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Paper 11
Date: October 10, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TANKLOGIX, LLC,
Petitioner,

v.

SITEPRO, INC.,
Patent Owner.

IPR2025-00651
Patent 11,175,680 B2

Before BART A. GERSTENBLITH, TERRENCE W. McMILLIN, and SHEILA F. McSHANE, *Administrative Patent Judges*.

GERSTENBLITH, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

A. Background

TankLogix, LLC ("Petitioner") filed a Petition (Paper 1, "Pet.") requesting institution of *inter partes* review of claims 1–3, 6, 7, and 9–20[1] ("the Challenged Claims") of U.S. Patent No. 11,175,680 B2 (Ex. 1001, "the '680 patent"). SitePro, Inc. ("Patent Owner") filed a Preliminary Response (Paper 9, "Prelim. Resp.").[2]

An *inter partes* review may be instituted only if "the information presented in the petition . . . and any [preliminary] 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) (2024). For the reasons given below, on this record Petitioner has not established a reasonable likelihood that it would prevail in showing the unpatentability of any of the Challenged Claims. Accordingly, we do not institute an *inter partes* review.

B. Related Proceedings

The parties identify the following pending litigation involving the '680 patent: *SitePro, Inc. v. TankLogix, LLC*, 6:24-cv-00642 (W.D. Tex.). Pet. 5; Paper 3 (Patent Owner's Mandatory Notices), 1. Petitioner also

[1] Petitioner indicates that it requests *inter partes* review of "claims 1-20" (Pet. 5), but Petitioner does not raise any ground challenging claims 4, 5, and 8 (*see id.* at 12–64). *See* Prelim. Resp. 1 (indicating claims 1–3, 6, 7, and 9–20 are challenged).

[2] Patent Owner and Petitioner also filed briefs, arguing for and against discretionary denial, respectively. Papers 7, 8. The Acting Director determined that discretionary denial was not appropriate and referred the Petition to the Board. Paper 10.

identifies *SitePro, Inc. v. TankLogix, LLC*, 6:24-cv-00643 (W.D. Tex.), as a related matter. Pet. 5. And Patent Owner identifies the following additional related matters: *SitePro, Inc. v. WaterBridge Resources, LLC*, 6:23-cv-00115 (W.D. Tex.); *The Integration Group of Americas v. SitePro, Inc.*, IPR20024-00724, IPR2024-00737,[3] IPR2024-00738, IPR2024-00739, IPR2024-00740, IPR2024-00741, and IPR2024-00742; *SitePro, Inc. v. Plow Technologies LLC*, 6:24-cv-00645 (W.D. Tex.); and *TankLogix, LLC v. SitePro, Inc.*, IPR2025-00647, IPR2025-00648, IPR2025-00649, IPR2025-00650, IPR2025-00652, and IPR2025-00653. Paper 3, 1–2.

C. Real Parties in Interest

Petitioner identifies TankLogix, LLC as the real party in interest. Pet. 5. Patent Owner identifies SitePro, Inc. as the real party in interest. Paper 3, 1.

D. The Asserted Grounds of Unpatentability and Declaration Evidence

Petitioner challenges the patentability of claims 1–3, 6, 7, and 9–20 of the '680 patent on the following four grounds[4] (Pet. 12–64):

[3] IPR2024-00737, which was terminated prior to a decision on institution, also involved claims of the '680 patent. Paper 3, 1.

[4] Petitioner filed an unopposed "Notice of Errata" to the Petition whereby Petitioner corrected "clerical or typographical errors in the Petition and corresponding expert declaration," which primarily reclassified several references as § 102(e) prior art as opposed to § 102(a). *See* Ex. 1011, 1. The changes are reflected in how this Decision refers to the Petition and the grounds presented therein.

Claim(s) Challenged	35 U.S.C. §[5]	Reference(s)/Basis
1–3, 6, 14, 17, 19, 20	102/103(a)	Almadi[6]
1, 9–13, 15–18, 20	102/103(a)	Cardamone[7]
1, 7, 20	102/103(a)	Gutierrez[8]
1	102/103(a)	SCADA[9]

Additionally, Petitioner supports its challenge with a Declaration of Gary R. Wooley, Ph.D. (Ex. 1002). Patent Owner supports its Preliminary Response with a Declaration of Dr. Robert A. Durham (Ex. 2009).

E. The '680 Patent

The '680 patent is directed to "fluid-handling devices and, more specifically, to remote control of fluid-handling devices." Ex. 1001, 1:25–27. The '680 patent describes "a system for remotely controlling fluid-handling device[s] of an oil well, a petro water disposal or re-injection facility, or a petroleum pumping station"; "a tangible, non-transitory machine-readable medium storing instructions that when executed by a data processing apparatus cause the data processing apparatus to perform

[5] The Leahy-Smith America Invents Act ("AIA") included revisions to 35 U.S.C. §§ 102 and 103 that became effective on March 16, 2013. The '680 patent claims priority to an application filed before March 16, 2013 (*see, e.g.*, Ex. 1001, code (63)), and, therefore, we apply the pre-AIA version of the statutory bases for unpatentability.

[6] U.S. Patent No. 8,667,091 B2, issued Mar. 4, 2014 (Ex. 1005, "Almadi").

[7] U.S. Patent Application Publication No. US 2015/0308244 A1, published Oct. 29, 2015 (Ex. 1006, "Cardamone"). *See* Pet. 10, 32–50; Ex. 1011, 1.

[8] U.S. Patent No. 9,709,995 B2, issued July 18, 2017 (Ex. 1007, "Gutierrez").

[9] SCADA: Supervisory Control and Data Acquisition, 4th ed. (2010) (Ex. 1008, "SCADA").

operations" pertaining to remotely controlling fluid-handling devices; and a "process" with similar steps for remotely controlling fluid-handling devices. *Id.* at 2:1–44.

Figure 1, reproduced below, "illustrates an example of a command-center server and site master-controller." Ex. 1001, 2:52–54.

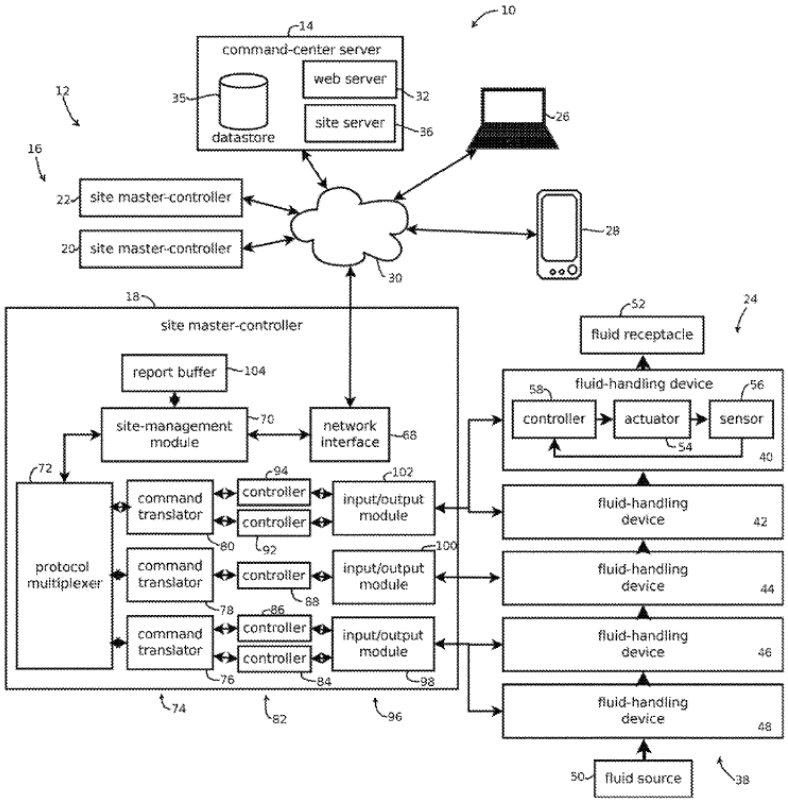


FIG. 1

Figure 1 shows control system 12 that includes command-center server 14 and site master-controllers 18, 20, and 22 "that cooperate to facilitate remote control at a fluid-handling site 24 from user devices 26 or 28 via the Internet 30." Ex. 1001, 3:12–18. The '680 patent explains that "[e]ach site master-controller 16 may be co-located with a corresponding fluid-handling site 24 and, in some embodiments, may include logic that implements remotely issued commands." *Id.* at 3:18–21. The '680 patent further

explains that command-center server 14 may "be operative to present a command interface and receive commands via a web interface in a web browser on user devices 26 and 28, such that fluid-handling devices can be controlled remotely without the need to install special-purpose software on the computing device through which remote control is exercised." *Id.* at 3:31–37.

To execute commands at fluid-handling site 24, "site master-controller 18 translates the received commands into a protocol appropriate for the corresponding fluid-handling device 38 (identified individually by reference numbers 40, 42, 44, 46, and 48)." Ex. 1001, 5:36–40. The '680 patent teaches that "[t]he fluid-handling devices may be any of a variety of different types of devices that handle fluids. For example, . . . a valve, a pump, a process chamber (for instance a[n] oil/water separation tank), or a process filter, or level switch." *Id.* at 5:53–57. In some instances, "the fluid-handling device may include an actuator, for instance an electric motor or a hydraulic drive, by which fluid flow or other parameters are manipulated, a sensor 56 by which process parameters are measured, or a local controller 58 by which power to the actuator 54 is modulated." *Id.* at 5:57–62. Additionally, the '680 patent explains that "[f]luid-handling devices 38 may include a variety of types of sensors, for instance, a temperature, viscosity, flowrate, fluid level, pressure, conductivity, or other parameter sensor." *Id.* at 5:62–65.

Figure 2 is reproduced below:

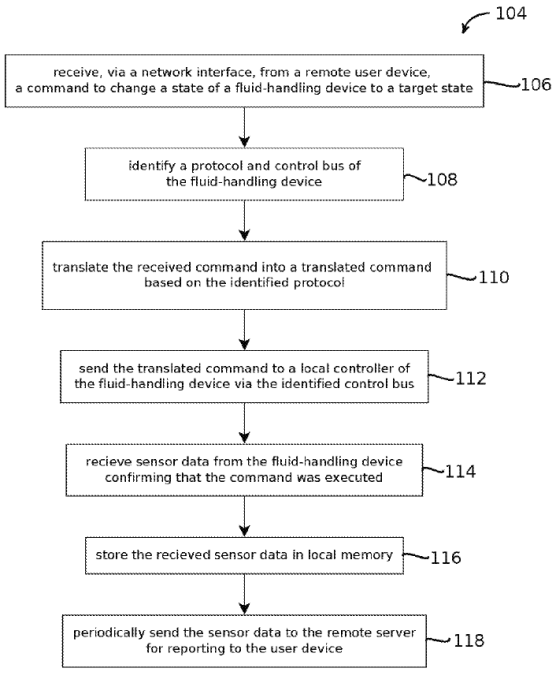


FIG. 2

Figure 2 "illustrates an example of a process by which remote control of fluid-handling devices is exercised in accordance with some embodiments" of the '680 patent. Ex. 1001, 2:55–57. Process 104 for exercising remote control of a fluid-handling site can include "receiving, via a network interface, from a remote user device, (e.g., via a command-center server) a command to change a state of a fluid-handling device to a target state, as illustrated by block 106." *Id.* at 11:48–52. The '680 patent explains

> [t]he command may be received from . . . site server 36, which may have received the command from a remote user device via a web browser of the user device. Further, the command to change the fluid-handling device to a target state may include a command that changes the fluid-handling device to a plurality of different states over time, such as a command to ramp up or down a motor speed or oscillate some parameter.

Id. at 11:52–60.

F. Illustrative Claim

Claims 1 and 20 are the only independent challenged claims. Each of claims 2, 3, 6, 7, and 9–19 depends, directly or indirectly, from claim 1. Claim 1 is illustrative of the claimed subject matter and is reproduced below with Petitioner's bracketing added for reference:

> 1. [1.1] A non-transitory, machine-readable medium comprising instructions to effectuate operations, the operations comprising:
>
> [1.2] receiving, with a server, a command comprising a target value of a fluid-handling device from a computing device via a control interface, wherein the command is received in association with a record stored on a datastore;
>
> [1.3] determining, with the server, a network address of a network based on the record, wherein the network address identifies a controller of the fluid-handling device, and wherein the controller accesses a sensor to measure a fluid being handled by the fluid-handling device and an actuator of the fluid-handling device;
>
> [1.4] sending, with the server, the target value to the network address via the network;
>
> [1.5] receiving, with the controller, a measurement of the fluid by the sensor;
>
> [1.6] determining, with the controller, whether the measurement satisfies the target value;
>
> [1.7] in response to a determination that the measurement does not satisfy the target value, obtaining, with the controller, a set point based on the command; and
>
> [1.8] controlling, with the controller, the actuator based on the set point.

Ex. 1001, 16:37–61; *see* Pet. 68 (indicating Petitioner's bracketing).

II. ANALYSIS

A. Legal Standards

1. Anticipation

"[A] claim is anticipated 'if each and every limitation is found expressly or inherently in a single prior art reference.'" *King Pharm., Inc. v. Eon Labs., Inc.*, 616 F.3d 1267, 1274 (Fed. Cir. 2010) (quoting *Celeritas Techs., Ltd. v. Rockwell Int'l Corp.*, 150 F.3d 1354, 1361 (Fed. Cir. 1998)). Anticipation is a question of fact, *In re Gleave*, 560 F.3d 1331, 1334–35 (Fed. Cir. 2009), assessed from the perspective of one of ordinary skill in the art, *see Dayco Prods., Inc. v. Total Containment, Inc.*, 329 F.3d 1358, 1368 (Fed. Cir. 2003) ("the dispositive question regarding anticipation [i]s whether *one skilled in the art* would reasonably understand or infer from the [prior art reference's] teaching that every claim element was disclosed in that single reference" (alterations in original) (quotation omitted)).

2. Obviousness

The U.S. Supreme Court set forth the framework for applying the statutory language of 35 U.S.C. § 103 in *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 17–18 (1966) (footnote added):

> Under § 103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background, the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented.[10]

[10] Neither party submitted evidence of objective indicia of nonobviousness.

The Supreme Court explained in *KSR International Co. v. Teleflex Inc.* that

> [o]ften, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue. To facilitate review, this analysis should be made explicit.

550 U.S. 398, 418 (2007) (citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006) ("[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." (alteration in original))).

"Whether an ordinarily skilled artisan would have been motivated to modify the teachings of a reference is a question of fact." *WBIP, LLC v. Kohler Co.*, 829 F.3d 1317, 1327 (Fed. Cir. 2016) (citations omitted). "[W]here a party argues a skilled artisan would have been motivated to combine references, it must show the artisan 'would have had a reasonable expectation of success from doing so.'" *Arctic Cat Inc. v. Bombardier Recreational Prods. Inc.*, 876 F.3d 1350, 1360–61 (Fed. Cir. 2017) (quoting *In re Cyclobenzaprine Hydrochloride Extended-Release Capsule Patent Litig.*, 676 F.3d 1063, 1068–69 (Fed. Cir. 2012)).

B. Level of Ordinary Skill in the Art

Although Petitioner does not address the level of ordinary skill in the art in the Petition, Dr. Wooley testifies that a person of ordinary skill in the art at the time of the invention "would have had at least a bachelor's degree in engineering (mechanical, chemical, or electrical), computer science, or a

related field and significant experience with remotely controlling fluid-handling devices, like [supervisory control and data acquisition (SCADA)] systems." Ex. 1002 ¶ 25.

Patent Owner asserts that a person of ordinary skill in art "would have had at least a bachelor's degree in engineering (electrical, chemical, petroleum or mechanical), computer science, or a related field and at least two years of experience designing control systems for remotely controlling fluid-handling devices, like SCADA systems." Prelim. Resp. 4 (citing Ex. 2009 ¶ 50). Patent Owner contends that, alternatively, one of ordinary skill in the art "would have had at least six years of experience in designing control systems for remotely controlling fluid-handling devices, such as SCADA systems." *Id.* (citing Ex. 2009 ¶ 50).

The parties' proposed levels of ordinary skill in the art are similar, although Patent Owner proposes two years of experience along with a bachelor's degree whereas Petitioner proposes "significant" experience. Patent Owner also proposes an alternative with more extensive experience in lieu of a bachelor's degree. Although we find Petitioner's proposed qualifications acceptable, we adopt Patent Owner's proposed qualifications for the purposes of this Decision because they offer a wider range of qualifications that nonetheless comport with the level of ordinary skill necessary to understand and implement the teachings of the '680 patent and the asserted prior art. *See Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001); *In re GPAC Inc.*, 57 F.3d 1573, 1579 (Fed. Cir. 1995); *In re Oelrich*, 579 F.2d 86, 91 (CCPA 1978). Our analysis and findings herein, however, do not turn on any differences in the parties' proposed qualifications.

C. Claim Construction

In an *inter partes* review proceeding, claims are construed using the same claim construction standard that would be used to construe the claims in a civil action under 35 U.S.C. § 282(b). *See* 37 C.F.R. § 42.100(b) (2024). The claim construction standard includes construing claims in accordance with the ordinary and customary meaning of such claims, as would have been understood by one of ordinary skill in the art at the time of the invention. *See id.*; *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–14 (Fed. Cir. 2005) (en banc). In construing claims in accordance with their ordinary and customary meaning, we take into account the specification and prosecution history. *Phillips*, 415 F.3d at 1315–17.

Additionally, only terms that are in controversy need to be construed, and these need be construed only to the extent necessary to resolve the controversy. *See Realtime Data, LLC v. Iancu*, 912 F.3d 1368, 1375 (Fed. Cir. 2019) ("The Board is required to construe 'only those terms . . . that are in controversy, and only to the extent necessary to resolve the controversy.'") (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999)).

The parties assert that each claim term should be construed in accordance with its plain and ordinary meaning. Pet. 12; Prelim. Resp. 4 (citing Ex. 2009 ¶ 75); *see* Ex. 1002 ¶ 22 (opining the same). In the respective claim construction sections of their briefs, the parties do not propose any claim terms for express construction. Nonetheless, the parties' declarants propose different meanings of the term "target value," the resolution of which affects the decision we reach herein. Therefore, we address the meaning of "target value."

"[T]arget value" is recited in, at least, each of independent claims 1 and 20. Dr. Wooley opines that "[a] target value is the particular operating condition that a device is in at a particular time." Ex. 1002 ¶ 44. Dr. Wooley also opines that "[d]etermining the target state of the fluid-handling devices is necessary to understand whether a fluid-handling device is operating within the proper device parameters or whether the operating condition of the fluid-handling device should be changed." *Id.* And further states that "[i]t is well known in certain device configurations at fluid handling sites that fluid handling devices will continue to operate based on the last received commands in the event a connection to the server is lost." *Id.* Dr. Wooley does not point to any support, intrinsic or extrinsic, for his opinion.

Patent Owner, supported by Dr. Durham's testimony, contends that Dr. Wooley's definition is not correct because he construes the term as "a 'particular operating condition' . . . akin to a sensed parameter." Prelim. Resp. 7. Instead, Patent Owner asserts "[a] 'target value' is not simply a sensed parameter or the particular operating conditions that a device is in at a particular time, but rather a state that the fluid-handling device is desired to be in." *Id.* at 7–8 (citing Ex. 2009 ¶ 85). Dr. Durham opines that Dr. Wooley's definition is "not the plain and ordinary meaning of the term, nor is it consistent with its use in the '680 Patent." Ex. 2009 ¶ 85. Dr. Durham further explains that "target value" is "a state the fluid handling device is desired to be in, in some future time, which can include but is not limited to examples like a tank level, a valve position, or a motor speed." *Id.* Although neither Patent Owner nor Dr. Durham undertakes a full claim

construction analysis, Patent Owner's understanding of the plain and ordinary meaning is supported by the intrinsic record of the '680 patent.

Claim 1 generally recites the operations of (1) receiving, with a server, a command comprising a target value of a fluid-handling device from a computing device, (2) determining, with the server, a network address of a network, wherein the network address identifies a controller of the fluid-handling device, and wherein the controller accesses a sensor to measure a fluid being handled by the fluid-handling device; (3) sending, with the server, the target value to the network address via the network; (4) receiving, with the controller, a measurement of the fluid by the sensor; (5) determining, with the controller, whether the measurement satisfies the target value; (6) in response to determining that the measurement does not satisfy the target value, obtaining, with the controller a set point based on the command; and (7) controlling, with the controller, the actuator based on the set point. *See* Ex. 1001, 16:37–61.[11]

Of particular note, the first three operations of claim 1 reflect that a "target value" is part of a command that is sent from a computing device to a server and then to a controller. The controller then receives a measurement of the fluid by a sensor and determines whether the measurement satisfies the "target value." If the measurement does not satisfy the "target value," further operations are undertaken. The recited operation sequence makes clear that the plain and ordinary meaning of "target value" is not as Dr. Wooley opines because the particular operating condition that a device is in at a particular time is represented by the measurement taken by the sensor,

[11] Some claim language less relevant to construing "target value" was omitted for ease of reference.

which the controller then uses to determine whether the measurement satisfies the "target value." Additionally, claim 1 recites that the "target value" is sent as part of a command to the controller. The "target value" is not sent to the controller from the sensor, as might be expected if the plain and ordinary meaning of "target value" were as Dr. Wooley opines. Petitioner and Dr. Wooley's construction would also result in "target value" meaning effectively the same thing as the measurement of the fluid by the sensor, a concept that is separately recited in claim 1 and to which the "target value" is compared.

The Specification of the '680 patent does not support Petitioner's understanding of the plain and ordinary meaning of "target value." Although the Specification does not recite "target value," it recites "target state," and describes "target state" sufficiently to understand the plain and ordinary meaning of "target" as used in "target value" and "target state." In particular, the '680 patent explains that "[i]n some embodiments, the process 104 includes receiving, via a network interface, from a remote user device, (e.g., via a command-center server) a command to change a state of a fluid-handling device to a target state." Ex. 1001, 11:48–51. This portion reflects that the command is seeking to *change* a state of a fluid-handling device *to* a target state. In other words, the "target value" or "target state" is not generally "the particular operating condition that a device is in at a particular time"; rather, it is a value or state that the fluid-handling device is desired to be in, as Patent Owner and Dr. Durham explain. Additionally, just as claim 1 recites a directional component for the "target value" to be sent to the controller in a command, so too does the Specification describe a "target state" as being sent in a command from a remote user device. Thus,

the Specification clearly supports the plain and ordinary meaning proposed by Patent Owner and Dr. Durham and not the plain and ordinary meaning proposed by Petitioner and Dr. Wooley.

Neither party directs us to relevant portions of the prosecution history or other extrinsic evidence relevant to our consideration of this issue.

Accordingly, in light of the intrinsic and extrinsic evidence before us, we agree with Patent Owner and Dr. Durham that the plain and ordinary meaning of "target value" is a value or state that the fluid-handling device is desired to be in.[12] We apply this meaning of the term in our analysis below.

D. Ground 1: Anticipated by or Obvious over Almadi

Petitioner, relying on the testimony of Dr. Wooley, contends that claims 1–3, 6, 14, 17, 19, and 20 "are anticipated by . . . Almadi . . . or would be obvious to a [person of ordinary skill in the art] in view of Almadi." Pet. 12; *see id.* at 12–32 (Petitioner's challenge based on Almadi).

1. Scope and Content of the Prior Art

a. Almadi (Ex. 1005)

Almadi is directed to "automated industrial processes" and more particularly "to the control of, and acquisition of data from, remote and in-plant subsystems in automated industrial processes." Ex. 1005, 1:18–22. Almadi explains that it

[12] For purposes of this Decision, we need not decide if there is a difference between a target "value" or a target "state" of the fluid-handling device. It is sufficient for resolving the controversy before us to determine that the plain and ordinary meaning of "target value" is not "the particular operating condition that a device is in at a particular time" and rather is a state or value that the device is desired to be in.

> provide[s] an integrated node used to interface between a remote host server and the plurality of remote subsystems in a process automation environment to provide, in turn, for a single point of control for data collection, monitoring, and restoration responsive to timestamps being synchronized to a single timing source, thereby enabling a more uniform basis for collection and restoration of data.

Id. at 2:64–3:4. Almadi's "integrated node . . . integrates the functions of controller units, communications networking devices, and data storage servers into one unit." *Id.* at 3:10–13. Almadi further explains that "[e]mbodiments of an integrated node can also, for example, employ an Ethernet switch to support networking over multiple communication interfaces and transmit process data to a remote host se[r]ver over TCP/IP . . . thereby beneficially reducing the number of hardware components needed and allowing a simpler support model." *Id.* at 3:13–20.

2. Claim 1

Petitioner contends that Almadi discloses each element of claim 1 ([1.1]–[1.8]). *See* Pet. 12–18 (repeating that "Almadi discloses"). Petitioner also contends that claim 1 would have been obvious in light of Almadi, but the only mention of obviousness in Petitioner's entire discussion of claim 1 is a single, conclusory sentence after the discussion of element [1.8] in which Petitioner states "Almadi, therefore, anticipates, or renders obvious to a [person of ordinary skill in the art] Claim 1." *Id.* at 19. We focus on element [1.4] because it is dispositive.

Element [1.4] recites "sending, with the server, the target value to the network address via the network." Ex. 1001, 16:51–52. Petitioner contends that "Almadi discloses claim element 1.4 through its disclosure that integrated node can also, for example, employ an Ethernet switch to support

networking over multiple communication interfaces and transmit process data to a remote host server over TCP/IP." Pet. 15 (citing Ex. 1005, 3:13–17, Figs. 8–11). Additionally, Petitioner asserts that one of ordinary skill in the art "would understand that *transmitting process data via an Ethernet switch* is the sending, with the server, the *target value* to the network address via the network as claimed in the '680 Patent." *Id.* at 16 (emphases added) (citing Ex. 1002 ¶ 53); *see* Ex. 1002 ¶ 53 (one of ordinary skill in the art "would understand that the protocol translator working with the integrated node 100 can send a target value via a network as claimed in the '680 Patent"). Based on these contentions, Petitioner concludes by asserting that "Almadi discloses this claim limitation." *Id.*

Patent Owner contends that Petitioner's identification of "process data" in Almadi "fails to map [to] the claimed '*target value*' in [1.4]" because "Petitioner alleges the claimed '*sending . . . the target value*' is disclosed by Almadi through Almadi's disclosure of the integrated node 100 employing an Ethernet switch and a [person of ordinary skill in the art's] understanding of Almadi's disclosure of transmitting 'process data.'" Prelim. Resp. 8. Patent Owner asserts "Petitioner is incorrect that Almadi's 'process data' is the same or similar to the claimed '*target value*.' Almadi's 'process data' is sensor data, which is consistent with Dr. Wooley's mistaken characterization of a sensed parameter, but is not the claimed '*target value*.'" *Id.* (footnote omitted) (citing Ex. 2009 ¶ 92). Patent Owner points to Ahmadi's disclosure as to process data in support of its position. *Id.* at 8 n.4 (citing Ex. 1005, Abst., 2:24–33, 3:13–20).

Almadi teaches that "[e]mbodiments of the integrated node time-synchronize the plurality of remote subsystems, acquire and archive

time-stamped *process data*, report exception therein to the remote host, and extract and transmit time-stamped *process data* to the remote host." Ex. 1005, Abst. (emphases added). Almadi explains that its remote field systems must include a plurality of controller units "to issue commands to, and gather and *process data from a plurality of field devices*, including remote systems and instruments, . . . [and] a database server for the storage of *process data retrieved from the remote subsystems and instruments*." *Id.* at 2:22–30 (emphases added). Based on these disclosures, we agree with Patent Owner that Petitioner has not established that Almadi discloses element [1.4]. Specifically, the teachings from Almadi identified by Petitioner refer to process data, which is data retrieved from the remote subsystems/field devices. Thus, we understand that Almadi's teaching—of using an Ethernet switch to transmit "process data"—describes transmitting data from the remote subsystems/field devices. *See* Ex. 1005, 3:13–17, *cited in* Pet. 15. But claim 1 and particularly element [1.4], recites "sending, with the server, the target value to the network address [which identifies a controller of the fluid-handling device[13]] via the network," which is different than sending process data from the field devices to the remote host or database server for storage.

Petitioner's reliance on Figures 8–11 of Almadi do not persuade us otherwise. In fact, the figures reinforce our understanding of Almadi's disclosure regarding process data. Almadi states that Figures 8–11 "are schematic flowcharts illustrating one or more exemplary computer programs or computer program products according to embodiments of the present

[13] This language is recited in element [1.3].

invention." Ex. 1005, 11:12–14. Almadi explains that "[t]he integrated node 300 polls for sub-system or instrumentation data containing time and process variables (e.g., pressure, temperature, flow). The integrated node 300 acquires data, such as, for example, subsurface sensor and subsystem data, from the remote subsystem 320 at a time (t_i) . . . ." *Id.* at 15:59–65. Almadi then explains that the data acquired "is time stamped." *Id.* at 16:5. Figures 8–11 each pertain to various actions relating to the "time-stamped process data" from the remote subsystems. *See, e.g.*, Fig. 8 (at 802) (referring to acquiring *time-stamped process data* from a plurality of remote time-synchronized subsystems at first pre-defined rate). Although the figures support Petitioner's contention that "process data" is transmitted via the network, they do not support Petitioner's argument that Almadi teaches element [1.4] because the Almadi's process data, which is sent from the remote subsystems, is not a "target value" included in a command that is sent to the network address of the controller of the fluid-handling device.

We also recognize that Petitioner's argument is based on Dr. Wooley's proposed plain and ordinary meaning of a "target value," which we do not adopt. As discussed above, Dr. Wooley's proposed plain and ordinary meaning of "target value" is a "particular operating condition that a device is in at a particular time," which corresponds to Almadi's "process data." When examined under the plain and ordinary meaning we set forth above, Petitioner does not establish that Almadi's sending of process data discloses element [1.4] because Almadi's process data is not the "target value" and the process data is not being sent to the network address of the controller. Accordingly, on the present record, Petitioner has not established that Almadi discloses element [1.4], and, therefore, has not

established a reasonable likelihood of showing that Almadi anticipates claim 1.

Additionally, although Petitioner characterizes its challenge as one based on anticipation "or" obviousness, neither Petitioner nor Dr. Wooley makes any attempt to show that element [1.4] (or any other element of claim 1) would have been obvious to one of ordinary skill in the art in light of Almadi. *See* Pet. 12–19[14]; Ex. 1002 ¶¶ 41–62. Accordingly, on the present record, Petitioner has not established a reasonable likelihood of showing that Almadi would have rendered claim 1 obvious.

3. Claims 2, 3, 6, 14, 17, and 19

Claims 2, 3, 6, 14, 17, and 19 depend from claim 1. Petitioner relies on its analysis of claim 1 when addressing each of these dependent claims. *See, e.g.*, Pet. 19 ("Claim 2 depends from independent Claim 1. Almadi discloses Claim 1 for the reasons discussed above and incorporated herein."). Thus, we find Petitioner's analysis of these dependent claims deficient for the same reasons discussed above in the context of claim 1. Accordingly, on the present record, Petitioner has not established a reasonable likelihood of showing that Almadi anticipates or renders obvious claims 2, 3, 6, 14, 17, and 19.

4. Claim 20

Independent claim 20 recites limitations substantially the same as claim 1. *Compare* Ex. 1001, 18:42–62 (claim 20), *with id.* at 16:37–61

[14] As noted above, the only mention of obviousness in Petitioner's entire discussion of claim 1 is a single, conclusory sentence after the discussion of element [1.8] in which Petitioner states "Almadi, therefore, anticipates, or renders obvious to a [person of ordinary skill in the art] Claim 1." Pet. 19.

(claim 1). Recognizing this similarity, Petitioner's analysis of claim 20 relies entirely on its analysis of claim 1. *See, e.g.*, Pet. 32 (equating elements of claim 20 to elements of claim 1). For example, Petitioner states that "limitation 20.4 is analogous to limitation 1.4." *Id.* Dr. Wooley takes the same approach. *See* Ex. 1002 ¶ 89. Thus, we find Petitioner's analysis of element [20.4], which recites "sending, with the server, the target value to the network address via the network," deficient for the same reasons discussed above in the context of claim 1. Accordingly, on the present record, Petitioner has not established a reasonable likelihood of showing that Almadi anticipates or renders obvious claim 20.

5. Summary of Ground 1

For the reasons discussed above, Petitioner has not established, on the present record, a reasonable likelihood that it would prevail in showing that Almadi anticipates or renders obvious claims 1–3, 6, 14, 17, 19, and 20.

E. Ground 2: Anticipated by or Obvious over Cardamone

Petitioner, relying on the testimony of Dr. Wooley, contends that claims 1, 9–13, 15–18, and 20 are anticipated by or obvious over Cardamone. Pet. 32; *see id.* at 32–50 (Petitioner's challenge based on Cardamone).

1. Scope and Content of the Prior Art

a. Cardamone (Ex. 1006)

Cardamone is directed to methods and systems for controlling a linear motor for a deep well oil pump. Ex. 1006, code (54). Cardamone's Figure 1 is reproduced below:

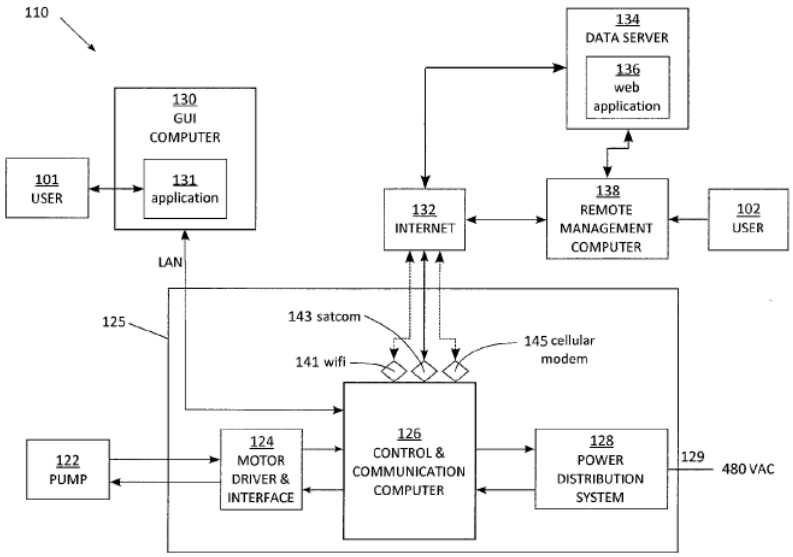


FIG. 1

Figure 1 illustrates "a system [110] for operating a deep oil well pump with a linear motor." *Id.* ¶ 21. Cardamone explains that "[s]ystem 110 generally includes deep well pump system 122, motor driver 124, control and communication computer 126, and power distribution system 128. Also part of system 110 are [graphical user interface (GUI)] computer 130, data server 134, and remote management computer 128." *Id.* Cardamone further explains that "[c]ontrol and communication computer 126 also contains communication systems for interacting with data server 134 and GUI computer 130." *Id.* Cardamone teaches that "[t]hrough interaction via web application 136, remote management computer 138 provides user 102 with a user interface for reviewing sensory data and setting operational parameters of control and communication computer 126." *Id.* Additionally, Cardamone explains that

> GUI computer 130 generally includes a display for providing user 101 a graphical user interface for viewing system operational data. Operational data includes sensory data from pump system 122, motor driver 124, power distribution system 128, and control and communication computer 126.

> GUI computer 130 also provides user 101 with a mechanism for changing operational parameters of control and communication computer 126.

Id. ¶ 26.

2. Claim 1

Petitioner contends that Cardamone anticipates or renders obvious claim 1. Pet. 32–39. We focus on element [1.2] because it is dispositive.

Element [1.2] recites "receiving, with a server, a command comprising a target value of a fluid-handling device from a computing device via a control interface, wherein the command is received in association with a record stored on a datastore." Ex. 1001, 16:40–44. Petitioner contends that "Cardamone discloses that data server 134 provides the functionality of GUI Computer 130" and that "users connect to GUI computer 130 to interface with control and communication computer 126, through application 131." Pet. 33 (citing Ex. 1006 ¶¶ 42, 46). Petitioner asserts that "Cardamone also discloses that Application 131 provides access to control and communication computer 126 to request data, including the current sensory data of pump control system 110" and "Application 131 also allows the user to adjust the operating parameters with control computer 126 through 'a command interface.'" *Id.* (citing Ex. 1006 ¶¶ 42, 44–45).

Petitioner describes Cardamone's "data server 134" as follows:

> Data server 134 provides the functionality of GUI Computer 130, acts as a data storage and backup facility, as well as a mechanism to provide periodic data to control and communications computer 126. *Id.*, ¶0046. Cardamone discloses data server 134, a server computer remote from the oil well. *Id.*, ¶0021. Data server 134 links to control and communication computer 126 through standard wired and wireless communication links. *Id.*, ¶0024. Data server 134

> receives sensory data logs from control and communication computer 126 and contains a web server/web application 136 for providing a client interface for viewing the sensory data logs on remote management computer 138. *Id.*, ¶0027. Data server 134 acts as a data storage for sensory data. *Id.*, ¶0027; Claim 30, ¶0041.

Pet. 33–34. Petitioner concludes that one of ordinary skill in the art "would understand Cardamone discloses the receiving target status of a fluid-handling device from a computing device through its disclosure of a data server that can receive sensory data from fluid-handling devices and acts as data storage for sensory data." *Id.* at 34 (citing Ex. 1002 ¶ 91).

Patent Owner contends that "Petitioner provides no mapping of '*target value*' claimed in [1.2] and [1.4] to Cardamone's disclosure." Prelim. Resp. 12. Patent Owner asserts that "both the Petition and Wooley declaration make no showing in Cardamone that a server receives a command that comprises a '*target value*.'" *Id.* (citing Pet. 33–34; Ex. 1002 ¶ 91). Additionally, Patent Owner contends that "Petitioner incorrectly equivocates a [sic] the claimed 'target value' as 'sensory data.'" *Id.* (citing Pet. 33–34; Ex. 1002 ¶ 91).

It is clear from Petitioner's analysis that Petitioner relies on Cardamone's data server receiving "sensory data from fluid-handling devices" as satisfying element [1.2]. *See* Pet. 34 (setting forth this position). Dr. Wooley similarly relies on Cardamone's "disclosure of a data server that can receive sensory data from fluid handling devices and acts as a data storage for sensory data" as satisfying element [1.2]. Ex. 1002 ¶ 91. It is also clear that Petitioner and Dr. Wooley rely on Dr. Wooley's purported plain and ordinary meaning of "target value" as a "particular operating condition that a device is in at a particular time," which leads them to point

to Cardamone's teachings regarding sensory data from fluid-handling devices as opposed to any teaching relating to receiving a command comprising a value or state that the fluid-handling device is desired to be in, as we understand the plain and ordinary meaning of the term. *See, e.g.*, Ex. 1002 ¶ 91 (referring, in part, to Dr. Wooley's definition of "target value" in paragraph 44 of his declaration). Accordingly, on the present record, Petitioner has not established that Cardamone discloses element [1.2], and, therefore, has not established a reasonable likelihood of showing that Cardamone anticipates claim 1.

Additionally, although Petitioner characterizes its challenge as one based on anticipation "or" obviousness, neither Petitioner nor Dr. Wooley makes any attempt to show that element [1.2] would have been obvious to one of ordinary skill in the art in light of Cardamone. *See* Pet. 33–34; Ex. 1002 ¶ 91. Accordingly, on the present record, Petitioner has not established a reasonable likelihood of showing that Cardamone would have rendered claim 1 obvious.

3. Claims 9–13 and 15–18

Claims 9–13 and 15–18 depend from claim 1. Petitioner relies on its analysis of claim 1 when addressing each of these dependent claims. *See, e.g.*, Pet. 39 ("Claim 9 depends from independent claim 1. Cardamone discloses Claim 1 for the reasons discussed above and incorporated herein."). Thus, we find Petitioner's analysis of these dependent claims deficient for the same reasons discussed above in the context of claim 1. Accordingly, on the present record, Petitioner has not established a reasonable likelihood of showing that Cardamone anticipates or renders obvious claims 9–13 and 15–18.

4. Claim 20

As noted above, independent claim 20 recites limitations substantially the same as claim 1. *Compare* Ex. 1001, 18:42–62 (claim 20), *with id.* at 16:37–61 (claim 1). Recognizing this similarity, Petitioner's analysis of claim 20 relies entirely on its analysis of claim 1. *See, e.g.*, Pet. 50 (equating elements of claim 20 to elements of claim 1). For example, Petitioner states that "limitation 20.2 is analogous to limitation 1.2." *Id.* Dr. Wooley takes the same approach. *See* Ex. 1002 ¶ 114. Thus, we find Petitioner's analysis of element [20.2], which recites "receiving, with a server, a command comprising a target value of a fluid-handling device from a computing device via a control interface, wherein the command is received in association with a record stored on a datastore," deficient for the same reasons discussed above in the context of claim 1. Accordingly, on the present record, Petitioner has not established a reasonable likelihood of showing that Cardamone anticipates or renders obvious claim 20.

5. Summary of Ground 2

For the reasons discussed above, Petitioner has not established, on the present record, a reasonable likelihood that it would prevail in showing that Almadi anticipates or renders obvious claims 1–3, 6, 14, 17, 19, and 20.

F. Ground 3: Anticipated by or Obvious over Gutierrez

Petitioner, relying on the testimony of Dr. Wooley, contends that claims 1, 7, and 20 are anticipated by or obvious over Gutierrez. Pet. 51; *see id.* at 51–59 (Petitioner's challenge based on Gutierrez). Patent Owner

asserts that Gutierrez is not prior art under §§ 102(a) or 102(e), and therefore Petitioner's challenge on this ground fails.[15]

First, Patent Owner asserts that Gutierrez does not qualify as prior art under § 102(a) because its publication date is July 18, 2017 (issue date), whereas the '680 patent claims priority to December 7, 2012. Prelim. Resp. 28–29.

Second, Patent Owner asserts that Gutierrez does not qualify as prior art under § 102(e) "because ***Gutierrez's priority chain was broken*** at the time of Gutierrez's filing due to Gutierrez's parent application having gone abandoned." Prelim. Resp. 29.

For the reasons explained below, we agree with Patent Owner.

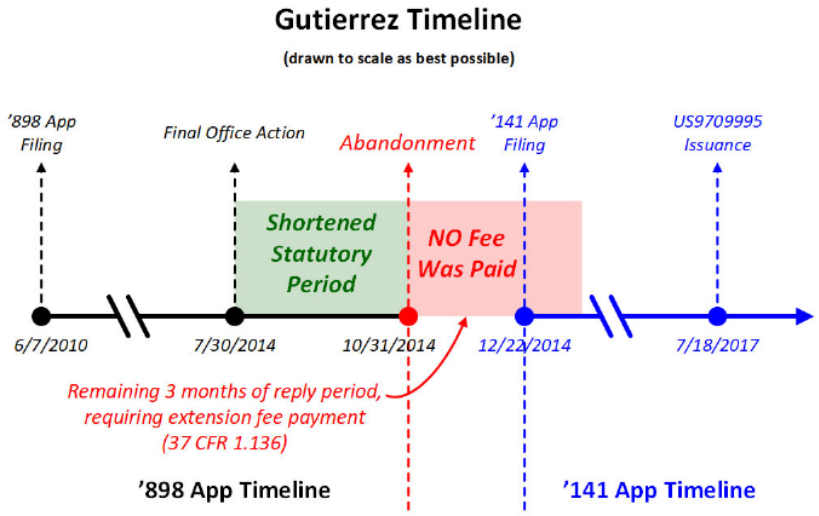
On its cover page, under "Related U.S. Application Data," Gutierrez states that it is a "[c]ontinuation of application No. 12/794,898 [("the '898 application")], filed on Jun[e] 7, 2010, *now abandoned*." Ex. 1006, code (63) (emphasis added). In the prosecution of the alleged parent '898 application, an Office Action was mailed on July 30, 2014, which set a shortened statutory period of three months for a reply. Ex. 2006 ('898 application file history), 198–99. The record does not contain any documentary evidence that a reply was ever filed in response to the Office Action.[16] *See generally id.* Nor does the record contain any documentation

[15] Petitioner's Notice of Errata changes the basis for asserting Gutierrez as prior art from § 102(a) to § 102(e). Ex. 1011, 1.

[16] Patent Owner provides the website citation to the USPTO's Patent Center for the '898 application as well as screen captures of the "Documents & transactions history" from the USPTO website (Ex. 2008). Prelim. Resp. 31 n.15. Neither Patent Owner nor Petitioner informed us of any issues with the completeness of this file history.

that a petition for an extension of time to reply was filed. *Id.* A Notice of Abandonment, noting that the '898 application was abandoned because applicant failed to file a timely reply, was mailed on February 4, 2015. *Id.* at 230–31[17]; *see* Prelim. Resp. 30 n.14 (noting the same).

The application that issued as Gutierrez was filed on December 22, 2014. Ex. 1006, code (22). Patent Owner argues that Gutierrez is only entitled to priority as of its filing date because the '898 application was abandoned, which broke the priority chain. Prelim. Resp. 26–28. Patent Owner presents the following diagram of the timeline of Gutierrez's priority.



Prelim. Resp. 30.

Patent Owner's depiction of the timeline of Gutierrez's priority, above, includes some of the events from the '898 application prosecution history, as well as events from the prosecution history of Application No. 14/579,141 ("the '141 application"), which issued as Gutierrez. Prelim.

[17] The Notice of Abandonment incorrectly identifies the last office action as mailed on "7-30-15," which is a typographical error because the office action was mailed on July 30, **2014**. *Compare* Ex. 2006, 231, *with id.* at 198.

Resp. 30–31. Patent Owner asserts that the date of abandonment of the '898 application was October 31, 2014, because a reply was not timely filed, and the applicant did not pay an extension fee between the time the shortened statutory period expired (October 31, 2014) and the filing date of the '141 application (December 22, 2014). *Id.* at 30–31. Thus, Patent Owner contends the '141 application is not entitled to an earlier priority date because it fails the copendency requirement of 35 U.S.C. § 120.

We have reviewed the record and determine that Patent Owner has correctly represented the facts concerning the '898 and '141 applications and their prosecution histories. We agree with Patent Owner that because the applicant failed to reply within the shortened time period and did not pay for an extension of time, the '898 application was abandoned as of October 31, 2014. *See* 37 C.F.R. §§ 1.134–1.136; *see also* MPEP § 711.04(a) ("If the application is abandoned, the date of the abandonment is after midnight of the date on which the set shortened statutory period, including any extensions under 37 CFR 1.136, expired. This is normally the end of the 3-month shortened statutory period."). Further, because the applicant did not file a request for an extension of time to respond to the office action in the '898 application file history by the time the '141 application was filed, the applications were not copending.[18] Gutierrez, therefore, is not entitled to the earlier filing date of the '898 application. 35 U.S.C. § 120 (not entitled to the benefit of the previously filed application because it had been abandoned). Thus, on the present record, we determine that the priority date of Gutierrez is December 22, 2014. Gutierrez, therefore, cannot serve as

[18] For completeness, we note that no extension of time was filed in the '898 application file history even after the '141 application was filed.

prior art to the '680 patent under pre-AIA §§ 102(a) and 102(e) because the '680 patent has an earlier priority date of December 7, 2012.

Accordingly, for the reasons discussed above, Petitioner has not established, on the present record, a reasonable likelihood that it would prevail in showing that claims 1, 7, and 20 are anticipated by or would have been obvious over Gutierrez.

G. Ground 4: Anticipated by or Obvious over SCADA

Petitioner, relying on the testimony of Dr. Wooley, contends that claim 1 is anticipated by or obvious over SCADA. Pet. 59; *see id.* at 59–64 (Petitioner's challenge based on SCADA).

1. Scope and Content of the Prior Art

a. SCADA (Ex. 1008)

SCADA explains that it

> allows a human operator, in a location central to a widely distributed process—such as a pipeline system, oil or gas field, or hydroelectric generating complex, or irrigation network—to make set point changes on distant process controllers, to open or close valves or switches, to monitor alarms, and to gather measurement information.

Ex. 1008, 16.[19] Figure 2-1 is reproduced below.

[19] Page numbers refer to the Bates-stamp numbers of the exhibit.

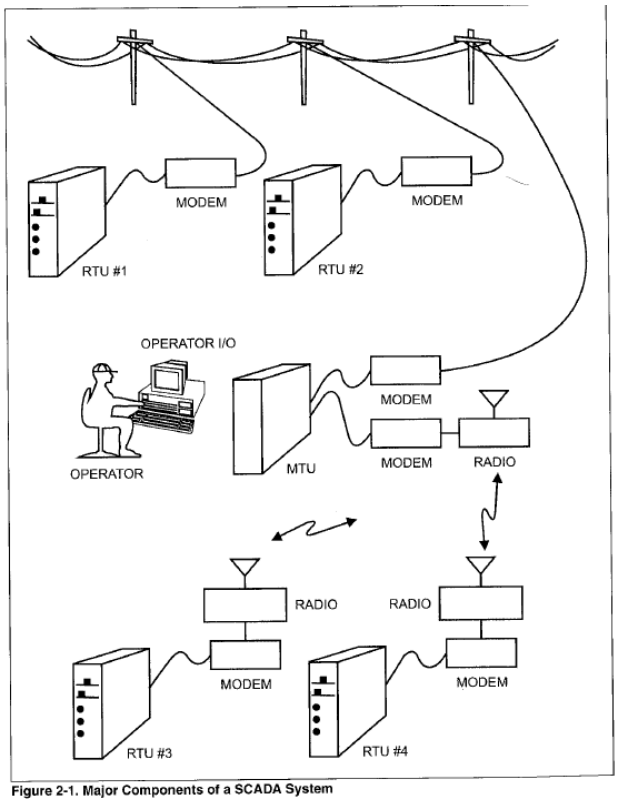


Figure 2-1. Major Components of a SCADA System

Id. at 19. Figure 2-1 "shows the major elements of a SCADA system." *Id.* at 18. SCADA explains:

> [a]t the center is the operator, who interfaces with the system through some form of input/ output (I/O) device. The I/O device in turn communicates with the masteral terminal unit (MTU). The MTU communicates with one or more remote terminal units (RTUs), each of which communicates with sensors or actuators at the process.

Id.

2. Claim 1

Petitioner contends that SCADA anticipates or renders obvious claim 1. Pet. 59–64. We focus on element [1.4] because it is dispositive.

Element [1.4] recites "sending, with the server, the target value to the network address via the network." Ex. 1001, 16:51–52. Petitioner contends that SCADA "discloses sending, with the server, the target value to the

network address via the network" based on the following, which Petitioner block quotes from SCADA:

> the remote terminal unit (RTU) will sample this variable and will store it in a memory register. The RTU will also sample analog variables from other flowmeters, level transmitters, or temperature transmitters, and will sample discrete variables from fire alarms and the like. Each of these variables will be sampled and stored in its memory location… Third, the RTU must listen for a request from the master terminal unit (MTU), which will periodically tell each of the RTUs in the system to report what it knows. When it receives such an order, the RTU must then confirm that the message is indeed for it and not for some other RTU. Then it must put together a message that includes all of the information requested by the MTU… Fourth, the MTU must receive this data; check it to determine if any communication errors have occurred; store the data in predetermined memory locations; and present any alarms, reports, or data screens to the process operator.

Pet. 62 (quoting Ex. 1008, 37–38).[20] Petitioner concludes by asserting that one of ordinary skill in the art "would understand that transmitting process data via an Ethernet switch is the sending, with the server, the target value to the network address via the network as claimed in the '680 Patent." *Id.* (citing Ex. 1002 ¶ 138). Dr. Wooley's testimony is identical to the Petition. *See* Ex. 1002 ¶¶ 137–138.

Patent Owner contends "Petitioner mis-maps limitation [1.4] to unrelated disclosure in SCADA. Specifically, Petitioner attempts to map the claimed '*sending, with the server, the target value to the network address via the network'* to SCADA's disclosure of sending data ***the other direction***—from field devices to the master terminal unit." Prelim. Resp. 25

[20] Petitioner cites the native page numbers 34–35. *See* Pet. 62.

(citing Pet. 62). Patent Owner asserts that "Petitioner recycles its pervious [sic] incorrect arguments (pertaining to Almadi's 'process data' as the claimed '*target value*') to assert SCADA discloses this feature." *Id.* In particular, Patent Owner contends "Petitioner attempts to equate 'process data' with 'target value,' which is incorrect as discussed above . . . ." *Id.* at 25–26 (footnote omitted). In contrast, Patent Owner asserts "[a] target value is not sensor data or [a] sensed parameter, as contended by Petitioner" and thus SCADA does not disclose element [1.4] or render claim 1 obvious. *Id.* at 26 (citing Ex. 2009 ¶ 150).

We agree with Patent Owner. As reflected above, Petitioner's mapping of SCADA's disclosure to element [1.4] is based on Dr. Wooley's proposed plain and ordinary meaning of a "target value," which we do not adopt. Dr. Wooley's proposed plain and ordinary meaning of "target value" as a "particular operating condition that a device is in at a particular time" corresponds to SCADA's "process data" sent from the RTUs to the MTU. When examined under the plain and ordinary meaning we set forth above, Petitioner does not establish that SCADA's sending of process data discloses element [1.4] because SCADA's process data is not a value or state that the fluid-handling device is desired to be in, nor is it sent to the network address of the controller. Accordingly, on the present record, Petitioner has not established that SCADA discloses element [1.4], and, therefore, has not established a reasonable likelihood of showing that SCADA anticipates claim 1.

Additionally, although Petitioner characterizes its challenge as one based on anticipation "or" obviousness, neither Petitioner nor Dr. Wooley makes any attempt to show that element [1.4] (or any other element of

claim 1) would have been obvious to one of ordinary skill in the art in light of SCADA. *See* Pet. 59–64[21]; Ex. 1002 ¶¶ 127–146. Accordingly, on the present record, Petitioner has not established a reasonable likelihood of showing that SCADA would have rendered claim 1 obvious.

Accordingly, for the reasons discussed above, Petitioner has not established, on the present record, a reasonable likelihood that it would prevail in showing that claim 1 is anticipated by or would have been obvious over SCADA.

III. CONCLUSION

For the reasons discussed above, we find that Petitioner has not demonstrated a reasonable likelihood that it would prevail in showing that any of the Challenged Claims of the '680 patent is unpatentable.

IV. ORDER

Accordingly, it is

ORDERED that the Petition is *denied* as to the Challenged Claims of the '680 patent; and

FURTHER ORDERED that no *inter partes* review is instituted.

[21] The only mention of obviousness in Petitioner's entire discussion of claim 1 is a single, conclusory sentence after the discussion of element [1.8] in which Petitioner states "SCADA, therefore, anticipates, or renders obvious to a [person of ordinary skill in the art] Claim 1." Pet. 64.

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