

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS INC.
Petitioner,

v.

FALL LINE PATENTS, LLC
Patent Owner.

Case IPR2018-00043
Patent 9,454,748 B2

Before MICHELLE N. WORMMEESTER, SHEILA F. McSHANE, and
JOHN R. KENNY, *Administrative Patent Judges*.

KENNY, *Administrative Patent Judge*.

DECISION
Institution of *Inter Partes* Review
35 U.S.C. § 314(a) and 37 C.F.R. § 42.108(b)

I. INTRODUCTION

Unified Patents Inc. (“Petitioner”) filed a Petition (Paper 2, “Pet.”), requesting an *inter partes* review of claims 16–19, 21, and 22 of U.S. Patent No. 9,454,748 B2 (Ex. 1001, “the ’748 patent”). Fall Lines Patents, LLC (“Patent Owner”) filed a Preliminary Response (Paper 5, “Prelim. Resp.”). We have authority under 35 U.S.C. § 314 to institute an *inter partes* review if “there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” Upon considering the record developed thus far, for reasons discussed below, we institute *inter partes* review of claims 16–19, 21, and 22 of the ’748 patent.

II. BACKGROUND

A. Related Proceedings

The parties indicate that the ’748 patent is or has been involved in the following civil actions in the United States District Court for the Eastern District of Texas:

Case Caption	Number
<i>Fall Line Patents, LLC v. American Airlines Group, Inc.</i>	6:17-cv-00202
<i>Fall Line Patents, LLC v. Cinemark Holdings, Inc.</i>	6:17-cv-00203
<i>Fall Line Patents, LLC v. Grubhub Holdings, Inc.</i>	6:17-cv-00204
<i>Fall Line Patents, LLC v. Choice Hotels Int’l, Inc.</i>	6:17-cv-00407
<i>Fall Line Patents, LLC v. Uber Technologies, Inc.</i>	6:17-cv-00408

Pet. 1; Paper 4, 2–3.

According to Petitioner and Patent Owner, Civil Action No. 6:17-cv-00204 has been terminated/was dismissed. Pet. 1; Paper 4, 2–3. Patent Owner states that Civil Action No. 6:17-cv-00202 was also dismissed. Paper 4, 2–3. And Petitioner notes claims 1–14 of U.S. Patent No.

7,822,816, of which the '748 patent is a continuation, were the subject of ex parte reexamination Serial No. 90/012,829 and IPR2014-00140. Pet. 1–2.

B. Overview of the '748 Patent (Ex. 1001)

The '748 patent is directed to collecting data from a remote computing device, such as a handheld computing device, by creating and delivering a questionnaire to the remote computing device, executing the questionnaire on the remote computing device, and transmitting responses to a server via a network. Ex. 1001, [57].

Figure 1 of the '748 patent is reproduced below:

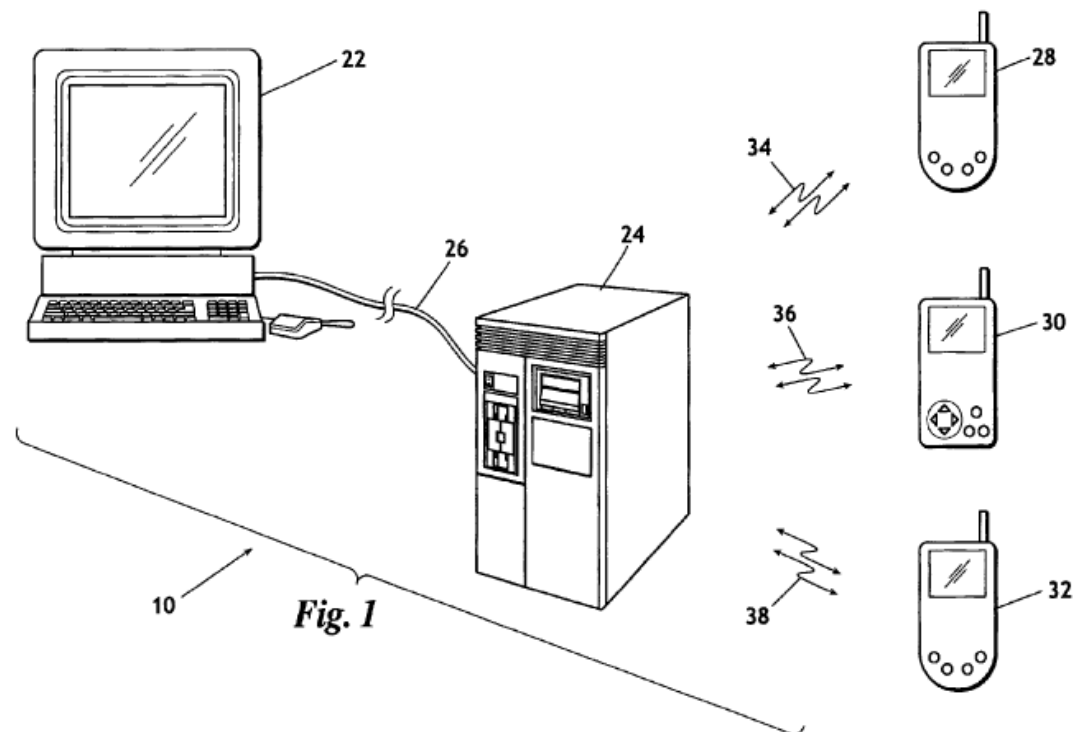


Figure 1 is a diagram of the '748 patent's system for data management. Ex. 1001, 6:57, 7:13–23. System 10 includes server 24; handheld computers 28, 30, and 32, which are operated remotely from server 24; and computer 22, which provides for administration of the system and reviewing data

collected by the system. *Id.* at 7:13–23, Fig. 1. Server 24 is connected to computer 22 via the Internet 26, a local area network, or a private wide area network. *Id.* at 7:24–28, Fig. 1. Server 24 is connected to handheld computers 28, 30, and 32 via connections 34, 36, and 38, respectively. *Id.* at 7:24–26. Connections 34, 36, and 38 are loose network connections, meaning that handheld computers 28, 30, and 32 and server 24 are tolerant of intermittent network connections. *Id.* at 7:59–62. Computer 22 is used for administering system 10 and for reviewing data collected by the system. *Id.* at 7:21–23.

Figure 2 of the '748 patent is reproduced below:

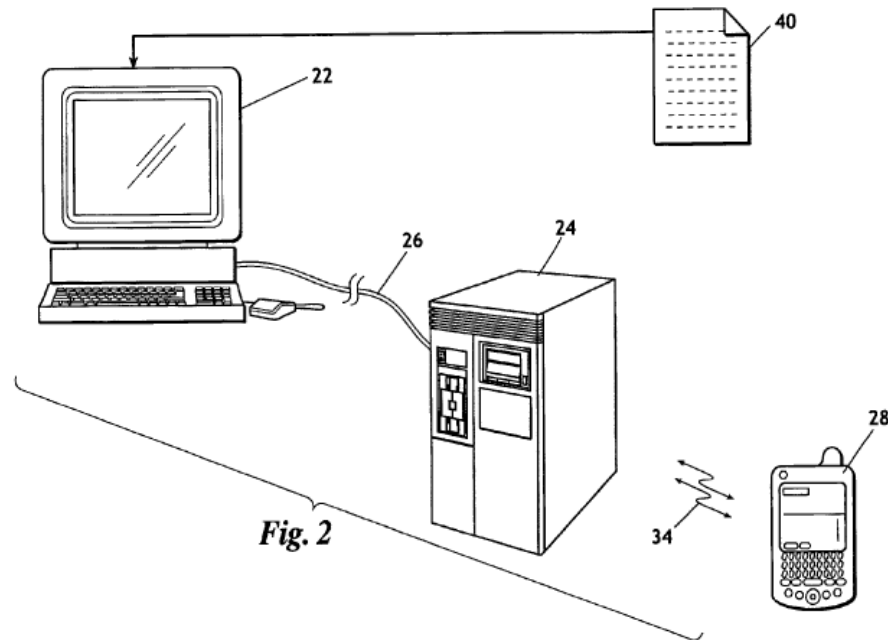


Figure 2 of the '748 patent is a diagram of system 10 as it is used for form creation. Ex. 1001, 6:58–59; 8:11–17. Computer 22 has an interface that allows a user to create and distribute a form to handheld devices using computer 22. *Id.* at 8:38–50. As the client enters questions and selects

response types, server 24 builds a stack of questions and responses, and assigns indices, or tokens, which point to each question or response. *Id.* at 8:53–56, 9:3–6. Each token can correspond to a logical, mathematical, or branching operation. *Id.* at 8:56–59, 9:3–6. When questionnaire (40) is complete, server 24 sends the stack of questions and defined responses to the handheld devices (e.g., handheld computer 28). *Id.* at 9:3–6. System 10 can incrementally update the questionnaire on the handheld devices. *Id.* at 9:14–18.

For example, system 10 can track mystery shoppers at restaurant chains. Ex. 1001, 10:37–43. System 10 can track the time it takes a mystery shopper to go through a drive through window. *Id.* at 10:41–43. When the mystery shopper enters a parking lot for a franchise, a handheld device with a GPS receiver can identify the franchise. *Id.* at 10:55–59. The device can also record the amount of time it takes for the shopper to go through a drive through line. *Id.* at 10:55–11:21.

C. Illustrative Claims

Petitioner challenges claims 16–19, 21, and 22 of the '748 patent, of which, claims 16, 19, and 21 are independent and reproduced below:

[16.0]¹ 16. A method for managing data comprising the steps of:

[16.1] (a) establishing communications between a handheld computing device and an originating computer, said handheld

¹ Petitioner labels individual phrases in claims 16, 19, and 21 as shown in brackets. For clarity, we use the bracketed labels for the phrases in these claims.

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