

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSTRATEGY, INC.
Petitioner

v.

Patent of **ZILLOW, INC.**
Patent Owner

Case IPR2013-00034
Patent 7,970,674

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

KIM, *Administrative Patent Judge.*

DECISION
Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

Background

MicroStrategy, Inc. (“MicroStrategy”) petitioned for *inter partes* review of claims 1-40 of US Patent 7,970,674 (’674 Patent) (Ex. 1001) pursuant to 35 U.S.C. §§ 311 et seq. MicroStrategy filed a revised petition on November 13, 2012 (“Pet.”). The patent owner, Zillow, Inc. (“Zillow”), filed a preliminary response on February 15, 2013. We have jurisdiction under 35 U.S.C. § 314.

The standard for instituting an *inter partes* review is set forth in 35 U.S.C. § 314(a) which provides as follows:

THRESHOLD -- The Director may not authorize an inter partes review to be instituted unless the Director determines that the information presented in the petition filed under section 311 and any response filed under section 313 shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.

Summary of the Invention

The ’674 Patent states (Ex. 1001, 1:9-12; emphasis added):

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

As explained in the ’674 Patent, it is difficult to determine accurately the value of real estate properties. The most reliable method for valuing a home, if it recently was sold, is to regard its selling price as its value. (Ex. 1001, 1:25-26.) However, only a small percentage of homes are sold at any given time. (Ex. 1001, 1:26-30.) Another widely used approach is professional appraisal. (Ex. 1001, 1:33-34.) However, appraisals are subjective, 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.)

Illustrative Claim

Claims 1, 2 and 15 are independent claims, of which claim 2 is reproduced below:

2. A computer readable medium for storing contents that causes a computing system to perform a method for procuring information about a distinguished property from its owner that is usable to refine an automatic valuation of the distinguished property, the method comprising:

displaying at least a portion of information about the distinguished property used in the automatic valuation of the distinguished property;

obtaining user input from the owner adjusting at least one aspect of information about the distinguished property used in the automatic valuation of the distinguished property; and

displaying to the owner a refined valuation of the distinguished property that is based on the adjustment of the obtained user input.

Prior Art References Applied by Petitioner

MicroStrategy challenges the patentability of claims 1-40 on the basis of the following prior art references:

US 5,857,174 (“Dugan”)	Jan. 5, 1999	Ex. 1003
US 2005/0154657 A1 (“Kim”)	Jul. 14, 2005	Ex. 1004
US 6,609,118 B1 (“Khedkar”)	Aug. 19, 2003	Ex. 1005
US 2004/0049440 A1 (“Shinoda”)	Mar. 11, 2004	Ex. 1006
US 6,877,015 B1 (“Kilgore”)	Apr. 5, 2005	Ex. 1007
US 6,401,070 B1 (“McManus”)	Jun. 4, 2002	Ex. 1008

Internal Revenue Service Publication 946, How to Depreciate Property (“IRS Pub. 946”)	2004	Ex. 1009
US 2002/0087389 A1 (“Sklarz”)	Jul, 4, 2002	Ex. 1010
US 5,414,621 (“Hough”)	May 9, 1995	Ex. 1011

The Alleged Grounds of Unpatentability

MicroStrategy contends the following grounds of unpatentability:

- a. Claims 1, 2, 5-10, 13-18, 25-27, 29-33, 35-37, 39, and 40 are unpatentable under 35 U.S.C. § 103(a) as obvious over Dugan and Kim.
- b. Claims 2 and 15 are unpatentable under 35 U.S.C. § 102(b) as anticipated by Dugan.
- c. Claims 2 and 15 are unpatentable under 35 U.S.C. § 102(b) as anticipated by Hough.
- d. Claims 3 and 4 are unpatentable under 35 U.S.C. § 103(a) as obvious over Dugan, Kim, and Khedkar.
- e. Claims 11 and 12 are unpatentable under 35 U.S.C. § 103(a) as obvious over Dugan, Kim, and Shinoda.
- f. Claim 19 is unpatentable under 35 U.S.C. § 103(a) as obvious over Dugan, Kim, and Kilgore.
- g. Claim 20 is unpatentable under 35 U.S.C. § 103(a) as obvious over Dugan, Kim, and McManus.
- h. Claims 21-24 are unpatentable under 35 U.S.C. § 103(a) as obvious over Dugan, Kim, Kilgore, and McManus.
- i. Claims 28 is unpatentable under 35 U.S.C. § 103(a) as obvious over Dugan, Kim, and IRS Pub 946.

- j. Claims 34 and 38 are unpatentable under 35 U.S.C. § 103(a) as obvious over Dugan, Kim, and Sklarz.

II. ANALYSIS

A. Findings of Fact

The following findings of facts are supported by a preponderance of the evidence.

1. Dugan

1. Dugan relates to a manual or computer-implemented method for appraising real estate. (Ex. 1003, 1:9-10.)
2. Dugan discloses that a primary object of its invention is to provide a real estate appraisal that is highly efficient and trustworthy and can be relied upon by sellers, buyers, appraisers, banks, investors, and the like. (Ex. 1003, 4:31-34.)
3. As shown below, Figure 3 of Dugan shows an exemplary appraisal process where, if the operator decides to appraise a subject property at step 32, the system will proceed in the manner of the flow chart in Figure 4. (Ex. 1003, 7:47-49.)

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