

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SONY INTERACTIVE ENTERTAINMENT LLC,
Petitioner,

v.

BOT M8, LLC,
Patent Owner.

IPR2020-01288
Patent 7,664,988 B2

Before KALYAN K. DESHPANDE, LYNNE E. PETTIGREW, and
JAMES A. TARTAL, *Administrative Patent Judges*.

PETTIGREW, *Administrative Patent Judge*.

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

I. INTRODUCTION

In this *inter partes* review, instituted pursuant to 35 U.S.C. § 314, Sony Interactive Entertainment LLC (“Petitioner”) challenges claims 1–10 of U.S. Patent No. 7,664,988 B2 (Ex. 1001, “the ’988 patent”), owned by Bot M8, LLC (“Patent Owner”). This Final Written Decision is entered pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons discussed below, Petitioner has shown by a preponderance of the evidence that claims 1–10 of the ’988 patent are unpatentable.

A. Procedural History

Petitioner filed a Petition for *inter partes* review of claims 1–10 of the ’988 patent. Paper 1 (“Pet.”). Patent Owner filed a Preliminary Response. Paper 6. Applying the standard set forth in 35 U.S.C. § 314(a), which requires demonstration of a reasonable likelihood that Petitioner would prevail with respect to at least one challenged claim, we instituted an *inter partes* review of the challenged claims. Paper 11 (“Inst. Dec.”).

Following institution, Patent Owner filed a Patent Owner Response (Paper 15, “PO Resp.”), Petitioner filed a Reply (Paper 18, “Pet. Reply”), and Patent Owner filed a Sur-reply (Paper 19, “PO Sur-reply”). An oral hearing was held on November 10, 2021, and a copy of the hearing transcript has been entered into the record. Paper 25.

B. Real Parties in Interest

Petitioner identifies Sony Interactive Entertainment, LLC, Sony Corporation, Sony Corporation of America, and Sony Interactive Entertainment Inc. as the real parties-in-interest. Pet. 83. Patent Owner identifies itself as the real party-in-interest. Paper 3, 1 (Patent Owner’s Mandatory Notices).

C. Related Matters

Petitioner and Patent Owner indicate that the '988 patent was the subject of a patent infringement lawsuit, *Bot M8, LLC v. Sony Corporation of America et al.*, No. 1:19-cv-07529 (S.D.N.Y.), which was transferred to the Northern District of California (No. 3:19-cv-07027). Pet. 83; Paper 3, 1. Petitioner indicates that the district court proceeding has been dismissed with respect to the '988 patent. Pet. 83.

Petitioner identifies IPR2020-00726, involving U.S. Patent No. 8,112,670 B2 (“the '670 patent”), a continuation of the '988 patent, as a related proceeding. *Id.* In that proceeding, the Board determined in a Final Written Decision that all challenged claims of the '670 patent are unpatentable. *Sony Interactive Entm't LLC v. Bot M8, LLC*, IPR2020-00726, Paper 36 (PTAB Oct. 4, 2021). Patent Owner’s request for rehearing is pending. *See* IPR2020-00726, Paper 37.

D. Overview of the '988 Patent

The '988 patent describes “an information process device in which it can be guaranteed that a fault inspection program properly operates even if a fault occurs in a memory device which is inspected through the fault inspection program.” Ex. 1001, 1:35–39. Figure 1, reproduced below,

shows an information process device according to an embodiment of the invention.

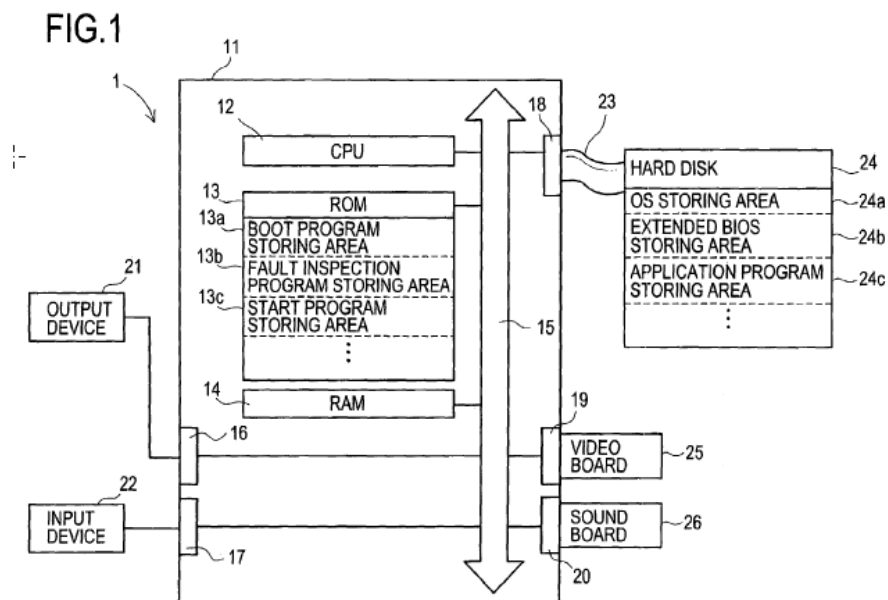


Figure 1 “is a block diagram of an information process device according to the embodiment.” *Id.* at 2:14–15.

As depicted in Figure 1, information process device 1 includes central processing unit (CPU) 12, read-only memory (ROM) 13, and random access memory (RAM) 14 on motherboard 11. *Id.* at 2:33–36. CPU 12 controls information process device 1 and executes various programs and, therefore, “corresponds to a control device.” *Id.* at 2:37–39. ROM 13 is a non-volatile memory that stores various control programs, including a boot program, a fault inspection program, and a start program. *Id.* at 2:40–48. Hard disk 24 is connected to motherboard 11 at port 18 through cable 23 and stores an operating system (OS), Basic Input Output System (BIOS), and an application program. *Id.* at 3:16–23.

Information process device 1 begins to operate when CPU 12 executes the start program and, in turn, the boot program. *Id.* at 3:51–56. The boot program initializes various devices including the BIOS and the operating

system. *Id.* at 3:57–62. The operating system is then loaded into RAM 14 and starts to operate. *Id.* at 3:63–64. Next, the fault inspection program begins to inspect “whether or not a damage occurs in the hard disk 24 or whether or not change or falsification of the program stored in the hard disk 24 is conducted.” *Id.* at 3:66–4:7. If there is no fault in hard disk 24, the application program is loaded into RAM 14 and begins to execute. *Id.* at 4:12–16. Otherwise, if there is a fault in hard disk 24, an error is displayed on output device 21. *Id.* at 4:16–20. Here, because the fault inspection program is stored in ROM 13, independent from hard disk 24, “even if a fault occurs in the hard disk 24 . . . , it can be guaranteed that the fault inspection program properly operates.” *Id.* at 4:22–28.

E. Illustrative Claims

Petitioner challenges claims 1–10 of the ’988 patent. Pet. 8–82. Claims 1, 6, and 10 are independent, claims 2–5 depend directly from claim 1, and claims 7–9 depend directly or indirectly from claim 6. Independent claims 1 and 10 are illustrative of the challenged claims and are reproduced below:

1. A gaming device configured to execute a game, the gaming device comprising:
 - a first memory device for storing a boot program executed when the gaming device is started to operate;
 - a mother board on which the first memory device is provided;
 - a second memory device for storing a game application program for the game, the second memory device being connected to the mother board; and
 - a control device for executing a fault inspection program for the gaming device to inspect whether or not a fault occurs in the second memory device and the game application program stored therein,

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