 as well as to the IAD. *Id.* at 6:25–39. An operator of the workstation may search the recordings stored in the central database based on search criteria, and a list of matching call records is presented to the workstation operator. *Id.* at 6:43–45. In addition,

[if] the operator chooses to listen to a recorded conversation, the selected compressed data is passed from storage device **220** to the digital data/voice converter **230** which converts the compressed voice data into a “streaming” format and passes the converted voice data back out over the WAN to workstation **170** or over the Internet **180** to one or more requesting workstation(s) **170**.

Id. at 8:2–8.

D. Illustrative Claim

Of the challenged claims, claims 1, 8, 15, and 20 are independent. Independent claim 8 is illustrative of the challenged claims and is reproduced below:

8. An audio monitoring and recording system, comprising:

a first telephone instrument located at a first location within a prison environment and configured for communications with a second telephone instrument located at a second location;

an analog to digital converter at said first location having an analog input and a digital output, said first telephone instrument coupled to said input of said analog to digital converter;

a storage device located at a third location physically remote from said first location and said second location coupled to said output of said analog to digital converter, said storage device being configured to store recorded conversation data files corresponding to said digital output of said analog to digital converter;

a streaming converter coupled to said storage device; and
a workstation coupled to said streaming converter, whereby audio originating from said telephone instrument may be monitored at said workstation.

Ex. 1001, 9:14–30.

E. Prior Art

Petitioner relies upon U.S. Patent No. 7,899,167 B1, issued March 1, 2011 (Ex. 1002, “Rae”). Pet. 2–3.

F. Instituted Ground

As explained in the Introduction section above, we instituted trial based on the following asserted ground of unpatentability: claims 1–8 and 11–27 as anticipated under 35 U.S.C. § 102(e) by Rae. Dec. on Inst. 23.

II. ANALYSIS

A. Level of Skill in the Art

In determining the level of skill in the art, various factors may be considered, including the “type of problems encountered in the art; prior art solutions to those problems; rapidity with which innovations are made; sophistication of the technology; and educational level of active workers in the field.” *In re GPAC, Inc.*, 57 F.3d 1573, 1579 (Fed. Cir. 1995) (citing *Custom Accessories, Inc. v. Jeffrey-Allan Indus., Inc.*, 807 F.2d 955, 962 (Fed. Cir. 1986)). There is evidence in the record before us that reflects the knowledge level of a person with ordinary skill in the art. Petitioner’s expert witness, Dr. Akl, attests that a person with ordinary skill in the art in the relevant time frame would be an individual who possesses a combination of experience and education in the field of telecommunications, including “data storage, data transmission and analog/digital signal processing.” Ex. 1003 ¶ 46. According to Dr. Akl, this would consist of the following: (1) a minimum of a Bachelor’s Degree in electrical engineering, computer engineering or the equivalent; and (2) 2 or more years of industry or academic experience in the relevant field. *Id.* Petitioner’s rebuttal witness, Dr. Forsys, offers testimony as to the knowledge level of a person with ordinary skill in the art at the relevant time frame that is essentially the same as Dr. Akl’s assessment. Ex. 2010 ¶ 29.

Additionally, we note that the prior art of record in this proceeding—namely, Rae—is indicative of the level of ordinary skill in the art. *See Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001); *GPAC*, 57 F.3d at 1579; *In re Oelrich*, 579 F.2d 86, 91 (CCPA 1978).

B. Claim Construction

In an *inter partes* review, we interpret a claim term in an unexpired patent according to the broadest reasonable construction in light of the specification of the patent in which it appears. 37 C.F.R. § 42.100(b); *see also In re Cuozzo Speed Techs., LLC*, 793 F.3d 1268, 1278 (Fed. Cir. 2015) (“We conclude that Congress implicitly approved the broadest reasonable interpretation standard in enacting the AIA”), *cert. granted sub nom. Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 890 (mem.) (2016).

Under the broadest reasonable interpretation standard, and absent any special definitions, claims terms are given their ordinary and customary meaning, as would be understood by one of ordinary skill in the art in the context of the entire disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). Any special definitions for claim terms or phrases must be set forth with reasonable clarity, deliberateness, and precision. *In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994). In the absence of such a definition, limitations are not to be read from the specification into the claims. *See In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993). We apply these general principles in construing the claims of the ’732 patent.

1. Claim Phrases construed in the Decision on Institution

In its Petition, Petitioner asserted no “special definition has been provided in the specification for any claim term” and thus did not propose a

claim construction for any of the claim terms. Pet. 6–7 (citing Ex. 1003 ¶ 50). Patent Owner, in its Preliminary Response, proposed a claim construction for the claim term “streaming converter.” Prelim. Resp. 6–8. For purposes of the Decision on Institution only, we agreed with Patent Owner that the claim term “streaming converter” should be construed as “hardware and/or software that converts compressed voice data into a streaming format.” Dec. on Inst. 8.

2. “Streaming Converter”

Throughout trial, Patent Owner maintained that our preliminary construction, namely, “hardware and/or software that converts compressed voice data into a streaming format,” is correct. PO Resp. 6–9. Petitioner challenged this preliminary construction in its Reply, arguing that it “improperly attempts to read limitations in from the specification.” Reply 3. According to Petitioner, the intrinsic or extrinsic evidence does not limit the “streaming converter” to compressed voice data. *Id.* Petitioner argued that the “broadest reasonable interpretation of ‘streaming converter’ would *at least* include ‘hardware and/or software that converts voice data into a streaming format.’” *Id.* Petitioner appears to agree that the “streaming converter” receives data from the storage device, and based on the scope of independent claims 1, 3, 8, 15, 20, and 22, argued that the independent claims do not require that the storage device only receives compressed data. *Id.* at 4. At the oral hearing, Patent Owner reiterated its view that the preliminary construction is the broadest reasonable interpretation of this claim term “because it is consistent with the specification.” Tr. 126:16–17.

Now, with the full record before us, we consider again the parties’

arguments and evidence concerning the construction of “streaming converter.” We first look to the full phrase that includes this claim term, namely, “a streaming converter *coupled* to said storage device.” The claim language informs us of the connection between the “streaming converter” and the storage device, i.e., “coupled,” and is not concerned necessarily with the format of the data, i.e. compressed. Patent Owner’s arguments, however, seemingly interpret “streaming converter” in the context of the data, without consideration of the entire claim phrase. Patent Owner does not direct us to, nor do we discern, language in the claim itself requiring the data be compressed.

As for the portions of the specification identified by Patent Owner, all refer to the function performed by the streaming converter, namely to convert the compressed conversation data *into a streaming format*. Although the cited passages describe the voice data themselves as “compressed,” Patent Owner does not direct us to, nor can we find, disclosure in the specification necessarily limiting the voice data to a particular format for transmission, such as a compressed format. Indeed, our review of the specification reveals that:

the present technology provides an Integrated Access Device (IAD) 30 wherein voice signals are converted to a digital format and routed by way of a wide area network (WAN) transport mechanism to the central data center 110 for storage. IAD 30 may be embodied as a device more commonly known as a Voice over Internet Protocol (VoIP) Gateway. It is to be specifically understood, however, that the present technology does not require specific devices or systems for implementation but rather is more broadly directed to the inclusion of devices and systems designed to convert analog voice signals into a digital format suitable for transmission over a digital network.

Ex. 1001, 4:46–57.

Based on the arguments and evidence presented during trial, Petitioner argues persuasively that Patent Owner’s arguments fail to support a narrow construction of “streaming converter.” For example, at the oral hearing, Petitioner’s counsel testified:

there is nothing in the streaming converter that actually requires that the data be compressed. All it does is it transfers voice data into a streaming format. There is nothing that require [sic] that to be compressed or uncompressed. It is going to operate the same way, either way, whether that data is compressed or not.

Tr. 135:13–18.

Having considered the full record developed during trial, we conclude that the broadest reasonable interpretation of “streaming converter” as would be understood by one of skill in the art in the context of the ’732 patent is “hardware and/or software that converts voice data into a streaming format.”

3. “logical search”

Claims 11 and 16 each recite, in relevant part, “wherein said workstation is configured to perform logical searches of said conversation identifying data.” Ex. 1001, 9:42–43, 10:3–5. Claim 17 similarly recites, in relevant part, “wherein said workstation is configured to perform searches of said data files.” *Id.* at 10:6–8. Relying on the testimony of its declarant, Dr. Forys, Patent Owner asserts that the claim term “logical search” “is well-understood in the communications field” (PO Resp. 9 (citing Ex. 2010 ¶ 50)), and that a “logical search” is commonly referred to as a Boolean search (*id.* (citing Ex. 2010 ¶ 51)). Patent Owner concludes that the plain and ordinary meaning of “logical search” is “a search that uses Boolean

operators,” (*id.* (citing Ex. 2010 ¶ 50)) and proffers extrinsic evidence of the dictionary definition of “Boolean” to support its position (*id.* at 9–10 (citing Ex. 2001, 67, 69)).

Petitioner counters that the proffered extrinsic evidence regarding the dictionary definition of “Boolean search” does not support Patent Owner’s assertion that one of skill in the art would understand “logical search” to mean “Boolean search.” Reply 5–6. We agree. The proffered extrinsic evidence does not inform us sufficiently that one of skill in the art in the relevant time frame would equate a logical search with a Boolean search. Moreover, Patent Owner does not direct us to, nor can we find, any disclosure in the specification that supports Patent Owner’s proposed definition. Indeed, “logical search” is recited only in claims 16 and 17.

We are not persuaded by Patent Owner’s arguments and evidence that the plain and ordinary meaning of “logical search” is a Boolean search. Nevertheless, the parties seemingly agree that a “logical search” is understood by one of skill in the communications field. PO Resp. 9; Reply 5; *See* Tr. 119:21–23 (“logical search was a well-known term”). Therefore, based on the record before us, we conclude the claim term “logical search” need not be construed expressly for purposes of this decision.

4. “file”

Independent claim 8 recites, in relevant part, “said storage device being configured to store recorded conversation data files corresponding to said digital output of said analog to digital converter.” Ex. 1001, 9:25–27 (“the ‘data file’ limitation”). Independent claim 15 similarly recites the “data file” limitation. *Id.* at 9:53. Although neither party proposed a

construction of the term “file,” based on the record developed during trial, we consider the proper construction of this claim term.

Patent Owner, relying on the testimony of its declarant, Dr. Forys, contends that data may be stored in different ways, including as a data block, on a disk, or as a file. PO. Resp. 11 (citing Ex. 2010 ¶ 54). Patent Owner’s proposed construction is based on a special purpose dictionary definition of “file” as a “[c]omplete, named collection of information, such as a program, a set of data used by a program, or a user-created document.” *Id.* (citing Ex. 2001, 211). During oral argument, Patent Owner’s counsel maintained that “claims 8 and 15 make it clear that they are talking about a specific format. And that is conversation data files.” Tr. 96:6–7. Patent Owner’s counsel clarified its position that:

[d]ata is a broader term, and it could be stored any way. So you could store the data as files, or you could store it in a database, or when we specifically refer to files, we are referring to the storage format, which is a file.

Id. at 97:9–13. With respect to data block storage, Patent Owner’s counsel further argued “you could think of a file as the name[d] collection of data blocks.” *Id.* at 97:19–20.

In the context of the entire claim phrase, the term “file” refers to “*recorded conversation data files* corresponding to said digital output of said analog to digital converter.” Patent Owner does not inform us, nor can we find, language in the claim itself requiring that the data be stored in a particular manner, such as a data block, a disk, or a file. In its Reply, Petitioner responded that Patent Owner’s proposed definition of “file” recognized that “a file can simply be ‘a set of data used by a program.’” Reply 7.

As to the specification, Patent Owner does not direct us to, nor can we find, disclosure in the specification of the '732 patent detailing that the data be stored in a particular way. Indeed, our review of the specification reveals that the term “file” is not defined explicitly or implicitly. For example, the specification describes how

at the end of the conversation, the entire conversation is written in the compressed data format to a file on the storage device 220 (FIG. 2) at the central data center 110. Also upon completion of the conversation, the file is closed and identifying information is written to a database with which the compressed conversation data is associated.

Ex. 1001 5:66 – 6:5. This passage belies the position that a “file” must be “complete” and “named” at all times in the disclosed processes. The specification also describes an embodiment in which storage of the compressed conversation data “may be, but is not limited to, a so-called relational database arrangement.” *Id.* at 7:62–63.

Because the claim term “file” is commonly understood, we also consult a general purpose dictionary, which defines “file” as “(1): a collection of related data records (as for a computer) (2): a complete collection of data (as text or a program) treated by a computer as a unit especially for purposes of input and output).”² Having considered the arguments and evidence of record, and absent an explicit or implicit definition, we accord this claim term its ordinary and customary meaning, as would be understood by one of ordinary skill in the art, in the context of the entire disclosure of the '732 patent. *See Translogic*, 504 F.3d at 1257.

² See Merriam-Webster.com, <http://www.merriam-webster.com/dictionary/file>, (last viewed April 23, 2016).

Thus, we conclude that the broadest reasonable interpretation of “file” is “a collection of data.”

C. Anticipation by Rae

A claim is anticipated if each limitation of the claim is disclosed in a single prior art reference arranged as in the claim. *Net MoneyIN, Inc. v. VeriSign, Inc.*, 545 F.3d 1359, 1369 (Fed. Cir. 2008). As recently reiterated by the Federal Circuit, “a reference can anticipate a claim even if it ‘d[oes] not expressly spell out’ all the limitations arranged or combined as in the claim, if a person of skill in the art, reading the reference, would ‘at once envisage’ the claimed arrangement or combination.” *Kennametal, Inc. v. Ingersoll Cutting Tool Co.*, 780 F.3d 1376, 1381 (Fed. Cir. 2015) (quoting *In re Petering*, 301 F.2d 676, 681 (CCPA 1962)). We analyze this ground based on anticipation in accordance with the above-stated principles.

Petitioner contends that claims 1–8 and 11–27 are anticipated under 35 U.S.C. § 102(e) by Rae. Pet. 9–60. In its Petition, Petitioner explains how Rae describes the claimed subject matter of each challenged claim, and relies upon the Declaration of Dr. Akl (Ex. 1003) to support the analysis advocated in the Petition. *Id.* Patent Owner disagrees, and focuses its arguments on challenging the teachings of Rae with respect to claims 3, 5–19, 22, and 24–27.³ PO Resp. 10–44. For the reasons given below, after consideration of the Petition, the arguments in the Patent Owner Response, Petitioner’s Reply, and the evidence of record, we conclude that Petitioner

³ Trial was not instituted as to claims 9 and 10. Dec. on Inst. 22.

has demonstrated, by a preponderance of the evidence, that each of claims 1–8 and 11–27 of the '732 patent is anticipated by Rae. We begin our analysis with a discussion of the parties' assertions regarding the experts, followed by a brief summary of the cited references, and then we address the parties' contentions in turn.

1. Dr. Akl

In its Patent Owner Response, Patent Owner contends that we should accord the testimony of Petitioner's expert witness, Dr. Akl, "little or no weight." PO Resp. 38–44. Specifically, Patent Owner argues that Dr. Akl provides conclusory statements, without providing real analysis. *Id.* at 39. To support its contention, Patent Owner cites various statements made by Dr. Akl with which it disagrees. *See e.g., id.* ("A person of ordinary skill in the art would understand the 'IP Frame Network' shown in Figure 1 to be a wide area network operating on the Internet Protocol (IP) communications protocol, also understood as 'the Internet.'") (citing Ex. 1003 ¶ 120).

We have reviewed the expert testimony from both sides, and find that both experts have, at times, taken liberties in proffering conclusory statements without real analysis.⁴ As such, it is within our discretion to assign the appropriate weight to the testimony of both Dr. Akl and Dr. Forys. *See, e.g., Yorkey v. Diab*, 601 F.3d 1279, 1284 (Fed. Cir. 2010) (holding the Board has discretion to give more weight to one item of evidence over another "unless no reasonable trier of fact could have done so"); *In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1368 (Fed. Cir. 2004)

⁴ Under our rules, expert testimony that does not have a proper basis is entitled to little or no weight. 37 C.F.R. § 42.65(a).

("[T]he Board is entitled to weigh the declarations and conclude that the lack of factual corroboration warrants discounting the opinions expressed in the declarations.").

We are not persuaded by Patent Owner's contentions that Dr. Akl's testimony be disregarded. Thus, we accord the testimony of both Dr. Akl and Dr. Forsythe the appropriate weight in view of the arguments and evidence of record in this trial.

2. *Overview of Rae (Ex. 1002)*

U.S. Patent No. 7,899,167 B1 to Rae has a filing date of August 15, 2003, and issued on March 1, 2011. Ex. 1002, at [10], [22], and [45]. Rae relates generally to a centralized call processing system for use in a facility such as a prison. *Id.* at 1:38–39, 2:6–7. Figure 1 of Rae is reproduced below.

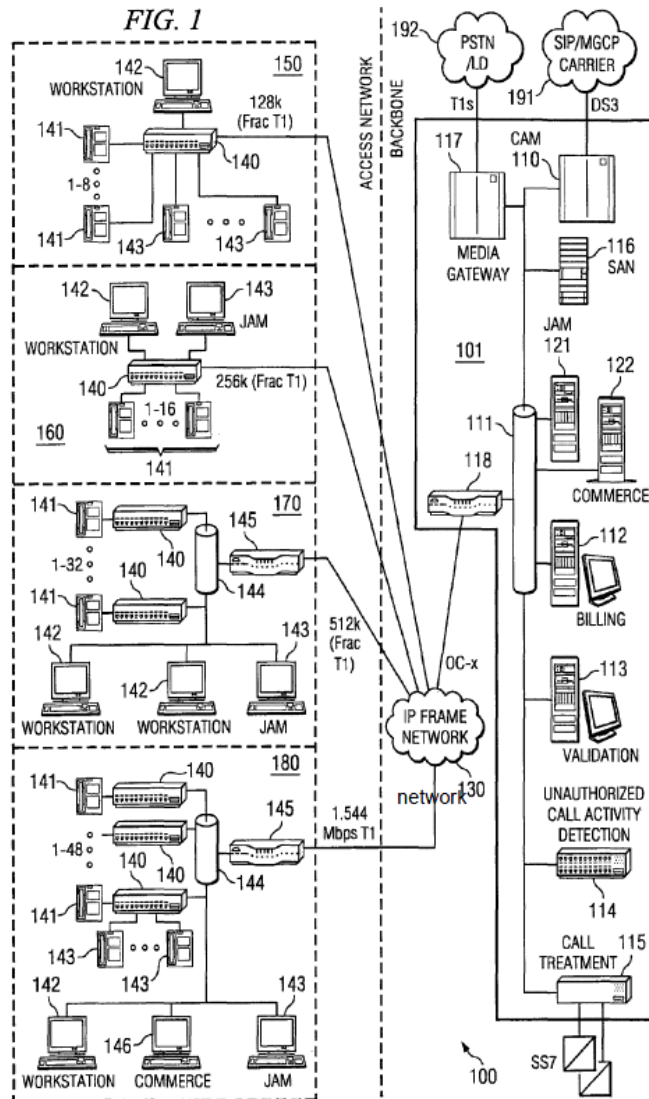


Figure 1 is a diagrammatic view of a centralized call processing system.

Call processing system 100 includes call processing platform 101 in communication with facilities 150–180 via network 130. *Id.* at 5:41–44. Facilities include a telephone 141, workstation 142, visitation telephones 143, and call processing gateway 140. *Id.* at 6:10–14. Call processing gateways 140 positioned at or near facilities provide interfacing and arbitration between devices, including analog telephone line interfaces and WAN interface for coupling to a data network. *Id.* at 6:1–10. In addition,

the call processing gateway converts analog signals associated with the telephone terminals and visitation telephones 143 and digital data packets of the packet switched network to a VoIP gateway. *Id.* at 6:10–14. Rae also discloses that the call processing gateway can “provide such communication arbitration, e.g., analog to VoIP and VoIP to analog functionality, to provide a data stream to call processing platform **101** containing the communication content between such terminals, such as to provide word search and/or call recording.” *Id.* at 6:33–39.

Rae further discloses that the call processing platform includes call recording system 116 capable of storing data with respect to calls, and is coupled to the call application management system 110. *Id.* at 9:49–67. In addition to storing various types of information pertaining to calls, the call recording system may include processor based functionality to analyze call content, such as word searches. *Id.* at 10:39–50.

3. Discussion

a. Claims 1, 2, 4, 20, 21, and 23

Petitioner relies on Rae to describe each of the limitations recited in independent claims 1 and 20, as well as claims 2 and 4, which depend from claim 1, and claims 21 and 23, which depend from claim 20. Pet. 9–19, 20–21, 26, 53–58. Patent Owner, in its Patent Owner Response, does not challenge Petitioner’s contentions as to claims 1, 2, 4, 20, 21, and 23. We agree that the passages of Rae cited by Petitioner describe the limitations of each of these claims. Thus, having considered the evidence of record, we are persuaded that Petitioner has demonstrated by a preponderance of the evidence that claims 1, 2, 4, 20, 21, and 23 are anticipated by Rae. *See*

Paper 13 (The patent owner is cautioned that any arguments for patentability not raised in the response will be deemed waived.).

b. Claims 8, 11–19, and 26

Petitioner relies on Rae to describe each of the limitations recited in independent claims 8 and 15. Pet. 27–37, 45–51. In its Patent Owner Response, Patent Owner challenges the sufficiency of Petitioner’s proofs in several respects that we discuss *infra*. We note, however, that most of the claim elements are undisputed, and agree that the passages of Rae cited by Petitioner describe the limitations of each of these claims. With respect to the undisputed limitations, we find that, based on the evidence cited in the Petition, Petitioner has presented sufficient evidence to support a finding that those limitations are disclosed by Rae. We address the parties’ positions regarding these disputed limitations in turn.

i) “data files”

Independent claim 8 recites, in relevant part, “said storage device being configured to store recorded conversation data files corresponding to said digital output of said analog to digital converter.” Ex. 1001, 9:25–27. Independent claim 15 similarly recites this limitation. *Id.* at 9:53. In its Petition, Petitioner argues that the storage device claim term is satisfied by the disclosure in Rae of a storage device, and related discussion of how conversation data are recorded and stored by call recording system 116. Pet. 30–31 (citing Ex. 1002, 4:34–39, Figure 1; Ex. 1003 ¶¶ 97–98). Additionally, Petitioner argues that the “data file” limitation is met by the disclosure in Rae describing

[t]he conversation data files stored “may comprise the content of the call, i.e., record the conversation or exchange of data

provided by the call,” but also “information stored by recording system 116 may comprise ancillary call information, such as identification of the calling and/or called party, calling number (e.g., automatic number information (ANI)), called number (e.g., dialed number information service (DNIS)), time of call, duration of call, account information, entity responsible for billing the call, and/or the like.”

Id. at 31 (citing Ex. 1002, 9:53–62).

Patent Owner argues that Rae does not disclose that the conversation data are stored as “a specific type of format for storage—a file.” PO Resp. 11. In particular, Patent Owner argues that Rae does not disclose expressly the format used to store call content, and that Petitioner has not argued that Rae inherently discloses the use of files for storage. *Id.* at 12.

Petitioner counters that Rae satisfies the “data file” limitation because the disclosure in Rae regarding storage of the content of the call is representative of a set of data used by a program. Reply 7 (citing 1002, 9:63–67). As discussed *supra*, we construe the claim term “file” to mean “a collection of data.” Petitioner’s position regarding Rae’s disclosure of storage of the call content is consistent with this claim construction.

Having considered the record in its entirety, Petitioner presents persuasive evidence to support a finding that Rae describes “said storage device being configured to store recorded conversation data files corresponding to said digital output of said analog to digital converter” limitation of claim 8 and 15.

ii) “streaming converter”

Claims 8 and 15 recite, in relevant part, “a streaming converter coupled to said data storage device.” Ex. 1001, 9:28, 9:60. In the Petition, Petitioner relies on the testimony of its Declarant, Dr. Akl, in asserting that

the call processing gateway taught by Rae is a “streaming converter” because it may be implemented as a VoIP gateway which “operates to convert analog voice signals to digital data in a streaming format for transmission of live voice conversations.” Pet. 33 (citing Ex. 1003 ¶ 102). According to Petitioner, Rae references “‘data streams’ output from the call processing gateways throughout its disclosure.” *Id.* at 33–34 (citing Ex. 1002, 6:32–39, 16:16–21, 17:21–26, Fig. 1; Ex. 1003 ¶ 103–104).

Patent Owner, in its Patent Owner Response, asserts that “Rae’s VoIP gateway cannot be the recited ‘*streaming converter*’ for one fundamental reason—it does not convert compressed data into a streaming format.” PO Resp. 14. Relying on the testimony of Dr. Forys, Patent Owner argues that Rae fails to disclose that the VoIP gateway performs compression prior to transmission of the VoIP data stream, and “compression is not necessarily present in a VoIP gateway.” *Id.* at 15 (citing Ex. 2010 ¶ 63). Patent Owner argues further that Petitioner has not demonstrated that “compression necessarily occurs *before* the voice data is converted into VoIP packets (the alleged “*streaming format*”).” *Id.* at 16.

In its Reply, Petitioner maintains that the VoIP gateway described in Rae is a streaming converter because it converts digital voice data into a streaming format for playback. Reply 8 (citing Ex. 1003 ¶ 102). Petitioner asserts that although the parties agree the call processing gateway of Rae converts voice data into a streaming format, Patent Owner adheres to its narrow claim construction of “streaming converter.” *Id.* (citing Ex. 1009, 94:7–17; see also PO Resp. 16).

As discussed in the claim construction section above, we construed the claim term “streaming converter” to mean “hardware and/or software

that converts voice data into a streaming format.” Petitioner argues persuasively that Rae’s disclosure of a VoIP gateway, that converts analog voice signals to digital data in a streaming format for transmission of live voice conversations, is consistent with this claim construction. We are not persuaded by Patent Owner’s argument regarding timing of any data compression relative to conversion into VoIP packets, because this argument is not commensurate in scope with the “streaming converter” limitation. *See In re Self*, 671 F.2d 1344, 1348 (CCPA 1982) (stating that limitations not appearing in the claims cannot be relied upon for patentability). Patent Owner does not direct us to, nor can we find, language in this claim limitation that requires the compression to occur before the voice data are converted into VoIP packets. We, therefore, decline Patent Owner’s invitation to narrow the scope of this disputed claim limitation by incorporating an extraneous timing requirement.

Moreover, Petitioner argues persuasively that Rae discloses this claim limitation even under Patent Owner’s proposed construction. Relying on the testimony of Dr. Akl, Petitioner demonstrates sufficiently that data compression was necessarily part of the commercially available Cisco IAD 2420 VoIP gateway described by Rae. *Id.* at 9 (citing Ex. 1003, ¶ 75).

Next, Patent Owner argues that “[t]he call processing gateway (VoIP gateway) of Rae cannot be the ‘streaming converter’ of claims 8 and 26 for one additional reason—Petitioner relies on the same VoIP gateway to meet the ‘*analog to digital converter*’ claim element.” PO. Resp. 16. Patent Owner contends “that Petitioner does not identify ‘how both an analog to digital converter and a streaming converter could reside within the call processing gateway’ described in Rae.” *Id.* at 16–17. According to Patent

Owner, the “streaming converter” and “analog to digital converter” are recited as “two separate and discrete components” (*Id.* at 17) as evidenced by Figures 1 and 2 of the ’732 patent (*Id.* (citing Ex. 1001, Figures 1 and 2)).

In its Reply, Petitioner refutes Patent Owner’s argument that the “analog to digital converter” and “streaming converter” claim elements cannot be separate structures, because the claims define both “by the *function* they perform, and not by the structure of the element.” Reply 11. Petitioner supports its position by directing us to an embodiment described in the ’732 patent itself of IAD 30, which performs *both* the function of converting analog information into digital data and compressing the digital data by the compression module. *Id.* at 11 (citing Ex. 1001 5:38–40, 48–50).

Our review of the specification as well as Figures 1 and 2 reveals that IAD 30 “may be co-located at the same facility as the origination telephone or may be at a more remote location and coupled to the origination telephone.” Ex. 1001, 5:41–43. Use of the permissive term “may” suggests that IAD 30 could be located at a “first location” or another location. While claim 8 expressly recites that both the first telephone and analog to digital converter are located “at a first location,” and the storage device is located at a “third location physically remote from said first location,” the location of the streaming converter is not expressly recited. *Id.* at 9:15–16, 18, 22–23, and 28. Thus, Petitioner explains persuasively how the VoIP gateway in Rae meets both the “analog to digital converter” and “streaming converter” claim elements of claims 8 and 15.

In considering the record in its entirety, Petitioner has presented persuasive evidence to support a finding that Rae describes the “streaming converter” claim limitation recited in independent claims 8 and 15.

iii) Summary

Based on further review of the record, and for the reasons discussed above, Petitioner has demonstrated, by a preponderance of the evidence, that claims 8 and 15 of the '732 patent are anticipated by Rae.

c. Claims 5, 11, 12, 16, 17, 24, and 27

The '732 patent contains two sets of dependent claims directed to the search capability of the workstation. In the first set, dependent claims 5, 12, 17, and 24 require that the workstation be configured to search conversation data. The second set, dependent claims 11, 16, and 27, each require that the workstation be configured to perform a logical search of the conversation data. Patent Owner argues that Petitioner fails to establish that Rae expressly or inherently discloses the “search” element of these two sets of claims because: 1) “[t]he claims limit where the search of the call content and conversation identifying information occurs” (PO Resp. 20–21); 2) “[t]he '732 patent distinguishes between the search of words or phrases in call content from a logical search of conversation identifying data” (*id.* at 22–23); 3) “Rae does not anticipate dependent claims 5, 12, 17, and 24 because it does not disclose a workstation that is configured to search the recorded conversation data” (*id.* at 23–26); and 4) “Rae does not anticipate dependent claims 11, 16, and 27 because it does not disclose a workstation that ‘is configured to perform logical searches of said conversation identifying data’” (*id.* at 26–30). We consider the parties’ arguments directed to these two sets of claims in turn.

i) *The claims limit where the search of the call content and conversation identifying information occurs.*

With respect to the first set of claims, Petitioner describes how Rae discloses that the call recording system includes word search functionality, and workstation 142 can search accessed recorded conversation data stored by the call recording system via a wide area network (WAN). Pet. 21–24, 43–44, 52, and 58 (citing Ex. 1002, 10:39–50, 13:10–21, 13:64–14:1, 17:21–30, Fig. 1; Ex. 1003 ¶¶ 79–81, 116). As to the second set of claims, Petitioner describes how Rae meets this limitation in disclosing that conversation data are recorded and stored by the call recording system, the stored data comprise the content of the call, and identifying information associated with the call content, and word search functionality are utilized to analyze the content of the calls. Pet. 40–43, 51–52, and 60 (citing Ex. 1002, 4:34–39, 9:53–62, 9:64–67, 10:1–7, 10:39–50, 12:63–66; Ex. 1003 ¶¶ 112–115).

As to both sets of claims, Patent Owner argues in its Patent Owner Response that the use of the functional language “configured to” means that the workstation itself “must be designed or adapted to perform the recited search,” and that “a general purpose computer that simply receives the results of the search would not meet the language of the claim.” PO Resp. 20. To support its argument that the ’732 patent describes a client server architecture for searching stored data, Patent Owner cites a passage in the specification describing an embodiment in which the workstation “may be provided with a web-based application [client] so that an operator [may] enter criteria for a search of the central database [server].” *Id.* at 21 (citing Ex. 1001, 6:40-41). Based on this disclosure regarding the central database

functioning as a database engine that returns the results of the search to the client application for processing and presentation to the user, Patent Owner asserts the fact that the workstation in Rae “works in concert with the central database to effectuate the search does not remove the requirement that the workstation must be adapted to or designed with the recited search functionality.” *Id.* at 21.

Taking a contrary position, Petitioner argues that neither the claim nor the cited passages of the specification limit the search to taking place on the workstation. Reply 12. Citing the same passage from the specification as Patent Owner, Petitioner contends that the referred to “web-based application” searches the central database (*Id.* (citing Ex. 1001, 6:39–42), and further that “**a web-based** application defines the workstation (i.e., client) as the interface to the functionality accessible on a server (i.e., the database) via the web (i.e., a network).” *Id.* Based on this example in the specification of a web-based application, Petitioner asserts that the search engine (i.e. database engine) resides at the central database and not on the workstation. *Id.* Petitioner supports its position by noting that the workstation sends the search criteria to the central database and further that the workstation presents the results of that search to the user. *Id.* at 13 (citing Ex. 1001 6:40–45). The centralized search facility of Rae is implemented the same way, according to Petitioner. *Id.* (citing Ex. 1001, 13:10–21).

We are not persuaded by the evidence and arguments presented by Patent Owner that the claim phrase “a work station configured to search” means that the search must occur on the workstation. Instead, Petitioner argues persuasively that both the ’732 patent and Rae operate the same way because “search criteria are sent from the workstation to the database server

and the results of the search are provided to the workstation for presenting to the user.” Pet. 13. Petitioner reiterated its position at the oral hearing. Tr. 88:1–16.

ii) The ’732 patent distinguishes between the search of words or phrases in call content from a logical search of conversation identifying data.

Next, Patent Owner notes that “claims 5, 12, 17, and 24 require that the search is of the **recorded conversation data files**. And, claims 11, 16, and 27 require that the search is a logical search of the **conversation identifying data.**” PO Resp. 22. Directing our attention to the specification, Patent Owner contends that “call content data (the recorded conversation data file) is separate and distinct from call identifying information.” *Id.* at 23 (citing Ex. 1001, 5:55–6:1, 6:2–5). In its Reply, Petitioner argues that Rae discloses both these limitations because Rae discloses a call recording system that records the call content, “i.e., record[s] the conversations or exchange of data provided by the call” (*Id.* at 14 (citing Ex. 1002, 9:53-56)), and call identifying information associated with call content, i.e., “information stored by call recording system 116 may comprise ancillary call information, such as identification of the calling and/or called party, calling number (e.g., automatic number information (ANI)), called number (e.g., dialed number information service (DNIS)), time of call, duration of call, account information, entity responsible for billing the call, and/or the like” (*id.* (citing Ex. 1002, 9:56-67)).

Based on the evidence and arguments presented during trial, Petitioner argues persuasively that Rae discloses both call content data and call identifying information. For example, Rae describes information stored by

the call recording system may include the content of the call, and “[a]dditionally or alternatively, information stored by the call recording system 116 may comprise ancillary call information.” Ex. 1002 9:56–58.

iii) Claims 5, 12, 17, and 24

Patent Owner argues that Rae does not disclose the claim element of a “workstation configured to search the recorded conversation data” as recited in the first set of claims, i.e., claims 5, 12, 17, and 24. PO Resp. 23. Patent Owner challenges whether the “virtual local facility call processor system” described in Rae can be stretched to mean that the functionality of call processing platform 101 is also distributed to each remote facility. *Id.* at 24–25 (citing Ex. 2010 ¶79). Relying on the testimony of its declarant, Patent Owner characterizes Rae as disclosing “that the *results* of certain centralized functions may be made available to a user via a workstation 142—*e.g.*, a recorded inmate conversation stored at call recording system 116 may be played back on workstation 142.” *Id.* at 25 (citing Ex. 2010 ¶ 79). Patent owner concludes “[t]he fact that a workstation may have search functionality is insufficient to establish anticipation.” *Id.* at 26.

Petitioner maintains in its Reply that the workstation of Rae performs searches of conversation data. Reply 15–16 (citing Ex. 1002, 10:42–46, 13:10–21, Figure 1; Ex. 1003 ¶¶ 79, 81). As discussed *supra*, we agree with Petitioner that the “configured to” language in the claims means that the search itself need not occur on the workstation. *Id.* at 15. Moreover, Petitioner argues persuasively that the “virtual local facility call processor system” in Rae is “no different from the web-based application in the ’732 patent” because both systems run a query on a remote database and return the results to the workstation. *Id.* at 15–16.

iv) Claims 11, 16, and 27

Patent Owner contends that Rae's workstation is not "configured to perform logical searches of said conversation identifying data." PO Resp. 26. Patent Owner first argues Rae does not anticipate because "recognizing 'words or phrases within the content of a call' is not the claimed logical search of conversation identifying data." *Id.* at 27. Patent Owner explains that Rae searches the call content and not the conversation identifying data. *Id.* at 27.

Petitioner counters that Patent Owner's interpretation of this claim phrase is not the broadest reasonable interpretation based on the specification's broad disclosure of what conversation identifying data include. Reply 17. For example, Petitioner notes that the '732 patent describes identifying information as "information necessary to retrieve the stored compressed conversation data and may include, but is not limited to, such information as prisoner's name, origination number, destination number, time and date of call, facility location, and any other such identifying information as may be desirable for any particular installation or circumstance." *Id.* (citing Ex. 1002, 6:5–11). Thus, Petitioner explains persuasively how the keyword identification technique described in Rae falls with the broadest reasonable interpretation of "conversation identifying data" as recited in the claims. *Id.*

Next, Patent Owner argues that Rae does not disclose a workstation configured to perform a logical search, and instead discloses that call recording system 116 performs the word search. PO Resp. 27. Relying on the testimony of its declarant, Dr. Forys, Patent Owner contends that the

workstation described by Rae has neither express nor inherent search capability. *Id.* at 27–28 (citing Ex. 2010 ¶ 87).

Petitioner notes that during the deposition of Dr. Forys, when asked about the role of the workstation in performing a search of a centralized database like that described in the '732 patent, “Dr. Forys confirmed that a search is performed *at the workstation* if the workstation sends search parameters to the database for identification of the results,” (Reply 19 (citing Ex. 1009, 121:4–122:9)), and that this technology was well known in the time-frame of the '732 patent (*id.* (citing Ex. 1009, 124:22–125:4)).

Petitioner also draws our attention to the testimony of Dr. Forys’ regarding the search functionality discussed in Rae, e.g., “[t]he only thing Rae says is that I can access information. That doesn’t mean you search it.” *Id.* at 20 (citing Ex. 1009, 128:11–129:22).

We do not credit the testimony of Dr. Forys that one of skill in the art would not understand the description in Rae regarding accessing information to encompass a search for the information. Ex. 1009, 128:11–129:22. Indeed, Dr. Forys acknowledges that searching a database remotely from a web-based application was generally known in 2003. Ex. 1009, 124:22–125:4.

Second, Patent Owner argues that Rae fails explicitly or inherently to disclose the “logical search” claim element. PO Resp. 28–30. Specifically, Patent Owner argues that the access control mechanism described in Rae does not require any type of search, let alone a logical search. *Id.* at 28. Based on its proposed narrow interpretation of “logical search” as a “search that uses Boolean operators,” which we do not adopt, Patent Owner argues

further that Rae never discloses searching conversation identifying data. *Id.* at 29.

Petitioner replies that Rae discloses logical searching even under Patent Owner's proposed narrow construction because "any standard search mechanism is a logical search." Reply 16. Petitioner notes that Dr. Forsy agreed that "a keyword search of a single word would be the Boolean equivalent of the Boolean operation: <keyword> AND <NULL>." *Id.* at 16–17 (citing Ex. 1009, 156:21– 157:9).

We are not persuaded by Patent Owner's arguments in this regard. We determined above that the claim term "logical search" is well understood by one of skill in the art. In the Petition, Petitioner explained how the disclosure in Rae concerning recognizing words or phrases within the content of a call satisfies the logical word search claim limitation. Petitioner supported its assertion that the retrieval mechanisms used for accessing recorded call content and word-search functionality would be understood by a person of ordinary skill in the art to include logical searching with the testimony by Dr. Akl. Pet. 42–43 (citing Ex. 1003 ¶ 115). As discussed *supra*, Petitioner proffers evidence from the specification tending to show that "conversation identifying data" are broadly described as any information used to identify the call (Reply 17 (citing Ex. 1001 6:5–11)), and further, that "call content can constitute 'conversation identifying data,' as the content of a call can be used to identify the call" (*Id.*). Patent Owner, however, does not direct us to, nor can we find, a disclosure in the '732 patent that distinguishes the recognition of words or phrases in call content from a logical word search.

Patent Owner's further argument, that Rae does not disclose that the workstation is configured to perform the logical search of conversation identifying data, is likewise not persuasive. Petitioner explains sufficiently how the disclosure in Rae regarding user access to previously recorded conversation identifying data and content from a workstation communicating with the call recording system over a network satisfies the "workstation configured to" claim language. Pet. 42 (citing Ex. 1002, 9:64–67; Ex. 1003 ¶ 115).

v) *Summary*

In considering the record in its entirety, Petitioner has presented persuasive evidence to support a finding that Rae describes the "workstation be configured to search" claim limitation recited in dependent claims 5, 12, 17, and 24, as well as the "workstation be configured to perform logical searches" claim limitation recited in dependent claims 11, 16, and 27.

Based on further review of the record, and for the reasons discussed above, Petitioner has demonstrated, by a preponderance of the evidence, that claims 5, 11, 12, 16, 17, 24, and 27 of the '732 patent are anticipated by Rae.

d. *Claims 3 and 22⁵*

Claims 3 and 22 depend from claims 1 and 20, respectively, and recite in relevant part "a data compressor coupled to said output of said analog to

⁵ We note that claim 22 explicitly recites "a data compressor coupled to said output of said analog to digital converter." Claim 23, however, recites "a workstation coupled to said data storage device and configured to access recorded inmate conversation data stored in said storage device." Ex. 1001, 10:42–44. Therefore, we consider the parties' arguments as directed to claim 22.

digital converter.” Ex. 1001, 8:64–65, 10:38–39. Petitioner argues that Rae discloses a call processing gateway, such as an integrated access device or VoIP gateway, and provides an example of a commercially available integrated access device, the IAD 2400 series available from Cisco System. Pet. 19 (citing Ex. 1002, 3:34–39).

Patent Owner argues that a data compressor is not inherently present in a VoIP gateway. PO Resp. 30. According to Patent Owner, Petitioner’s reference to a commercially available IAD, the IAD 2400 series gateway, is misplaced because Dr. Akl “provides no analysis, just a conclusion, based on one line that appears in the boot sequence on initial startup of IAD 2420 that lists a 6-DSP (slot 2) High Performance Compression Module. *Id.* at 31 (citing Ex. 1003 ¶ 75). Patent Owner presents the testimony of Dr. Forys, who opines that “certain VoIP networks that use Cisco IAD 2400 series routers do not necessarily implement the claimed “data compression” feature.” *Id.* at 32 (citing Ex. 2010 ¶ 94). According to Dr. Forys, the placement of the compression module in “slot 2” of the IAD suggests to a person of ordinary skill in the art that the compression module is removable. *Id.* (citing Ex. 2010 ¶ 95). Patent Owner contends there is no evidence that the Cisco IAD 2400 “would necessarily have this High Performance Compression Module inserted into ‘slot 2’ or any slot. *Id.* (citing Ex. 2010 ¶ 95).

Petitioner argues persuasively that Patent Owner’s contentions regarding the removability of the High Performance Compression Module from the Cisco IAD 2420 “does not change the fact that a data compressor is disclosed as a component of Rae’s system and the Cisco IAD 2420.” Reply

21. As noted by Petitioner, the Initial Configuration Guide for the Cisco IAD 2420 describes the presence of this module. *Id.*

Second, Patent Owner argues that Petitioner's inherency arguments mischaracterize Rae's disclosure because one of ordinary skill in the art "would recognize that Rae's statement does not necessarily imply that data compression has taken place." PO Resp. 32–33 (citing Ex. 2010 ¶ 96). Relying on the testimony of Dr. Forys, Patent Owner asserts that "the VoIP packets produced by Rae's call processing gateway 140 can be distributed over an aggregate link (i.e. a link comprising multiple individual links) in a manner that reduces the overall bandwidth usage." *Id.* at 33 (citing Ex. 2010 ¶ 96). Patent Owner asserts that VoIP would not use voice compression when aggregating calls into less bandwidth. *Id.* (citing Ex. 2010 ¶ 97).

Petitioner counters that VoIP includes compression, and that the '732 patent describes how data compression may be part of a VoIP gateway. Reply 21 (citing Ex. 1001, 4:50–52, 5:47–50). According to Petitioner, Dr. Forys confirmed in deposition that the IAD disclosed by Rae would be understood by one of ordinary skill in the art to include the same functionalities as IAD 30 of the '732 patent, including, converting analog to digital, data compression, and interfacing with an Ethernet network. *Id.* at 22 (citing Ex. 1009, 99:20–101:1).

Finally, relying on the testimony of Dr. Forys, Patent Owner challenges Dr. Akl's statement that "VoIP is a standardized protocol that was well known by a person of ordinary skill in the art in 2003" and was well known to "include[] data compression by necessity." PO Resp. 34 (citing Ex. 1003 ¶ 74). We are persuaded by Petitioner that Dr. Forys'

awareness “of a VoIP standard that *required* compression misses the point” because all VoIP standards *support* compression. Reply 22.

In considering the record in its entirety, Petitioner has presented persuasive evidence to support a finding that Rae describes the “data compressor coupled to the analog to digital converter” claim limitation recited in dependent claims 3 and 22.

Based on further review of the record, and for the reasons discussed above, Petitioner has demonstrated, by a preponderance of the evidence, that claims 3 and 22 of the ’732 patent are anticipated by Rae.

e. Claims 6 and 25

Dependent claims 6 and 25 recite in relevant part “a workstation coupled to said analog to digital converter and configured to access ongoing conversations.” Ex. 1001, 9:10–11, 10:51–52. Petitioner asserts that Rae meets these limitations. Pet. 24–26, 59. In particular, Petitioner points to the disclosure in Rae concerning real-time monitoring of the call by the call application management system. *Id.* at 25 (citing Ex. 1002, 17:21–30; Ex. 1003 ¶ 83). Petitioner contends “[w]orkstations 142 (also referred to as ‘management terminals’) serve as the user interface to access the data and functionality made available by call processing platform 101.” *Id.* (citing Ex. 1002, 13:10–21; Ex. 1003 ¶ 84).

Patent Owner challenges Petitioner’s contentions, first arguing that Petitioner provides no evidence tending to show that Rae expressly or inherently discloses that the workstation accesses an ongoing conversation because Rae describes how “real-time monitoring” is performed at the centralized call application management system 11. PO Resp. 35 (citing Ex. 2010 ¶ 105). In addition, Patent Owner argues 1) it is not inherent that

Rae's virtual local call facility accesses ongoing conversations; and 2) Petitioner's contention that "real-time monitoring equates to accessing ongoing conversations" is unsupported. *Id.* at 35. According to Patent Owner, one of ordinary skill in the art would recognize that "real-time monitoring of the call . . . is not a monitoring of the call content itself." *Id.* (citing Ex. 2010 ¶ 105). Instead, Patent Owner argues that the call application management system monitors call events. *Id.* Next, Patent Owner challenges Petitioner's contention that Rae discloses monitoring a call at an investigator's telephone. *Id.* at 35–36. According to Patent Owner, the '732 patent distinguishes a workstation from a telephone. *Id.* at 36. Finally, Patent owner asserts that Petitioner has not established that the telephone is coupled to the analog to digital converter, as required by the claims. *Id.*

Petitioner responds that Patent Owner's arguments ignore the explicit language in Rae disclosing "call **content** data streams from the call processing gateway to the call processing platform, such as for . . . real-time monitoring of the call." Reply 22 (citing Ex. 1002, 17:21-30). According to Petitioner, Patent Owner's suggestion that real-time monitoring is limited to call events ignores the word "content." *Id.* Petitioner points out that the '732 patent similarly uses "monitor real-time conversations" language in describing how the workstations access ongoing content. *Id.* (citing Ex. 1001, 8:54–55).

Based on the record developed during trial, Patent Owner's arguments are not persuasive. Petitioner presents persuasive arguments and evidence demonstrating how the workstation disclosed in Rae is "configured to" access ongoing conversations. The "configured to" claim language does not

limit the technique by which the workstation accesses the ongoing conversation.

In considering the record in its entirety, Petitioner has presented persuasive evidence to support a finding that Rae describes the “a workstation coupled to said analog to digital converter and configured to access ongoing conversations” claim limitation recited in dependent claims 6 and 25.

Based on further review of the record, and for the reasons discussed above, Petitioner has demonstrated, by a preponderance of the evidence, that claims 6 and 25 of the ’732 patent are anticipated by Rae.

f. Claims 7, 14, and 19

Dependent claims 7, 14, and 19 recite in relevant part that “the wide area network is the Internet.” Ex. 1001, 9:13, 9:51, and 10:13. Patent Owner argues, that Petitioner fails to show that the workstation of Rae is coupled to the call processing gateway (i.e., the streaming converter of the ’732 patent) over the Internet. PO Resp. 37. Patent Owner contends that one of skill in the art would not understand the IP Frame Network of Rae to be the Internet because the IP Frame Network in Rae is a private data network. *Id.* (citing Ex. 2010 ¶ 110). Patent Owner explains that use of the Internet suite of protocols by the frame network “does not turn a private network into the Internet.” *Id.* (citing Ex. 2010 ¶ 110). Patent Owner acknowledges that Rae describes the coupling of a workstation to call processing platform 101 via the Internet, but not the coupling of the workstation to the call processing gateway via the Internet. *Id.*

Petitioner explains persuasively how Rae discloses a workstation having a WAN connection to the call processing gateway (Ex. 1002, 6:64–

7:8, and that the WAN connecting elements can be the Internet (i.e., “IP Frame Network”). Reply 23, (citing Ex. 1002, Figure 1; Ex. 1003 ¶ 118). We find persuasive Petitioner’s assertion that “[o]ne of ordinary skill in the art would understand this “IP Frame Network” to be a wide area network operating on the Internet Protocol (IP) communications protocol, which includes “the Internet.” *Id.* (citing Ex. 1003 ¶ 85). Petitioner supports its position by citing the passage in Rae describing how “the data and functionality of the system ‘may be provided via the Internet’ to a client,” and reasons that this statement would apply to all WAN connections, including the WAN connection between the workstation and call processing gateway. *Id.* (citing Ex. 1002, 5:1–3, 6:64–7:8, 13:64-14:3). According to Petitioner, Rae does not describe the WAN as a private network, and characterizes Patent Owner’s position in this regard as “unsupported.” *Id.*

In considering the record in its entirety, Petitioner has presented persuasive evidence to support a finding that Rae describes the “the Internet” claim limitation recited in dependent claims 7, 14, and 19.

Based on further review of the record, and for the reasons discussed above, Petitioner has demonstrated, by a preponderance of the evidence, that claims 7, 14, and of the ’732 patent are anticipated by Rae.

IV. CONCLUSION

For the foregoing reasons, we determine that Petitioner has demonstrated, by a preponderance of the evidence, that 1–8 and 11–27 of the ’732 patent are anticipated under 35 U.S.C. §102(e) by Rae.

V. ORDER

In consideration of the foregoing, it is
ORDERED that claims 1–8 and 11–27 of the '732 patent are held to
be unpatentable;

FURTHER ORDERED that, because this is a Final Written
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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Patent 7,551,732 B1

For PETITIONER:

Justin B. Kimble
BRAGALONE CONROY P.C.
jkimble@bcpc-law.com

For PATENT OWNER:

Lori Gordon
Daniel Block
Michael B. Ray
Ryan Richardson
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
lgordon-PTAB@skgf.com
dblock-PTAB@skgf.com
mray-PTAB@skgf.com
rrichardson-PTAB@skgf.com