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Paper 36
Entered: June 28, 2019

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SNAP INC.,
Petitioner,

v.

VAPORSTREAM, INC.,
Patent Owner.

Case IPR2018-00397
Patent 9,306,886 B2

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

ARBES, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 318(a)

I. BACKGROUND

Petitioner Snap Inc. filed a Petition (Paper 2, "Pet.") requesting *inter partes* review of claims 1, 4, 5, 9–11, and 13 of U.S. Patent No. 9,306,886 B2 (Ex. 1001, "the '886 patent") pursuant to 35 U.S.C. § 311(a). On July 10, 2018, we instituted an *inter partes* review of all challenges raised in the Petition. Paper 10 ("Dec. on Inst."). Patent Owner Vaporstream, Inc. subsequently filed a Patent Owner Response (Paper 21, "PO Resp."), Petitioner filed a Reply (Paper 24, "Reply"), and Patent Owner filed a Sur-Reply (Paper 27, "Sur-Reply"). An oral hearing was held on March 27, 2019, and a transcript of the hearing is included in the record (Paper 34, "Tr.").

We have jurisdiction under 35 U.S.C. § 6. This Final Written Decision is issued pursuant to 35 U.S.C. § 318(a). For the reasons that follow, we determine that Petitioner has not shown by a preponderance of the evidence that claims 1, 4, 5, 9–11, and 13 are unpatentable.

A. Related Proceedings

The parties indicate that the '886 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.). *See* Pet. 1; Paper 4, 1. Petitioner filed nine additional petitions for *inter partes* review of various related patents owned by Patent Owner in Cases IPR2018-00200, IPR2018-00312, IPR2018-00369, IPR2018-00404, IPR2018-00408, IPR2018-00416, IPR2018-00439, IPR2018-00455, and IPR2018-00458. *See* Pet. 1–2; Paper 4, 1–3. *Inter partes* review was instituted in each of these proceedings.

B. The '886 Patent

The '886 patent discloses "[a]n electronic messaging system and method with reduced traceability." Ex. 1001, Abstract. The '886 patent notes that "[t]ypically, an electronic message between two people is not private." *Id.* at col. 2, ll. 7–8. For example, messages may be intercepted by third parties; logged and archived; or copied, cut, pasted, or printed. *Id.* at col. 2, ll. 8–13. "This may give a message a 'shelf-life' that is often uncontrollable by the sender or even the recipient." *Id.* at col. 2, ll. 13–14. As such, according to the '886 patent, there was "a demand for a system and method for reducing the traceability of electronic messages." *Id.* at col. 2, ll. 27–29. Figure 3 of the '886 patent is reproduced below.

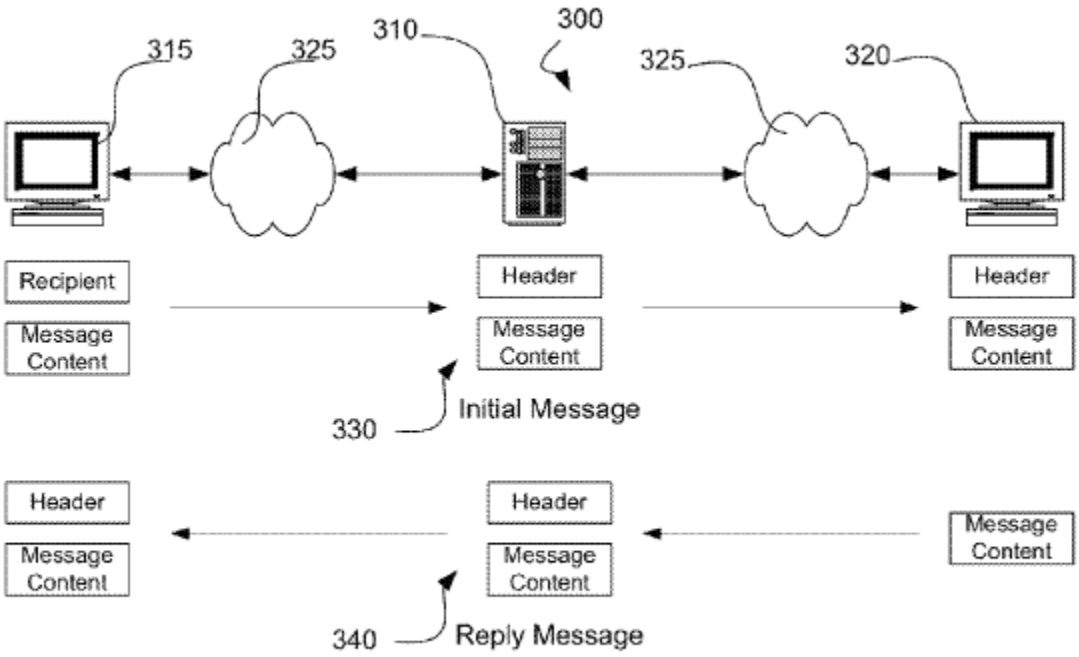

FIG. 3

Figure 3 above depicts system 300 for communicating electronic message 330 from user computer 315 to user computer 320 over network 325 using server 310. *Id.* at col. 10, ll. 62–67. "An electronic message may be any

electronic file, data, and/or other information transmitted between one or more user computers." *Id.* at col. 7, ll. 50–52. The electronic message may include text, image, video, audio, or other types of data. *Id.* at col. 7, ll. 52–60.

Figure 5 of the '886 patent is reproduced below.

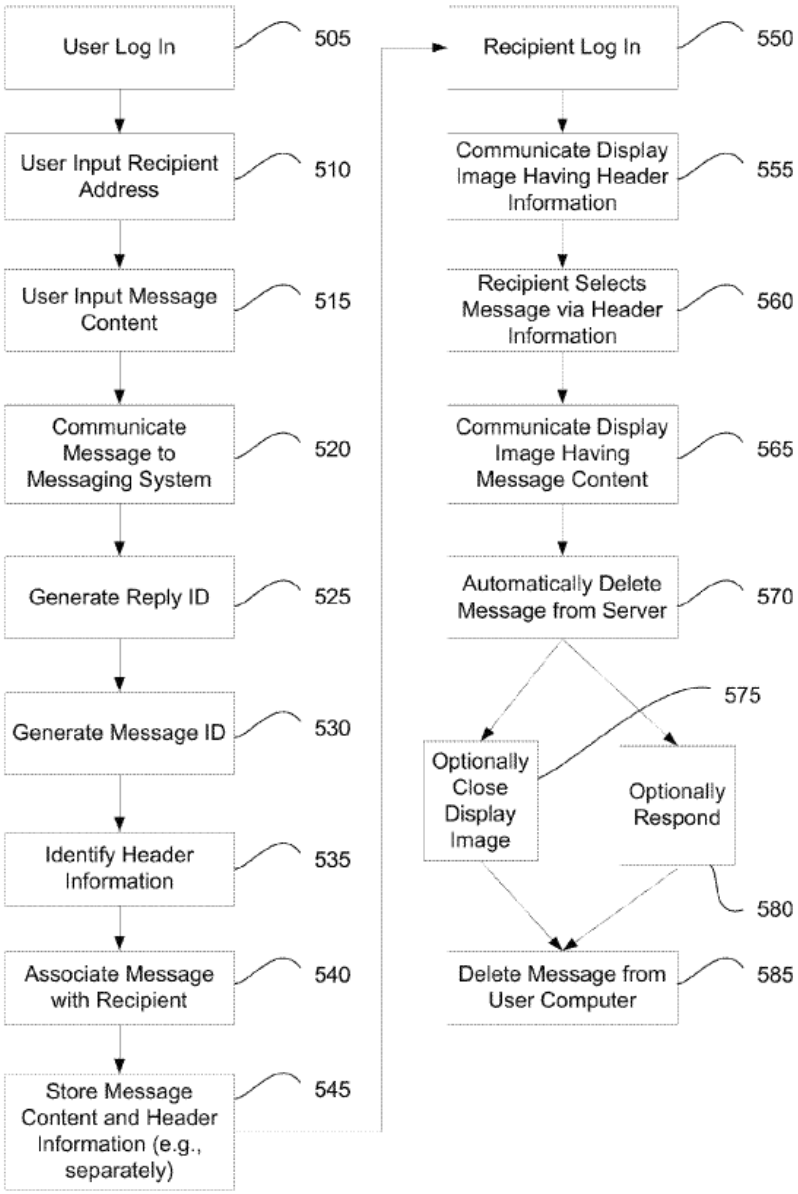

FIG. 5

Figure 5 depicts the process by which the electronic message is sent from the first user computer and received by the second user computer. *Id.* at col. 11, ll. 10–12. At steps 510–520, the user inputs a recipient address (e.g., a unique identifier, such as an email address) and message content, using separate screens provided by the server computer, and the message is communicated from the user computer to the server. *Id.* at col. 11, l. 37–col. 12, l. 26, Figs. 8, 9. The server then performs various actions to process the message at steps 525–545. *Id.* at col. 12, l. 27–col. 14, l. 26. For example, the server identifies header information (e.g., information that "identifies the sending user, recipient user, location of the electronic message, [or] timing of [the] electronic message") separate from the content of the message itself and generates a message ID associated with the header information and message content. *Id.* at col. 12, ll. 37–49, col. 13, ll. 30–32 ("A message ID [is] used to maintain a correspondence between the separated components of electronic message 330."). The '886 patent describes an example in which the message ID is included both in an Extensible Markup Language (XML) file storing the header information and in an XML file storing the message content. *Id.* at col. 13, l. 38–col. 14, l. 26.

To retrieve the message, the recipient first logs in to the system at step 550. *Id.* at col. 14, ll. 27–29. At step 555, the server communicates to the recipient user computer a display image showing header information for multiple messages. *Id.* at col. 14, ll. 33–49, Fig. 10. For example, the display image may show a display name and date/time for each message, but not show the content itself for any of the messages. *Id.* In one embodiment, the header information may include "a sequence number (ex: 1, 2, 3, etc.) assigned to each electronic message," where each sequence number is

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