

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AGILYSYS, INC. ET AL.
Petitioner

v.

AMERANTH, INC.
Patent Owner

Case CBM2014-00015
Patent No. 6,384,850 B1

Before JAMESON LEE, MEREDITH C. PETRAVICK, 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

I. INTRODUCTION

A. *Background*

On October 15, 2013, Agilysys, Inc. and 34 other entities¹ (“collectively, Petitioner”) filed a Petition² requesting a review under the transitional program for covered business method patents of U.S. Patent No. 6,384,850 B1 (Ex. 1031, “the ’850 patent”). Paper 1. Ameranth, Inc. (“Patent Owner”) filed a Preliminary Response (“Prelim. Resp.”) on January 13, 2014. Paper 11. We have jurisdiction under 35 U.S.C. § 324.

The standard for instituting a covered business method patent review is set forth in 35 U.S.C. § 324(a), which provides as follows:

THRESHOLD – The Director may not authorize a post-grant review to be instituted unless the Director determines that the information presented in the petition filed under section 321, if such information is not rebutted, would demonstrate that it is more likely than not that at least 1 of the claims challenged in the petition is unpatentable.

Petitioner challenges the patentability of claims 1-16 of the ’850 patent under 35 U.S.C. § 112, first paragraph; § 112, second paragraph³; and

¹ Expedia, Inc., Fandango, LLC, Hotel Tonight, Inc., Hotwire, Inc., Hotels.com, L.P., Kayak Software Crop., Live Nation Entertainment, Inc., Micros Systems, Inc., Orbitz, LLC, Opentable, Inc., Papa John’s USA, Inc., Stubhub, Inc., Ticketmaster, LLC., Travelocity.com LP, Wanderspot LLC, Pizza Hut, Inc., Pizza Hut of America, Inc., Domino’s Pizza, Inc., Domino’s Pizza, LLC, Grubhub, Inc., Seamless North America, LLC, Order.in, Inc., Mobo Systems, Inc., Starbucks Corporaton, Eventbrite, Inc., Best Western International, Inc., Hilton Resorts Corp., Hilton Worldwide, Inc., Hilton International Co., Hyatt Corporation, Marriott International, Inc., Starwood Hotels & Resorts Worldwide, Inc., Usablenet, Inc., and Apple, Inc.

² Petitioner filed an Amended Petition on November 8, 2013. Paper 9. We will refer to the Amended Petition (“Pet.”) in our decision.

³ Section 4(c) of the Leahy-Smith America Invents Act, Pub. L. No. 112-29, 125 Stat. 284, 329 (2011) (“AIA”) re-designated 35 U.S.C. § 112, first

§ 101. Taking into account Patent Owner's Preliminary Response, we determine that the Petition demonstrates that it is more likely than not that challenged claims 1-11 are unpatentable, but fails to demonstrate that it is more likely than not that challenged claims 12-16 are unpatentable. Pursuant to 35 U.S.C. § 324, we institute a covered business method patent review of claims 1-11 of the '850 patent.

B. Related Matters

Petitioner identifies numerous related ongoing district court proceedings in the Petition. Pet. 12-16. In addition, Petitioner has requested covered business method patent review of the following related patents: U.S. Patent No. 6,871,325 (CBM2014-00016); U.S. Patent No. 6,982,733 (CBM2014-00013); and U.S. Patent No. 8,146,077 (CBM2014-00014).

C. The '850 Patent (Ex. 1031)

The '850 patent, titled "Information Management and Synchronous Communications System with Menu Generation," issued on May 7, 2002, based on Application No. 09/400,413, filed on September 21, 1999. There are two aspects to the claimed system: menu generation and synchronous communication. *See, e.g., Ex. 1031, 3:15-23.*

paragraph, as 35 U.S.C. § 112 (a) and 35 U.S.C. § 112, second paragraph, as 35 U.S.C. § 112 (b). Because the '850 patent has an effective filing date before September 16, 2012, we refer to the pre-AIA version of 35 U.S.C. § 112.

The first aspect is a “desktop software application that enables the rapid creation and building of a menu.” *Id.* at 3:15-17. Figure 1 of the '850 patent is reproduced below.

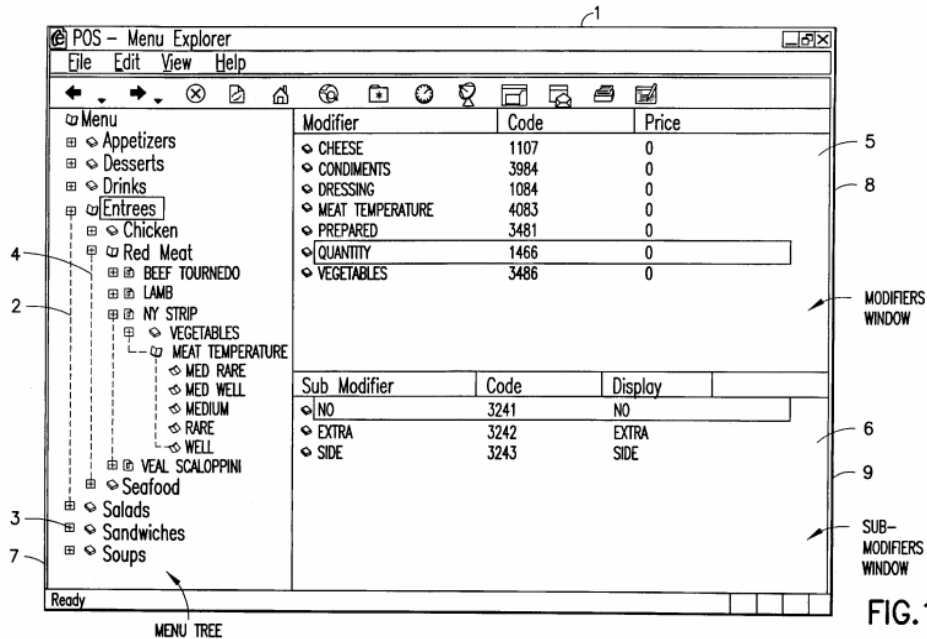


FIG. 1

Figure 1 depicts a graphical user interface (GUI) that is used to generate a menu. *Id.* at 6:13-14. GUI 1 includes menu tree window 7, modifiers window 8, and sub-modifiers window 9. *Id.* at 6:26-32. Menu tree window 7 includes hierarchical tree structure 2 that shows the relationships between menu categories, such as salads or deserts; menu items, such as caesar salad or green salad; menu modifiers, such as dressing; and menu sub-modifiers, such as ranch or bleu cheese. *Id.* at 6:13-21. A user generates a menu using GUI 1 to add or delete menu categories, menu items, modifiers, and sub-modifiers, and link modifiers and sub-modifiers to menu items in hierarchical tree structure 2. *Id.* at 6:35-8:20.

The second aspect is synchronous communication. *See id.* at 2:56-62; 3:1-5; 10:57-59. The system includes a computer workstation, a central database, multiple handheld devices, a web server, and a web page. *Id.* at

3:59-63; 6:14. After the new menu is generated and previewed at the computer workstation, the new menu is downloaded to the wireless handheld devices, web servers, and web pages, so that the menu is synchronized on all of these devices. *See id.* at 3:59-64; 6:22-25; 7:12; 8:45-51; 9:66-10:1. Data entered on hospitality applications (e.g., restaurant ordering, wait-list, or reservation applications (Ex. 1031, 1:26-27, 4:10-13)) on the wireless handheld devices, web servers, and webpages are synchronized on all of these devices. *See id.* at 2:59-62; 10:67-11:23. Further, third parties can integrate fully with the hospitality applications through a synchronous communications control module. *Id.* at 11:12-30.

Claims 1 and 12 of the '850 patent are illustrative of the claims at issue and read as follows:

1. An information management and synchronous communications system for generating and transmitting menus comprising:
 - a. a central processing unit,
 - b. a data storage device connected to said central processing unit,
 - c. an operating system including a graphical user interface,
 - d. a first menu consisting of menu categories, said menu categories consisting of menu items, said first menu stored on said data storage device and displayable in a window of said graphical user interface in a hierarchical tree format,
 - e. a modifier menu stored on said data storage device and displayable in a window of said graphical user interface,

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