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LOUIS J. HOFFMAN, P.C. 11811 North Tatum Boulevard, Suite 2100 Phoenix, AZ 85028			KOSOWSKI, ALEXANDER J	
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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* DDR HOLDINGS, LLC,  
Appellant and Patent Owner

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Appeal 2009-013988  
Reexamination Control 90/008,375  
Patent 6,629,135  
Technology Center 3900

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Decided: April 16, 2010

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Before SCOTT R. BOALICK, ST. JOHN COURTENAY III, and KEVIN F.  
TURNER, *Administrative Patent Judges*.

TURNER, *Administrative Patent Judge*

DECISION ON APPEAL

Appeal 2009-013988  
Reexamination Control 90/008,375  
United States Patent 6,629,135

DDR HOLDINGS, LLC<sup>1</sup> appeals under 35 U.S.C. §§ 134(b) and 306 from a final rejection of claims 8, 13, and 14. We have jurisdiction under 35 U.S.C. §§ 134(b) and 306.

We heard oral arguments on October 21, 2009, a written transcript of which is included in the record.

We REVERSE.

#### STATEMENT OF THE CASE

This proceeding arose from a request for *ex parte* reexamination filed by the Patent Owner on December 13, 2006 of United States Patent 6,629,135 (issued September 30, 2003) to D. Delano Ross, Jr., et al. [hereinafter the '135 Patent] based on United States Patent Application 09/398,268 (filed September 17, 1999).

A related patent, United States Patent 6,993,572 (issued January 31, 2006), based on United States Patent Application 10/461,997 (filed June 11, 2003), is a continuation of the application for the '135 Patent, is also the subject of a request for *ex parte* reexamination (Reexamination Control 90/008,374), and is also presently being appealed (Appeal 2009-013987). That appeal is being concurrently decided with the instant appeal.

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<sup>1</sup> DDR Holdings, LLC is the real party in interest and the current owner of the patent under reexamination.

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Patentee's invention relates to commerce syndication where computer-based information providers receive outsourced electronic commerce facilities in a context sensitive, transparent manner (Spec. col. 1, ll. 15-18). In the process, the host's look and feel is captured by selecting an example page of the host, retrieving the sample page from the host, identifying the look and feel elements from the sample page and saving the identified look and feel elements. "Look and feel elements" include logos, colors, page layout, navigation systems, frames, "mouse-over" effects, or other elements that are consistent through some or all of a host's website (*id.* at col. 12, ll. 41-50).

Claims 1-18 are listed in the issued patent, with only claims 8, 13, and 14 being subject to reexamination (Final Office Action 2). Claim 8, which we deem to be representative, reads as follows:

8. An e-commerce outsourcing process providing a host website in communication with a visitor computer with context sensitive, transparent e-commerce support pages, comprising the steps of:
  - (a) capturing a look and feel description associated with a host website;
  - (b) providing the host website with a link for inclusion within a page on the host website for serving to a visitor computer, wherein the provided link correlates the host website with a selected commerce object; and

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(c) upon receiving an activation of the provided link from the visitor computer, serving to the visitor computer an e-commerce supported page with a look and feel corresponding to the captured look and feel description of the host website associated with the provided link and with content based on the commerce object associated with the provided link.

The prior art reference relied upon by the Examiner in rejecting the claims is:

Arnold	6,016,504	Jan. 18, 2000
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The Examiner rejected claims 8, 13, and 14 under 35 U.S.C. § 102(e) as being anticipated by Arnold (Ans. 3-7).

#### ISSUE

Appellant contends that the Examiner's rejection is in error because Arnold does not disclose "capturing a look and feel description associated with a host website," as recited in claim 8 (App. Br. 10). Appellant acknowledges that Arnold allows for customization to reflect the specific virtual outlet (VO), but that does not amount to "capturing" as disclosed and claimed in the instant patent, even under the broadest reasonable interpretation standard (App. Br. 11-12). The Examiner finds that the "capturing" step only requires "that the data be obtained for use," and that the claim limitations do not specifically require a party other than the host itself to do the capturing (Ans. 9).

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