

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MOBOTIX CORP.,
Petitioner,

v.

E-WATCH, INC.,
Patent Owner.

Case IPR2013-00335
Patent 7,228,429

Before JAMESON LEE, MICHAEL W. KIM, and
MATTHEW R. CLEMENTS, *Administrative Patent Judges*.

CLEMENTS, *Administrative Patent Judge*.

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

I. INTRODUCTION

Mobotix Corp. (“Petitioner”) filed a Corrected Petition requesting *inter partes* review of claims 1-14, 22, 26-28, 32-35, 38, 44-49, 51, and 65 of U.S. Patent No. 7,228,429 (Ex. 1001, “the ’429 patent”). Paper 5 (“Pet.”). e-Watch, Inc. (“Patent Owner”) waived the filing of a Preliminary Response. Paper 12. On November 29, 2013, we instituted an *inter partes* review of claims 1–14, 22, 26–28, 32–35, 38, 44–49, 51, and 65 on certain grounds of unpatentability alleged in the Petition. Paper 13 (“Dec. to Inst.”).

After institution of trial, Patent Owner filed a Patent Owner Response (Paper 21) and a Corrected Patent Owner Response (Paper 25, “PO Resp.”). Petitioner filed a Reply. Paper 31 (“Reply”). After the Corrected Patent Owner Response was filed, but prior to Petitioner’s Reply, a telephone conference was held during which Patent Owner agreed that, in the absence of an authorized supplemental Patent Owner Response, claims 1–6, 8–14, 22, 26–28, 32, 38, 44–49, and 65 would be deemed unpatentable and would be cancelled. Paper 27. A supplemental Patent Owner Response was not authorized. Paper 32. An oral argument was not held.

The Board has jurisdiction under 35 U.S.C. § 6(c). This final written decision is issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. Patent Owner has conceded the unpatentability of claims 1–6, 8–14, 22, 26–28, 32, 38, 44–49, and 65. Papers, 27, 32. We determine Petitioner has shown by a preponderance of the evidence that claims 7, 33–35, and 51 are unpatentable.

A. The '429 Patent

The subject matter of the '429 patent relates to sensor, monitor, and control appliance devices generally utilized in monitoring and surveillance systems, and is specifically adapted to a network adaptation of such appliances. Ex. 1001, 1:8–11. Public facilities, such as schools, banks, airports, arenas, and the like, frequently employ monitoring and surveillance systems to enhance security. Ex. 1001, 1:13–23. Such systems generally have a centralized monitoring console, usually attended by a guard or dispatcher, and a variety of sensors located throughout the facility, such as smoke detectors, fire detectors, motion sensors, glass breakage detectors, badge readers, video cameras, microphones, and transducers utilized to lock and unlock doors. Ex. 1001, 1:24–30. However, in prior art systems, the signal generated by each type of device was used locally, or, if part of a network, was sent over a dedicated connection to a remote collection point for that type of device. Ex. 1001, 1:40–44. Such prior art devices merely provided an ON/OFF indication to the centralized monitoring system, and were generally hard-wired to the centralized monitoring system via a “current loop” or similar arrangement. Ex. 1001, 1:45–51.

To solve these and other problems, a network appliance is disclosed in the '429 patent that is designed to participate in a comprehensive multimedia security and building support system that may be deployed singularly, or in combination, to achieve the degree of monitoring and protection desired. Ex. 1001, 2:17–22. The single network appliance provides all of the functions previously supplied by a plurality of dedicated purpose, discrete

appliances. Ex. 1001, 2:29–31. The network appliance may be connected to the multimedia surveillance and monitoring system via a wired or wireless network. Ex. 1001, 3:11–22. The network appliance may transmit event data, video and/or image monitoring information, audio signals, and other network appliance sensor and detector data over the network for automatic event recording, assessment, and response. Ex. 1001, 3:11–22. The '429 patent is specifically directed to networked appliances, such as video and/or image appliances, access control devices, detectors, and sensors, as well as audio, condition, and/or event monitoring systems. Ex. 1001, 3:58–61.

The network appliance may include a video camera, digitizer, motion video buffer and compressor, and a still-frame video buffer and compressor. Ex. 1001, Fig. 8, 13:48–14:51. Figure 8 of the '429 patent is reproduced below:

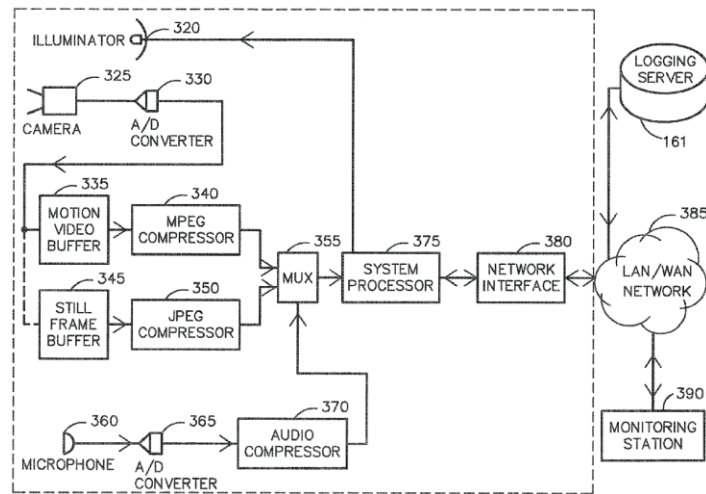


FIG. 8

Figure 8 of the '429 patent illustrates one embodiment of network appliance 5. When activated, camera 325 captures local scenes, and transmits them to

monitoring station(s) 390 via network 385 using suitable compression methods, such as MPEG or JPEG. Ex. 1001, 13:53–56. The local scenes are transmitted to network 385 via multiplexer 355, system processor 375, and network interface 380. Ex. 1001, 13:53–59. Simultaneously, microphone 360 may be included to receive local sounds, digitize them at A/D converter 365, compress them at audio compressor 370, and send them to network 385. Ex. 1001, 13:59–62.

B. Illustrative Claims

The '429 patent includes 76 claims, of which claim 1 is the only independent claim. Independent claim 1 is reproduced as follows:

1. An appliance for a network based security system, comprising:
 - a. a sensor component adapted for generating a signal in response to a condition present at the sensor component;
 - b. a processor for generating a digital output signal corresponding to the sensor component signal;
 - c. a network interface for transmitting the digital output signal via a digital network,wherein the sensor is a video sensor and the signal comprises a video signal, the appliance further comprising:
 - a. an analog-to-digital converter for converting the analog video signal to a digital signal;
 - b. a motion video buffer;
 - c. an mpeg compressor associated with the motion video compressor;
 - d. a still frame buffer;
 - e. a jpeg compressor associated with the still frame buffer;
 - f. a multiplexer for combining the outputs of the mpeg compressor and the jpeg compressor for generating a

combined output signal to the processor for distribution via the network interface over the network,

wherein there is further comprising:

- a. an audio sensor component;
- b. an analog-to-digital converter for converting the analog audio signal to a digital signal;
- c. an audio compressor associated with the audio sensor component for introducing a signal to the multiplexer, whereby the multiplexer produces a combined digital signal comprising a video and an audio component for distribution via the network interface over the network.

C. Prior Art Supporting the Instituted Challenges

The following prior art references were asserted in the instituted grounds:

Seeley	US 6,069,655	May 30, 2000	(Ex. 1005)
Fernandez	US 6,697,103 B1	Feb. 24, 2004	(Ex. 1010)
Mobotix brochure titled INTERNET-Vision-Systems, publicly distributed on all days between February 24, 2000 and March 1, 2000 at the CeBIT 2000 international computer expo in Hannover, Germany (hereinafter “Mobotix Brochure”)			(Ex. 1007)

D. The Instituted Challenges of Unpatentability

The following table summarizes the challenges to patentability that were instituted for *inter partes* review:

Reference(s)	Basis	Claims Challenged
Seeley	§ 103(a)	1-3, 6, and 32–35

Reference(s)	Basis	Claims Challenged
Mobotix Brochure	§ 103(a)	1–6, 8–14, 22, 26–28, 32, 38, 44–49, and 65
Seeley and Fernandez	§ 103(a)	4–14, 22, 26, 46, 48, 49, and 51

II. ANALYSIS

A. *Claim Construction*

In an *inter partes* review, claim terms in an unexpired patent are interpreted according to their broadest reasonable construction in light of the specification of the patent in which they appear. 37 C.F.R. § 42.100(b); Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48766 (Aug. 14, 2012). Also, claim 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).

If an inventor acts as his or her own lexicographer, the definition must be set forth in the specification with reasonable clarity, deliberateness, and precision. *Renishaw PLC v. Marposs Societa' per Azioni*, 158 F.3d 1243, 1249 (Fed. Cir. 1998). Neither Petitioner nor Patent Owner contends that the specification of the '429 patent, as filed, coined a new meaning for any term, different from the ordinary recognized meaning for any term.

1. *Compressor*

Independent claims 1 and 6 each recite “compressor.” Petitioner argues that “compressor” means “a device for reducing the number of bits needed to represent an item of digital data.” Pet. 4. For support, Petitioner

cites a definition of “compressor” from *Computer User’s Dictionary*, as well as several portions of the ’429 patent. Pet. 4; Reply 13–14 (citing Ex. 1001, 13:48–53). In particular, Petitioner argues that the ’429 patent does not enable software-based compressors. Reply 13. An exemplary use of “compressor” in the ’429 patent is as follows:

FIG. 8 illustrates an enhancement to the basic appliance system, wherein a video camera 325, digitizer 330, motion video buffer 335 and *compressor* 340 and, optionally, a still-frame video buffer 345 and *compressor* 350 is added. An illuminator 320 for low light conditions may also be supplied. When activated, the camera captures local scenes, and transmits them to a monitoring station(s) 390 on the local network or wide-area network using suitable compression methods such as MPEG or JPEG, via the network comprising the multiplexer 355, the system or appliance processor 375 and a network interface 380 whereby communication via the network 385 is supported. Simultaneously, the microphone 360 may be included to receive local sounds, digitize them at converter 365, compress them at *compressor* 370, and send them to the same destinations.

Ex. 1001, 13:48–62 (emphasis added). Accordingly, in the Decision to Institute, we construed “compressor” to mean “a device for reducing the number of bits to represent an item of digital data.” Dec. to Inst. 8.

Patent Owner asserts that “compressor” does not require construction, or in the alternative that it should be construed as “hardware, software or a combination for performing data compression.” PO Resp. 3–4.

Specifically, Patent Owner asserts that “compressor” should not be limited to hardware because the Specification does not exclude software-based compressors. *Id.* For support, Patent Owner cites to a Declaration of

Michael Craner, which in turn refers to a webpage http://www.techterms.com/definition/media_compression and the following citation: Miyazaki, T.; Kuroda, I., “Real-time software video encoder on a multimedia RISC processor,” Signal Processing Systems, 1998, SIPS 98, 1998 IEEE Workshop, vol., no., pp. 33, 42, 8-10 Oct 1998. Ex. 2001 (“Craner Dec.”).

Patent Owner’s proposed construction also uses the phrase “for performing data compression” instead of “for reducing the number of bits to represent an item of digital data.” As support for its proposed construction, Patent Owner relies solely on the testimony of its expert, Mr. Craner. *Id.*

By a preponderance of the evidence, we determine that Petitioner’s construction constitutes the broadest reasonable interpretation in light of the Specification. Specifically, Petitioner provides an extrinsic definition of “compressor” that is consistent with the Specification, especially by the portion cited above which treats “compressor” as an equivalent of hardware, such as processors and circuits. Although Patent Owner asserts that the Specification does not exclude software-based compressors, the fact that the Specification does not exclude a particular implementation does not indicate that it includes it. Instead, the proper inquiry is whether Patent Owner has shown how the Specification would lead one of ordinary skill to determine that a broadest reasonable construction of “compressor” would include disembodied software implementations. To that inquiry, Patent Owner has not provided any analysis. Concerning the Craner Declaration, it refers to two references, neither of which is of record. Upon perusing the cited

webpage, attached hereto as Exhibit 3001, we are not persuaded that it supports Patent Owner's position. Moreover, the Craner Declaration recites the following:

compressor or multiplexor need not be limited to a specific circuit, but would be understood to a POSITA at the time of the filing of the Monroe patent to alternatively be a function that could be implemented in firmware or software on a general purpose processor or signal processor, such as a digital signal processor, graphics processor, vector processor, or similar.

Ex. 2001 ¶ 21. This is consistent with Petitioner's proposed construction, as even when viewed in a light most favorable to Patent Owner, the Craner Declaration asserts that "compressor" is software implemented on a processor.

Moreover, Patent Owner's proposed use of the phrase "for performing data compression" is undermined by Mr. Craner's testimony that "I am in agreement with these definitions [for "compressor" and "multiplexer" in the Decision to Institute]," and "I accept the definition of compressor put forth in the [Decision to Institute] except again to clarify that it could be a hardware or software or combined component." Ex. 2001 ¶ 21. On this record, Patent Owner does not appear to be contending that "reducing the number of bits to represent an item of digital data," as recited in our construction, is an unreasonably narrow description of the function of the "compressor."

Accordingly, we construe "compressor" as "a device for reducing the number of bits to represent an item of digital data."

2. *Multiplexer*

Independent claim 1 recites a “multiplexer.” Petitioner proposed that “multiplexer” be construed as “a device for combining two or more input signals into at least one output signal.” Pet. 4. For support, Petitioner cited a definition of “multiplexer” from a dictionary, as well as several portions of the ’429 patent. *Id.* at 4-5. Patent Owner does not contend that “multiplexer” should be construed differently. Accordingly, we construe “multiplexer” to mean “a device for combining two or more input signals into at least one output signal.”

B. *Principles of Law*

To prevail in its challenges to the patentability of the claims, the petitioner must establish facts supporting its challenges by a preponderance of the evidence. 35 U.S.C. § 316(e); 37 C.F.R. § 42.1(d). A claim is unpatentable under 35 U.S.C. § 103(a) if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). A patent claim composed of several elements, however, is not proved obvious merely by demonstrating that each of its elements was known, independently, in the prior art. *KSR Int’l Co.*, 550 U.S. at 419. In that regard, for an obviousness analysis it can be important to identify a reason that would have prompted one of skill in the art to combine prior art elements in the way the claimed invention does. *Id.* However, a precise teaching directed to the specific

subject matter of a challenged claim is not necessary to establish obviousness. *Id.* Rather, obviousness must be gauged in view of common sense and the creativity of an ordinarily skilled artisan. *Id.* Moreover, obviousness can be established when the prior art, itself, would have suggested the claimed subject matter to a person of ordinary skill in the art. *In re Rinehart*, 531 F.2d 1048, 1051 (CCPA 1976).

We analyze the instituted grounds of unpatentability in accordance with the above-stated principles.

C. *Claims 1–6, 8–14, 22, 26–28, 32, 38, 44–49, and 65 —
Obviousness over the Mobotix Brochure*

Petitioner contends that 1–6, 8–14, 22, 26–28, 32, 38, 44–49, and 65 are unpatentable under 35 U.S.C. § 103(a) as obvious over the Mobotix Brochure. Pet. 24–37.

Patent Owner asserts in its Corrected Patent Owner Response that, “[c]laims 1-6, 8-14, 22, 26-28, 32, 38, 44-49, 51 and 65 are not obvious over the Mobotix Brochure,” but does not set forth any specific arguments with respect to this ground. PO Resp. 7–8. After the Corrected Patent Owner Response was filed, but prior to Petitioner’s Reply, a telephone conference was held during which Petitioner sought guidance on whether it was necessary to address this ground in its Reply. Paper 27. Patent Owner indicated that, although the Due Date for filing a Patent Owner Response had passed, it was contemplating requesting authorization to file a Supplemental Patent Owner Response. *Id.* We ordered that any such request should be made immediately and, in return, Patent Owner agreed

that, in the absence of an authorized Supplemental Patent Owner Response, claims 1–6, 8–14, 22, 26–28, 32, 38, 44–49, and 65 would be deemed unpatentable, and that those claims would be cancelled. *Id.* As a result, we ordered the following:

It is

ORDERED in the absence of an authorized supplemental patent owner response that substantively addresses Ground 2, E-Watch will be deemed to have conceded the unpatentability of claims 1-6, 8-14, 22, 26-28, 32, 38, 44-49, and 65 as obvious over the Mobotix Brochure;

FURTHER ORDERED that in the absence of an authorized supplemental patent owner response that substantively addresses Ground 2, claims 1-6, 8-14, 22, 26-28, 32, 38, 44-49, and 65 will be cancelled, regardless of the merits of Grounds 1 and 3;

Id., at 3–4. Patent Owner waited almost six weeks, the same day that Petitioner filed a Reply, to request leave to file a Supplemental Patent Owner Response. Paper 32. For those and other reasons, a Supplemental Patent Owner Response was not authorized. *Id.*

Under the circumstances of this case, Patent Owner has conceded the patentability of claims 1–6, 8–14, 22, 26–28, 32, 38, 44–49, and 65 as obvious over the Mobotix brochure.

D. Claims 33–35 — Obviousness over Seeley

As discussed above, Patent Owner has conceded the unpatentability of claims 1–6, 8–14, 22, 26–28, 32, 38, 44–49, and 65 as obvious over the Mobotix Brochure. Papers 27, 32. We, therefore, need not address

Petitioner's argument that claims 1–3, 6, and 32 are unpatentable as obvious over Seeley. We address only claims 33–35, which depend indirectly from claim 1.

Petitioner contends that claims 33–35 are unpatentable under 35 U.S.C. § 103(a) as obvious over Seeley. Pet. 7–21. Patent Owner counters that Seeley does not render obvious limitations recited in independent claim 1. PO Resp. 4–7. Patent Owner does not present separate arguments or analysis for the limitations recited in dependent claims 33–35.

Seeley (Exhibit 1005)

Seeley discloses a video security system having components physically located at a premises being protected, and components located at a central station from which a number of premises can be simultaneously monitored. Ex. 1005, 1:25–28. Figure 7 of Seeley is reproduced below:

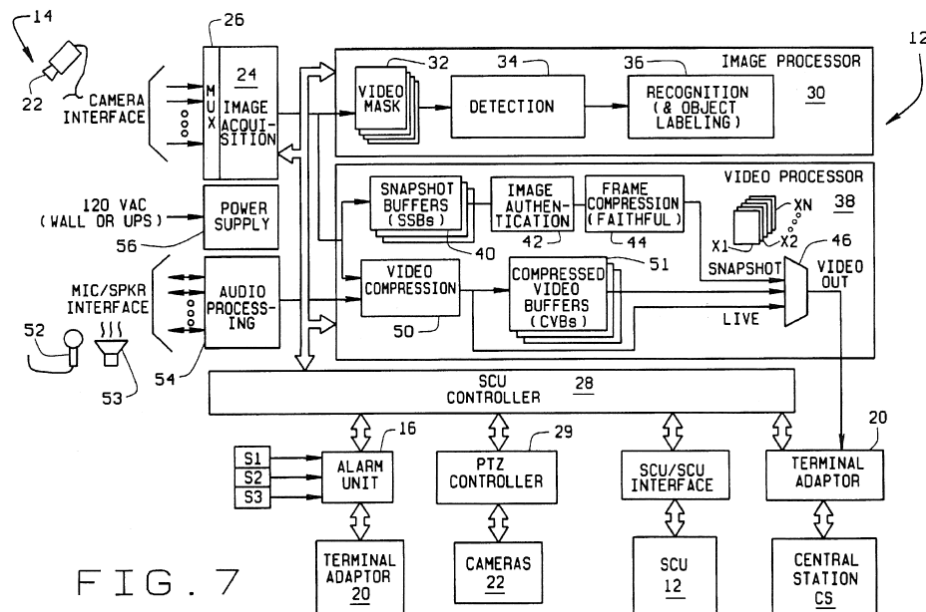


Fig. 7 is a block diagram of a site control unit (“SCU”) installed on a premises. Figure 7 shows SCU 12, including cameras 22. *Id.* at 10:43-46. A function of SCU 12 is to look intelligently at video acquired from each of cameras 22 to determine if an intruder is present within any scenes viewed by cameras 22. *Id.* at 9:24-27. SCU 12 includes image acquisition section 24, which receives video signals from each of cameras 22, these signals representing images of scenes observed by the respective cameras 22. *Id.* at 10:43–46.

When motion is detected, cameras 22 take full frame images of the scene. *Id.* at 12:66–13:4. Motion may be detected by sensors S1-S3 via alarm unit 16. *Id.* at 12:23–24. The full frame images then are sent to and compressed at frame compression module 44, before being supplied to central station CS via video output 46 of SCU 12 and terminal adapter 20. *Id.* at 13:27–30. Images from cameras 22 also are supplied to video compression module 50. *Id.* at 18:26–28. From video compression module 50, compressed images may be sent directly (i.e., live) through video output 46 to central station CS via terminal adaptor 20. *Id.* at 18:34–36; Fig. 7. Figure 12 is reproduced below:

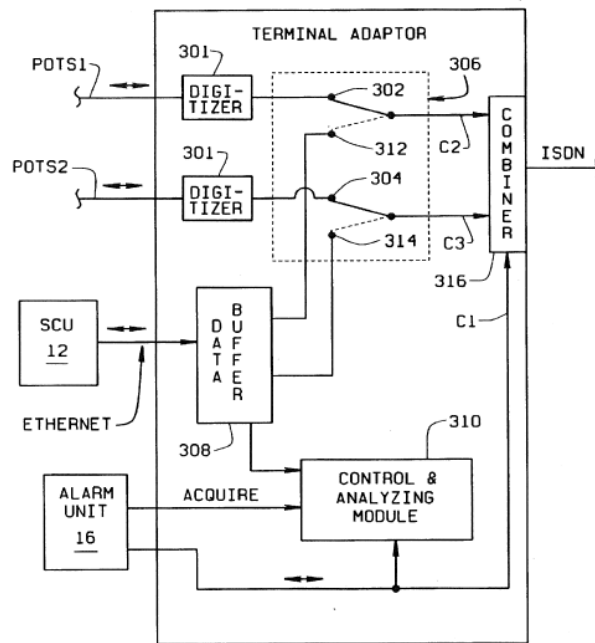


Fig. 12 shows that video signals transmitted from SCU 12 flow through data buffer 308 and switch 306 to communication lines C2, C3. *Id.* at 14:19–22. Communication lines C2, C3 are combined with communication line C1 at combiner module 316 to form an ISDN communication path. *Id.* at 14:31–33.

Analysis

Upon consideration of the parties' contentions and supporting evidence, we determine that Petitioner has demonstrated by a preponderance of the evidence that claims 33–35 would have been obvious over Seeley. Pet. 7–21.

Claims 33–35 depend indirectly from claim 1. Accordingly, a proper analysis of claims 33–35 requires an analysis of underlying independent claim 1. We are persuaded that the following limitations of independent claim 1 are met by the following disclosure of Seeley:

<i>Independent Claim 1</i>	<i>Seeley</i>
a sensor component	cameras 22
a processor	site control unit (“SCU”) 12
a network interface	terminal adapter
a motion video buffer	compressed video buffer 51
a still frame buffer	snapshot buffer 40
a multiplexer	video output 46
an audio sensor component	microphones 52
an analog-to-digital converter	audio processing module 54
an audio compressor	audio processing module 54

Independent claim 1 also recites “an mpeg compressor” and “a jpeg compressor.” Seeley discloses a video compression module 50 and a frame compression unit 44. Ex. 1005, Fig. 7, 13:27-30, 18:26-38. Petitioner acknowledges that Seeley does not disclose expressly that video compression module 50 implements an “MPEG” standard, or that frame compression unit 44 implements a “JPEG” standard, as recited in independent claim 1. Pet. 8. However, Petitioner explains as follows:

Although Seeley does not explicitly reference an MPEG compressor, MPEG was a well-known video compression standard at the time of the invention. It would have been obvious to a person having ordinary skill in the art at the time of the invention that the video compression module 50 could use the MPEG compression standard, as MPEG was one of a limited number of well[-]known, commonly used video compression standards at that time. Wicker Decl. [Declaration of Professor Stephen Wicker, Ex. 1003], ¶ 38.

...

Although Seeley does not explicitly identify a JPEG compressor, JPEG was a well-known image compression standard at the time of the invention. It would have been obvious to a person having ordinary skill in the art at the time of the invention that the frame compression unit 44 could use the JPEG compression standard, as JPEG was one of a limited number of well[-]known, commonly used still image compression standards at that time. Wicker Decl., ¶ 39.

Pet. 13-14. We are persuaded by Petitioner's reasoning.

Petitioner further acknowledges that Seeley does not disclose expressly "an analog-to-digital converter for converting the analog video signal to a digital signal," as recited in independent claim 1. Pet. 12.

Petitioner then explains as follows:

However, Seeley discloses that the cameras 22 can be analog or digital cameras and "[a] SCU can accommodate a plurality of cameras which can be . . . analog or digital cameras." *Seeley*, 10:60-62, and 20:48-50. Seeley further discloses that the video signal is output from the SCU (Site Control Unit) to be transmitted over ISDN (a digital network). *See e.g., Seeley*, 14:7-9. Because the SCU is described as having an input from an analog camera and the processed video signal is transmitted over a digital network, Seeley discloses an analog-to digital converter for converting the analog video signal to a digital signal in order to transmit the video signal over the digital network. Declaration of Professor Stephen Wicker, MOB1003, (hereinafter "Wicker Decl."), ¶ 36.

Pet. 12-13. We are persuaded by Petitioner's reasoning.

We are not persuaded by Patent Owner's argument that Seeley does not teach the limitations of claim 1 because its cameras 22 lack a processor

and compressor. PO Resp. 5–6. Specifically, Patent Owner argues that Seeley’s compressors (50 and 44) and processor (30) reside in SCU 12, not in camera 22. *Id.* Patent Owner’s argument characterizes Seeley accurately, but is not commensurate with the scope of the claims. Claim 1 does not recite a camera with a processor and a compressor. Claim 1 recites “[a]n appliance . . . comprising,” *inter alia* “a processor,” “an mpeg compressor,” and “an audio compressor.” Petitioner relies upon Seeley’s cameras 22 to teach the “sensor component” of claim 1. Claim 1 does not require the “sensor component” to have a processor or compressor.

We also are not persuaded by Patent Owner’s argument that claim 1 requires the recited “processor” and “compressors” to be integrated within the “appliance” recited in the preamble of claim 1. PO Resp. 6; Ex. 2001 ¶ 22. As an initial matter, Patent Owner assumes, without explanation, that the preamble limits claim 1. Even assuming that to be true, Patent Owner does not provide any evidence, beyond the conclusory assertion of Mr. Craner, that the broadest reasonable interpretation of the claim term “comprising” requires integration of the recited claim elements. Mr. Craner testifies that “the benefit of integration cannot be overlooked in considering the innovation of Monroe over Seeley” (Ex. 2001 ¶ 24), but the invention is defined by the claims, and claim 1 does not recite “integration.” Petitioner contends that the “appliance” is taught in Seeley by the hardware and software shown in Figure 1 as located at the Customer Premises, including SCU 12 and cameras 22. Pet 11. Patent Owner acknowledges that SCU 12 contains a processor and compressors. PO Resp. 5.

In view of the foregoing, we conclude that Petitioner has demonstrated that Seeley describes an “appliance” with “a processor” and a “compressor.”

Patent Owner also contends that the word “network” in claim 1 means “internet protocol network” (PO Resp. 7 (citing Ex. 2001 ¶¶ 26–27)), and that Seeley does not teach an internet protocol network (*id.* at ¶¶ 28–46). Patent Owner, however, does not identify a definition of “network” in the ’429 patent. Based on our review of the ’429 patent, the term “internet protocol network” is not used at all. The acronym “TCP/IP” is used once, but only with respect to a preferred embodiment. Ex. 1001, 12:30–34. The ’429 patent refers to an “IP network.” *See, e.g., id.* at 5:43, 8:65, 16:66. If “network” means “internet protocol network,” as Patent Owner contends, the acronym “IP” in the phrase “IP network” would be superfluous. The fact that the ’429 patent frequently modifies “network” with “IP” to distinguish internet protocol networks from other networks supports the conclusion that the broadest reasonable interpretation of “network,” in light of the Specification of the ’429 patent, is not limited to internet protocol networks. We, therefore, decline to construe “network” to mean “internet protocol network.” Accordingly, we are not persuaded by Patent Owner’s argument because it is based upon a construction of “network” that we decline to adopt.

Conclusion

For the foregoing reasons, we determine that Petitioner has demonstrated by a preponderance of the evidence that claims 33–35 are unpatentable under 35 U.S.C. § 103(a) as obvious over Seeley.

*E. Claims 7 and 51 —
Obvious over Seeley and Fernandez*

As discussed above, Patent Owner has conceded the unpatentability of claims 1–6, 8–14, 22, 26–28, 32, 38, 44–49, and 65 as obvious over the Mobotix Brochure. Papers 27, 32. We, therefore, need not address Petitioner’s argument that claims 4–6, 8–14, 22, 26, 46, 48, and 49 are unpatentable as obvious over Seeley. We address only claims 7 and 51.

Petitioner contends that claims 7 and 51 are unpatentable under 35 U.S.C. § 103(a) as obvious over Seeley and Fernandez. Pet. 44–50. Specifically, Petitioner contends that Seeley teaches independent claim 1, and that Fernandez teaches the additional limitations recited in claims 7 and 51, which depend, directly or indirectly, from claim 1. Pet. 47–50. Patent Owner counters that claims 7 and 51 would not have been obvious over Seeley and Fernandez because Seeley does not teach the limitations of claim 1. PO Resp. 8. Patent Owner does not present separate arguments or analysis for the limitations recited in dependent claims 7 and 51.

Fernandez (Exhibit 1010)

Fernandez discloses an integrated fixed and/or wireless network and associated database, and software functionality for monitoring and processing remote and/or local moveable objects. Ex. 1010, 1:33–36.

According to Fernandez, a preferred integrated network monitoring system includes network communications infrastructure 8. *Id.* at 2:22–26. Network 8 may be a functional aggregate of multiple sub-networks, including conventional or proprietary networking equipment, for enabling access to and/or through the World Wide Web (WWW), or other functionally equivalent local and/or wide area network (LAN/WAN) interconnectivity. *Id.* at 2:26–31. Network 8 provides a digital connection to, or from, any allocated web node address or equivalently accessible network resource, such as a Uniform Resource Locator (URL), associated hypertext file, and other proper domain name and file location, according to a Transmission Control Protocol/internet Protocol (TCP/IP) addressing scheme. *Id.* at 2:32–37. Network 8 further couples to one or more of a conventional internet, intranet, or other LAN/WAN network connection or server, and sensor or detector. *Id.* at 3:17–22. According to Fernandez, such arrangements preferably use a conventional TCP/IP protocol Internet website addressing scheme. *Id.* at 3:48–50. Fernandez discloses that an overall integrated system preferably includes a geographically or relatively fixed network of multiple detectors uniquely accessible through an Internet browsing interface, overlaid with a mobile set of targets closely associated with, or attached to, certain objects for remote monitoring. *Id.* at 5:46–52.

Analysis

Upon consideration of the parties' contentions and supporting evidence, we determine that Petitioner has demonstrated by a preponderance

of the evidence that claims 7 and 51 would have been obvious over Seeley and Fernandez.

With respect to “wherein the location signal is a GPS signal,” recited in claim 7, Petitioner cites Fernandez for disclosing a GPS signal:

Fernandez discloses that location signals can be provided as GPS location information. *See e.g.*, Fernandez, 12:40-49, 19:27-40.

Pet. 47-48. The cited portion of Fernandez teaches that, “mobile unit 4 provides GPS location information associated with tracked object” Ex. 1010, 12:44-45. We are persuaded that Petitioner’s citations support Petitioner’s contentions.

With respect to “further including muted camera and microphone in a room for privacy,” recited in claim 51, Petitioner cites Fernandez for disclosing user-selectively de-activating a microphone for privacy:

Fernandez discloses that an appliance (detector 3) can monitor audio over an IP network. For example, microphone audio functionality may be user selectively de-activated for privacy or activated continuously for detection and recording. *See e.g.*, Fernandez, 6:25-29.

Pet. 50. We are persuaded that Petitioner’s citations support Petitioner’s contentions.

Petitioner contends that a person of ordinary skill in the art would have been motivated to combine Seeley and Fernandez. Pet. 46-47.

Petitioner then cites the Declaration of Dr. Wicker for the following:

Because both Seeley and Fernandez are directed toward disclosures of surveillance and monitoring appliances, a POSITA at the time of invention of the ’429 patent would have been motivated to add to or modify the camera units taught by

Seeley with any of the detectors and triggering devices commonly incorporated with monitoring systems. Fernandez teaches the use of examples of these types of non-imaging detectors and triggering devices that might be added to the camera units of Seeley. Thus, the combination of the teachings of Seeley and Fernandez would have yielded known, predictable results, based on the knowledge of a POSITA.

Ex. 1003 ¶ 51. We are persuaded by the reasoning in the above-quoted analysis of Dr. Wicker.

We are not persuaded by Patent Owner's arguments that Seeley does not teach the limitations of independent claim 1, from which claims 7 and 51 depend ultimately, for the reasons discussed above.

Conclusion

For the foregoing reasons, we determine that Petitioner has demonstrated by a preponderance of the evidence that claims 7 and 51 are unpatentable under 35 U.S.C. § 103(a) as obvious over Seeley and Fernandez.

F. Petitioner's Motion to Exclude

Petitioner's Motion to Exclude seeks to exclude Mr. Craner's Declaration (Ex. 2001). Paper 40. Patent Owner did not file an opposition.

In this case we need not assess the merits of Petitioner's motion to exclude. As discussed above, even without excluding the identified evidence, we have concluded that Petitioner has demonstrated by a preponderance of the evidence that the challenged claims are unpatentable. Accordingly, Petitioner's motion to exclude is *dismissed* as moot.

III. CONCLUSION

Patent Owner has conceded claims 1–6, 8–14, 22, 26–28, 32, 38, 44–49, and 65 as unpatentable over the Mobotix brochure. Papers 27, 32.

Petitioner has shown by a preponderance of the evidence that:

(1) claims 33–35 are unpatentable under 35 U.S.C. § 103(a) as obvious over Seeley; and

(2) claims 7 and 51 are unpatentable under 35 U.S.C. § 103(a) as obvious over Seeley and Fernandez.

IV. ORDER

Accordingly, it is

ORDERED that claims 1–14, 22, 26–28, 32–35, 38, 44–49, 51, and 65 of the '429 patent are unpatentable;

FURTHER ORDERED that Petitioner's Motion to Exclude is *dismissed*; 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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