

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION and GOOGLE, INC.,
Petitioner,

v.

B.E. TECHNOLOGY, LLC,
Patent Owner.

Case IPR2014-00039
Case IPR2014-00738
Patent 6,628,314

Before SALLY C. MEDLEY, KALYAN K. DESHPANDE, and
LYNNE E. PETTIGREW, *Administrative Patent Judges*.

DESHPANDE, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 318(a); 37 C.F.R. § 42.73

I. INTRODUCTION

A. Background

Microsoft Corporation (“Microsoft”) filed a corrected Petition to institute *inter partes* review of claims 11–22 of U.S. Patent No. 6,628,314 (Ex. 1001, “the ’314 patent”). Paper 5 (“Pet.”). B.E. Technology, LLC (“Patent Owner”) did not file a preliminary response. Pursuant to 35 U.S.C. § 314, we instituted *inter partes* review on April 9, 2014, as to claims 11–22 of the ’314 patent—claims 11–14 and 16–19 under 35 U.S.C. § 102 as anticipated by Guyot,¹ claim 15 under 35 U.S.C. § 103 as obvious over Guyot and Robinson,² and claims 20–22 under 35 U.S.C. § 103 as obvious over Guyot and RFC 1635.³ Paper 13 (“Dec.”).

After institution of the *inter partes* review, Google, Inc. (“Google”) filed a Petition and a Motion to Join the *inter partes* review. IPR2014-00738, Papers 1, 3. We granted the motion and joined Google and Microsoft (collectively, “Petitioner”) in the *inter partes* review. Paper 27.

Patent Owner filed a Response (Paper 30, “PO Resp.”) and Petitioner filed a Reply (Paper 33, “Pet. Reply”). Patent Owner filed a Motion to Amend (Paper 31, “Mot. to Amend”), Petitioner filed an Opposition to Patent Owner’s Motion to Amend, and Patent Owner filed a Reply to Petitioner’s Opposition.

Oral hearing was held on December 10, 2014, and the hearing transcript has been entered in the record as Paper 42 (“Tr.”).

The Board has jurisdiction under 35 U.S.C. § 6(c). This final written decision is issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the

¹ U.S. Patent No. 6,119,098 (Ex. 1006) (“Guyot”).

² U.S. Patent No. 5,918,014 (Ex. 1007) (“Robinson”).

³ Deutsch et al., *How to Use Anonymous FTP*, IAFA Working Group, 1-13 (May 1994) (Ex. 1022) (“RFC 1635”).

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reasons discussed below, we determine that Petitioner has shown by a preponderance of the evidence that claims 11–22 of the '314 patent are unpatentable. Patent Owner's contingent Motion to Amend is *denied*.

B. Related Proceedings

Petitioner indicates that the '314 patent is the subject of several district court cases: *B.E. Technology, L.L.C. v. Microsoft Corp.*, No. 2:12-cv-02829-JPM (W.D. Tenn.), where Petitioner was served on October 10, 2012, and *B.E. Technology, L.L.C. v. Google, Inc.*, No. 2:12-cv-2830-JPM (W.D. Tenn.), filed on October 9, 2012. Pet. 4–5; IPR2014-00738, Paper 1, 2–3.

The '314 patent is also the subject of *Google, Inc. v. B.E. Technology, L.L.C.*, IPR2014-00038 (PTAB Apr. 9, 2014), *Facebook, Inc. v. B.E. Technology, L.L.C.*, IPR2014-00052 (PTAB Apr. 9, 2014), *Facebook, Inc. v. B.E. Technology, L.L.C.*, IPR2014-00053 (PTAB Apr. 9, 2014), *Match.com LLC and People Media, Inc. v. B.E. Technology, L.L.C.*, IPR2014-00698 (PTAB June 13, 2014), *Match.com LLC v. B.E. Technology, L.L.C.*, IPR2014-00699 (PTAB June 13, 2014), *Google, Inc. v. B.E. Technology, L.L.C.*, IPR2014-00738 (PTAB June 18, 2014), *Google, Inc. v. B.E. Technology, L.L.C.*, IPR2014-00743 (PTAB June 18, 2014), and *Google, Inc. v. B.E. Technology, L.L.C.*, IPR2014-00744 (PTAB June 18, 2014). IPR2014-00699 has been joined with IPR2014-00038, IPR2014-00743 has been joined with IPR2014-00052, and IPR2014-00698 and IPR2014-00744 have been joined with IPR2014-00053.

C. The '314 Patent

The '314 patent relates to user interfaces that provide advertising obtained over a global computer network. Ex. 1001, col. 1, ll. 12–16. The '314 patent discloses a client software application that comprises a graphical user interface

(GUI) program module and an advertising and data management (ADM) module. *Id.* at col. 6, ll. 64-67. The GUI comprises multiple regions, including a first region comprising a number of user selectable items and a second region comprising an information display region, such as banner advertisements. *Id.* at col. 4, ll. 24-37. Program modules associated with the GUI store statistical data regarding the display of the selected informational data, allowing the targeting of banner advertisements based upon the type of link selected by the user. *Id.* at col. 4, ll. 43-51. The system for selecting and providing advertisements is set forth in Figure 3 as follows:

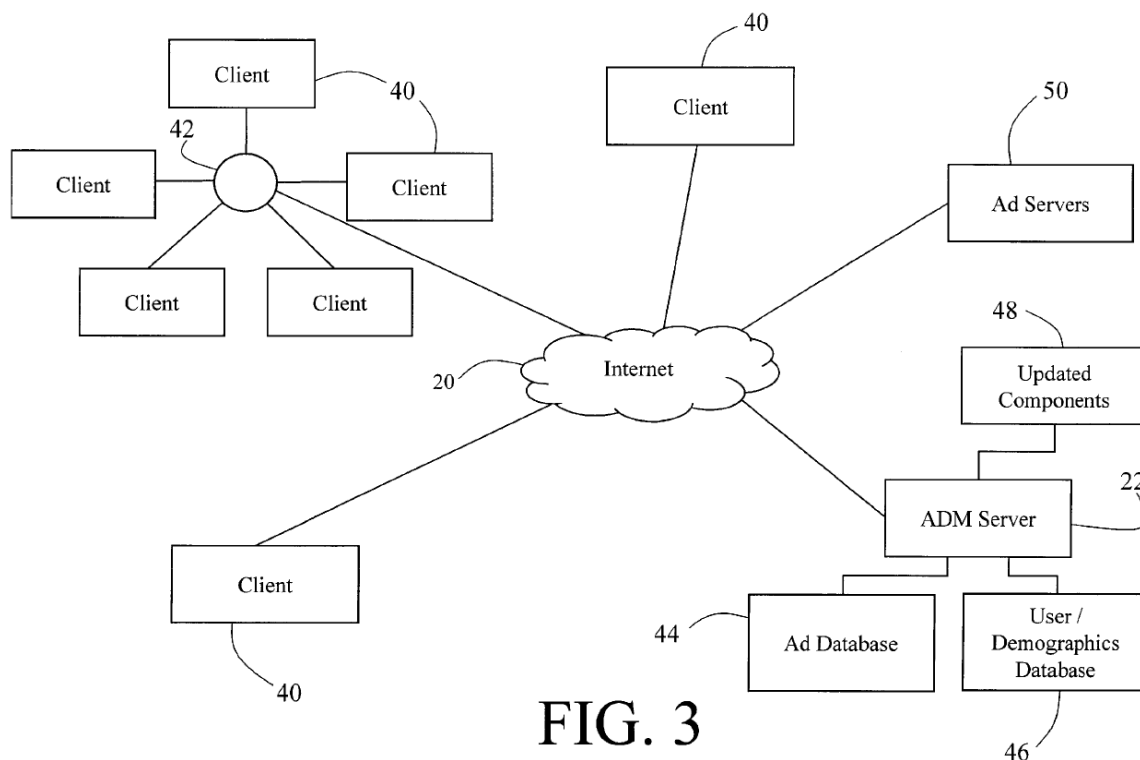


FIG. 3

Figure 3 illustrates a block diagram of a system distributing advertisements over the Internet. *Id.* at col. 6, ll. 21-22. ADM server 22 is accessible by client computers 40 over Internet 20, where client computers 40 have the client software application installed. *Id.* at col. 8, ll. 32-35. ADM server has associated with it

Ad Database 44 and User/Demographics Database 46. *Id.* at col. 8, ll. 38–43. Ad Database 44 stores banner advertising that is provided to client computers 40. *Id.* User/Demographics Database 46 stores demographic information used in targeting advertising downloaded to individual client computers 40. *Id.* at col. 8, ll. 55–57.

When a user first accesses the client software application for the purposes of downloading and installing the application, the user submits demographic information that is used to determine what advertising is provided to the user. *Id.* at col. 8, ll. 57–62. The demographic information is submitted by the user by entering the information into a form provided to the user, and ADM server 22 checks the completeness of the form. *Id.* at col. 16, l. 60 – col. 17, l. 2. ADM server 22 then assigns a unique ID to the user and stores the unique ID with the received user demographic information. *Id.* at col. 17, ll. 11–15. An initial set of advertisements is selected, and the client software application is downloaded to client computer 40 for installation. *Id.* at col. 17, ll. 17–23. The client software application monitors user interaction with the computer, whether with the client software application or with other applications, and later reports this information to the ADM server. *Id.* at col. 12, ll. 55–59, col. 13, ll. 1–2. Advertising banners are displayed in response to some user input or periodically at timed intervals. *Id.* at col. 14, ll. 40–43. The client software application targets the banner advertising displayed, based on the user’s inputs, so that it relates to what the user is doing. *Id.* at col. 14, ll. 43–46.

D. Illustrative Claims

Petitioner challenges claims 11–22 of the ’314 patent. Independent claim 11 and dependent claims 15 and 20 are illustrative of the claims at issue and follow:

11. A method of providing demographically-targeted advertising to a computer user, comprising the steps of:

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