

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GAME SHOW NETWORK, LLC and WORLDWINNER.COM, INC.
Petitioners

v.

JOHN H. STEPHENSON
Patent Owner

Case IPR2013-00289
Patent 6,174,237

Before SALLY C. MEDLEY, KEVIN F. TURNER, and
BENJAMIN D. M. WOOD, *Administrative Patent Judges*.

MEDLEY, *Administrative Patent Judge*.

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

Stephenson Ex. 2003 Game Show Network et al. v. Stephenson Trial IPR2013-00289
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I. INTRODUCTION

Game Show Network, LLC and WorldWinner.com, Inc. (collectively “Petitioner”) filed a petition requesting an *inter partes* review of claims 1-19 of U.S. Patent 6,174,237 (Ex. 1001, “the ’237 patent”). Paper 1, “Pet.” In response, John H. Stephenson (“Patent Owner”) filed a patent owner preliminary response on August 29, 2013. Paper 7, “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) 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.

Pursuant to 35 U.S.C. § 314, the Board authorizes an *inter partes* review to be instituted as to claims 1-19 of the ’237 patent.

A. Related Proceedings

Petitioner indicates that the ’237 patent is involved in co-pending litigation captioned *John H. Stephenson v. Game Show Network, LLC and WorldWinner.com, Inc.*, Civil Action No. 1:12-cv-00614-SLR (D. Del.). Pet. 1. Petitioner certifies, and Patent Owner does not contest, that Petitioner was served with the complaint in the District Court action less than one year before the filing of the petition. *Id.* at 2.

B. The '237 Patent

The '237 patent is related to tournament play having a qualifying round and a playoff round. The qualifying round is played between a player, through a computer terminal, and a host computer. The playoff round is played between those players obtaining a predetermined level of performance in the qualifying round and the host computer. The playoff round is played under the same rules and conditions as in the qualifying round, except that all the players are playing simultaneously within a specific time frame. Ex. 1001, 1:15-24. Awards are distributed to players in both the playoff and qualifying rounds. *Id.* at 3:19-25.

C. Exemplary Claim

Of the challenged claims, claim 1 is the sole independent claim. Each of the dependent claims 2-19 depends either directly or indirectly from claim 1. Claim 1 is exemplary of the claimed subject matter of the '237 patent, and is reproduced as follows:

1. A method of playing a game of skill tournament having a qualifying round and a playoff round, and played over an interactive computer system, said interactive computer system having a host computer system, a plurality of terminals computers and compatible software, said method comprising the following steps:
 - a. playing a game of skill in a qualifying round between a single player and the host computer;
 - b. evaluating the results of said qualifying round to determine if said player qualifies to be classified within a specific performance level from a plurality of performance levels ranging from a low performance level to a high performance level;

c. evaluating the results of said qualifying round to determine if said player qualifies to be classified within a qualifying performance level taken from said plurality of performance levels;

d. distributing to said player a performance level award, said performance level award being dependent upon the specific performance level obtained;

e. playing said game of skill in a playoff round between said player and the host computer simultaneously along with other players, wherein each player has been classified within a qualifying performance level;

f. evaluating the results of said playoff round to determine a tournament winner and subsequent ranking of players; and

g. distributing tournament awards to tournament participants.

D. Prior Art Relied Upon

Petitioner relies upon the following prior art references:

Hamilton	U.S. Patent No. 4,666,160	May 19, 1987	(Ex. 1004)
Demar	U.S. Patent No. 4,685,677	Aug. 11, 1987	(Ex. 1003)
Walker	WO 97/39811	Oct. 30, 1997	(Ex. 1002)

E. The Asserted Grounds

Petitioner asserts that the challenged claims are unpatentable based on the following grounds:

1. Claims 1-6 and 8-19 are unpatentable under 35 U.S.C. § 102(b) as anticipated by Walker;
2. Claims 1-19 are unpatentable under 35 U.S.C. § 103 over Walker; and
3. Claims 6 and 7 are unpatentable under 35 U.S.C. § 103 over Walker in view of Demar and/or Hamilton.

II. ANALYSIS

A. Claim Construction

In an *inter partes* review, claim terms in an unexpired patent are given their broadest reasonable construction in light of the specification of the patent in which they appear. 37 C.F.R. § 42.100(b). Under the broadest reasonable construction standard, claim terms are given their ordinary and customary meaning, as would be understood by one of ordinary skill in the art in the context of the entire disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). Any special definition for a claim term must be set forth with reasonable clarity, deliberateness, and precision. *In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994).

The following claim construction applies.

game of skill (claim 1)

Petitioner argues, directing attention to column 2, lines 9-13 of the '237 patent specification, that “game of skill” means “a game where a player’s knowledge and experience influences the outcome of the game, such as a game of chess, poker, bridge, hearts, blackjack, a question/answer trivia game, or a strategy game.” Pet. 10. However, Patent Owner is correct that the proposed definition unnecessarily includes examples of different types of games of skill. Prelim. Resp. 12. The definition of a “game of skill” is provided in the specification of the '237 patent with clarity, deliberateness, and precision to mean a “game where a player’s knowledge and experience influences the outcome of the game.” Ex. 1001, col. 2:9-11. Although the specification of the '237 patent includes “examples” of

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