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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EBAY, INC.,
Petitioner,

v.

PAID, INC.,
Patent Owner.

Case CBM2014-00125
Patent 8,352,357

Before JAMES P. CALVE, THOMAS L. GIANNETTI, and KRISTINA M. KALAN, *Administrative Patent Judges.*

GIANNETTI, *Administrative Patent Judge.*

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

I. INTRODUCTION

A. Background

eBay "Petitioner") has petitioned for institution of a covered business method patent review of all claims (1–24) of U.S. Patent No. 8,352,357 (Ex. 1001; "the '357 patent"). Paper 4 "Pet.").[1] PAID, Inc. "Patent Owner") filed a Preliminary Response. Paper 12 "Prelim. Resp.").

For the reasons that follow, we determine that the '357 patent qualifies as a covered business method patent under § 8(d)(1) of the Leahy-Smith America Invents Act "AIA").[2] We further determine that it is more likely than not that at least one claim of the '357 patent is unpatentable. We therefore institute a covered business method patent review of claims 1–24. *See* 35 U.S.C. § 324(a).

B. Related Cases

Patent Owner has sued Petitioner for infringement of the '357 patent in *PAID, Inc. v. eBay Inc.*, Case No. 4:13-cv-40151-TSH (D. Mass.). Ex. 1004.

The complaint in that action also included U.S. Patent Nos. 8,521,642 ("the '642 patent") and 7,930,237 "the '237 patent), and was subsequently amended to include U.S. Patent No. 8,635,150 ("the '150 patent"). Ex. 1005.

In addition, Petitioner has filed Petitions for covered business method patent reviews of the '642 patent (CBM2014-00126), the '237 patent (CBM2014-00127), and the '150 patent (CBM2014-00128). Decisions on those Petitions are being issued with this decision.

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[1] "Amended Petition for Covered Business Method," filed May 29, 2014.
[2] Pub. Law 112-29, 125 Stat. 284, 331 (Sept. 16, 2011).

II. THE ’357 PATENT

A. Overview

The ’357 patent relates to improvements in on-line auctions. According to the patent, conventional online auctions do not offer the buyer complete information about the real cost of the auction. Ex. 1001, col. 4, ll. 13–15. This is because they do not specify exact shipping cost information. *Id*. at ll. 15–16. According to the patent, the improved auction method and system include a shipping calculator. The shipping calculator can prompt a potential buyer to enter information necessary to determine shipping cost. *Id*. at ll. 16–22. That information may include entry of the ZIP code of the buyer on a screen display. When the buyer enters ZIP code information in the ZIP code field the buyer may initiate the shipping calculator by clicking a display button. *Id*. at ll. 22–29. The operation of the calculator is illustrated in Figure 14 from the patent reproduced below:

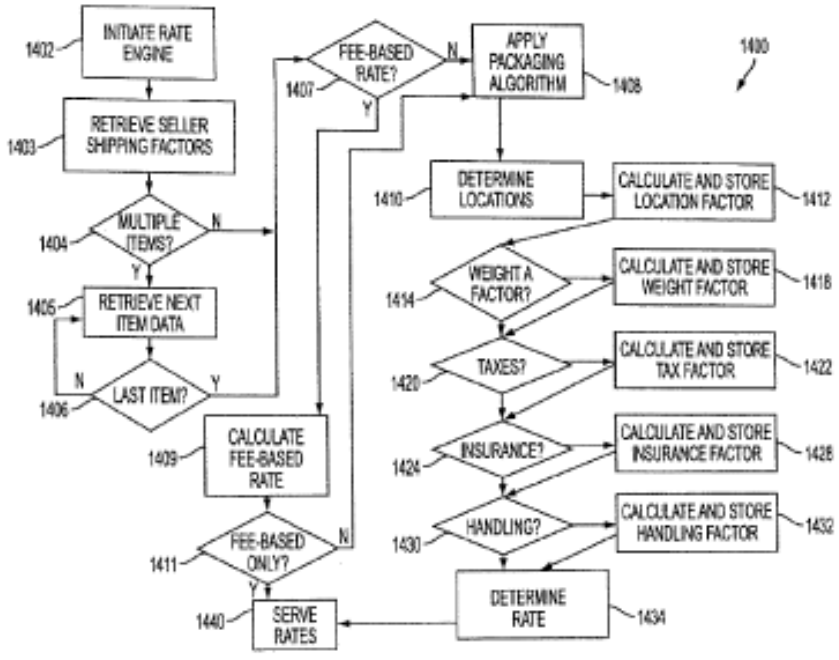

FIG. 14

Figure 14 is a flow chart of a server process for generating shipping rates.

In the flowchart reproduced above, at step 1402 the system initiates a rate engine in response to a buyer input, such as clicking on the calculator button appearing on the computer screen. *See* Ex. 1001, Fig. 5. Next, at step 1403, the system retrieves the seller shipping preferences from a data storage facility. If multiple items are purchased, the system recognizes this at step 1404. *Id*. at col 10, l. 62–col. 11, l. 8.

At step 1407, the system queries the seller's preferences to determine whether the shipping rate is a fee-based rate. If so, the fee-based rate is calculated at step 1409. If not, at step 1408 an algorithm is applied to determine the packaging for the items to be shipped. *Id*. at col. 11, ll. 23–44.

At step 1410, the system determines the location of the seller and the buyer based on data entered in interaction with the servers of the system. At step 1412 the system calculates and stores a rate factor based on the location of the buyer and seller. *Id*. at ll. 45–49.

At step 1414, the system queries whether weight is a factor in the calculation, and if so, the system at step 1418 calculates and stores a weight factor for the item. At step 1420, the system queries whether taxes apply and at step 1422, calculates and stores a tax factor. *Id.* at ll. 50–55.

At step 1424, the system queries whether insurance charges apply, and if so calculates and stores an insurance factor at step 1428. At step 1430, the system queries whether a handling charge by the seller and, at step 1432, calculates and stores a handling factor. Once all of these factors are determined, the system calculates a rate at step 1434. *Id*. at ll. 55–61.

B. Illustrative Claim

Claim 1 is an independent method claim. Claims 2–12 depend, directly or indirectly, from claim 1. Claim 13 is an independent system claim. Claims 14–24 depend, directly or indirectly, from claim 13.

Claim 1 is illustrative (some paragraphing added):

> 1. A method comprising:
>
> receiving, at a server computer, first data from a remote seller computer over a network, wherein the first data comprises:
>
> location information for the remote seller; and
>
> one or more shipping preferences of the remote seller, wherein the shipping preferences comprise any one of, or some combination of:
>
> (i) a flat fee, (ii) a fee set by the seller, (iii) one or more rates charged by one or more common carriers, (iv) a distance between the seller location and the buyer location, (v) size of the item, (vi) weight of the item, (vii) free shipping, and (viii) one or more dimensions of the item;
>
> storing the first data in a database;
>
> receiving, at the server computer, second data from a remote buyer computer over a network, wherein the second data corresponds to location information for the remote buyer;
>
> storing the second data in a database;
>
> receiving, at the server computer, third data from the remote seller computer over a network, wherein the third data corresponds to a price of an item that is offered for sale on an online auction website;
>
> storing the third data in a database;
>
> determining, for the remote buyer, a shipping rate for the item, wherein the step of determining the shipping rate comprises:
>
> retrieving, from the database, the first data corresponding to the one or more shipping preferences of the remote seller;
>
> retrieving, from the database, the second data corresponding to the location information for the remote buyer;

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