

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CXLOYALTY, INC.,¹
Petitioner,

v.

MARITZ HOLDINGS INC.,
Patent Owner.

CBM2018-00037
Patent 7,134,087 B2

Before MICHAEL R. ZECHER, JUSTIN T. ARBES, and
JON B. TORNQUIST, *Administrative Patent Judges*.

ARBES, *Administrative Patent Judge*.

JUDGMENT
Final Written Decision
Determining All Challenged Claims Unpatentable
Granting Patent Owner's Motion to Amend
35 U.S.C. § 328(a)

¹ Petitioner filed updated mandatory notice information indicating that it changed its name from Connexions Loyalty, Inc. to cxLoyalty, Inc. Paper 30, 2. Accordingly, the caption for this proceeding has been changed.

I. INTRODUCTION

A. *Background and Summary*

Petitioner, cxLoyalty, Inc., filed a Petition (Paper 1, “Pet.”) requesting a covered business method patent review of claims 1–15 of U.S. Patent No. 7,134,087 B2 (Ex. 1001, “the ’087 patent”) pursuant to 35 U.S.C. § 321(a). On December 20, 2018, we instituted a covered business method patent review of the sole challenge raised in the Petition. Paper 12 (“Decision on Institution” or “Dec. on Inst.”). Patent Owner, Maritz Holdings Inc., subsequently filed a Patent Owner Response (Paper 16, “PO Resp.”), Petitioner filed a Reply (Paper 23, “Reply”), and Patent Owner filed a Sur-Reply (Paper 25, “Sur-Reply”). Patent Owner also filed a corrected Motion to Amend (Paper 19, “Mot.”), Petitioner filed an Opposition (Paper 24, “Opp.”), Patent Owner filed a Reply (Paper 26, “Mot. Reply”), and Petitioner filed a Sur-Reply (Paper 28, “Mot. Sur-Reply”). An oral hearing was held on September 17, 2019, and a transcript of the hearing is included in the record (Paper 35, “Tr.”).

We have jurisdiction under 35 U.S.C. § 6. This Final Written Decision is issued pursuant to 35 U.S.C. § 328(a). For the reasons that follow, we determine that Petitioner has shown by a preponderance of the evidence that claims 1–15 are unpatentable. We also determine that Petitioner has not met its burden to show by a preponderance of the evidence that proposed substitute claims 16–23 are unpatentable. Accordingly, we *grant* Patent Owner’s Motion to Amend.

B. *Real Parties in Interest*

Petitioner states that the real parties in interest are “Petitioner cxLoyalty, Inc. (formerly Connexions Loyalty, Inc.), cxLoyalty Travel

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Solutions LLC (formerly Connexions Loyalty Travel Solutions LLC), Connexions Loyalty Acquisition, LLC, cxLoyalty Group, LLC (formerly Affinion Group, LLC), cxLoyalty Group, Inc. (formerly Affinion Group, Inc.), and cxLoyalty Group Holdings, Inc. (formerly Affinion Group Holdings, Inc.).” Paper 30, 2.

C. Related Matter

The parties indicate that the '087 patent is the subject of the following district court case: *Maritz Holdings Inc. v. Connexions Loyalty, Inc.*, No. 1:18-cv-00967 (D. Del.). See Pet. 39; Paper 10, 2; Ex. 1003.

D. The '087 Patent

The '087 patent discloses “a system and method in which a participant of a program which awards points to the participant allows the participant to transact a purchase using the awarded points with a vendor system which transacts purchases in currency.” Ex. 1001, col. 1, ll. 7–12. Loyalty programs “issue points to customers (i.e., participants) as a reward for certain activities such as the purchase of certain products or services or performing a certain action” and allow the customer to redeem the points for rewards (i.e., “merchandise, certificates, or other products or services”), which “create[s] a loyalty or affinity with the customer and encourage[s] the customer to continue a desired behavior.” *Id.* at col. 1, ll. 16–23. A loyalty program typically has a relationship with various redemption vendors and allows the customer to “select[] a reward for purchase with the points.” *Id.* at col. 1, ll. 24–34. The loyalty program “obtains the product or service” from the appropriate vendor and provides it to the customer. *Id.* at col. 1, ll. 34–37.

The '087 patent discloses that “[s]ome rewards are of a nature that human intervention is needed to redeem/fulfill a reward.” *Id.* at col. 1, ll. 37–38. For example, when a customer selects an airline ticket, the loyalty program “would purchase the ticket through a selected travel agent or a selected airline employee and provide the ticket (or have it sent) to the customer,” and the agent or employee would deduct the points needed for the reward from the customer’s point account. *Id.* at col. 1, ll. 38–46. The '087 patent sought to “eliminate” this need for human intervention by “allowing the customer to systematically redeem their points for rewards using redemption vendors that otherwise deal in currency.” *Id.* at col. 1, ll. 47–53, col. 1, l. 66–col. 2, l. 4 (stating that the disclosed invention “provides fulfillment capability without having to involve highly specialized third party organizations,” which “enables participants to get greater satisfaction and more immediate gratification from their loyalty program regardless of their preferred method of interaction”).

Figure 2 of the '087 patent is reproduced below.

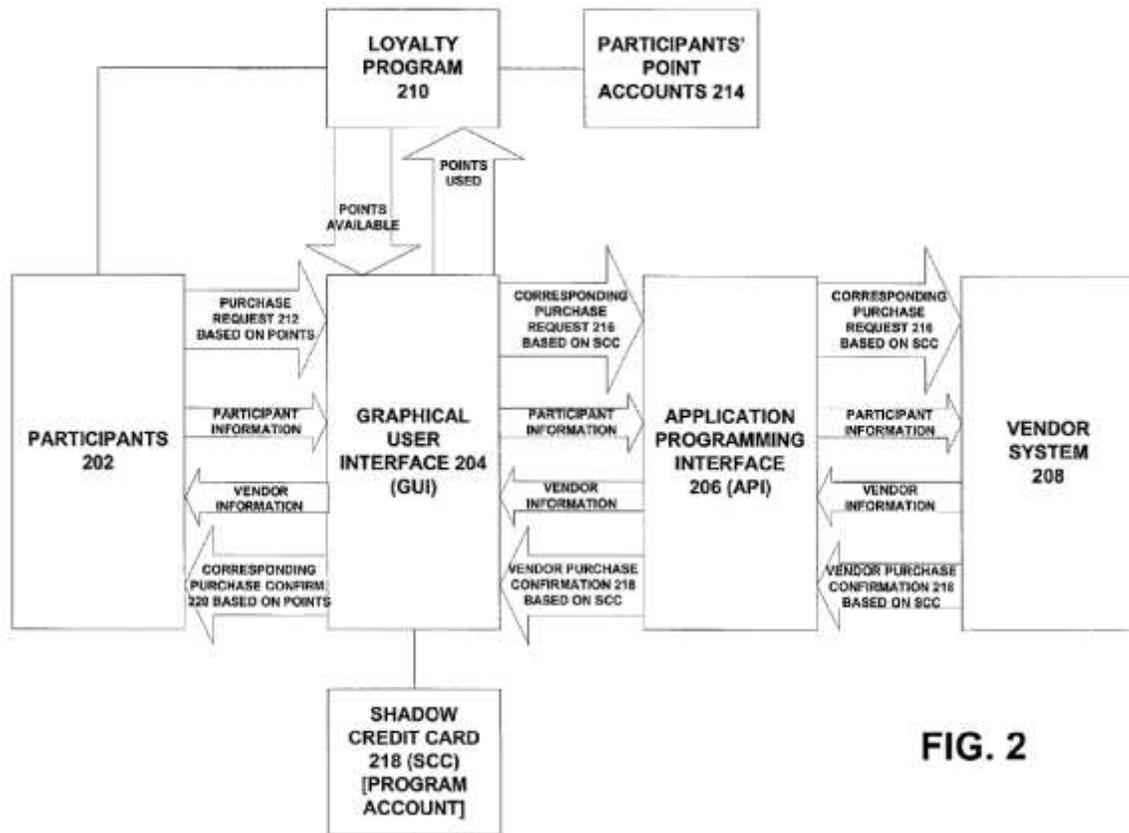


FIG. 2

Figure 2 depicts the flow of information between the various actors in the disclosed system, namely participants 202; loyalty program 210, which maintains participant point accounts 214 for participants 202 and awards points whenever a participant completes a transaction; graphical user interface (GUI) 204; application programming interface (API) 206; and vendor system 208 corresponding to a vendor from which a participant wants to make a purchase. *Id.* at col. 3, ll. 54–67, col. 6, ll. 5–7. As shown in Figure 2, “participant-related information” (i.e., information originating from the participant, such as the participant’s identification) flows from left to right, and “vendor-related information” (i.e., information originating from the vendor, such as a list of products available for purchase) flows from right to left. *Id.* at col. 6, ll. 12–20, 35–38.

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