

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TICKETNETWORK, INC. and TICKET SOFTWARE LLC,
Petitioner,

v.

CEATS, LLC,
Patent Owner.

Case IPR2018-00244
Patent 7,548,867 B2

Before MICHAEL W. KIM, WILLIAM V. SAINDON,
and KEVIN W. CHERRY, *Administrative Patent Judges*.

CHERRY, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
Finding No Challenged Claims Unpatentable
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. INTRODUCTION

Petitioner, TicketNetwork, Inc. and Ticket Software, LLC, filed a Petition requesting an *inter partes* review of claims 1–9 of U.S. Patent No. 7,548,867 B2 (Ex. 1001, “the ’867 patent”) under 35 U.S.C. §§ 311–319. Paper 2 (“Petition” or “Pet.”). Patent Owner, CEATS, LLC, did not file a Preliminary Response. Pursuant to 35 U.S.C. § 314(a), we determined the Petition showed a reasonable likelihood that Petitioner would prevail in establishing the unpatentability of claims 1–9, and instituted an *inter partes* review of these claims on both asserted grounds of unpatentability. Paper 13 (“Inst. Dec.”). Patent Owner filed a Patent Owner Response. Paper 23 (“PO Resp.”). Petitioner filed a Reply to Patent Owner’s Response. Paper 27 (“Pet. Reply”). Patent Owner also filed a Sur-Reply. Paper 32 (“Sur-Reply”).

Petitioner filed a Motion to Exclude certain evidence. Paper 31 (“Pet. Mot. Exclude”). Patent Owner filed an Opposition to Petitioner’s Motion to Exclude. Paper 35 (“PO Opp.”). Petitioner also filed a Reply in support of its Motion to Exclude. Paper 36 (“Pet. Mot. Reply”). An oral hearing was held on March 20, 2019. Paper 39 (“Tr.”).

We issue this Final Written Decision pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons that follow, we determine Petitioner *has not proven* by a preponderance of the evidence that claims 1–9 of the ’867 patent are unpatentable. *See* 35 U.S.C. § 316(e). We *dismiss* Petitioner’s motion to exclude *as moot*.

A. Related Proceedings

As required by 37 C.F.R. § 42.8(b)(2), each party identifies various judicial or administrative matters that would affect or be affected by a decision in this proceeding. Pet. 1; Paper 5, 2 (Patent Owner’s Mandatory Notices). The parties identify the following pending district court lawsuit as related to the ’867 patent: *TicketNetwork, Inc. v. CEATS, Inc.*, No. 2:15-cv-01470 (E.D. Tex.).

Petitioner additionally filed proceedings challenging related patents belonging to Patent Owner: CBM2018-00004 (U.S. Patent No. 8,229,774) and IPR2018-00245 (U.S. Patent No. 7,640,178). We did not institute review in CBM2018-00004 and we issue a Final Written Decision in IPR2018-00245 concurrently with this Final Written Decision.

B. The ’867 Patent

The ’867 patent describes a system and method for selecting and purchasing, using a computer and over the internet, seats shown on an interactive seat map of a venue, which could be a theater, a stadium, or even an airplane. Ex. 1001, Abstract, 4:39–5:22. One aspect of the claimed invention is an interactive seat map. *Id.* at 5:37–43. In one embodiment, the seat map is a graphical representation of the seating arrangement at a selected venue and may display information about the seats, such as availability or location. *Id.* at 4:60–66. The customer can use this map to identify the seats that are still available at the venue and ultimately select a seat for purchase. *Id.* at 4:66–5:16. The ’867 patent also describes “mouse-over” functionality. *Id.* at 6:1–7. The mouse-over window displays additional information when a customer moves a mouse cursor over a

particular portion of a seat map. *Id.* The '867 patent further describes maintaining an inventory of seats. *See id.* at 5:3–16. In one embodiment, this is accomplished through the use of a database, whereby once a seat selection is confirmed, the selected seat is locked in the database and cannot be selected by another customer. *Id.*

C. Illustrative Claim

Claims 1 and 7 are the only independent claims of the '867 patent. Claim 1 is a computer implemented method and claim 7 is computer system. The computer system of claim 7 is configured to perform functions corresponding to the computer implemented method steps of claim 1. Claims 2–6 each depend directly from claim 1. Claims 8 and 9 depend directly from claim 7. Claim 7 is illustrative of the subject matter in this proceeding, and is reproduced below.

7. A computer system, comprising:
 - a database that relates to an inventory for a venue; and
 - a server system that provides to a plurality of users access to the database, the server system configured to:
 - receive, from a first general purpose computer, a query for information from the database regarding a status of one or more seats in the venue;
 - determine information indicating an availability of the one or more seats in the venue based on parameters specified in the query;
 - transmit, to the first general purpose computer, a response to the query that includes information to be displayed to a first user, wherein the information to be displayed to the user comprises an interactive set of user interface elements that allow the first user to select one or more seats in the venue, wherein, in response to the first user placing a mouse over at least a portion of the interactive set of user interface elements, current

available seat information in the venue indicating seats that are currently available is transmitted to the first general purpose computer;

receive, from the first general purpose computer, information indicating selections with a mouse by the first user;

create a temporary record in the database, for the first user, based on the information indicating selections by the first user;

transmit, to the first general purpose computer, a request for confirmation of the selections by the first user based on information in the temporary record;

receive, from the first general purpose computer, the confirmation of the selections by the first user;

lock entries in the database based on the confirmation, wherein the lock prevents a second user from selecting any seat confirmed for the first user; and

transmit, to a second general purpose computer, information to be displayed to the second user that indicates seats selected by the first user.

Id. at 7:25–8:25.

D. Prior Art and Instituted Grounds

We instituted review on grounds that claims 1–9 would have been obvious in view of NFB¹ and Gayraud², and that claim 5 would also have been obvious in view of NFB, Gayraud, and Bates³.

¹ *Billetbestillingssystem: Nordisk Film Biografer* (Aug.–Nov. 1998) (Ex. 1006) (“NFB”). Petitioner relies on an English translation “Ticket Booking System: Nordisk Film Biografer” (Ex. 1005). All citations will be to the English translation.

² Gayraud, US 5,436,637, iss. July 25, 1995 (Ex. 1007).

³ Bates, US 5,565,894, iss. Oct. 15, 1996 (Ex. 1020).

II. ANALYSIS

A. Claim Construction

We interpret claims in an unexpired patent using the “broadest reasonable construction in light of the specification of the patent in which [they] appear[].”⁴ 37 C.F.R. § 42.100(b) (2017). Any special definition for a claim term must be set forth with reasonable clarity, deliberateness, and precision. *In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994). “Under a broadest reasonable interpretation, words of the claim must be given their plain meaning, unless such meaning is inconsistent with the specification and prosecution history.” *Trivascular, Inc. v. Samuels*, 812 F.3d 1056, 1062 (Fed. Cir. 2016).

Only those terms that are in controversy need be construed, and only to the extent necessary to resolve the controversy. *Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999).

We determine that no terms require express construction for purposes of this Final Written Decision.

B. Overview of the Prior Art

1. NFB

NFB is a student report for a school project. Ex. 1005, 1. The students set out to “develop a prototype of [an Internet] ticket booking system.” *Id.* § 1.1. The reference title NFB is also the name of a Danish

⁴ A recent amendment to this rule does not apply here because the Petition was filed before November 13, 2018. *See* Changes to the Claim Construction Standard for Interpreting Claims in Trial Proceedings Before the Patent Trial and Appeal Board, 83 Fed. Reg. 51,340 (Oct. 11, 2018) (to be codified at 37 C.F.R. pt. 42).

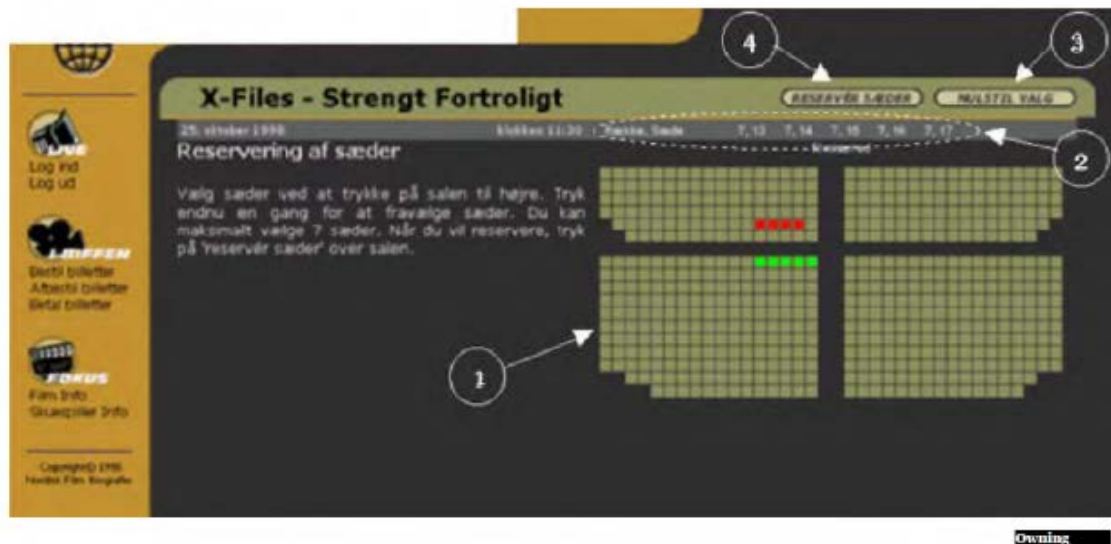
movie theater chain (Nordisk Film Biografer) that “partner[ed]” with the project. *Id.* § 1.1. The system is designed to allow individual moviegoers use the theater chain’s website to book movie tickets over the Internet. *Id.* § 7.2.1. The website works, via an interface, as a supplement to a common database that includes entries related to customers, movie theaters, halls in each movie theater, seats in each hall, movies, and tickets. *Id.* §§ 7.1, 7.2.1, 8.2.

To book a movie ticket, the user goes to Nordisk Film Biografer’s web site entering Nordisk Film Biografer’s URL using his or her web browser. *Id.* § 16. The user initiates an inquiry with respect to availability of seats in a venue via a PC through the computer system, and the server receives the query from the PC. *Id.*

The availability of seats in the venue is maintained by the database. *Id.* As such, a query is received from the PC for information from the database regarding a status of one or more seats in the venue. *Id.* After a user chooses a date and time of a desired movie, the user chooses the seats he or she wants to book, and each of the chosen seats is determined to be either free (available) or not free (taken, or not available). *Id.* § 12.2.2. If the chosen seats are free, the booking is completed, and the user has an opportunity to change his or her mind about the booking. *Id.* If the seats are already taken, the user is offered alternative seats close to the original choice, and provided an opportunity to decline the alternative seats. *Id.* NFB discloses a website made using HTML that is intended for information entry and mouse clicks. *Id.* § 9.2.3.

In another example, after a query is made by a user, a screen is displayed that allows the user to select a session to attend. *Id.* at App’x H,

p. 139. From this screen, the user can select a movie and date. *Id.* In response to this query, the user is shown a screen that depicts the position of each seat in a hall. *Id.* This screen, described by NFB as “Screen 7,” is reproduced below.



Screen 7: Booking of seats

Id. at App’x H, p. 140.

The Reserved seats are shown marked with red and therefore not available. *Id.* at App’x H., p. 141. A seat is selected when the user clicks directly on the seat in the displayed image. *Id.* Each seat selected by the user is marked with green. *Id.* NFB describes that the buttons “Book seats” and “Reset selection” light up when the cursor is moved across the buttons. *Id.* § 25.6.4. NFB also describes a graphic error that may occur during a mouse-over event in which an available seat appears to be booked. *Id.* § 25.2.2.

2. Gayraud

Gayraud discloses “a graphical user interface system and methods for providing ‘hints’ for screen objects of interest.” Ex. 1007, Abstract. The

interface includes a static frame or window positioned in a non-intrusive fashion below or to one side of a client area (active portion) of a user interface. *Id.* The frame is continually updated with appropriate descriptors or “hints” (e.g., text and/or graphics) as a screen cursor moves from one screen object to the other. *Id.* Gayraud states

the entrance of the cursor into and departure from screen objects is continually monitored as follows. Upon entrance of the cursor into the domain of an object (e.g., boundary of a known screen region), the object is identified (e.g., from hit-testing, its window handle, or the like). Upon identification, a corresponding descriptor or “hint” may be determined. This hint is displayed in a status frame or window—a static frame (i.e., it is continually displayed) along a single portion (e.g., the bottom) of the client area. Upon departure of the cursor from the object, the descriptor is cleared or erased from the status window. In this manner, the system may continually monitor and describe system objects of interest in a non-intrusive and computationally frugal fashion.

Id. at 3:59–4:5.

The graphical user interface (GUI) of Gayraud provides descriptive text in a status window indicating the current relevance of an object, which a cursor is touching. *Id.* at 12: 5–7. As the user sweeps the cursor from one location to another, the status window is updated. *Id.* at 12:15–17.

C. Analysis of Claims 1 and 7

As we explained above, claims 1 and 7 are independent. Claim 7 mirrors claim 1, and is representative of the two independent claims. In particular, Claim 7 requires that the server be configured to:

in response to the first user placing a mouse over at least a portion of the interactive set of user interface elements, current available

seat information in the venue indicating seats that are currently available *is transmitted* to the first general purpose computer[.]
Ex. 1001, 7:35–8:9 (emphases added) (“the mouse-over limitation”).

Petitioner relies on NFB for most of the limitations of claim 7, except Petitioner submits that NFB does not explicitly disclose the mouse-over limitation. Pet. 40–41, 55–56. For the mouse-over limitation, Petitioner directs our attention, in part, to NFB for its teaching that in response to a query from the user a screen is displayed that allows the user to select a session to attend and book seats. Ex. 1005, App’x H, p. 139. This query may include a movie, date, and time. *Id.* A displayed screen allows the user to select a session to attend and book seats. *Id.* The displayed screen includes a seat map of the venue with the reserved seats marked in red and the seats chosen by the user marked in green. *Id.* at App’x H, p. 141. The user can select and de-select seats by clicking on the seats displayed in the image. *Id.* Petitioner asserts that NFB describes the use of something like mouse-over events in the context of updating the status of a seat based on the position of the cursor (highlighting certain buttons), but admits that NFB does not explicitly disclose the mouse-over limitation. Pet. 40–41 (citing Ex. 1003 ¶ 42).

For that teaching, Petitioner directs us to Gayraud and the testimony of Dr. Lavian. *Id.* at 41. In particular, Petitioner argues that Gayraud discloses mouse-over events that include “displaying descriptive text indicating the current relevance of the object that the cursor is touching.” *Id.* (citing Ex. 1007, 12:5–7). In view of Gayraud’s teachings, Petitioner argues that it

would have been obvious to a POSITA, and a POSITA would have sought to modify NFB, to include a mouse-over feature of

[Gayraud] to display current available seat information to a user during the seat selection process because mouse-over features were known as an alternative to clicking on screen icons to provide information to a user based on a position of a cursor on a screen, and providing a user with information indicating the current relevance of an object the cursor is touching in response to a mouse over or a mouse click are two of a limited number of available options as to when to transmit information to a user.

Id. (citing Ex. 1003 ¶ 42). Petitioner continues that “[i]n particular, the mouse-over function was known to provide information to a user quickly and in a computationally efficient manner.” *Id.* (citing Ex. 1007 at 4:3–5). Petitioner asserts that “[a] POSITA would also have sought to modify NFB with the mouse-over feature of [Gayraud] to provide additional information (e.g., seat number and ticket price) to a user during the reservation process.” *Id.* (citing Ex. 1007, 4:3–5; Ex. 1003 ¶ 42). Petitioner argues that the result would have been simple substitution of one known element for another to obtain predictable results. *Id.* at 42 (citing Ex. 1003 ¶ 42).

In its Response, Patent Owner focuses on the claims’ requirement that “current available seat information in the venue indicating seats that are currently available” be transmitted to the first general purpose computer “*in response to* the first user placing a mouse over at least a portion of the interactive set of user interface elements.” *See* PO Resp. 33–37. Patent Owner argues that Petitioner admits that NFB does not expressly disclose this limitation, and argues that Gayraud does not fill this gap. *Id.* at 33. Patent Owner submits that Gayraud discloses displaying hints in response to mouse movements, but argues that Gayraud does not disclose transmitting information to a computer in response to mouse movements. *Id.* at 34 (citing Ex. 1007, Figs. 1A, 1B, 10:41–53). Patent Owner asserts that Gayraud only discloses displaying locally-stored information, not

information transmitted to the general purpose computer. *Id.* at 35 (citing Ex. 2001 ¶ 76). Patent Owner further contends that to the extent that Petitioner relies on NFB to disclose this limitation, the combination falls short because it does not disclose transmitting current available seat information in the venue in response to interacting with the venue map. *Id.* at 35–36.

In its Reply, Petitioner does not dispute Patent Owner’s characterization of Gayraud, but argues that “NFB discloses transmission to the first general purpose computer because the response to the user’s query is displayed to the user at the user’s computer.” Pet. Reply 12 (citing Pet. 40). Petitioner argues “[a] POSITA, however, would have understood how and been motivated to modify NFB with the mouse-over operation of Gayraud to display current available seat information transmitted to the first general purpose computer rather than the locally stored information of Gayraud.” *Id.* at 13 (citing Ex. 1025 ¶ 5).

As the arguments summarized above show, the parties agree that Gayraud does not disclose transmitting information to the general purpose computer. See PO Resp. 33; Pet. Reply 12 (relying on NFB to disclose transmission). The parties also do not dispute that NFB teaches sending and receiving data at the beginning and end of the session, i.e., when the user initiates an inquiry regarding the availability of seats and when the user seeks to book the selected seats. Tr. 13:16–14:2; Sur-Reply 18–19. At the hearing and in its Reply, Petitioner suggested that this disclosure was sufficient, because all the claim language required was transmission of data. Tr. 13:16–14:2; Pet. Reply 12. We do not agree. The claim language requires more. As the quoted portion of claim 7 states, data, representing the

current availability of seats, must be transmitted “in response to” the “first user placing a mouse over at least a portion of the interactive set of user interface elements.” Ex. 1001, 8:4–9. Thus, we agree with Patent Owner that some additional reasoning or evidence is necessary to bridge the differences between the claims and NFB and Gayraud.

However, neither the Petition nor Dr. Lavian’s initial declaration provides sufficient detailed explanation for the conclusion that the combination teaches or suggests the transmission of information *in response to* a mouse-over event beyond the conclusory assertion that it would have been obvious. See Ex. 1003 ¶ 42. Instead, the Petition, and Dr. Lavian’s testimony, which is identical to the Petition, states that the modification would have been the simple substitution of one known element for another to obtain predictable results. Pet. 31; Ex. 1003 ¶ 42. However, this reasoning provides neither any explanation how simply substituting mouse-over events for mouse clicks would account for the requirement that data be transmitted to the general purpose computer in response to the mouse-over, nor any rationale for modifying NFB to include transmission of data with the mouse-over event.

In his Reply Declaration, Dr. Lavian dramatically expanded on his previous testimony. Ex. 1025 ¶¶ 3–10, 18–26. Dr. Lavian explained that he was not suggesting that a person of ordinary skill would replace NFB’s mouse clicks with a mouse over feature, but that a person of ordinary skill would add the mouse-over feature. Ex. 1026 ¶ 5. This new explanation still fails to account for the transmission of data in response to the mouse-over event. *Id.* Dr. Lavian again merely notes that NFB discloses transmission to the first general purpose computer in response to the user’s initial query. *Id.*

Yet, as we explained, mere transmission still fails to account for transmission *in response to* the user's interaction with the seating chart or provide a rationale for that modification. Dr. Lavian never connects the dots between the two.

Dr. Lavian also testifies that, in NFB, each time the user selects a seat with a mouse click the computer transmits data to the server and receives data back from the server. *Id.* ¶¶ 22–26. We disagree with Dr. Lavian's contention that NFB teaches sending data to the server and the server transmitting data to the first general purpose computer in response to every mouse click by the user. *Id.* ¶ 22. As Patent Owner and Mr. Zatkovich explain, and we agree, NFB describes a system where the only time information regarding the user's mouse clicks on the seating chart are sent to the server and data transmitted back are in response to the user selecting the "book seats" button, not in response to the user's selection of seats. Sur-Reply 17–19; Ex. 2001 ¶¶ 78–80. We agree with Mr. Zatkovich's testimony on this point and find it persuasive and entitled to significant persuasive value. Ex. 2001 ¶¶ 78–80. We further agree with and find persuasive Patent Owner's explanation in its Sur-Reply that much of Dr. Lavian's testimony regarding this issue, and in particular, Paragraphs 25 and 26 is beside the point because the dispute is not whether data are exchanged in the course of a transaction with the system, but when and in response to what that exchange occurs. See Sur-Reply 18–19. To the extent Dr. Lavian's conclusion that the mouse-over limitation rests on this flawed understanding, we find it unpersuasive. Moreover, even if Dr. Lavian's conclusion were independent of this flawed understanding, we find that his misunderstanding of how NFB functions seriously undermines his credibility on the mouse-

over limitation, and we find his testimony should be afforded little persuasive value.

Thus, weighing the evidence—Dr. Lavian’s flawed testimony against Mr. Zatkovich’s credible and persuasive testimony, we determine that Petitioner has failed to meet its burden to show that the combination of NFB and Gayraud accounts for the mouse-over limitation. *See* Ex. 2001 ¶¶ 78–80.

In conclusion, we are persuaded that Petitioner has failed to show by a preponderance of the evidence claims 1 and 7 would have been unpatentable as obvious over NFB and Gayraud.

D. Analysis of claims 2–6, 8, and 9

Claims 2–6, 8, and 9 all depend from either claims 1 or claim 7. Petitioner relies on the same reasoning to account for mouse-over limitation of claims 1 and 7. Because we have found the analysis accounting for this limitation deficient for the reasons above, we also determine that Petitioner has failed to show by a preponderance of the evidence that claims 2–6, 8, and 9 would have been unpatentable as obvious over NFB and Gayraud and that claim 5 would have been unpatentable as obvious over NFB, Gayraud, and Bates.

III. MOTION TO EXCLUDE

Petitioner moves to exclude Exhibit 2002, portions of Exhibit 2001 relying on Exhibit 2002, paragraphs 26, 45, 51, 53, 54, 66, 69–74, 97, 104, 107, 108, and 113 of Exhibit 2001, and Exhibits 2004–2015. *Pet. Mot.*

Exclude 1. We did not rely on any of this evidence in reaching our Final Written Decision, so we *dismiss* Petitioner's Motion to Exclude *as moot*.

IV. CONCLUSION

We have determined that Petitioner *has not shown* by a preponderance of the evidence that claims 1–9 are unpatentable as obvious over the asserted grounds. We *dismiss* Petitioner's Motion to Exclude *as moot*.

V. ORDER

In consideration of the foregoing, it is
ORDERED that claims 1–9 *have not been* shown to be unpatentable;
FURTHER ORDERED that Petitioner's Motion to Exclude is
dismissed as moot; and

FURTHER ORDERED that, because this is a Final Written Decision, any party to the proceeding seeking judicial review of this Decision must comply with the notice and service requirements of 37 C.F.R. § 90.2.

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