

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TWITTER, INC. AND YELP INC.,
Petitioner

v.

EVOLUTIONARY INTELLIGENCE, LLC
Patent Owner

Case IPR2014-00812
Patent 7,101,536

Before, KALYAN K. DESHPANDE, TREVOR M. JEFFERSON,
BRIAN J. McNAMARA, NEIL T. POWELL, and
GREGG I. ANDERSON, *Administrative Patent Judges*.

McNAMARA, *Administrative Patent Judge*.

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

BACKGROUND

Twitter, Inc. and Yelp Inc. (collectively “Petitioner”) requests *inter partes* review of claims 2-14 and 16 of U.S. Patent No. 7,101,536 (“the ’536 Patent”) pursuant to 35 U.S.C. § 311 et seq. Papers 1, 8 (“Petition”). Petitioner also moves for joinder with *Apple Inc. v. Evolutionary Intelligence LLC*, IPR2014-00086 (“the Apple IPR”). Paper 4. Motion For Joinder. For the reasons discussed below, we institute a trial in this proceeding and in a separate order, grant Petitioner’s Motion For Joinder.

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.

On April 25, 2014, in the Apple IPR, we instituted a trial on Apple Inc.’s challenge to claims 2-12, 14 and 16 of the ’536 Patent as anticipated under 35 U.S.C. § 102(e) by Gibbs. *Apple Inc. v. Evolutionary Intelligence, LLC*, IPR20140-00086, Paper 8, Decision to Institute. We did not institute trial on Apple Inc.’s challenge to claim 13. *Id.* Apple did not present any other challenges in IPR2014-00086.

On June 3, 2014, we conducted a teleconference with counsel for Petitioner and Evolutionary Intelligence, LLC. (“Patent Owner”). During that teleconference, Petitioner’s counsel confirmed that its challenges to claims 2-12, 14 and 16 of the ’536 Patent in this proceeding are the same as those presented in the Apple IPR on which we instituted a trial. Petitioner’s counsel also agreed to

withdraw its challenge to claim 13 on which we did not institute a trial in the Apple IPR.

In view of the identity of the challenges, we incorporate by reference our decision instituting a trial in IPR2014-00086 and grant the instant Petition on the same grounds as those on which we instituted IPR2014-00086. We do not authorize *inter partes* review on any other grounds. In a separate decision, entered today, we also grant Petitioner's Motion For Joinder.

ORDER

Accordingly, it is:

ORDERED that pursuant to 35 U.S.C. § 314(a), an *inter partes* review is hereby instituted for claims 2-12, 14, and 16 of the '536 patent on the following grounds:

Claims 2-12, 14, and 16 as being anticipated under 35 U.S.C. § 102(e) by Gibbs;

FURTHER ORDERED that all other grounds raised in the Petition are *denied*;

FURTHER ORDERED that pursuant to 35 U.S.C. § 314(c) and 37 C.F.R. § 42.4, notice is hereby given of the institution of a trial on the grounds of unpatentability authorized above.

Case IPR2014-00812

Patent 7,010,536

PETITIONER:

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