

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WHATSAPP INC.,
Petitioner,

v.

TRIPLAY, INC.,
Patent Owner.

Case IPR2016-00718
Patent 8,874,677 B2

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

COCKS, *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 6, 7, and 15 of U.S. Patent No. 8,874,677 B2 (Ex. 1101, “the ’677 patent”). Paper 1 (“Pet.”). TriPlay, Inc. (“Patent Owner”) filed a Preliminary Response. Paper 14.

Based on these submissions, we instituted an *inter partes* review of claims 6, 7, and 15 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 17 (“Dec. on Inst.”). After institution, Patent Owner filed its Patent Owner Response on December 16, 2016 (Paper 23, “PO Resp.”) and Petitioner filed a Reply (Paper 28, “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 6, 7, and 15 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).

LPS (D. Del.). Pet. 1; Paper 5, 2. Petitioner further states that the parent to the '677 patent, U.S. Patent No. 8,332,475, is the subject of IPR2015-00740. Pet. 1. The '677 patent is also involved in IPR2016-00717.⁴

C. The '677 Patent

The '677 patent issued October 28, 2014 from an application filed November 16, 2012, and claims priority to a provisional application filed August 22, 2005. Ex. 1101, cover page. The '677 patent is directed to “cross-platform messaging” and describes a messaging system that converts the formats and layouts of messages sent between communication devices that may have different communication and display capabilities. *Id.*, Abstract, 11:53–56. Figure 1, reproduced below, illustrates a network architecture in which the messaging system may be used.

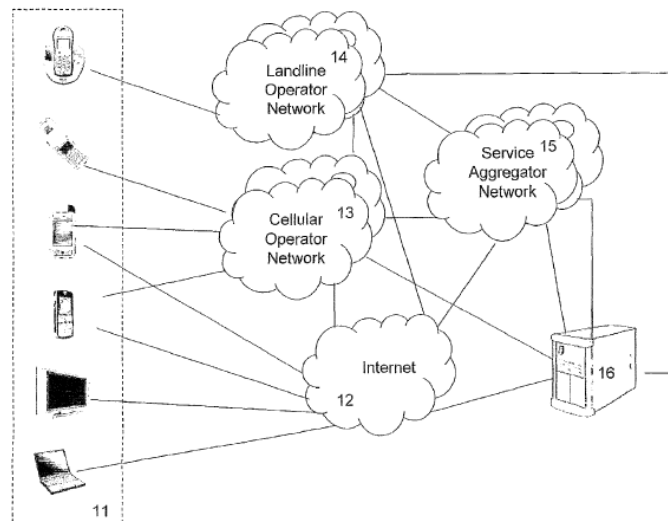


Figure 1

Figure 1 depicts various communication devices 11 (e.g., cell phone, PC) connected to at least one of Internet 12, Cellular Operator Network 13, etc.

⁴ A Final Written Decision in IPR2016-00717 has been issued concurrently with the present Decision.

Id. at 11:30–40. Messages from an originating device to a destination device pass through messaging system 16, where at least one of the devices is assigned to a user registered in the system. *Id.* at 12:12–13. Messaging System 16 supports a variety of message formats such as text, video, and image. *Id.* at 12:16–21.

Figure 6, reproduced below, depicts an example of the messaging system's operation.

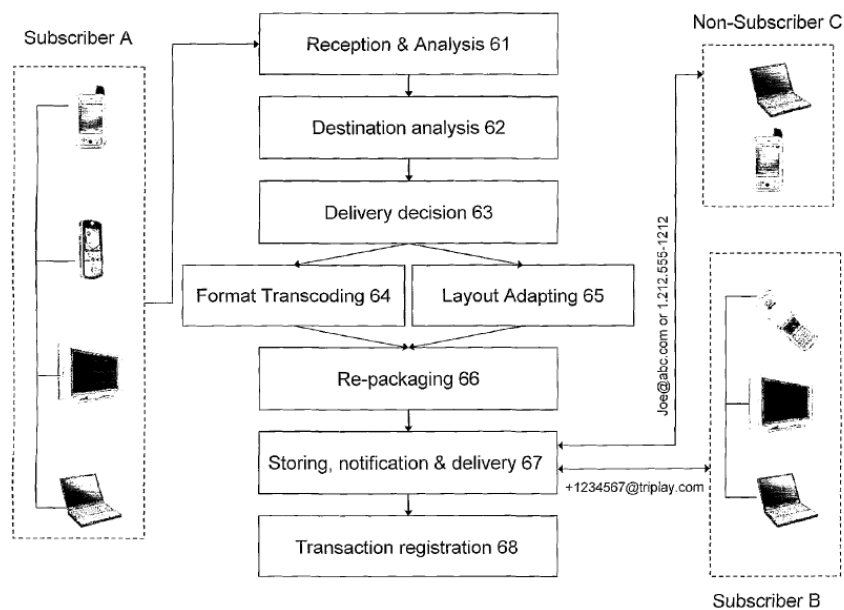


Figure 6

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 16:40–42. Messaging system 16 receives the message and analyzes 61 originating and destination addresses comprised in the message. *Id.* at 16:44–46. If the destination device is assigned to a subscriber, the system analyzes the destination device 62 and makes a delivery decision 63 accordingly. *Id.* at 16:45–49. The delivery decision comprises deciding, e.g., the content, format and/or layout of the message to be delivered. *Id.* at 16:45–57. In accordance with the delivery decision, the

system provides transcoding of the message format 64 and/or adapting message layout 65 and appropriate repackaging 66 if necessary (for example, if limitations of the communication media or destination device require deleting or replacing some of the media items in the message). *Id.* at 16:64–17:3. 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 17:4–6. The described process may be provided in a similar manner for several destination devices. *Id.* at 17:6–9.

The '677 patent further describes facilitating composing messages using “pre-defined templates.” *Id.* at 19:40–42. The '677 patent describes different template “types,” each having different “Content Structures.” *Id.* at 19:50–66 (Table 1). “Each type of template and/or each template is provided with [a] unique identifier [that can be] recognized by the message system and/or client and stored in the message metadata.” *Id.* at 19:45–48. The template layout may depend on the capabilities of the destination device. *Id.* at 20:50–52. For example, Table 2 of the '677 patent describes a “General” template type with different layouts for PC, Web, and cell-phone display. For audio/video media, the cell phone layout contains a clickable icon into the video. *Id.*, Table 2. “Among advantages of certain aspects of the present invention is reduction in need of content analysis and ability to provide layout-related delivery instructions based on pre-defined rules and parameters (e.g., in a form of a look-up table).” *Id.* at 20:63–67.

D. The Challenged Claims

Of the challenged claims, claim 6 is independent and is reproduced below:

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