UNITED STATES PATENT AND TRADEMARK OFFICE
_____

BEFORE THE PATENT TRIAL AND APPEAL BOARD
_____

ZYNGA INC.
Petitioner

v.

PERSONALIZED MEDIA COMMUNICATIONS, LLC
Patent Owner
_____

Case IPR2013-00164 (SCM)
Patent 7,797,717 B1
_____

Before SALLY C. MEDLEY, KARL D. EASTHOM, and
JONI Y. CHANG, *Administrative Patent Judges.*

EASTHOM, *Administrative Patent Judge*.

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

I. INTRODUCTION

Zynga Inc. ("Zynga") filed a petition requesting an *inter partes* review of claims 1-7 and 9 of U.S. Patent 7,797,717. (Paper 1, "Pet.") In response, Personalized Media Communications, LLC ("PMC") filed a patent owner preliminary response. (Paper 8, "Prelim. Resp.") 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):

> 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.

Pursuant to the defined threshold under 35 U.S.C. § 314(a), the Board institutes an *inter partes* review of claims 1-7 and 9 of the '717 patent.

A. Related Proceedings

The '717 patent and other related patents are the subject of four *inter partes* review filings before the Patent Trial and Appeal Board, and District Court litigation in which PMC alleges infringement against Zynga. (*See* Prelim. Resp. 2; *accord* Pet. 1-2; *Personalized Media Communications, LLC v. Zynga Inc*. Civil Action No. 2:12-cv -68-JRG (E.D. Tex. Feb. 13, 2012).)

Zynga asserts that PMC has conceded in the District Court litigation that the '717 patent's earliest effective priority date is September 11, 1987. (Pet. 4.) PMC does not contest the assertion in its Preliminary Response. Accordingly, the Board assumes for purposes of this Decision that September 11, 1987 is the effective filing date of the '717 patent's claims at issue here.

B. The '717 Patent

The '717 patent describes a modified television receiver station which includes a microcomputer which combines television viewer information and general mass media television broadcasting into personalized media for the television viewer. (*See* Ex. 1001, Abstract, Fig. 1.) PMC describes the '717 patent claims as "generally directed to a method for processing an information transmission that is received at a receiver station to locally generate content by processing stored subscriber data." (Prelim. Resp. 2.)

Figure 1, below, depicts a block diagram of a receiver station. (Col. 9, ll. 29-30).
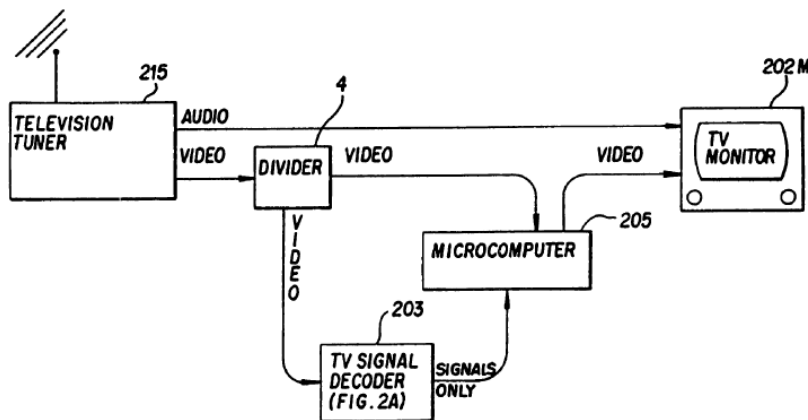

FIG. 1

PMC and Zynga, through its expert declarant Dr. Charles J. Neuhauser (Neuhauser Decl., Ex. 1012), each similarly describe a disclosed receiver station embodiment which involves a television program called "Farm Plans [or Plan] of Europe." (*See* Prelim. Resp. 3; Ex. 1012, ¶ 39.) According to PMC, the television program is part of

> a content distribution system [which] helps farmers . . . with the planning and management of their farms. Each farmer, using a receiver station, can receive an information transmission containing a television program entitled 'Farm Plans of Europe,' information

3

> relating to commercials [about trucks, services etc.] that might also be presented, and a message to be processed at the receiver station to coordinate the presentation.

(Prelim. Resp. 2-3 (citations to the '717 patent omitted).)

A farmer can store crop information specific to the farm in the receiver station, and upon receipt of the coordinating message, the system accesses that information to generate and output a cost/benefit analysis relating to the purchase of the truck or another service. (*See* Prelim. Resp. 3 (citations to the '717 patent omitted).) Thereafter, the farmer can modify the crop information or other stored information. (*See* Prelim. Resp. 3-4 (citations to the '717 patent omitted).)

C. Exemplary Claim

Challenged claim 1 follows:

> 1. A method of processing video signals at a receiver station based on at least one information transmission, the method comprising the steps of:
>
>> receiving information content and a first control signal in said at least one information transmission at said receiver station, said information content describing at least one of a product and a service;
>>
>> generating a benefit datum in response to said first control signal by processing subscriber specific data at said receiver station;
>>
>> delivering said information content and said benefit datum at an output device at said receiver station, wherein said information content and said benefit datum explain a benefit of acquiring said product or service specific to said subscriber;
>>
>> receiving a subscriber input at said receiver station after said step of delivering;

> and controlling said receiver station based on said subscriber
> input.

D. Prior Art Relied Upon

Zynga relies upon the following prior art references:

Bakula	U.S. Patent 4,204,206	May 20, 1980	(Ex. 1010)
Lockwood	U.S. Patent 4,567,359	Jan. 28, 1986	(Ex. 1008)
Lemon	U.S. Patent 4,674,041	June 16, 1987	(Ex. 1011)
Humble	U.S. Patent 4,825,045	Apr. 25, 1989	(Ex. 1009)

E. The Asserted Grounds

Zynga asserts the following grounds of unpatentability under 35 U.S.C. §§ 102 and 103:

Claims 1-6 and 9 as anticipated by Lockwood;

Claims 1-6 and 9 as anticipated by Humble;

Claims 1-6 and 9 as obvious over Lockwood and Bakula;

Claims 1-6 and 9 as obvious over Humble, Lockwood, and Bakula;

Claim 7 as obvious over Lockwood and Lemon;

Claim 7 as obvious over Lockwood, Bakula, and Lemon;

Claim 7 as obvious over Humble and Lemon;

Claim 7 as obvious over Humble, Lockwood, Bakula, and Lemon.

(Pet. ii)

II. ANALYSIS

A. Claim Construction

The Board interprets each claim in an *inter partes* review using the "broadest reasonable construction in light of the specification of the patent in which it appears." 37 C.F.R. § 42.100(b). *See also Patent Trial Practice Guide*, 77 Fed. Reg. at 48766 (*Claim Construction*). "Generally speaking, we indulge a 'heavy presumption' that a claim term carries its ordinary and customary

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.

WHAT WILL YOU BUILD? | sales@docketalarm.com | 1-866-77-FASTCASE

fastcase®
Smarter legal research.