

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
Petitioner,

v.

BLAZE MOBILE, INC.,
Patent Owner.

IPR2021-01501
Patent 10,621,612 B2

Before HYUN J. JUNG, MIRIAM L. QUINN, and SEAN P. O'HANLON,
Administrative Patent Judges.

QUINN, *Administrative Patent Judge.*

DECISION

Denying Institution of *Inter Partes* Review
35 U.S.C. § 314, 37 C.F.R. § 42.4 / 37 C.F.R. § 42.108

I. INTRODUCTION

Samsung Electronics Co., Ltd. (“Petitioner”) filed a Petition (Paper 1, “Petition” or “Pet.”) requesting an *inter partes* review of claims 1–4, 6–13, 15–23, 25–32, and 34–38 (“the challenged claims”) of U.S. Patent No. 10,621,612 B2 (Ex. 1001, “the ’612 patent”) pursuant to 35 U.S.C. §§ 311–319. Blaze Mobile, Inc. (“Patent Owner”) filed a Preliminary Response. Paper 8 (“Preliminary Response” or “Prelim. Resp.”).

The standard for institution is set forth in 35 U.S.C. § 314, which provides that an *inter partes* review may not be instituted unless the information presented in the Petition and the Preliminary Response shows that “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 (2018); *see also* 37 C.F.R. § 42.4(a) (“The Board institutes the trial on behalf of the Director.”). Upon consideration of the parties’ contentions and the evidence of record, we conclude that Petitioner has not established a reasonable likelihood of prevailing in demonstrating the unpatentability of at least one challenged claim of the ’612 patent. Accordingly, we deny Petitioner’s request and do not institute an *inter partes* review.

A. Related Matters

The parties indicate that the ’612 patent has been asserted in the declaratory judgment action *Samsung Elec. Co. v. Blaze Mobile Inc.*, Case No. 21-cv-02989-EJD (N.D. Cal.). Pet 2; Paper 4, 1. Petitioner states that the complaint for the declaratory judgment action seeks a judgment of non-infringement for the ’612 patent, as well as U.S. Patent No. 9,996,849 (“the ’849 patent”) and U.S. Patent No. 10,339,556 (“the ’556 patent”). Pet. 2. Petitioner states that it has filed petitions for *inter partes* review of the ’849

and '556 patents. *Id.* We note that these petitions were filed in proceedings IPR2021-01499 and IPR2021-01500, respectively.

Patent Owner also identifies IPR2021-01499 and IPR2021-01500 as related matters. Paper 4, 1.

B. The '612 Patent

The '612 patent “relates to data communications and wireless devices.” Ex. 1001, 1:30–31. The '612 patent explains that delivering separate, customized mobile applications to mobile communications devices can be expensive, both in terms of cost and memory. *Id.* at 1:49–52. According to the '612 patent, this limits the number of customized applications that a user can run on a mobile communication device. *Id.* at 1:54–57.

The '612 patent describes a method of providing a mobile application having a generic platform to a mobile communication device, determining a special interest group (SIG) affiliated with a user, and customizing the generic platform based on information that is specific to the SIG. *Id.* at 1:63–2:3.

Figure 4 depicts an implementation of a communication system that includes a mobile communication device and a management server and is reproduced below. *Id.* at 2:59–61.

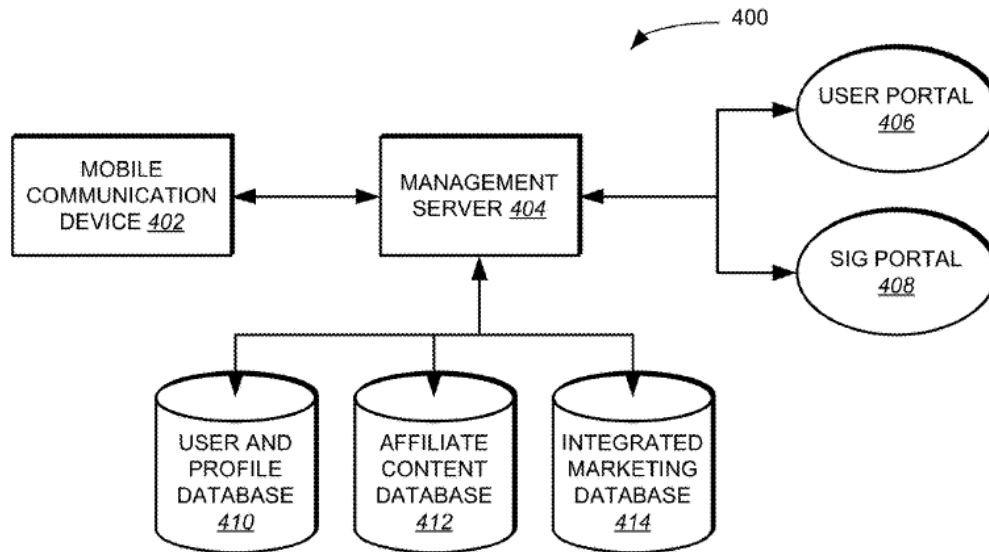


FIG. 4

Figure 4 shows communication system 400, which includes hand-held wireless mobile communication device 402, management server 404, user portal 406, and SIG portal 408. *Id.* at 6:1–5. Management server 404 may be coupled to user and profile database 410, affiliate content database 412, and integrated marking database 414. *Id.* at 6:5–8. The '612 patent explains that user and profile database 410 stores user profile information that is associated with each user, affiliate content database 412 stores associations between SIGs and users, and integrated marketing database 414 stores artifacts (e.g., coupons, advertising, tickets, etc.) that can be sent to a user. *Id.* at 6:8–16.

The '612 patent explains that association between a SIG and a user may be validated by an out-of-band process, such as a banking customer specifying their SIG and providing SIG credentials (e.g., an online banking userID and password) unique to the SIG. *Id.* at 5:51–55. For instance, the '612 patent describes an implementation in which a user registers affiliation with a SIG through web portal 406 and management system 404 validates

the affiliation, which can be performed out-of-band. *Id.* at 7:44–48. The user logs into a mobile application, which queries management server 404 for any advertisements or coupons by providing a unique screen identifier. *Id.* at 7:48–51.

The '612 patent explains that management server 404 determines affiliation of the user to a SIG and a query including targeting parameters with a unique SIG identifier is forwarded to an advertising engine or third party. *Id.* at 7:51–56. The '612 patent describes the advertising agent responding with an appropriate URL to an advertising object that best meets the advertising criteria, and the mobile application queries advertisements based on the URL. *Id.* at 7:56–61. Figure 7 depicts exemplary advertisements/coupons of a SIG that can be displayed via the mobile application on a mobile communication device and is reproduced below. *Id.* at 3:1–3, 7:61–64.



FIG. 7

According to the '612 patent, the authentication and delivery of messaging to a user minimizes the number of applications that need to be executed by a mobile communication device. *Id.* at 5:59–60.

C. Illustrative Claims

Of the challenged claims, claims 1 and 20 are independent. Each of challenged claims 2–4, 6–13, 15–19, 21–23, 25–32, and 34–38 depends from claim 1 or 20.

Claim 1 is illustrative:

1. A method for displaying an advertisement using a non-browser based application stored on a mobile device, comprising:

receiving user input from the non-browser based application, wherein the non-browser based application receives the user input via a mobile device display, wherein the non-browser based application is a non-browser based mobile application with a graphical user interface including a graphical icon that is preinstalled or downloaded and installed on the mobile device, the mobile device comprising the mobile device display, a mobile device processor, and a mobile device wireless radio interface;

receiving, at the non-browser based application, the advertisement from a remote management server which selects the advertisement in response to the user input from the non-browser based application, wherein the advertisement is maintained at the remote management server; and

displaying the advertisement within a specific non-browser based application generated screen, the specific non-browser based application generated screen corresponding to a specific screen or area of the non-browser based application.

Ex. 1001, 9:55–10:11.

D. Asserted Prior Art and Grounds of Unpatentability

The asserted grounds in this proceeding involve the following prior art references:

a) *Ramakrishna*: WO 2006/114601 A1, published November 2, 2006, filed as Exhibit 1005;

b) *Grossman*: US 2006/0242267 A1, published October 26, 2006, filed as Exhibit 1006;

c) *Griffin*: US 2005/0190970 A1, published September 1, 2005, filed as Exhibit 1009;

d) *Angelica*: US 2007/0150601 A1, published June 28, 2007, filed as Exhibit 1015;

e) *Hameen-Anttila*: US 2009/0006180 A1, published January 1, 2009, filed as Exhibit 1008; and

f) *Shore*: US 2002/0059100 A1, published May 16, 2002, filed as Exhibit 1016.

Petitioner asserts the following grounds of unpatentability (Pet. 5):

Claims Challenged	35 U.S.C. §	References
1–4, 6–12, 15, 16, 20–23, 25–31, 34, 35	103	Ramakrishna, Grossman
1–4, 6–12, 15, 16, 20–23, 25–31, 34, 35	103	Ramakrishna, Grossman, Griffin
1–4, 6–12, 15, 16, 20–23, 25–31, 34, 35	103	Ramakrishna, Grossman, Griffin, Angelica
13, 32	103	Ramakrishna, Grossman Hameen-Anttila or Ramakrishna, Grossman, Hameen-Anttila, at least one of Griffin, Angelica
17–19, 36–38	103	Ramakrishna, Grossman, Shore or Ramakrishna, Grossman, Shore, at least one of Griffin, Angelica

Petitioner also relies on a Declaration of Dr. Don Turnbull, filed as Exhibit 1003 (“Turnbull Declaration”).

II. ANALYSIS

A. *Level of Ordinary Skill in the Art*

Petitioner contends that a person having ordinary skill in the art “would have had a B.S. in Computer Engineering or a related field, or equivalent experience, and two or more years of industry or research experience in wireless devices and/or online advertisement delivery” and that additional education might compensate for less experience or vice versa. Pet. 17 (citing Ex. 1003 ¶¶ 53–56). Patent Owner asserts “that a POSITA in the timeframe of the invention would have a bachelor’s degree in computer engineering or similar discipline and approximately two years of experience designing mobile applications for wireless devices.” Prelim. Resp. 11.

At this juncture, we do not find it necessary to define the level of skill with specificity save to note that the level of ordinary skill is evidenced by the prior art of record. *See Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001) (stating that the absence of specific findings on the level of skill in the art does not give rise to reversible error where the prior art itself reflects an appropriate level and a need for testimony is not shown).

B. *Claim Construction*

In *inter partes* review proceedings based on petitions filed on or after November 13, 2018, such as this one, we construe claims using the same claim construction standard that would be used in a civil action under 35 U.S.C. § 282(b), as articulated in *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc), and its progeny. *See* 37 C.F.R. § 42.100(b).

1. “*non-browser based application*”

Petitioner contends that several statements made during prosecution of applications related to the ’612 patent inform the meaning of the term “non-browser based application.” Pet. 6 (citing Ex. 1003 ¶¶ 57–64) (emphasis

omitted). The Petition states that “[a]lthough Petitioner does not propose that the term must be construed in this proceeding, Petitioner discusses Applicant’s statements here and provides its claim-by-claim analysis in view of those statements in the file history.” *Id.* Petitioner argues that “[t]o the extent Applicant’s statements impose requirements on the ‘non-browser based application’ recited in the claims of the ’612 patent, those requirements are met by the prior art, as discussed in the claim-by-claim analysis presented below, so no construction is necessary.” *Id.* at 9. Petitioner further contends that “[i]n the event the Board does construe the claims of the ’612 patent to include such requirements, the prior art still invalidates the claims.” *Id.*

Patent Owner contends that Petitioner discussed the meaning of “non-browser based application” but merely raised certain statements made during prosecution without explicitly providing a construction. Prelim. Resp. 22. Patent Owner asserts that 37 C.F.R. § 42.104(b)(3) places a burden on a Petitioner to set forth how a challenged claim is to be construed and adequately explain how the construed claim is unpatentable. *Id.* Patent Owner argues that Petitioner fails to identify how the challenged claims are to be construed, and, therefore, cannot satisfy its burden of showing a reasonable likelihood of prevailing in proving that at least one claims is unpatentable. *Id.* at 22–23 (citing *Orthopediatrics Corp. v. K2M, Inc.*, IPR2018-01548, Paper 9 (PTAB Mar. 1, 2019)).

Patent Owner further asserts that Petitioner’s arguments regarding statements made during prosecution are an attempt to broaden the scope of the challenged claims to read upon the asserted prior art via disclaimer. *Id.* at 23–24 (citing *Thorner v. Sony Comput. Entm’t Am. LLC*, 669 F.3d 1362, 1367 (Fed. Cir. 2012)). Patent Owner contends that there has been no “clear

and unmistakable” disavowal of claim scope from the plain and ordinary meaning of “non-browser based application” and definitive examples of “non-browser based applications” were not provided in the prosecution history. *Id.* at 24. Patent Owner further argues that “[b]ecause the prosecution history is nonlimiting, Petitioner cannot show that its alleged applications are ‘non-browser based applications’ merely because they meet some of the features discussed in the prosecution history.” *Id.* at 27. Patent Owner contends that the statements made during prosecution cannot be used to argue that the asserted prior art teaches a “non-browser based application” when Petitioner has not construed the term in order to show that a “non-browser based application” possesses the “features described by the prosecution.” *Id.*

Our determination whether to institute does not hinge on the appropriateness of Petitioner’s contentions concerning the scope of “non-browser based application.” Nor do we decide whether prosecution history statements potentially narrow the scope of the term, as presented by Petitioner. Rather, we determine that the plain and ordinary meaning of the claim language requires we evaluate the term “non-browser based application” in context of the surrounding claim language, which requires, as will be described below in our analysis, that the “non-browser based application” must receive user input, receive the advertisement, and display the advertisement, as recited in the claim. Ex. 1001, 9:58–10:11.

2. “*via [a/the] mobile device display*”

Petitioner asserts that “[c]laims 1, 17, 20, and 36 require that the non-browser based application receive user input ‘via [a/the] mobile device display.’” Pet. 10. Petitioner contends that one of ordinary skill in the art would have understood the claims to “encompass, for example, input via

hardware buttons (*e.g.*, a keypad) to select elements of a graphical user interface shown on the device display.” *Id.* (citing Ex. 1001, 3:55–59; Ex. 1003 ¶ 65). The argument highlights Petitioner’s contention that the claims do not require touchscreen input. *Id.* In our determination whether to institute, we do not rely on Petitioner’s arguments regarding whether the mobile device display must include a keypad or a touchscreen.

3. “remote management server”

Petitioner argues that a construction of “remote management server” is not necessary but contends that, under its plain and ordinary meaning, a “‘remote management server’ must maintain, select, and send the advertisement.” Pet. 10–11 (citing Ex. 1003 ¶¶ 66–67; *Creative Internet Advert. Corp. v. Yahoo!, Inc.*, 476 F. App’x 724, 728 (Fed. Cir. 2011)).

Again, we do not rely on Petitioner’s argument concerning the scope of this term to determine whether to institute.

4. Indefiniteness

Petitioner asserts that “[t]he claims may be indefinite under 35 U.S.C. §112 in view of *IPXL Holdings, L.L.C. v. Amazon.com, Inc.*, because ‘it is unclear’ ‘when’ the claims are infringed.” Pet. 11 (citing 430 F.3d 1377, 1384 (Fed. Cir. 2005)). Petitioner argues that “‘certain claims are directed to a ‘non-browser based application stored on a mobile device,’ but recite method steps performed by a ‘remote management server.’” *Id.* Petitioner contends that it is therefore unclear whether a possible infringement would occur at the time of manufacturing the claimed non-browser based application or when the non-browser based application is used with a server to perform the claimed steps. *Id.*

The argument presented concerning indefiniteness has no bearing on our determination whether to institute this proceeding.

C. Obviousness over Ramakrishna and Grossman

Petitioner asserts that claims 1–4, 6–12, 15, 16, 20–23, 25–31, 34, and 35 would have been obvious over Ramakrishna and Grossman. Pet. 22–57.

1. Overview of Ramakrishna (Ex. 1005)

Ramakrishna “relates to method and apparatus to provide information and consumer-acceptable advertising via data communications clients.” Ex. 1005, 2.¹ Ramakrishna describes providing user acceptable advertising via a data communication client, such as the data communication client of a mobile device. *Id.* at 2–3. Ramakrishna describes a data client as an internet browser or other application “capable of direct communication such as an e-mail client or other messaging application.” *Id.* at 2. Ramakrishna also states that its invention may be applied to applications that are not communication clients “but nonetheless are capable of gathering information which could be used to provide useful information and acceptable advertising to a user via a data communication client.” *Id.*

Ramakrishna describes “a method for providing information, advertising or other relevant data to a terminal device” that includes establishing a communications link to a remote data system; transmitting data from the user of the terminal device to the remote data system; receiving information, advertising, or other relevant data from the remote data system based on the transmitted data; and displaying the information, advertising, or other relevant data at the terminal. *Id.* at 3. Ramakrishna describes a software package that can be downloaded to a mobile phone and then used to customize a graphical user interface. *Id.* at 8. Figure 1

¹ Page references in this exhibit correspond to the pagination indicated in the added footer.

illustrates a mobile phone's graphical user interface and is reproduced below.

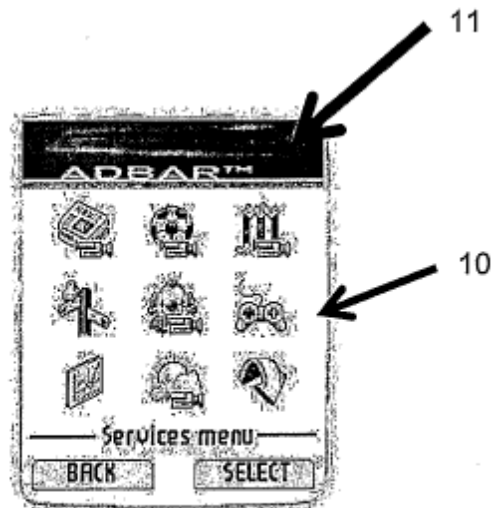


Fig.1

Figure 1 shows that at least 15% of screen space 10 is used by a client application used to display images, banners, or interactive applications, such as in the form of adbar 11. *Id.*

Ramakrishna also describes the appearance of a mobile phone interface during message composition, as shown in Figure 5(a), and after sending the message, as shown in Figure 5(b), each of which is reproduced below. *Id.* at 24, 34.



Fig. 5(a)



Fig. 5(b)

Specifically, Ramakrishna describes displaying one or more teaser ads 50 while an SMS message is being entered and after its text has been sufficiently analyzed by a server in order to supply some context. *Id.* at 10. Ramakrishna also describes displaying functional ad 51 once the message has been sent. *Id.*

2. Overview of Grossman (Ex. 1006)

Grossman “relates to a system and method for displaying content on a communications device.” Ex. 1006 ¶ 3. Specifically, Grossman describes targeting “communications devices with content from service providers, third party content providers, sponsors, promotional partners and advertisers.” *Id.* at [57]. For instance, Grossman explains that “demographic, psychographic, cybergraphic and geographic information of users” and other information “such as the users’ interests, responses to promotions, purchases and device usage” may be tracked and used for a targeted promotional campaign. *Id.* ¶ 31. Grossman describes matching the content with the users of the communication devices via customer profiles or

device usage profiles and transmitting the content to the communication devices. *Id.* at [57]. Once triggered by designated users' actions, the content is displayed in unused space of the communication devices, between a designated user action and the actuation of an intended event or function. *Id.*

Grossman's Figure 3 depicts a block diagram of a communications device, which is reproduced below.

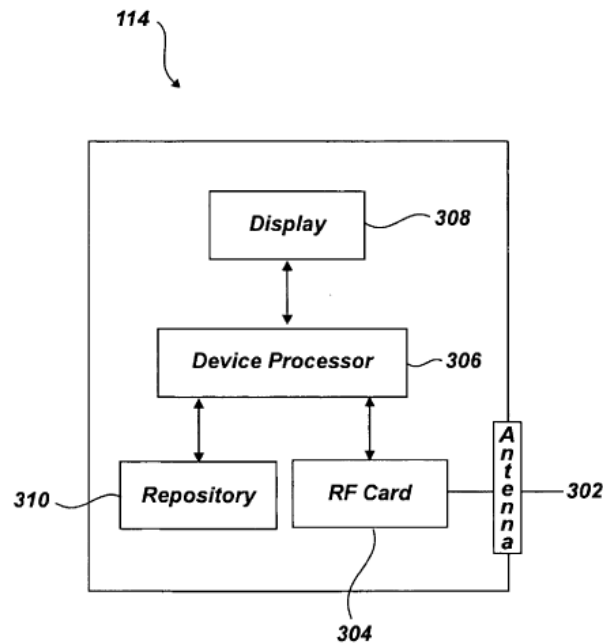


Fig. 3

Communications device 114 includes antenna 302 and RF card 304 to convert received radio signals into baseband signals to be processed by device processor 306. *Id.* ¶ 28. Communications device 114 further includes display 308 for displaying content to a user and repository 310 for depositing and/or storing content for later use. *Id.* Griffin explains that repository 310 may also serve as a portal to interact with previously

displayed content and related content, for distribution of content to others, and for mobile commerce. *Id.*

3. Reasonable Likelihood Determination

After a thorough review of the current record, we determine that Petitioner has failed to show sufficiently that Ramakrishna teaches or suggests the recited “non-browser based application.” The independent claims recite a “non-browser based application” that (1) receives user input; (2) receives advertisement that is selected in response to the user input; and (3) displays the advertisement within a specific screen generated by the non-browser based application. Ex. 1001, 9:55–10:12, 11:22–43.

Petitioner contends that “Ramakrishna’s messaging application *and* adbar are both ‘non-browser based application[s]’.” Pet. 23 (emphasis added); *see also* Pet. 30. For instance, Petitioner argues that both of these applications receive user input, such as a user composing a text. *Id.* Then Petitioner argues that Ramakrishna’s “client software” receives the advertisement from the central or ad server. *Id.* at 38. The Petition is vague as to whether the “client software” refers to *both* the messaging application and the adbar. Nevertheless, Petitioner relies on Figures 5A and 5B of Ramakrishna as showing that the advertisement is displayed within two different screens of the *messaging application*. *Id.* at 25. Ramakrishna describes Figures 5A and 5B as illustrating the “appearance of the mobile phone interface during message composition (a) and after sending (b).” Ex. 1005, 24. According to Petitioner, use of the adbar *also* results in “advertisement . . . displayed in a specific area, such that ‘[a]t least 15% of the screen space 10 (fig. 1) is taken over by the client application which can display images, banners, interactive applications etc. all the time or at the time of its choosing.’” Pet. 40.

Patent Owner challenges Petitioner's contention that the messaging application *and* the adbar are *both* non-browser based applications on the basis that the messaging application and the adbar are separate applications. Prelim. Resp. 14. The adbar, according to Patent Owner, is a separate software download that can customize the graphical user interface by, for example, taking over 15% of the screen space to display ads. *Id.* at 15. In particular, Patent Owner points out that the adbar application is not part of the messaging application as it runs on its own, displaying ads on the services menu (shown in Figure 1 of Ramakrishna, reproduced below). *Id.* at 16 (citing Ex. 1005, Fig. 1).

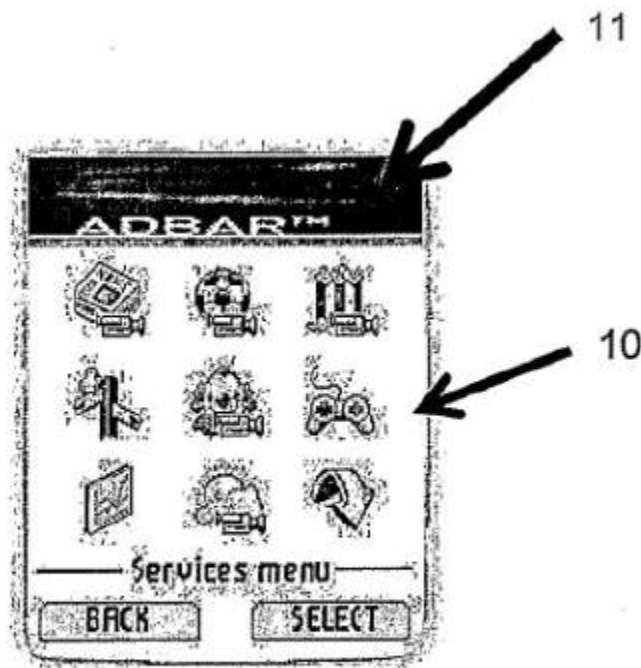


Fig.1

Figure 1 of Ramakrishna shows adbar 11 on screen space 10. According to Ramakrishna, the adbar runs “non-intrusively in the background” and comes up (i.e., displays an ad) when the user is likely to be looking at the screen such as sending and receiving electronic messages,

looking at phonebook or address book, modifying phone setting, modifying the calendar, and running other applications on the screen that require visual interaction. Ex. 1005, 8.

We agree with Patent Owner, that Ramakrishna, at best, suggests that the messaging application and the adbar are separate applications that run independently of each other. As stated above, the adbar is designed to always run in the background regardless of which application is being used. *Id.* Further, Ramakrishna describes embodiments in which the user may turn the adbar functionality on and off. *Id.* at 24. For instance, the user is given an option to send free electronic messages (thereby turning on the adbar) or sending regular electronic messages (thereby turning off the adbar). *Id.* at 24–25. Thus, Ramakrishna describes a downloadable adbar client that, if activated, enables ads to be displayed in an overlay on any screen on the phone, regardless of what app is running concurrently; but can also be turned off separately and distinct from the messaging application.

The Petition treats the messaging client and the adbar as if they were “both” the recited “non-browser based application.” The Petition is silent as to whether the messaging application and the adbar are coextensive with each other or part of the same application. The Petition also does not explain whether the claim language would encompass two applications comprising the recited “non-browser based application.”

However, we understand the claim to require that the recited application must perform all the recited functions. And the Petition fails to show that the *messaging application* receives the ads and displays them—Ramakrishna explicitly attributes the receipt and display of the ad to the adbar. *See, e.g.*, Ex. 1005, 6 (describing the advertising channel, read here the “adbar,” displayed on the dedicated portion of the screen and running in

the background all the time, except when it is triggered to display by user looking at the screen), 8 (describing the adbar specifically as displaying images, banners, interactive applications all the time or at the time of its choosing), 10 (describing the “client for the adbar 20” separately and distinct from the electronic message 21 function), 12 (describing that sending or receiving messages “trigger[s]” and ad-serving phase that checks authorization and disconnects the client software from the server if not authorized, but the user continues using the SMS message), 24 (describing that when users turns on the adbar, they will be able to send discounted or free electronic messages, otherwise, the phone behaves as usual). Thus, we see the Petition as failing to convey persuasively that Ramakrishna’s messaging application displays the ads in a screen generated by the messaging application, i.e., the ads are generated and displayed by the adbar client.

As for the adbar equating to the non-browser based application, the Petition fails to link the recited functions to the adbar alone. The adbar, as already stated, runs on the background indiscriminately, and without the use of any graphical icons for its activation. Ex. 1005, 8. The claim requires, however, that the “non-browser based application” has a graphical user interface including a graphical icon. Ex. 1001, 9:61–63. Although the Petition identifies a screen with icons from which the messaging application could be selected (Pet. 30), there is no showing in the Petition that the *adbar* has such an icon.

Furthermore, the Petition does not convey, nor do we see Ramakrishna supporting the contention, that the messaging application and the adbar client are, according to the knowledge of a person of ordinary skill in the art, a unified application or that they constitute software modules that

work as an entity, such that a person of ordinary skill in the art would consider both “an application.” As argued by Patent Owner, and we agree, Ramakrishna’s messaging application is separate and distinct from the adbar client, and Petitioner has not made a persuasive showing, with factual support, that these two applications, *together*, form the recited “non-browser based application.” And as stated already, the Petition lacks explanation and support for the proposition that the term “non-browser based application” encompasses multiple, distinct applications.

Consequently, we are persuaded by Patent Owner’s arguments that the Petition does not demonstrate a reasonable likelihood of prevailing. This deficiency affects Petitioner’s contentions for the independent claims 1 and 20. And no other reference is alleged to disclose the “non-browser based application” or cure the deficiencies noted above. For instance, Petitioner relies on Grossman as contributing the teaching of advertisement delivery via a non-HTTP communication. Pet. 28–29.

In conclusion, having reviewed the Petition and Patent Owner’s arguments in opposition, we determine that Petitioner has not shown a reasonable likelihood of prevailing on its assertion that claims 1 and 20 would have been unpatentable as obvious over Ramakrishna and Grossman. Because of their dependence from claims 1 and 20, we therefore determine that Petitioner has also failed to demonstrate a reasonable likelihood of prevailing on its assertion that claims 2–4, 6–12, 15, 16, 21–23, 25–31, 34, and 35 would have been unpatentable as obvious over Ramakrishna and Grossman.

D. Obviousness over Ramakrishna and Griffin

Petitioner asserts that claims 1–4, 6–12, 15, 16, 20–23, 25–31, 34 and 35 would have been obvious over Ramakrishna and Griffin. Pet. 57–60.

1. Overview of Griffin (Ex. 1009)

Griffin “relates generally to mobile electronic devices having text input.” Ex. 1009 ¶ 1. Specifically, Griffin describes a method of associating overlapping areas of a mobile electronic device’s touch interface with letters so that each area is associated with only one letter. *Id.* ¶ 4. The location of a user’s touch on the touch surface is detected and a letter associated with the location is identified. *Id.*

Figure 2 shows a front view of a mobile electronic device and is reproduced below.

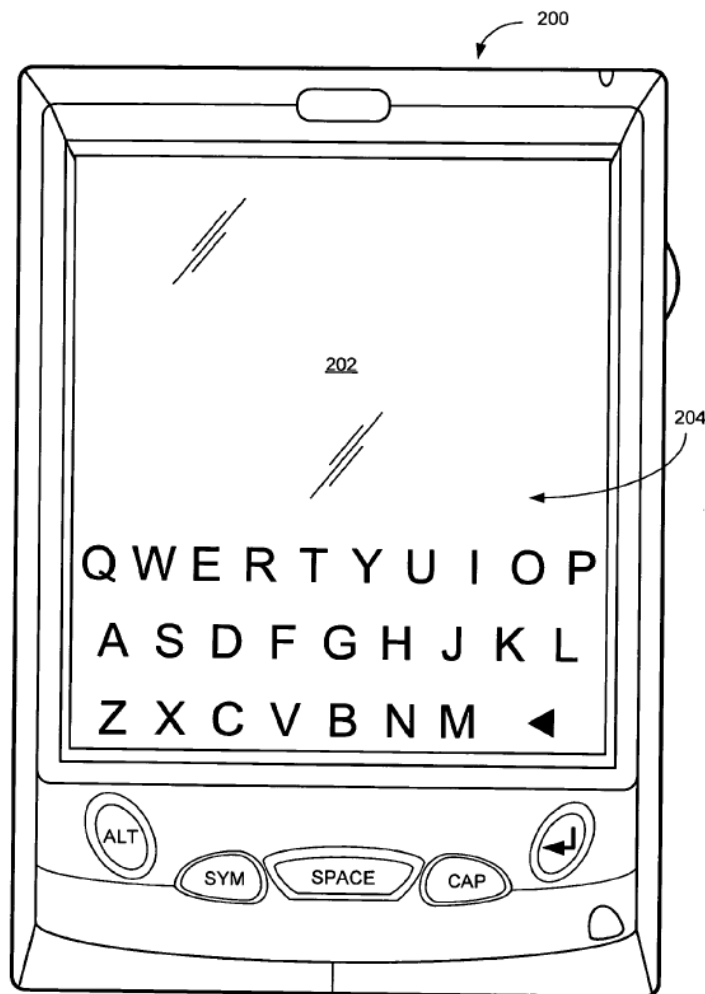


FIG. 2

Mobile electronic device 200 may be a personal data assistant, a personal information manager, a two-way pager, a cellphone, a handheld terminal, or the like. *Id.* ¶ 23. Mobile electronic device 200 may include one or more touchscreens 204. *Id.* ¶ 27. Griffin explains that letters may be arranged in rows on touchscreen 204 or printed directly on display 202. *Id.* ¶ 28. Griffin describes the use of virtual keys and designing touchscreen 204 so that the area of a virtual key has an appropriate ergonomic size, shape, and orientation for use by a finger or thumb. *Id.* ¶ 38.

2. Reasonable Likelihood Determination

This ground relies on Ramakrishna for the same “non-browser based application” contentions as presented for claims 1 and 20 in the challenge based on Ramakrishna and Grossman. Specifically, this ground asserts the contention that in the event the claims require a touchscreen display, Griffin provides a teaching of inputting data using a touchscreen. Pet. 57–60. Accordingly, this ground fails for the same reasons stated above, and we determine that Petitioner has not shown a reasonable likelihood of prevailing on its assertion that claims 1–4, 6–12, 15, 16, 20–23, 25–31, 34, and 35 would have been obvious over Ramakrishna, Grossman, and Griffin.

E. Obviousness over Ramakrishna, Grossman, Angelica, and Griffin

Petitioner asserts that claims 1–4, 6–12, 15, 16, 20–23, 25–31, 34, and 35 would have been obvious over Ramakrishna, Grossman, Angelica, and Griffin. Pet. 60–64.

1. Overview of Angelica (Ex. 1015)

Angelica relates to “a broader non-browser model for the processing of electronic transactions.” Ex. 1015 ¶ 9. Angelica describes a client system, which can be fixed via a wired network or be mobile, establishing electronic communication with a server system. *Id.* ¶ 12. Angelica explains

that the client system identifies itself in a unique way to the server system and receives media content on a recurrent basis from the server system, which can be in the form of advertising offers. *Id.* According to Angelica, the updates can be either driven unilaterally by the server system or the server system can be polled periodically by the client system under the control of software that is provided by the server system. *Id.*

2. Reasonable Likelihood Determination

This ground also relies on the same contentions discussed above that Ramakrishna teaches or suggests the “non-browser based application,” and additionally relies on Angelica and Griffin for the proposition that a “client system” on a mobile device would not use a browser. Pet. 61–63. Accordingly, this ground fails for the same reasons stated above, and we determine that Petitioner has not shown a reasonable likelihood of prevailing on its assertion that claims 1–4, 6–12, 15, 16, 20–23, 25–31, 34, and 35 would have been obvious over Ramakrishna, Grossman, Griffin, and Angelica.

F. Remaining Obviousness Grounds

Petitioner asserts that claims 13 and 32 would have been obvious over Ramakrishna and Hameen-Anttila or over Ramakrishna, Grossman, Hameen-Anttila, and at least one of Griffin and Angelica. Pet. 64–68. Petitioner further asserts that claims 17–19 and 36–38 would have been obvious over Ramakrishna, Grossman, and Shore or, alternatively, over Ramakrishna, Grossman, Shore, and at least one of Griffin and Angelica. Pet. 68–73. None of these grounds addresses the deficiencies identified above with respect to the “non-browser based application” as identified in the Petition for claims 1 and 20. Accordingly, we determine that the remaining grounds, because they challenge claims that directly or indirectly

depend from claims 1 and 20, also fail to show the reasonable likelihood threshold of institution.

III. CONCLUSION

For the foregoing reasons, we determine that Petitioner has not established a reasonable likelihood of prevailing on its assertion that any of claims 1–4, 6–13, 15–23, 25–32, and 34–38 of the '612 patent are unpatentable.

IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the Petition is *denied*, and no trial is instituted.

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Patent 10,621,612 B2

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