

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SNAP INC.,
Petitioner,

v.

VAPORSTREAM, INC.,
Patent Owner.

Cases IPR2018-00416 and IPR2018-00439
Patent 9,413,711 B2

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

WHITE, *Administrative Patent Judge*.

FINAL WRITTEN DECISION

35 U.S.C. § 318(a)

I. INTRODUCTION

Snap Inc., (“Petitioner”) filed two Petitions requesting *inter partes* review of claims 1, 4–6, 11, 13, 15, and 16 of U.S. Patent No. 9,413,711 B2 (Ex. 1001,¹ “the ’711 patent”) in IPR2018-00416 and IPR2018-00439. Paper 2 (“Pet.”). In each proceeding, Vaporstream Inc. (“Patent Owner”) filed a Patent Owner Response, Petitioner filed a Reply, and Patent Owner filed a Sur-Reply, as listed in the following chart.

Case	Claim(s)	Institution Decision	Petition	Response	Reply	Sur-Reply
IPR2018-00416	1, 4–6, 11, 15, and 16	Paper 10 (“Dec.”)	Paper 2 (“Pet.”)	Paper 20 (“PO Resp.”)	Paper 24 (“Reply”)	Paper 26 (“Sur-Reply”)
IPR2018-00439	13	Paper 10 (“439 Dec.”)	Paper 2 (“439 Pet.”)	Paper 20 (“439 PO Resp.”)	Paper 26 (“439 Reply”)	Paper 28 (“439 Sur-Reply”)

As to the 439 Proceeding, Patent Owner also filed a Motion to Amend (439 Paper 21, “Mot.”), Petitioner filed an Opposition (439 Paper 24), Patent Owner filed a Reply (439 Paper 29), and Petitioner filed a Sur-Reply (439 Paper 35). A combined oral hearing was held on April 17, 2019, and a transcript of the hearing is included in the record (Paper 34, “Tr.”).

IPR2018-00416 and IPR2018-00439 involve the same challenged patent and parties, and there is overlap in the evidence submitted by the

¹ Unless otherwise specified with the prefix “439,” we refer to papers and exhibits filed in IPR2018-00416.

parties.² To administer the proceedings more efficiently, we exercise our authority under 35 U.S.C. § 315(d) to consolidate the two proceedings for purpose of issuing one final written decision.

We have jurisdiction under 35 U.S.C. § 6. This 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, 4–6, 11, 13, 15, and 16 of the '711 patent are unpatentable.

A. Related Matters

The parties indicate that the '711 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 3, 1. Petitioner filed eight additional petitions for *inter partes* review of various related patents owned by Patent Owner in IPR2018-00200, IPR2018-00312, IPR2018-00369, IPR2018-00397, IPR2018-00404, IPR2018-00408, IPR2018-00455, and IPR2018-00458. *See* Pet. 1–2; Paper 3, 1–3. *Inter partes* review was instituted in each of these proceedings.

B. The '711 Patent

The '711 patent is directed to “[a]n electronic messaging system and method with reduced traceability.” Ex. 1001, Abstract. As noted in the '711 patent specification, “[t]ypically, an electronic message between two people is not private.” *Id.* at 1:45–46. Messages may be intercepted by third

² The parties' arguments and evidence are substantially identical between the two proceedings as relates to the issues discussed in this Final Written Decision. We will highlight any areas where the parties made additional or different arguments between the two proceedings.

parties; logged and archived; or copied, cut, pasted, or printed. *Id.* at 1:46–51. “This may give a message a ‘shelf-life’ that is often uncontrollable by the sender or even the recipient.” *Id.* at 1:51–52.

Figure 3 of the '711 patent is reproduced below.

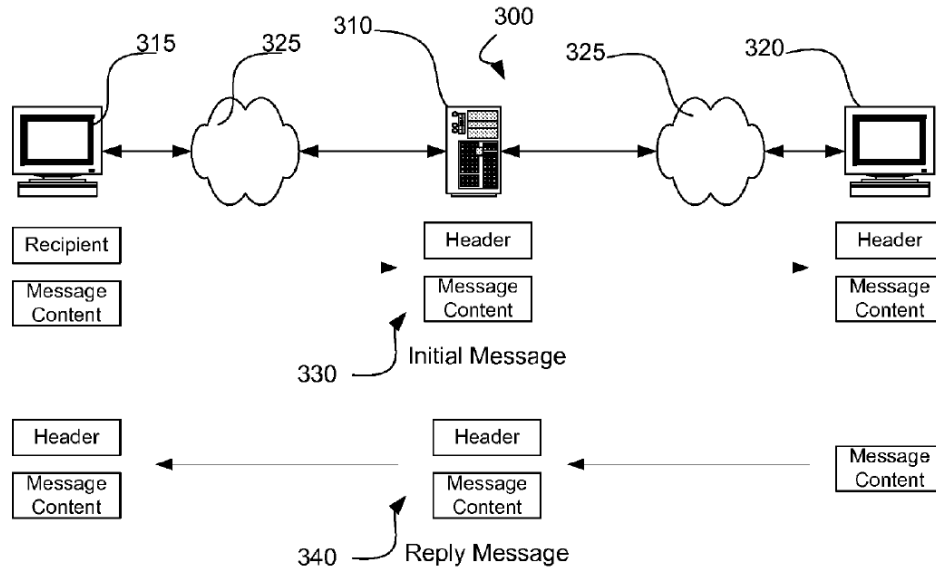


FIG. 3

Figure 3 depicts an example of the '711 patent's messaging system. *Id.* at 4:20–22. System 300 includes user computers 315, 320 and server computer 310, connected via network 325. *Id.* at 12:3–6. Electronic message 330 is communicated via this system using a method detailed below. *Id.* at 12:6–7, 12:17–19. Reply electronic message 340 also is illustrated, but is not discussed in further detail herein. *Id.* at 12:7–10.

Figure 5 of the '711 patent is reproduced below.

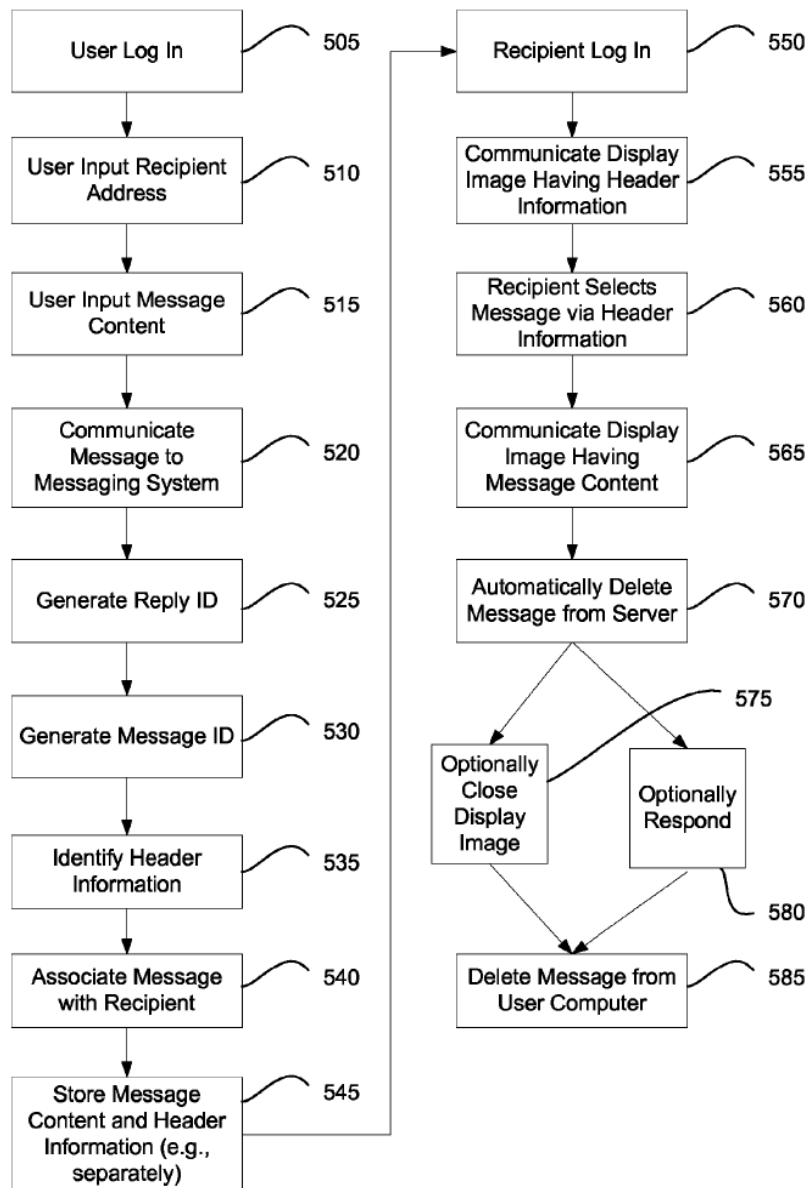


FIG. 5

Figure 5 is a flow chart depicting an exemplary method of the '711 patent. *Id.* at 4:26–27. In step 510, the user inputs the recipient's address on a screen. *See id.* at 12:48–50, 12:60–63, Fig. 8. A recipient address identifies a particular desired recipient and may be a unique identifier (e.g., a screen name, a login name, a messaging name, etc.) that has been established for use with this system or it may be a preexisting address such as an email

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