

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CALLMINER, INC.,
Petitioner,

v.

MATTERSIGHT CORPORATION,
Patent Owner.

IPR2020-00270
Patent 8,611,523 B2

Before KEVIN F. TURNER, SHEILA F. McSHANE, and
STEPHEN E. BELISLE, *Administrative Patent Judges*.

BELISLE, *Administrative Patent Judge*.

JUDGMENT
Final Written Decision
Determining All Challenged Claims Unpatentable
35 U.S.C. § 318(a)

I. INTRODUCTION

A. Case Posture

CallMiner, Inc. (“Petitioner”) filed a Petition (Paper 2, “Pet.”) to institute an *inter partes* review of claims 8, 9, 13–16, and 20 (“the challenged claims”) of U.S. Patent No. 8,611,523 B2 (Ex. 1001, “the ’523 patent”). Mattersight Corporation (“Patent Owner”) filed a Preliminary Response to the Petition (Paper 8, “Prelim. Resp.”; *see* Paper 5). We instituted an *inter partes* review of claims 8, 9, 13–16, and 20 of the ’523 patent on all grounds of unpatentability alleged in the Petition. Paper 9 (“Institution Decision” or “Dec.”).

After institution, Patent Owner filed a Response. Paper 18 (“PO Resp.”). Petitioner filed a Reply. Paper 22 (“Pet. Reply”). Patent Owner filed a Sur-Reply. Paper 27 (“PO Sur-Reply”). We held a hearing on March 18, 2021, and a transcript of the hearing appears in the record. Paper 37 (“Tr.”).

We have jurisdiction under 35 U.S.C. § 6. Under the applicable evidentiary standard, Petitioner has the burden to prove unpatentability by a preponderance of the evidence. *See* 35 U.S.C. § 316(e) (2018); 37 C.F.R. § 42.1(d) (2019). 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 below, we determine Petitioner has established by a preponderance of the evidence that claims 8, 9, 13–16, and 20 of the ’523 patent are unpatentable.

B. Related Matters

The parties identify the following active matter as related to the '523 patent (Pet. 1; Paper 5, 1): *NICE Ltd. v. CallMiner, Inc.*, Case No. 18-cv-02024 (D. Del.).

Petitioner also filed a Petition challenging claims 1, 2, 6, and 7 of the '523 patent in Case IPR2020-00271 and filed an Explanation for Filing Multiple Petitions in this proceeding (Paper 3). We denied the Petition in Case IPR2020-00271 (Paper 14). Petitioner filed petitions challenging other patents owned by Patent Owner in Cases IPR2020-00220 and IPR2020-00272.

C. The '523 Patent

The '523 patent is titled “Methods and Systems For Determining Segments of a Telephonic Communication Between a Customer and a Contact Center to Classify Each Segment of the Communication, Assess Negotiations, and Automate Setup Time Calculation,” and issued on December 17, 2013, from U.S. Application No. 12/286,168, filed September 29, 2008. Ex. 1001, codes (10), (21), (22), (45), (54).

The '523 patent relates to methods and systems for analyzing a telephonic communication between a customer and a call center agent. Ex. 1001, code (57). Telephone call centers “facilitate the receipt, response and routing of incoming telephone calls relating to customer service, retention, and sales.” *Id.* at 1:28–30. The '523 patent states that monitoring calls by having individuals listen to calls between customers and agents was known in the art, but such methods were “inconsistent and subjective” in “monitoring, training and evaluating call center agents.” *Id.* at 1:50–62. According to the '523 patent, there was a need for “tools useful for breaking

down a communication between [a customer] and a [customer service representative (CSR)] into objects and segments that may be classified into categories for analysis.” *Id.* at 2:4–7.

The ’523 patent describes separating a telephonic communication into first and second “constituent voice data” as determined by, for example, the source and destination address of individual data packets. Ex. 1001, 8:41–44, 14:19–24, 51–58, Figs. 4, 7–9. “[O]nce the first and second constituent voice data are separated one from the other, each . . . can be independently mined and analyzed.” *Id.* at 15:39–42. Figure 10 of the ’523 patent is reproduced below.

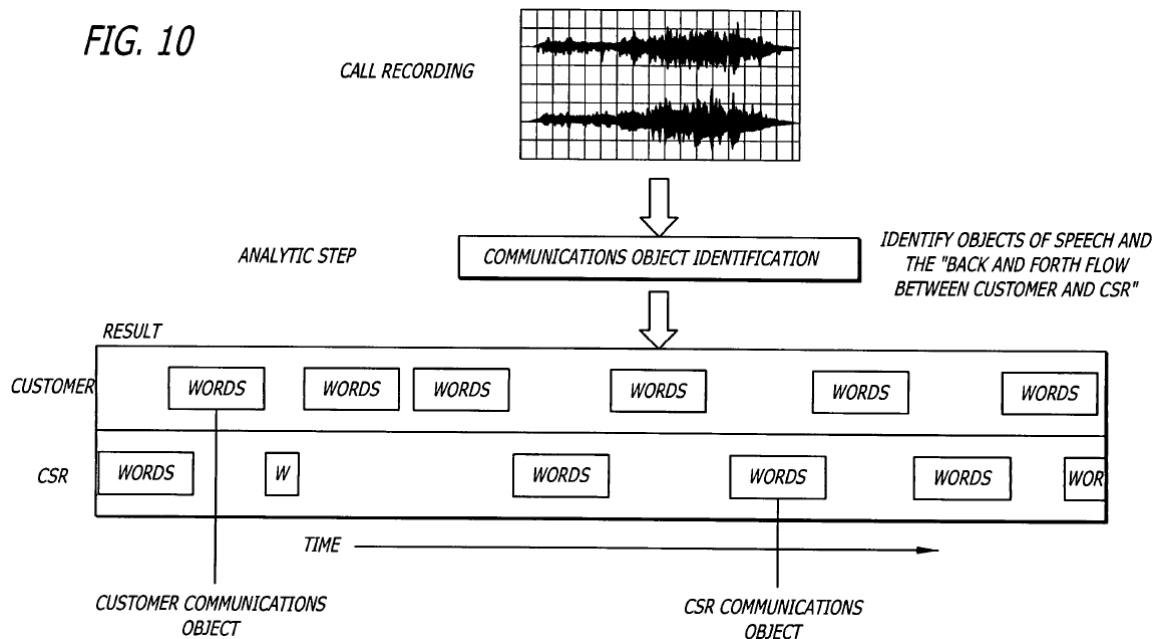


Figure 10 is a block diagram illustrating customer and CSR communications object identification.

Ex. 1001, 4:42–44.

Figure 10 depicts how a “stereo call recording with voice data for a customer and a CSR” is analyzed. Ex. 1001, 16:6–7. In an exemplary embodiment, voice data are converted into text, communication objects

within the text are identified, and the communication objects are classified into predefined categories (e.g., “setup, information exchange, miscommunication, non-interaction, conversation, or positive comment”) by searching for and identifying “text-based keywords” for the categories. *Id.* at 15:63–16:11. “The typed communication objects may then be further categorized to form segments of objects according to type.” *Id.* at 16:3–5, 28–32. Alternatively, the ’523 patent also discloses “it is contemplated by the present invention that mining and analysis in accordance with the present invention can be applied directly to voice data configured in audio format,” rather than first translating that voice data into a text file. *Id.* at 15:52–57.

Figure 12 of the ’523 patent is reproduced below.

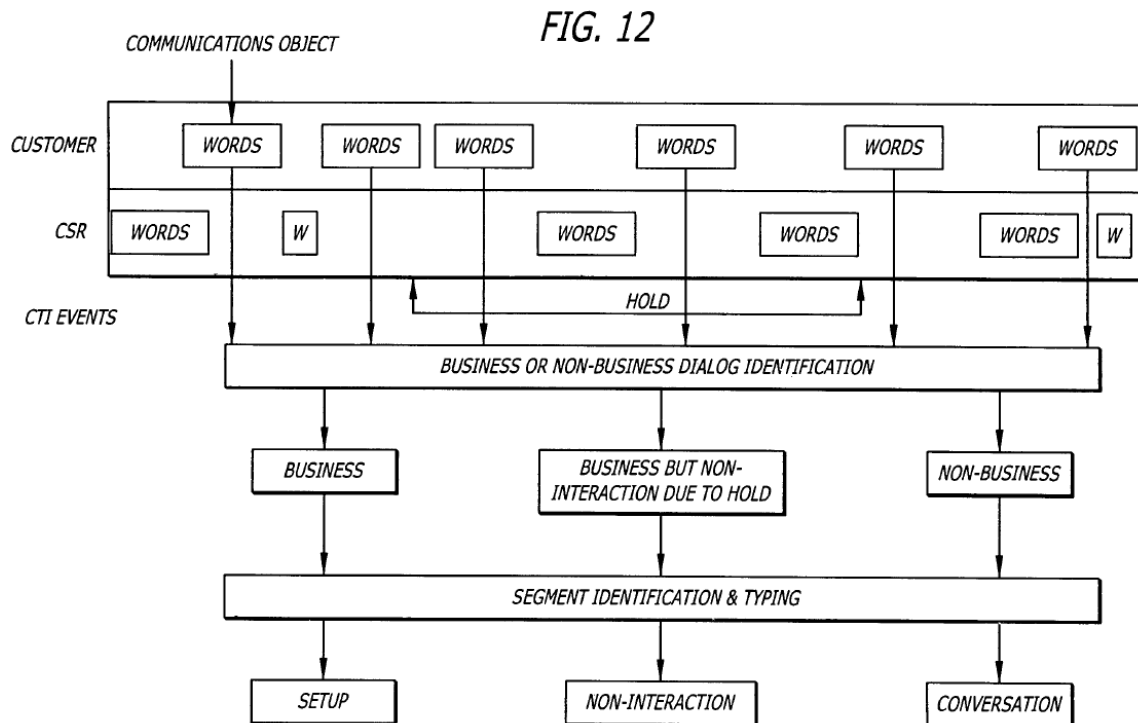


Figure 12 is a block diagram illustrating classification of communication objects.

Ex. 1001, 4:50–52.

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