

Case CBM2015-00049

Patent 7,062,749

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

Hewlett-Packard Company,

Petitioner,

v.

YYZ LLC,

Patent Owner.

---

Case CBM2015-00049

Patent 7,062,749

---

**PATENT OWNER YYZ LLC'S PRELIMINARY RESPONSE  
PURSUANT TO 37 C.F.R. §42.107**

## Table of Contents

I. INTRODUCTION.....	3
A. The ‘749 Patent.....	4
1. <i>Background of the Technological Problem</i> .....	4
2. <i>The Solutions of the ‘749 Patent</i> .....	7
3. <i>Illustrative Claim</i> .....	9
B. Prosecution History .....	10
1. <i>Original Prosecution</i> .....	10
2. <i>Ex Parte Reexamination Prosecution History</i> .....	12
II. THE BOARD SHOULD DENY INSTITUTION .....	16
A. Petitioner Lacks Standing to Bring this Action .....	16
1. <i>The Claims Are Directed to Technology Common in Business Environments Across Sectors</i> .....	17
2. <i>The Written Description Does Not Support Petitioner’s Position</i> .....	20
3. <i>The Claims Are For a Technological Invention</i> .....	26
4. <i>The Patent Solves a Technological Problem</i> .....	31
B. Petitioner’s Claim Construction Ignored the Reexamination.....	33
C. Petitioner’s 101 Attack Ignores the Words of the Claims and the Findings of the Reexamination.....	33
D. Petitioner’s eSleuth Attack Ignores the Reexamination .....	36
E. Petitioner’s Combined References Don’t Work .....	39
III. CONCLUSION.....	40

## Exhibit List

**Ex. 2001** - US Patent No. 7,003,781 issued to Blackwell et al.

## I. INTRODUCTION

Patent Owner, YYZ LLC, (“Patent Owner”) submits the following preliminary response to the Petition for Covered Business Method Review under 35 U.S.C. § 321 filed on December 22, 2014 (“the Petition”) by Hewlett Packard Company (“Petitioner”) seeking CBM review and cancellation of claims 22-23 and 27-29 of U.S. Patent 7,062,749 (the “Patent” or “the ‘749 Patent”.) This response is timely pursuant to the Board’s Notice in Paper No. 3.

The Board should decline to institute a covered business method review for four reasons.

First, the Board should reject the Petition because, as discussed below, the Petitioner fails to carry its burden that the claims at issue are a covered business method. In fact, Petitioner fails to show any evidence at all in support of its argument.

Second, the Board should reject Petitioner’s 35 U.S.C. § 101 attack. As discussed below, Petitioner’s § 101 argument both: a) ignores the words of the claims of the ‘749 Patent; and, b) ignores statements in the prosecution history construing the claims, including both the original

prosecution and an *ex parte* Reexamination, Control No. 90/009,961 (“the Reexamination.”))

Third, the Board should reject the use of Petitioner’s eSleuth product as a prior art reference under 35 U.S.C. §§ 102 and 103, because as discussed below, the Petition raises the same issues and features that the Office had already thoroughly considered during the Reexamination.

Fourth, the Board should reject the 35 U.S.C. § 103 attack on the Patent using a combination of the IBM MQSeries Integrator (“MQI”) and Linthicum references, as discussed below. The Linthicum references are exactly the opposite of Petitioner's claim and neither reference supports the combination.

Accordingly it is submitted, the Board should deny institution of review of the ‘749 Patent.

**A. The ‘749 Patent**

*1. Background of the Technological Problem*

The '749 patent relates to an apparatus and systems for measuring, monitoring, tracking and simulating enterprise communications and processes in an asynchronous messaging environment. (The ‘749 Patent, Pet. Ex. 1001, 1:5-10.)

Communications in an enterprise used to be primarily synchronous, or connection oriented, in which a connection is established with prior coordination between communication end points with data then being transmitted over the connection. Enterprise communications have now become increasingly asynchronous, or connectionless, however, transmitting data without prior coordination between communication end points, such as through "event based" communications which use messages to move data instead of large files, permitting more flexibility in assembling and modifying enterprise communications. ('749 Patent, 1:39-48)

However, although the flexibility of an asynchronous messaging based environment is desirable, asynchronous or message based communications are problematic because of their loosely coupled nature; for example messages may be in transit and not instantly locatable so their status data isn't known, so that an enterprise that uses an asynchronous messaging environment for its operations or processes would have problems attempting to monitor the operations or processes. ('749 Patent, 2:5-19)

An enterprise or business, for example, may use a process known as Order To Cash. Figure 1 of the patent shows such a business process, comprised of various sub processes: Receive Order Inquiry, Provide Customer Quotation, Create Customer Outline Agreement, Create Sales

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.