

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

STARBUCKS CORPORATION,

Petitioner,

v.

AMERANTH, INC.,

Patent Owner.

Case CBM2015-00091

Patent 6,384,850 B1

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

WHITE, *Administrative Patent Judge*.

DECISION

Institution of Covered Business Method Patent Review

37 C.F.R. § 42.208

I. INTRODUCTION

A. Background

Starbucks Corporation (“Petitioner”) filed a Petition (Paper 1, “Pet.”) requesting covered business method patent review of claims 12–16 (“challenged claims”) of U.S. Patent No. 6,384,850 B1 (Ex. 1001, “the ’850 patent”) pursuant to § 18 of the Leahy-Smith America Invents Act (“AIA”). Ameranth, Inc. (“Patent Owner”) filed a Preliminary Response. Paper 7 (“Prelim. Resp.”). 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 contends, with the support of its Declarant, Dr. Abdelsalam Helal (Ex. 1003), that the challenged claims are unpatentable under 35 U.S.C. §§ 101, 112, and 103 on the following grounds (Pet. 28–79):

Reference(s)	Basis	Claims Challenged
N/A	§ 101	12–16
N/A	§ 112 ¹	12–16
Brandt ² and NetHopper ³	§ 103	12–16
Brandt, Demers, ⁴ and Alonso ⁵	§ 103	12–16

¹ Petitioner asserts eight grounds based upon § 112. Grounds 1–3 focus on issues of enablement, indefiniteness, and lack of written description concerning the claim term “hospitality applications and data.” Grounds 4–6 focus on issues of enablement, indefiniteness, and lack of written description concerning the claim term “communications control module.” Ground 7 asserts lack of enablement of “software libraries.” Ground 8 focuses enablement of the claims as a whole. Pet. 28–44.

² Japanese Unexamined App. No. H10-247183 (published Sept. 14, 1998) (Ex. 1004) (certified translation, Ex. 1005, “Brandt”).

³ NetHopper Version 3.2 User’s Manual, 1–24 (1997) (Ex. 1006, “NetHopper”).

Our factual findings and conclusions at this stage of the proceeding are based on the evidentiary record developed thus far (prior to Patent Owner's Response). This is not a final decision as to the patentability of any of the claims for which a covered business method patent review is instituted. Our final decision will be based on the record as fully developed during trial. Upon consideration of the Petition and Preliminary Response, we determine that Petitioner has demonstrated that it is more likely than not that the challenged claims are unpatentable on the grounds discussed below. Accordingly, we institute a covered business method patent review of claims 12–16 of the '850 patent.

B. Related Matters

The parties indicate that the '850 patent is the subject of the following district court case: *Ameranth, Inc. v. Starbucks Corp.*, No. 3-13-cv-01072 (S.D. Cal.) filed May 6, 2013. Pet. 2 (citing Ex. 1045). Petitioner notes that Patent Owner has asserted the '850 patent against thirty-five other defendants in a number of civil actions that have been consolidated into *Ameranth, Inc. v. Pizza Hut*, No. 3-11-cv-01810 (S.D. Cal.). *Id.* at 3.

In a previous proceeding before the Board, claims 1–11 of the '850 patent were held to be unpatentable. *Agilysys, Inc. v. Ameranth, Inc.*, Case CBM2014-00015 (PTAB Mar. 20, 2015) (Paper 36). Petitioner also filed a petition for covered business method patent review of a related

⁴ Alan Demers, et al., *The Bayou Architecture: Support for Data Sharing Among Mobile Users*, Mobile Computing Systems & Applications, 1995. Proceedings., Workshop on. IEEE, 1–7, 1995. (Ex. 1009, “Demers”).

⁵ Gustavo Alonso et al., *Exotica/FMDC: A Workflow Management System for Mobile and Disconnected Clients*, Databases & Mobile Computing, 28–45, 1996 (Ex. 1012, “Alonso”).

CBM2015-00091
Patent 6,384,850 B1

patent, U.S. Patent No. 6,871,325 B1. *Starbucks Corp. v. Ameranth, Inc.*, Case CBM2015-00099. Patent Owner identifies eleven covered business method patent reviews (both pending and completed) that it states are related to this Petition. Paper 5 (Notice of Related Matters). The previous and pending related petitions are summarized in the table below.

U.S. Patent No.	Previous CBM Reviews	Pending CBM Reviews
6,384,850 B1	CBM2014-00015	CBM2015-00080 CBM2015-00096
6,871,325 B1	CBM2014-00016	CBM2015-00082 CBM2015-00097 CBM2015-00099
6,982,733 B1	CBM2014-00013	
8,146,077 B1	CBM2014-00014	CBM2015-00081 CBM2015-00095

C. The '850 Patent

The '850 patent, titled "Information Management and Synchronous Communications System with Menu Generation" issued May 7, 2002 based on Application No. 09/400,413 filed September 21, 1999. Ex. 1001, at [21], [22], [45], [54]. The challenged claims are directed to an information management and synchronous communications system. *Id.* at 16:1–47. This system "results in a dramatic reduction in the amount of time, and hence cost, to generate and maintain computerized menus for, e.g., restaurants and other related applications that utilize non-PC-standard graphical formats, display sizes or applications." *Id.* at 3:26–30.

The system includes a central database, multiple handheld devices, and a web server. *Id.* at 3:59–63. It also includes an application programming interface (“API”) that enables third parties, such as point-of-sale companies, affinity program companies, and internet content providers, to integrate fully with the computerized hospitality applications. *Id.* at 2:11–16; 3:64–67; 11:15–19. The system has a communications control module to “provide[] a single point of entry for all hospitality applications, e.g., reservations, frequent customer ticketing, wait lists, etc.[,] to communicate with one another wirelessly and over the Web.” *Id.* at 4:5–8. This communications control module is a layer that sits on top of any communication protocol and acts as an interface between hospitality applications and the communication protocol. *Id.* at 4:8–11; 11:24–30.

Claim 12 of the ’850 patent is illustrative of the claims at issue and read as follows:

12. An information management and synchronous communications system for use with wireless handheld computing devices and the internet comprising:
 - a. a central database containing hospitality applications and data,
 - b. at least one wireless handheld computing device on which hospitality applications and data are stored,
 - c. at least one Web server on which hospitality applications and data are stored,
 - d. at least one Web page on which hospitality applications and data are stored,
 - e. an application program interface, and
 - f. a communications control module,wherein applications and data are synchronized between the central data base, at least one wireless handheld computing

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