

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
Final Written Decision
35 U.S.C. § 318(a)

I. INTRODUCTION

This *inter partes* review, instituted pursuant to 35 U.S.C. § 314, challenges the patentability of claims 16–19, 21, and 22 (“challenged claims”) of U.S. Patent No. 9,454,748 B2 (Ex. 1001, “challenged patent,” “the ’748 patent”), owned by Fall Lines Patents, LLC (“Patent Owner”). We have jurisdiction under 35 U.S.C. § 6. 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 that Petitioner has proven by a preponderance of the evidence that every challenged claim is unpatentable.

A. Procedural Background

Unified Patents, Inc. (“Petitioner”) filed a Petition for *inter partes* review of the challenged claims on one ground. Paper 2 (“Pet.”). Patent Owner filed a Preliminary Response. Paper 5 (“Prelim. Resp.”). We instituted an *inter partes* review of all challenged claims. Paper 6 (“Institution Decision,” “Inst. Dec.”), 47. Patent Owner filed a Patent Owner Response to the Petition (Paper 9, “PO Resp.”), to which Petitioner filed a Reply (Paper 10, “Pet. Reply”).

A final oral hearing was held on December 14, 2018, and a transcript of the hearing is included in the record. Paper 20 (“Hr’g Tr.”). At the hearing, Patent Owner argued that we should consider its challenge to the Petitioner’s identification of its real party in interest, even though Patent Owner did not present that challenge in its Patent Owner Response. Hr’g Tr. 19:22–21:8.

After the hearing, we authorized post-hearing briefing regarding (i) Petitioner’s identification of its real party in interest and (ii) whether Patent

Owner timely challenged that identification. Paper 19, 1–5. Patent Owner filed a Motion Regarding Real Party in Interest (Paper 21, “PO RPI Motion”), to which Petitioner filed an Opposition, opposing consideration of Patent Owner’s real-party-in-interest challenge. Paper 23 (“Pet. Opp. Consid.”). Petitioner also filed a Reply, in which Petitioner responded to Patent Owner’s real-party-in-interest arguments. Paper 22 (“Pet. RPI Reply”). Petitioner presented a declaration from Mr. Kevin Jakel, Petitioner’s CEO, (Ex. 1026) with its RPI Reply. Patent Owner cross-examined Mr. Jakel and filed observations regarding that cross examination. Paper 30 (“RPI Obs.”). Petitioner responded to those observations. Paper 31. (“RPI Obs. Resp.”).

B. Related Proceedings

The parties indicate that the challenged 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 challenged patent is a continuation, were the subject

of ex parte reexamination Serial No. 90/012,829 and IPR2014-00140. Pet. 1–2.

C. Overview of the Challenged Patent

The challenged 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 challenged patent is reproduced below:

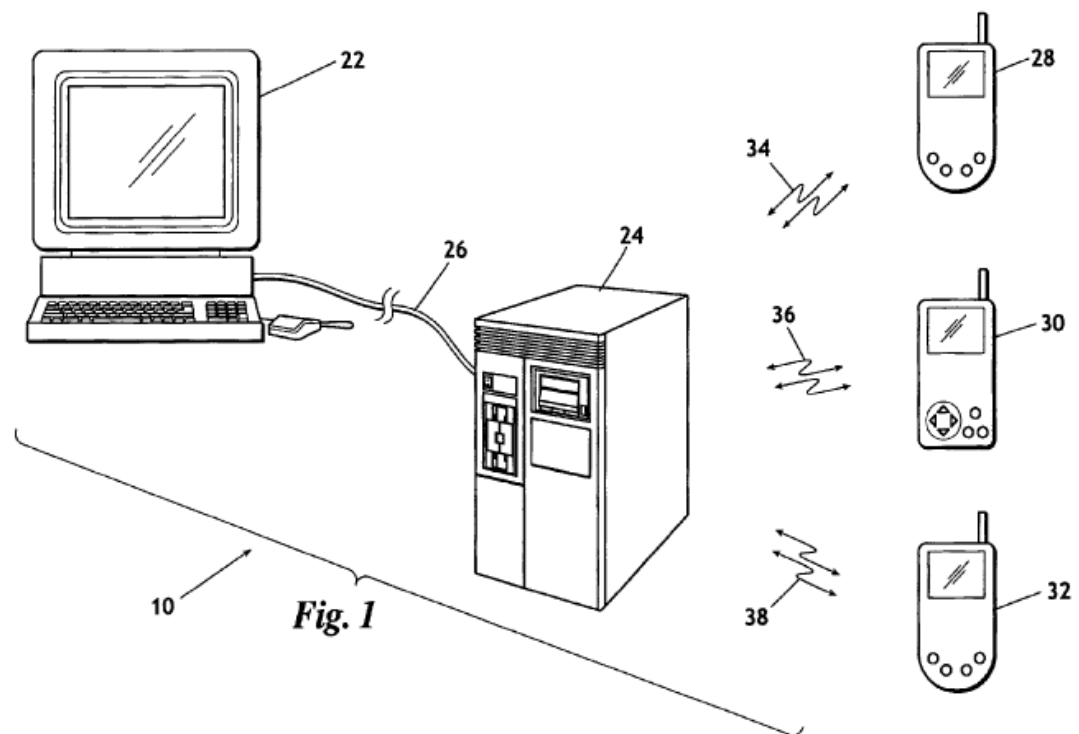


Figure 1 is a diagram of the challenged patent's system for data management. Ex. 1001, 6:57, 7:13–23. System 10 includes server 24; handheld computers 28, 30, and 32, which are operated remotely from server 24; and computer 22, which provides for administration of the system and

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 challenged patent is reproduced below:

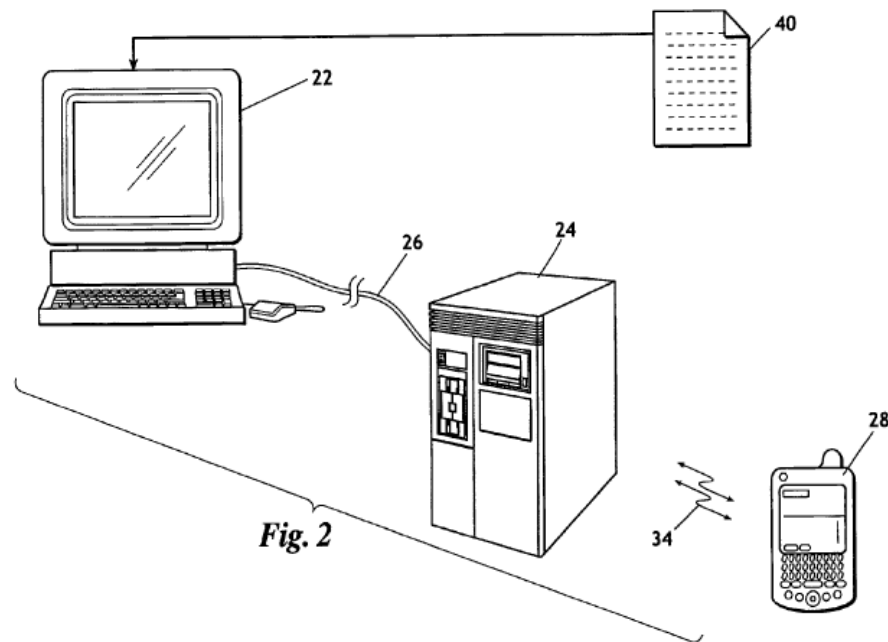


Figure 2 is a diagram of system 10 as it is used for form creation. Ex. 1001, 6:58–59; 8:11–17. Computer 22 has an interface that allows a user to create and distribute a form to handheld devices using computer 22. *Id.* at 8:38–50. As the client enters questions and selects response types, server 24 builds a



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