

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INDEED, INC. and MONSTER WORLDWIDE INC.,
Petitioner,

v.

CAREER DESTINATION DEVELOPMENT, LLC,
Patent Owner.

Case CBM2014-00068
Patent 7,424,438 B2

Before SALLY C. MEDLEY, MEREDITH C. PETRAVICK, and
JUSTIN BUSCH, *Administrative Patent Judges*.

BUSCH, *Administrative Patent Judge*.

DECISION
Institution of Covered Business Method Patent Review
37 C.F.R. § 42.208

I. INTRODUCTION

A. Background

On February 12, 2014, Indeed, Inc. (“Indeed”) and Monster Worldwide Inc. (“Monster”) (collectively “Petitioner”) filed a Petition (Paper 3) requesting review of claims 1–25 of U.S. Patent No. 7,424,438 B2 (Ex. 1001, “the ’438 patent”) under the transitional program for covered business method patents.¹ Career Destination Development, LLC (“Patent Owner”) did not file a preliminary response.

We have jurisdiction under 35 U.S.C. § 324, which provides that a post-grant review may not be instituted “unless . . . the information presented in the petition . . . would demonstrate that it is more likely than not that at least 1 of the claims challenged in the petition is unpatentable.”

B. Standing

Section 18 of the AIA governs the transitional program for covered business method patent reviews. Section 18(a)(1)(B) of the AIA limits such reviews to persons or their privies that have been sued or charged with infringement of a covered business method patent.

Petitioner and Patent Owner indicate that the ’438 patent was asserted against Monster and Indeed in *Career Destination Dev. LLC v. Monster Worldwide, Inc.*, Case No. 13-CV-2434 (D. Kan. filed Aug. 26, 2013) and *Career Destination Dev. LLC v. Indeed, Inc.*, Case No. 13-CV-2486 (D.

¹ See § 18(a) of the Leahy-Smith America Invents Act, Pub. L. No. 112-29, 125 Stat. 284, 329 (2011) (“AIA”).

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Kan. filed Sep. 17, 2013),² respectively. Pet. 3; Mandatory Notice of Patent Owner (Paper 7), 2.

C. Related Proceedings

Petitioner filed a second petition for covered business method patent review of the '438 patent (*Monster Worldwide Inc. v. Career Destination Dev., LLC*, Case CBM2014-00077 (PTAB Feb. 21, 2014)). Additionally, two petitions for covered business method patent review of U.S. Patent No. 8,374,901 B2 (*Indeed, Inc. v. Career Destination Dev., LLC*, Case CBM2014-00069 (PTAB Feb. 12, 2014) and *Monster Worldwide Inc. v. Career Destination Dev., LLC*, Case CBM2014-00070 (PTAB Feb. 12, 2014)), which is a divisional application of the application resulting in the '438 patent and also allegedly asserted by Patent Owner in the identified litigations, were filed simultaneously.

D. The '438 Patent (Ex. 1001)

The invention of the '438 patent relates generally to methods and systems for facilitating contact information exchange between employers and candidates (interchangeably referred to throughout the '438 patent as “talent” or “job-seekers”) when a potential match is found. Ex. 1001, 5:53–6:11. The '438 patent discloses that there are various ways of identifying prospective matches and that a request for exchange of contact information may be initiated by either the employer or the candidate. *Id.*

The '438 patent describes conventional computers, networks, personal digital assistants (“PDAs”), and web applications that may include the use of conventional web, database, and email servers, which may be individual or

² The Petition contains a typo in the case name, erroneously identifying Monster as the defendant. The defendant in the case is Indeed.

integrated servers. *Id.* at 7:49–8:53. The '438 patent also describes various methods of charging for the exchange of contact information. One disclosed embodiment charges an employer a fee prior to providing a candidate's contact information based on the education level of the candidate. *Id.* at 9:3–14. Another embodiment charges an employer a flat fee, regardless of the education level of the candidate or compensation required by the candidate, prior to releasing contact information. *Id.* at 9:14–16. Yet another embodiment discloses charging an employer a fee based on the maximum offered compensation before providing the employer with the candidate's contact information. *Id.* at 9:17–19. Another embodiment may use a combination of factors to determine the fee charged to an employer prior to releasing the candidate's contact information. *Id.* at 9:19–23.

When the employer searches for candidate profiles matching certain criteria, the employer may initiate the transactions resulting in an exchange of contact information. *Id.* at 10:16–20. When a candidate searches for employment opportunities, the candidate may initiate the transactions resulting in an exchange of contact information. *Id.* at 10:20–23. As part of the process leading to the exchange of contact information, the system compares various parameters of the candidate and job listing to determine if there is a match. *Id.* at 10:24–32. In some embodiments, once a pool of prospective matches are identified, the system determines whether a maximum compensation the employer is willing to pay is greater than the minimum compensation the talent is willing to accept. *Id.* at 44:14–17; Fig. 10, item 1017; *see also* Fig. 4, item 417. If there is not a match, the system may offer the opportunity for the searcher to alter parameters (either for the candidate herself or for the employer's job posting) in an attempt to generate

a match with the identified job listing or candidate profile. *Id.* at 10:33–11:2.

If the candidate initiates the request for an exchange of contact information, that action serves as the candidate’s authorization for releasing her contact information, and the transaction is completed if the employer then elects to purchase the contact information. *Id.* at 11:8–15. If the employer initiates the request for an exchange of contact information, that action serves as the employer’s consent to purchase the contact information, and the transaction is completed if the candidate then indicates interest in the job opportunity. *Id.* at 11:26–32. If the non-initiating party does not respond, their account may be suspended. *Id.* at 29:52–65, 35:39–65. The system may transmit contact information by any communications means, including fax, e-mail, or an authenticated web page. *Id.* at 11:56–60. An employer may pay for the exchange of contact information with a credit card, a prepaid account, or by invoice. *Id.* at 47:31–35.

E. Illustrative Claim

All of the claims of the ’438 patent are challenged and, of those claims, claims 1, 9, 12, 17, 22, and 23 are independent claims. Claim 1 is illustrative of the claimed subject matter of the ’438 patent, and is reproduced as follows:

1. A method executed by a computer processor for authorizing information exchange between at least one of a plurality of candidates and at least one of a plurality of employers prior to any direct contact between said candidate and said employer, said candidate having one or more candidate attributes including candidate minimum requirements, said employer having one or more employer attributes including employer minimum requirements, said one or more candidate attributes and minimum requirements including a searchable profile being

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