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Paper No. 15
Filed: September 1, 2015

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EXPEDIA, INC., FANDANGO, LLC, HOTELS.COM, L.P., HOTEL TONIGHT, INC., HOTWIRE, INC., KAYAK SOFTWARE CORP., OPENTABLE, INC., ORBITZ, LLC, PAPA JOHN'S USA, INC., STUBHUB, INC., TICKETMASTER, LLC, LIVE NATION ENTERTAINMENT, INC., TRAVELOCITY.COM LP, WANDERSPOT LLC, AGILYSYS, INC., DOMINO'S PIZZA, INC., DOMINO'S PIZZA, LLC, HILTON RESORTS CORPORATION, HILTON WORLDWIDE, INC., HILTON INTERNATIONAL CO., MOBO SYSTEMS, INC., PIZZA HUT OF AMERICA, INC., PIZZA HUT, INC., and USABLENET, INC.,
Petitioner,

v.

AMERANTH, INC.,
Patent Owner.

Case CBM2015-00096
Patent 6,384,850 B1

Before MEREDITH C. PETRAVICK, RICHARD E. RICE, and STACEY G. WHITE, *Administrative Patent Judges.*

PETRAVICK, *Administrative Patent Judge.*

DECISION
Institution of Covered Business Method Patent Review
37 C.F.R. § 42.208
Grant of Motion for Joinder
37 C.F.R. § 42.222(b)

I. INTRODUCTION

A. Background

On April 3, 2015, Expedia, Inc., Fandango, LLC, Hotels.com L.P., Hotel Tonight, Inc., Hotwire, Inc., Kayak Software Corp., Opentable, Inc., Orbitz, LLC, Papa John's USA, Inc., Stubhub, Inc., Ticketmaster, LLC, Live Nation Entertainment, Inc., Travelocity.com LP, Wandersport LLC, Agilysys, Inc., Domino's Pizza, Inc., Domino's Pizza, LLC, Hilton Resorts Corporation, Hilton Worldwide, Inc., Hilton International Co., Mobo Systems, Inc., Pizza Hut of America, Inc., Pizza Hut, Inc., and Usablenet Inc. ("collectively, Petitioner") filed a Petition requesting a review under the transitional program for covered business method patents of U.S. Patent No. 6,384,850 B1 (Ex. 1001, "the '850 patent"). Paper 8 ("Pet."). Ameranth, Inc. ("Patent Owner") filed a Preliminary Response on June 8, 2015. Paper 12 ("Prelim. Resp.").

The Petition sets forth alleged grounds of unpatentability as follows:

Ground	Prior Art	Challenged Claims
§ 103	Inkpen[1], Nokia[2], and Digestor[3]	12–16
§ 103	DeLorme[4]	12–16
§ 103	Blinn[5] and Inkpen	12–16

[1] Gary Inkpen, *INFORMATION TECHNOLOGY FOR TRAVEL AND TOURISM*, 1–195 (2d ed. 1998) (Ex. 1021) ("Inkpen").
[2] Nokia 9000i Communicator Owner's Manual, 1–131 (1997) (Ex. 1023) ("Nokia").
[3] Timothy W. Bickmore & Bill N. Schilit, *Digestor: device independent access to the World Wide Web*, Computer Networks and ISDN Systems 29, 1075–82 (1997) (Ex. 1022) ("Digestor").
[4] DeLorme et al., U.S. Patent No. 5,948,040 (issued Sept. 7, 1999) (Ex. 1024) ("DeLorme").

We have jurisdiction under 35 U.S.C. § 324, which provides that a covered business method patent 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."

Petitioner also filed a Motion for Joinder (Paper 10, "Mot.") seeking to join this proceeding, under 35 U.S.C. § 325(c), with the covered business method patent review in *Apple, Inc., Eventbrite, Inc., Starwood Hotels & Resorts Worldwide, Inc., v. Ameranth, Inc.*, Case CBM2015-00080 ("the Apple CBM"). The Motion for Joinder indicates that the Petitioner in the Apple CBM does not oppose joinder. Mot. 2. Patent Owner did not file an opposition to the Motion for Joinder.

For the reasons discussed below, we institute a covered business method patent review on the ground of claims 12–16 under 35 U.S.C. § 103 over DeLorme and grant Petitioner's Motion for Joinder.

II. INSTITUTION OF COVERED BUSINESS METHOD PATENT REVIEW ON SAME GROUNDS INSTITUTED IN THE APPLE CBM

Concurrent with this Decision, we institute a covered business method patent review on the ground of claims 12–16 under 35 U.S.C. § 103 over DeLorme. Apple CBM, Paper 13.

The Petition asserts the same grounds, relies upon the same expert declarant, prior art, claim charts, and claim constructions as relied upon in the Apple CBM. Mot. 2. The Petition is substantively identical to the Petition in the Apple CBM. *Id.* The Preliminary Response is also substantively identical to the Preliminary Response filed in the Apple CBM.

[5] Blinn et al., U.S. Patent No. 6,058,373 (issued May 2, 2000) (Ex. 1025) ("Blinn").

It relies upon the same claim constructions, evidence, and contentions as relied upon in the Apple CBM.

For the same reasons given in the Decision to Institute in the Apple CBM, we institute a covered business method patent review in this proceeding on the ground of claims 12–16 under 35 U.S.C. § 103 over DeLorme, the same ground which we instituted in the Apple CBM. Also for the same reasons given in the Decision to Institute in the Apple CBM, we do not institute a covered business method patent review in this proceeding on the grounds of claims 12–16 under 35 U.S.C. § 103 over Inkpen, Nokia, and Digestor and under 35 U.S.C. § 103 over Blinn and Inkpen.

III. GRANT OF MOTION FOR JOINDER

As noted above, Patent Owner did not oppose Petitioner's request to join this Petition with the Apple CBM. The petitioner in the Apple CBM also does not oppose Petitioner's request to join this Petition with the Apple CBM. *See* Mot. 2; Paper 11, 2.

The grounds upon which we institute a covered business method patent review in this proceeding are identical to the grounds upon which we instituted in the Apple CBM. Further, as noted above, the Petition includes the same arguments and relies upon the same evidence and grounds of unpatentability.

Under the circumstances, we conclude that Petitioner has demonstrated that joinder of the two covered business method patent reviews will not unduly complicate or delay the Apple CBM, and therefore, we grant Petitioner's Motion for Joinder. All filings in the consolidated proceeding will be made by petitioner in the Apple CBM on behalf of both

petitioner in the Apple CBM and Petitioner in this proceeding, except for motions that do not involve the other party. *See* Paper 11, 2. Petitioner shall not file any separate papers or briefing in these consolidated proceedings without authorization from the Board. In addition, Petitioner shall not seek any additional discovery beyond that sought by the petitioner in the Apple CBM.

Petitioner and Petitioner in the Apple CBM shall resolve any disputes between them concerning the conduct of the joined proceedings and shall contact the Board if any such matters cannot be resolved. No additional burdens shall be placed on Patent Owner as a result of the joinder.

In consideration of the above, we institute a covered business method patent review in this proceeding and grant Petitioner's Motion for Joinder.

IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that CBM2015-00096 is instituted and joined with CBM2015-00080;

FURTHER ORDERED that the ground on which CBM2015-00080 was instituted is unchanged, and no other grounds are instituted in the joined proceeding;

FURTHER ORDERED that the Scheduling Order in place for CBM2015-00080 shall govern the joined proceedings;

FURTHER ORDERED that, throughout the consolidated proceeding, any paper, except for a motion that does not involve the other party, shall be filed by petitioner in the Apple CBM as a single consolidated filing on behalf of both petitioners, each paper shall be in accordance with the page

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