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Paper 17
Entered: September 8, 2016

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

WOOD, *Administrative Patent Judge*.

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

I. INTRODUCTION

A. Background

WhatsApp Inc. ("Petitioner") filed a Petition requesting *inter partes* review of claims 6–10 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 ("Prelim. Resp.").

We have jurisdiction under 35 U.S.C. § 314, which provides that an *inter partes* review may not be instituted "unless . . . 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). Upon considering the Petition and the Preliminary Response, we determine that Petitioner has shown a reasonable likelihood that it would prevail in showing the unpatentability of at least one of the challenged claims. Accordingly, we grant the Petition.

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-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.

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.

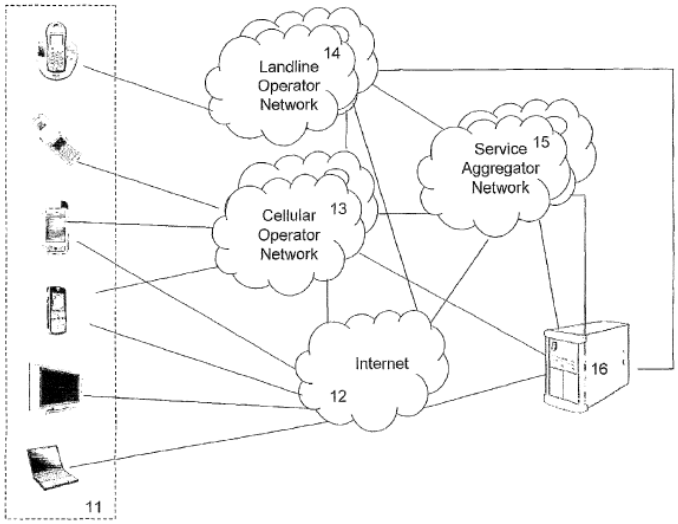

Figure 1

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. *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.

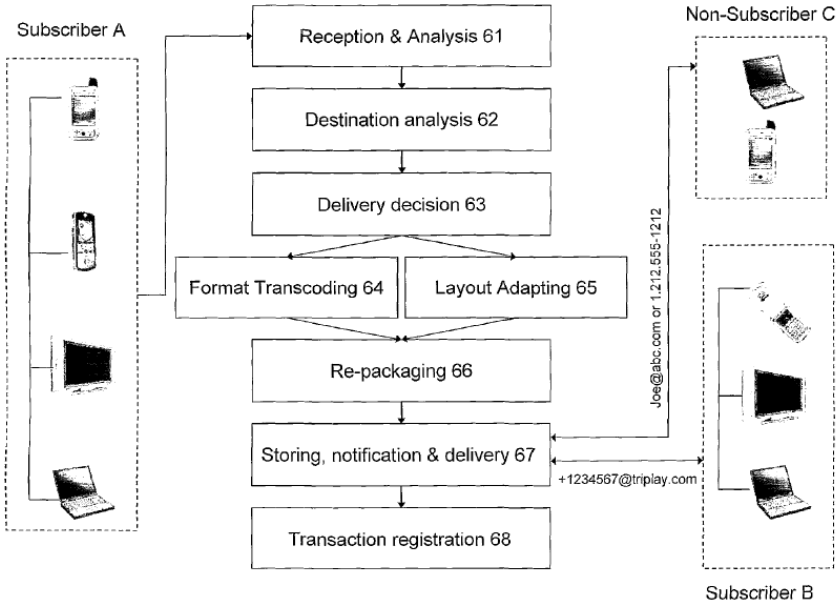

Figure 6

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 16:46–49. Messaging system 16 receives the message and analyzes 61 originating and destination addresses comprised in the message. *Id.* at 16:51–53. If the destination device is assigned to a subscriber, the system analyzes the destination device 62 and takes a delivery decision 63 accordingly. *Id.* at 16:53–58. The delivery decision comprises deciding, e.g., the content, 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 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 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.

The ’677 patent further describes facilitating composing messages using “pre-defined templates.” *Id.* at 19:40–41. 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. 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. Claim 6 is illustrative, and is reproduced below:

> 1. A messaging system comprising an access block operatively coupled to a media block, wherein:
>
> the access block is configured to receive an initial message sent by an originating communication device to a destination communication device, 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, wherein the initial message includes a video;
>
> the media block is configured to obtain data indicative of displaying capabilities of the destination communication device and

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