

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BANK OF AMERICA, N.A.,
PNC FINANCIAL SERVICES GROUP, INC., and PNC BANK, N.A.,
Petitioners,

v.

INTELLECTUAL VENTURES I LLC,
Patent Owner.

Case CBM2014-00030
Patent 7,603,382 B2

Before THOMAS L. GIANNETTI, HYUN J. JUNG, and
GREGG I. ANDERSON, *Administrative Patent Judges*.

GIANNETTI, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 328(a) and 37 C.F.R. § 42.73

Bank of America, N.A., PNC Financial Services Group, Inc., and PNC Bank, N.A. (“Petitioners”) filed a Petition (Paper 6, “Pet.”) requesting institution of a covered business method patent review of claims 1–23 of U.S. Patent 7,603,382 B2 (“the ’382 patent”) pursuant to 35 U.S.C. § 321. Patent Owner, Intellectual Ventures I LLC, filed a preliminary response. Paper 12 (“Prelim. Resp.”). Based on these submissions, we instituted trial as to all claims of the ’382 patent. Paper 14 (“Institution Dec.”).

After institution, Patent Owner filed a Response (Paper 19, “PO Resp.”), and Petitioners filed a Reply (Paper 22, “Pet. Reply”). In addition, the parties rely upon expert testimony. Petitioners proffered the Declaration of Brad Myers, Ph.D. (Ex. 1004, “Myers Decl.”) with the Petition. Patent Owner proffered the Declaration of Peter Martin (Ex. 2003, “Martin Decl.”) with its Response. In addition, a transcript of Mr. Martin’s deposition (Ex. 1037, “Martin Dep.”) was submitted by Petitioners. No deposition transcript was filed for Dr. Myers.

Oral Hearing was held on March 2, 2015. A transcript of the argument is entered in the record as Paper 31 (“Hearing Tr.”).

We have jurisdiction under 35 U.S.C. § 6(c). This Final Written Decision is entered pursuant to 35 U.S.C. § 328(a). We conclude for the reasons that follow that Petitioners have shown by a preponderance of the evidence that claims 1–23 of the ’382 patent are unpatentable.

I. INTRODUCTION

A. The ’382 Patent (Ex. 1001)

The ’382 patent, titled “Advanced Internet Interface Providing User Display Access of Customized Webpages” issued on October 13, 2009.

The '382 patent describes a system for delivering information from an information provider to an information user that is selectively tailored toward the capabilities of the information provider and the needs of the information user. Ex. 1001, 2:3–6.

Figure 3 of the '382 patent is reproduced below.

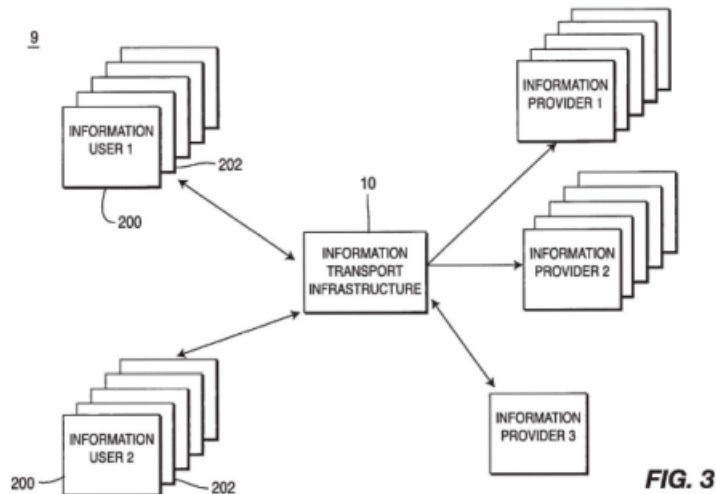


Figure 3 is a block diagram of the interface between information users and information providers over the Internet according to the invention. *Id.* at 2:35–37. Information users may tailor their information user profile as needed to acquire specific information. *Id.* at 3:40–49. The user profile is a file that includes a plurality of fields containing information specific to the user. *Id.* at 3:53–55. This profile is stored in computer memory and transferred to an information provider when a Web page is accessed. *Id.* at 4:11–14.

B. Related Matters

Petitioners state that they have been sued for infringement of the '382 patent in the following cases: *Intellectual Ventures I LLC v. PNC Financial Services Group, Inc.*, No. 2:13-cv-00740 (W.D. Pa. filed May 29, 2013) and *Intellectual Ventures I LLC v. Bank of America Corp.*, , No. 3:13-cv-00358

(W.D.N.C. filed June 12, 2013). Pet. 1 (citing Exhibits 1006 and 1007). Patent Owner has identified four additional lawsuits involving the '382 patent. Paper 9.

In addition, Petitioners have submitted two memorandum decisions entered in co-pending lawsuits. Petitioners have submitted an April 16, 2014, Memorandum Opinion in *Intellectual Ventures I LLC v. Capital One Financial Corp.*, Civil Action No. 1:13-cv-00740 (E.D. Va.) (Ex. 1032) and a December 18, 2014 Memorandum Opinion in *Intellectual Ventures I LLC v. Manufacturers & Traders Trust Co.*, Civil Action No. 13-1274-SLR (D. Del.)(Ex. 1039).

C. Illustrative Claims

The '382 patent has 23 claims, all of which are being challenged in this proceeding. Claims 1, 7, 16, and 21 are independent. Claim 1 is a system claim and claims 7, 16, and 21 are method claims. Illustrative claims 1 and 7 are reproduced below:

1. A system for providing web pages accessed from a web site in a manner which presents the web pages tailored to an individual user, comprising:
 - an interactive interface configured to provide dynamic web site navigation data to the user, the interactive interface comprising:
 - a display depicting portions of the web site visited by the user as a function of the web site navigation data; and
 - a display depicting portions of the web site visited by the user as a function of the user's personal characteristics.
7. A method of generating a web page comprising:
 - generating a plurality of data streams, wherein each data stream is associated with a particular portion of the web page, and wherein each data stream is stored in a computer memory;
 - and

changing at least one of the particular portions of the web page as a function of time.

D. The Asserted Ground

Trial was instituted on the sole ground advanced by Petitioners: that claims 1–23 are unpatentable as directed to patent-ineligible subject matter under 35 U.S.C. § 101. Pet. 13; Institution Dec. 15.

E. Claim Interpretation

The Board will interpret a claim of an unexpired patent using the broadest reasonable construction in light of the specification of the patent in which it appears. *See* Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48766 (Aug. 14, 2012); 37 CFR § 42.300(b); *In re Cuozzo Speed Techs., LLC*, 778 F.3d 1271, 1279–83 (Fed. Cir. 2015).

Under that standard, claim terms are given their ordinary and customary meaning, as would be understood by one of ordinary skill in the art in the context of the entire disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). Any special definition for a claim term must be set forth with reasonable clarity, deliberateness, and precision. *In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994).

In instituting trial, we determined that, at that stage, only two terms required construction. Institution Dec. 5–7. Patent Owner agrees that the terms not previously construed by the Board do not require construction. PO Resp. 6. Patent Owner requests that the Board reconsider its construction of the two terms. *Id.* Furthermore, claim construction is “is not an inviolable prerequisite to a validity determination under § 101.” *Content Extraction & Transmission LLC v. Wells Fargo Bank*, 776 F.3d 1343, 1349 (Fed. Cir. 2014) (citations omitted).



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.