UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MICROSTRATEGY, INC.
Petitioner

v.

ZILLOW, INC.
Patent Owner

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Case IPR2013-00034
Patent 7,970,674

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Before JAMESON LEE, JOSIAH C. COCKS, and
MICHAEL W. KIM, *Administrative Patent Judges*.

KIM, *Administrative Patent Judge.*

FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I.   INTRODUCTION

MicroStrategy, Inc. ("Petitioner") filed a petition on November 13, 2012, requesting an *inter partes* review of claims 1-40 of U.S. Patent No. 7,970,674 ("the '674 patent") pursuant to 35 U.S.C. §§ 311-319 Paper 7 ("Pet."). Zillow, Inc. ("Patent Owner") filed a patent owner preliminary response. Paper 16 ("Prelim. Resp."). Taking into account Patent Owner's preliminary response, the Board determined that the information presented in the petition demonstrated that there was a reasonable likelihood that the challenged claims are unpatentable. Pursuant to 35 U.S.C. § 324, the Board instituted this trial on April 2, 2013, on the patentability of claims 2, 5-17, and 26-40 of the '674 patent. Paper 17 ("Dec.").

During the trial, Patent Owner filed a patent owner response (Paper 24, "PO Resp."), and Petitioner filed a reply to the patent owner response (Paper 28, "Reply"). An oral hearing was held on November 21, 2013.[1]

The Board has jurisdiction under 35 U.S.C. § 6(c). This decision is a final written decision, under 35 U.S.C. § 318(a), on the patentability of claims 2, 5-17, and 26-40 of the '674 patent. We hold that claims 15 and 17 of the '674 patent are unpatentable under 35 U.S.C. § 102(b), and that claims 2, 5-11, 13, 14, 16, 26, 28-33, 35-37, 39, and 40 are unpatentable under 35 U.S.C. § 103(a). We also

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[1] A transcript of the oral hearing is included in the record as Exhibit 3001.

hold that Petitioner has not met its burden of proof, by a preponderance of the evidence, that claims 12, 27, 34, and 38 of the '674 patent are unpatentable.

A. Related Proceedings

Petitioner indicates that the '674 patent is involved in: *Zillow, Inc. v. Trulia, Inc.*, Case No. 2:12-cv-1549 (W.D. Wash). Pet. 1. The '674 patent also is subject to a covered business method patent review in CBM2013-00056.

B. The '674 patent

The '674 patent states:

> [The invention] is directed to the field of electronic commerce techniques, and, more particularly, to the field of electronic commerce techniques relating to real estate.

Ex. 1001, 1:9-12. As explained in the '674 patent, it is difficult to determine accurately a value for real estate properties. The most reliable method for valuing a home, if it recently was sold, is to regard the selling price as its value. Ex. 1001, 1:25-26. Only a small percentage of homes, however, are sold at any given time. Ex. 1001, 1:26-30. Another widely used approach is professional appraisal. Ex. 1001, 1:33-34. Appraisals are subjective, however, and they "[are] expensive, can take days or weeks to complete, and may require physical access to the home by the appraiser." Ex. 1001, 1:37-44. Moreover, designing automatic valuation systems that only consider

information available from public databases may be inaccurate. Ex. 1001, 1:45-51. Accordingly, the '674 patent discloses an approach where valuing homes is responsive to owner input, allegedly resulting in a more accurate, inexpensive, and convenient valuation. Ex, 1001, 1:52-56.

Claims 2 and 15 are independent. Claims 5-8 and 14 depend directly from claim 2; claims 9-13 depend indirectly from claim 2; claims 16, 17, 26, 29, 30, and 40 depend directly from claim 15; and claims 27, 28, and 31-39 depend indirectly from claim 15. Claim 15, reproduced below, is illustrative of the claimed subject matter of the '674 patent.

> 15. A method in a computing system for refining an automatic valuation of a distinguished home based upon input from a user knowledgeable about the distinguished home, comprising:
>
> obtaining user input adjusting at least one aspect of information about the distinguished home used in the automatic valuation of the distinguished home;
>
> automatically determining a refined valuation of the distinguished home that is based on the adjustment of the obtained user input; and
>
> presenting the refined valuation of the distinguished home.

C. Prior Art Relied Upon

Petitioner relies upon the following prior art references:

Dugan	US 5,857,174	Jan. 5, 1999	Ex. 1003
Kim	US 2005/0154657	July 14, 2005	Ex. 1004

Shinoda	US 2004/0049440	Mar. 11, 2004	Ex. 1006
Sklarz	US 2002/0087389	July 4, 2002	Ex. 1010

Internal Revenue Service Publication 946, How to Depreciate
Property ("IRS Pub. 946") 2004   Ex. 1009

D. Grounds of Unpatentability

The Board instituted *inter partes* patent review of the '674

patent based on the following grounds of unpatentability:

Claims	Basis	References
15 and 17	§ 102	Dugan
2, 5-10, 13, 14, 16, 26, 27, 29-33, 35-37, 39, and 40	§ 103	Dugan and Kim
11 and 12	§ 103	Dugan, Kim, and Shinoda
28	§ 103	Dugan, Kim, and IRS Pub. 946
34 and 38	§ 103	Dugan, Kim, and Sklarz

II.   ANALYSIS

A. Claim Construction

In an *inter partes* review, claim terms in an unexpired patent are

interpreted according to their broadest reasonable construction in light

of the specification of the patent in which they appear. 37 C.F.R.

§ 42.100(b); Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756,

48,766 (Aug. 14, 2012). Claim terms are also given their ordinary and

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