

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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PLAID TECHNOLOGIES INC.,  
Petitioner,

v.

YODLEE, INC. and YODLEE.COM, INC.,  
Patent Owner.

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Case CBM2016-00037  
Patent 6,199,077 B1

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Before KEVIN F. TURNER, MICHAEL R. ZECHER, and  
JOHN A. HUDALLA, *Administrative Patent Judges*.

ZECHER, *Administrative Patent Judge*.

DECISION  
Denying Petitioner's Request for Rehearing  
*37 C.F.R. § 42.71(d)*

## I. INTRODUCTION

Petitioner, Plaid Technologies Incorporated (“Plaid”), timely filed a Request for Rehearing under 37 C.F.R. § 42.71(d). Paper 10 (“Req. Reh’g”). Plaid’s Request for Rehearing seeks reconsideration of the Decision not to Institute a covered business method patent review of claims 1–12 (“the challenged claims”) of U.S. Patent No. 6,199,077 B1 (Ex. 1001, “the ’077 patent”) because the information presented in the Petition did not establish that this patent qualifies as a “covered business method patent” that is eligible for review, as defined by § 18(d)(1) of the America Invents Act (“AIA”). Paper 9 (“Dec.”).

In its Request for Rehearing, Plaid contends that our determination not to institute a covered business method patent review was improper for at least three reasons. First, Plaid argues that we misapprehended or overlooked the scope of the challenged claims by applying an overly broad reading of those claims that did not hold Patent Owner, Yodlee, Incorporated and Yodlee.com, Incorporated (collectively, “Yodlee”), to purported scope-narrowing admissions made in its Preliminary Response. Req. Reh’g 4–8. Second, Plaid argues that we misapplied the statutory definition of a covered business method patent. *Id.* at 8–13. Lastly, Plaid argues that we established a new requirement for demonstrating covered business method patent eligibility. *Id.* at 13–15.

As we explain below, we have considered the arguments presented by Plaid in its Request for Rehearing, but we discern no reason to modify the Decision not to Institute. As a consequence, we deny Plaid’s Request for Rehearing.

## II. STANDARD OF REVIEW

A party requesting rehearing bears the burden of showing that the decision should be modified. 37 C.F.R. § 42.71(d). The party must identify specifically all matters we misapprehended or overlooked, and the place where each matter was addressed previously in a motion, an opposition, or a reply. *Id.* When rehearing a decision on a petition, we review the decision for an abuse of discretion. 37 C.F.R. § 42.71(c). An abuse of discretion may be indicated if a decision is based on an erroneous interpretation of law, if a factual finding is not supported by substantial evidence, or if the decision represents an unreasonable judgment in weighing relevant factors. *Star Fruits S.N.C. v. United States*, 393 F.3d 1277, 1281 (Fed. Cir. 2005); *Arnold P'ship v. Dudas*, 362 F.3d 1338, 1340 (Fed. Cir. 2004); *In re Gartside*, 203 F.3d 1305, 1315–16 (Fed. Cir. 2000). With this in mind, we address the arguments presented by Plaid in turn.

## III. ANALYSIS

### A.

Plaid contends that our determination that the '077 patent is not a covered business method patent eligible for review—because the claimed “Internet sites” and “data specific to a person” cover any sites and any data, respectively—cannot not be reconciled with purported scope-narrowing admissions by Yodlee in its Preliminary Response. Req. Reh’g 4–5. According to Plaid, Yodlee’s arguments distinguishing the challenged claims over the asserted prior art included purported admissions that the claimed “Internet sites” and “data specific to a person” are limited such that they have specific utility to financial products or services. *Id.* at 5–7 (citing

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Paper 8 (“Prelim. Resp.”), 19, 21–22). Plaid asserts that we should have held Yodlee to these admissions when evaluating the scope of the challenged claims for purposes of covered business method patent eligibility. *Id.* at 8.

As an initial matter, we do not agree with Plaid that we misapprehended or overlooked Yodlee’s purported scope-narrowing admissions when determining whether Plaid had demonstrated that the challenged claims satisfy the financial prong of the definition of a covered business method patent. Plaid directs us to these purported admissions for the first time in its Request to Rehearing. *Compare* Paper 4 (“Pet.”), 11–17, with Req. Reh’g 4–8. Indeed, Plaid readily admits that it did not present and develop arguments based on these purported admissions in its Petition. Req. Reh’g 4 n.1 (stating “Petitioner could not have incorporated Patent Owner’s admission because the Prelim. Resp. was filed after the Petition was filed.”). Consequently, we could not have overlooked or misapprehended this new argument because it was not presented and developed by Plaid in its Petition. Nor did Plaid seek a reply to highlight the purported admissions in Yodlee’s Preliminary Response as further support for demonstrating that the challenged claims satisfy the financial prong of the definition of a covered business method patent.

Even if we were to consider Plaid’s newly minted theory as to why the challenged claims satisfy the financial prong of the definition of a covered business method patent, we still would disagree. It is undisputed that Plaid must meet the “more likely than not” threshold standard for institution, which includes, among other things, demonstrating that the ’077 patent qualifies as a covered business method patent that is eligible for review. Plaid’s new argument based on Yodlee’s purported scope-

narrowing admissions that were made in the context of attempting to distinguish the challenged claims over the asserted prior art has little, if any, bearing on whether Plaid has carried its burden in that regard. It is incumbent on Plaid to make its case in the Petition, itself, without the need to rely upon arguments or testimonial evidence that Yodlee may optionally advance in a preliminary response. In any event, Plaid does not explain adequately how Yodlee's purported scope-narrowing admissions, particularly with respect to the claimed "data specific to a person," would comply with the broadest reasonable interpretation standard. *See* Prelim. Resp. 19, 21–22. We, therefore, maintain our initial position that, on this record, Plaid has not demonstrated that the challenged claims meet the financial prong of the definition of a covered business method patent set forth in § 18(d)(1) of the AIA. *See* Dec. 6–12.

*B.*

Plaid contends that we applied the wrong standard in determining whether the '077 patent is a covered business method patent eligible for review. Req. Reh'g 8. According to Plaid, the correct standard does not include determining whether the challenged claims have some "explicit or inherent finance-related terminology or limitations," but rather includes determining whether the specification discloses using a financial product or service, even without expressly or implicitly limiting the challenged claims. *Id.* To support its argument, Plaid directs us to previous Board decisions that purportedly hold that the specification can show the use of the claimed embodiment in a financial product or service. *Id.* at 10–12.

We do not agree with Plaid that we applied the wrong standard in determining covered business method patent eligibility. As we explained in

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