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Paper 9
Entered: June 30, 2015

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 B2

Before THOMAS L. GIANNETTI, RICHARD E. RICE, and MICHELLE N. WORMMEESTER, *Administrative Patent Judges*.

RICE, *Administrative Patent Judge*.

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

I. INTRODUCTION

Hewlett-Packard Co. ("Petitioner") filed a Petition (Paper 1, "Pet.") requesting a review of U.S. Patent No. 7,062,749 B2 (Ex. 1001, "the '749 Patent") under the transitional program for covered business method patents, and YYZ LLC ("Patent Owner") filed a Preliminary Response (Paper 7, "Prelim. Resp."). We have jurisdiction under 35 U.S.C. § 324,[1] which provides that a post-grant review may not be instituted "unless . . . it is more likely than not that at least 1 of the claims challenged in the petition is unpatentable." 35 U.S.C. § 324(a).

Petitioner challenges the patentability of claims 22, 23, and 27–29 of the '749 Patent under 35 U.S.C. §§ 101, 102, and 103. We determine that the information presented in the Petition demonstrates that it is more likely than not that each of the challenged claims is unpatentable. Pursuant to 35 U.S.C. § 324, we authorize a covered business method patent review to be instituted as to claims 22, 23, and 27–29.

A. Related Proceedings

We are informed that the following related federal district court cases involve the '749 Patent: *YYZ, LLC v. Hewlett Packard Co.*, No. 1:13-cv-00136-SLR (D. Del.); *YYZ, LLC v. Adobe Systems, Inc.*, No. 1:13-cv-00579-SLR (D. Del.); and *YYZ, LLC v. PegaSystems, Inc.*, No. 1:13-cv-00581-SLR

[1] *See* Section 18(a) of the Leahy-Smith America Invents Act ("AIA"), Pub. L. No. 112-29, 125 Stat. 284, 329 (2011).

(D. Del.). Pet. 3; *see* Paper 5, 1. We also are informed that Petitioner has filed a petition requesting review of U.S. Patent No. 7,603,674 B2, for which the '749 Patent is the parent. *Id.*; *see* CBM2015-00050, Paper 2.

B. The '749 Patent (Ex. 1001)

The '749 Patent, titled "MEASURING, MONITORING AND TRACKING ENTERPRISE COMMUNICATIONS AND PROCESSES," issued June 13, 2006, from U.S. Patent Application No. 09/737,494, filed December 15, 2000. The '749 Patent relates to computer-based systems for measuring, monitoring, tracking, and simulating enterprise communications and processes in an "asynchronous messaging environment." Ex. 1001, 1:10–11, 3:3–6. As described in the Specification, enterprise communications are "increasingly asynchronous or message based." *Id.* at 1:38–39. The Specification further explains:

> That is, enterprise communications were formerly 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 are now increasingly asynchronous, or connectionless, 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.

Id. at 1:39–48. A problem identified with such "asynchronous or message based" communications is that, "[a]t any given time, precise information on the progress of the processes is difficult to obtain—messages may be in transit and not instantly locatable." *Id.* at 2:5–9.

The Specification describes a sample process referred to as "Order to Cash," in which the sub-processes communicate through "a *messaging broker*, such as an [International Business Machines ("IBM")] MQSeries component." Ex. 1001, 3:38–48 (emphasis added). A "*messaging component*," which is added to the messaging broker through methods known in the art, "creates a *'monitoring' message* for each original message received by the broker." *Id.* at 3:51–54 (emphasis added). The monitoring message contains data generated from the original message. *Id.* at 3:54–57. The messaging broker then sends the monitoring message to a *central database repository*. *Id.* at 3:57–60 (emphasis added). "The messaging component may be, in some embodiments, or may not be, in other embodiments, provided by the messaging broker." *Id.* at 3:62–64. The Specification discloses that "IBM's MQSeries messaging broker provides a component that can be configured to perform a copying function for the messages it receives, and so create monitoring messages for the messages it receives." *Id.* at 3:63–67.

As described in the Specification and shown in Figure 2, the "Order to Cash" process includes the sub-processes: "Receive Order Inquiry, Provide Customer Quotation, Create Customer Outline Agreement, Create Sales Order, Schedule Production, Manufacture Product, Ship Product and Invoice Customer." Ex. 1001, 3:38–42. Figure 2 of the '749 Patent is reproduced below.

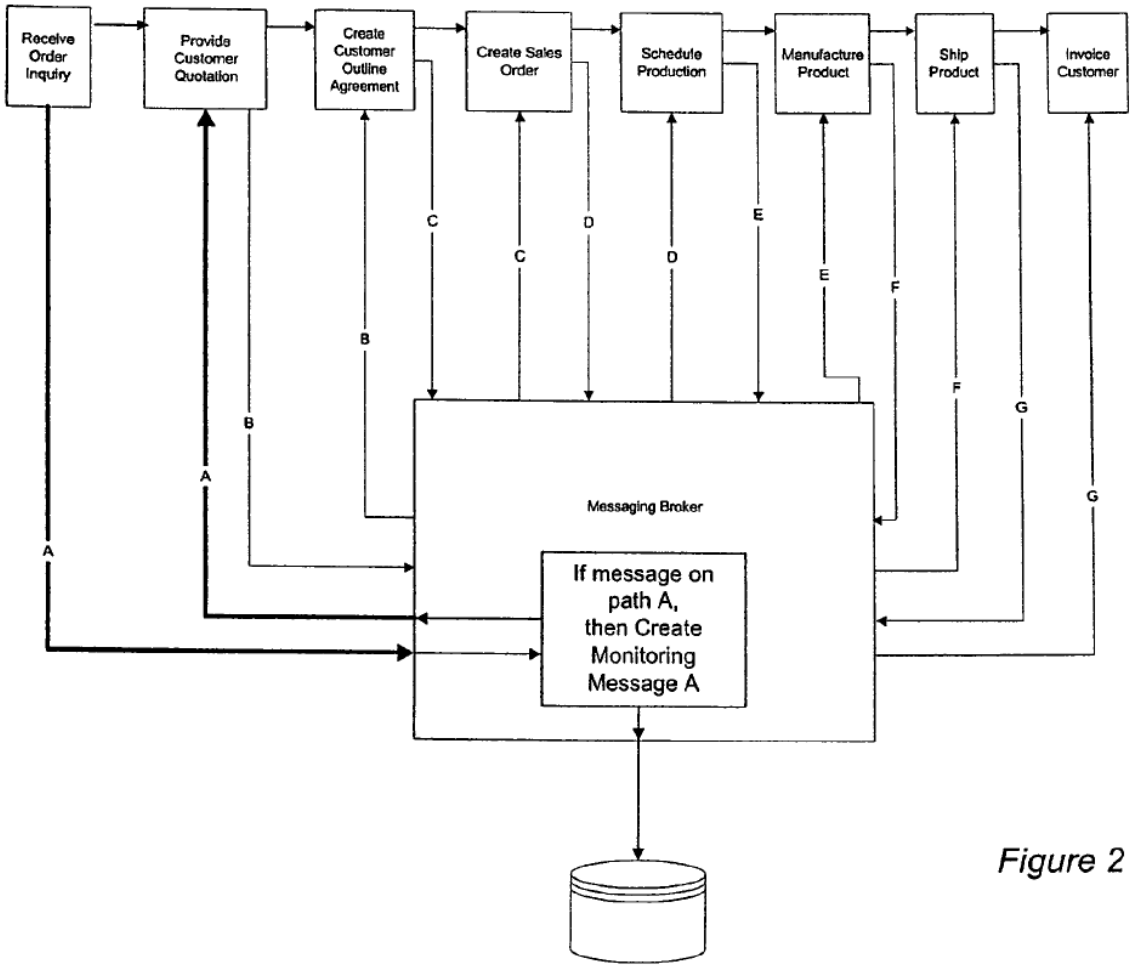

Figure 2

Figure 2 shows a view of a process of a preferred embodiment. Ex. 1001, 2:57–58.

As illustrated in Figure 2, the messaging broker, upon receiving an original message on path A, creates a monitoring message containing data generated from the original message on path A, and sends it to the central database repository. Ex. 1001, 4:12–17. "The central message database can be reviewed in any number of ways, in order to measure, monitor, and track enterprise communications and processes, e.g., to provide information or generate reports." *Id.* at 5:1–4.

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