

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WhatsApp, Inc. and Facebook, Inc.
Petitioners

v.

TriPlay, Inc.
Patent Owner

Inter Partes Review No. IPR2016-00717
U.S. Patent No. 8,874,677

PETITIONERS' NOTICE OF APPEAL

Pursuant to 37 C.F.R. § 90.2(a) and 35 U.S.C. § 142, Petitioners WhatsApp, Inc. and Facebook, Inc. ("Petitioners") hereby appeal to the United States Court of Appeals for the Federal Circuit from the Patent Trial and Appeal Board's ("Board's") Final Written Decision entered August 28, 2017 (Paper 42), and from all underlying and related findings, orders, decisions, rulings and opinions. A copy of the Board's Final Written Decision is attached hereto.

For the limited purpose of providing the Director with the information requested in 37 C.F.R. § 90.2(a)(3)(ii), Petitioners further indicate that the issues on appeal may include, but are not limited to: the Board's determination that claims 1, 2, 11, 13, 14, 16, 17, 20, and 21 have not been shown to be unpatentable under 35 U.S.C. § 103, the findings, rulings and conclusions supporting or relating to those determinations, and any other issues decided adversely to Petitioners in any orders, decisions, ruling, or opinions.

Simultaneous with this submission, three (3) copies of this Notice of Appeal are being filed with the Clerk of the United States Court of Appeals for the Federal Circuit, together with the requisite fee in the amount of \$500. In addition, a copy of this Notice of Appeal is being filed with the Patent Trial and Appeal Board and served upon counsel of record for TriPlay, Inc.

A Notice of Appeal is also being filed concurrently in the related *inter partes* review proceeding IPR2016-00718.

Petitioners' Notice of Appeal
IPR2016-00717

Dated: September 14, 2017

Respectfully submitted,

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WHATSAPP INC.,
Petitioner,

v.

TRIPLAY, INC.,
Patent Owner.

Case IPR2016-00717
Patent 8,874,677 B2

Before JOSIAH C. COCKS, BRIAN J. MCNAMARA, and
FRANCES L. IPPOLITO, *Administrative Patent Judges*.

IPPOLITO, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. INTRODUCTION

A. *Background*

WhatsApp Inc. (“Petitioner”) filed a Petition requesting *inter partes* review of claims 1–5, 11–14, and 16–21 of U.S. Patent No. 8,874,677 B2 (Ex. 1001, “the ’677 patent”). Paper 1 (“Pet.”). TriPlay, Inc. (“Patent Owner”) filed a Preliminary Response. Paper 12 (“Prelim. Resp.”).

Based on these submissions, we instituted an *inter partes* review of claims 1, 2, 11, 13, 14, 16, 17, 20, and 21 of the ’677 patent based on Petitioner’s asserted challenge that these claims are unpatentable under 35 U.S.C. 103 as obvious over Coulombe,¹ Bellordre,² and Friedman³. Paper 15 (“Dec. on Inst.”).

After institution, Patent Owner filed its Patent Owner Response on December 16, 2016 (Paper 21, “PO Resp.”) and Petitioner filed a Reply (Paper 26, “Reply”).

We have jurisdiction under 35 U.S.C. § 6. This Decision is a final written decision under 35 U.S.C. § 318(a) as to the patentability of the challenged claims. For the reasons that follow, we determine Petitioner has not shown by a preponderance of the evidence that claims 1, 2, 11, 13, 14, 16, 17, 20, and 21 of the ’677 patent are unpatentable.

B. *Related Proceedings*

The parties state that the ’677 patent is the subject of pending litigation captioned *TriPlay, Inc. v. WhatsApp Inc.*, Case No. 1:13-cv-1703-

¹ US 2003/0236892 A1 (Dec. 25, 2003) (Ex. 1003).

² US 2006/0176902 A1 (Aug. 10, 2006) (Ex. 1004).

³ US 7,593,991 B2 (Sept. 22, 2009) (Ex. 1005).

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