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Paper No. 24
Entered: December 15, 2014

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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505 GAMES, INC., ACTIVISION BLIZZARD, INC., BLIZZARD ENTERTAINMENT, INC., CAPCOM U.S.A. INC., THE WALT DISNEY CO., DISNEY INTERACTIVE STUDIOS, INC., LUCASARTS, ELECTRONIC ARTS INC., BANDAI NAMCO GAMES AMERICA, INC., BANDAI NAMCO HOLDINGS USA INC., RIOT GAMES, INC., SONY COMPUTER ENTERTAINMENT AMERICA LLC, SQUARE ENIX, INC., SQUARE ENIX OF AMERICA HOLDINGS, INC., TAKE-TWO INTERACTIVE SOFTWARE, INC., ROCKSTAR GAMES, INC., 2KSPORTS, INC., 2K GAMES, INC., and UBISOFT, INC.,
Petitioner,

v.

BABBAGE HOLDINGS, INC.,
Patent Owner.

Case IPR2014-00954
Patent 5,561,811

Before MEREDITH C. PETRAVICK, KALYAN K. DESHPANDE, and MATTHEW R. CLEMENTS, *Administrative Patent Judges*.

PETRAVICK, *Administrative Patent Judge*.

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

I. INTRODUCTION

A. Background

505 Games, Inc., Activision Blizzard, Inc., Blizzard Entertainment, Inc., Capcom U.S.A. Inc., The Walt Disney Co., Disney Interactive Studios, Inc., LucasArts, Electronic Arts Inc., BANDAI NAMCO Games America, Inc., BANDAI NAMCO Holdings USA Inc., Riot Games, Inc., Sony Computer Entertainment America LLC, Square Enix, Inc., Square Enix of America Holdings, Inc., Take-Two Interactive Software, Inc., Rockstar Games, Inc., 2KSports, Inc., 2K Games, Inc., and Ubisoft, Inc. (collectively, "Petitioner") filed a Petition to institute an *inter partes* review of claim 7 of U.S. Patent No. 5,561,811 (Ex. 1001, "the '811 patent") pursuant to 35 U.S.C. § 311–319. Paper 1 ("Pet."). Babbage Holdings, Inc. ("Patent Owner") filed a Preliminary Response to the Petition. Paper 23 ("Prelim. Resp.").

We have jurisdiction under 35 U.S.C. § 314, which provides that a *inter partes* review may not be instituted "unless . . . the information presented in the petition . . . 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." Petitioner contends that claim 7 of the '811 patent is unpatentable under 35 U.S.C. § 103. We conclude that Petitioner has demonstrated that there is a reasonable likelihood that it would prevail with respect to the challenged claim. For the reasons described below, we institute an *inter partes* review of claim 7.

B. Related Proceedings

Both parties state that the '811 patent is involved in numerous district court cases in the Eastern District of Texas. *See* Pet. 50–51; Paper 14, 2–3.

C. The '811 patent

The '811 patent is titled "Method and Apparatus for Per-User Customization of Applications Shared By a Plurality of Users On A Single Display." Ex. 1001, 1. The '811 patent describes that a disadvantage with prior groupware applications is that they "generally require that each of a number of participants have his or her own computer" but that "[t]here are many occasions, however, in which two or more people wish to collaborate in a single-computer situation." *Id.* at col. 1, ll. 21–25. As a solution to this problem, the '811 patent discloses "a method and apparatus for sharing customizable software applications on a single display that overcomes [this] disadvantage[] of the prior systems and that permits two or more persons to share the same instance of an application, [employing] a common screen." *Id*. at col. 2, ll. 20–25.

Figure 25 of the '811 patent is reproduced below.

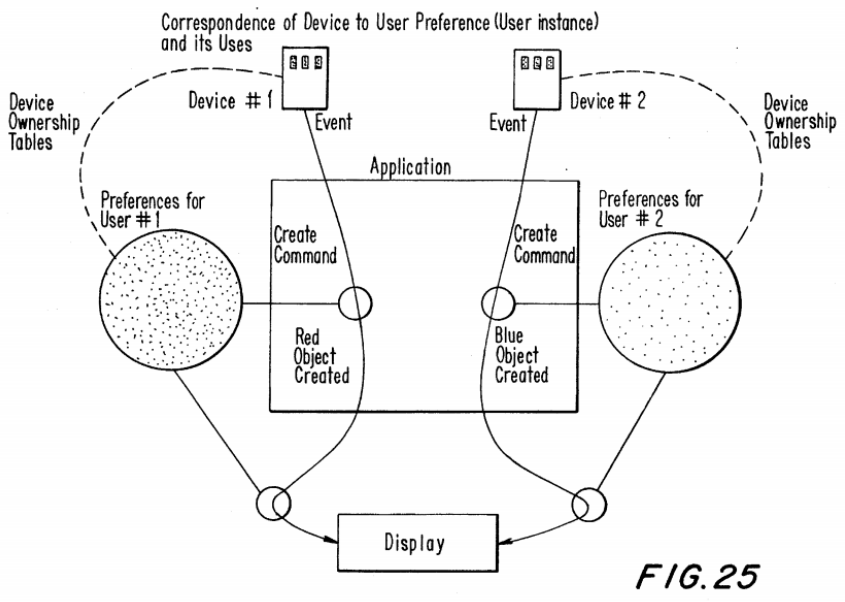

Figure 25 is a diagram that illustrates how user preferences are involved in processing input events from two different users.

Figure 25 depicts Device # 1 and Device # 2 that are registered with user preferences for User #1 and User #2, respectively, using device ownership tables (i.e., Device to User Instance table). *Id.* at col. 9, l. 10 – col. 10, l. 17. Commands are created from users' input events according to the user preferences, and, then, the commands are sent to a display for execution. *Id*. at col. 11, l. 20–45. For example, if multiple users are creating rectangles, simultaneously, in a rectangle editor, one user's rectangles may be colored blue and another's red according to their preferences. *Id*. at col. 5, l. 53 – col. 6, l. 21.

Claim 7, reproduced below, is the sole challenged claim.

> 7. A method for entering simultaneous and sequential input events for at least one application program under the control of multiple users of a computer system and for displaying a visual response of said application program to said input events on a shared display, each of said users having a unique identity; said method comprising the steps of
>
> entering simultaneous and sequential input events through user control of a plurality of input devices connected to a single computer, each of said input devices having a unique identity that is linked with any input events that are entered thereby;
>
> revokably registering different ones of said users with different ones of said input devices, whereby the identity of each input device that has a user registered therewith is linked with the identity of its registered user;
>
> linking any input events from input devices that have users registered therewith with prespecified, individualized preferences of the respective registered users of such input devices, and
>
> translating input events from input devices that have registered users into commands that said application program executes in accordance with the preferences of the registered users of the input devices.

D. Asserted Grounds of Unpatentability

Petitioner asserts the following grounds of unpatentability for claim 7:

Ground	Prior Art
§ 103	Yoshino[1] and Greanias[2]
§ 103	Lu[3] and Greanias
§ 103	Dodge Ball[4]

II. ANALYSIS

A. Claim Construction

The '811 patent expired October 1, 2013. For claims of an expired patent our claim interpretation analysis is similar to that of a district court. *See In re Rambus, Inc.* 694 F.3d 42, 46 (Fed. Cir. 2012). Claim terms are given their ordinary and customary meaning, as would be understood by a person of ordinary skill in the art, at the time of the invention, in light of the language of the claims, the specification, and the prosecution history of record. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1313–1317 (Fed. Cir. 2005) (en banc).

i. "plurality of input devices connected to a single computer"

Petitioner proposes that claim 7's limitation "plurality of input devices connected to a single computer" requires that the input devices are connected to the same computer. Pet. 10. Patent Owner argues that

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[1] Yoshino et al., US Patent No. 5,548,304 (issued Aug. 20, 1996)(Ex. 1002).
[2] Greanias et al., US Patent No. 5,157,384 (issued Oct. 20, 1992) (Ex. 1003).
[3] Iva M. Lu and Marily M. Mantei, IDEA MANAGEMENT IN A SHARED DRAWING TOOL, Proceeding of the second european conference on computer-supported cooperative work (L. Bannon, et al. eds., 1991) (Ex. 1004).
[4] SUPER FAMICON, BATTLE DOGE BALL MANUAL (Ex. 1005).

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