

*WhatsApp, Inc. and Facebook, Inc., Petitioner v. TriPlay, Inc.,  
Patent Owner, IPR2016-00717 & IPR2016-00718*

*Patent Owner's Oral  
Argument Presentation  
On U.S. Patent No.  
8,874,677 B2*

*June 12, 2017*

UNITED STATES PATENT AND TRADEMARK OFFICE  
PATENT TRIAL AND APPEAL BOARD

## *Institution Decision: Resolution Required Further Factual Development*

- Board considered Patent Owner’s contention that the Petition failed to consider Coulombe’s video delivery teachings but did not find the argument persuasive “on the current record.” Decision at 15 (emphasis added).
- The argument “requires us to give more weight to Patent Owner’s declaration testimony than Petitioner’s declaration testimony. Because it would be premature for us to weigh the declarants’ testimony before either declarant is deposed, we decline the request.” *Id.* at 15-16 (emphasis added).
- “[A] genuine issue of material fact created by such testimonial evidence will be viewed in the light most favorable to the petitioner solely for purposes of deciding whether to institute an *inter partes* review.” *Id.* at 15-16.

## *Institution Decision: Resolution Required Further Factual Development*

- “We have reviewed Petitioner’s assertions regarding the motivations of a person of ordinary skill in the art to combine these references, as well as the Patent Owner’s arguments why Petitioner’s assertions are insufficient.” Decision at 16.
- “On the present record, and with the understanding that neither declarant has been deposed, we determine that Petitioner has provided sufficient reason for its position that a person of ordinary skill would have been motivated to combine the teachings of Coulombe, Bellordre and Friedman.” *Id.* at 16.
- *See TriVascular, Inc. v. Samuels*, 812 F. 3d 1056, 1068 (Fed. Cir. 2016) (“The Board is free to change its view of the merits after further development of the record ....” and “is not bound by any findings made in its Institution Decision.”)

# *Petition: Four Disputed Limitations (Claim 1)*

1a	A method comprising: receiving, by a messaging system, an initial message sent by an originating communication device to a destination communication device
1b	the initial message being characterized, at least, by message format, an initial message layout and data indicative of at least one receiver associated with the initial message
1c	<b>wherein the initial message includes a video;</b>
1d	obtaining, by the messaging system, data indicative of displaying capabilities of the destination communication device
1e	before delivery to the destination communication device associated with the at least one receiver, enabling, by the messaging system, conversion ... of the initial message into an adapted message
1f-1	<b>wherein the conversion comprises: providing, by the messaging system, a clickable icon: i) based on the video from the initial message and</b>
1f-2	<b>ii) [a clickable icon] clickable into an adapted version of the video, wherein the adapted version of the video is adapted to the displaying capabilities of the destination communication device</b>
1g	<b>b) determining, by the messaging system, an adapted message layout, comprising the clickable icon; and</b>
1h	facilitating, by the messaging system, delivery of the adapted message to the destination communication device

## *Petition: Four Disputed Limitations (Claim 6)*

6a	A messaging system comprising an access block operatively coupled to a media block wherein,
6b	the access block is configured to receive an initial message sent by an originating communication device to a destination communication device
6c	the initial message being characterized, at least, by message format, an initial message layout, and data indicative of at least one receiver associated with the initial message,
6d	<b>wherein the initial message includes a video,</b>
6e	the media block is configured to obtain data indicative of displaying capabilities of the destination communication device and enable conversion ... of the initial message into an adapted message,
6f-1	<b>wherein the conversion comprises: providing, by the media block, a clickable icon:</b>
6f-2	<b>i) based on the video from the initial message and</b>
	<b>ii) [a clickable icon] clickable into an adapted version of the video, wherein the adapted version of the video is adapted to the displaying capabilities of the destination communication device</b>
6g	<b>determining, by the media block, an adapted message layout, comprising the clickable icon;</b> and
6h	the access block is further configured to enable transmitting the adapted message to the destination device associated with the at least one receiver.

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