UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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NEXTEL OPERATIONS, INC., SPRINT SPECTRUM L.P.,
BOOST MOBILE, LLC, and VIRGIN MOBILE USA, L.P.,
Petitioners,

v.

INTELLECTUAL VENTURES II LLC,
Patent Owner.

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Case CBM2016-00052
Patent 5,339,352

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Before GEORGIANNA W. BRADEN, FRANCES L. IPPOLITO, and
KEVIN W. CHERRY, *Administrative Patent Judges*.

BRADEN, *Administrative Patent Judge*.

DECISION
Denying Institution of Covered Business Method Patent Review
37 C.F.R. § 42.208

I.   INTRODUCTION

Nextel Operations, Inc., Sprint Spectrum L.P., Boost Mobile, LLC, and Virgin Mobile USA, L.P., ("Petitioners") filed a Petition (Paper 1, "Pet.") to institute a covered business method patent review of claims 1, 5, and 9 of U.S. Patent No. 5,339,352 (Ex. 1001, "the '352 patent"). Intellectual Ventures II LLC ("Patent Owner") filed a Preliminary Response (Paper 6, "Prelim. Resp."). We have jurisdiction under 35 U.S.C. § 324. Pursuant to 35 U.S.C. § 324(a), the Director may not authorize a covered business method patent review unless the information in the petition, if unrebutted, "would demonstrate that it is more likely than not that at least 1 of the claims challenged in the petition is unpatentable." For reasons that follow, the information presented in the Petition does not establish that the '352 patent qualifies as a covered business method patent for purposes of section 18(d)(1) of the Leahy-Smith America Invents Act ("AIA"), Pub. L. No. 112–29, 125 Stat. 284, 331 (2011). Accordingly, we decline to institute a covered business method patent review of claims 1, 5, and 9. *See* 35 U.S.C. § 324(a).

II.   BACKGROUND

A. Related Proceedings

Petitioners informs us that the '352 patent is the subject of district court case *Intellectual Ventures II LLC v. Nextel Operations, Inc., et al.*, No. 1:13-cv-01635-LPS (D. Del.). Pet. 2 (citing Ex. 1009); *see* Paper 5, 1 (Patent Owner's Mandatory Notices). Patent Owner also informs us that challenged claims 1, 5, and 9 of the '352 patent were the subject of a prior petition for covered business method patent review. Prelim. Resp. 1 (citing CBM2015-00185).

B. *The '352 Patent*

The '352 patent discloses systems and methods for providing
Directory Assistance Call Completion ("DACC") services to cellular
telephone users. Ex. 1001, Abst. One embodiment of the '352 patent
provides a system that implements a DACC service for cellular subscribers.
Id. at 5:58–62. Figure 1, reproduced below, illustrates an exemplary
architecture for such a system.
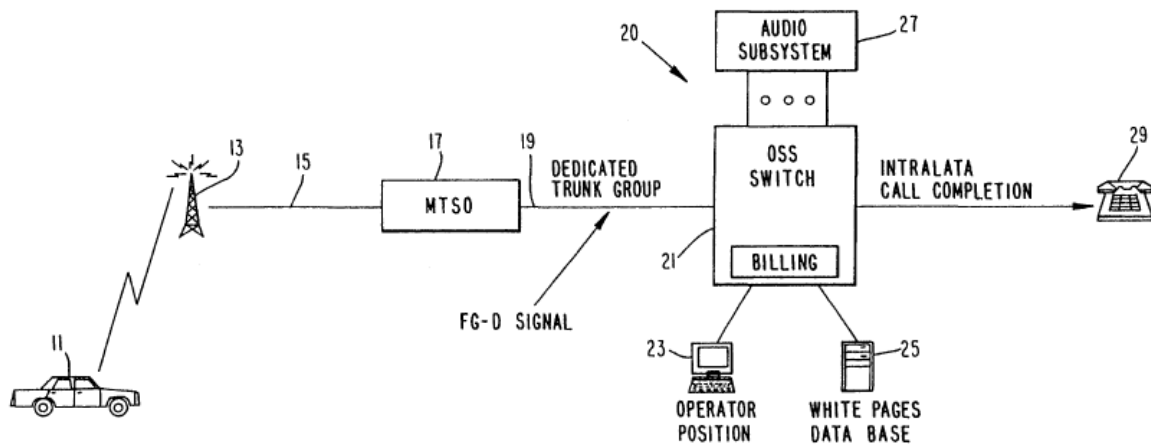
As shown in Figure 1, above, wireless subscriber 11 communicates with
mobile telephone switching office 17 via cell site antenna 13. Ex. 1001,
6:12–18. The "mobile telephone switching office or 'MTSO' is owned and
operated by the cellular carrier" and "provides a switched connection point
between the network operated by the cellular carrier and the landline
telephone network." *Id*. at 1:41–44. The MTSO connects to switch 21 of an
operator service system (OSS 20). *Id*. at 6:32–35. The OSS "functions as a
directory assistance service system." *Id*. at 6:38–39.

Per the '352 patent, any existing interconnection between MTSO 17
and OSS 20 is replaced with "dedicated trunk 19." *Id*. at 6:32–33. In one
embodiment, dedicated trunk 19 uses Feature Group D signaling. *Id*. at

6:32–35. Feature Group D is a type of switched access service signaling that "provide[s] customer access to alternate long distance interexchange carriers (IXC's)." *Id.* at 7:36–39.

Use of a dedicated trunk serves as a means for OSS 20 to identify the carrier and to determine whether the caller can use directory assistance. *Id.* at 3:21–24. The dedicated trunk has an "area code and exchange number" (referred to as the NPA-NXX). *Id.* at 8:33–35. The NPA-NXX of the dedicated trunk is also the NPA-NXX of the wireless switch, *e.g.*, MTSO 17. *Id.* at 8:33–35. The trunk has a fixed location and the NPA-NXX of the dedicated trunk provides present location information for the calling wireless customer. *Id.* Therefore, OSS 20 can use the NPA-NXX of the dedicated trunk, rather than the received calling number (ANI), to check eligibility for directory assistance and calculate charges for call completion: "The operator service system will establish whether completion requests would meet the intra-LATA criteria using the area code and exchange data (NPA-NXX) of the dedicated trunk and the NPA-NXX area code and exchange data of the destination identified in the directory listing." Ex. 1001, 9:45–50. LATA being the Local Access and Transport Area. *Id.* at 6:7–8.

In other embodiments of the '352 patent, modification to existing OSSs are necessary in order to implement the inventions of the'352 patent for data recording and billing purposes. *Id.* at 5:30–32. For example, "[e]xisting OSS switches are programmed to treat calls received on trunks using Feature Group D signaling as interexchange carrier calls and provide appropriate translations for routing and billing." *Id.* at 12:35–38. But, according to the '352 patent, this processing is not compatible with directory assistance call completion. *Id.* at 12:38–40. Therefore, OSS 20 is modified

to bypass "the interexchange carrier translations for calls received over the dedicated trunk 19." *Id*. at 12:49–51. Additionally, OSS 20 is modified to use the NPA-NXX of dedicated trunk 19 (and corresponding MTSO) during eligibility checking "to indicate the point of origin of the landline connection" (*id*. at 12:53–55) and "to calculate any distances needed to set call rates or toll charges for the landline connection" (*id*. at 13:10–13).

C. Illustrative Claims

As noted above, Petitioners challenge claims 1, 5, and 9 of the '352 patent, of which claim 1 is the only independent claim. Claim 1 is illustrative of the challenged claims and is reproduced below:

1. A method of providing a directory assistance call completion service to a wireless communication service subscriber comprising:

receiving a request for directory assistance from a wireless communication terminal at a mobile communications switching office;

forwarding data identifying the wireless communication terminal from the mobile communications switching office to an operator service system;

establishing a landline communication link between the mobile communications switching office and the operator service system to provide two way communications between the wireless communication terminal and the operator service system;

receiving information from the wireless communication terminal identifying a particular listing from a directory of listings;

retrieving a destination number corresponding to the identified listing;

receiving a request for completion of a communication link between the wireless communication terminal and a station identified by the destination number;

establishing a landline communication link to provide a complete communication connection between the wireless communication terminal and the identified station; and

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