UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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GOOGLE LLC,
Petitioner,

v.

SEVEN NETWORKS, LLC,
Patent Owner.

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Case IPR2018-01102
Patent 8,811,952

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Before JONI Y. CHANG, THOMAS L. GIANNETTI, and
ROBERT J. WEINSCHENK, *Administrative Patent Judges*.

GIANNETTI, *Administrative Patent Judge*.

DECISION
Denying Institution of Inter Partes Review
35 U.S.C. § 314(a)

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I. INTRODUCTION

A. Background

Google LLC ("Petitioner" or "Google") filed a Petition requesting *inter partes* review of claims 26–28 and 30 (the "challenged claims") of U.S. Patent No. 8,811,952 (Ex. 1001, the "'952 patent"). Paper 1 ("Pet."). Seven Networks LLC ("Patent Owner") filed a Preliminary Response. Paper 7 ("Prelim. Resp."). With the Board's authorization, Petitioner filed a Reply (Paper 10, "Reply") and Patent Owner filed a Sur-reply (Paper 14, "Sur-reply").[1]

We have authority under 35 U.S.C. § 314, which provides that an *inter partes* review may not be instituted unless the information presented in the Petition and the Preliminary Response shows that "there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition." 35 U.S.C. § 314; *see also* 37 C.F.R § 42.4(a) ("The Board institutes the trial on behalf of the Director.").

For the reasons that follow, we deny the Petition and do not institute *inter partes* review of the challenged claims of the '952 patent.

B. Related Proceedings

The parties identify the following matters related to the '952 patent:

1. The '952 patent is the subject of the following petitions for *inter partes* review filed by Samsung Electronics Co., Ltd. ("Samsung"): IPR2018-01113 and IPR2018-01114. Paper 3, 2.

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[1] Papers 10 and 14 are non-public. Papers 11 and 15 are redacted public versions.

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2. The '952 patent is also involved in numerous civil actions for infringement. *See* Pet. 1; Paper 3, 2–3; Paper 4, 1–2.

C. The '952 Patent

The '952 patent is titled "Mobile Device Power Management in Data Synchronization over a Mobile Network With or Without a Trigger Notification." Ex. 1001 (54). According to the patent, mobile email messaging systems typically use a store and forward architecture. *Id.* at 1:23–24. With this architecture two versions of the same mailbox exist: "[t]he primary mailbox on the email server or desktop PC, and the replicated mailbox on the mobile device." *Id.* at 1:39–41. "Consistency between the primary and the replicated mailbox may be maintained to some degree using synchronization messages passing back and forth between the redirector and the mobile device." *Id.* at 1:41–45. According to the patent, "[t]his store and forward architecture is cumbersome, does not operate in real-time, and requires sending a large number of email messages over the Internet." *Id.* at 1:51–53.

The patent describes "[a] real-time communication architecture [that] establishes a continuous connection between an enterprise network and a communication management system." *Id.* at 1:59–61. "The connection is continuously held open allowing mobile devices real-time access to enterprise data sources such as email systems." *Id.* at 1:61–63. "The real-time communication architecture can support an entire enterprise email system or individual email users." *Id.* at 1:63–65.

The '952 patent describes an embodiment where the mobile device can automatically send synchronization requests from the mobile device to

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the network on a periodic basis, and the periodicity of the synchronization requests occur at a frequency determined according to remaining battery power on the mobile device. *Id.* at 8:53–58. The patent explains that different charge gradient levels can be used for varying how often the mobile device synchronizes with the client. *Id.* at 8:61–9:3.

D. Illustrative Claim

The Petition challenges claims 26–28 and 30. Of the challenged claims, only claim 26 is independent. Claim 26 follows:

> 26. A mobile device located in a mobile network, comprising:
> a processor configured to:
>
> > exchange transactions with a client operating in a network through a connection provided through a server coupled to the client;
> >
> > automatically send synchronization requests from the mobile device to the network on a periodic basis;
> >
> > wherein, the periodicity of the synchronization requests occur at a frequency determined according to remaining battery power on the mobile device;
> >
> > and exchange synchronization communications with the client over the connection after sending each synchronization request.

Ex. 1001, 11:5–18. Claims 27, 28, and 30 depend directly from claim 26.

E. References

Petitioner relies on the following references:

1. Beyda et al. U.S. Patent 6,470,358 (Ex. 1005, "Beyda")

2. Friend et al. U.S. Patent 7,155,483 (Ex. 1006, "Friend")

3. Silvester et al. U.S. Patent 6,631,469 (Ex. 1007, "Silvester")

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In addition, Petitioner relies on a Declaration of Dr. Richard T. Mihran,
dated May 17, 2018 (Ex. 1003, "Mihran Decl.").

F. Asserted Grounds of Unpatentability

Petitioner asserts the challenged claims are unpatentable on the
following grounds:

References	Basis	Claims Challenged
Beyda and Silvester	§ 103	26–28 and 30
Friend, Beyda, and Silvester	§ 103	26–28 and 30

Pet. 2.

II. PRELIMINARY MATTERS

A. Real Party-in-Interest

Under 35 U.S.C. § 312(a)(2), a petitioner is required to identify all of
the real parties in interest ("RPI") in each *inter partes* review proceeding.
We generally accept a petitioner's initial identification of the RPIs unless the
patent owner presents some evidence to support its argument that an
unnamed party should be included as an RPI. *See Worlds Inc. v. Bungie,
Inc.*, 903 F.3d 1237, 1242 (Fed. Cir. 2018) (explaining that "an IPR
petitioner's initial identification of the real parties in interest should be
accepted unless and until disputed by a patent owner," and that "a patent
owner must produce some evidence to support its argument that a particular
third party should be named a real party in interest"). Furthermore, the
petitioner bears the burden of persuasion to demonstrate that it has identified
all of the RPIs. *Cf. id.* at 1242−43. This burden does not shift to the patent
owner. *Id.* at 1243−44.

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