

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TICKETNETWORK, INC.,
Petitioner,

v.

CEATS, LLC,
Patent Owner.

Case CBM2018-00004
Patent 8,229,774 B2

Before MICHAEL W. KIM, WILLIAM V. SAINDON, and
KEVIN W. CHERRY, *Administrative Patent Judges*.

CHERRY, *Administrative Patent Judge*.

DECISION

Denying Institution of Covered Business Method Patent Review
35 U.S.C. § 324

I. INTRODUCTION

TicketNetwork, Inc. (“Petitioner”) filed a Petition (Paper 2, “Pet.”)¹ for a covered business method patent review of U.S. Patent No. 8,229,774 B2 (Ex. 1001, “the ’774 patent” or “the challenged patent”) under section 18 of the Leahy-Smith America Invents Act, Pub. L. No. 112–29, 125 Stat. 284, 331 (2011) (“AIA”). Patent Owner, CEATS, LLC, filed a Preliminary Response (“Prelim. Resp.”) opposing institution. Paper 10.² By an Order (Paper 13), we allowed Petitioner to file a Reply (Paper 14) and Patent Owner to file a Sur-Reply (Paper 17). Under 35 U.S.C. § 324(a)³, a covered business method patent review may not be instituted “unless . . . the information presented in the petition . . ., if such information is not rebutted, would demonstrate that it is more likely than not that at least 1 of the claims challenged in the petition is unpatentable.” 35 U.S.C. § 324(a).

For reasons that follow, we determine that Petitioner has failed to show that it has standing to bring this proceeding. Accordingly, we deny the Petition and do not institute a covered business method patent review of the challenged claims.

¹ Petitioner filed the Petition under seal and a redacted version as Paper 3.

² Patent Owner filed the Preliminary Response under seal and a redacted version as Paper 11.

³ *GTNX, Inc. v. INTTRA, Inc.*, 789 F.3d 1309, 1310 (Fed. Cir. 2015) (describing transitional program for review of covered business method patent under 35 U.S.C. §§ 321–329, pursuant to the AIA, as subject to “the standards and procedures of[] a post-grant review under . . . 35 U.S.C. §§ 321–329,” absent exceptions not applicable here).

A. Related Matters

As required by 37 C.F.R. § 42.8(b)(2), each party identifies various judicial or administrative matters that would affect or be affected by a decision in this proceeding. Pet. 6; Paper 7 (Patent Owner's Mandatory Notices). The parties identify the following pending district court lawsuit as related to the '774 patent: *TicketNetwork, Inc. v. CEATS, Inc.*, No. 2:15-cv-01470 (E.D. Tex.) ("the Current Action"). Several related patents are subject to pending petitions for *inter partes* review. Pet. 6.

B. Illustrative Claim

Petitioner challenges all eight claims of the challenged patent. Claims 1, 4, and 8 are independent claims. Claim 4 is illustrative of the claimed subject matter:

4. A system for reserving seats, the system comprising:
 - a data storage system storing a plurality of entries denoting a plurality of available individual seats on one or more flights; and
 - a server programmed via executable instructions to:
 - query the data storage system for information descriptive of the available individual seats on the one or more flights;
 - transmit first data to an application running on a general purpose computer associated with a first user and a general purpose computer associated with a second user, the first data including information descriptive of the available individual seats on the one or more flights, the first data encoded to cause the application to generate graphical user interfaces on the general purpose computers associated with the first and second users that comprise interactive seating maps representing individual seats on the one or more flights;

receive, from the general purpose computer associated with the first user, second data representing a seat selected by the first user;

receive, from the general purpose computer associated with the second user, third data representing a seat selected by the second user, wherein the seat selected by the second user is the same as the seat selected by the first user;

receive from the general purpose computer associated with the first user fourth data representing payment information;

request acceptance of the received payment information; and

if the received payment information is accepted, then transmit fifth data to the general purpose computer associated with the second user, the fifth data including information indicating that the seat selected by the second user is no longer available.

Ex. 1001, 7:40–8:21.

*C. Standing to File a Petition for
Covered Business Method Patent Review*

1. Legal Standards

A petition for covered business method review must set forth the petitioner’s grounds for standing. 37 C.F.R. § 42.304(a). Rule 42.304(a) states it is Petitioner’s burden to “demonstrate that the patent for which review is sought is a covered business method patent, and that the petitioner meets the eligibility requirements of § 42.302.” *Id.* One of those eligibility requirements is that only persons (or their privies) who have been sued or charged with infringement under a patent are permitted to file a petition seeking a covered business method patent review of that patent. AIA § 18(a)(1)(B); 37 C.F.R. § 42.302(a). Under our rules, “[c]harged with

infringement means a real and substantial controversy regarding infringement of a covered business method patent exists such that the petitioner would have standing to bring a declaratory judgment action in Federal court.” 37 C.F.R. § 42.302(a).

The Declaratory Judgment Act provides that “[i]n a case of actual controversy within its jurisdiction, . . . any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration.” 28 U.S.C. § 2201(a). In *MedImmune, Inc. v. Genentech, Inc.*, the Supreme Court stated that the test for whether an “actual controversy” exists is “whether the facts alleged, under all the circumstances, show that there is a substantial controversy, between parties having adverse legal interests, of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.” 549 U.S. 118, 127 (2007) (internal quotation marks omitted).

Although it relaxed the test for establishing jurisdiction, *MedImmune* “did not change the bedrock rule that a case or controversy must be based on a *real and immediate* injury or threat of future injury that is *caused by the defendants*—an objective standard that cannot be met by a purely subjective or speculative fear of future harm.” *Prasco, LLC v. Medicis Pharm. Corp.*, 537 F.3d 1329, 1339 (Fed. Cir. 2008). “The immediacy requirement is concerned with whether there is an immediate impact on the plaintiff and whether the lapse of time [between the filing of the declaratory judgment action and the liability-creating event] creates uncertainty.” *Sandoz Inc. v. Amgen Inc.*, 773 F.3d 1274, 1277 (Fed. Cir. 2014). As the Federal Circuit

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.