

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FEDEX CORPORATION,
Petitioner,

v.

FLECTERE LLC,
Patent Owner.

IPR2020-00403
Patent 6,415,284 B1

Before DAVID C. McKONE, JOHN A. HUDALLA, and
STEPHEN E. BELISLE, *Administrative Patent Judges*.

BELISLE, *Administrative Patent Judge*.

JUDGMENT
Final Written Decision
Determining All Challenged Claims Unpatentable
35 U.S.C. § 318(a)

I. INTRODUCTION

A. Case Posture

FedEx Corporation (“Petitioner”) filed a Petition (Paper 1, “Pet.”) requesting an *inter partes* review of claims 1–21 of U.S. Patent No. 6,415,284 B1 (Ex. 1001, “the ’284 patent”). Flectere LLC (“Patent Owner”) waived filing of a preliminary response to the Petition. Paper 7. We instituted an *inter partes* review of claims 1–21 of the ’284 patent on all grounds of unpatentability alleged in the Petition. Paper 8 (“Institution Decision” or “Dec.”).

After institution, on September 16, 2020, Patent Owner informed the Board that it “has elected to not file a response” to the Petition. Ex. 3001. On September 24, 2020, pursuant to Section II.F of the Board’s Consolidated Trial Practice Guide¹ and the Scheduling Order in this case (Paper 9, 10), the Board held a teleconference with the parties to discuss the posture of this case and revision of due dates originally set in the Scheduling Order. *See* Paper 10. During the call, Patent Owner stated that it did not intend to request adverse judgment (*see* 37 C.F.R. § 42.73(b) (2019)), to cancel any challenged claims, or to otherwise abandon the contest. Paper 10, 2. Also during the call, we cautioned Patent Owner that “any arguments not raised in the response may be deemed waived.” Paper 9, 10; *see* 37 C.F.R. § 42.23(a) (“Any material fact not specifically denied may be considered admitted.”); *In re Nuvasive, Inc.*, 842 F.3d 1376, 1379–82 (Fed. Cir. 2016) (holding arguments of patent owner may be waived when not included in a preliminary response and response permitted during trial); *see*

¹ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

also *Papst Licensing GmbH & Co. KG v. Samsung Elecs. Am., Inc.*, 924 F.3d 1243, 1250 (Fed. Cir. 2019) (holding patent owner forfeited argument for patentability not presented to the Board); *Bradium Techs. LLC v. Iancu*, 923 F.3d 1032, 1048 (Fed. Cir. 2019) (explaining that arguments not presented to the Board are waived). Because Patent Owner elected to not file a response to the Petition, had not otherwise raised any issue in any paper filed in this case, and had not requested oral hearing in this case, on October 28, 2020, we ordered that this case would advance to final written decision under 35 U.S.C. § 318(a) on the present record. Paper 14.

We have jurisdiction under 35 U.S.C. § 6. The evidentiary standard is a preponderance of the evidence. *See* 35 U.S.C. § 316(e) (2018); 37 C.F.R. § 42.1(d). This Final Written Decision is issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73.

For the reasons discussed below, we determine Petitioner has established by a preponderance of the evidence that claims 1–21 of the '284 patent are unpatentable.

B. Related Proceedings

Petitioner indicates that the '284 patent was involved in three U.S. district court actions, namely, *Flectere LLC v. Academy, Ltd.*, 2:18-cv-00227 (E.D. Tex.) (dismissed Dec. 4, 2018); *Flectere LLC v. Sears Brands, LLC*, 2:18-cv-00228 (E.D. Tex.) (dismissed Dec. 4, 2018); and *Flectere LLC v. Staples, Inc.*, 2:18-cv-00229 (E.D. Tex.) (dismissed Sept. 24, 2018).

Pet. 69–70. Patent Owner indicates that there is no judicial or administrative matter that would affect, or be affected by, a decision in this proceeding.

Paper 4, 2.

Petitioner also indicates that the '284 patent was involved in *Unified Patents Inc. v. Flectere LLC*, IPR2019-00479 (PTAB Dec. 31, 2018), in which the Board denied institution. Pet. 69–70.

We also note that Petitioner (FedEx) and Patent Owner (Flectere) are the petitioner and patent owner, respectively, in IPR2020-00400 (involving U.S. Patent No. 6,401,094 B1) and IPR2020-00402 (involving U.S. Patent No. 6,272,506 B1), in which the Board instituted *inter partes* reviews. These two cases remain pending.

C. *The '284 Patent*

The '284 patent is titled “Intelligent Forms for Improved Automated Workflow Processing,” and issued on July 2, 2002, from U.S. Application No. 09/344,269, filed June 30, 1999. Ex. 1001, codes (10), (21), (22), (45), (54).

The '284 patent generally relates to intelligent or “smart” forms for improved automated workflow processing. Ex. 1001, Abstract. More specifically, the '284 patent is directed to:

[I]ntelligent forms [that] are intelligently pre-populated using a business database and include logic for verification of properly supplied data to minimize effort in filling in such forms and to minimize the risk of accepting invalid form data, thus reducing the system’s susceptibility to error.

Ex. 1001, 2:20–26. Figure 1 of the '284 patent is reproduced below.

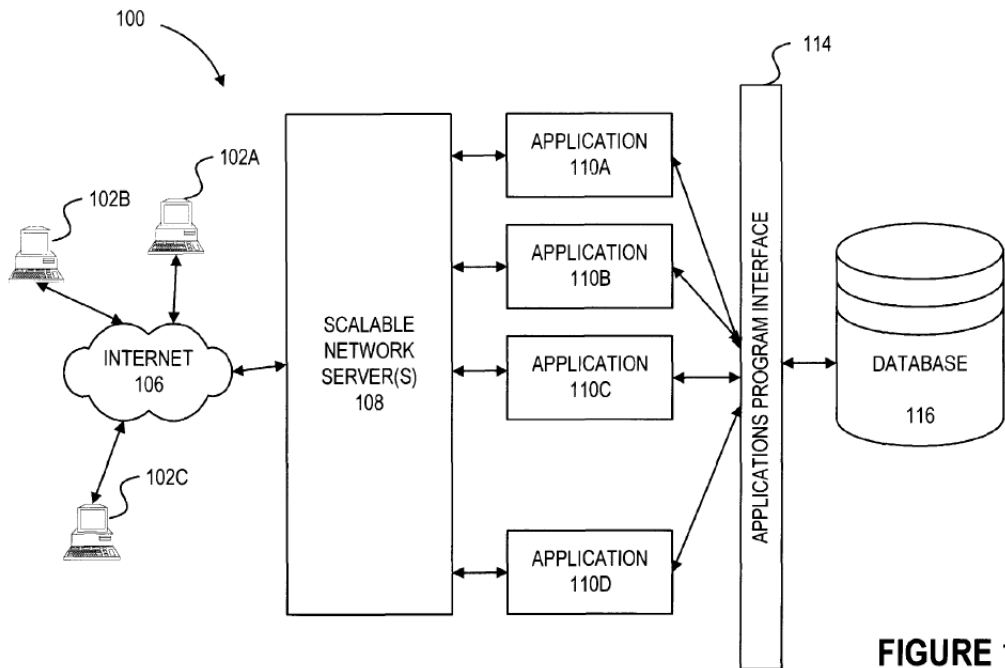


FIGURE 1

Figure 1 is a block diagram of computer system 100 for processing insurance applications that implements smart forms for workflow improvement.

Id. at 1:65–67, 2:26–28, Fig. 1.

As depicted in Figure 1, a “number of computers 102A–C are coupled through a wide area network 106, such as the Internet, to a scalable network server 108.” *Ex.* 1001, 2:33–35. Scalable network server 108 “routes data between computers 102A–C on one end and applications 110A–D on the other end.” *Id.* at 2:44–46. “Applications 110A–D access data in a database 116 through an applications programming interface (API) 114.” *Id.* at 2:47–48. Applications 110A–D perform a number of business functions, such as “payroll, accounting, benefits administration, and inter-office communications such as e-mail.” *Id.* at 2:49–53.

According to the '284 patent, applications 110A–D implement “workflows,” which include a number of actions to be taken by applications

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