IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of Eileen Zhou et al.	§	Attorney Docket No.: KMI282
	§	
U.S. Patent 8,782,282	§	
	§	
Issue Date: July 15, 2014	§	Customer No.: 165774
	§	
Filing Date: December 19, 2003	§	
	§	
For: NETWORK MANAGEMENT SYSTEM	§	
	§	

REQUEST FOR *EX PARTE* REEXAMINATION OF U.S. PATENT 8,782,282

Mail Stop "*Ex Parte* Reexam"
Attn: Central Reexamination Unit
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Commissioner:

Pursuant to the provisions of 35 U.S.C. §§ 301-307, Unified Patents, LLC ("Requester") hereby requests an *ex parte* reexamination of claims 1-22 (the "Challenged Claims") of U.S. Patent 8,782,282 (the "'282 Patent, Ex. 1001), which issued on July 15, 2014 to Eileen Zhou from U.S. Patent Application 10/742,573 (the "'573 Application"), filed on December 19, 2003.[1] The '282 Patent is currently assigned to K.Mizra LLC. ("K.Mizra" or "Patent Owner"). The assignment is recorded in the U.S. Patent and Trademark Office ("USPTO") at reel/frame 051579/0773.

Requester submits that this Request presents prior art references and analyses that are noncumulative of the prior art that was before the Examiner during the original prosecution of the '282 Patent and that the Challenged Claims are invalid over these references. Requester therefore requests that an order for reexamination and an Office Action rejecting claims 1-22 be issued.

[1] At this time, Requester assumes this priority date is correct.

Ex Parte Patent Reexamination Filing Requirements

Pursuant to 37 C.F.R. § 1.510(b)(1), statements pointing out at least one substantial new question of patentability based on material, non-cumulative reference patents and printed publications for the Challenged Claims of the '282 Patent are provided in Section I of this Request.

Pursuant to 37 C.F.R. § 1.510(b)(2), reexamination of the Challenged Claims of the '282 Patent is requested, and a detailed explanation of the pertinence and manner of applying the cited references to the Challenged Claims is provided in Appendix AA to this Request.

Pursuant to 37 C.F.R. § 1.510(b)(3), copies of every patent or printed publication relied upon or referred to in the statement pointing out each substantial new question of patentability or in the detailed explanation of the pertinence and manner of applying the cited references are provided as Exhibits 1001-1018 and Appendix AA of this Request.

Pursuant to 37 C.F.R. §1.510(b)(4), a copy of the '282 Patent is provided as Exhibit 1001 of this Request, and with a copy of any disclaimer, certificate of correction, and reexamination certificate issued corresponding to the patent.

Pursuant to 37 C.F.R. § 1.510(b)(5), the attached Certificate of Service indicates that a copy of this Request, in its entirety, has been served on Patent Owner at the following address of record for Patent Owner, in accordance with 37 C.F.R. § 1.33(c):

98618 – BrainSpark Associates, LLC

2606 W Mesquite St

Chandler, AZ 85224

United States

Also submitted herewith is the fee set forth in 37 C.F.R. § 1.20(c)(1).

Pursuant to 37 C.F.R. § 1.510(b)(6), Requester hereby certifies that the statutory estoppel provisions of 35 U.S.C. § 315(e)(1) and 35 U.S.C. § 325(e)(1) do not prohibit Requester from filing this *ex parte* patent reexamination request.

TABLE OF CONTENTS

TABLE OF EXHIBITS

Exhibit	Description
Ex. 1001	U.S. Patent No. 8,782,282 (the "'282 Patent")
Ex. 1002	U.S. File History of the '282 Patent ("File History")
Ex. 1003	Declaration of Seth Neilson ("Neilson Decl.") Paragraphs 1-98
Ex. 1004	U.S. Patent Publication No. 2004/0008717 ("Verma")
Ex. 1005	Microsoft Computer Dictionary, Fifth Edition, *Microsoft Press* 2002 (pages 131, 293-296, 449, 456)
Ex. 1006	Partridge, C. and G. Trewitt, The High-Level Entity Management System (HEMS), Network Working Group Request for Comments: 1021 (October 1987)
Ex. 1007	McCloghrie, K., Management Information Base for Network Management of TCP/IP-based Internets, Network Working Group Request for Comments: 1066 (August 1988)
Ex. 1008	Warrier, U. and L. Besaw, The Common Managemnet Information Services and Protocol over TCP/IP (CMOT), Network Working Group Request for Comments: 1095 (April 1989)
Ex. 1009	Case, J. et al., A Simple Network Management Protocol (SNMP), Network Working Group Request for Comments: 1098 (April 1989)
Ex. 1010	MacFaden, M., Configuring Networks and Devices with Simple Network Management Protocol (SNMP), Network Working Group Request for Comments: 3512 (April 2003)
Ex. 1011	Sugiyama, K. et al., Implementation and Evaluation of MIB Tester for OSI Management, IFIP — The International Federation for Information Processing Conference Paper, 447-460 (January 1997)
Ex. 1012	Lentczner, M., Java's Virtual World: Java Components Include High-Level Language and Virtual Machine, Microprocessor Report Vol. 10, No. 4 (March 25, 1996)
Ex. 1013	Rossier-Ramuz, D., Towards Active Network Management with Ecomobile, an Ecosystem-inspired Mobile Agent Middleware, In: Karmouch, A., Magedanz, T., Delgado, J. (eds) Mobile Agents for Telecommunication Applications, Lecture Notes in Computer Science, vol 2521. Springer, Berlin, Heidelberg (2002)
Ex. 1014	"Rendezvous Information Bus: The Ultimate Technology for Distributed Computing," White Paper, archived at Internet Archive Wayback Machine on February 3, 1997 at https://web.archive.org/web/19970203063805/http://www.rv.tibco.com/rvwhitepaper.html
Ex. 1015	Ehr, M., An Introduction to Messaging Technology, Polarsoft Limited (2000)
Ex. 1016	Liebig, C., B. Boesling, and A. Buchmann, A Notification Service for Next-Generation IT Systems in Air Traffic Control, *GI-Workshop: Multicast-Protokolle*

	und Anwendungen, pp. 55-68 (May 1999)
Ex. 1017	Ferrari, D., A Study of Load Indices for Load Balancing Schemes, *Workload Characterization of Computer Systems and Computer Networks*, pp. 91–99 (1986)
Ex. 1018	Miller, M., Managing Internetworks with SNMP, *The Network Troubleshooting Library*, Second Edition (May 1997)

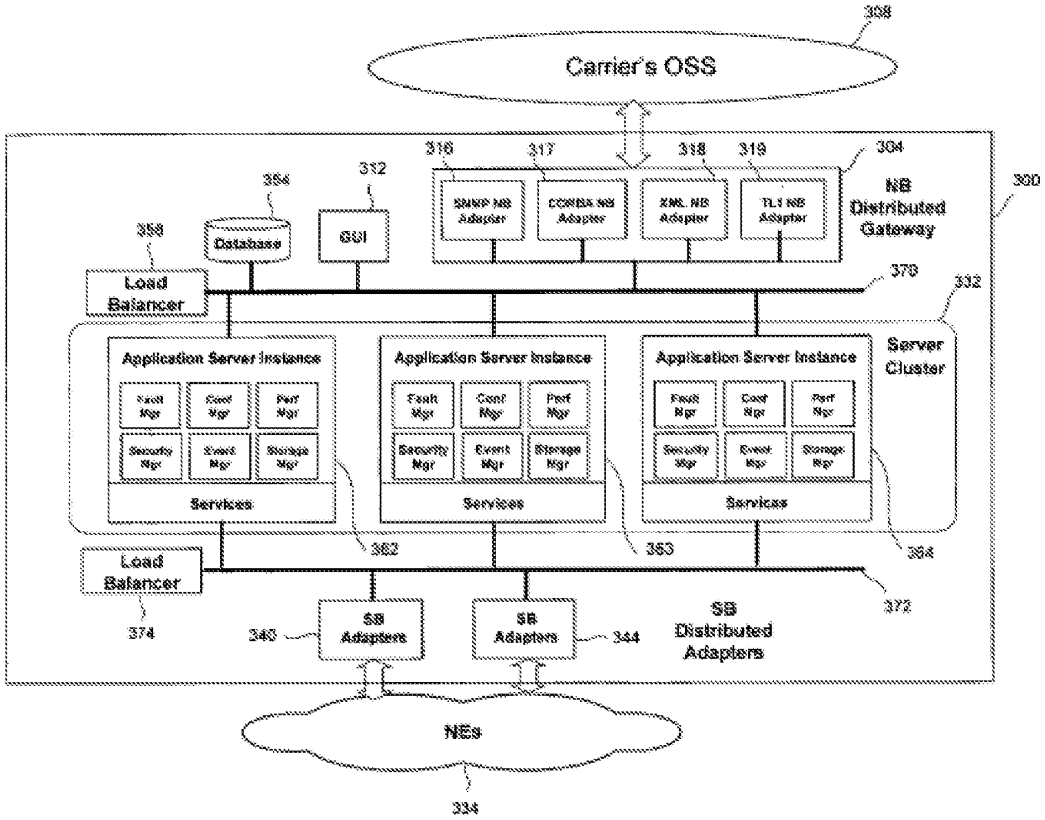
I. SUBSTANTIAL NEW QUESTIONS OF PATENTABILITY

Prior to describing the substantial new questions of patentability presented in this Request, provided below is an overview of the '282 Patent, a discussion of claim construction, and a summary of the prior art being discussed in the present Request.

A. U.S. Patent 8,782,282

1. Summary

The '282 Patent is directed to "a technique for communicating in a network management system." *'282 Patent* (Ex. 1001), Abstract. Specifically, the '282 Patent describes a "scalable network management system (NMS)" that may include a "so-called northbound (NB) gateway… to facilitate transferring and translating information between the NMS server, or servers in a server cluster and an [operation support system (OSS)] from the network administrator, or carrier." *Id.*, 2:12-17. Further, "the information transferred from the gateway to the server cluster can be distributed among servers… based on a load balancing scheme," and "the managed network can be partitioned by configuring for each Network Element (NE) a so-called southbound (SB) adapter to handle information originating from that NE." *Id.*, 2:21-23, 25-28. The NMS also includes a load balancing scheme to "associate a SB adapter to a particular server or servers," and "a load balancing scheme may be used to distribute information from the NMS to a selected SB adapter to reach the destined NE." *Id.*, 2:33-35. "FIG. 3A is a diagram illustrating NMS using application server cluster and load balancing between NB gateway (adapters) and NMS server instances, and between SB adapters and NMS server instances." *Id.*, 7:43-46. *See* Ex. 1003, ¶ 70.



Id., Fig. 3A.

The '282 Patent explains that the "NMS 300 includes NB gateway 304, GUI 312, server cluster 332, database 354, SB adapters 340 and 344, load balancer 358 (with shared bus 370) between NB gateway and NMS server cluster, and load balancer 374 (with shared bus 372) between SB adapters and NMS server cluster." *Id.*, 7:46-51. The "GUI 312, NB gateway 304, and database 254 are connected to server cluster 332 via bus 370 controlled by the load balancer 358" and the "[s]erver cluster 332 is connected to SB adapters 340 and 344 via bus 372 controlled by the load balancer 358." *Id.*, 7:56-59. The NMS is "dynamic and scalable," and capable of "managing larger or expanding networks." *Id.*, 7:61, 64. The "high scalability is facilitated by using server clustering and distributed adapter architecture with the load balancing scheme to connect the server cluster and NB and SB adapters in northbound and southbound directions respectively." *Id.*, 7:65-67. 8:1-2. The "servers 362-364 may be separate physical or logical

modules, or a combination of physically or logically separated server modules." *Id.*, 8:7-9. In some embodiments, the NMS includes "multiple NB gateways, each including a set of NB adapters performing a specific set of functions," in which "additional physically or logically separate NB gateways can be added as the network grows." *Id.*, 8:24-27. *See* Ex. 1003, ¶ 71.

The '282 Patent discloses a downlink information flow, "in which OSS or NMS GUI is the originator of the information while NE or application server is the recipient of the information," and an uplink information flow, "in which NE is the originator of the information while OSS or NMS GUI is the recipient of the information." *Id.*, 8:39-42, 9:1-3. In the downlink information flow, the information which originated from the OSS or GUI is transferred via a protocol, such as SNMP, CORBA, XML, or TL1 to the NB gateway, where the NB gateway processes the information and transfers it to a NB adapter. *Id.*, 8:42-47. The information may also be transferred to a server according to a load balancer that "may use any load balancing algorithm that is appropriate." *Id.*, 8:53-54. The information is then transferred to a selected SB adapter according to the load balancing algorithm and subsequently transferred to the destined NE in network. *Id.*, 8:64-65. "Management information (e.g., traps/alarms) is originated from an NE in network," and "the information is transferred to a pre-configured SB adapter." *Id.*, 9:4-6. Then, the information is transferred to a selected server for processing based on the load balancer, which "may be a software module physically located on any device in NMS." *Id.*, 9:4-10. After the information is processed, the information is transferred from the server to a selected NB gateway. *Id.*, 9:18-19. "When the information arrives at the NB gateway, it is transferred to a registered NB adapter … then to OSS." *Id.*, 9:20-24. *See* Ex. 1003, ¶ 72.

The NMS architecture "enable[s] incremental addition of network management resources on an as needed basis without network operation interruption as the network grows," which "provide[s] significant benefits of scalability and performance optimization." *Id.*, 10:44-49. *See* Ex. 1003, ¶ 73.

2. Prosecution History

Patent Application No. 10/742,573 (the "'573 Application") was filed on December 19, 2003 with 32 claims. *See* Ex. 1002, 2-30. On April 16, 2009, a non-final rejection was issued in which all claims were rejected. Claims 1-5, 6, and 9 were rejected under 35 U.S.C. 102, and the remaining claims were rejected under 35 U.S.C. 103. *Id.*, 45-58. In a preliminary amendment, the

Applicant amended claims 1, 10, 11, 13, 18, and 28-32 to recite "a server cluster," "a load-balancing scheme," and "a plurality of application servers" to avoid anticipation by U.S. Patent No. 7,111,077 B1 to Starkovich *et al.* ("Starkovich"), U.S. Patent Publication No. 2004/0107277 A1 to Levesque *et al.* ("Levesque"), U.S. Patent Publication No. 2004/0040030 to Fenton *et al.* ("Fenton"), and U.S. Patent Publication No. 2004/0249644 A1 to Scheifer *et al.* ("Scheifer"). *Id.*, 74-83. In a final Office Action issued on March 2, 2010, claims 1-5, 6, and 9 were rejected under 35 U.S.C. 102(e) as being unpatentable over Starkovich in view of U.S. Patent 7,325,062 B2 to Hamilton II *et al.* ("Hamilton"), and the remaining claims were rejected under 35 U.S.C. 103. *Id.*, 88-104. In a Request for Continued Examination and response to the Final Office Action filed on May 18, 2010, the applicant amended claims 1, 5-10, 15, 17-21, 23, 24, 26, 28, and 29, cancelled claims 11-14, 16, 22, 25, 27, and 30-32, and added claims 33-43. *Id.*, 126-138.

Claim 1, as amended, is as follows:

> "A method of communicating in a network management system, including:
>
> receiving at a first adaptor information from a network element, the first adaptor configured to process the information based on a first communication protocol;
>
> transferring the first adaptor processed information to an application server in a server cluster based on a load balancing scheme, *the application server configured to process the first adaptor processed information based on providing to the network element a management service to include at least one of a configuration management service or a security management service;*
>
> receiving at a gateway the application server processed information;
>
> receiving at a second adaptor associated with the gateway the application server processed information, the second adapter configured to process the application server processed information based on a second communication protocol; and
>
> transferring the second adapter processed information to a client."

Emphasis added.

The applicant argued that Starkovich did not support a *prima facie* 35 U.S.C. 103(a) rejection because Starkovich does not include the emphasized elements of claim 1, but rather discloses transaction manager software, and therefore is focused purely on managing transactions, which is different from claim 1 which includes "at least one of configuration management services or security management services." *Id.*, 134-138.

In an August 17, 2010 Office Action, the Examiner proposed new grounds for rejecting claims 1-10, 15, 17-21, 23, 24, 26, 28, 29, and 33-43 by introducing new secondary references for the 35 U.S.C. 103(a) rejections, rendering the Applicant's arguments in the March 2, 2010 response moot. *Id.*, 141-164. In a response to the Office Action filed on November 10, 2010, the Applicant cancelled claims 1-10, 15, 17, 29, and 36-42 in addition to the previously cancelled claims 11-14, 16, 22, 25, 27, and 30-32. *Id.*, 178-186. The Applicant also offered to amend claims 28, and 33-35, and add claims 44-53. *Id.* The Applicant again argued that Starkovich, even in view of U.S. Patent 5,812,768 to Pageet *et al.* ("Pageet") and further in view of Levesque, did not support *prima facie* 35 U.S.C. 103(a) rejection because Starkovich and Pageet fail to describe "providing certain management services such as event management services to a network element" and lacks "an adapter preselected to handle events." *Id.*, 178-186.

In a February 1, 2011 Office Action, the Examiner again rendered the Applicant's November 10, 2010 arguments moot by presenting new grounds for rejecting claims 18-21, 23, 26, 28, 33, 35, 44-49, and 51-53 under 35 U.S.C. 103(a) with the addition of secondary reference U.S. Patent Publication US 2005/0108387 A1 to Li *et al.* ("Li"). *Id.*, 190-206. The remaining non-cancelled claims 24, 34, 43, and 50 were similarly rejected under 35 U.S.C. 103(a). *Id.*, 206-210. In a response to the Office Action submitted on April 25, 2011, the Applicant amended claims 18, 28, 45, 50, and 51 and cancelled claims 19-21, and 44. *Id.*, 230-238. Claim 18 was amended to include elements of cancelled claims 20 and 44 to read as follows:

> "A method of communicating in a network management system, including:
>
> receiving at a first adaptor an indication of an event from a network element, the first adapter to be preselected to handle events indicated from the network element, *the first adaptor to be one of a plurality of first adaptors for the network management system,* ***each first adaptor*** *of the plurality of first adaptors to be* ***preselected to handle events from different groups of network elements,*** wherein the first adaptor is configured to process information associated with the event based on a first

> communication protocol;
> transferring…;
> receiving at a gateway the application processed information, the gateway to be one of a plurality of gateways for the network management system, ***each gateway*** *of the plurality of gateways to be preselected to transfer application processed* ***information to*** *one or more of a plurality of second* ***adaptors***;
> *transferring the application processed information to a second adaptor* from among the plurality of second adaptors…."
>
> Emphasis added.

Id., 235-236. The Applicant argued that Starkovich did not disclose the "portion of claim 18 that includes '*each* gateway of the plurality of gateways to be *preselected to transfer* application processed *information to* one or more of a plurality of *second adapter*.'" *Id.* The Applicant further asked that the remaining rejections be withdrawn based on the argument that Starkovich, Pageet, Hamilton, Levesque, and Li do not support a *prima facie* 35 U.S.C. 103(a) rejection. *Id.*, 237-238. In a June 28, 2011 Final Office Action, the Examiner found these arguments unpersuasive to overcome the rejection of the claims and rejected the pending claims under 35 U.S.C. 103(a). *Id.*, 260-285. In an August 29, 2011 response, claims 18, 28, 33, 35, 47, and 50-51 were amended in an attempt to overcome the 35 U.S.C. 103(a) rejections. *Id.*, 301. Claim 18 was amended as follows:

> 18. (Currently Amended) A method of communicating in a network management system, including:
>
> receiving at a first ~~adaptor~~ adapter an indication of an event from a first network element, ~~the first adapter to be preselected to handle events indicated from the network element,~~ the first ~~adaptor~~ adapter to be one of a plurality of first ~~adaptors~~ adapter for the network management system, ~~each first adaptor of the plurality of first adaptors to be preselected to handle events from different groups of network elements,~~ wherein the first ~~adaptor~~ adapter is configured to process information associated with the event based on a first communication protocol to produce a first adapter processed information, wherein the first adapter is preselected in response to a preselection event to handle events indicated from the network element, wherein the first adapter is preselected using a load balancing scheme, wherein any subsequent indications of an event from the first network element are handled by the first adapter, and wherein each of the plurality of first adapters is to be preselected to handle events from different groups of network elements;

> transferring the first ~~adaptor~~ adapter processed information to an application server in a server cluster according to a load-balancing scheme, the application server configured to process the first ~~adaptor~~ adapter processed information based on providing to the first network element a management service to include an event management service to produce an application processed information;
>
> receiving at a gateway the application processed information, the gateway to be one of a plurality of gateways for the network management system, each gateway of the plurality of gateways to be preselected to transfer application processed information to one or more of a plurality of second ~~adaptors~~ adapters;
>
> transferring the application processed information to a second ~~adaptor~~ adapter from among the plurality of second ~~adaptors~~ adapters, the second adapter configured to process the application processed information based on a second communication protocol to produce a second adapter processed information; and
>
> transferring the second adapter processed information from the second ~~adaptor~~ adapter to an operation support system.

Id., 294-295. In a December 28, 2011 Applicant response, the Applicant provided support for the claim amendments found in the specification in response to an advisory opinion in which the amendments made in the August 29, 2011 Response were not entered for raising new issues that would require further consideration. *Id.*, 313. In a July 5, 2013 Office Action, the Examiner noted that the amendments made in the December 28, 2011 response rendered the arguments moot as the amended claim feature of the method "wherein the first adapter is preselected in response to a preselection event to handle events indicated from the network element, wherein the first adapter is preselected using a load balancing scheme, wherein any subsequent indications of an event from the first network element are handled by the first adapter…" is expressly taught in U.S. Patent Publication 2003/0177240 A1 to Gulko *et al.*, which brought forth new grounds of rejection. *Id.*, 352-355. According to a September 25, 2013 response to the Office Action, a telephonic interview was conducted on September 20, 2013, with the Examiner. During this interview, the participants reviewed amended claims, and the assignee's representative indicated supporting figures and disclosure in the specification for certain features set forth in the amended independent claim 1. *Id.*, 403. Accordingly, the Applicant amended claims 18, 24, 26, 28, 33-35, 43, 45-51, and 53, cancelled claims 23 and 52, and added new claims 54-59 in the September 25, 2013 Response. *Id.*, 396-411.

After these amendments, a Notice of Allowance was issued on March 17, 2014 stating that "the current prior art references do not sufficiently teach or disclose all of the recited limitations of the amended independent claims, and claim 1 in particular, including the recited feature of 'in response to determining that the first application server instance has become disabled, facilitating establishing an association between the first adapter and a second application server instance of the plurality of application server instances and between the gateway device and the second application server instance ...'" *Id.*, 464. Examiner's amendments were authorized during a telephone interview with Applicant's representative on January 8, 2014. *Id.*, 465. The first independent claim (claim 18) was amended as follows:

> 18. (Currently Amended) A method, comprising:
>
> receiving, at a first application server instance [[of]] selected from a plurality of application server instances based on a load balancing process, first adapter processed

information from a first adapter, wherein the first adapter processed information comprises event information received by the first adapter from a network element and processed by the first adapter based on a first communication protocol;

processing, by the first application server instance, ~~is configured to process~~ the first adapter processed information based on an event management service to produce application processed information;

sending, by the first application server instance, the application processed information to a gateway device, wherein the gateway device is one of a plurality of gateway devices respectively associated with the plurality of application server instances and is configured to transfer the application processed information to a second adapter of a plurality of second adapters configured to process the application processed information based on a second communication protocol to produce second adapter processed information and transfer the second adapter processed information to an operation support system device; and

in response to determining that the first application server instance has become disabled, facilitating establishing an association between the first adapter and a second application server instance of the plurality of application server instances and between the gateway device and the second application server instance.

Id., 26-27. The '282 patent was issued on July 15, 2014. *Id.*, 480. *See* Ex. 1003, ¶¶ 74-81.

B. Claim Construction

Because the present Request relates to an expired patent, the claims should be construed according to same standard applied by Article III courts, outlined in *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (*en banc*). M.P.E.P. 2258(I)(G). Under this standard, claims are given their ordinary and customary meaning unless the patentee "has clearly set forth an explicit definition of the term" in the specification or disclaimed scope of coverage using expressions of "manifest exclusion or restriction" during prosecution. *Id.*, 1319-20. The present Request presents the following claim analysis in a manner that is consistent with the standard applied by Article III courts. At this time, Requester believes that no explicit construction is necessary because the claims are obvious under any reasonable interpretation. *See* Ex. 1003, ¶¶ 82-84. Requester reserves the right to advocate different claim interpretations in any other forum or proceeding if necessary.

C. Listing of Prior Art Patents and Printed Publications

Reexamination of the Challenged Claims is requested in view of the following reference:

- **Ex. 1004 ("Verma")**: U.S. Publication No. 2004/0008717 to Verma et al. was filed on July 12, 2002 and published on January 15, 2004. *Verma* is prior art at least under 35 U.S.C. § 102(e) because it was filed before the effective filing date of the '282 Patent.

Verma was not cited during prosecution of the '282 Patent. A Form SB-08 and a copy of the cited reference are submitted herewith. This request is also supported by the declaration of Dr. Seth James Nielson. (Ex. 1003 ¶¶ 1-98). To the extent that additional references are discussed in Dr. Seth James Nielson's declaration, copies of these additional references are also being submitted, and are included on Form SB-08.

As shown below, Requester submits that the prior art reference raises a new "substantial question of patentability" because "the teaching of the (prior art) patents and printed publications is such that a reasonable examiner would consider the teaching to be important in deciding whether or not the claim is patentable." *See* MPEP 2242. For example, the reference discussed below and in further detail in the attached charts, teaches each limitation of the Challenged Claims, including the idea of establishing associations with a second application server instance in response to determining that the first application server instance has become disabled. Further, they are new; the reference was not previously considered; the "same question of patentability as to the claim has not been decided by the Office in an earlier concluded examination or review of the patent" at

least because none of the art referenced in this request was before the Office during prosecution of the '282 Patent or during a prior post-grant proceeding challenging any claim of the '282 Patent, any of which that are known to Requester have been listed below in Section II, *infra*.

D. Overview of the Grounds Presenting Substantial New Questions of Patentability

The table below summarizes the grounds of unpatentability presented in this Request, all of which are anticipation under pre-AIA 35 U.S.C. § 102 or obviousness under pre-AIA 35 U.S.C. § 103 in light of the knowledge of a person of ordinary skill in the art at or around December 19, 2003 (a "POSITA"). The level of ordinary skill in the art that one would need in order to have the capability of understanding the scientific and engineering principles applicable to the '282 Patent is (1) at least an undergraduate degree in computer science or closely-related field, or similar advanced post-graduate education; and (2) at least 2 years of experience related to network management. Ex. 1003, ¶¶ 67-69. When compared with the prior art described below and in light of the knowledge of a POSITA, any "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." 35 U.S.C. § 103 (pre-AIA). Requester submits that each ground below raises a substantial new question (SNQ) of patentability for at least one claim of the '282 Patent.

Ground	Claim(s)	Statute (pre-AIA)	Prior Art
1	1-22	Section 102	Verma
2	1-22	Section 103	Verma

E. Grounds 1-2: *Verma* Presents New Questions of Patentability

1. Overview of *Verma*

Verma (Ex. 1004, US. Publication No. 2004/0008717 A1) discloses "[a] system for monitoring information real-time through a network, e.g., telephone, IP network, voice over IP network, Voice over ATM networks, and Voice over DSL networks." Ex. 1004, Abstract. Specifically, *Verma* discloses that "the invention provides a method, system, and computer code for monitoring a telephone call from a source to a destination through one or more network elements." *Id.* at [0029]. The system has a plurality of networks which "are configured to route a call from a source to a destination through the network elements." *Id.* at [0013]. In one embodiment,

"[t]he method transfers first call information of the call from the source to a destination through a plurality of network elements, where the plurality of network elements are numbered from 1 to N," and "correspond to the events numbered from 1 through N." *Id.* at [0016]. Then, "the method includes receiving the events numbered from 1 through N at a network interface, which is coupled to the one or more networks" and "[t]he method then converts the events numbered from 1 through N to a common protocol and distributes the events associated with the first call information to one of a plurality of a mediators." *Id. Verma* further discloses "[a] mediator [that] is coupled to each of the network elements" and that "[t]he mediator is adapted to receive events from any one of the network elements as the call is being routed through the elements from the source to the destination." *Id.* Further, the system "has an application process coupled to the messaging bus" and "[t]he application process is adapted to use the correlated events." *Id. Verma* explains how the "[s]ystem can be upgraded to receive events from different network elements using different protocols by just plugging-in proctol *[sic]* module for that protocol and network element." *Id.* at [0017]. *See* Ex. 1003, ¶ 85.

Verma discloses an example system where "the system 100 has a variety of elements and/or sub-systems" and the "elements include a plurality of mediator systems 101." *Id.* [0030], Fig. 1. *Verma* explains that "[e]ach of the mediator systems monitors network activity or events through an adaptor 105, which includes a distributor 107 and an interface 109, through a common interface." *Id.* Further, "[t]he adaptor receives events, which may be in different formats, from the network and converts them into a common protocol, which is used to direct events associated with a specific call to one of the mediator systems." *Id.* The "mediator system tracks a call over the network or networks from a source to a destination through all of the network elements" where the network elements may include "Routers, Switches, Application Servers, Softswitches, Media gateways, and, Integrated Access Devices." *Id. Verma* discloses that "[a] correlator system couples the mediators to a bus," and that "information elements are correlated with the information elements of other events and converted to Call Detail Record (CDR) at the correlator, which can be sent through the bus to a variety of systems for use." *Id.* [0030]-[0032]. Further, *Verma* discloses a load balancing process where "[t]he adaptor distributes the load to the mediators evenly." *Id.* [0031]. *See* Ex. 1003, ¶ 89.

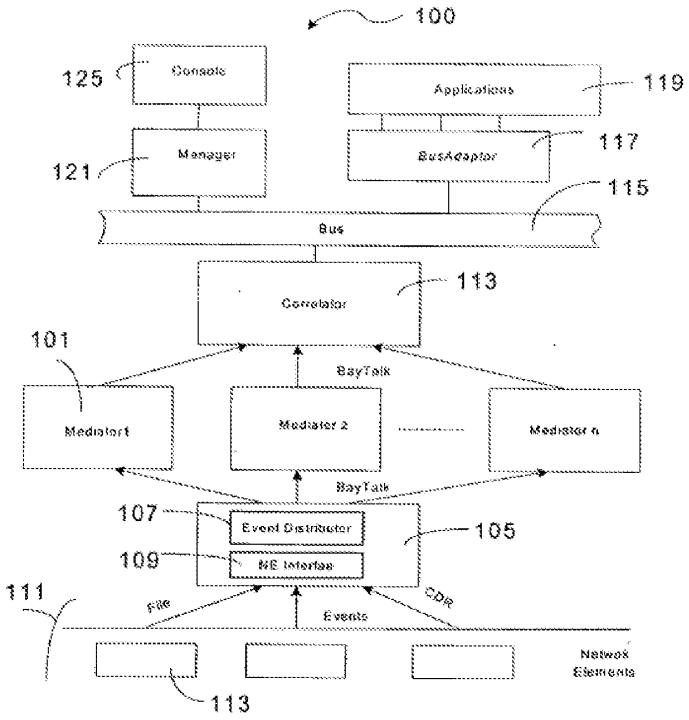


Figure 1

Verma presents a simplified diagram of a correlator. *Id.* at FIG. 3. The correlator module "is coupled between the mediator 101 and the bus 117, which interfaces to applications, including legacy systems." *Id.* at [0051]. Further, "[t]he correlator has various elements including application correlator 301, correlated event filter 303, record generator 305, customer database manager 307, customer database replicator and transport manager 309, and there may be other elements." *Id.* at [0052]. *Verma* explains how "[a] common protocol 311 is used to transport URs between the mediator and the correlator. The application correlator 301 identifies (after applying rules based correlation) if a higher level correlation is required and performs processing for such higher level correlation. Such processing includes sending partially correlated URs, which requires higher level correlation, to another correlator for further processing." *Id.* at [0053]. *See* Ex. 1003, ¶ 93.

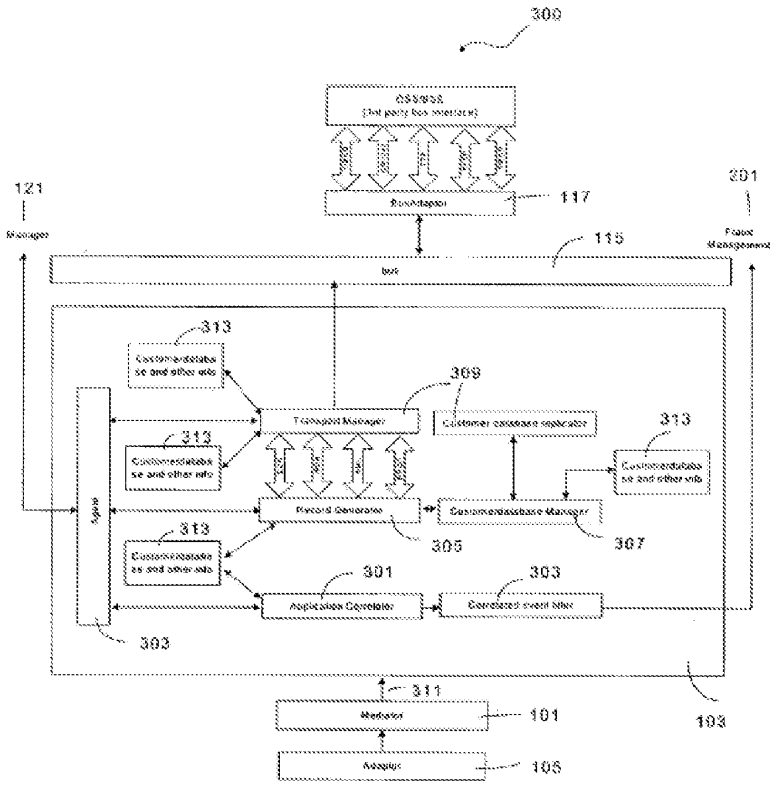


Figure 3

Verma further discloses a fault tolerance process. Specifically, *Verma* discloses that "[i]n case of failure of any mediator process distributor process is adapted to distribute incoming events for any one of the mediator processes that experiences a fault to the other 1 through N mediator processes excluding the mediator processe(s) that has experienced a fault." *Id.* at [0014]. Applying this understanding to the system, as shown in Figure 1, *Verma* discloses that if Mediator 1 is disabled, adapter 105 would distribute the events to a different mediator, such as Mediator 2. *Verma* discloses "a more detailed diagram of a fault tolerance process according to an embodiment of the present invention" in Figure 6. *See* Ex. 1003, ¶ 96.

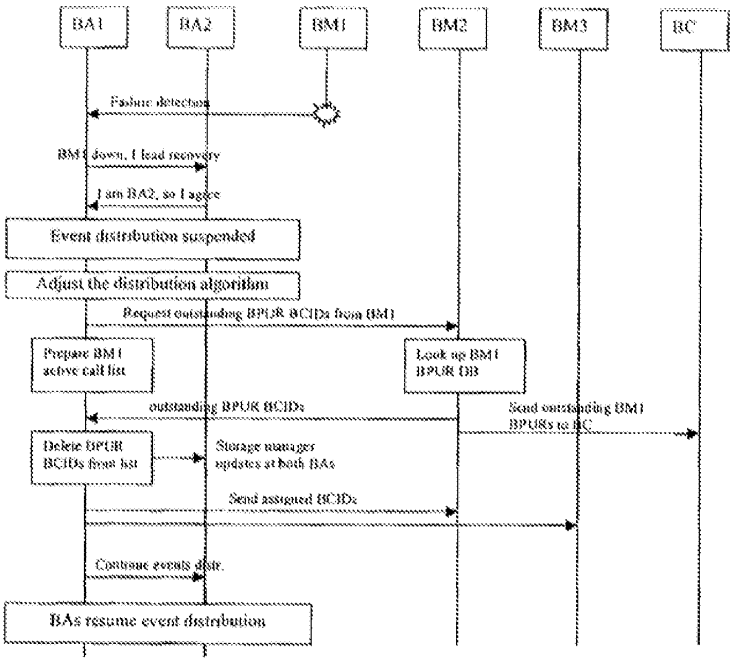


Figure 6

Verma is analogous art to the '282 Patent. *Nielson Decl.* (Ex. 1003), ¶ 97. The '282 Patent is in the field of "communications networks." *'282 Patent* (Ex. 1001), 1:5-6. Just like the '282 Patent, *Verma* is in the field of "telecommunications techniques" and "other types of networks." *See, e.g.*, *Verma* (Ex. 1004), [0004]. Further, *Verma* is reasonably pertinent to at least one problem concerning the inventor of the '282 Patent. For example, the '282 Patent was directed to solving the issue that communications networks need to deal with instances "when a fault is discovered." Ex. 1001, 1:18-21. Similarly, *Verma* is directed to "a fault tolerant system" that deals with instances in which a fault is discovered. Ex. 1004, [0014]. *See* Ex. 1003, ¶ 98.

2. *Verma* Presents Substantial New Questions of Patentability

Verma discloses all of the elements of claims 1-22 of the '282 Patent, including the use of a validation processing engine comprising at least one processing rule that operates on validation

information. Appendix AA shows in greater detail how *Verma* anticipates or at least renders obvious each and every element of claims 1-22.

Verma anticipates or at least renders obvious, each and every element of claims 1-22, and, therefore presents a substantial new question of patentability under both 35 U.S.C. §§ 102 and 103. A reasonable examiner would consider the teachings of *Verma* important in determining whether claims 1-22 are patentable because it was never considered during prosecution of the '282 Patent.

F. Secondary Considerations

This Request, including the attached claim chart(s) and expert declaration of Dr. Seth James Nielson, demonstrates that the Challenged Claims of the '282 Patent are unpatentable as obvious in view of the prior art references. The Applicant did not identify any evidence of secondary considerations during prosecution. Further, the clear teachings in the prior art outweigh any supposed "secondary considerations." *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 36 (1966).

II. DISCLOSURE OF CONCURRENT LITIGATION, REEXAMINATION, AND RELATED PROCEEDINGS

Based on information available to Requester, the '282 Patent is the subject of one prior District Court litigation, as listed below. Requester is unaware of any prior reexaminations or other post-grant proceedings in which the '282 Patent is or has been involved.

- *K.Mizra LLC v. Ciena Corporation*, Case No. 1:24-cv-05442 (N.D. Ga. November 25, 2024).

III. CONCLUSION

The Commissioner is hereby authorized to charge Deposit Account 50,6990 under Docket No. KMI282 the *Ex Parte* Reexamination fee of $13,545 under 37 C.F.R. § 1.20(c)(1). Requester believes no other fee is due with this submission, however the Commissioner is hereby authorized to charge any fee deficiency or credit any over-payment to Deposit Account 50,6990.

Please direct all correspondence in this matter to the undersigned.

Dated: 5/15/2025

Respectfully submitted,

By: /Jordan M. Rossen/
Jordan M. Rossen (Reg. No. 74,064)
David Seastrunk (Reg. No. 73,723)
Unified Patents, LLC
4445 Willard Ave., Suite 600
Chevy Chase, MD 20815
jordan@unifiedpatents.com
david@unifiedpatents.com
T: 202.701.1850

Counsel for Requester Unified Patents, LLC