

PETITION FOR POST-GRANT REVIEW
OF U.S. PATENT NO. 6,982,733

**UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD**

**FANDANGO, LLC, OPENTABLE, INC., APPLE INC., DOMINO'S PIZZA,
INC., AND DOMINO'S PIZZA, LLC**

Petitioners

v.

AMERANTH, INC.

Patent Owner

**U.S. Patent No. 6,982,733
Issue date: January 3, 2006**

**Title: Information Management and Synchronous Communications System
with Menu Generation, and Handwriting and Voice Modification of Orders**

CBM: Unassigned

**PETITION FOR COVERED BUSINESS METHOD REVIEW
OF U.S. PATENT NO. 6,982,733 UNDER 35 U.S.C. § 321
AND § 18 OF THE LEAHY-SMITH AMERICA INVENTS ACT**

PETITION FOR POST-GRANT REVIEW
OF U.S. PATENT NO. 6,982,733

TABLE OF CONTENTS

	<u>PAGE</u>
I. INTRODUCTION	1
A. The Challenged Claims Fail to Satisfy the Written Description and Definiteness Requirements of § 112	4
B. The Challenged Claims Fail to Claim Patentable Subject Matter under § 101	7
II. REQUIRED DISCLOSURES	9
A. Mandatory Notices	9
1. Real Parties-in-Interest (37 C.F.R. § 42.8(b)(1)).....	9
2. Related Matters (37 C.F.R. § 42.8(b)(2))	10
3. Lead and Back-Up Counsel (37 C.F.R. § 42.8(b)(3))	11
4. Service Information (37 C.F.R. § 42.8(b)(4)).....	11
B. Filing Date Requirements.....	12
1. Compliance with 37 C.F.R. § 42.304	12
2. Certificate of Service on Patent Owner (37 C.F.R. § 42.205(a)).....	12
3. The Filing Fee (37 C.F.R. §§ 42.15(b) and 42.203(a)).....	13
C. Additional Disclosures	13
1. At Least One Challenged Claim Is Unpatentable (37 C.F.R. § 42.208(c))	13

PETITION FOR POST-GRANT REVIEW
OF U.S. PATENT NO. 6,982,733

2. Eligibility Based on Time of Filing (37 C.F.R. § 42.303)..... 14

3. Power of Attorney (37 C.F.R. § 42.10(b))..... 14

4. A Legible Copy of Every Exhibit in the Exhibit List (37 C.F.R. § 42.63)..... 14

III. GROUNDS FOR STANDING..... 14

A. Eligibility Based on Infringement Suit (37 C.F.R. § 42.302(a))..... 14

B. Eligibility Based on Lack of Estoppel (37 C.F.R. § 42.302(b)) 15

C. The ‘733 Patent Is a CBM Patent (37 C.F.R. § 42.304(a))..... 15

1. Claims 1-16 Meet the Definition of a CBM 16

2. Claims 1-16 Are Not Directed to a “Technological Invention” 20

IV. STATEMENT OF PRECISE RELIEF REQUESTED FOR EACH CLAIM CHALLENGED 28

A. Claims for Which Review is Requested (37 C.F.R. § 42.304(b)(1)) 28

B. Statutory Grounds of Challenge (37 C.F.R. § 42.304(b)(2)) 28

C. Claim Construction (37 C.F.R. § 42.304(b)(3))..... 28

1. Broadest Reasonable Interpretation 28

V. THE CHALLENGED CLAIMS ARE INVALID UNDER § 112..... 31

A. Claims 1-11 Are Indefinite for Mixing Apparatus and Method Elements 31

B. The Challenged Claims Do Not Satisfy the Written Description Requirement. 36

PETITION FOR POST-GRANT REVIEW
OF U.S. PATENT NO. 6,982,733

1.	The ‘733 Patent Does Not Provide a Written Description Sufficient to Describe the “Synchronous Communications System/Method” Claimed in the Challenged Claims When Only Use of a Local Database is Described in the Original Specification	38
2.	Claims 1-3 Fail to Satisfy the Written Description and Definiteness Requirements	44
VI.	THE CHALLENGED CLAIMS ARE INVALID UNDER § 101	48
A.	Section 101 Analysis	48
B.	The Challenged Claims Impermissibly Claim an Abstract Idea	51
C.	The Challenged Claims Fail the “Machine or Transformation Test”	58
D.	The Challenged Claims Are Invalid Under <i>Mayo</i>	62
E.	The Challenged Claims Are Distinguishable From <i>Ulramercial</i>	64
VII.	CONCLUSION	65

TABLE OF AUTHORITIES

	Page(s)
CASES	
<i>Accenture Global Servs., GMBH v. Guidewire Software, Inc.</i> , No. 2011-1486, 2013 WL 4749919 (Fed. Cir. Sept. 5, 2013).....	8, 65
<i>In re Am. Acad. of Sci. Tech Ctr.</i> , 367 F.3d 1359 (Fed. Cir. 2004)	28, 29
<i>Amgen Inc. v. Hoechst Marion Roussel, Inc.</i> , 314 F.3d 1313 (Fed. Cir. 2003)	44
<i>Ariad Pharms., Inc. v. Eli Lilly and Co.</i> , 598 F.3d 1336 (Fed. Cir. 2010) (<i>en banc</i>)	36
<i>Bancorp Servs., LLC v Sun Life Assurance Co. of Canada</i> , 687 F.3d 1266 (Fed. Cir. 2012)	49, 53, 55, 57
<i>Bilski v. Kappos</i> , 130 S. Ct. 3218 (2010) (“ <i>Bilski II</i> ”).....	8, 48, 49, 50, 58, 61, 62
<i>CCS Fitness, Inc. v. Brunswick Corp.</i> , 288 F.3d 1359 (Fed. Cir. 2002)	47
<i>CLS Bank International v. Alice Corporation Pty. Ltd.</i> , 717 F.3d 1269 (Fed. Cir. 2013)	49, 51, 57
<i>Compression Tech. Solutions LLC v. EMC Corp.</i> , 2013 WL 2368039 (N.D. Cal. May 29, 2013).....	49, 61
<i>CyberSource Corp. v Retail Decisions, Inc.</i> , 654 F.3d 1366 (Fed. Cir. 2011)	50, 53, 54, 57, 58, 59, 60, 61
<i>Dealertrack, Inc. v. Huber</i> , 674 F.3d 1315 (Fed. Cir. 2012)	49, 56, 59, 60

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.