

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SNAP INC.,  
Petitioner,

v.

VAPORSTREAM, INC.,  
Patent Owner.

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Case IPR2018-00369  
Patent 9,313,155 B2

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Before JUSTIN T. ARBES, STACEY G. WHITE, and  
JENNIFER MEYER CHAGNON, *Administrative Patent Judges*.

CHAGNON, *Administrative Patent Judge*.

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

## I. INTRODUCTION

We have jurisdiction to hear this *inter partes* review under 35 U.S.C. § 6. This Final Written Decision is issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons discussed herein, we determine that Snap Inc. (“Petitioner”) has shown, by a preponderance of the evidence, that claims 1–6 and 9 (“the challenged claims”) of U.S. Patent No. 9,313,155 B2 (Ex. 1001, “the ’155 patent”) are unpatentable.

### A. Procedural History

Petitioner filed a Petition for *inter partes* review of claims 1–6 and 9 of the ’155 patent. Paper 3 (“Pet.”). Petitioner provided a Declaration of Sandeep Chatterjee, Ph.D. (Ex. 1002) to support its positions. Vaporstream, Inc. (“Patent Owner”) filed a Preliminary Response (Paper 8), supported by the Declaration of Michael Shamos, Ph.D. (Ex. 2001). Pursuant to 35 U.S.C. § 314(a), on July 10, 2018, *inter partes* review was instituted on the following grounds:

whether claims 1, 4, 5, and 9 would have been obvious under 35 U.S.C. § 103(a) in view of Namias<sup>1</sup>, Fardella<sup>2</sup>, and Stevenson<sup>3</sup>;

whether claim 6 would have been obvious under 35 U.S.C. § 103(a) in view of Namias, Fardella, Stevenson, and Ford<sup>4</sup>;

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<sup>1</sup> U.S. Patent Appl. Pub. No. 2002/0112005 A1, published Aug. 15, 2002 (Ex. 1003).

<sup>2</sup> U.S. Patent Appl. Pub. No. 2001/0032246 A1, published Oct. 18, 2001 (Ex. 1035).

<sup>3</sup> NANCY STEVENSON, TABLET PCs FOR DUMMIES (2003) (Ex. 1036).

<sup>4</sup> U.S. Patent Appl. Pub. No. 2005/0014493 A1, published Jan. 20, 2005 (Ex. 1037).

whether claim 3 would have been obvious under 35 U.S.C. § 103(a) in view of Namias, Fardella, Stevenson, and Saffer<sup>5</sup>;

whether claim 2 would have been obvious under 35 U.S.C. § 103(a) in view of Namias, Fardella, Stevenson, Saffer, and Smith<sup>6</sup>;

whether claim 3 would have been obvious under 35 U.S.C. § 103(a) in view of Namias, Fardella, Stevenson, and RFC 2821<sup>7</sup>; and

whether claim 2 would have been obvious under 35 U.S.C. § 103(a) in view of Namias, Fardella, Stevenson, RFC 2821, and Hazel<sup>8</sup>.

*See* Paper 13 (“Inst. Dec.”).

Subsequent to institution, Patent Owner filed a Patent Owner Response (Paper 24, “PO Resp.”), along with a Declaration of Kevin C. Almeroth, Ph.D. (Ex. 2009) to support its positions. Petitioner filed a Reply (Paper 27, “Pet. Reply”) to the Patent Owner Response, along with a Reply Declaration of Dr. Chatterjee (Ex. 1049), and Patent Owner filed a Sur-Reply (Paper 30, “PO Sur-Reply”). Patent Owner filed a Motion to Exclude (Paper 32), to which Petitioner filed an Opposition (Paper 34).

An oral hearing was held on March 27, 2019. A transcript of the hearing is included in the record. Paper 41 (“Tr.”).

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<sup>5</sup> U.S. Patent Appl. Pub. No. 2003/0122922 A1, published July 3, 2003 (Ex. 1004).

<sup>6</sup> U.S. Patent No. 6,192,407 B1, issued Feb. 20, 2001 (Ex. 1005).

<sup>7</sup> *Simple Mail Transfer Protocol*, Network Working Group, Request for Comments 2821 (J. Klensin ed., AT&T Labs), published April 2001 (Ex. 1008).

<sup>8</sup> PHILIP HAZEL, EXIM: THE MAIL TRANSFER AGENT (2001) (Ex. 1011).

*B. Related Proceedings*

The parties indicate that the '155 patent is the subject of the following district court proceeding involving Petitioner and Patent Owner:

*Vaporstream, Inc. v. Snap Inc.*, Case No. 2:17-cv-00220-MLH-KS (C.D. Cal.). Pet. 1; Paper 4, 1.

Petitioner filed nine additional petitions for *inter partes* review of various other patents owned by Patent Owner, “each of which claims priority to the same priority application as the ‘155 patent” (Paper 7, 1): Cases IPR2018-00200, IPR2018-00312, IPR2018-00397, IPR2018-00404, IPR2018-00408, IPR2018-00416, IPR2018-00439, IPR2018-00455, and IPR2018-00458. *See* Paper 7, 1–2; Pet. 1. *Inter partes* review was instituted in each of these proceedings.

*C. The '155 Patent*

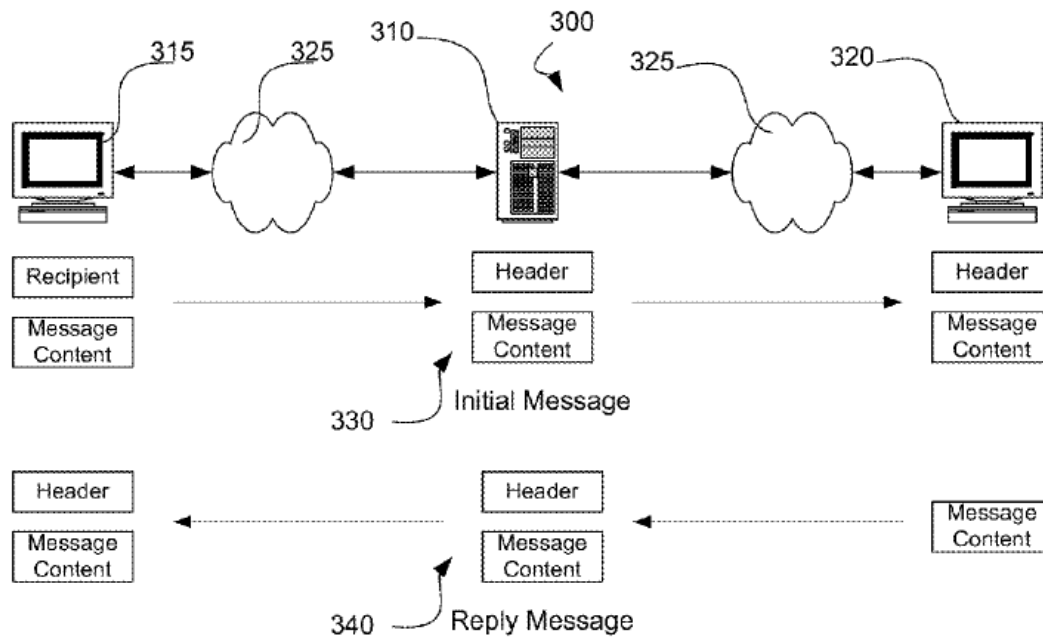
The '155 patent is titled “Electronic Message Send Device Handling System and Method with Separation of Message Content and Header Information,” was filed on December 17, 2014<sup>9</sup>, and issued April 12, 2016. Ex. 1001, at [22], [45], [54]. The '155 patent relates to an electronic messaging method “with reduced traceability.” *Id.* at [57]. The '155 patent notes that “[t]ypically, an electronic message between two people is not private.” *Id.* at 2:7–8. For example, messages may be intercepted by third parties; logged and archived; or copied, cut, pasted, or printed. *Id.* at 2:8–12.

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<sup>9</sup> The '155 patent claims priority, through a chain of continuation applications, to application No. 11/401,148, filed on April 10, 2006, and provisional application No. 60/703,367, filed on July 28, 2005. Ex. 1001, at [60], [63]. The specific priority date of the challenged claims is not at issue in this proceeding, and we need not make any determination in this regard.

“This may give a message a ‘shelf-life’ that is often uncontrollable by the sender or even the recipient.” *Id.* at 2:13–14. The challenged claims are directed to a “computer-implemented method of handling an electronic message” for reducing traceability of an electronic message. *See id.* at 1:66–2:3, 2:27–29, 18:43–19:21, 19:42–45.

Figure 3 of the ’155 patent is reproduced below:



**FIG. 3**

Figure 3, above, illustrates an example of a messaging system according to the ’155 patent. *Id.* at 10:44–45. System 300 includes user computers 315, 320 and server computer 310, connected via network 325. *Id.* at 10:45–48. Electronic message 330 is communicated via this system using a method detailed below. *Id.* at 10:48–49. Reply electronic message 340 also is illustrated, but is not discussed in further detail herein. *Id.* at 10:49–50.

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