

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ENTAIN CORPORATE SERVICES LTD., BETMGM, LLC,
POINTSBET USA, INC., DRAFTKINGS INC.,
HILLSIDE NEW JERSEY, LLC, BETFAIR INTERACTIVE US LLC,
TSG INTERACTIVE US SERVICES LTD. CORP., and
ODS TECHNOLOGY LP,
Petitioner,

v.

BETEIRO, LLC,
Patent Owner.

IPR2023-00092
Patent 9,965,920 B2

Before NEIL T. POWELL, JAMES A. TARTAL, and AMEE A. SHAH,
Administrative Patent Judges.

TARTAL, *Administrative Patent Judge.*

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

I. INTRODUCTION

Entain Corporate Services Ltd., BetMGM, LLC, PointsBet USA, Inc., DraftKings Inc., Hillside New Jersey, LLC, Betfair Interactive US LLC, TSG Interactive Services Ltd. Corp., and ODS Technology LP (collectively, “Petitioner”)¹ filed a Petition pursuant to 35 U.S.C. §§ 311–319 requesting an *inter partes* review of claims 1–14 and 16–20 (“the Challenged Claims”) of U.S. Patent No. 9,965,920 B2 (Ex. 1001, “the ’920 patent”). Paper 1 (“Pet.”). Beteiro, LLC (“Patent Owner”)² did not file a preliminary response to the Petition.

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) (2022). An *inter partes* review may not be instituted “unless . . . the information presented in the petition . . . 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(a). Moreover, a decision to institute under 35 U.S.C. § 314 may not institute on fewer than all claims challenged in the petition. *SAS Inst., Inc. v. Iancu*, 138 S. Ct. 1348, 1359–60 (2018).

Upon consideration of the Petition and the evidence of record, we conclude that the information presented shows a reasonable likelihood that Petitioner would prevail in showing the unpatentability of at least one of the Challenged Claims. Accordingly, we authorize an *inter partes* review to be instituted as to the Challenged Claims of the ’920 patent on the grounds

¹ Petitioner identifies Flutter Entertainment PLC, FanDuel, Inc., FanDuel SG LLC, FanDuel Group, Inc., PointsBet USA Holding, Inc., PointsBet Holding, Ltd., SBTech (Global) Limited, MGM Resorts International, and DK Crown Holdings, Inc. as additional real parties in interest. Pet. 73.

² Patent Owner identifies no additional real parties in interest. Paper 12, 2.

raised in the Petition. Our factual findings and conclusions at this stage of the proceeding are based on the evidentiary record developed thus far. This is not a final decision as to patentability of claims for which *inter partes* review is instituted. Any final decision will be based on the record, as fully developed during trial.

II. BACKGROUND

A. *The '920 Patent*

The '920 patent, titled “Apparatus and Method for Facilitating Gaming Activity and/or Gambling Activity,” issued on May 8, 2018, from U.S. Patent Application No. 14/987,286, filed January 4, 2016. Ex. 1001, codes (21), (22), (45), (54), (63). The '920 patent also refers back to Provisional Application No. 60/384,707, filed May 31, 2002. *Id.* at code (60). The '920 patent summarizes its disclosure as follows:

The present invention pertains to an apparatus and method for facilitating gaming activity and/or gambling activity via a user communication device. The present invention can be utilized in order to allow a user to engage in gaming activity and/or gambling activity via a user communication device. The present invention can also be utilized in order to facilitate gaming activity and/or gaming activity in a network environment.

Id. at 1:64–2:5.

Figure 1 of the '920 patent is reproduced below.

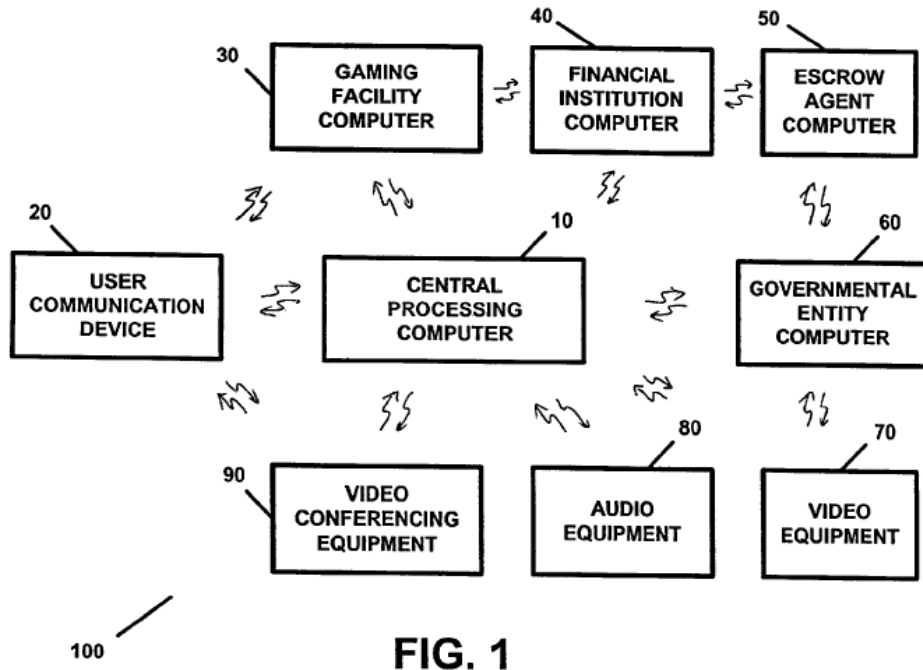
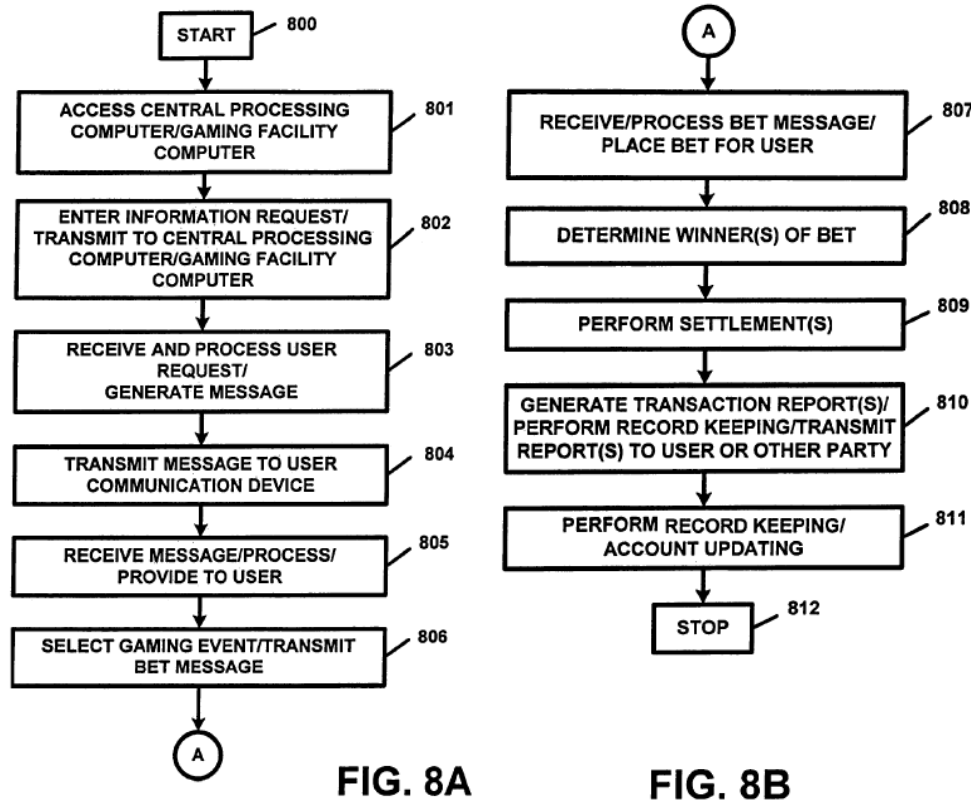


Figure 1 of the '920 patent depicts a block diagram view of an apparatus according to the preferred embodiment of the '920 patent. *Id.* at 27:7–8, 35:43–45. Apparatus 100 includes central processing computer 10 and user communication device 20, which interfaces with central processing computer 10. *Id.* at 35:65–67, 36:3–9. User communication device 20 may be a computer, telephone, interactive television, cellular telephone, or any other communication device. *Id.* at 36:10–19.

Figures 8A and 8B of the '920 patent are reproduced below.



Figures 8A and 8B above depict a flow diagram view of a method for using apparatus 100 according to the preferred embodiment of the '920 patent. *Id.* at 27:22–24, 53:47–49. A user accesses central processing computer 10 via user communication 20 and can request information regarding an available gaming event. *Id.* at 53:51–55. Central processing computer 10 receives the user's request, generates a message including available gaming event information, and transmits the message to user communication device 20. *Id.* at 54:5–10, 54:20–24. After receiving the message from central processing computer 10, the user can select the gaming event on which the user desires to place a bet and transmit a bet message that includes information identifying the gaming event, the amount of the bet, and payment information. *Id.* at 54:31–48. Central processing computer 10 receives the bet message from the user, processes the information, and

places the bet for the user. *Id.* at 54:49–52. In some embodiments, user communication device 20 may transmit position data with the bet message, which central processing computer 10 processes to determine the state having jurisdiction over the user’s gaming activity. *Id.* at 83:33–43. Based on this information, central processing computer 10 can determine if a user’s bet is legal in the applicable state jurisdiction, and, if not legal, central processing computer 10 can prevent the bet from being made. *Id.* at 90:33–44.

B. Illustrative Claim

Petitioner challenges claims 1–14 and 16–20 of the ’920 patent. Pet. 2. Claims 1, 7, and 16 are independent. Claim 1 is illustrative of the claimed subject matter and is reproduced below.

1. An apparatus, comprising:
 - a sports betting computer, wherein the sports betting computer further comprises:
 - a first receiver for receiving a request to notify an individual regarding a sporting event for which a bet can be placed on, over, or via, the Internet or the World Wide Web or for which a bet can be placed on-line;
 - a memory for storing information regarding the request to notify the individual regarding the sporting event for which the bet can be placed on, over, or via, the Internet or the World Wide Web or for which the bet can be placed on-line; and
 - a first processor, wherein the first processor is specially programmed to detect a posting of information regarding the sporting event and to generate a notification message regarding the sporting event, wherein the first processor detects the posting of the information regarding the sporting event and generates the notification message regarding the sporting event; and

- a user communication device, wherein the user communication device is associated with the individual, and further wherein the user communication device is specially programmed for use in an Internet or a World Wide Web sports betting activity or in an on-line sports betting activity, and further wherein the user communication device is associated with a sports betting account, and further wherein the sports betting account is associated with the individual, wherein the user communication device further comprises:
 - a second processor;
 - a global positioning device, wherein the global positioning device automatically determines a position or location of the user communication device;
 - a display, wherein the display is capable of displaying sports betting information regarding the sporting event, and further wherein the display is capable of displaying the sporting event;
 - a second receiver; and
 - a transmitter, wherein the transmitter automatically transmits the position or location information to the sports betting computer,
- wherein the sports betting computer, in response to a generating of the notification message by the first processor, initiates a communication link on, over, or via, a communication network with the user communication device, and further wherein the sports betting computer transmits the notification message to the user communication device via the communication link, wherein the user communication device transmits a bet message to the sports betting computer, wherein the bet message contains information regarding a bet to be placed on or regarding the sporting event and information regarding the position or location of the user communication device at a time of transmission of the bet message from the user communication device, wherein the sports betting computer determines if the bet is allowed or disallowed and, if the bet is allowed, the sports betting computer processes information for placing the bet for or

on behalf of the individual, or, if the bet is disallowed, the sports betting computer processes information for disallowing the bet.

Ex. 1001, 94:10–95:5.

C. Asserted Grounds of Unpatentability

Petitioner asserts that the Challenged Claims are unpatentable based on the following grounds:

Claims Challenged	35 U.S.C. §³	References/Basis
1, 2, 4, 6–8, 10, 12, 14, 16–18	103(a)	Garahi, ⁴ Stadelmann, ⁵ McNutt ⁶
3, 9	103(a)	Garahi, Stadelmann, McNutt, Rowe ⁷
5, 13, 19	103(a)	Garahi, Stadelmann, McNutt, Thomas ⁸
11, 20	103(a)	Garahi, Stadelmann, McNutt, Monical ⁹

³ The Leahy-Smith America Invents Act (“AIA”) included revisions to 35 U.S.C. § 103 that became effective on March 16, 2013. We apply the pre-AIA version of § 103 here because the earliest provisional application identified in the ’920 patent was filed before the effective date of the AIA. *See* Ex. 1001, code (60).

⁴ U.S. Pat. Appl. Pub. No. 2001/0047291 A1, published Nov. 29, 2001 (Ex. 1004, “Garahi”).

⁵ Australian Patent No. 751533, published Sept. 6, 1999 (Ex. 1005, “Stadelmann”). Citations to Stadelmann in this Decision refer to the original page numbers of the reference.

⁶ U.S. Pat. Appl. Pub. No. 2001/0037211 A1, published Nov. 1, 2001 (Ex. 1006, “McNutt”).

⁷ U.S. Pat. Appl. Pub. No. 2002/003992 A1, published Apr. 4, 2002 (Ex. 1007, “Rowe”).

⁸ U.S. Pat. Appl. Pub. No. 2001/0036853 A1, published Nov. 1, 2001 (Ex. 1008, “Thomas”).

⁹ International Pub. No. WO 01/55941 A2, published Aug. 12, 2001 (Ex. 1009, “Monical”). Citations to Monical in this Decision refer to the original page numbers of the reference.

Pet. 6. Petitioner further relies on the supporting Declaration of Garry Kitchen, dated October 28, 2022. Ex. 1003 (the “Kitchen Declaration”).

D. Related Proceedings

The parties identify the ’920 patent as a subject of the following United States District Court cases: *Beteiro, LLC v. Betfair Interactive US LLC et al.*, No. 1:22-cv-00577 (D.N.J.); *Beteiro, LLC v. DraftKings, Inc.*, No. 1:21-cv-20148 (D.N.J.); *Beteiro, LLC v. PointsBet USA, Inc.*, No. 1:21-cv-20155 (D.N.J.); *Beteiro, LLC v. BetMGM, LLC et al.*, No. 1:21-cv-20156 (D.N.J.); *Beteiro, LLC v. Hard Rock Tristate AC, LLC et al.*, No. 1:21-cv-20157 (D.N.J.); *Beteiro, LLC v. Hillside New Jersey, LLC*, No. 1:21-cv-20158 (D.N.J.); *Beteiro, LLC v. Kindred Group, PLC et al.*, No. 1:22-cv-01536 (D.N.J.); *Beteiro, LLC v. Elys Game Technology Corporation*, No. 6:21-cv-01147 (W.D.TX); *Beteiro, LLC v. Morris Mohawk Gaming Group*, No. 6:21-cv-01149 (W.D.TX); and *Beteiro, LLC v. PlayUp Limited*, No. 6:21-cv-01150 (W.D.TX). Pet. 73–74¹⁰; Paper 12, 2.

Petitioner further identifies three other petitions challenging patents related to the ’920 patent in IPR2023-00093, IPR2023-00094, and IPR2023-00095. Pet. 74.

III. ANALYSIS

A. Legal Standards for Obviousness

A patent claim is unpatentable for obviousness if the differences between the claimed subject matter and the prior art are such that the subject matter, as a whole, would have been obvious at the time the invention was

¹⁰ Mandatory notices appear on unnumbered pages beginning after page 72 of the Petition. We consider the page beginning with the section titled “VIII. MANDATORY NOTICES UNDER 37 C.F.R. § 42.8” as page 73 and proceed from there in numerical order.

made to a person having ordinary skill in the art to which said subject matter pertains. *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). In *Graham v. John Deere Co.*, 383 U.S. 1 (1966), the Supreme Court set out a framework for assessing obviousness that requires consideration of four factors: (1) the “level of ordinary skill in the pertinent art,” (2) the “scope and content of the prior art,” (3) the “differences between the prior art and the claims at issue,” and (4) “secondary considerations” of nonobviousness such as “commercial success, long felt but unsolved needs, failure of others, etc.” *Id.* at 17–18; *KSR*, 550 U.S. at 407.

“Whether an ordinarily skilled artisan would have been motivated to modify the teachings of a reference is a question of fact.” *WBIP, LLC v. Kohler Co.*, 829 F.3d 1317, 1327 (Fed. Cir. 2016) (citations omitted). “[W]here a party argues a skilled artisan would have been motivated to combine references, it must show the artisan ‘would have had a reasonable expectation of success from doing so.’” *Arctic Cat Inc. v. Bombardier Recreational Prods. Inc.*, 876 F.3d 1350, 1360–61 (Fed. Cir. 2017) (quoting *In re Cyclobenzaprine Hydrochloride Extended-Release Capsule Patent Litig.*, 676 F.3d 1063, 1068–69 (Fed. Cir. 2012)).

B. Level of Ordinary Skill in the Art

In determining the level of ordinary skill in the art, various factors may be considered, including the “type of problems encountered in the art; prior art solutions to those problems; rapidity with which innovations are made; sophistication of the technology; and educational level of active workers in the field.” *In re GPAC Inc.*, 57 F.3d 1573, 1579 (Fed. Cir. 1995) (citation omitted).

Petitioner contends that a person of ordinary skill in the art would have had “a Bachelor of Science Degree in Electrical Engineering or

Computer Engineering or equivalent, and at least two years of experience in the design and development of video game-related hardware and software.” Pet. 5 (citing Ex. 1003 ¶¶ 43–44).

For purposes of this Decision, we find that the ’920 patent and the cited prior art references reflect the appropriate level of skill at the time of the claimed invention and that the level of appropriate skill reflected in these references and in the ’920 patent is consistent with the level of skill proposed by Petitioner. *See Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001). Accordingly, for purposes of this Decision, we adopt Petitioner’s proposed definition for a person of ordinary skill in the art.

C. Claim Construction

We apply the same claim construction standard that would be used to construe the claim in a civil action under 35 U.S.C. § 282(b). 37 C.F.R. § 42.100(b). Under that standard, claim terms “are generally given their ordinary and customary meaning” as would have been understood by a person of ordinary skill in the art at the time of the invention. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–13 (Fed. Cir. 2005) (en banc).

“In determining the meaning of the disputed claim limitation, we look principally to the intrinsic evidence of record, examining the claim language itself, the written description, and the prosecution history, if in evidence.” *DePuy Spine, Inc. v. Medtronic Sofamor Danek, Inc.*, 469 F.3d 1005, 1014 (Fed. Cir. 2006) (citing *Phillips*, 415 F.3d at 1312–17). Extrinsic evidence is “less significant than the intrinsic record in determining ‘the legally operative meaning of claim language.’” *Phillips*, 415 F.3d at 1317.

Petitioner states in the Petition that it “appl[ies] the ordinary and customary meaning of the claim terms as understood by a [person of ordinary skill in the art].” Pet. 7. Petitioner contends that the Challenged

Claims include sequences of terms separated by the disjunctive “or,” which designates that the sequences of terms describe alternatives. *Id.* (citing *SkinMedica, Inc. v. Histogen Inc.*, 727 F.3d 1187, 1199–1200 (Fed. Cir. 2013); *Schumer v. Lab. Comput. Sys., Inc.*, 308 F.3d 1304, 1311 (Fed. Cir. 2002)). Petitioner also contends that it “need only show the prior art discloses one of the recited alternatives for each disjunctive sequence.” *Id.* (citing *Fresenius USA, Inc. v. Baxter Intern., Inc.*, 582 F.3d 1288, 1298 (Fed. Cir. 2009)).

Patent Owner, as noted above, did not file a Preliminary Response in this proceeding and, therefore, has not proposed constructions for any claim term. In view of the issues we address below, we determine that it is not necessary to address the express interpretation of any claim term for purposes of this Decision. *See Wellman, Inc. v. Eastman Chem. Co.*, 642 F.3d 1355, 1361 (Fed. Cir. 2011) (“[C]laim terms need only be construed ‘to the extent necessary to resolve the controversy’” (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999))).

D. Asserted Prior Art

Petitioner relies on Garahi, Stadelmann, McNutt, Rowe, Thomas, and Monical in asserting that the Challenged Claims are unpatentable. Pet. 6. We briefly summarize each reference in relevant part below.

1. Summary of Garahi

Garahi, titled “Systems and Methods for Placing Parimutuel Wagers on Future Events,” is directed to “an interactive wagering system in which an interactive wagering application allows a user to place parimutuel wagers on future events.” Ex. 1004, code (54), ¶ 9.

Figure 1 of Garahi is reproduced below.

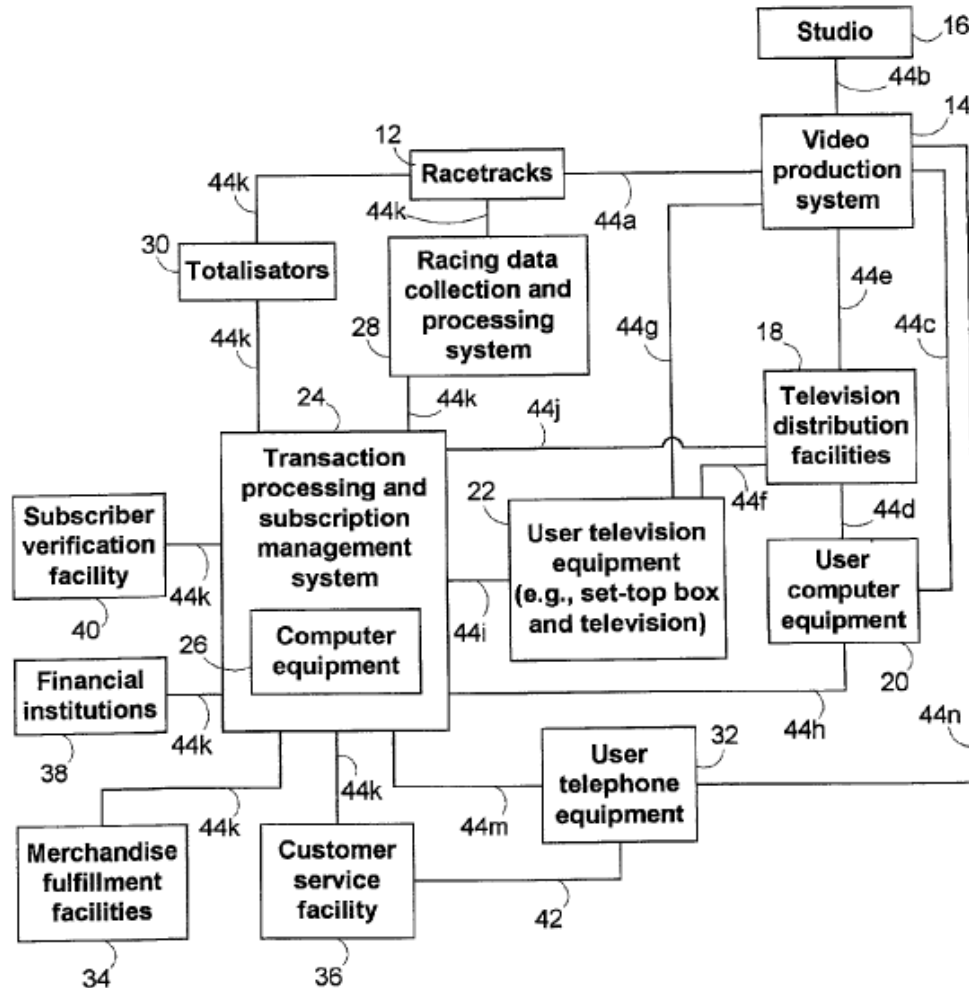


FIG. 1

Figure 1 of Garahi above is a schematic diagram of an interactive wagering system according to one embodiment. *Id.* ¶¶ 15, 28. In particular, interactive wagering system 10 provides interactive wagering services to users operating user equipment via an interactive wagering application. *Id.* ¶ 30. Garahi provides the following disclosure:

The interactive wagering application may run locally on the user equipment (e.g., on a set-top box, personal computer, cellular telephone, handheld computing device, etc.) or may run using a client-server or distributed architecture where some of the application is implemented locally on the user equipment in the

form of a client process and some of the application is implemented at a remote location (e.g., on a server computer or other such equipment in the system) as a server process.

Id. Transaction processing and subscription management system 24 may include computer equipment 26 for supporting system functions (e.g., transaction processing, data distribution, and subscriber management). *Id.*

¶ 37. Interactive wagering system 10 also includes totalisators 30, which are computer systems that handle wagers and generate odds in real-time. *Id.*

¶ 41.

Users may interact with transaction processing and subscription management system 24 to place wagers via user equipment (i.e., user television equipment 22, user computer equipment 20, and user telephone equipment 32). *Id.* ¶ 55; *see also id.* ¶ 49 (“Users who wish to place wagers may establish an account at transaction processing and subscription management system 24.”). The user equipment displays interactive screens with menus and selectable options, the user specifies a type of wager and amount for a race, and data for the wager is transmitted to transaction processing and subscription management system 24. *Id.* ¶ 56. The interactive wagering system may also notify users of future races that may be of interest based on user profiles. *Id.* ¶ 107.

Figure 13 of Garahi is reproduced below.

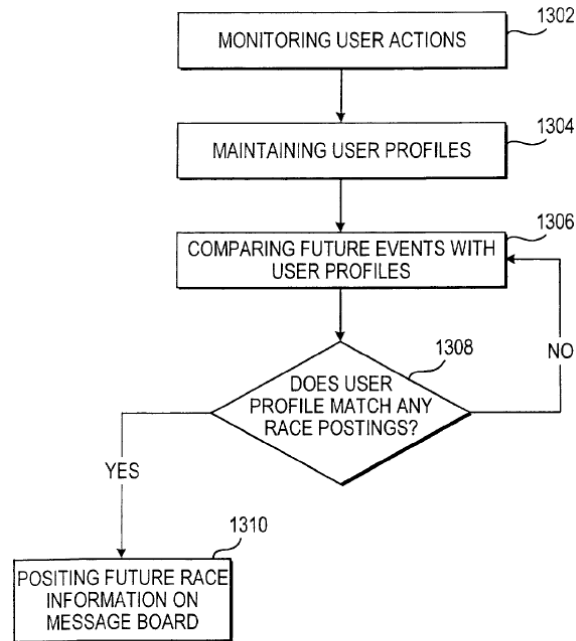


FIG. 13

Figure 13 of Garahi above illustrates a flowchart of steps involved in matching future race information with a user in order to provide interest-based notifications. *Id.* ¶¶ 27, 113. The interactive wagering application may monitor user activity (step 1302), such as the user's past wagers, to create and store a user profile (step 1304) for comparing with future events (step 1306). *Id.* ¶ 110. Garahi further explains as follows:

When a future race becomes available for wagering, the interactive wagering application may check the user profile to determine whether a match exists with the available race at step 1308. If no match exists, then the interactive wagering application may not post the future race information to the user and continue to monitor and compare the future events with the user profile. If future races match interests or prior actions stored in the user profile, the interactive wagering application may post the future races to the user, for example, on the user's message board (as shown in display screen 1200 of FIG. 12) at step 1310. The user may access his or her message board to retrieve future

race information and determine whether he or she is interested in participating in the future race wagering pool.

Id.

2. *Summary of Stadelmann*

Stadelmann, titled “Game System, Corresponding Method and Adapted Devices,” is directed to “a game system in which a plurality of participants transmit to at least one central play station, through a telecommunications network, participant game data for taking part in at least one game, the central play station carrying out games according to predefined game rules and transmitting central game data to said participants.” Ex. 1005, code (54), 1:2–7.

Figure 1 of Stadelmann is reproduced below.

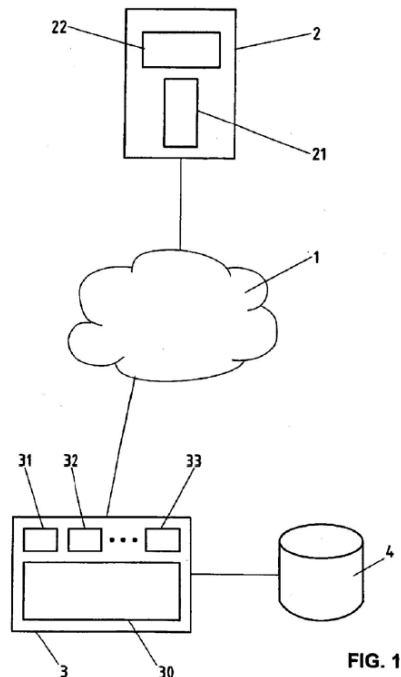


Figure 1 of Stadelmann above is a diagram illustrating a gaming system according to the exemplary embodiment. *Id.* at 3b:1–7. A participant using mobile radio device 2 (e.g., mobile phone) opens a game account with the operator of central play station 3 and deposits currency into the account. *Id.*

at 3b:8–10; *see also id.* at 6:28–29 (disclosing that “central play station 3 preferably comprises a server with . . . central service unit 30 for handling special short messages”). A participant wanting to take part in game 31, 32, 33 uses their mobile radio device 2 to transmit a registration message to central play station 3 via mobile radio network 1. *Id.* at 4:20–25. Central play station 3 receives the message and registers the participant in database 4. *Id.* at 4:29–31; *see also id.* at 5:7–10 (disclosing that “the participant indicates . . . during the registration in which games 31, 32, 33 he wishes to take part, for example a number lottery or betting on a horse race, and the respective game is likewise entered together with the participant in the table of the registered players by the central play station 3”).

3. *Summary of McNutt*

McNutt, titled “Interactive Wagering Systems and Methods for Restricting Wagering Access,” is directed to “an interactive wagering application that may restrict wagering access based on particular criteria[, such as] . . . the location of the user equipment, user-defined wagering restrictions, or any other suitable criteria.” Ex. 1006, code (54), ¶ 6.

Figure 1 of McNutt is reproduced below.

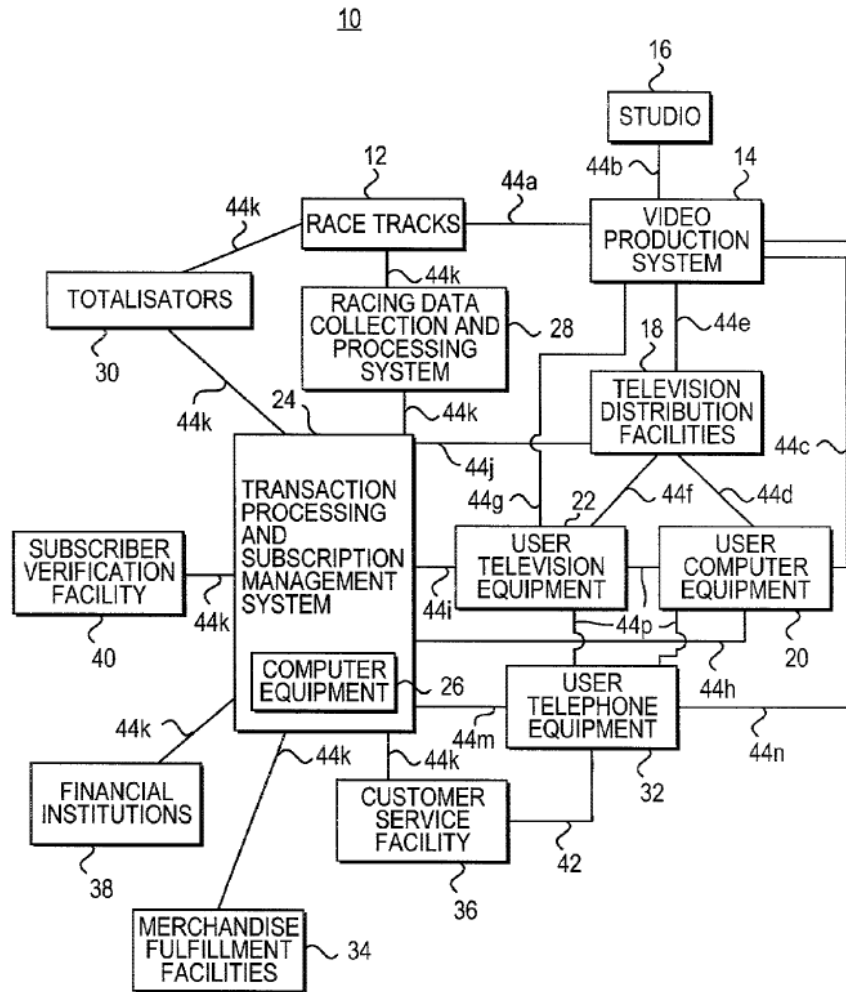


FIG. 1

Figure 1 of McNutt is a schematic diagram depicting an interactive wagering system according to an illustrative embodiment. *Id.* ¶¶ 13, 31. Interactive wagering system 10 may include an interactive wagering application that provides interactive wagering service to users operating user equipment (e.g., set-top box, personal computer, a cellular telephone, handheld computing device, or any other suitable device). *Id.* ¶ 33. The interactive wagering application may run locally on a user's equipment, or the interactive wagering application may run using a client-server architecture. *Id.* McNutt provides the following disclosure:

The interactive wagering application may restrict wagering access based on the user equipment location, based on user-defined wagering restrictions, based on any other suitable criterion, or based on any combination thereof. When the user attempts to place a wager, the interactive wagering application may determine if user is located at a location that allows wagering. If the user is located at a location where wagering is illegal or otherwise not allowed, the interactive wagering application may prevent the user from accessing interactive wagering features, such as a feature that may provide the user with the ability to create a wager.

Id. ¶ 95; *see also id.* ¶ 63 (“[T]he user’s present physical location may be determined by using the cellular network or a handset-based location device, such as a global positioning satellite (GPS) receiver in the body of the cellular telephone, to pinpoint the user’s location.”).

4. *Summary of Rowe*

Rowe, titled “Method and Apparatus for Monitoring Player Loss in a Gaming Environment,” is directed to “methods and apparatus for effectuating financial and reward transactions in a casino or gaming environment.” Ex. 1007, code (54), ¶ 11. Rowe provides the following disclosure:

[T]he system 100 may include a game server 138 which generates game play information and receives or accepts game play input from a remote player. The game server is preferably in communication with the gateway 122 or other communication interface so that game play information may be transmitted to a player over a dedicated line or the Internet. A player’s input may be transmitted from the player’s location to the game server 138. The player’s location may comprise a remote dedicated station, a desktop or laptop computer or the like.

Id. ¶ 173. Rowe also discloses “that the invention may be used to determine a player’s winnings or financial gain as a result of game play,” and “a determination of win may be used for a variety of criteria.” *Id.* ¶ 200. For

Example, “a casino may deduct taxes due from a winning directly from the player’s account.” *Id.* ¶ 203. In particular, “[u]pon a win, the casino may determine the tax liability and transfer the withholding to a withholding account or directly transfer it to an IRS deposit account.” *Id.*

5. *Summary of Thomas*

Thomas, titled “Systems and Methods for Presenting a Lottery Interface in an Interactive Wagering Application,” is directed to “an interactive wagering application that gives a user the ability to participate in lotteries electronically using user equipment.” Ex. 1008, code (54), ¶ 7. Thomas discloses that “the interactive wagering application may run using a client-server or distributed architecture.” *Id.* ¶ 32. Thomas discloses that “the interactive wagering application may allow the user to create a lottery bet, but before the lottery bet is entered, the user may need to finalize or confirm the bet.” *Id.* ¶ 107. If “the user creates a bet, but does not finalize the bet, the interactive wagering application may remind the user of the unfinalized bet at any suitable time before the time of the lottery.” *Id.* ¶ 108. “The reminder may be in any other suitable form, such as an icon that may be part of an on-screen interface, an e-mail message, an instant message, a telephone message, a beeper page, or any other suitable form of a reminder.” *Id.*

6. *Summary of Monical*

Monical, titled “System and Method for User-To-User Online Wagering,” is directed to “an online gaming system which permits bettors to place wagers with one another under conditions which they determine.” Ex. 1009, code (54), 2:7–8. Monical discloses wagering system 20 implemented on a server system and configured to communicate with users 10 via communication software. *Id.* at 3:18–20; *see also id.* at 3:12–15

(disclosing that users 10 may use personal computers to communicate with wagering system 20 via the Internet). Users 10 may participate in community wagering activities that involve other users, such as discussion group wagering. *Id.* at 13:18–23. To facilitate discussion group wagering, wagering system 20 may provide interest-based chat rooms and instant messaging services for users 10 to communicate with one another. *Id.* at 13:24–31. Monical further explains the following:

Under these arrangements, when in the course of a discussion between two users 10 one would like to make a bet with another, he can actuate a control on his discussion group communication software to bring up an unmatched wager entry screen . . . , fill it in with the appropriate bet parameters, and indicate that it is to be a private wager, i.e., offered only to the other user 10. The other user 10 then may or may not match the wager at her discretion.

Id. at 14:1–5.

E. Alleged Obviousness Over Garahi, Stadelmann, and McNutt

Petitioner contends the subject matter of claims 1, 2, 4, 6–8, 10, 12, 14, and 16–18 of the '920 patent would have been obvious over Garahi, Stadelmann, and McNutt. Pet. 7–58. Petitioner provides a detailed explanation of its contentions in the Petition, including a clause-by-clause analysis specifying how the combination of Garahi, Stadelmann, and McNutt discloses each limitation, and those contentions are supported by the testimony of Mr. Kitchen. *Id.*; Ex. 1003 ¶¶ 111–231. Because Patent Owner did not file a Preliminary Response, the present record does not contain any argument to the contrary.

1. Independent Claim 1

Petitioner contends that each limitation of claim 1 is disclosed by the combination of Garahi, Stadelmann, and McNutt and that a person of

ordinary skill in the art would have been motivated to combine the references as asserted. Pet. 9–46.

An apparatus, comprising:

According to Petitioner, Garahi teaches an apparatus including an interactive wagering application for users to place wagers on future events. *Id.* at 10 (citing Ex. 1004 ¶¶ 9, 28, Fig. 1; Ex. 1003 ¶ 111).

a sports betting computer, wherein the sports betting computer further comprises:

Petitioner contends that Garahi’s interactive wagering application uses a client-server architecture including “transaction processing and subscription management system 24 (‘TPSMS’),” which is implemented using “computer equipment 26 and other equipment for supporting system functions such as transaction processing (e.g., handling tasks related to wagers, product purchasing, adjusting the amount of funds in user accounts based on the outcomes of wagers, video clip ordering, etc.).” *Id.* (citing Ex. 1004 ¶¶ 30, 37, 76) (emphasis omitted). Petitioner argues that Garahi’s TPSMS corresponds to the recited sports betting computer, because “TPSMS processes bets/wagers on racing events.” *Id.* at 11 (citing Ex. 1003 ¶ 113).

a first receiver for receiving a request to notify an individual regarding a sporting event for which a bet can be placed on, over, or via, the Internet or the World Wide Web or for which a bet can be placed on-line;

Petitioner contends that Garahi’s TPSMS receives data from user equipment via communication paths 44, which may include Internet transmissions. *Id.* at 11–12 (citing Ex. 1004 ¶¶ 64, 78, Fig. 1), Petitioner contends that a person of ordinary skill in the art “would understand that the TPSMS includes a first receiver.” *Id.* at 12 (citing Ex. 1003 ¶ 115).

According to Petitioner, Garahi discloses notifying a user of relevant race information, but “does not disclose whether notifications happen at the user’s request or whether the TPSMS’s receiver receives a request to notify an individual regarding a racing event.” *Id.* (citing Ex. 1004 ¶ 110).

However, Petitioner contends that Stadelmann discloses “receiving an indication that the user wishes to bet on a horse race so that the user may be sent an SMS message notification when the user can bet on the horse race,” which a person of ordinary skill would have understood “qualifies as receiving a request to notify an individual regarding a sporting event for which a bet can be placed.” *Id.* at 13 (citing Ex. 1003 ¶ 118); *see also id.* at 12–13 (citing Ex. 1005, code (57), 5:7–10, 20–23). Petitioner reasons that, “[b]ased on the teachings of Stadelmann, it would have been obvious to a [person of ordinary skill in the art] to configure Garahi’s TPSMS receiver to receive a request to notify a user regarding a racing event that the user wishes to place a wager.” *Id.* at 13 (citing Ex. 1003 ¶ 121). Petitioner further argues that “[a]llowing the user to request to be notified regarding certain racing events would have predictably increased the likelihood that the user would wager on the event thereby increasing usage of Garahi’s interactive wagering application.” *Id.* (citing Ex. 1003 ¶ 121); *see also id.* at 14 (contending that one of ordinary skill in the art would have had a reasonable expectation of success in making the asserted combination (citing Ex. 1003 ¶ 122)).

a memory for storing information regarding the request to notify the individual regarding the sporting event for which the bet can be placed on, over, or via, the Internet or the World Wide Web or for which the bet can be placed on-line; and

Petitioner contends that Stadelmann discloses a memory storing information regarding games that a user wishes to participate in. *Id.* at 14 (citing Ex. 1005, 5:7–10). Petitioner reasons that a person of ordinary skill would have understood “Stadelmann’s teaching of a table refers to a data structure stored in memory used to associate the participant with specific games.” *Id.* (citing Ex. 1003 ¶ 123). Petitioner further argues that it would have been obvious to a person of ordinary skill “to configure Garahi’s memory/database to also store information regarding the request to notify an individual regarding a sporting event for which a bet can be placed as taught by Stadelmann” because “[t]his configuration would have predictably enabled the TPSMS to access the user’s stored request information to determine whether the user should be notified regarding a future racing event.” *Id.* at 15 (citing Ex. 1003 ¶ 124); *see also id.* at 16 (contending that one of ordinary skill would have had a reasonable expectation of success in making the asserted combination (citing Ex. 1003 ¶ 125)).

a first processor, wherein the first processor is specially programmed to detect a posting of information regarding the sporting event and to generate a notification message regarding the sporting event, wherein the first processor detects the posting of the information regarding the sporting event and generates the notification message regarding the sporting event; and

Petitioner contends that Garahi’s TPSMS 24 includes a first processor (computer equipment 26) programmed to detect information posted regarding the sporting event and generate a notification message for a user

regarding the sporting event. *Id.* at 16–21 (citing Ex. 1004 ¶¶ 37, 107, 110, Figs. 1, 13; Ex. 1003 ¶ 126). Specifically, with reference to steps 1306–1308 depicted in Figure 13 of Garahi, Petitioner contends that Garahi’s “application *detects* a posting of information regarding a future sporting event that matches the user’s profile because it compares ‘racing data, including information on the current races at racetracks 12’ that is ‘provided from totalisators 30’ to the central processing computer of the TPSMS for matching against the user’s profile.” *Id.* at 17 (quoting Ex. 1004 ¶ 41). Petitioner further argues that, “in step 1310, the application generates a notification regarding the future event to the user.” *Id.* (citing Ex. 1004, Fig. 13). According to Petitioner, “steps 1306–1310 represent special programming to detect a posting of information regarding the sporting event and generate a notification message regarding the sporting event.” *Id.* at 18 (citing Ex. 1003 ¶ 129).

Petitioner further argues that although “Garahi does not explicitly disclose whether TPSMS performs [steps 1306–1310 shown in] Figure 13,” a person of ordinary skill in the art “would have found it obvious, and [would have] been motivated to configure the software of TPSMS’s processor to perform the method of Figure 13 at least because this would have been obvious to try—a choice of processing components from a finite number of identified, predictable solutions.” *Id.* at 18 (citing Ex. 1003 ¶ 130). According to Petitioner, a person of ordinary skill “would have understood that TPSMS would have been a logical and predictable choice for performing [steps 1306–1310 shown in] Figure 13 since the user’s notification request information is already stored there.” *Id.* at 19 (citing Ex. 1003 ¶ 131).

a user communication device, wherein the user communication device is associated with the individual, and further wherein the user communication device is specially programmed for use in an Internet or a World Wide Web sports betting activity or in an on-line sports betting activity, and further wherein the user communication device is associated with a sports betting account, and further wherein the sports betting account is associated with the individual, wherein the user communication device further comprises:

Petitioner contends that Garahi discloses user telephone equipment 32 (e.g., cellular telephone), which represents a user communication device. *Id.* at 21 (citing Ex. 1004 ¶ 48, Fig. 1). Petitioner further contends that users may operate user telephone equipment 32 to interact with TPSMS to view racing data and place wagers. *Id.* at 21–22 (citing Ex. 1004 ¶¶ 48, 55–56, 77, 86–87, 110, Figs. 1, 12). In particular, Petitioner argues that a user interacts with the wagering service using software implemented on user telephone equipment 32 that transmits data over the Internet. *Id.* at 22–23 (citing Ex. 1004 ¶¶ 58, 61, 77). Based on these disclosures, Petitioner reasons that because “user telephone equipment 32 displays messages specific to the user/individual, it is associated with the individual.” *Id.* at 22 (citing Ex. 1003 ¶ 135). Petitioner also argues that “Garahi’s user telephone equipment 32 is specially programmed for use in an Internet sports betting activity.” *Id.* at 23 (citing Ex. 1003 ¶ 137).

Petitioner further contends that Garahi discloses a user establishing an account at TPSMS for placing bets on sporting events. *Id.* at 23–24 (citing Ex. 1004 ¶ 49). Petitioner argues that because “the user/individual establishes the account, Garahi’s user account is a sports betting account associated with the individual.” *Id.* at 24 (citing Ex. 1003 ¶ 138). Petitioner contends that “Garahi does not specify whether the user communication

*device is associated with a sports betting account.” Id. at 24. However, Petitioner argues that Stadelmann discloses “a similar remote wagering system where each subscriber accesses a central play station using a mobile telephone device having an embedded SIM card.” Id. (citing Ex. 1005, code (57), Fig. 1). Petitioner argues that Stadelmann discloses a user opening a game account with the operator of central game station 3, which can identify a user using an international mobile subscriber identifier (IMSI) stored on the SIM card. Id. (citing Ex. 1005, 3a:17–19, 3b:8–9, 4:14–16). Petitioner reasons that, based on the teachings of Stadelmann, it would have been obvious to one of ordinary skill in the art “to associate Garahi’s user telephone equipment (i.e., *the user communication device*) with the user’s sports betting account by associating the user’s account with a specific device identifier, such as an IMSI, and by storing user account data locally on the user telephone equipment.” Id. (citing Ex. 1003 ¶¶ 141–142). Petitioner reasons that one of ordinary skill in the art would have been motivated to associate the user’s account with a user communication device in order to “increase the security of Garahi’s system since anyone attempting to gain access to the user’s account would have to do so from a specific device associated with the account.” Id. at 25 (citing Ex. 1003 ¶¶ 141–142); *see also id.* (arguing that the proposed combination of reference teachings merely applies a known technique to a known device ready for improvement and achieves a predictable result (citing Ex. 1003 ¶¶ 141–142)).*

a second processor;

Petitioner contends that Garahi’s user telephone equipment 32 includes processing circuitry 52, corresponding to a second processor. *Id.* at 26 (citing Ex. 1004 ¶¶ 58–59, Fig. 2).

a global positioning device, wherein the global positioning device automatically determines a position or location of the user communication device;

Petitioner contends that Garahi's user telephone equipment 32 includes a global positioning system (GPS) receiver for determining its location. *Id.* at 27 (citing Ex. 1004 ¶ 50). Petitioner argues that "Garahi is silent regarding whether the GPS automatically determines the location of the user telephone equipment." *Id.* However, Petitioner contends that McNutt discloses "automatically restricting wagering access based on the user's location." *Id.* at 28 (citing Ex. 1006, code (57)). In particular, Petitioner argues that McNutt discloses that "user telephone equipment 32 includes 'processing circuitry for supporting functions such as . . . automatically determining the geographic location of user equipment.'" *Id.* at 29 (emphasis omitted) (quoting Ex. 1006 ¶ 60). Petitioner contends, based on the teachings of McNutt, that it would have been obvious to a person of ordinary skill in the art "to configure Garahi's processing circuitry to automatically determine the location of the user telephone equipment." *Id.* at 29 (citing Ex. 1003 ¶ 150). Petitioner reasons that one of ordinary skill in the art

would have recognized the system needs to verify that the user is in a location where wagering is legal and it would be most advantageous to configure Garahi's processing circuitry to automatically determine the location of the user telephone equipment so that the system is not dependent on the user to initiate the location verification process.

Id. (citing Ex. 1003 ¶ 150); *see also id.* (reasoning that "[c]onfiguring Garahi's processing circuitry to automatically determine the location of the user telephone equipment would have predictably reduced delays in the system and enhanced the system's ability to quickly verify the user's

location in order to accurately comply with jurisdictional regulations” (citing Ex. 1003 ¶ 150)).

a display, wherein the display is capable of displaying sports betting information regarding the sporting event, and further wherein the display is capable of displaying the sporting event;

Petitioner contends that Garahi’s user telephone equipment 32 includes display 56. *Id.* at 30 (citing Ex. 1004 ¶ 58, Fig. 2). Petitioner argues that display 56 is capable of displaying a sporting event and sports betting information regarding the sporting event. *Id.* at 30–31 (citing Ex. 1004 ¶¶ 48, 69, 82, 98, Fig. 6d).

a second receiver; and

Petitioner contends that Garahi discloses user telephone equipment 32 receiving information via communication path 44m, and a person of ordinary skill in the art “would understand that the user telephone equipment must include a receiver to receive information via communication path 44m.” *Id.* at 32 (citing Ex. 1004 ¶ 37; Ex. 1003 ¶ 157).

a transmitter, wherein the transmitter automatically transmits the position or location information to the sports betting computer,

Petitioner contends that Garahi discloses user telephone equipment 32 transmitting information via a wireless data link, and a person of ordinary skill in the art “would understand that the user telephone equipment must include a transmitter to transmit data.” *Id.* (citing Ex. 1004 ¶ 77; Ex. 1003 ¶ 158). Petitioner argues that Garahi discloses using location information to verify that wagering is legal in a user’s geographic location, but does not specify that the transmitter in user telephone equipment 32 automatically transmits the location information to the sports betting computer. *Id.* (citing Ex. 1004 ¶ 50; Ex. 1003 ¶ 159). However, Petitioner contends that McNutt

discloses that TPSMS automatically obtains location information from user equipment, and a person of ordinary skill in the art “would have understood that for the TPSMS to automatically obtain the location information of the user communication device, it must first be automatically transmitted by the user telephone equipment’s transmitter.” *Id.* at 33 (citing Ex. 1004 ¶¶ 119, 129; Ex. 1003 ¶ 160). Petitioner argues that it would have been obvious to a person of ordinary skill in the art to configure Garahi’s transmitter (user telephone equipment 32) to automatically transmit location information to the sports betting computer (TPSMS) “so that it is not dependent on the user to perform the location verification process.” *Id.* (citing Ex. 1003 ¶ 161). Petitioner also reasons that “[c]onfiguring Garahi’s transmitter to automatically transmit the location of the user telephone equipment would have predictably reduced delays in the system and enhanced the TPSMS’s ability to quickly verify the user is in a location where wagering is legal.” *Id.* at 33–34 (citing Ex. 1003 ¶ 161); *see also id.* at 34 (arguing that one of ordinary skill in the art would have had a reasonable expectation of success in making the proposed modification of Garahi).

wherein the sports betting computer, in response to a generating of the notification message by the first processor, initiates a communication link on, over, or via, a communication network with the user communication device, and further wherein the sports betting computer transmits the notification message to the user communication device via the communication link,

Petitioner contends that Garahi’s TPSMS communicates with user telephone equipment 32 via a wireless cellular communication network (path 44m). *Id.* at 34 (citing Ex. 1004 ¶ 74, Fig. 1; Ex. 1003 ¶ 162). Petitioner also contends that Garahi discloses displaying sporting event notification messages on user telephone equipment 32. *Id.* at 34–35 (citing

Ex. 1004 ¶¶ 88, 107, 110, Figs. 12, 13). Petitioner contends that it would have been obvious to a person of ordinary skill in the art “to configure TPSMS to initiate a communication link 44m with the user telephone equipment according to known techniques and transmit messages to the user telephone equipment for display on message board screen 1200.” *Id.* at 36 (citing Ex. 1003 ¶ 164). According to Petitioner, “[i]nitiating communication links and transmitting messages via cellular communication networks was routine and well understood for many years prior to the ’920 Patent.” *Id.* (citing Ex. 1003 ¶ 165). Petitioner also reasons that a person of ordinary skill in the art “would have had a reasonable expectation of success configuring Garahi’s TPSMS to operate in this manner.” *Id.* (citing Ex. 1003 ¶ 166).

Petitioner further contends, alternatively, that the combination of Garahi and Stadelmann renders obvious the above limitation. *Id.* at 37 (citing Ex. 1003 ¶ 168). In particular, Petitioner contends Stadelmann discloses “that when the game begins – e.g., ‘after registration of a predefined number of participants . . . or at a predetermined point in time’ – ‘the central play station 3 transmits by means of a special short message central game data through the mobile radio network 1 to all registered players with the request to enter and to transmit all participant game data required for the respective game 31, 32, 33.’” *Id.* (quoting Ex. 1005, 5:18–23) (alteration in original). Petitioner contends that it would have been obvious to a person of ordinary skill in the art “to configure Garahi’s TPSMS to initiate a communication link with the user telephone equipment over the cellular network and transmit the notification message as an SMS message.” *Id.* (citing Ex. 1003 ¶ 169). Petitioner reasons that one of ordinary skill in the art “would have understood that using the known

technique of transmitting a message via SMS would have predictably alerted the user of the posting of a sporting event regardless of whether the user was accessing the client-side wagering application installed on the phone.” *Id.* (citing Ex. 1003 ¶ 169); *see also id.* at 38 (arguing “that sending the notification message as an SMS message to the user’s cellular telephone as taught by Stadelmann would have been a more reliable way to ensure the user receives the notification messages in a timely manner” (citing Ex. 1003 ¶ 169)).

wherein the user communication device transmits a bet message to the sports betting computer, wherein the bet message contains information regarding a bet to be placed on or regarding the sporting event and information regarding the position or location of the user communication device at a time of transmission of the bet message from the user communication device,

Petitioner contends that Garahi discloses user telephone equipment 32 transmitting wagering data (i.e., a bet message) to TPSMS. *Id.* at 39 (citing Ex. 1004 ¶¶ 55–56, Fig. 1). Petitioner contends that this wagering data includes information regarding a bet placed on a sporting event (e.g., type of wager, desired wager amount). *Id.* at 39–40 (citing Ex. 1004 ¶¶ 56, 94–101, Figs. 6a–9). Petitioner argues that Garahi does not disclose if location information for user telephone equipment 32 is transmitted to TPSMS with the wagering data. *Id.* However, Petitioner contends that McNutt discloses “an embodiment where location information is transmitted to the TPSMS with the wagering information (i.e., the bet message)” in order to determine if the location of the user equipment permits wagering. *Id.* at 41; *see also id.* (citing Ex. 1006 ¶¶ 119, 129; Ex. 1003 ¶ 175). Petitioner contends that it would have been obvious to one of ordinary skill in the art “to similarly configure Garahi to transmit the location information of the user telephone

equipment 32 to the TPSMS with the wagering data (i.e., *the bet message*).” *Id.* (citing Ex. 1003 ¶ 176). Petitioner reasons that a person of ordinary skill in the art “would have understood that if the user is attempting to create a new wager using a mobile device, such as a cellular telephone, the user’s location may have changed to a location that prohibits wagering,” and, thus, “verifying the user’s location at the point when the user attempts to create a new wager, rather than using previously acquired location data would be a more effective way of ensuring that the wagering system is complying with local gaming regulations.” *Id.* (citing Ex. 1003 ¶ 176); *see also id.* at 42 (reasoning that one of ordinary skill in the art would have had a reasonable expectation of success in configuring Garahi’s user telephone equipment 32 to transmit location information with wagering data (citing Ex. 1003 ¶ 178)).

wherein the sports betting computer determines if the bet is allowed or disallowed and, if the bet is allowed, the sports betting computer processes information for placing the bet for or on behalf of the individual, or, if the bet is disallowed, the sports betting computer processes information for disallowing the bet.

Petitioner contends that Garahi discloses using location information to verify that wagering is legal at a user’s location, but does not specify how it accomplishes the verification. *Id.* at 42–43 (citing Ex. 1004 ¶ 50).

However, Petitioner contends that McNutt discloses TPSMS determining if a user’s equipment is located where wagering is prohibited so that the interactive wagering application allows or disallows a bet. *Id.* at 43–45 (citing Ex. 1006 ¶¶ 113–117, 119, 126, 142, Figs. 12, 18). Petitioner contends that it would have been obvious to a person of ordinary skill in the art to configure Garahi’s TPSMS to determine if a bet is allowed or disallowed and process received wagering information accordingly. *Id.*

at 45 (citing Ex. 1003 ¶ 182). Petitioner reasons that one of ordinary skill in the art “would have understood that McNutt’s known technique of determining whether the user equipment is in a location where wagering is prohibited would be applied in the same way to Garahi’s interactive wagering system to yield the predictable result of preventing users from wagering in restricted locations.” *Id.* (citing Ex. 1003 ¶ 182); *see also id.* at 46 (reasoning that configuring Garahi’s TPSMS to “process the received wagering information according to whether the bet is allowed or disallowed would only have required minor software changes and would not have changed Garahi’s principle of operation in any way” (citing Ex. 1003 ¶ 184)).

Based on our review of the evidence and arguments cited by Petitioner, we find, on this record, Petitioner sufficiently shows how it contends the asserted combination of Garahi, Stadelmann, and McNutt teaches every limitation of claim 1, and why one of ordinary skill in the art would have had sufficient reason to combine Garahi, Stadelmann, and McNutt, with a reasonable expectation of success in doing so, to support institution.

2. *Dependent Claims 2, 4, and 6*

Petitioner contends that claims 2, 4, and 6, which depend from claim 1, would have been obvious over Garahi, Stadelmann, and McNutt. Pet. 46–48. We have reviewed the evidence and argument presented in the Petition, including relevant portions of the Kitchen Declaration, and determine, on this record, that Petitioner sufficiently shows how it contends the asserted combination of Garahi, Stadelmann, and McNutt discloses every limitation of claims 2, 4, and 6, and why one of ordinary skill in the art would have had sufficient reason to combine Garahi, Stadelmann, and

McNutt, with a reasonable expectation of success in doing so, to support institution. *See id.*; Ex. 1003 ¶¶ 185–189.

3. *Independent claims 7 and 16 and dependent claims 8, 10, 12, 14, 17, and 18*

Petitioner contends that independent claims 7 and 16 and dependent claims 8, 10, 12, 14, 17, and 18, each of which depends from one of independent claims 7 and 16, would have been obvious over Garahi, Stadelmann, and McNutt. Pet. 49–58. For the reasons explained above in our analysis of claim 1, and based on our review and consideration of Petitioner’s arguments and evidence directed to claims 7, 8, 10, 12, 14, and 16–18, we determine, on this record, that Petitioner sufficiently shows how it contends the asserted combination of Garahi, Stadelmann, and McNutt discloses every limitation of claims 7, 8, 10, 12, 14, and 16–18, and why one of ordinary skill in the art would have had sufficient reason to combine Garahi, Stadelmann, and McNutt, with a reasonable expectation of success in doing so, to support institution. *See id.*; Ex. 1003 ¶¶ 190–231.

4. *Determination of a Reasonable Likelihood of Prevailing*

“Once all relevant facts are found, the ultimate legal determination [of obviousness] involves the weighing of the fact findings to conclude whether the claimed combination would have been obvious to an ordinary artisan.” *Arctic Cat*, 876 F.3d at 1361. Considering the record presently before us, Petitioner has established a reasonable likelihood that it would prevail in showing that the combination of Garahi, Stadelmann, and McNutt would have rendered the subject matter of claims 1, 2, 4, 6–8, 10, 12, 14, and 16–18 of the ’920 patent obvious to one of ordinary skill in the art at the time of the invention.

F. Alleged Obviousness Over Garahi, Stadelmann, McNutt, and Rowe

Petitioner contends that the subject matter of claims 3 and 9 would have been obvious over Garahi, Stadelmann, McNutt, and Rowe. Pet. 58–62. These claims include additional limitations generally directed to the sports betting computer processing location information for a user communication device to determine a state, political subdivision, or country to which a payment is made. Ex. 1001, 95:13–20, 96:28–35.

Petitioner contends that McNutt discloses an interactive wagering application processing information to determine a state or country in which a user’s equipment is located. Pet. 59–60 (citing Ex. 1006 ¶¶ 7, 24, 41, 114–115, Fig. 12). Petitioner contends that it would have been obvious to one of ordinary skill in the art to configure Garahi’s TPSMS to process information to determine a state or country in which a user’s equipment is located in order “to ensure that the user’s telephone equipment (i.e., the user communication device) is located at a location that permits wagering at the time of the transmission of the bet message from the user’s telephone equipment to the TPSMS.” *Id.* at 60; *see also id.* (citing Ex. 1003 ¶ 233).

Petitioner also contends that Rowe discloses processing information for making a payment to a country. *Id.* at 60–62 (citing Ex. 1007 ¶¶ 11, 173, 174, 203). Petitioner contends that it would have been obvious to a person of ordinary skill in the art “to configure Garahi’s TPSMS to similarly process information for effectuating a payment to the country.” *Id.* at 61 (citing Ex. 1003 ¶¶ 235–236). Petitioner reasons that a person of ordinary skill in the art “would have understood that governments at the time of the ’920 Patent required players to pay taxes on winnings including winnings from wagers on sporting events.” *Id.* (citing Ex. 1003 ¶¶ 235–236); *see also id.* at 61–62 (arguing that a person of ordinary skill “would have further

recognized that configuring the TPSMS to determine tax withholdings due based on the user's winnings and transferring the withholdings to an IRS account would have predictably removed this burden from the user and ensured that the user complies with applicable tax laws" and "would have been motivated to improve similar remote gaming systems in the same way" (citing Ex. 1003 ¶ 237)). Petitioner's contentions are supported by the testimony of Mr. Kitchen. Ex. 1003 ¶¶ 232–239.

We have reviewed the evidence and argument presented in the Petition, including relevant portions of the Kitchen Declaration, and determine, on this record, that Petitioner sufficiently shows how it contends the asserted combination of Garahi, Stadelmann, McNutt, and Rowe discloses every limitation of claims 3 and 9, and why one of ordinary skill in the art would have had sufficient reason to combine Garahi, Stadelmann, McNutt, and Rowe, with a reasonable expectation of success in doing so, to support institution.

G. Alleged Obviousness Over Garahi, Stadelmann, McNutt, and Thomas

Petitioner contends that the subject matter of claims 5, 13, and 19 would have been obvious over Garahi, Stadelmann, McNutt, and Thomas. Pet. 62–66. These claims include additional limitations generally directed to the sports betting computer detecting the use of a sports betting account, and generating and transmitting a sports betting account use message to a user communication device. Ex. 1001, 95:26–32, 96:48–55, 97:29–36.

Petitioner contends that Thomas discloses an interactive wagering system "generating and transmitting a reminder message regarding the usage of the account to create a bet that needs to be finalized." Pet. 64 (citing Ex. 1008, Fig. 13); *see also id.* at 63–64 (citing Ex. 1008, code (57), ¶¶ 59, 108, 110, Fig. 13; Ex. 1003 ¶ 242). Petitioner contends that it would have

been obvious to a person of ordinary skill in the art “to program Garahi’s TPSMS to automatically detect when a user uses their account to create a bet and then generate and transmit a message regarding use of the account to create the bet.” *Id.* at 65 (citing Ex. 1003 ¶ 244). Petitioner argues that one of ordinary skill in the art “would have recognized that users of Garahi’s system would also benefit from messages reminding them to finalize bets that they have used their accounts to create.” *Id.* (citing Ex. 1003 ¶¶ 244); *see also id.* at 66 (arguing that the asserted combination “would have only required minor software changes and would not have changed Garahi’s principle of operation in any way” (citing Ex. 1003 ¶ 246)). Petitioner’s contentions are supported by the testimony of Mr. Kitchen. Ex. 1003 ¶¶ 242–246.

We have reviewed the evidence and argument presented in the Petition, including relevant portions of the Kitchen Declaration, and determine, on this record, that Petitioner sufficiently shows how it contends the asserted combination of Garahi, Stadelmann, McNutt, and Thomas discloses every limitation of claims 5, 13, and 19, and why one of ordinary skill in the art would have had sufficient reason to combine Garahi, Stadelmann, McNutt, and Thomas, with a reasonable expectation of success in doing so, to support institution.

H. Alleged Obviousness Over Garahi, Stadelmann, McNutt, and Monical

Petitioner contends that the subject matter of claims 11 and 20 would have been obvious over Garahi, Stadelmann, McNutt, and Monical. Pet. 66–69. These claims depend from one of independent claims 7 and 16 and include additional limitations generally directed to processing information concerning a private bet placed between first and second individuals. Ex. 1001, 96:42–44, 97:37–40.

Petitioner contends that Monical discloses processing information regarding a private bet placed between first and second individuals. Pet. 67–68 (citing Ex. 1009, 14:1–8, Fig. 1). Petitioner contends that it would have been obvious to a person of ordinary skill in the art “to improve Garahi’s interactive wagering application (i.e., *the apparatus*) to process information regarding the placement of a bet between the individual and a second individual” in order to increase the odds of winning. *Id.* at 68 (citing Ex. 1003 ¶ 250); *see also id.* (arguing that a person of ordinary skill “would have looked to Monical’s teaching of processing a private bet between two individuals to subsequently improve Garahi’s interactive wagering application in the same way” and “would have had a reasonable expectation of success when applying the technique of Monical to Garahi’s application” (citing Ex. 1003 ¶ 251)). Petitioner’s contentions are supported by the testimony of Mr. Kitchen. Ex. 1003 ¶¶ 249–252.

We have reviewed the evidence and argument presented in the Petition, including relevant portions of the Kitchen Declaration, and determine, on this record, that Petitioner sufficiently shows how it contends the asserted combination of Garahi, Stadelmann, McNutt, and Monical discloses every limitation of claims 11 and 20, and why one of ordinary skill in the art would have had sufficient reason to combine Garahi, Stadelmann, McNutt, and Monical, with a reasonable expectation of success in doing so, to support institution.

IV. CONCLUSION

For the foregoing reasons, we determine that Petitioner demonstrates a reasonable likelihood of prevailing with respect to at least one of the claims challenged in the Petition. Accordingly, *inter partes* review of the ’920 patent shall proceed in this case on all of the grounds raised in the

Petition. *See SAS Inst.*, 138 S. Ct. at 1359–60 (holding that a decision to institute under 35 U.S.C. § 314 may not institute on fewer than all claims challenged in the petition); *PGS Geophysical AS v. Iancu*, 891 F.3d 1354, 1360 (Fed. Cir. 2018) (stating that the decision whether to institute *inter partes* review requires “a simple yes-or-no institution choice respecting a petition, embracing all challenges included in the petition”).

Our determination in this Decision is not a final determination on either the patentability of any Challenged Claims or the construction of any claim term. The factual findings set forth in this Decision are preliminary and provided for the sole purpose of deciding whether to institute a review. Any final findings will be based on the full trial record, including any information presented by Patent Owner in a timely filed response to the Petition. *See Trivascular, Inc. v. Samuels*, 812 F.3d 1056, 1068 (Fed. Cir. 2016) (noting that “there is a significant difference between a petitioner’s burden to establish a ‘reasonable likelihood of success’ at institution, and actually proving invalidity by a preponderance of the evidence at trial”) (quoting 35 U.S.C. § 314(a) and comparing *id.* with § 316(e)).

IV. ORDER

Upon consideration of the record before us, it is:

ORDERED that, pursuant to 35 U.S.C. § 314(a), an *inter partes* review of claims 1–14 and 16–20 of U.S. Patent No. 9,965,920 B2 is instituted with respect to all grounds set forth in the Petition; and

FURTHER ORDERED that, pursuant to 35 U.S.C. § 314(c) and 37 C.F.R. § 42.4(b), *inter partes* review of U.S. Patent No. 9,965,920 B2 shall commence on the entry date of this Order, and notice is hereby given of the institution of a trial.

IPR2023-00092
Patent 9,965,920 B2

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