

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WHATSAPP INC.,
Petitioner,

v.

TRIPLAY, INC.,
Patent Owner.

Case IPR2016-01660
Patent 9,049,574 B2

Before THU A. DANG, JOSIAH C. COCKS, and MICHAEL R. ZECHER,
Administrative Patent Judges.

COCKS, *Administrative Patent Judge.*

FINAL WRITTEN DECISION
Inter Partes Review
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. INTRODUCTION

A. Background

WhatsApp Inc. (“Petitioner”) filed a Petition requesting an *inter partes* review of claims 1–6 and 9–11 of U.S. Patent No. 9,049,574 B2 (Ex. 1001, “the ’574 patent”). Paper 1 (“Pet.”). TriPlay, Inc. (“Patent Owner”) filed a Preliminary Response. Paper 6 (“Prelim. Resp.”). Taking into account the arguments presented in the Preliminary Response, we determined that the information presented in the Petition established that there was a reasonable likelihood that Petitioner would prevail in challenging claims 1–6 and 9–11 of the ’574 patent on the basis that these claims are unpatentable under 35 U.S.C. § 103(a). Pursuant to 35 U.S.C. § 314, we instituted this *inter partes* review on March 13, 2017, as to all the challenged claims. Paper 7 (“Dec. on Inst.”).

Upon instituting this proceeding, a conference call was held on August 1, 2017, between the panel and counsel for the respective parties, during which Patent Owner confirmed that it waived its right to file a Response. Paper 18, 2–3. As discussed during the call, the record now before the panel reflects that the arguments and supporting evidence in the Petition stand unopposed as a part of the trial that was instituted. *Id.*

We have jurisdiction under 35 U.S.C. § 6. This decision is a Final Written Decision under 35 U.S.C. § 318(a) as to the patentability of claims 1–6 and 9–11 of the ’574 patent. For the reasons discussed below, we hold that Petitioner has demonstrated by a preponderance of the evidence that claims 1–6 and 9–11 of the ’574 patent are unpatentable under 35 U.S.C. § 103(a).

B. Related Proceedings

The parties state that the '574 patent is the subject of a pending district court case captioned *TriPlay, Inc. v. WhatsApp Inc.*, No. 1:13-cv-1703-LPS (D. Del.). Pet. 1; Paper 4, 2. Claims 12–15 and 18–20 of the '574 patent are the subject of Case IPR2016-01659. Petitioner states that the Board found unpatentable, all challenged claims of related U.S. Patent No. 8,332,475 B2, in Case IPR2015-00740 (Paper 61). Pet. 1. Petitioner further states the parent of the '574 patent, U.S. Patent No. 8,874,677 B2, is the subject of two pending *inter partes* reviews, Cases IPR2016-0717 and IPR2016-00718. Pet. 1–2. Petitioner has also filed petitions for *inter partes* review of U.S. Patent No. 9,055,416 B2, in Cases IPR2016-01661 and IPR2016-01662. Pet. 2.¹

C. The '574 Patent

The '574 patent is titled “Messaging System and Method,” and is directed to “cross-platform messaging” and, in particular, a messaging system that converts the formats and layouts of messages sent between communication devices that may have different communication and display capabilities. Ex. 1001, [54], [57], 8:53–60; 11:53–56. Figure 1 of the '574 patent is reproduced below.

¹ Final Written Decisions in each of Cases IPR2016-01659, IPR2016-01661 and IPR2016-01662 are issued concurrently with this Decision.

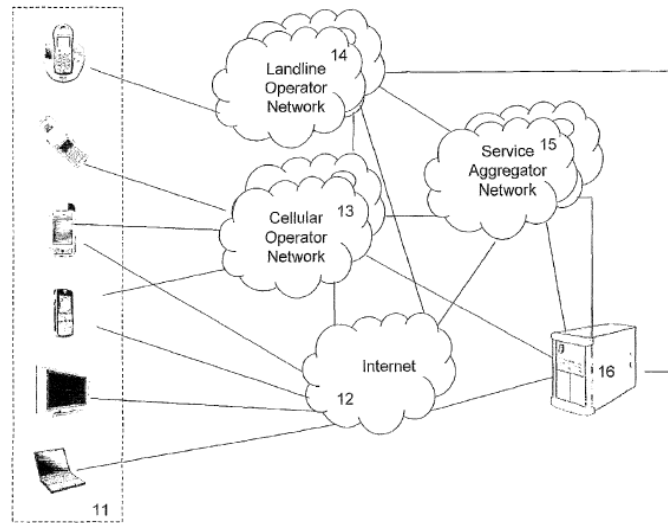


Figure 1

Figure 1 illustrates a network architecture in which the messaging system may be used and depicts various communication devices 11 (e.g., cell phone, personal computer (“PC”)) connected to a data network such as Internet 12, Cellular Operator Network 13, or Landline Operator Network 14. *Id.* at 11:30–40; 10:27–35. Messages from an originating device to a destination device pass through messaging system 16, where at least one of the devices is assigned to a user registered in the system. *Id.* at 12:12–13. Messaging System 16 supports a variety of message formats, such as text, audio, video, and image. *Id.* at 12:16–21. Message content may include a text and/or one or more media items, such as text files, image files, video, audio, and hyperlinks, to be transmitted to the other party. *Id.* at 10:51–55. Figure 2 of the ’574 patent is reproduced below.

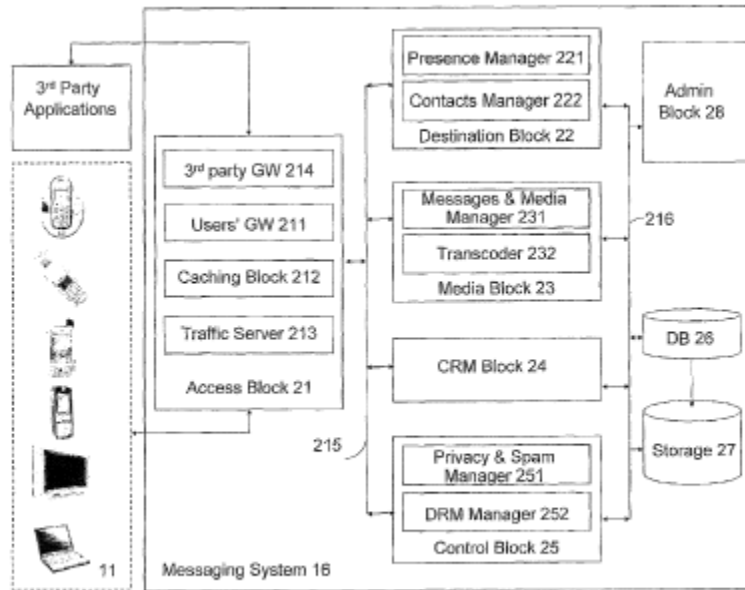


Figure 2

Figure 2 depicts a block diagram of messaging system 16 supporting communication devices 11 and third party applications 29. *Id.* at 12:16–23. Messaging system 16 comprises access block 21 operatively coupled with media block 23 and other functional blocks. *Id.* at 12:62–67. Access block 21 includes users' gateway 211 and third party applications gateway 214 supporting communications, via corresponding network(s) via available communication standard, system and/or protocol. *Id.* at 13:4–12.

Media block 23 comprises transcoder 232 operatively coupled with message manager 231 that may comprise a template module coupled with database 26. *Id.* at 16:21–24. Figure 6 of the '574 patent is reproduced below.

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