

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PRICELINE.COM LLC and BOOKING.COM B.V.,
Petitioner,

v.

DDR HOLDINGS, LLC,
Patent Owner.

IPR2019-00435
Patent 9,639,876 B1

Before CARL M. DEFRANCO, PATRICK M. BOUCHER, and
ALYSSA A. FINAMORE, *Administrative Patent Judges*.

FINAMORE, *Administrative Patent Judge*.

DECISION
Instituting *Inter Partes* Review
and
Granting Motion for Joinder
35 U.S.C. §§ 314, 315(c)

I. INTRODUCTION

Priceline.com LLC and Booking.com B.V. (collectively “Petitioner”) filed a Petition (Paper 3, “Pet.”) requesting *inter partes* review of claims 1–5, 7, 8, and 11–18 of U.S. Patent No. 9,639,876 B1 (Ex. 1001), hereinafter “the ’876 patent.” Pet. 1. Concurrently with its Petition, Petitioner filed a Motion for Joinder (Paper 4, “Mot.”), whereby Petitioner seeks to join the instituted *inter partes* review in *Shopify, Inc. v. DDR Holdings, LLC*, Case IPR2018-01008 (PTAB filed May 3, 2018). Mot. 1.

DDR Holdings LLC, (“Patent Owner”) waived its Preliminary Response. Paper 8, 2. Also, Patent Owner consented to Petitioner’s Motion for Joinder. *Id.*

For the reasons below, we institute *inter partes* review of challenged claims 1–5, 7, 8, and 11–18 of the ’876 patent. We grant Petitioner’s Motion for Joinder and join Petitioner to IPR2018-01008. In view of this joinder, we terminate this present proceeding.

II. BACKGROUND

A. Related Matters

1. Court Proceedings

The parties identify the following three pending court proceedings:

- (1) *DDR Holdings, LLC v. Priceline.com LLC*, No. 1:17-cv-498-ER (D. Del. filed May 2, 2017);
- (2) *DDR Holdings, LLC v. Booking.com B.V.*, No. 1:17-cv-499-ER (D. Del. filed May 2, 2017); and
- (3) *DDR Holdings, LLC v. Shopify, Inc.*, No. 1:17-cv-501-ER (D. Del. filed May 2, 2017).

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Pet. 1–2; Paper 5, 1. According to Patent Owner, these three proceedings are consolidated under No. 1:17-cv-498-ER and are currently stayed.

Paper 5, 1.

The parties also identify the following six court proceedings that are no longer pending:

- (1) *DDR Holdings, LLC v. TicketNetwork, Inc.*,
No. 1:17-cv-500-ER (D. Del. dismissed May 9, 2018);
- (2) *DDR Holdings, LLC v. Travel Holdings, Inc.*,
No. 1:17-cv-502-ER (D. Del. dismissed May 9, 2018);
- (3) *DDR Holdings, LLC v. World Travel Holdings, Inc.*,
No. 2:13-cv-00646-JRG (E.D. Tex. dismissed Mar. 15, 2016);
- (4) *DDR Holdings, LLC v. Digital River, Inc.*, No. 2:13-cv-00647-
JRG (E.D. Tex. dismissed Apr. 14, 2014);
- (5) *DDR Holdings, LLC v. Hotels.com, L.P.*, 954 F.Supp.2d 509
(E.D. Tex. 2013); and
- (6) *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245
(Fed. Cir. 2014).

Pet. 2; Paper 5, 1–4.

2. *Office Proceedings*

The following twelve proceedings are pending before the Board:

- (1) *Priceline Grp. Inc. v. DDR Holdings, LLC*,
Case IPR2018-00482 (PTAB filed Jan. 16, 2018);
- (2) *Shopify, Inc. v. DDR Holdings, LLC*, Case IPR2018-01008
(PTAB filed May 3, 2018);

- (3) *Shopify, Inc. v. DDR Holdings, LLC*, Case IPR2018-01009 (PTAB filed May 3, 2018);
- (4) *Shopify, Inc. v. DDR Holdings, LLC*, Case IPR2018-01010 (PTAB filed May 4, 2018);
- (5) *Shopify, Inc. v. DDR Holdings, LLC*, Case IPR2018-01011 (PTAB filed May 2, 2018);
- (6) *Shopify, Inc. v. DDR Holdings, LLC*, Case IPR2018-01012 (PTAB filed May 2, 2018);
- (7) *Shopify, Inc. v. DDR Holdings, LLC*, Case IPR2018-01014 (PTAB filed May 2, 2018);
- (8) *Priceline.com LLC v. DDR Holdings, LLC*, Case IPR2019-00436 (PTAB filed Dec. 14, 2018);
- (9) *Priceline.com LLC v. DDR Holdings, LLC*, Case IPR2019-00437 (PTAB filed Dec. 14, 2018);
- (10) *Priceline.com LLC v. DDR Holdings, LLC*, Case IPR2019-00438 (PTAB filed Dec. 14, 2018);
- (11) *Priceline.com LLC v. DDR Holdings, LLC*, Case IPR2019-00439 (PTAB filed Dec. 14, 2018); and
- (12) *Priceline.com LLC v. DDR Holdings, LLC*, Case IPR2019-00440 (PTAB filed Dec. 14, 2018).

Pet. 5–6, Paper 5, 4–5.

The parties also identify the following two reexamination proceedings: (1) *Ex parte DDR Holdings, LLC*, No. 2009-013987 (BPAI 2010); and (2) *Ex parte DDR Holdings, LLC*, No. 2009-013988 (BPAI 2010). Pet. 4–5; Paper 5, 5. The parties further identify U.S. Patent Application Serial No. 15/582,105. Pet. 5; Paper 5, 4. Patent Owner

additionally identifies the following five patents: (1) U.S. Patent No. 6,629,135 B1; (2) U.S. Patent No. 6,993,572 B2; (3) U.S. Patent No. 7,818,399 B1; (4) U.S. Patent No. 8,515,825 B1; and (5) U.S. Patent No. 9,043,228 B1. Paper 5, 4.

B. Asserted Grounds of Unpatentability

Petitioner asserts the following grounds of unpatentability. Pet. 7.

References	Basis	Claims
Loshin ¹	35 U.S.C. § 102(b) ²	1–5, 7, 8, 11–13, and 16–18
Loshin and the InfoHaus Documents ³	35 U.S.C. § 103(a)	1, 7, 11, 16, and 17
Loshin and Moore ⁴	35 U.S.C. § 103(a)	1–5, 7, 8, 11–15, and 17–18

In asserting these grounds of unpatentability, Petitioner relies on a Declaration of Peter Kent (Ex. 1002).

¹ Peter Loshin, *Selling Online with . . . First Virtual Holdings Inc.* (1996) (Exs. 1013A–B) (“Loshin”).

² Petitioner asserts Loshin is prior art under 35 U.S.C. § 102(b). Pet. 8.

³ First Virtual Seller Programs web page (June 1997) (Ex. 1014), First Virtual InfoHaus Guide web page (June 1997) (Ex. 1015), and First Virtual InfoHaus HelpMeister (June 1997) (Ex. 1016) (collectively “the InfoHaus Documents”).

⁴ U.S. Patent No. 6,330,575 B1 (Ex. 1010) (“Moore”).

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