

Trials@uspto.gov
571.272.7822

Paper No. 60
Filed: March 8, 2016

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMAZON.COM, INC. and AMAZON WEB SERVICES, LLC,
Petitioner,

v.

PERSONALIZED MEDIA COMMUNICATIONS, LLC,
Patent Owner.

Case IPR2014-01533
Patent 7,805,749

Before KARL D. EASTHOM, TRENTON A. WARD, and
GEORGIANNA W. BRADEN, *Administrative Patent Judges*.

BRADEN, *Administrative Patent Judge*.

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

I. INTRODUCTION

We have jurisdiction to hear this *inter partes* review under 35 U.S.C. § 6(c), and this Final Written Decision is issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons that follow, we determine that Petitioner has shown by a preponderance of the evidence that claims 2, 3, 9–13, 18, 24, 49, 52, and 53 of U.S. Patent No. 7,805,749 (Ex. 1001, “the ’749 patent”) are unpatentable. We also determine that Patent Owner has not met its burden on its Motion to Amend regarding entry of proposed substitute claims 56–67, and thus, we deny the Motion to Amend.

A. Procedural History

Amazon.Com, Inc. and Amazon Web Services, LLC (“Petitioner”) filed a Petition (Paper 1, “Pet.”) to institute an *inter partes* review of claims 2, 3, 9–13, 18, 24, 49, 52, and 53 of the ’749 patent. Personalized Media Communications, LLC (“Patent Owner”) filed a Preliminary Response (Paper 6, “Prelim. Resp.”). Pursuant to 35 U.S.C. § 314(a), we instituted an *inter partes* review of claims 2, 3, 9–13, 18, 24, 49, 52, and 53 as unpatentable under 35 U.S.C. § 103 in view of Powell¹ and Guillou.² See Paper 7 (“Dec. to Inst.”), 30.

After institution of trial, Petitioner filed a request for rehearing (Paper 11), as did Patent Owner (Paper 14). The requests for rehearing were considered and denied. Papers 16, 23. Patent Owner then filed a Patent

¹ Chris Powell, *Prestel: the Opportunity for Advertising*, VIEWDATA AND VIDEOTEXT 1980–81: A WORLDWIDE REPORT, 1980 (“Powell,” Ex. 1014).

² U.S. Patent No. 4,337,483, issued June 29, 1982 (“Guillou,” Ex. 1022).

IPR2014-01533
Patent 7,805,749

Owner Response (Paper 27, “PO Resp.”), to which Petitioner filed a Reply (Paper 38, “Reply”).

In addition, Patent Owner also filed a Motion to Amend the Claims (Paper 26), to which Petitioner filed an Opposition (Paper 39). Patent Owner then filed a Reply to Petitioner’s Opposition to the Motion to Amend the Claims. Paper 46.

Patent Owner filed observations on the cross-examination of Petitioner’s declarant (Paper 51), to which Petitioner filed a response (Paper 54). Petitioner filed observations and amended observations on the cross-examination of Patent Owner’s declarant (Papers 53, 56), to which Patent Owner filed a response and an amended response (Papers 55, 58).

An oral argument was held on Dec. 8, 2015. A transcript of the oral argument is included in the record. Paper 59 (“Tr.”).

B. Related Proceedings

Petitioner informs us that the ’749 patent is the subject of a lawsuit: *Personalized Media Commc’ns, LLC v. Amazon.com, Inc.*, No. 1:13-cv-1608-RGA (D. Del. filed Sept. 23, 2013). Pet. 1. According to Petitioner, the district court’s judgment in the lawsuit has been appealed to the Court of Appeals for the Federal Circuit as Appeal No. 15-2008. Paper 41, 1. Petitioner also informs us that six patents related to the ’749 patent are the subject of concurrently-filed petitions for *inter partes* review. Pet. 1; Paper 41, 1; *see* IPR2014-01527, IPR2014-01528, IPR2014-01530, IPR2014-01531, IPR2014-01532, and IPR2014-01534.

C. The '749 Patent

The '749 patent discloses a system for using embedded signals to deliver personalized program content to a subscriber station. Ex. 1001, 7:47-48, 15:14-46. One embodiment of the disclosed system is illustrated in Figure 7, and is reproduced below.

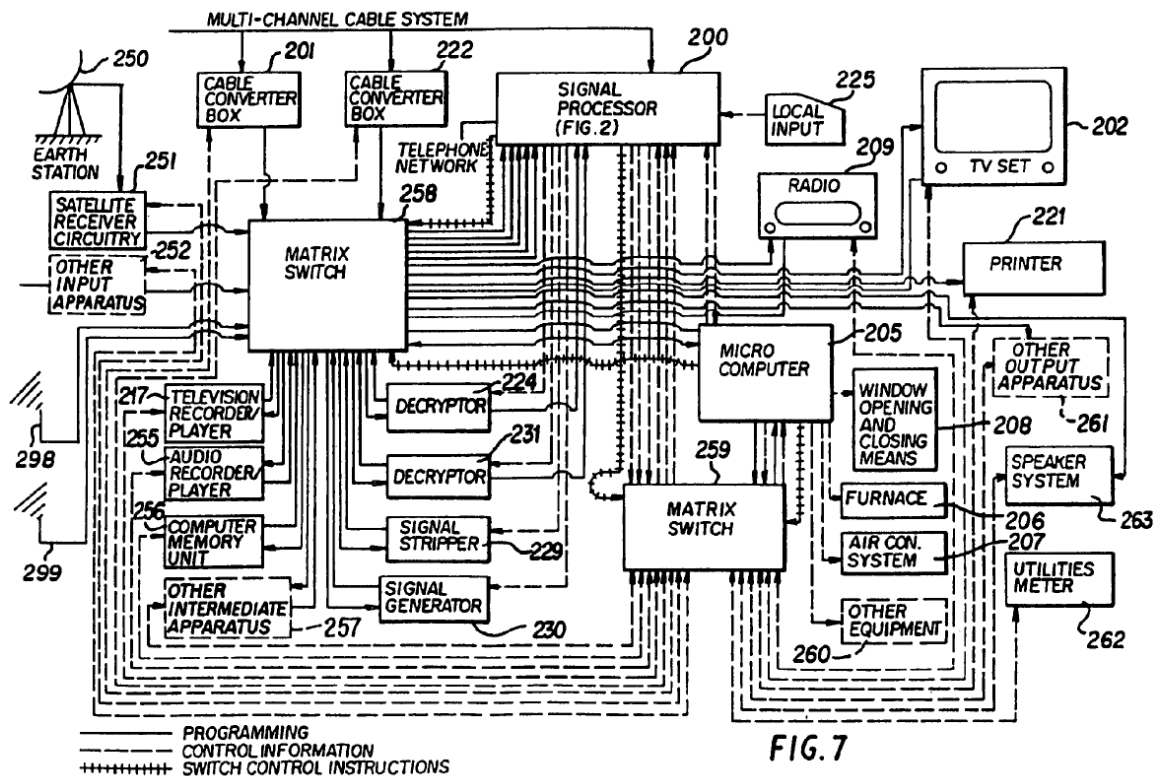


Figure 7 shows that TV set 202, printer 221, and local input device 225 are connected to a system that includes micro-computer 205 and signal processor 200. *Id.* at 242:31-59. The '749 patent describes personalized content being delivered to a subscriber substation by transmission of a message, which can be encrypted and decrypted. *Id.* at 246:26-29. The content is decrypted using a decryptor that is provided with the personalized content-containing message. *Id.* at 15:21-27. Personalized content can be

sent to and coordinated through computers, television, and printers. *Id.* at 241:57–60.

Another embodiment of the '749 patent describes a subscriber watching a television program called “Exotic Meals of India.” *Id.* at 241:50–246:58. According to the '749 patent, midway through the program “Exotic Meals of India,” subscribers are offered a printout of the recipe and shopping list for the ingredients of the meal that is being prepared on the show. *Id.* at 242:63–66. Subscribers are prompted to enter a code, TV567#, into a local input device. *Id.* at 242:63–243:23. A receiver station receives the code, and accesses preprogrammed information (including “particular program unit information and TV567# information”) that is stored in a buffer at microcomputer 205. *Id.* at 241:61–65, 243:24–56; Figs. 7, 7F. One minute later, the program-originating studio embeds a second signal that includes “unit code identification information that identifies the programming of the information segment of said message” and a computer program for generating a user-specific recipe. *Id.* at 243:60–244:3. Receipt of this second signal causes the receiver station where the TV567# code was entered to execute the program (instructions) to generate a user-specific recipe. *Id.* at 244:4–59. The '749 patent states that the information of the second message, i.e., the message containing the instructions for generating the recipe and shopping list, “can be encrypted and caused to be decrypted in any of the methods described above—for example, in the method of the first message of example #4.” *Id.* at 246:26–29.

Example #4 of the '749 patent specifically provides a process for decrypting a message in which a receiver station selects a “program unit

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.