

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of: Racz et al. Attorney Docket No.: 39843-0008CP3
U.S. Patent No.: 8,336,772
Issue Date: December 25, 2012
Appl. Serial No.: 13/212,047
Filing Date: August 17, 2011
Title: DATA STORAGE AND ACCESS SYSTEMS

Mail Stop Patent Board

Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION FOR COVERED BUSINESS METHOD PATENT REVIEW OF
UNITED STATES PATENT NO. 8,336,772 PURSUANT TO 35 U.S.C. § 321
AND § 18 OF THE LEAHY-SMITH AMERICA INVENTS ACT

TABLE OF CONTENTS

I.	MANDATORY NOTICES UNDER 37 C.F.R § 42.8(a)(1).....	1
	A. Real Party-In-Interest Under 37 C.F.R. § 42.8(b)(1).....	1
	B. Related Matters Under 37 C.F.R. § 42.8(b)(2).....	1
	C. Lead And Back-Up Counsel Under 37 C.F.R. § 42.8(b)(3).....	2
II.	PAYMENT OF FEES	2
III.	REQUIREMENTS FOR CBM UNDER 37 C.F.R. § 42.304.....	3
	A. Grounds for Standing Under 37 C.F.R. § 42.304(a).....	3
	B. Challenge Under 37 C.F.R. § 42.304(b) and Relief	3
	C. Claim Construction under 37 C.F.R. §§ 42.304(b)(3).....	4
	D. The ‘772 Patent is a Covered Business Method Patent.....	7
	E. The ‘772 Patent Is Not Directed to a Technological Invention, And Thus, Should Not Be Excluded From the Definition of a CBM Patent. 10	
IV.	SUMMARY OF THE ‘772 PATENT.....	13
	A. Brief Description.....	13
V.	IT IS MORE LIKELY THAN NOT THAT AT LEAST ONE CLAIM OF THE ‘772 PATENT IS UNPATENTABLE.....	15
	A. GROUND 1 – Claims 5, 10, 14, 26, and 32 are Patent Ineligible Under 35 U.S.C. § 101.....	15
	1. Legal Standard.....	15
	2. Claims 5, 10, 14, 26 and 32 of the ‘772 Patent Recite an Abstract Idea that Can be Performed in the Human Mind and by a Human Using a Pen and Paper.....	21
	3. Claims 5, 10, 14, 26 and 32 of the ‘772 Patent Preempt All Effective Uses of the Abstract Idea of Enabling Limited Use of Paid-For/Licensed Content.....	58
	4. Claims 5, 10, 14, 26 and 32 of the ‘772 Patent are Not Tied to a Particular Machine in any Manner that Would Make these Claims Patent-Eligible	61
	5. Claims 5, 10, 14, 26 and 32 of the ‘772 Patent Do Not Transform Anything in any Manner that Would Make these Claims Patent- Eligible	64
VI.	CONCLUSION.....	66

EXHIBITS

- SAMSUNG-1001 U.S. Patent No. 8,336,772 to Racz et al. (“the ‘772 Patent”)
- SAMSUNG-1002 Excerpts from the Prosecution History of the ‘772 Patent (“the Prosecution History”)
- SAMSUNG-1003 Declaration of Dr. Jeffrey Bloom re the ‘772 Patent
- SAMSUNG-1004 RESERVED
- SAMSUNG-1005 RESERVED
- SAMSUNG-1006 RESERVED
- SAMSUNG-1007 PCT Application PCT/GB00/04110 (“the ‘110 Appln”) or
(‘110)
- SAMSUNG-1008 United Kingdom Patent Application GB9925227.2 (“the ‘227.2
Appln.”) (‘227.2)
- SAMSUNG-1009 Transitional Program for Covered Business Method Patents—
Definitions of Covered Business Method Patent and Technologi-
cal Invention, 77 Fed. Reg. 157 (Aug. 14, 2012)
- SAMSUNG-1010 A Guide to the Legislative History of the America Invents Act;
Part II of II, 21 Fed. Cir. Bar J. No. 4
- SAMSUNG-1011 Interim Guidance for Determining Subject Matter Eligibility for
Process Claims in View of *Bilski v. Kappos* (Jul. 27, 2010)
- SAMSUNG-1012 *Apple Inc. v. Sightsound Technologies, LLC*, CBM2013-00019
Paper No. 17 (entered Oct. 8, 2013) at 11-13
- SAMSUNG-1013 *Volusion, Inc. v. Versata Software, Inc. and Versata Develop-
ment Group, Inc.*, CBM2013-00017 Paper No. 8 (entered Oct.
24, 2013)

SAMSUNG-1014 Salesforce.com, Inc. v. VirtualAgility, Inc., CBM2013-00024
Paper No. 16 (entered Nov. 19, 2013)

SAMSUNG-1015 RESERVED

SAMSUNG-1016 RESERVED

SAMSUNG-1017 RESERVED

SAMSUNG-1018 RESERVED

SAMSUNG-1019 RESERVED

SAMSUNG-1020 RESERVED

SAMSUNG-1021 RESERVED

SAMSUNG-1022 RESERVED

SAMSUNG-1023 RESERVED

SAMSUNG-1024 RESERVED

SAMSUNG-1025 RESERVED

SAMSUNG-1026 RESERVED

SAMSUNG-1027 RESERVED

SAMSUNG-1028 Weinstein “MasterCard Plans Point-of-Sale Product for Merchants Leery of Bank Cards”, April 6, 1984

SAMSUNG-1029 Mayo Collaborative Serv. v. Prometheus Labs., Inc., 132 S.Ct. 1289 (2012)

SAMSUNG-1030 Gottschalk v. Benson, 409 U.S. 63 (1972)

- SAMSUNG-1031 CyberSource Corp. v. Retail Decisions, Inc., 654 F.3d 1366 (Fed. Cir. 2011)
- SAMSUNG-1032 Bilski v. Kappos, 130 S.Ct. 3218 (2010)
- SAMSUNG-1033 Alice Corp. Pty. Ltd. v. CLS Bank International, 134 S.Ct. 2347 (2014)
- SAMSUNG-1034 Bancorp Serv., L.L.C. v. Sun Life Assur. Co. of Canada (U.S.), 687 F.3d 1266 (Fed. Cir. 2012)
- SAMSUNG-1035 Dealertrack, Inc. v. Huber, 674 F.3d 1315 (Fed. Cir. 2012)
- SAMSUNG-1036 SiRF Tech., Inc. v. Int’l Trade Comm’n, 601 F.3d 1319 (Fed. Cir. 2010)
- SAMSUNG-1037 In re Bilski, 545 F.3d 943, 88 U.S.P.Q.2d 1385 (Fed. Cir. 2008)
- SAMSUNG-1038 Accenture Global Services, GmbH v. Guidewire Software, Inc., 728 F.3d 1336 (Fed. Cir. 2013)
- SAMSUNG-1039 Keith, Michael C., The Radio Station: Broadcast, Satellite and Internet (8th ed. 2009)
- SAMSUNG-1040 Russell Sanjek, Pennies from Heaven: The American Popular Music Business in the Twentieth Century (1996)(“Pennies from Heaven”)
- SAMSUNG-1041 ASCAP, “ASCAP’s Survey and Distribution System: Rules & Policies” (2014)
- SAMSUNG-1042 ASCAP, “ASCAP Payment System: Identifying Performances” (2014)
- SAMSUNG-1043 Billboard Newspaper, Ross, “BMI to Log Airplay at College Stations” (November 12, 1988)
- SAMSUNG-1044 BMI, “Royalty Policy Manual” (2014)

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.