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Paper No. 13
Filed: August 21, 2015

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WHATSAPP INC. and FACEBOOK, INC.,
Petitioner,

v.

TRIPLAY, INC.,
Patent Owner.

Case IPR2015-00740
Patent 8,332,475 B2

Before BENJAMIN D. M. WOOD, BRIAN J. McNAMARA, and FRANCES L. IPPOLITO, *Administrative Patent Judges*.

IPPOLITO, *Administrative Patent Judge*.

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

I. INTRODUCTION

WhatsApp Inc. and Facebook, Inc. (collectively "Petitioner") filed a Petition on February 14, 2015, requesting an *inter partes* review of claims 1, 6, 9, 12, 17, 18, 23, 28, 37, and 39–42 of U.S. Patent No. 8,332,475 B2 (Ex. 1001, "the '475 patent"). (Paper 1, "Pet."). Patent Owner, TriPlay Inc., filed a Preliminary Response to the Petition on May 26, 2015 (Paper 12, "Prelim. Resp.").

We have jurisdiction under 35 U.S.C. § 314, which provides that an *inter partes* review may be authorized only if "the information presented in the petition . . . and any [preliminary] response . . . 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." 35 U.S.C. § 314(a).

Pursuant to 35 U.S.C. § 314, we conclude there is a reasonable likelihood that Petitioner would prevail with respect to claims 1, 6, 9, 12, 17, 18, 23, 28, 37, and 39–42 of the '475 patent.

A. Related Proceedings

Petitioner indicates that the '475 patent is the subject of a pending United States District Court proceeding captioned *TriPlay, Inc. et al. v. WhatsApp Inc.*, Case No. 1:13-cv-1703-LPS (D. Del. Oct. 15, 2013). Pet. 1.

B. The '475 Patent

The '475 patent is directed generally to electronic messaging between communication devices. Ex. 1001, Abstract. More specifically, the '475 patent describes converting and or adapting formats/layouts of messages to be sent between an origination device and a destination device. *Id.* Referring to Figures 1 and 5, the '475 patent describes messaging system 16 as including access block 21 and media block 23. *Id.* at 12:62–65; 16:18–27. Access block 21 may include users' gateway 211 and third-party

applications' gateway 214 that support communication with communication devices and third party applications via corresponding networks. *Id.* at 13:4–7; Fig. 2. For sending a message from an originating device to a destination device, the '475 patent describes media block 23 of messaging system 16 with transcoder 232 and message manager 231. *Id.* at Fig. 5. Media block 23 "is configured to select the format and message layout fitting to the destination device and to convert the message accordingly before facilitating its delivery to the destination device." *Id.* at 16:24–27. Converting includes transcoding the message format and/or adapting the message layout. *Id.* at 16:28–30. Message manager 231 is configured to provide layout adaptation and/or repackaging. *Id.* at 34–37.

As an example of operation, Figure 6 is reproduced below.

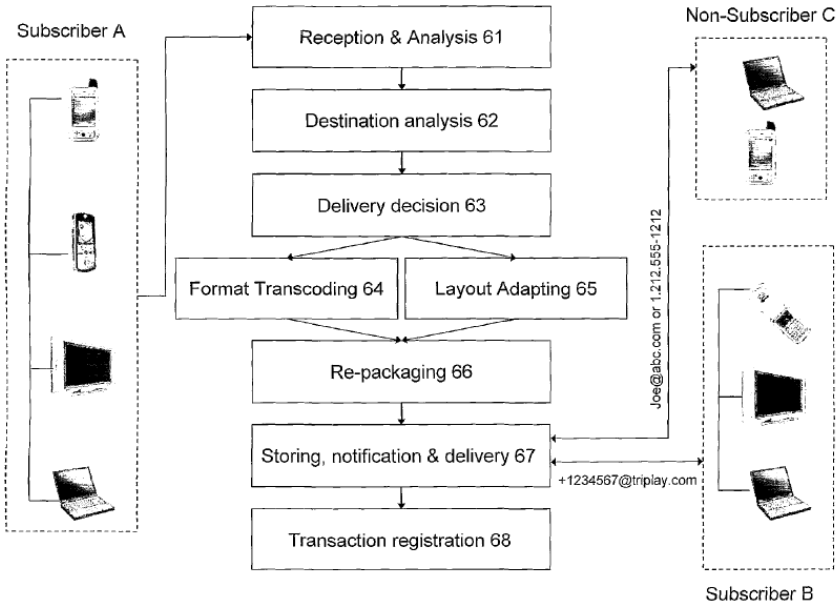

Figure 6

Figure 6 shows a generalized flow diagram of operating messaging system 16. *Id.* at 16:17–19. Messaging system 16 is connected with networks 13, 14 and/or 15 illustrated in Figure 1 in a manner that the message communication originated by the subscriber and/or designated to the

subscriber shall pass through messaging system 16. *Id.* at 16:41–46. As shown in Figure 6 Subscriber A composes a message at one of the communication devices assigned and sends the message to Subscriber B and Non-subscriber C. *Id.* at 16:46–49. As the message is originated by the subscriber, it will be re-addressed to messaging system 16. *Id.* at 16:49–51. Messaging system 16 receives the message and analyzes 61 originating and destination addresses comprised in the message. *Id.* at 16:51–53.

If it is found that the destination device is assigned to a subscriber (e.g., per domain name assigned to the subscribers, IP address or other device attribute stored in the database, etc.), the system decides 62 on the destination device, and takes a delivery decision 63 accordingly. Ex. 1001, 16:53–58. The delivery decision comprises delivery instructions with regard to destination device(s) and/or content and/or format and/or layout of the message to be delivered. *Id.* at 16:63–17:4. In accordance with the delivery decision, the system provides transcoding of the message format 64 and/or adapting layout 65 and appropriate repackaging 66 if necessary (for example, if limitations by communication media and/or destination device, and/or DRM-related instructions or other reasons require deleting or replacing some of the media items comprised in the message). *Id.* at 17:6–12. The converted message and/or notification thereof are delivered 67 to the destination device, and the transaction is registered 68 in the system. *Id.* at 17:13–15. The described process may be provided in a similar manner for several destination devices. *Id.* at 17:16–20.

As another example, Figure 9 is reproduced below.

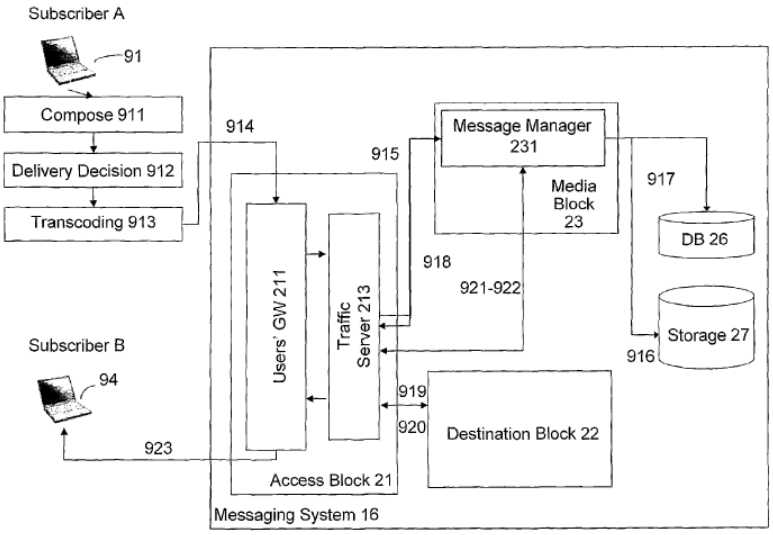

Figure 9

Figure 9 shows a generalized flow diagram of messaging between two subscribers wherein originating device 91 is a PC supporting synchronized multimedia message and destination device 94 is a PC supporting plain messages only. Ex. 1001, 19:4–8. Subscriber A composes 911 a synchronized multimedia message at originating device 91 to be sent to subscriber B. *Id.* at 19:8–10. A client at the originating device may be configured to obtain availability information from the messaging system and/or other platform(s), and request the messaging system for information with regard to Subscriber B preferences and/or results of preferred destination device calculations; the messaging system may be configured to provide such information to the client. *Id.* at 19:16–23.

After the client obtains information with regard to the destination device, it takes delivery decision 912 and provides the appropriate transcoding 913 matching (fully or partly) the message to capabilities of destination device 94 and communication media. *Id.* at 19:24–28. The

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