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Paper 17
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CRS ADVANCED TECHNOLOGIES, INC.
Petitioner

v.

Patent of FRONTLINE TECHNOLOGIES, INC.
Patent Owner

Case CBM2012-00005
Patent 6,675,151C1

Before SALLY C. MEDLEY, THOMAS L. GIANNETTI, and JENNIFER S. BISK, *Administrative Patent Judges*.

BISK, *Administrative Patent Judge*.

DECISION

Institution of Covered Business Method Review

37 C.F.R. § 42.208

SUMMARY

On September 16, 2012, CRS Advanced Technologies, Inc. ("CRS" or "Petitioner") filed a Petition under 35 U.S.C. § 321, pursuant to Section

18 of the Leahy-Smith America Invents Act ("AIA") [1]. The Petition challenges claims 3, 6, 7, 16, 24, and 33 of U.S. Patent No. 6,675,151 (the "'151 patent") as unpatentable under 35 U.S.C. § 101 and under 35 U.S.C. § 112, ¶ 1 for lack of adequate written description support.

We determine that the '151 patent is a covered business method patent. Petitioner has demonstrated that it is more likely than not that the challenged claims are unpatentable under § 101 because they encompass only abstract unpatentable subject matter. However, Petitioner has not shown that it is more likely than not that the challenged claims are unpatentable under 35 U.S.C. § 112, ¶ 1. Thus, we institute a transitional covered business method review for claims 3, 6, 7, 16, 24, and 33 of the '151 patent based solely upon Petitioner's challenge that the claims are unpatentable under § 101.

THE '151 PATENT

The '151 patent generally relates to "human resources management." '151 Patent col. 1, ll. 14-15. In particular, the patent describes "automating the performance of substitute fulfillment to assign a replacement worker to substitute for a worker during a temporary absence, performing placement of floating workers, tracking absences and entitlements of workers, notifying interested parties regarding unexpected events and daily announcements, and bidding for temporary workers." '151 patent Abstract.

The patent describes known methods for supporting substitute fulfillment in the education field that typically use "one dedicated computer, combined with specialized telephony equipment, including multiple phone lines, and other equipment" and a database accessed through a dial-up

[1] Pub. L. No. 112–29, 125 Stat. 284 (2011).

connection. *Id.* at col. 3, ll. 36-42, ll. 51-56. The invention described in the '151 patent improves the prior art systems with a system implemented using a central database located on a server and accessed over a communication connection such as the Internet. *Id,* Abstract, col. 7, ll. 25-34. One preferred embodiment uses the described invention to fulfill substitute teller requirements in a retail bank. *Id.* at col. 14, ll. 47-50.

An ex parte reexamination of claims 3-13 of the '151 patent was granted on October 24, 2007 based upon several prior art references. A reexamination certificate was issued on October, 20, 2009 (prior to the decision in the Supreme Court case of *Bilski v. Kappos*) with original claims 1 and 2, amended claims 3, 6, and 9, and new claims 14-55. Ex. 1002.

The challenged claims encompass a method and system of substitute fulfillment "for a plurality of organizations." Ex. 1002 claims 3 and 6. The Petition challenges six claims; claims 3 and 6 are independent claims, claim 7 depends from claim 6, and claims 16, 24, and 33 depend from claim 3. Claim 3 is as follows:

> A method for performing substitute fulfillment for a plurality of different organizations comprising:
>
> receiving absentee information representing an absent worker that will be or is physically absent from an organization worksite via at least one communication link;
>
> generating and posting by one or more computers a list of one or more positions of one or more absent workers that need to be filled by one or more substitute workers on a website and providing, for one or more of the positions, information indicating directly or indirectly an organization worksite location for the respective position;
>
> receiving a response [by] comprising an acceptance, by the one or more computers, from a substitute worker selecting a posted position on the website via an Internet communication link; and
>
> securing, in response to receiving the acceptance from the substitute worker, via the Internet communication link and the one or

more computers, the posted position for the substitute worker who selected the posted position to fill in for the absent worker, the securing comprising halting, at the one or more computers, further processing to fulfill the posted position with any other substitute worker.

Claim 6 is as follows:

A substitute fulfillment system that secures one or more substitute workers for a plurality of organizations comprising:

a database comprising worker records, said worker records having information associated with workers for each of the organizations, and substitute records, said substitute records having information associated with at least one substitute worker, and;

one or more computers comprising a server connected to the database, the server configured for:

receiving absentee information representing an absent worker that will be or is physically absent from an organization worksite via at least one communication link;

generating and posting a list of one or more positions of one or more absent workers that need to be filled by one or more substitute workers on a website and providing, for one or more of the positions, information indicating directly or indirectly an organization worksite location for the respective position;

receiving a response [by] comprising an acceptance from a substitute worker selecting a posted position on the website via an Internet communication link; and

securing, in response to receiving the acceptance from the substitute worker, via the Internet communication link and the one or more computers, the posted position for the substitute worker who selected the posted position to fill in for the absent worker, the securing comprising halting, at the one or more computers, further processing to fulfill the posted position with any other substitute worker.

CLAIM CONSTRUCTION

As a step in our analysis for determining whether to institute a trial, we determine the meaning of the claims. Consistent with the statute and the legislative history of the AIA, the Board will interpret claims using the broadest reasonable construction. *See* Office Patent Trial Practice Guide, 77

Fed. Reg. 48756, 48766 (Aug. 14, 2012); 37 CFR § 100(b). This is true even if a district court has construed the patent claims.[2] *See* Changes to Implement *Inter Partes* Review Proceedings, Post-Grant Review Proceedings, and Transitional Program for Covered Business Method Patents, Final Rules, 77 Fed. Reg. 48,680, 48,697(Aug. 14, 2012) (citing *In re NTP, Inc.*, 654 F.3d 1269, 1274 (Fed. Cir. 2011)).

There is a "heavy presumption" that a claim term carries its ordinary and customary meaning. *CCS Fitness, Inc. v. Brunswick Corp*., 288 F.3d 1359, 1366 (Fed. Cir. 2002). By "plain meaning" we refer to the ordinary and customary meaning the term would have to a person of ordinary skill in the art. Such terms have been held to require no construction. *E.g., Biotec Biologische Naturverpackungen GmbH & Co. KG v. Biocorp, Inc.,* 249 F.3d 1341, 1349 (Fed. Cir. 2001) (finding no error in non-construction of "melting"); *Mentor H/S, Inc. v. Med. Device Alliance, Inc.,* 244 F.3d 1365, 1380 (Fed. Cir. 2001) (finding no error in court's refusal to construe "irrigating" and "frictional heat").

Petitioner provides a table of several claim terms along with their purported broadest reasonable interpretations in view of the specification. Pet. 18-19. Patent Owner does not directly address these proposed interpretations. *See generally* Prelim. Resp. With two exceptions, we agree that for purposes of this decision Petitioner's proposed constructions provided in the table spanning pages 18-19 of the petition correspond to the plain and ordinary meaning in the context of the

[2] In this case, there has been a construction of some of the terms of this patent in a district court case. *Frontline Placement Techs., Inc. v. CRS, Inc.,* No. 2:07-cv-2457 (E.D. Pa.) (Markman Order Feb. 8, 2011). Neither party asserts that the district court's construction is relevant here.

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