

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CAPTIONCALL, L.L.C.,
Petitioner,

v.

ULTRATEC, INC.,
Patent Owner.

Case IPR2015-00636
Patent 8,917,822 B2

Before WILLIAM V. SAINDON, BARBARA A. BENOIT, and
LYNNE E. PETTIGREW, *Administrative Patent Judges*.

BENOIT, *Administrative Patent Judge*.

DECISION
Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

CaptionCall, L.L.C. filed a Petition for *inter partes* review of claims 1–29 of U.S. Patent No. 8,917,822 B2 (Ex. 1002, “the ’822 patent”). Paper 1 (“Pet.”). Patent Owner filed a Preliminary Response. Paper 6 (“Prelim. Resp.”). Institution of an *inter partes* review is authorized by statute when “the information presented in the petition . . . and any response . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a); *see* 37 C.F.R. § 42.108. Upon consideration of the Petition and the Preliminary Response, we conclude the information presented shows there is a reasonable likelihood that Petitioner would prevail in establishing the unpatentability of claims 1–29 of the ’822 patent.

A. Related Matters

The ’822 patent is the subject of *Ultratec, Inc. v. Sorenson Communications, Inc.*, Case No. 3:14-CV-00847 (W.D. Wis.).¹ Pet. 2; Paper 4, 2. The ’822 patent claims priority to U.S. Patent No. 6,603,835 (Ex. 1003, “the ’835 patent”), which is the subject of two *inter partes* reviews, *CaptionCall, L.L.C. v. Ultratec, Inc.*, Case IPR2013-00549 (PTAB) (Final Written Decision issued March 3, 2015 finding claims 1–5 and 7 unpatentable; request for rehearing currently pending) and *CaptionCall, L.L.C. v. Ultratec, Inc.*, Case IPR2014-00780 (PTAB) (Oral hearing held; Final Written Decision pending decision). Pet. 2–3; Paper 4.

¹ CaptionCall, L.L.C. is a wholly owned subsidiary of Sorenson Communications, Inc. Pet. 2.

Petitioner's Petition was filed concurrently with another petition challenging U.S. Patent No. 8,908,838 B1 (Ex. 1001), which also claims priority to the '835 patent, *CaptionCall, L.L.C. v. Ultratec, Inc.*, Case IPR2015-00637. Pet. 3. A number of other *inter partes* reviews involving related patents are in various stages of review. *See* Pet. 3, Paper 4.

B. The '822 Patent

The '822 patent relates to ways to assist deaf, hard of hearing, or otherwise impaired individuals to use telephones. Ex. 1002, 1:23–27. The typical solution is a device having a keyboard and display, called, interchangeably, a telecommunications device for the deaf (TDD), a text telephone (TT), or a teletype (TTY). *Id.* at 1:35–40. When only one of the parties uses a TTY (e.g., in a phone conversation between a hearing and deaf person), a relay operator voices the deaf user's typed words to the hearing user, and types the hearing user's voiced words to the deaf person's TTY.² *Id.* at 1:63–2:15.

The '822 patent describes “text enhanced telephony” that extends a relay system to users who have attenuated hearing capabilities. *Id.* at 2:16–21. “The text enhanced telephone call is connected through a relay which transmits both the voice of the hearing user at the other end and a text stream of words spoken by that user on the same telephone line.” *Id.* at 2:24–27.

One feature claimed in the '822 patent uses a two-line captioned telephone, which uses one line for the voice telephone call between the

² The relay's delivery of text-assisted telephone service is called “captioned telephone.” *See id.* at 3:14–17.

hearing user and the assisted user, and another line for communicating with the relay. *Id.* at 7:31–43, Fig. 6. “A call can be initiated or received by the assisted user in the same manner as with a conventional telephone,” using the voice telephone call line. *Id.* at 7:51–53.

An advantage of a two-line captioned telephone “is that the captioned telephone service can be added to a telephone call already in progress.” *Id.* at 7:9–11. “When the [assisted] user wishes to invoke the captioning service, the assisted user presses a button . . . on the [captioned telephone] that causes the [captioned telephone] to automatically dial the relay on the second telephone line.” *Id.* at 7:53–56. “At the relay, the voice is converted to text and a text stream is sent back down the telephone connection” to the captioned telephone for display. *Id.* at 7:59–64. Thus, a “button” on the captioned telephone allows the relay to be dialed by the assisted user on demand—such that the call may begin as a voice-only call, but when a user decides hearing assistance is needed, the user may activate, using the button the relay service while the call is in progress. *Id.* at 7:14–21.

C. Illustrative Claim

Petitioner challenges all claims of the ’822 patent, of which claims 1, 10, 15, and 18 are independent. Claim 1 is illustrative:

1. A method for providing captioned services to an assisted user using a captioned device communicating with a hearing person using a hearing person’s device wherein the captioned device and the hearing person’s device are linkable via a first communication link, the method comprising the steps of, at a relay that is remote from the assisted user’s device and a hearing person’s device:

receiving a request for captioning service from the captioned device on a second communication link;

in response to the request for captioning service, invoking a captioning service at the relay wherein the relay performs the steps of:

receiving hearing use's voice signals from the captioned device;

providing the hearing user's voice signals to a call assistant to transcribe into text; and

transmitting the text to the captioned device to display;

wherein the step of receiving a request may occur prior to establishing the first communication link between the captioned device and the hearing person's device; and

wherein the step of receiving a request may occur subsequent to establishing the first communication link between the captioned device and the hearing person's device.

Ex. 1002, 9:11–34 (some formatting added).

D. Asserted Grounds of Unpatentability

Petitioner contends that claims 1–29 of the ’822 patent are unpatentable based on the following specific grounds (Pet. 13–60):

References	Basis	Claims Challenged
Liebermann, ³ Engelke ’405, ⁴ and Mukherji ⁵	§103	1–7, 10–29
Liebermann, Engelke ’405, Mukherji, and Engelke ’482 ⁶	§103	2, 8–10, 13, 14
McLaughlin, ⁷ Engelke ’405, and Mukherji	§103	1–9, 11–17, 19–25, 27–29
McLaughlin, Engelke ’405, Mukherji, and Engelke ’482	§103	2, 8–10, 13, 14

II. DISCUSSION

A. Asserted Insufficiency of Petition as a Whole

As an initial matter, we address Patent Owner’s argument that the Petition does not comply with the Board’s rules. Prelim. Resp. 1–6. The Board’s rules require that a petition must include “[a] full statement of the reasons for the relief requested, including a detailed explanation of the significance of the evidence” and “where each element of [each challenged] claim is found in the prior art patents or printed publications relied upon

³ U.S. Patent No. 5,982,853, issued Nov. 9, 1999 (Ex. 1006; “Liebermann”).

⁴ U.S. Patent No. 5,724,405, issued Mar. 3, 1998 (Ex. 1005; “Engelke ’405”).

⁵ U.S. Patent No. 7,117,152 B1, filed June 23, 2000, issued Oct. 3, 2006 (Ex. 1007; “Mukherji”).

⁶ U.S. Patent No. 5,909,482, issued June 1, 1999 (Ex. 1004; “Engelke ’482”).

⁷ U.S. Patent No. 6,181,736, filed Mar. 18, 1998, issued Jan. 30, 2001 (Ex. 1008; “McLaughlin”).

[and] the relevance of the evidence to the challenge raised.” 37 C.F.R. §§ 42.22(a)(2), 42.104(b)(4),(5). Patent Owner asserts that, because the Petition fails to meet these requirements, it fails to show a reasonable likelihood of unpatentability and should be denied. Prelim. Resp. 1–6.

Despite Patent Owner’s lofty rhetoric, we do not agree that the Petition as a whole should be denied based on alleged incorporation by reference. First, Petitioner’s use of a separate, four-page exhibit (Ex. 1018), which provides a simple shorthand identifier for each limitation in the independent claims, is not impermissible incorporation by reference. *See, e.g.*, Ex. 1018, 1 (indicating “1[p]” refers to the preamble of claim 1 and “1[a]” refers to the first step recited in claim 1). There is no substantive argument or evidence presented in Exhibit 1018 to be incorporated by referencing the exhibit.

Second, we are not persuaded by Patent Owner’s contention that Petitioner failed to account for differences in the claim language. Rather, Patent Owner seems to have overlooked portions of the Petition that do so. *Compare, e.g.*, Prelim. Resp. 3–4 (indicating Petitioner asserts claim 10[a] is equivalent to claim 1[a] without accounting for the “waiting” limitation in claim 10[a]) *with* Pet. 34–35 (including eight lines of analysis “[w]ith respect to limitation 10[a], ‘waiting for a request from the captioned device’”).

Third, we are not persuaded that the Petition “attempts to improperly incorporate by reference voluminous analysis from the expert declaration of Mr. Occhiogrosso.” Prelim. Resp. 5 (citing *Cisco Systems, Inc. v. C-Cation*

Technologies, LLC, IPR2014-00454, 2014 WL 4352301, at *6 (PTAB August 29, 2014) (designated by the Board as “informative” for the issue of citing a declaration improperly)). The petition in *Cisco Systems* was criticized for citing large portions of another document, without sufficient explanation of those portions. *Cisco Systems*, 2014 WL 4352301, at *5–6. For example, the *Cisco Systems* petition used four footnotes to cite to seventeen pages of a declaration, eleven of which were claim charts. *Id.* In another example, the *Cisco Systems* petition was criticized for citing to claim charts in other documents. *Id.* (indicating the petition cites a five-page paragraph of a declaration, four pages of which was a claim chart). In contrast, one of Patent Owner’s purported examples of “voluminous analysis” in the instant Petition consists of a single paragraph that is less than a page. *See* Prelim. Resp. 5 (asserting Pet. 35–36, referring to Ex. 1009 ¶ 49, is improper); Ex. 1009 ¶ 49 (having less than a page of analysis).

B. 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); *In re Cuozzo Speed Techs., LLC*, 793 F.3d 1268, 1278, 1279 (Fed. Cir. 2015) (“Congress implicitly approved the broadest reasonable interpretation standard in enacting the AIA,” and “the standard was properly adopted by PTO regulation.”), *reh’g en banc denied*, 793 F.3d 1297 (Fed. Cir. 2015). Under that standard, claim terms are presumed to be given their ordinary and customary meaning as would be understood by one of ordinary skill in the

art in the context of the entire disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). Any special definition for a claim term must be set forth in the specification with reasonable clarity, deliberateness, and precision. *In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994). A particular embodiment appearing in the written description should not be read into the claim if the claim language is broader than the embodiment. *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993).

1. Terms Construed in Prior Proceedings

Petitioner suggests that the terms “assisted user” and “hearing user,” construed in the *inter partes* reviews challenging U.S. Patent No. 6,603,835 (the ’835 patent) of which the ’822 patent claims the effective filing date and with which the ’822 patent shares a written description, also should be applied to this proceeding. Pet. 6. Patent Owner does not appear to dispute the construction of these terms. We adopt these constructions for purposes of this Decision:

Term or Phrase	Prior Construction ⁸
“assisted user”	The individual making use of the transcribed text, regardless of the individual’s actual hearing abilities.
“hearing user”	The individual in communication with the assisted user.

⁸ See, e.g., *CaptionCall, L.L.C. v. Ultratec, Inc.*, Case IPR2013-00549, slip op. at 8–9 (PTAB) (Paper 7, Decision to Institute); *id.* at Paper 71, 7 (Final Written Decision).

We also agree with Petitioner there is no distinction between a “hearing user” and a “hearing person.” Accordingly, for purposes of this Decision, we adopt the construction of “hearing user” as the broadest reasonable construction of “hearing person.”

2. “*activator*”

Petitioner proposes that the term “activator,” recited in independent claim 15 and further limited by its dependent claims 16 and 17, should be construed indistinguishably from the “control limitation” discussed in the *inter partes* reviews involving the related ’835 patent. Pet. 6; *see, e.g., CaptionCall, L.L.C. v. Ultratec, Inc.*, Case IPR2013-00549, slip op. at 11–12 (PTAB) (Paper 7, Decision to Institute, discussing the “control limitation”). Although we agree that “activator” in the ’822 patent is similar to the “control limitation” in the related ’835 patent, we need not construe expressly at this time “activator” because, as Petitioner points out, “the ’822 Patent more explicitly claims these features.” *Id.*

3. *Other Claim Terms*

Although Petitioner also proposes an express construction for “a communication link that is completely independent of the telephone line,”⁹ recited in claim 23, we determine that no other claim terms require express construction for this Decision. *Id.* at 6–7.

⁹ Petitioner does not propose a separate express construction for a “communication link,” which appears in all claims. Pet. 6–7.

*C. Asserted Ground of Obviousness of Claims 1–7 and 10–29
in view of Liebermann, Engelke '405, and Mukherji*

Petitioner asserts that claims 1–7 and 10–29 would have been obvious in view of Liebermann, Engelke '405, and Mukherji. Pet. 7–13 (summarizing prior art), 13–45 (asserted ground). Petitioner provides explanations purportedly specifying how the references would have conveyed to one of ordinary skill in the art the limitations of the challenged claims and reasons why one of ordinary skill in the art would have combined the references in the manner proposed by Petitioner. *Id.* Petitioner also relies on the declaration of Mr. Benedict Occhiogrosso (Ex. 1009). Patent Owner challenges Petitioner's assertions. Prelim. Resp. 11–54.

1. Liebermann

Liebermann discloses a method for providing telephone service to an assisted user communicating with a hearing user. The assisted user and hearing user first connect over a telephone connection and the assisted user's device connects to the relay on another line and arranges for all parties to be on line, thus facilitating the captioning service. Ex. 1006, 7:18–28 (explaining that “voice/data is sent to the center on the *dedicated line* assigned for the deaf person” and “the cellular phone maintains *two cellular connections* on line, one to the center (voice/data) and one to the caller) (emphasis added). The relay converts the spoken words of the hearing user into text, which is displayed to the assisted user. *Id.* at 7:10–17, Fig. 8 (showing the assisted user's display, including the hearing user's spoken words as text).

2. Engelke '405

Engelke '405 describes a text-enhanced telephone device for assisting hard of hearing or otherwise hearing-impaired individuals by providing both the voice of the hearing caller and a visual display of text of the words spoken by the hearing caller. Ex. 1005, 3:20–22, 3:29–42, Fig. 4. This allows for the assisted user to have both a voice connection with the hearing user and a text connection with the relay service at the same time. *Id.* at 3:31–37, 6:48–52, Fig. 4. Figure 4 of Engelke '405 is illustrative:

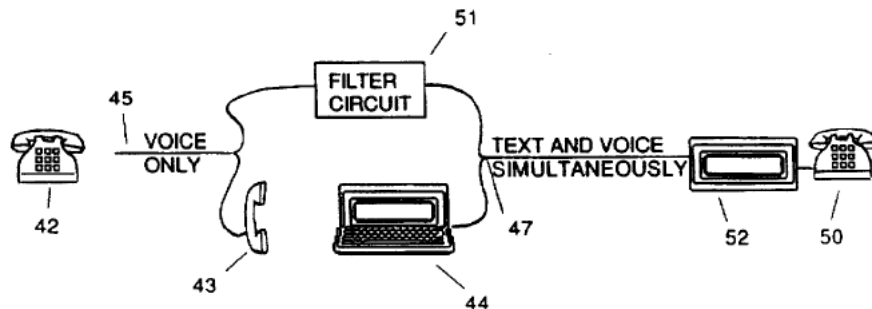


FIG. 4

Figure 4 of Engelke '405 depicts a text-enhanced telephone connection facilitating a telephone call between a hearing user at telephone 42 and an assisted user at telephone 50. *Id.* at 6:29–36, 6:42–47. The assisted user receives both voice of the hearing user at telephone 50 and text (displayed at text-enhanced telephone device 52) provided by the call assistant (using telephone handset 43) at the relay 44.

The benefit of this type of system, according to Engelke '405, is that it allows users with some hearing or speaking capability to continue to use a telephone and to augment the spoken words of the hearing user with text from the relay service. *Id.* at 2:9–27. Thus, the system allows the assisted

user to speak directly to the hearing user or to hear directly from the hearing user, with the relay service providing text of what is said. *Id.* at 6:48–52.

3. *Mukherji*

Mukherji recognizes that, in some circumstances, it is necessary to supplement poor quality voice communications with text. Ex. 1007, 4:35–38. Mukherji describes a text assistance feature as one that could be enabled “[d]uring setup or at any other appropriate time during the session.” *Id.* at 3:19–22, 6:65–7:4. In one example, a user activates this text assistance feature with a button. *Id.* at 8:35–37.

4. *Petitioner’s Contentions*

Petitioner contends that Liebermann discloses aspects of the two communication links of the claims—between the assisted user and the hearing person, and between the assisted user and the relay. *See, e.g.*, Pet. 10, 26–31. Also Petitioner contends that Liebermann teaches a connection to the relay would be established before a connection to the hearing user when the assisted user wanted to place a call, but would first establish the connection to the hearing user for an incoming call. *See, e.g., id.* at 10–11, 30–31. Petitioner further contends that Engelke ’405 discloses the dual voice-and-text aspects of the claims—the assisted user receives both the hearing user’s voice as well as text from the relay (which transcribes the hearing user’s voice). *See, e.g., id.* at 8–9, 29–30.

Petitioner contends Mukherji describes a voice communications system that supplements voice communications with supplemental text communications and, particularly, describes that the supplemental text

communication may be enabled on-demand. *See, e.g., id.* at 12–13, 28, 39. Along these lines, Petitioner asserts that these references disclose each feature of claims 1–7 and 10–29. *Id.* at 13–45; *see also id.* at 7–13 (summarizing prior art).

Petitioner offers several explanations for why the claimed subject matter would have been obvious to a person of ordinary skill in the art at the time of invention. *See id.* at 14–25. For example, Petitioner asserts that Engelke '405 describes that it was known in the art to provide “tailored” services, according to the impairment of the individual, such as simultaneous voice and text. *Id.* at 14. Thus, according to Petitioner and with support of its declarant, it would have been obvious to configure a two-line device (as disclosed in Liebermann) “to provide both voice and text to a user who, as described in Engelke '405, had attenuated but functional hearing.” *Id.* (citing Ex. 1009 ¶ 41).

As to why it would have been obvious to a person of ordinary skill in the art at the time of invention to incorporate the on-demand text feature of Mukherji, Petitioner contends with support of its declarant, for example, that applying Mukherji’s teaching to the combination of Lieberman and Engelke '405 would be applying a known technique to a known device yielding predictable results. Pet. 15–18 (citing *KSR, Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 417 (2007); Ex. 1009 ¶¶ 64–65).

5. Patent Owner’s Arguments

Patent Owner’s arguments are directed largely to the issue of whether a person of ordinary skill in the art would have considered it obvious to

combine the teachings of the references cited by Petitioner. *See* Prelim. Resp. 6–37. Patent Owner argues, for example, that Petitioner’s ground is conclusory (*see, e.g.*, Prelim. Resp. 6–10), fails to show evidence in the art that their problem was recognized (*see, e.g., id.* at 13–19, 25–26), or would change a principle of operation (*see, e.g., id.* at 27–39). We have reviewed these arguments and determine that they are unpersuasive on this record.

On this record and for purposes of institution, we are satisfied that Petitioner’s articulated reasoning is supported by sufficient rational underpinnings. The specifications of the ’822 patent and the prior art are written at a high, functional level, without presenting much, if any, technical explanation for the particular software and hardware works. This weighs toward a conclusion of obviousness. *KSR*, 550 U.S. at 416 (“[T]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.”). Patent Owner’s arguments asking us to find an explicit motivation in the prior art are unpersuasive. *See* Prelim. Resp. 13 (Patent Owner asserting “[a] party raising an obviousness challenge must not only articulate a cohesive, overarching motivation to combine references to solve the problem solved by the claimed invention. . . .”). We disagree with Patent Owner. Rather, “[t]he obviousness analysis cannot be confined by a formalistic conception of the words teaching, suggestion, and motivation, or by overemphasis on the importance of . . . the explicit content of issued patents.” *KSR*, 550 U.S. at 419.

Patent Owner also argues that Petitioner has not shown an “activator” or the first and second communication links, as claimed. Prelim. Resp. 41–54. For example, Patent Owner argues that Mukherji does not teach the recited “activator” (Prelim. Resp. 43–45), Engelke ’405 does not teach the recited “activator” (*id.* 45–47), and Liebermann does not teach the recited “activator” (*id.* at 47–48). Patent Owner argues that Liebermann does not teach the use of two separate communication links. *Id.* at 49–54.

We are not persuaded by Patent Owner’s arguments, which amount to challenges to references individually without sufficient consideration of what the teachings of the combined references would have conveyed to one of ordinary skill in the art regarding the claimed subject matter as a whole. *In re Mouttet*, 686 F.3d 1322, 1332 (Fed. Cir. 2012) (“[T]he test for obviousness is what the combined teachings of the references would have suggested to those having ordinary skill in the art.” (citing *In re Keller*, 642 F.2d 413, 425 (CCPA 1981))).

6. Conclusion

Reviewing the arguments and evidence before us, we determine that Petitioner has shown a reasonable likelihood that claims 1–7 and 10–29 would have been obvious in view of Liebermann, Engelke ’405, and Mukherji.

*D. Asserted Ground of Obviousness of Claims 2, 8–10, 13, and 14
in view of Liebermann, Engelke '405, Mukherji, and Engelke '482*

Petitioner asserts that claims 2, 8–10, 13, and 14 would have been obvious in view of Liebermann, Engelke '405, Mukherji, and Engelke '482. Pet. 46–49.

Claims 8 and 9 both depend indirectly from independent claim 1 and further recite features related to re-voicing. Claim 9 depends from claim 8 and additionally recites features allowing a call assistant to correct any perceived errors in the generated text. Engelke '482 describes a relay that utilizes re-voicing. Ex. 1004, 2:41–52. The relay operator re-voicing the words of the hearing user sees their spoken words appear on a computer screen and has the opportunity to edit the text before it is sent to the assisted user, to correct misinterpretations or misspelled words. *Id.* at 6:29–43. Petitioner characterizes the inclusion of this feature into the previously asserted Liebermann, Engelke '405, and Mukherji combination, as the use of a known technique to improve similar devices in the same way. Pet. 46–47.

Petitioner bolsters its position regarding the unpatentability of claims 2, 10, 13, and 14 by asserting these claims also would have been obvious in view of Liebermann, Engelke '405, and Mukherji as discussed previously, and in further view of Engelke '482. Pet. 47–48. Specifically, Petitioner contends that Engelke '482 has the same written description regarding operation of prior art relays as the challenged '822 patent. Pet. 48 (citing Ex. 1004, 5:8–35; Ex. 1002, 5:50–6:11; Ex. 1009 ¶ 74). Thus, according to Petitioner, certain features recited in claim 2 (“selecting a call assistant”), claim 10 (“waiting for a request from the captioned device” and

“waiting for the first communication link”), claim 13 (“identifying a call assistant”), and claim 14 (“monitoring incoming requests for captioning service on a communication line”) would have the same disclosure in both the challenged ’822 patent and prior art Engelke ’482. *Id.* at 48. Petitioner concludes that claims 2, 10, 13, and 14 also would have been rendered obvious by the combination of Liebermann, Engelke ’405, Mukherji, and Engelke ’482.

Reviewing the arguments and evidence before us, we determine that Petitioner has shown a reasonable likelihood that claims 2, 8–10, 13, and 14 would have been obvious in view of Liebermann, Engelke ’405, Mukherji, and Engelke ’482.

E. Remaining Asserted Grounds Involving McLaughlin

Petitioner’s grounds involving McLaughlin mirror those involving Liebermann, discussed above, with the substitution of McLaughlin for Liebermann as teaching the two communication links recited in the claims. *See* Pet. 49–60. The Board has discretion whether to institute a review. *See* 35 U.S.C. § 314(a) (indicating an *inter partes* review may not be instituted *unless* a determination is made that there is a reasonable likelihood that the petitioner would prevail). We exercise our discretion not to institute on these grounds for reasons of administrative efficiency.

III. CONCLUSION

For the foregoing reasons, we determine that the information presented establishes a reasonable likelihood that Petitioner would prevail in

showing that claims 1–29 of the '822 patent are unpatentable. Any discussion of facts in this Decision is made only for the purposes of institution and is not dispositive of any issue related to any ground on which we institute review. At this preliminary stage, the Board has not made a final determination under 35 U.S.C. § 328(a) with respect to the patentability of the challenged claims. Our final determination will be based on the record as fully developed during trial.

IV. ORDER

Accordingly, it is:

ORDERED that pursuant to 35 U.S.C. § 314(a), an *inter partes* review is instituted as to claims 1–29 of U.S. Patent No. 8,917,822 B2 on the following grounds of unpatentability:

A. Claims 1–7 and 10–29 under 35 U.S.C. § 103(a) as obvious over Liebermann, Engelke '405, and Mukherji; and

B. Claims 2, 8–10, 13, and 14 as obvious over Liebermann, Engelke '405, Mukherji, and Engelke '482; and

FURTHER ORDERED that pursuant to 35 U.S.C. § 314(c) and 37 C.F.R. § 42.4, notice is hereby given of the institution of a trial, which commences on the entry date of this decision.

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Patent 8,917,822 B2

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