UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MERRILL COMMUNICATIONS LLC d/b/a MERRILL CORPORATION,
Petitioner,

v.

E-NUMERATE SOLUTIONS, INC.,
Patent Owner.

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Case IPR2018-01389
Patent 9,268,748 B2

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Before SALLY C. MEDLEY, KEN B. BARRETT, and JONI Y. CHANG,
Administrative Patent Judges.

CHANG, *Administrative Patent Judge.*

DECISION
Granting Institution of *Inter Partes* Review
35 U.S.C. § 314(a)

I.   INTRODUCTION

Merrill communications LLC d/b/a Merrill Corporation ("Petitioner")
filed a corrected Petition requesting an *inter partes* review of claims 1, 11,
and 19 ("the challenged claims") of U.S. Patent No. 9,268,748 B2 (Ex. 1001,
"the '748 patent"). Paper 11 ("Pet."). e-Numerate Solutions, Inc. ("Patent
Owner") filed a waiver of preliminary response. Paper 9.

Under 35 U.S.C. § 314(a), an *inter partes* review may not be instituted
unless the information presented in the petition "shows that there is a
reasonable likelihood that the petitioner would prevail with respect to at
least 1 of the claims challenged in the petition." For the reasons that follow,
we determine that Petitioner has established a reasonable likelihood that it
would prevail with respect to at least one challenged claim. We hereby
institute an *inter partes* review as to all of the challenged claims.

A. Related Matters

The parties indicate that the '748 patent is involved in *e-Numerate
Solutions, Inc. v. Mattress Firm Holding Corp.,* Case No. 1:17-cv-00933
(Del). Pet. 2; Paper 5, 2.

B. The '748 Patent

The '748 patent relates to a computer markup language for use in a
data browser and manipulator. Ex. 1001, Abstract, 1:31−33.

Figure 2 of the '748 patent is reproduced below.
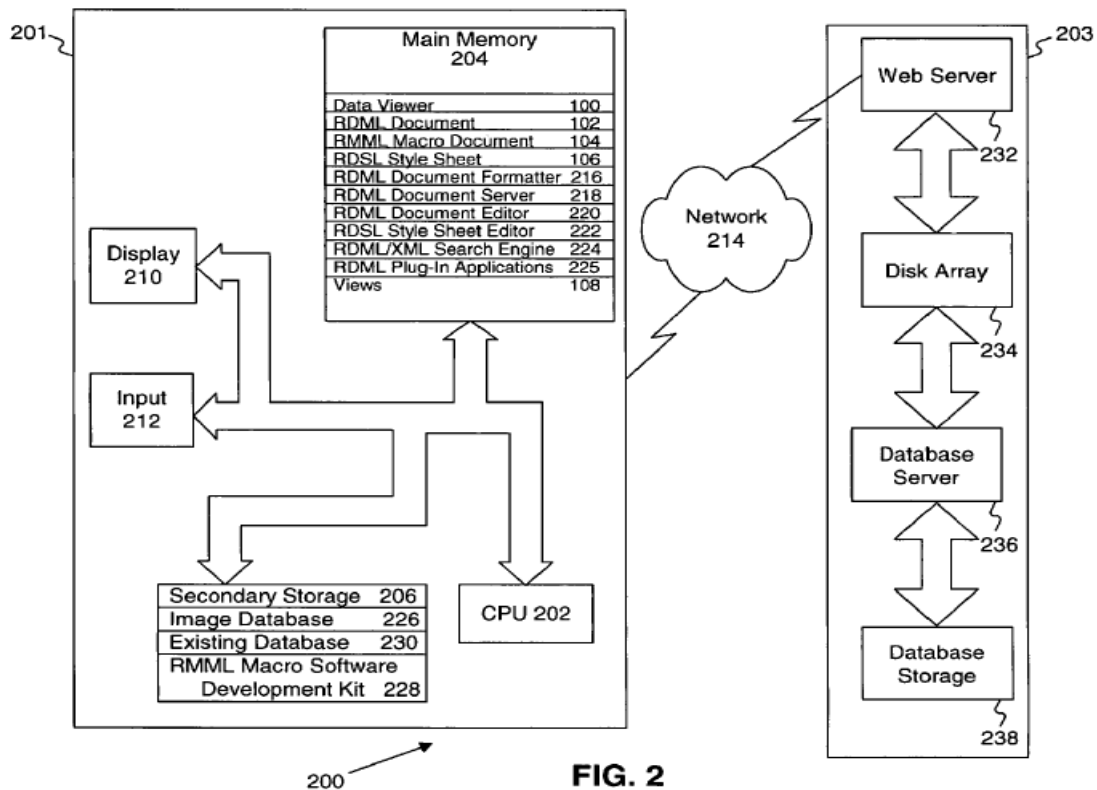

FIG. 2

Figure 2 of the '748 patent depicts data processing system 200 that comprises computer 201 and server computer 203 interconnected via network 214, such as the Internet. Ex. 1001, 11:48−52. Computer 201 includes central processing unit 202, main memory 204, secondary storage device 206, display 210, and input device 212. *Id*. at 11:53−56. Server computer 203 may provide Reusable Data Markup Language ("RDML") documents 102 to computer 201. *Id*. at 11:52−53.

C. Illustrative Claim

Each of the challenged claims is independent. Claim 1 is illustrative:

1. [1a] An apparatus, comprising:

[1b] a device; and

[1c] an application including a network browser on the device for accessing a system configured for:

[1d] identification of at least one computer-readable Extensible Markup Language (XML)-compliant data document including:

[1e] a plurality of line items with a plurality of data values, and

[1f] a plurality of computer-readable semantic tags that describe a semantic meaning of the data values and are each computer-readably coupled to at least one of the data values,

[1g] where the at least one computer-readable XML-compliant data document is capable of including multiple hierarchical relationships between two line items;

[1h] parsing of the at least one computer-readable XML-compliant data document;

[1i] accessing a plurality of computer-readable rules including:

[1j] a computer-readable datatype rule for validation of a type of data values,

[1k] a computer-readable calculation rule for validation of a calculation involving data values, and

[1l] a computer-readable unit rule for validation of a unit of data values;

[1m] validation of the at least one computer-readable XML-compliant data document by:

[1n] identifying at least a subset of the computer-readable rules including at least one of:

the computer-readable datatype rule for validation of the type of data values,

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the computer-readable calculation rule for validation of the calculation involving data values, or

the computer-readable unit rule for validation of the unit of data values;

[1o] processing at least a portion of the data values of at least a portion of the line items of the at least one computer-readable XML-compliant data document, utilizing the at least subset of the computer-readable rules and at least a portion of the computer-readable sematic tags of the at least one computer-readable XML-compliant data document;

[1p] said apparatus configured for: accessing at least a portion of the at least one computer-readable XML-compliant data document utilizing the application including the network browser.

Ex. 1001, 141:2–52 (bracketed matter added).

D. Prior Art Relied Upon

Petitioner relies upon the prior art references listed below (Pet. 8).

Alan Simpson & Elizabeth Olson, *Mastering Access 97* (SYBEX Inc. 1997) (Ex. 1005, "Simpson")[1]

Charles Goldfarb & Paul Prescod, *The XML Handbook* (Prentice Hall PTR 1998) (Ex. 1006, "Goldfarb")

Based on the current record, Petitioner has made a threshold showing

that Simpson and Goldfarb are prior art printed publications under § 102.

See Pet. 8−11; Ex. 1005, Part 1; Ex. 1006, Part 1; Ex. 1007 ¶¶ 3−17;

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[1]Petitioner submits portions of the book in twelve parts, not thirteen parts as the Petitioner asserts. *See*, Pet. 35 (citing to Ex. 1005, Part 13, 1067−68), 37.

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