UNITED STATES PATENT AND TRADEMARK OFFICE

_____

BEFORE THE PATENT TRIAL AND APPEAL BOARD

_____

NIANTIC, INC.,
Petitioner,

v.

NANT HOLDINGS IP, LLC,
Patent Owner.

_____

IPR2021-01133
Patent 10,403,051 B2

_____

Before SALLY C. MEDLEY, THOMAS L. GIANNETTI, and
STEPHEN E. BELISLE, *Administrative Patent Judges*.

BELISLE, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

A. Case Posture

Niantic, Inc. ("Petitioner") filed a Petition (Paper 1, "Pet.") requesting an *inter partes* review of claims 1, 5–11, 15, 18, 22–29, 34–36, 38, and 43 ("Challenged Claims") of U.S. Patent No. 10,403,051 B2 (Ex. 1001, "the '051 patent"). Petitioner identifies itself as a real party in interest. Pet. 1. Nant Holdings IP, LLC ("Patent Owner") identifies itself as a real party in interest (Paper 4, 1), and timely filed a Preliminary Response to the Petition (Paper 6, "Prelim. Resp.").

We have authority to determine whether to institute an *inter partes* review. 35 U.S.C. § 314(b) (2018); 37 C.F.R. § 42.4(a) (2020). We may not institute an *inter partes* review "unless . . . 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(a).

Applying those standards, and upon consideration of the information presented in the Petition and Preliminary Response, we determine that Petitioner has not demonstrated a reasonable likelihood of prevailing with respect to any of challenged claims 1, 5–11, 15, 18, 22–29, 34–36, 38, and 43 of the '051 patent. *See* 35 U.S.C. § 314; 37 C.F.R. § 42.4(a). Accordingly, constrained by the record before us, we deny institution of an *inter partes* review of the '051 patent.

B. Related Matters

The parties indicate that the '051 patent is involved in one U.S. district court action, namely, *NantWorks, LLC, and Nant Holdings IP, LLC v. Niantic, Inc.*, No. 3:20-cv-06262-LB (N.D. Cal.). Pet. 1; Paper 4, 1.

Patent Owner also indicates that pending U.S. Patent Application No. 16/926,485, filed July 10, 2020, relates to the '051 patent, but "does not concede that the identified matter[] would affect, or be affected by, a decision in the present post grant review of [the '051 patent]." Paper 4, 1.

C. The '051 Patent

The '051 patent is titled "Interference Based Augmented Reality Hosting Platforms," and issued on September 3, 2019, from U.S. Patent Application No. 16/186,405, filed November 9, 2018. Ex. 1001, codes (10), (21), (22), (45), (54). The '051 patent claims priority through several related applications to U.S. Provisional Patent Application No. 61/473,324, filed April 8, 2011. *Id.* at code (60).

The '051 patent generally relates to "augmented reality [AR] technologies," where "[a]ugmented reality represents a presentation of virtual objects along side [sic] real-world elements." Ex. 1001, 1:27–33. According to the '051 patent, interference-based augmented reality hosting platforms "include networking nodes capable of analyzing a digital representation of [a] scene to derive interference among elements of the scene." *Id.*, Abstract. Such hosting platforms "utilize[] the interference to adjust the presence of augmented reality objects within an augmented reality experience." *Id.* "Elements of a scene can constructively interfere, enhancing presence of augmented reality objects; or destructively interfere, suppressing presence of augmented reality objects." *Id.*
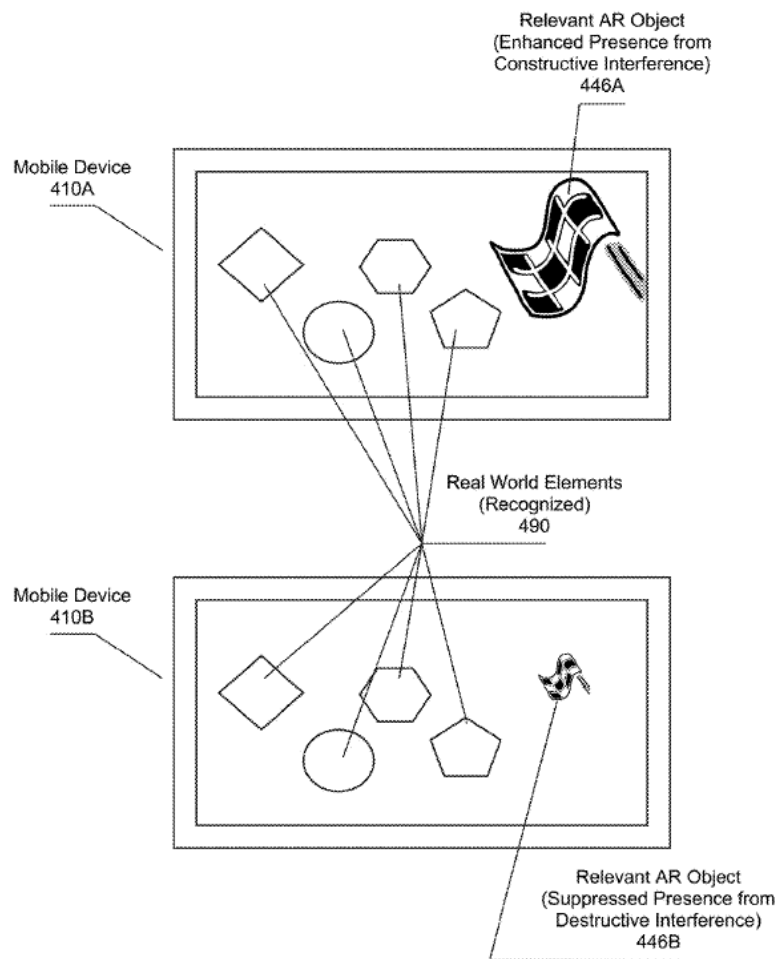
Figure 4 of the '051 patent is reproduced below.

Figure 4

Ex. 1001, 4:40–41, Fig. 4. Figure 4 above depicts how a "satisfaction level," which indicates to what degree each of relevant AR objects has a presence in an augmented reality, "can effect presentation or interaction on AR-capable devices represented by mobile devices 410A and 410B." *Id.*, 16:49–51, 17:50–53. Mobile devices 410A and 410B both capture a digital representation of a scene having real world elements 490. *Id.*, 17:53–55.

In this example of Figure 4, an AR hosting platform recognizes real world elements 490 and identifies a set of relevant AR objects from available AR objects considered germane to a context associated with real world elements 490, with relevant AR objects 446A and 446B being considered member objects of the set of relevant AR objects. *Id.*, 17:55–60.

The '051 patent further explains Figure 4:

> In the case of mobile device 410A, relevant AR object 446A has an enhanced presence due to constructive interference among elements 490. Thus, relevant AR object 446A is strongly influenced by the constructive interference among elements 490 and likely has a strong satisfaction level with respect to interference criteria. In the example of mobile device 410B, which captures a similar digital representation of the scene having elements 490, the context dictates that relevant AR object 446B has a suppressed presence due to destructive interference among elements 490. Thus, relevant AR object 446B is weakly, or negatively, influenced by elements 490 and likely has a weak or negative satisfaction level with respect to the interference criteria.

Id., 17:63–18:9.

According to the '051 patent, "[e]nhanced presence and suppressed presence can take many different forms depending on the nature of relevant AR objects 446A and 446B, the context, or other factors relating to the scene." Ex. 1001, 18:18–24.

D. Illustrative Claim

The '051 patent includes forty-four claims, of which claims 1, 5–11, 15, 18, 22–29, 34–36, 38, and 43 are challenged. Claims 1 and 43 are the challenged independent claims. Claim 1 is illustrative and reproduced below.

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.

fastcase
Smarter legal research.