UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LINKEDIN CORPORATION,
Petitioner,

v.

EBUDDY TECHNOLOGIES B.V.,
Patent Owner

IPR2022-00164
U.S. Patent No. 8,230,135

PETITIONER LINKEDIN CORPORATION'S NOTICE OF APPEAL

Pursuant to 35 U.S.C. §§ 141(c) and 142 and in accordance with 37 C.F.R. §§ 90.2(a) and 90.3, Petitioner LinkedIn Corporation ("Petitioner") appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision (attached hereto as Exhibit 1) entered by the Patent Trial and Appeal Board ("the Board") on June 30, 2023.

Petitioner indicates that the issues on appeal include:

- The Board's determination that Petitioner did not show claims 1-3 and 6-10 of U.S. Patent No. 8,230,135 to be unpatentable by a preponderance of the evidence; and
- Any and all findings or determinations supporting or related to the Board's determination with respect to claims 1-3 and 6-10.

This notice of appeal is being filed and served concurrently with a Notice of Appeal for IPR2022-00165 involving U.S. Patent No. 8,402,179.

Simultaneous with this filing and in accordance with 37 C.F.R. § 90.2(a)(1), this Notice of Appeal is (1) being filed with the Director of the United States Patent and Trademark Office; (2) filed with the Board; and (3) served upon the Patent Owner in accordance with 37 C.F.R. § 1.248.

Dated: September 1, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, in addition to being filed and served electronically through the Patent Trial and Appeal Board's P-TACTS system, a copy of the foregoing "**PETITIONER LINKEDIN CORPORATION'S NOTICE OF APPEAL**" was filed on this 1st day of September 2023, with the Director of the United States Patent and Trademark Office, via the United States Postal Service's Priority Express Mail at the following address:

Director of the United States Patent and Trademark Office
c/o Office of the General Counsel
P.O. Box 1450
Alexandria, VA 22313-1450

I also certify that on this 1st day of September, 2023, the foregoing "**PETITIONER LINKEDIN CORPORATION'S NOTICE OF APPEAL**," and the filing fee, were filed with the Clerk's Office of the United States Court of Appeals for the Federal Circuit, via the Court's CM/ECF system.

The undersigned also hereby certifies that a true copy of the foregoing "**PETITIONER LINKEDIN CORPORATION'S NOTICE OF APPEAL**" has been served in its entirety this 1st day of September, 2023, on the counsel of record for the Patent Owner via electronic mail to the following addresses:

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EXHIBIT 1

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Paper 40
Entered: June 30, 2023

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LINKEDIN CORPORATION,
Petitioner,

v.

EBUDDY TECHNOLOGIES B.V.,
Patent Owner.

IPR2022-00164
Patent 8,230,135 B2

Before JAMESON LEE, JASON M. REPKO, and
JULIET MITCHELL DIRBA, *Administrative Patent Judges*.

REPKO, *Administrative Patent Judge*.

JUDGMENT
Final Written Decision
Determining No Challenged Claims Unpatentable
35 U.S.C. § 318(a)
Dismissing Patent Owner's Motion to Exclude
37 C.F.R. § 42.64

I. INTRODUCTION

LinkedIn Corporation ("Petitioner") filed a petition requesting *inter partes* review of claims 1–3 and 6–10 of U.S. Patent No. 8,230,135 B2 (Ex. 1001, "the '135 patent"). Paper 2 ("Pet."). eBuddy Technologies B.V. ("Patent Owner") filed a Preliminary Response. Paper 11. On July 13, 2022, we instituted an *inter partes* review of all challenged claims based on all grounds in the Petition. Paper 18 ("Inst. Dec."). Patent Owner filed a Response. Paper 22 ("PO Resp."). Petitioner filed a Reply. Paper 28 ("Reply"). Patent Owner filed a Sur-reply. Paper 34 ("Sur-reply"). A consolidated oral hearing for this case and IPR2022-00165 was held on April 12, 2013. Paper 31. A transcript of that hearing has been entered into the record. Paper 38.

We have jurisdiction under 35 U.S.C. § 6. This Final Written Decision is issued under 35 U.S.C. § 318(a). For the reasons that follow, Petitioner has not shown by a preponderance of the evidence that claims 1–3 and 6–10 are unpatentable.

A. Related Matters

According to the parties, the '135 patent has been asserted in *eBuddy Technologies B.V. v. LinkedIn Corporation*, No. 1:20-cv-01501 (D. Del.). Pet. 1; Paper 3, 1. Also, Petitioner identifies IPR2022-00165 as related. Paper 9, 1.

B. The '135 Patent

The '135 patent relates to notifications for emails, instant messages (IMs), and other "events." Ex. 1001, 1:62–2:9, 4:63–64, 5:20–23. To notify the user, the system displays a message in a title bar of a window or task bar. *Id.* at 6:13–19. Figures 3C and 3D are screenshots of an example IM notification. *Id.* at 2:20–21. Figure 3C is reproduced below.

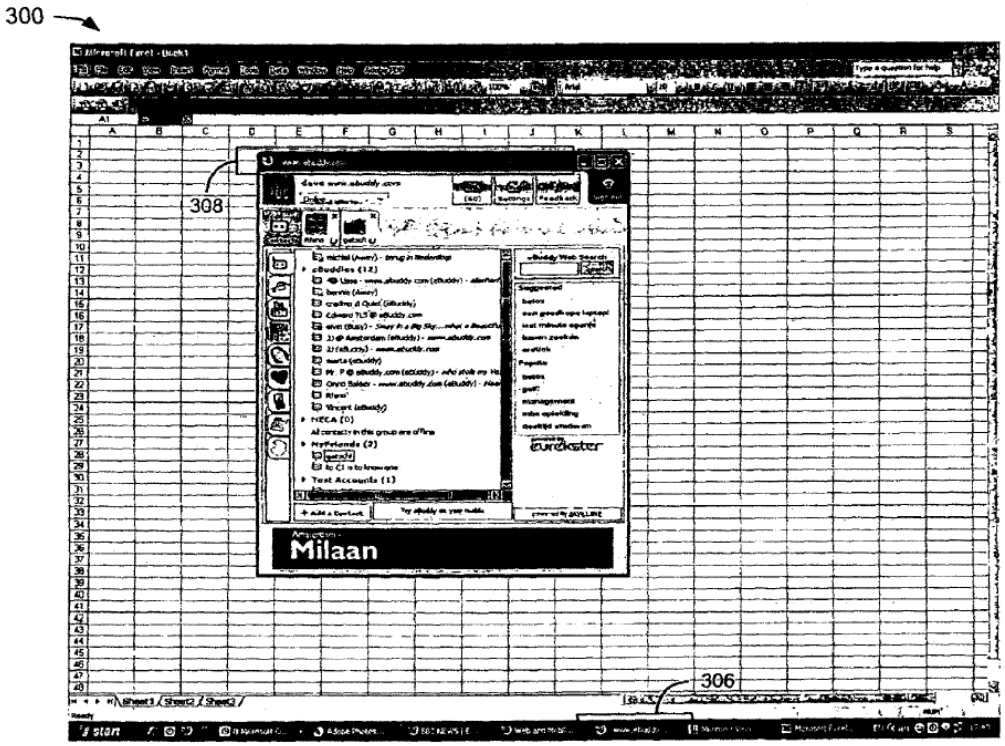


FIG. 3C

Although not readily visible from Figure 3C, above, task bar item 306 and title bar 308 indicate that the site www.ebuddy.com is open in a web browser. *Id.* at 5:41–65.

The system changes both the title bar and task bar when a new message is received. *Id.* at 5:65–67. In Figure 3D, the text of title bar 312 and task bar item 310 has been changed in response to the new message. *Id.* at 6:1–16. In particular, when "an event that calls for user notification is processed," the system generates a title string for the event. *Id.* at 9:15–26. Title strings are stored in an array. *Id.* at 9:27–29. The string is sent from the array to a process. *Id.* at 9:35–37. The process can be an IM client in the Windows operating system, for example. *Id.* The string is then displayed as the title. *Id.* at 9:34–40. For an IM client in Windows, this means that the string is shown at least in the title bar of the open window. *Id.* at 9:40–48.

C. Claims

Claim 1, below, is independent, and claims 2, 3, and 6–10 depend from claim 1.

1. A method comprising:

> receiving information of an event that calls for user notification;
>
> generating an event notification for the event;
>
> associating the event notification with at least one of the plurality of character strings in a title array that includes a plurality of character strings for provisioning for display in a titlebar or taskbar of a display device;
>
> providing the at least one of the plurality of character strings in the title array to a process executed by a processor;
>
> providing an alternative title based on the at least one of the plurality of character strings to the process;
>
> using the alternative title as a title in association with the process.

Ex. 1001, 12:42–56.

D. Asserted References

Name	Reference	Exhibit No.
Eaton	US 2003/0208545 A1, published Nov. 6, 2003	1006
Cheung	US 2004/0061716 A1, published Apr. 1, 2004	1007
Kim	KR 2000-0036288,[1] published July 5, 2000	1008
Odell	US 7,590,696 B1, issued Sept. 15, 2009	1016

E. Asserted Grounds

Petitioner asserts that claims 1–3 and 6–10 are unpatentable on the following grounds. Pet. 4–5.

Claims Challenged	Pre-AIA[2] 35 U.S.C. §	Reference(s)/Basis
1–3, 6, 7, 9	102	Eaton
1–3, 6, 7, 9	103	Eaton
1–3, 6–10	103	Eaton, Cheung, Odell
1–3, 9	102	Kim
1–3, 9	103	Kim
1–3, 6–10	103	Kim, Cheung

II. ANALYSIS

A. Level of Ordinary Skill in the Art

Petitioner asserts that a person having ordinary skill in the art

> would have a Bachelor's degree in Computer Science, Computer Engineering, Electrical Engineering, or a related field, plus at least two years of professional experience in telecommunications or computer networking, and would have been familiar with popular Internet applications like web browsers, Google's Gmail, AOL Instant Messenger, ICQ, Jabber, Trillian, and Yahoo Instant Messenger; development using Microsoft

[1] We refer to Petitioner's certified English-language translation of Kim.
[2] Congress amended §§ 102 and 103 when it passed the Leahy-Smith America Invents Act (AIA). Pub. L. No. 112–29, § 3(c), 125 Stat. 284, 287 (2011). Here, Petitioner asserts that the previous versions of §§ 102 and 103 apply. *See, e.g.*, Pet. 9.

> Windows, Java, Linux and the X-Window System (X11); and Internet Engineering Task Force (IETF) standards including "Extensible Messaging and Presence Protocol (XMPP): Core."

Pet. 6 (citing Ex. 1004 ¶¶ 32–35).

Petitioner's alternative definition that "a PHOSITA[3] would possess equivalent additional formal education such as graduate studies, or work experience to replace formal education" is unclear or, at best, does not meaningfully contribute to the first definition. *See id.* For example, Petitioner does not explain whether or how additional graduate studies would be both equivalent and additional to the education described in the first definition. *See id.*

Patent Owner does not propose an alternative definition. *See generally* PO Resp.; Sur-reply.

Thus, in this decision, we apply Petitioner's proposed definition, without the alternative qualifier about "equivalent additional formal education . . . or work experience." *See* Pet. 6. We determine that Petitioner's definition is supported by the testimony of Dean Willis. Ex. 1004 ¶¶ 32–35.

B. Claim Construction

We need only construe terms that are in controversy and only to the extent necessary to resolve the dispute. *Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017) (citing *Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999)).

We need not construe any terms to resolve the issues in this case.

[3] A person having ordinary skill in the art.

C. Anticipation and Obviousness over Kim

1. Kim

Kim describes a computer running Microsoft Windows and communicating with a server. Ex. 1008, 9-1. The computer receives real-time information from the server, such as stock prices, advertisements, and breaking news. *Id.* at 9-2. Using this information, the computer changes the title bar of a currently active window. *Id.* According to Kim, the window's title bar provides a convenient way to deliver accurate real-time breaking news to investors. *Id.* at 9-3.

2. Claim 1

Petitioner asserts claim 1 is anticipated by or obvious over Kim. Pet. 62–74.

Claim 1 recites, in part, "receiving information of an event" and "generating an event notification for the event." Ex. 1001, 12:43–45. After receiving information and generating a notification for the event, the method steps relate to providing an alternative title displayed in the title bar or task bar:

> associating the event notification with at least one of the plurality of character strings in a title array that includes a plurality of character strings for provisioning for display in a titlebar or taskbar of a display device;
>
> providing the at least one of the plurality of character strings in the title array to a process executed by a processor;
>
> providing an alternative title based on the at least one of the plurality of character strings to the process;
>
> using the alternative title as a title in association with the process.

Id. at 12:46–56. In our analysis of the challenges based on Kim, we divide the claim into two parts: the limitations to the event information and

notification (*id.* at 12:43–45), and the limitations to the title (*id.* at 12:46–56).

As for the first part of the claim, the Petition contains two rationales for how Kim discloses the event information and notifications. We agree with Patent Owner that one rationale conflates the event information and notifications, and the other is inconsistent with the rest of the claim. *See infra* §§ II.C.2.a & b.

As for the second part of the claim, the Petition contains two rationales to address the limitations to the title array and character strings. We agree with Patent Owner's argument made during the trial that Petitioner has not shown that Kim uses a title array with character strings, as recited in claim 1, and Petitioner has not shown that it would have been obvious to modify Kim to do so. *See infra* § II.C.2.b.

Our reasoning follows.

a. Event Information and Notifications

Claim 1 recites, in part, "receiving information of an event that calls for user notification" and "generating an event notification for the event." Ex. 1001, 12:43–45.

Petitioner asserts that, in Kim, the user's computer receives real-time information of an event from the breaking-news server. Pet. 63. According to Petitioner, "the 'real-time information' displayed in the title bar of an application in Kim constitutes 'events that call for user notification.'" *Id.* As explained by Petitioner, the "real-time information can include events *such as* 'stock prices, advertisements, and breaking news.'" *Id.* (citing Ex. 1008, Abstract) (emphasis added). We emphasize "such as" because it indicates

that Petitioner considers Kim's "stock prices, advertisements, and breaking news" to be the recited event.[4] *Id.*

Figure 5, below, shows Kim's system for receiving real-time information at computer 30 from real-time information server 10. *Id.* at 64.

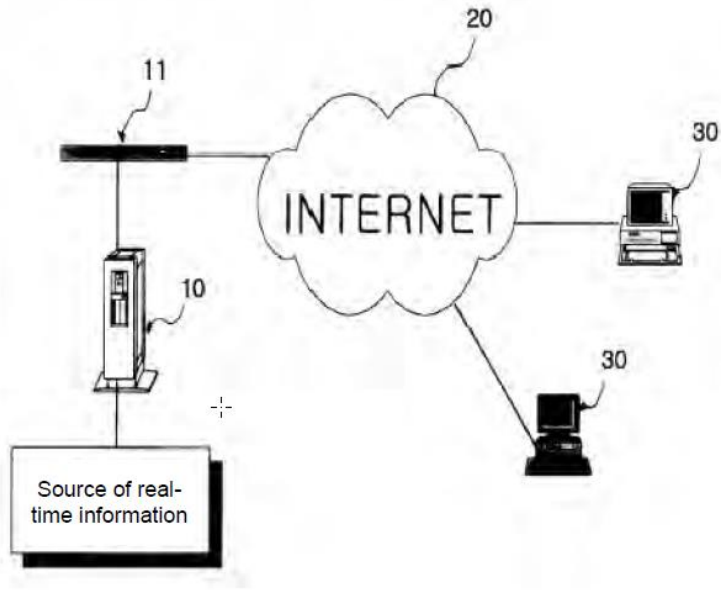


Figure 5 shows information server 10 connected to user computer 30 through internet 20. *Id.*

According to the Petition, both information server 10 and user computer 30 generate the recited event notification:

> Kim discloses that its real-time information server "generat[es] an event notification for the event" by sending a message with the event notification from the server to the user's computer for display in the title bar of a Windows application, and the user's computer also "generat[es] an event notification for the event" by creating the message for display in the title bar, in which the message comprises at least a "string of characters that includes information associated with the event."

[4] The parties disagree on what the term "event" means. *See* PO Resp. 47–48; Reply 10. But we need not decide this issue because, under either party's construction, Petitioner has not shown that the claims are unpatentable under any ground.

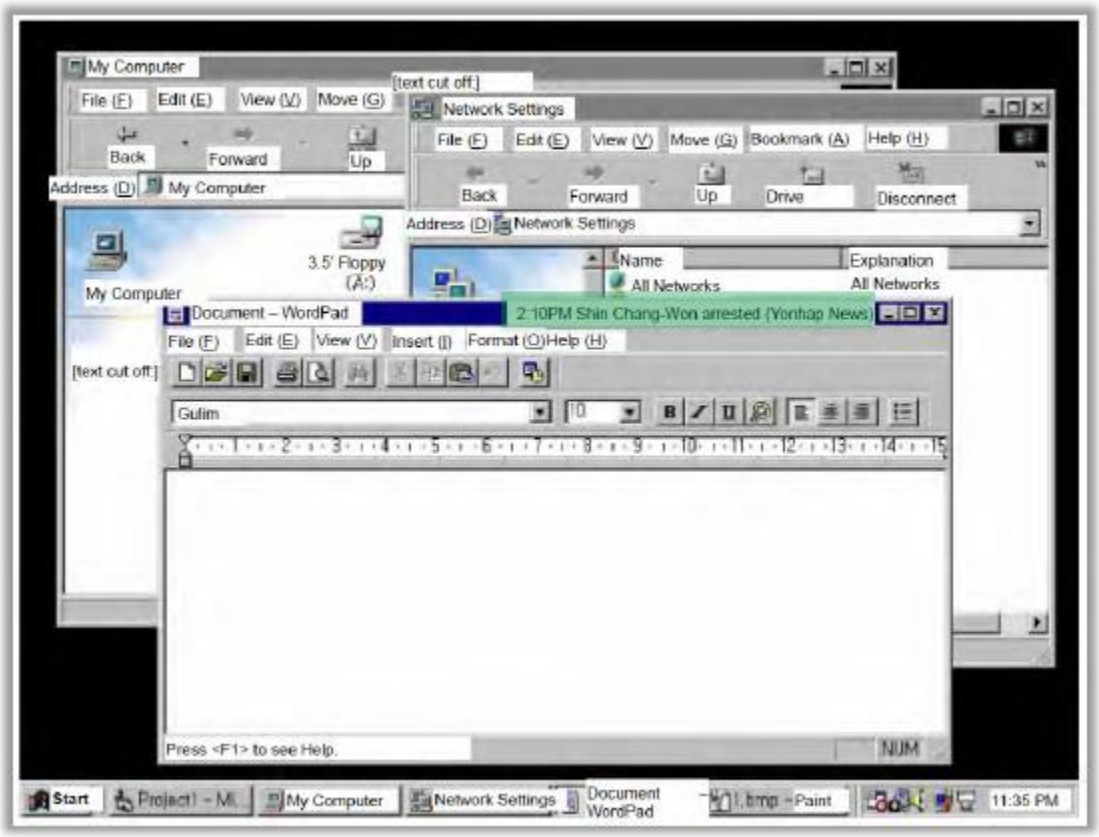
Id. at 65 (citing Ex. 1004 ¶¶ 206–210). Here, Petitioner refers to several messages that are generated, sent, and received. *See id.* That is, under Petitioner's rationale, the server generates the notification by sending a message with the notification, or the user's computer generates the notification by creating a message with the character string. *See id.* But the Petition fails to sufficiently explain the former rationale.[5] In particular, the Petition does not explain why the server would send a message with the information for the event (the client's receipt of which is alleged to satisfy the "receiving" limitation) (*id.* at 63) and also generate another for the event notification (to satisfy the "generating" limitation) (*id.* at 65).

Notably, the Petition does not cite to any part of Kim to support its discussion of the messages. *Id.* The Willis Declaration mirrors the Petition, and thus, similarly lacks a persuasive explanation. *See* Ex. 1004 ¶ 209.

Even so, Kim's disclosure is unhelpful in resolving these issues because it does not expressly discuss any specific messages that are sent between the user's computer and the server. *See, e.g.*, Ex. 1008, 9-2, *cited in* Pet. 62–63. At most, Kim shows a message on the screen, but lacks the details regarding the messages generated and sent by the server and the user's computer. Ex. 1008, Fig. 4. We find that Kim fails to teach or suggest the server sending one message with the event notification and another with real-time information for the same event, as Petitioner contends.

For example, the Petition relies on an embodiment of Kim in which breaking news is shown in an application's title bar. Pet. 65. We reproduce a screenshot of that embodiment, below. *Id.*

[5] We address the latter rationale in the next section (*see* § II.C.2.b), where we explain that it is inconsistent with the rest of the claim.



Kim's Figure 4 shows a screenshot of a Windows desktop with Petitioner's annotations. Ex. 1008, Fig. 4. Petitioner asserts that "the event notification message is shaded in green." Pet. 64–65. The message reads "2:10PM Shin Chang-Won arrested (Yonhap News)." *Id.* The Petition refers to this message as the "the event notification message." *See id.* We understand "the event notification message" to mean the message that Petitioner believes is generated by the server or by the user's machine. *Id.* at 65. As best understood, Petitioner contends that this message discloses or teaches the claimed "event notification." *Id.*

We note that the term "event notification message" does not appear in the claim. In fact, the claim does not require the generated notification itself to be the message that is used as a title. Rather, the claim recites other steps

that associate the generated notification with character strings that serve as the basis for an alternative title:

> associating the event notification with at least one of the plurality of *character strings* in a title array that includes a plurality of *character strings* for provisioning for display in a titlebar or taskbar of a display device

Ex. 1001, 12:46–49 (emphasis added). In these limitations, the antecedent basis for "the event notification" is the one from the generating step. So the claimed method generates a notification, then associates the generated notification with a string. By contrast, under Petitioner's rationale, the notification is generated by creating the message that has the character strings that are shown in the title. Pet. 65.

Under the rationale that Kim's server sends event information and notifications, Petitioner essentially maps the same data to both the information and notifications—and possibly the character strings displayed in the title bar. *See id.* at 63 (discussing receiving real-time information of an event from the servers), *id.* at 64 (discussing receiving notifications from server 10). We agree with Patent Owner that Petitioner's mapping here blurs the distinction between the claimed event information and notifications. *See* PO Resp. 51–52 (citing Ex. 2020 ¶ 248). Thus, under the rationales in which Kim's server generates the event notification, the Petition is deficient. *See* Pet. 63–65.

The rest of our analysis focuses on Petitioner's alternative rationale: the user's computer receives the event information from the server and generates the event notification. *See id.* That is, we assume that Kim's real-time information about "stock prices, advertisements, and breaking news" corresponds to the recited event information (*id.* at 63), and the user's

computer generates an event notification "by creating the message for display in the title bar" (*id.* at 65).

We, nevertheless, agree with Patent Owner's argument that Petitioner's challenge also fails even under this mapping when we consider the second part of the claim.

b. Title Array, Title, and Character Strings

The second part of the claim recites subject matter related to a title:

> associating the event notification with at least one of the plurality of character strings in a title array that includes a plurality of character strings for provisioning for display in a titlebar or taskbar of a display device;
>
> providing the at least one of the plurality of character strings in the title array to a process executed by a processor;
>
> providing an alternative title based on the at least one of the plurality of character strings to the process;
>
> using the alternative title as a title in association with the process.

Ex. 1001, 12:46–56.

The parties agree that the term "title array" is a type of data structure that can be accessed with an index. *See* Pet. 67–68; PO Resp. 7; Reply 1. For example, Petitioner argues that an array is "a simple data structure object whose contents can be referenced by an integer index from one to a number that is the size of the array." Pet. 68. Patent Owner disputes that an array's index starts at zero, which is immaterial to the issues here, but does not dispute that a "title array" requires at least some data structure accessible with an index. PO Resp. 7. For example, according to Patent Owner, "a 'title array' is 'an array that contains title strings and is stored in a computer readable medium,'" and an "array" is "a list of data values, all of the same type, any element of which can be referenced by an expression consisting of

the array name followed by an indexing expression." *Id.* (citing Ex. 1001, Fig. 6, 8:11–19; Ex. 2020 ¶¶ 38–39; Ex. 2009 ¶ 42; Ex. 2016).

According to Petitioner, Kim's system generates messages to be shown in the title bar and stores these messages in an array, or it would have been obvious to use an array in Kim. *See* Pet. 66–68.

i. Anticipation

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir. 1987).

The basis for Petitioner's anticipation rationale is that Kim stores the information in a "temporary memory." Pet. 66 (citing Ex. 1008, 9-2). Petitioner explains that Kim must store a list of "real-time information events" so that the title bar can be updated as new information is received. *Id.* In this rationale, Petitioner refers to "alternative event notification titles." *Id.* We agree with Patent Owner that Kim does not expressly or inherently disclose an array. PO Resp. 53–54.

As with the "event notification message," the terms "real-time information events" and "alternative event notification titles" do not appear in the claim or in Kim. Rather, Petitioner's alternative event-notification title is an amalgamation of different claimed features, including "event notification" and "alternative title"—and maybe even "title" and "event." *See* Pet. 66; *see also* Reply 15.

Under Petitioner's rationale, generating and storing this "alternative event notification title" is mapped to nearly every method step claimed. For example, as discussed in Section II.C.2.a, Petitioner asserts that the user's computer in Kim generates an event notification by creating a message:

> Kim discloses that . . . the user's computer . . . "generat[es] an event notification for the event" by creating the message for display in the title bar, in which the message comprises at least a "string of characters that includes information associated with the event."

Id. at 65. This reasoning appears to incorporate aspects of associating character strings (e.g., "string of characters") as well as providing an alternate title (e.g., "display in the title bar"). *Id.* In fact, Petitioner's arguments suggest that "alternative event notification titles" may even correspond to the events themselves. *Compare* Reply 15 (arguing the "alternative event notification titles include 'a stock price update, a breaking news event, and a combination of both'"), *with* Pet. 63 (". . . events such as 'stock prices, advertisements, and breaking news'").

To address the recited character strings, Petitioner asserts that Kim stores "real-time information events" in temporary memory as an array. Pet. 66; *see also* Reply 15–16 (discussing a list and memory). The term "real-time information events" does not appear in the claim. Petitioner does not fully explain the relationship between the "real-time information events" in temporary memory and the "alternative event notification title"—or whether they are the same thing. Pet. 66. Kim's disclosure is of little use in deciphering this rationale because it does not use these terms. *See* Ex. 1008. So it is unclear what Petitioner believes is stored in Kim's array. *See* Reply 14–15. For at least this reason, Petitioner has not shown that Kim anticipates the recited "associating the event notification with at least one of the plurality of character strings in a title array" under any mapping of "event," "notification," and "character strings." Rather, we agree with Patent Owner that Petitioner's rationale "blurs the distinction" between different forms of data recited in the claims. PO Resp. 52.

Apart from the recited notifications, events, and strings, Petitioner must show that Kim expressly or inherently describes an array data structure to prevail on its anticipation ground. We agree with Patent Owner that Petitioner has not done so. *See id.* at 53.

Petitioner argues that Kim stores events in a list. Pet. 66–67. We, however, agree with Patent Owner that Kim does not disclose a list. PO Resp. 53. Kim "receives real-time information" and "stores it." Ex. 1008, 9-2. And Kim replaces "the title bar value of the corresponding window" with the real-time information. *Id.* at 9-3. The title bar shows a string of characters. *Id.* But Petitioner does not point to any disclosure in Kim that identifies the data structure used to store these characters. Pet. 66. Thus, we agree with Patent Owner that Petitioner has not shown that Kim discloses the specific data structure recited in the claim: the title array. PO Resp. 53.

We credit Dr. Rajeev Surati's testimony[6] (Ex. 2020 ¶ 2053) on this issue over Dean Willis's testimony (Ex. 1004 ¶¶ 211–13) because Dr. Rajeev Surati's testimony is more consistent with Kim's disclosure and Dean Willis's Declaration lacks an adequate explanation.

Thus, Petitioner has not shown that Kim discloses the associating step.

ii. Obviousness

Petitioner asserts that "[t]o the extent that it is argued or found that Kim does not disclose associating the event notification with at least one of the plurality of character strings in a title array that includes a plurality of character strings, this would have been obvious." Pet. 67.

Petitioner asserts that an array would be a suitable and desired data structure for storing Kim's event notifications with a plurality of character

[6] Patent Owner submitted the Declaration of Dr. Rajeev Surati. Ex. 2020.

strings. *Id.* (citing Ex. 1004 ¶ 215). Petitioner explains that Kim's "temporary memory" could be used to store multiple events. *Id.* at 66. According to Petitioner, "an array would store the event notifications in a simple list of character strings that can be accessed with a known index, and the array will 'respond to messages requesting access to [its] content[].'" *Id.* (quoting Ex. 1015, 43).

We agree with Petitioner that Kim discloses storing data for the title bar. *See id.* According to Kim, the Windows title bar "receives real-time information to be displayed" on the screen of the user's computer "from the information server and stores it in temporary memory." Ex. 1008, 9-2, *quoted in* Pet. 66.

But Petitioner, with little support, further elaborates on Kim's disclosure, arguing that Kim's temporary memory allows it to display previously stored messages with new ones. Pet. 66. Petitioner also argues that it would have been obvious to use an array because it is a simple, fundamental data structure, and it would respond to access requests. *Id.* at 66–67; *see also* Reply 15–17 (discussing the array and temporary memory).

Kim provides scant detail about how it accomplishes what is shown in its figures, let alone what data structures it uses. We credit Dr. Rajeev Surati's testimony on this issue. Ex. 2020 ¶¶ 255–259. Dr. Rajeev Surati's testimony is better supported by Kim's disclosure. *See id.* For instance, Dr. Rajeev Surati testifies that Kim does not disclose that an array would be beneficial, and that a person of ordinary skill in the art would not have recognized any motivation or rationale that an array would be required, desirable, or beneficial in Kim. *Id.* If real-time information were displayed immediately after being received, for example, then Kim would have no

need for any information to be saved or stored together. *Id.* ¶ 259 (citing Ex. 1008, 9-2).

This is consistent with Kim's explanation that it updates the display "whenever new information is provided." Ex. 1008, 9-2. This real-time update provides some context for the "temporary memory" that Petitioner refers to. *See* Pet. 66. That is, this disclosure better aligns with Dr. Rajeev Surati's interpretation that the temporary memory stores the data only as long as it is needed, and that it would be replaced whenever new data is received. *See* Ex. 1008, 9-2; Ex. 2020 ¶ 251. According to Dean Willis, Kim would need to store multiple events. Ex. 1004 ¶¶ 211–216. But, unlike Dr. Rajeev Surati's testimony, Dean Willis's testimony lacks an adequate basis in Kim's disclosure. *See id.* We credit Dr. Rajeev Surati's testimony on this issue (Ex. 2020 ¶ 251) over Dean Willis's testimony (Ex. 1004 ¶¶ 211–216) because Dr. Rajeev Surati's testimony is more consistent with Kim's disclosure.

Petitioner argues that a person of ordinary skill in the art "would also know that an array is a simple and routine design choice, with applicability in this context, based on the teaching in Eaton of event arrays stored in memory." Pet. 67–68. But as discussed in Section II.E.2.c.ii, Petitioner has not shown that Eaton teaches or suggests an array. Specifically, Eaton provides little detail about how the system stores the information, such as the type of data structure it uses. PO Resp. 34 (citing Ex. 2020 ¶ 174). We credit the Surati Declaration on this issue. Ex. 2020 ¶ 174.

Thus, Petitioner has not shown that it would have been obvious to use an array in Kim to arrive at the claimed associating step: "associating the

event notification with at least one of the plurality of character strings in a title array that includes a plurality of character strings."[7] *See* Pet. 66–68.

c. Conclusion

Petitioner has not shown that claim 1 is anticipated by or obvious over Kim. *Id.* at 62–74. For the same reasons, Petitioner has not shown that claims 2, 3, and 9, which depend from claim 1, are anticipated by or obvious over Kim.

D. Obviousness over Kim and Cheung

Petitioner asserts that claims 1–3 and 6–10 are unpatentable as obvious over the combination of Kim and Cheung. *Id.* at 76–84; *see id.* at 62–76.

1. Cheung

Cheung describes a user interface for managing notifications and alerts. Ex. 1007, Abstract, ¶ 27. Figure 3A, below, shows one example of the interface. *Id.* ¶¶ 14, 27.

[7] Because Petitioner fails to show that Kim teaches, suggests, or renders obvious the claimed "title array," Petitioner fails to make a sufficient showing for this limitation under any of the alternative rationales discussed in this Decision for the Kim grounds.

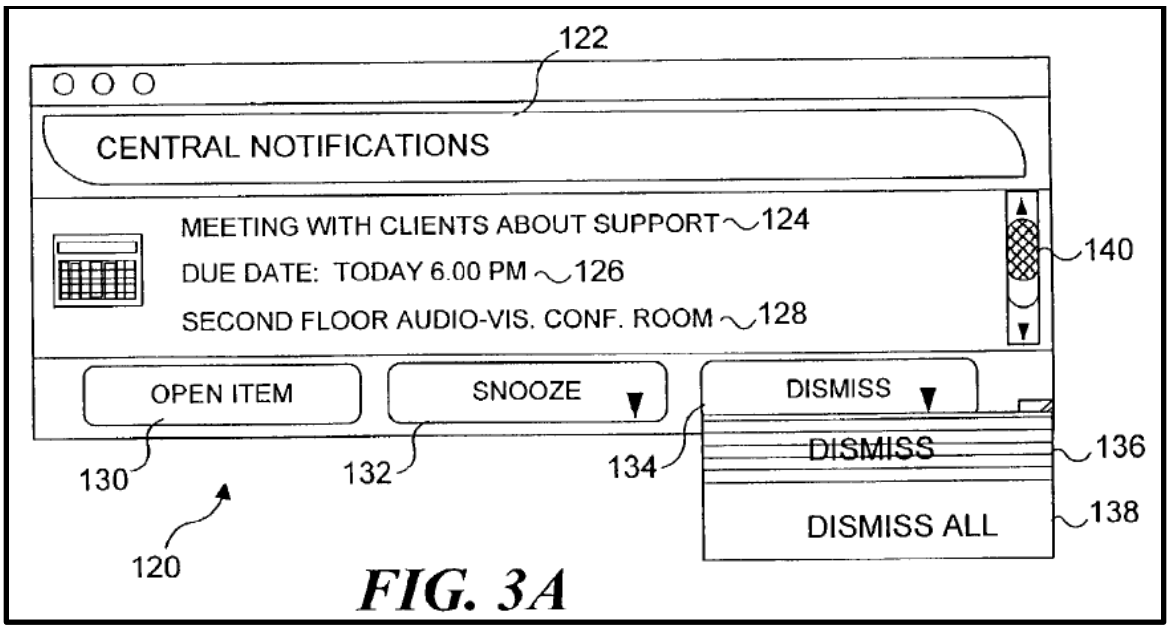


FIG. 3A

Figure 3A shows central-notification-manager user interface 120 with title bar 122. *Id.* ¶ 30. Interface 120 has lines 124–128 with information about a notification. *Id.*

Cheung discloses another part of the interface that provides information about notifications in Figure 5B, below. *Id.* ¶ 18.

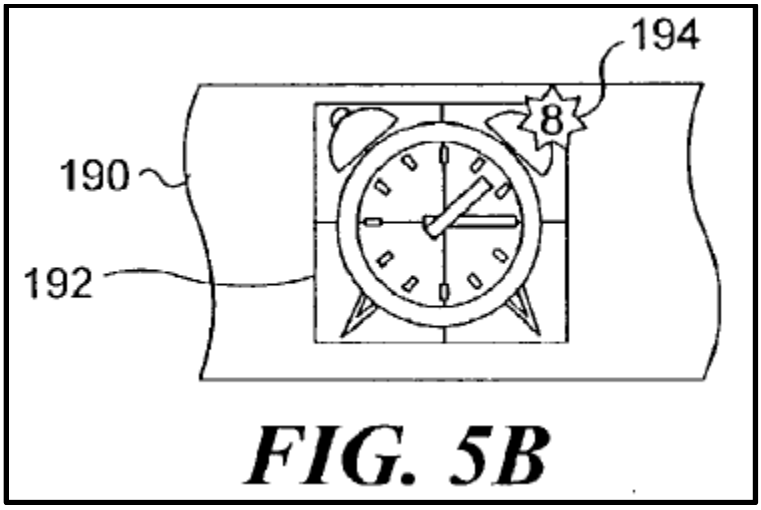


FIG. 5B

Figure 5B shows icon 192 in "a dock (or taskbar) 190." *Id.* ¶ 38. Count 194 is the number of active notifications and alerts. *Id.*

2. Claims 1–3 and 6–10

Petitioner asserts that "Kim anticipates and/or renders obvious Claims 1–3 and 9 of the '135 Patent as provided above in Ground 3," but "[t]o the extent that there are arguably any meaningful differences between those claims and Kim's disclosures, those differences would have been trivial and obvious modifications to make for a PHOSITA." Pet. 76–77 (citing Ex. 1004 ¶ 254).

Cheung does not remedy the deficiencies of the challenge based on Kim identified in Section II.C. For at least the reasons discussed in that section, Petitioner's challenge based on the Kim-Cheung combination fails.

In fact, Petitioner does not fully explain what Cheung adds to its analysis of claim 1 under Kim. *See id.* at 76–84. Instead, Petitioner primarily focuses on the subject matter recited in claims 6–10. *See id.* Specifically, Petitioner argues that one would have been motivated to combine Kim and Cheung because (1) both are directed to Windows notifications, (2) Cheung expressly states a motivation for improving Kim, and (3) the combination involves known techniques to improve devices in a similar way. *Id.* at 82–83. Petitioner argues that "Cheung discloses that its event notification technique and central notifications UI can be used across numerous application suites (e.g., Microsoft Outlook and Microsoft Office)," and "Kim discloses a system and techniques for providing event notifications to an active Windows application window." *Id.*

Apart from this analysis, Petitioner does not provide a mapping from Cheung's teachings to the subject matter recited in claims 1–3 and 9. *Id.* at 76–84. Nor does Petitioner fully explain how Kim would be modified by Cheung to arrive at the subject matter recited in claims 1–3 and 9. *Id.* Petitioner's obviousness rationale discusses the similarities between Cheung

and Kim, not the limitations of claims 1–3 and 9. *Id.* at 82–83. Thus, Petitioner has not shown that claims 1–3 and 9 would have been obvious over the Kim-Cheung combination. *See id.*

Even if we assume that Petitioner intends to rely solely on Kim to address the subject matter recited in claims 1–3 and 9, Petitioner has not shown that claims 1–3 and 9 would have been obvious over the Kim-Cheung combination for the reasons discussed in our analysis of Kim in Section II.C. *See id.* at 76–84; *see also* Reply 19–20.

Also, Petitioner's challenge to claims 6–10 based on the Kim-Cheung combination fails because the analysis for claims 6–10 does not remedy the deficiencies of its challenge to claim 1, as discussed in our analysis of Kim in Section II.C. Specifically, claims 6–10 inherit the subject matter relating to event information and notifications from independent claim 1, and, as best understood, the challenges to claims 6–10 rely on the Petition's analysis of independent claim 1, at least in part. *See* Pet. 76 ("Kim anticipates and/or renders obvious Claims 1–3 and 9 of the '135 Patent as provided above in Ground 3.").

E. Anticipation and Obviousness over Eaton

Petitioner asserts that claims 1–3, 6, 7, and 9 are unpatentable as anticipated by or obvious over Eaton. *Id.* at 24–53.

1. Eaton

Eaton relates to an instant-messaging system. Ex. 1006, Abstract. Figure 1, below, is a block diagram of an example system. *Id.* ¶ 14.

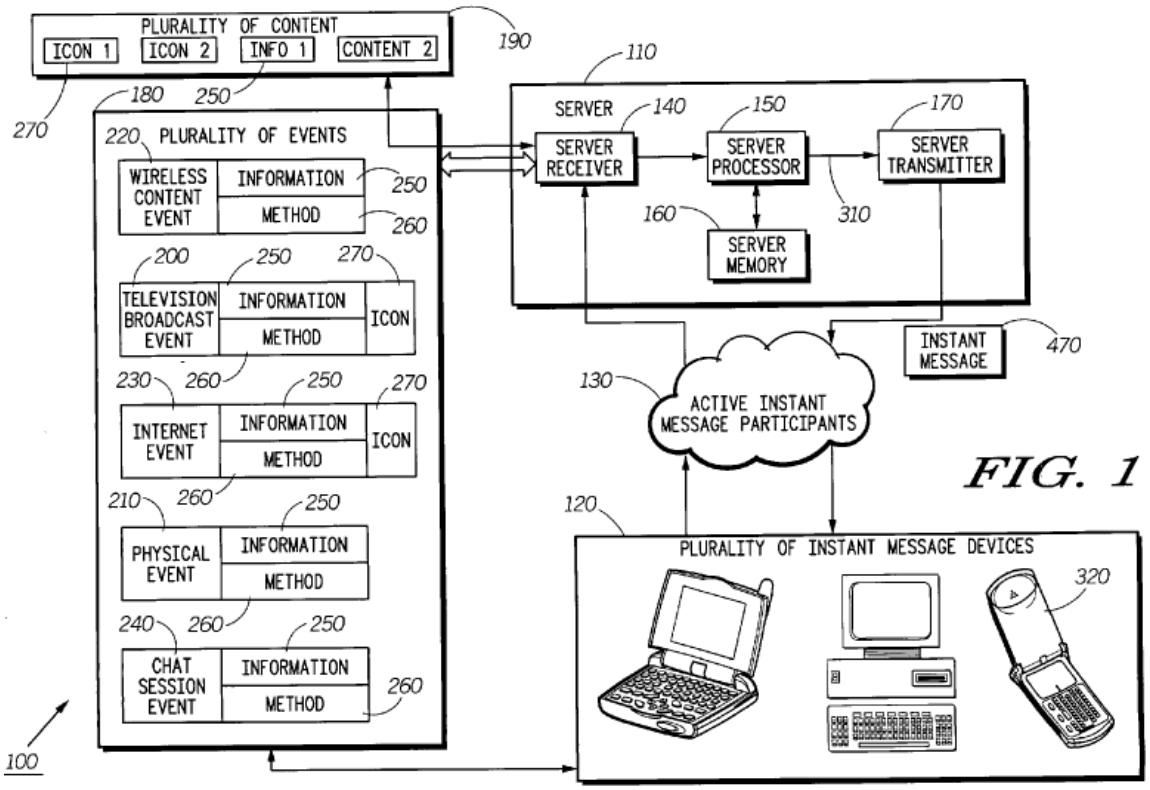


FIG. 1

Figure 1 shows server 110, server receiver 140, and events 180. *Id.* ¶ 28. Events 180 include, for example, physical events 210 such as sporting events, television or radio broadcast events 200, wireless content events 220, internet events 230, and chat session events 240. *Id.* Events 180 are associated with content 190: event icons 270 and event information 250. *Id.* ¶ 29. Server 110 may use event notifications, schedules of events, or search engines to find available events 180. *Id.* ¶ 33.

2. Claim 1

a. Event Information and Notifications

As for the recited events, Petitioner asserts that "Eaton discloses a server receiver 140 that is 'coupled to and receives information about a plurality of events 180' that 'can include, for example, physical events 210 such as sporting events, television or radio broadcast events 200, wireless content events 220, internet events 230, chat session events 240, or an

equivalent.'" Pet. 25 (citing Ex. 1006 ¶ 28). Petitioner asserts that the events are shaded in green in its annotated version of Eaton's Figure 1, below.

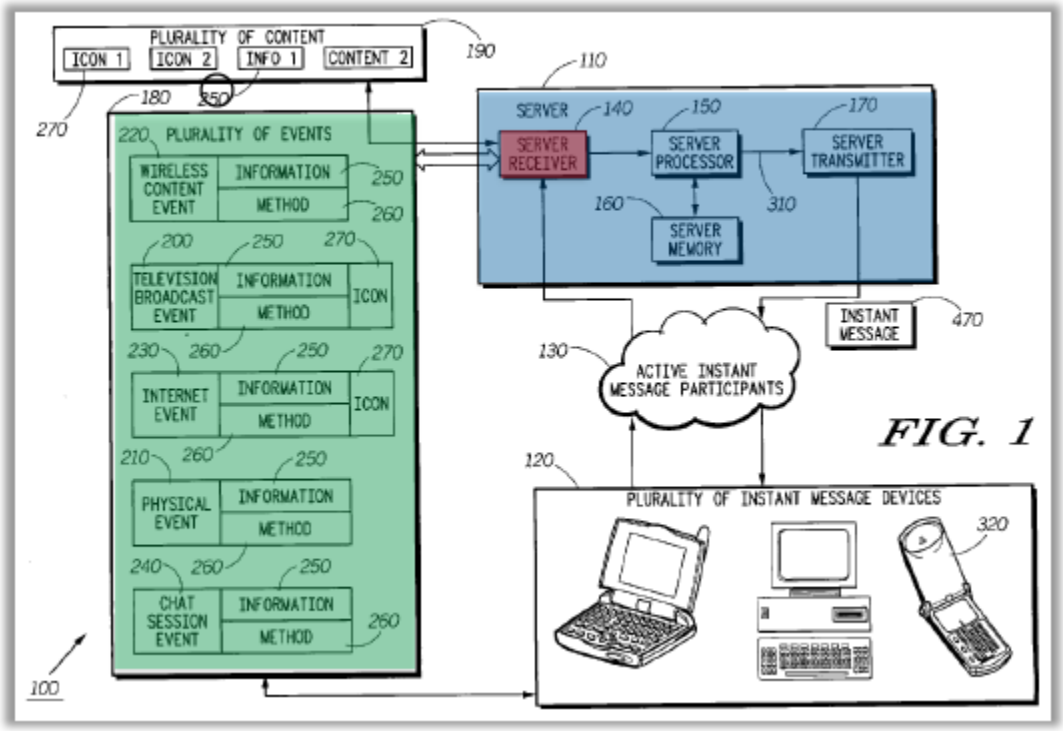


FIG. 1

Annotated Figure 1 shows "plurality of events" 180 highlighted in green. *Id.* Plurality of events 180 includes events 220–240 as well as event information 250, method for event participation 260, and event icons 270. Ex. 1006 ¶ 29. In the Reply, Petitioner asserts that events 200–240 correspond to the claimed events. Reply 21–22 (citing Pet. 26). The Petition states that Eaton's *server receiver 140*, shaded in red, receives the information of an event. Pet. 25.

Petitioner also asserts that Eaton's *client* receives "information of an event that calls for user notification" because "device receiver 330 receives messages sent within the instant message communication system 100 such as *event presence notification messages*" (EPNMs). *Id.* at 26 (citing Ex. 1006 ¶¶ 36–38, Fig. 3) (emphasis added). That is, the Petition has two rationales: one in which Eaton's server receives the events, and one in which

Eaton's client does. *Compare id.* at 26, *with id.* at 25. Our Decision on Institution explained that mapping the EPNM to the "event notification" "would contradict the discussion of the [EPNM] in the section addressing the 'events' that suggests the messages are the events." Inst. Dec. 39 (citing Pet. 26).

Petitioner's Reply suggests that the EPNMs correspond to the recited "information about the events." *See* Reply 21–22. Although this is somewhat consistent with the rationale based on the client (Pet. 26), Petitioner does not fully explain how this relates to the rationale based on the server receiver 140 (*id.* at 25). For example, the Reply discusses Eaton's client device (Reply 22) and instant message device 320 (*id.* at 23 (citing Pet. 28–29)) receiving the EPNMs—not server receiver 140, as in the other rationale in the Petition (Pet. 25).

As for the recited "event notification," the Petition quotes Eaton directly and underlines the phrase that reads "screen names 280 represent one or more events such as event 300 of the plurality of events 180." *Id.* at 28 (quoting Ex. 1006 ¶ 31). Here, Petitioner does not fully explain what subject matter corresponds to the recited event notifications. *See id.* Instead, Petitioner reproduces direct quotations from Eaton underlining the "event presence notification messages" without further analysis. *Id.* at 27–29.

In its Reply, Petitioner asserts that the EPNM is also an "event notification." Reply 21–22 (citing Pet. 26). That is, Petitioner asserts that Eaton's EPNMs are both the recited "information of an event" and the "event notification." *See id.* Although unclear from the Petition (*see* Inst. Dec. 38–40), Petitioner's Reply appears to support the reading that the EPNM corresponds to the event information and notification:

> The "event presence notification message" ("EPNM") sent from the server to the client is an "event notification," as the term plainly states, but this also shows that "information of an event," as claimed, is received by the client device.

Reply 22 (citing Pet. 26) (emphasis in original). Here, the phrase "this also shows" suggests that the message itself is the recited "information." *See id.* This is the most natural reading because there is no other explanation of how the EPNM "shows that 'information of an event,' as claimed, is received by the client device." *See id.*

Petitioner's mapping of the EPNMs to both the "information of an event" and the "event notification" has several problems.

First, claim 1 recites two steps that are related, but the plain language of the claim indicates that they are clearly distinct: "receiving information of an event that calls for user notification" and "generating an event notification for the event." Ex. 1001, 12:42–45. Under Petitioner's rationale from the Reply, Eaton teaches the first step because the client device receives an EPNM (information of an event), but Petitioner does not explain how or why Eaton's system would generate an EPNM in the second step (an event notification under the Reply's rationale). *See* Reply 22. That is, even if we assume that the notification includes the actual event data and the EPNM could be both information for the event and the notification, as Petitioner argues (*id.* at 9), the claim nevertheless recites two different actions, receiving and generating. Petitioner fails to sufficiently account for both actions in its rationale.

Also, the plain language of the claim requires that the information of an event "calls for user notification." Ex. 1001, 12:42–45. We agree with Patent Owner that Petitioner does not explain how the EPNM "calls for user notification" if it is itself the notification. *See* PO Resp. 18. In this way,

Petitioner's rationale fails to address all the claim limitations. *See* Reply 22. For at least this reason, Petitioner has not shown that claim 1 is anticipated by or obvious over Eaton.

Second, "an IPR petitioner may not raise in reply 'an entirely new rationale' for why a claim would have been obvious." *Henny Penny Corp. v. Frymaster LLC*, 938 F.3d 1324, 1330–31 (Fed. Cir. 2019). Rather, Petitioner is required to "identif[y], in writing and with particularity . . . the grounds on which the challenge to each claim is based" in the petition. 35 U.S.C. § 312(a)(3). Petitioner failed to do this because the Petition does not clearly set forth whether the EPNMs were "the information of an event" or the "event notification." *See* Pet. 25–26; Reply 22; *see also* Inst. Dec. 38–40 (explaining that the grounds based on Eaton are unclear). The Reply introduces an entirely new, unpersuasive rationale that Eaton's EPNMs teach both claimed features. Reply 22.

In sum, the Petition does not clearly set forth whether Eaton's EPNM corresponds to the claimed information that calls for the notification or a notification itself. *See* Pet. 25–26. But even if Petitioner intended the EPNM to be both the information that calls for a notification and the notification itself, as suggested in the Reply, then the Petition fails to address all limitations of the claim. *See* Reply 22. In either case, Petitioner has not shown that claim 1 is anticipated by or obvious over Eaton.

b. Title Array, Title, and Character Strings

Apart from the issues discussed in Section II.E.2.a, Petitioner has not shown that Eaton discloses, teaches, or suggests "associating the event notification with at least one of the plurality of character strings in a title array that includes a plurality of character strings," as recited in claim 1. Ex. 1001, 12:46–49.

Rather, the Petition's analysis of this limitation adds further ambiguity about the basis for its challenge. Specifically, Petitioner introduces Eaton's "topic screen names" into the analysis:

> Eaton also discloses that the server memory 160 stores an array of event notifications in Figure 6, as shown with annotations below ("*the* event notification" in Claim 1 corresponding to any of them, such as "Topic N" that has associated "Event[s] AN-NN," the first one being "Event AN").

Pet. 30 (citing Ex. 1006 ¶¶ 56–58, Fig. 6) (emphasis in original). Figure 6 with Petitioner's annotations is reproduced below.

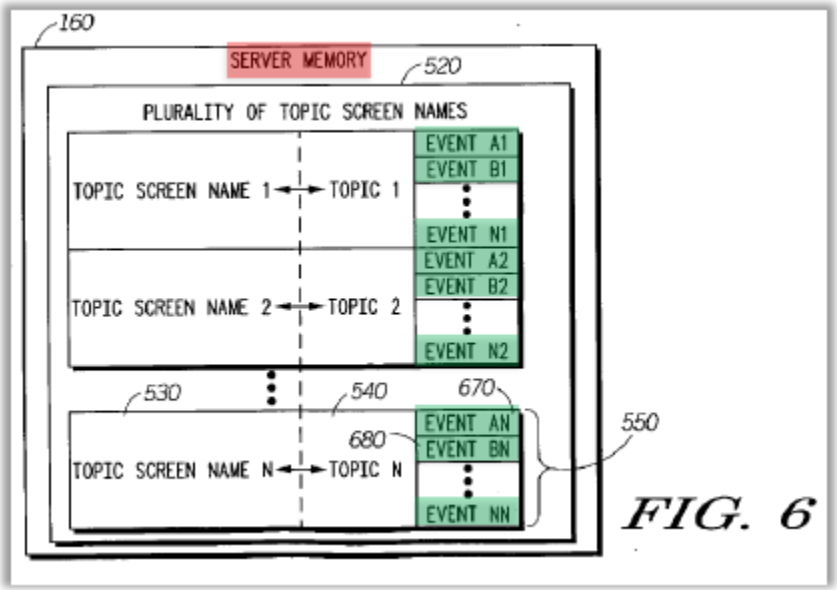


Figure 6, above, is a block diagram of a server memory. Ex. 1006 ¶ 19. This embodiment shows topic screen names 520. *Id.* ¶ 57. A topic may include one or more events. *Id.* ¶ 56. The topic screen names are stored in the server memory 160. *Id.*

Petitioner asserts that Figure 6, above, shows that "the event notifications are associated with the 'Event AN,' 'Topic Screen Name N,' and 'Topic N' character strings." Pet. 31 (citing Ex. 1004 ¶¶ 102–106). This passage could mean that the Topic N is the recited character string. *Id.* Yet

the Petition also suggests that Topic N could be an event notification. *See id.* at 30 ("('*the* event notification' . . . such as 'Topic N').

Petitioner does not sufficiently address this issue in its Reply. *See, e.g.*, Reply 23. As discussed in Section II.E.2.a, Petitioner, in its Reply, asserts that the EPNM is the notification. *Id.* at 22. Petitioner's EPNM-based theory is deficient for the reasons discussed above. Petitioner's Reply also asserts that Eaton's EPNMs are associated with the character strings labeled Topics 1-N. *Id.* at 23. But, apart from vaguely referring to messages generally, the Petition does not discuss EPNMs in the section addressing the "associating" step. *See* Pet. 29 ("[S]creen names 280 and associated event messages / strings 300 (shaded in green) [are] stored in the server memory 160."); *see also id.* at 30–31. Thus, the Reply's EPNM-based argument is an entirely new rationale, which is not permitted. *See Henny Penny*, 938 F.3d at 1330–31.

To summarize, the Petition contains various imprecise theories about what Petitioner regards as the recited information, event notifications, and array of strings—i.e., the EPNMs are event notifications (Reply 21–22 (citing Pet. 26)), "event notifications are associated with the 'Event AN'" (Pet. 31), and "the server memory 160 stores an array of event notifications in Figure 6," such as "Topic N." (*id.* at 30). We identified this problem in the Decision on Institution. Inst. Dec. 39 (citing Pet. 26). Petitioner did not sufficiently address the problem in its Reply. *See* Reply. For this additional reason, Petitioner has not shown that claim 1 is anticipated by or obvious over Eaton. Also, as explained below (*infra* § II.E.2.c.ii), Petitioner has not shown that Eaton teaches or suggests an array.

c. Title Bar/Task Bar

Claim 1 recites, in part, "a plurality of character strings for provisioning for display in a titlebar or taskbar of a display device." Ex. 1001, 12:48–49 (emphasis added). The remaining limitations refer to these character strings and recite an alternative title:

> providing the at least one of the plurality of character strings in the title array to a process executed by a processor;
>
> providing an alternative title based on the at least one of the plurality of character strings to the process;
>
> using the alternative title as a title in association with the process.

Id. at 12:42–56.

Petitioner addresses these limitations under two alternative rationales: one based on Eaton's Figures 3 and 4, and another based on Eaton's Figures 6 and 7. *See* Pet. 33–36.

i. Eaton's Figures 3 and 4

Petitioner asserts that Eaton's Figures 3 and 4, below, show an instant-message device and its user interface. *Id.* at 33 (citing Ex. 1006 ¶¶ 37, 45).

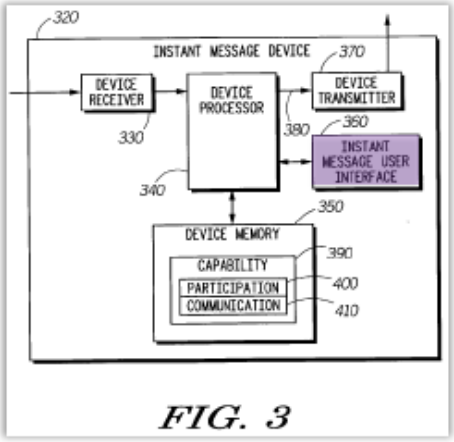


FIG. 3

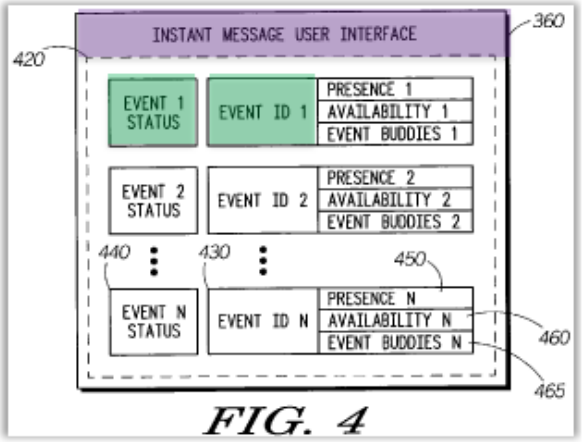


FIG. 4

In Figure 4, Petitioner shades Eaton's user interface in purple and "exemplary event notifications" in green. *Id.* So, here, the Petition suggests

that "Event 1 Status" and "Event ID 1" are the event notifications. *Id.* According to the Petition, "the display 420 and its display items shown in Figure 4 above is at the top of the user interface and therefore corresponds to a titlebar of the user interface display of IM device 320." *Id.* at 34–35 (citing Ex. 1004 ¶¶ 112–113).

Even assuming that "Event 1 Status" and "Event ID 1" are the event notifications—ignoring any contradictions with other parts of the Petition—the claim requires associating the notifications with character strings that are displayed in a title bar. Ex. 1001, 12:45–49. Petitioner does not sufficiently explain how "Event 1 Status" and "Event ID 1" meet this limitation. *See* Pet. 34. Event 1 Status and Event ID 1 are below the area shaded in purple in Petitioner's annotated version of Figure 4.

> Petitioner maintains that Eaton's Figure 4 shows a title bar:
>
> Furthermore, the display 420 and its display items shown in Figure 4 above is at the top of the user interface and therefore corresponds to a title bar of the user interface display of IM device 320.

Id. at 34–35. The Willis Declaration repeats this assertion without adding any substantive analysis. Ex. 1004 ¶ 113. Neither the Petition nor the Willis Declaration provides any basis from Eaton's description of Figure 4 or another part of the disclosure for this conclusion. *See* Pet. 34–35; Ex. 1004 ¶ 113.

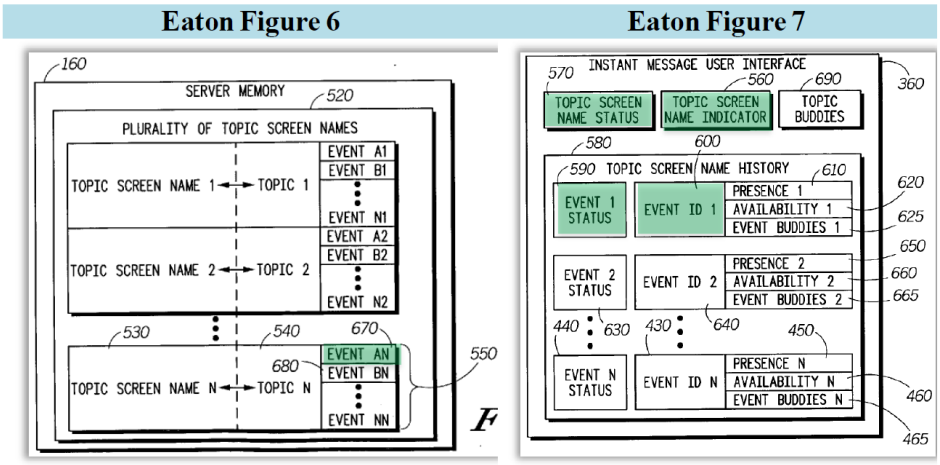
The record better supports Dr. Rajeev Surati's testimony, which we credit more than we do the testimony of Dean Willis in reaching our conclusion. *See* Ex. 2020 ¶ 156. Dr. Rajeev Surati explains that Eaton's item 360 is "the Petition's arbitrarily shaded purple space," not a window which could have a title bar. *Id.* According to Dr. Rajeev Surati, "INSTANT

MESSAGE USER INTERFACE" would not likely be displayed on the actual user interface in use. *Id.*

Thus, Petitioner has not shown that, under its rationale based on Figures 3 and 4, Eaton discloses, teaches, or suggests "a plurality of character strings for provisioning for display in a titlebar or taskbar of a display device." *See* Pet. 34–35.

ii. Eaton's Figures 6 and 7

Petitioner presents an alternative argument based on Eaton's other embodiment shown in Figures 6 and 7, below. *Id.* at 36.



Eaton's Figure 6 shows a block diagram of the server's memory in Eaton's instant-messaging system. Ex. 1006 ¶ 19. Server memory 160 stores a plurality of topic screen names 520. *Id.* ¶ 57. The plurality of screen names includes N topic screen names and N topics. *Id.* Within each topic, server memory 160 stores N events. *Id.* Among those events, Petitioner shaded "EVENT AN 670" in green in the annotated version of the figure, above. Pet. 36.

Eaton's Figure 7, above, shows a block diagram for an instant-message user interface. Ex. 1006 ¶ 20. In the annotated version of the figure, above, Petitioner has several features shaded in green: topic screen name

status 570, topic screen name indicator 560, Event 1 Status 590, and Event ID 1 600. Pet. 36. According to Petitioner, each of the green-shaded features "disclose provisioning the character strings associated with the event notification for display in a titlebar of a display device." *Id.* at 38 (citing Ex. 1004 ¶¶ 114–121).

Petitioner provides little substantive analysis that links the green-shaded features in Eaton's Figure 7 to any character strings or arrays stored in Eaton's Figure 6 embodiment. *See id.* at 36–38. For example, Petitioner has not shown that an array in server memory 160 stores topic screen name status 570, topic screen name indicator 560, Event 1 Status 590, or Event ID 1 600. *See id.* The Willis Declaration is unhelpful because it does not provide adequate explanation of Petitioner's assertions. Ex. 1004 ¶¶ 114–121.

We agree with Patent Owner's argument that, although Eaton discloses where the system stores the information, Eaton provides little detail about how the system stores the information, such as the type of data structure it uses or how the strings are associated with notifications. PO Resp. 34 (citing Ex. 2020 ¶ 174). We credit Dr. Rajeev Surati's testimony on this issue:

> Eaton's visual depictions of "events," screen names and other data in tabular form does not show how the data is stored or whether it is stored in an array. Rather, Eaton merely discloses that certain information related to a plurality of screen names is stored.

Ex. 2020 ¶ 174. This is consistent with Eaton's description of Figure 6, which it calls "a block diagram." Ex. 1006 ¶ 19. Also, in describing Figure 6 in detail, Eaton does not mention any array. *See id.* ¶¶ 57–58. So, even if Eaton uses a similar diagram as the '135 patent (*see* Reply 24), there is little

evidence to suggest that the underlying data structures are the same. Thus, we are unpersuaded by Petitioner's argument and evidence about Eaton's Figures 6 and 7. Pet. 36–38.

Petitioner does not offer any arguments that Eaton displays claimed information in a taskbar, or that it would have been obvious to do so based on Eaton alone. *See, e.g.*, *id.* at 38 ("at least in the titlebar").

Thus, Petitioner has not shown that Eaton teaches or suggests "a plurality of character strings for provisioning for display in a titlebar or taskbar of a display device" and corresponding title array under the rationale based on Figures 6 and 7.

For this additional reason, Petitioner has not shown that claims 1–3 and 9 are anticipated by or obvious over Eaton. *See id.*

F. Obviousness over Eaton in combination with Cheung and Odell

Petitioner asserts that claims 1–3 and 6–10 are unpatentable as obvious over the combination of Eaton, Cheung, and Odell. *Id.* at 56–62; *see id.* at 24–55.

1. Odell

Odell is related to an instant messaging system that links multiple accounts. Ex. 1016, 1:31–33, 19:44–46. Odell's user interface presents a notification after an event occurs relating to one of the linked accounts. *Id.* at 19:44–46. The notification's header contains the linked account's screen name that corresponds to the buddy list that triggered the notification. *Id.* at 19:46–52.

2. Claims 1–3 and 6–10

Petitioner argues that, to the extent that Eaton lacks the recited title bar or task bar, Cheung provides an event notification in an application's

task bar and title bar, and Odell discloses that instant message events can be provided in the title bar. Pet. 38–41.

Both combinations rely on the Petition's analysis of Eaton's event notifications, which is deficient for the reasons discussed in II.E.2.a. *See id.* at 42 ("Accordingly, Cheung and Odell teach that *the event notifications disclosed in Eaton*, or information associated with the event notifications, can be provided in the title bar of the IM application, for instance, or in the corresponding taskbar, as disclosed in Cheung.") (emphasis added). Also, Petitioner does not explain how Cheung or Odell teach or suggest a title array with character strings that could be used in Eaton. *See id.* at 38–43. So neither Cheung nor Odell addresses the deficiencies discussed above in connection with the challenge that relies on Eaton alone, even assuming that Cheung or Odell discloses a title bar or task bar displaying event notifications. *See supra* § II.C.

Thus, Petitioner has not shown that claims 1–3 and 6–10 are obvious over Eaton in combination with Cheung or Odell. *See* Pet. 38–43, 56.

III. PATENT OWNER'S MOTION TO EXCLUDE

Patent Owner filed a Motion to Exclude Evidence. Paper 32. Petitioner filed an Opposition to the Motion to Exclude. Paper 33, 1–2. Patent Owner filed a Reply to Petitioner's Opposition to the Motion to Exclude. Paper 35.

Patent Owner's original Motion to Exclude exceeded the page limit. According to an agreement by the parties and under the Board's authorization, Patent Owner refiled its Motion to Exclude with fewer pages but no new arguments or substantive changes that would require Petitioner to file a new opposition. Paper 36, 1 (Order authorizing the Substitute Motion); Paper 37 ("Substitute Motion to Exclude", "Mot."). We deem the

originally filed Motion to Exclude to be replaced by the Substitute Motion to Exclude. Petitioner was permitted to file a new opposition to the substitute motion but did not. *See* Paper 36.

In its Motion to Exclude, Patent Owner seeks to exclude Petitioner's Exhibits 1017–1020, 1022–1026, 1030, 1032, 1033, 1034, and 1036. Mot. 1. Even without excluding any of these exhibits, Petitioner has not proven that any challenged claims are unpatentable. Thus, we dismiss Patent Owner's Substitute Motion to Exclude as moot.

IV. CONCLUSION

Petitioner not has met its burden to show that claims 1–3 and 6–10 are unpatentable.

Claim(s)	35 U.S.C. §	Reference(s)/Basis	Claims Shown Unpatentable	Claims Not Shown Unpatentable
1–3, 6, 7, 9	102	Eaton		1–3, 6, 7, 9
1–3, 6, 7, 9	103	Eaton		1–3, 6, 7, 9
1–3, 6–10	103	Eaton, Cheung, Odell		1–3, 6–10
1–3, 9	102	Kim		1–3, 9
1–3, 9	103	Kim		1–3, 9
1–3, 6–10	103	Kim, Cheung		1–3, 6–10
Overall Outcome				1–3, 6–10

V. ORDER

It is

ORDERED that Petitioner has not proven by a preponderance of the evidence that any of claims 1–3 and 6–10 of the '135 patent is unpatentable;

FURTHER ORDERED that Patent Owner's Substitute Motion to Exclude is *dismissed* as moot; and

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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