UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE, INC., DOMINO'S PIZZA, INC., DOMINO'S PIZZA, LLC,
FANDANGO, LLC, AND OPENTABLE, INC.,
Petitioner,

v.

AMERANTH, INC.,
Patent Owner.

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Case CBM2014-00013
Patent No. 6,982,733 B1

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Before JAMESON LEE, MEREDITH C. PETRAVICK, and
NEIL T. POWELL, *Administrative Patent Judges.*

PETRAVICK, *Administrative Patent Judge.*

FINAL WRITTEN DECISION
Covered Business Method Patent Review
35 U.S.C. § 328(a) and 37 C.F.R. § 42.73

I. INTRODUCTION

Apple Inc., Fandango, LLC, OpenTable, Inc., Domino's Pizza, Inc., and Domino's Pizza, LLC (collectively, "Petitioner") filed a Petition (Paper 10, "Pet.") requesting review under the transitional program for covered business method patents of claims 1–16 of U.S. Patent No. 6,982,733 B1 (Ex. 1033, "the '733 patent"). On March 26, 2014, pursuant to 35 U.S.C. § 324, we instituted this trial as to claims 1–16 on the proposed ground of unpatentability under 35 U.S.C. § 101. Paper 23 ("Dec. to Inst."). Ameranth, Inc. ("Patent Owner") filed a Patent Owner Response (Paper 29, "PO Resp.") and Petitioner filed a Reply (Paper 30, "Reply").

An oral hearing in this proceeding was held on October 24, 2014. A transcript of the hearing is included in the record (Paper 34, "Tr."). The oral hearing was consolidated with the oral hearing for related CBM2014-00015 and CBM2014-00016.

We have jurisdiction under 35 U.S.C. § 6(c). This Final Written Decision is issued pursuant to 35 U.S.C. § 328(a) and 37 C.F.R. § 42.73.

For the reasons that follow, we determine that Petitioner has shown by a preponderance of the evidence that claims 1, 2, 4, 5, 10, and 12 of the '733 patent are unpatentable.

A. The '733 Patent

The '733 patent relates to an information management and synchronous communication system and method for generating and transmitting computerized menus for restaurants. Ex. 1033, Abstract. Figure 1 of the '733 patent is reproduced below:
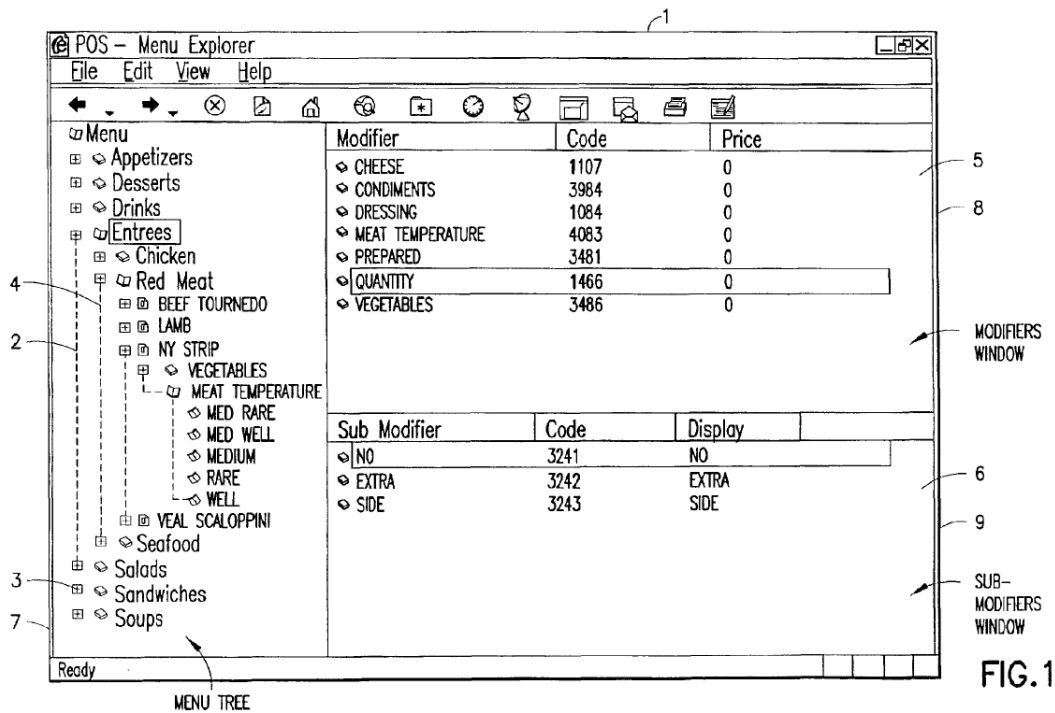
Figure 1 is a schematic representation of the menu display/user interface of the preferred embodiment of the '733 patent.

As shown in Figure 1, Graphical User Interface ("GUI") 1 includes menu tree 7, modifiers window 8, and sub-modifiers window 9. *Id.* at col. 7, ll. 44–48. GUI 1 is used to build a menu on a desktop or other computer. *Id.* at col. 7, ll. 28–29. Menu items are categorized and displayed in a hierarchical manner in menu tree 7. Modifiers (e.g., salad dressing) are shown in modifiers window 8, and sub-modifiers (e.g., Italian dressing, French dressing, Ranch dressing, etc.) are shown in sub-modifiers window 9. *Id.* at col. 7, ll. 30–36. Once the menu is built using GUI 1, the menu may be downloaded to a handheld device or web page. Ex. 1033, col. 10, ll. 1–9, col. 11, ll. 12–18.
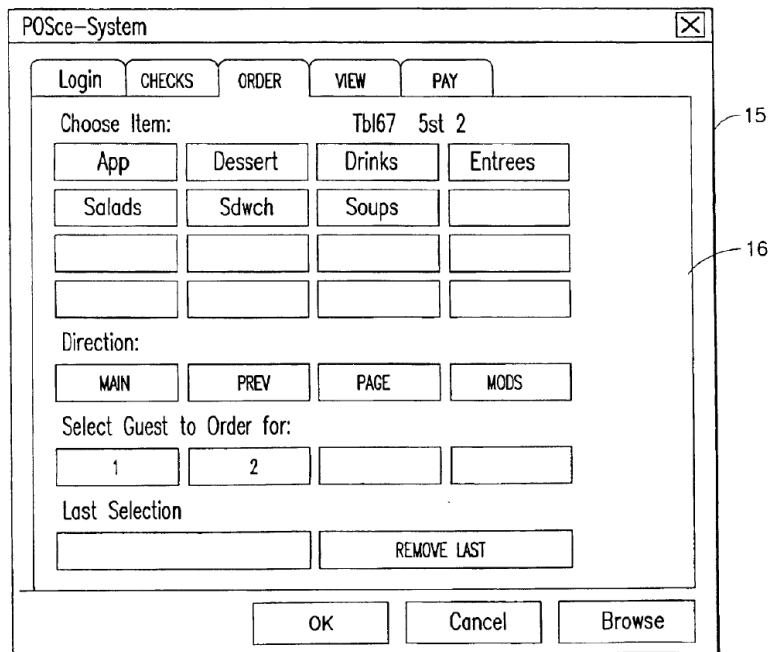
Figure 7 is reproduced below:

FIG.7

Figure 7 depicts the interface on a typical wireless device used in conformity
with the invention of the '733 patent.

As shown in Figure 7, "the page menu is displayed in a catalogue-like point-
and-click format . . . [thereby allowing] a person with little expertise [to]
'page through' to complete a transaction with the POS [point of sale]
interface and avoid having to review the entire menu of Fig. 1 to place an
order." Ex. 1033, col. 11, ll. 34–39. This interface could be shown on a
PDA or web page. *Id.* at col. 11, l. 40.
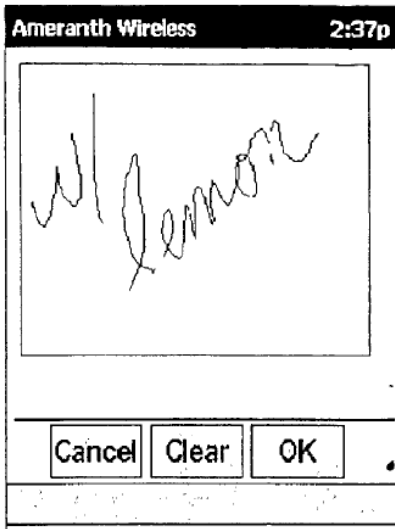
Figure 8 is reproduced below:

Figure 8 depicts the handwritten screen according to one embodiment of the '733 patent.

In one embodiment, a server may take a drink order by selecting "Iced Tea" from the menu on the handheld device. Ex. 1033, col. 4, ll. 6-7. As shown in Fig. 8, the server then may manually modify the order by writing "w/ lemon" on the screen on the device. *Id.* at col. 4, ll. 7–9, Fig. 8. The manually modified drink order is then presented to the individual preparing the drinks. *Id.* at col. 4, ll. 9–11.

B. Illustrative Claims

Claims 1 and 12 of the '733 patent are illustrative of the claims at issue and read as follows:

> 1. An information management and synchronous communications system for generating and transmitting menus comprising:
>
>> a. a central processing unit,
>>
>> b. a data storage device connected to said central processing unit,

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