

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ENTAIN CORPORATE SERVICES LTD., BETMGM, LLC,
POINTS BET 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.

IPR2023-00093
Patent 10,043,341 B1

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

POWELL, *Administrative Patent Judge.*

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

I. INTRODUCTION

A. BACKGROUND

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 Technologies, LP (“Petitioner”) filed a Petition for *inter partes* review of claims 1–20 of U.S. Patent No. 10,043,341 B1 (Ex. 1001, “the ’341 patent”). Paper 1 (“Pet.”). Beteiro, LLC (“Patent Owner”) did not file a preliminary response.

Under 35 U.S.C. § 314(a), an *inter partes* review may not be instituted unless the information presented in the Petition and any response thereto shows “there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” For the reasons set forth below, we determine that the information presented in the Petition establishes a reasonable likelihood that Petitioner will prevail with respect to at least one challenged claim. We institute an *inter partes* review of claims 1–20 based on the grounds set forth in the Petition.

B. RELATED PROCEEDINGS

The parties note that the ’341 patent is involved in the following district court proceedings:

Beteiro, LLC v. Betfair Interactive US LLC et al., Case No. 1:22-cv-00577(DNJ);

Beteiro, LLC v. DraftKings, Inc., Case No. 1:21-cv-20148 (DNJ);

Beteiro, LLC v. PointsBet USA, Inc., Case No. 1:21-cv-20155 (DNJ);

Beteiro, LLC v. BetMGM, LLC et al., Case No. 1:21-cv-20156 (DNJ);

Beteiro, LLC v. Hard Rock Tristate AC, LLC et al., Case No. 1:21-cv-20157;

Beteiro, LLC v. Hillside New Jersey, LLC, Case No. 1:21-cv-20158 (DNJ);

Beteiro, LLC v. Kindred Group, PLC et al., Case No. 1:22-cv-01536 (DNJ);

Beteiro, LLC v. Elys Game Technology Corporation, Case No. 6:21-cv-01147 (WDTX);

Beteiro, LLC v. Morris Mohawk Gaming Group, Case No. 6:21-cv-01149 (WDTX); and

Beteiro, LLC v. PlayUp Limited, Case No. 6:21-cv-01150 (WDTX).

Pet. 63–64¹; Paper 12, 2. Additionally, Petitioner notes challenges to related patents in IPR2023-00092, IPR2023-00094, and IPR2023-00095.

C. THE '341 PATENT

The '341 patent relates to “facilitating gaming activity and/or gambling activity via a user communication device.” Ex. 1001, 1:34–38. According to the '341 patent, people enjoy gambling but may have limited access to gaming venues, activities, and information. *Id.* at 1:48–56. The '341 patent discloses utilizing a user communication device for remotely betting at one or more gaming establishments. *Id.* at 3:20–23. An embodiment of an apparatus appears in Figure 1. *Id.* at 27:7–8. Figure 1 is reproduced below.

¹ Following pages 1–62, the Petition includes several unnumbered pages setting forth, among other things, Petitioner’s identification of related matters, Petitioner’s Claim Listing Appendix, and Petitioner’s Appendix of Exhibits. When citing to the unnumbered pages at the end of the Petition, we use the page number(s) that would have resulted if the Petition’s page numbering continued in sequence all the way to the end.

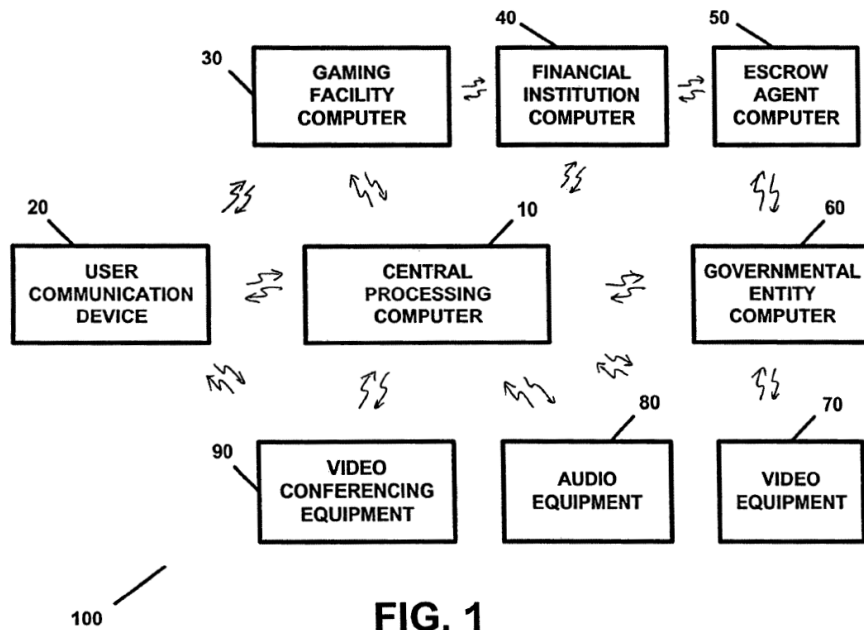


Figure 1 is a block diagram showing apparatus 100, which includes central processing computer 10, user communication device 20, gaming facility computer 30, financial institution computer 40, escrow agent computer 50, governmental entity computer 60, video equipment 70, audio equipment 80, and video conferencing equipment 90. *Id.* at 35:43–48, 35:65–67, 36:43–47, 37:16–19, 37:32–34, 37:51–53, 38:1–2, 38:46–47, 39:4–9, Fig. 1.

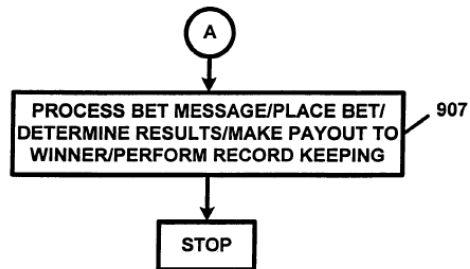
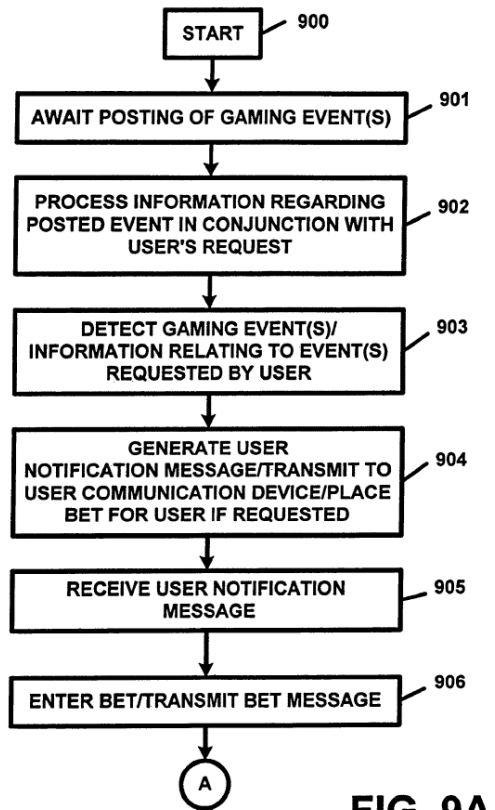
Gaming facility computer 30 may be associated with gaming resources, such as a gaming provider or venue. *Id.* at 36:63–67.

Apparatus 100 may use any number of gaming facility computers 30. *Id.* at 37:6–8.

Any number of gaming facility computers 30 can be linked to central processing computer 10. *Id.* at 52:42–44. Central processing computer 10 may serve as a central point enabling a user to access “any number of gaming events.” *Id.* at 52:50–55. Central processing computer 10 preferably can communicate bi-directionally with all components of apparatus 100. *Id.* at 40:23–30.

User communication device 20 may enable a user or player to interact with central processing computer 10. *Id.* at 36:6–9. User communication device 20 preferably can communicate bi-directionally with all components of apparatus 100, including central processing computer 10 and gaming facility computer 30. *Id.* at 40:31–38. User communication device 20 may be any of various types of devices, including a cellular telephone. *Id.* at 36:10–19.

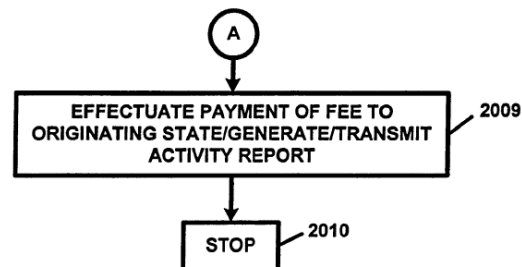
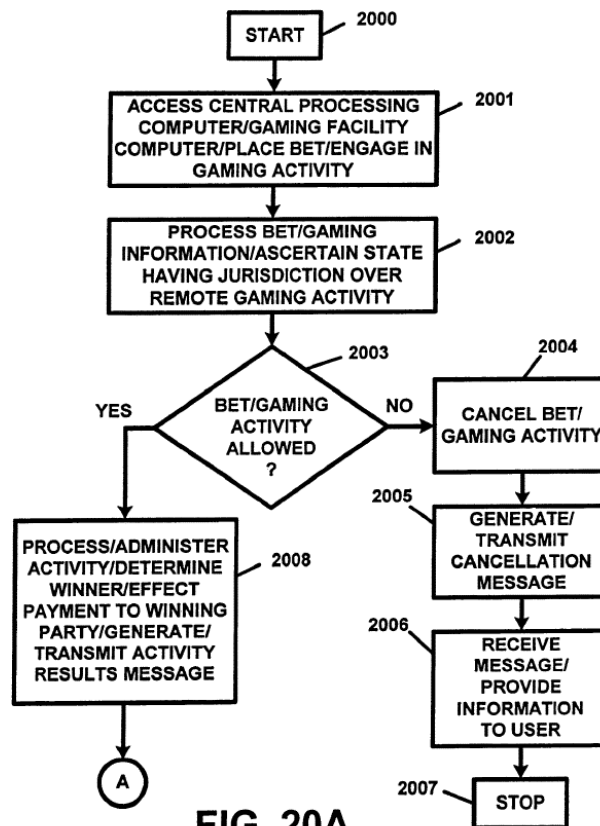
The '341 patent discusses a number of ways that apparatus 100 may facilitate a user's gaming or gambling activity. In one example, a user "can request to be notified upon a detected or identified availability of a gaming event, a posting of a gaming event, and/or a presence of a gaming event." *Id.* at 55:53–56. With user communication device 20, a user can message central processing computer 10 and/or gaming facility computer 30 about "the identity, type, or kind of gaming event for which the user desires to be notified." *Id.* at 56:20–26. The '341 patent discloses one method of using this information in Figures 9A and 9B, which are reproduced below.



Figures 9A and 9B present a flow diagram of one “preferred embodiment method for utilizing the apparatus 100.” *Id.* at 56:62–64.

After commencing at step 900, central processing computer 10 and/or gaming facility computer 30 wait at step 901 for a posting about a gaming event or events. *Id.* at 56:65–57:2. At steps 902 and 903, central processing computer 10 and/or gaming facility computer 30 can process posted gaming event information and “detect a gaming event or gaming events for which the user has desired to be notified.” *Id.* at 57:13–22. Then, at step 904, central processing computer 10 and/or gaming facility computer 30 may create and send a user notification message to user communication device 20. *Id.* at 57:26–30. At steps 905 and 906, the user can receive and review the message, as well as decide whether to bet. *Id.* at 57:61–64. “If, at step 906, the user has entered information into the user communication device 20, the user communication device 20 will transmit a bet message to the respective central processing computer 10 and/or gaming facility computer 30.” *Id.* at 57:64–58:1. Then, at step 907, the “respective central processing computer 10 and/or the gaming computer 30” will place and administer the bet. *Id.* at 58:5–18.

The ’341 patent also discloses using apparatus 100 to help comply with jurisdictional gaming and/or gambling laws. *Id.* at 78:18–26. An example method for doing so appears in Figures 20A and 20B, which are reproduced below.



Figures 20A and 20B present a flow diagram of one “preferred embodiment method for utilizing the apparatus 100.” *Id.* at 79:34–39.

At step 2001, a user can send a betting message from user communication device 20 to central processing computer 10 and/or gaming facility computer 30. *Id.* at 79:45–48. If user communication device 20 has global positioning system equipment, user communication device 20 may send information about its position to central processing computer 10 and/or gaming facility computer 30. *Id.* at 80:10–24.

At step 2002, central processing computer 10 and/or gaming facility computer 30 may process the user’s bet and “ascertain the state having jurisdiction over the remote gaming activity and/or gambling activity.” *Id.* at 79:56–63. At step 2003, central processing computer 10 and/or gaming facility computer 30 evaluates whether the bet is permitted in the applicable jurisdiction. *Id.* at 37–41. If not, at steps 2004 and 2005, central processing computer 10 and/or gaming facility computer 30 will cancel the bet and send user communication device 20 a cancellation message. *Id.* at 80:42–54. User communication device 20 receives the cancellation message and provides its contents to the user at step 2006. If the user’s bet is allowed in the applicable jurisdiction, central processing computer 10 and/or gaming facility computer 30 may place and administer the bet at steps 2008 and 2009. *Id.* at 80:59–81:55.

D. ILLUSTRATIVE CLAIMS

Of the challenged claims, claims 1, 12, and 13 are independent. Each of claims 2–11 and 14–20 depends, from one of independent claims 1

and 13. Claim 1 is illustrative and is reproduced below with certain reformatting.²

1. [1(P)] An apparatus, comprising:
 - [1(a)(i)] a computer, wherein the computer is specially programmed for processing information for providing for a placement of a bet on or regarding a gaming activity, a gambling activity, or a sporting event, wherein the computer further comprises:
 - [1(a)(ii)] a receiver, wherein the receiver receives a request to notify an individual regarding the gaming activity, the gambling activity, or the sporting event, for or on which the bet can be placed;
 - [1(a)(iii)] a memory, wherein the memory stores information regarding the request to notify the individual regarding the gaming activity, the gambling activity, or the sporting event; and
 - [1(a)(iv)] a processor, wherein the processor is specially programmed to detect a posting of information regarding the gaming activity, the gambling activity, or the sporting event, and to generate a notification message regarding the gaming activity, the gambling activity, or the sporting event, wherein the processor detects the posting of the information regarding the gaming activity, the gambling activity, or the sporting event, and further wherein the processor generates the notification message regarding the gaming activity, the gambling activity, or the sporting event;
- [1(b)] wherein the computer, in response to a generating of the notification message by the processor, initiates a communication link with a first communication device, wherein the first communication device is associated with the individual, and further wherein the

² We have added the same labels that Petitioner applies to particular portions of claim 1, as well as the same carriage returns Petitioner has added to claim 1. *See* Pet. 68–69.

computer transmits the notification message to the first communication device,

- [1(c)(i)] wherein the computer receives a bet message transmitted from the first communication device or from a second communication device, wherein the second communication device is associated with the individual, and
- [1(c)(ii)] further wherein the first communication device or the second communication device comprises a global positioning device, wherein the global positioning device determines a position or location of the first communication device or the second communication device,
- [1(d)] wherein the bet message contains information regarding a bet to be placed on or regarding the gaming activity, the gambling activity, or the sporting event, and information regarding the position or location of the first communication device or the second communication device at a time of a transmission of the bet message from the first communication device, or from the second communication device, to the computer,
- [1(e)] wherein the computer determines if the bet is allowed or disallowed using the information regarding the position or location of the first communication device or the second communication device and, if the bet is allowed, the computer processes information for placing the bet for or on behalf of the individual, or, if the bet is disallowed, the computer processes information for disallowing the bet.

Ex. 1001, 94:11–67.

E. EVIDENCE

Petitioner relies on the following evidence:

- (1) U.S. Patent Application Publication No. 2001/0042791 A1, published Nov. 29, 2001 (Ex. 1004, “Garahi”);

(2) Australian Patent No. 751533, published Sept. 6, 1999 (Ex. 1005, “Stadelmann”);

(3) U.S. Patent Application Publication No. 2001/0037211 A1, published Nov. 1, 2001 (Ex. 1006, “McNutt”);

(4) U.S. Patent Application Publication No. 2002/0039921 A1, published Apr. 4, 2002 (Ex. 1007, “Rowe”);

(5) U.S. Patent Application Publication No. 2001/0036853 A1, published Nov. 1, 2001 (Ex. 1008, “Thomas”);

(6) International Patent Application No. WO 01/55941 A2, published Aug. 2, 2001 (Ex. 1009, “Monical”);

(7) Declaration of Garry E. Kitchen. (Ex. 1003).

F. ASSERTED GROUNDS OF UNPATENTABILITY

Petitioner challenges the patentability of claims 1–20 of the ’341 patent on the following grounds (Pet. 5):

Claim(s) Challenged	35 U.S.C. §	References
1–5, 7, 10–15, 17, 19, 20	103	Garahi, Stadelmann, McNutt
6, 16	103	Garahi, Stadelmann, McNutt, Rowe
8, 18	103	Garahi, Stadelmann, McNutt, Thomas
9	103	Garahi, Stadelmann, McNutt, Monical

II. ANALYSIS

A. LEVEL OF ORDINARY SKILL

Petitioner contends that “a person having ordinary skill in the art (PHOSITA) would be a person having 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. 4. Mr. Kitchen’s testimony supports Petitioner’s position regarding the level of skill in the art. Ex. 1003 ¶ 45.

At this stage of the proceeding, Petitioner’s position regarding the level of skill is undisputed. For purposes of deciding whether Petitioner has demonstrated a reasonable likelihood of prevailing, we adopt Petitioner’s definition of a person of ordinary skill in the art, which we find consistent with the ’341 patent and the asserted prior art.

B. CLAIM CONSTRUCTION

In an *inter partes* review proceeding, a claim of a patent is construed using the same standard used in federal district court, including construing the claim in accordance with the ordinary and customary meaning of the claim as understood by one of ordinary skill in the art and the prosecution history pertaining to the patent. 37 C.F.R. § 42.100(b) (2020). According to the applicable standard, claim terms “are generally given their ordinary and customary meaning” as understood by a person of ordinary skill in the art in question at the time of the invention. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–13 (Fed. Cir. 2005) (en banc) (citations omitted). Only those terms that are in controversy need be construed, and only to the extent necessary to resolve the controversy. *See Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017) (citing *Vivid Techs., Inc. v. America Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999)).

Petitioner notes that the claims recite “or” several times. Pet. 6. Petitioner argues that each instance where one of the challenged claims

recites a sequence with the word “or,” the claim requires only one of the alternatives in the sequence. *Id.* at 6–7.

For purposes of deciding whether Petitioner has demonstrated a reasonable likelihood of demonstrating unpatentability of at least one claim, we find it unnecessary to construe expressly any claim language of the ’341 patent.

C. ALLEGED OBVIOUSNESS OF CLAIMS 1–5, 7, 10–15, 17, 19,
AND 20 OVER GARAHİ, STADELMANN, AND XAVIER

1. *Overview of Garahi*

Garahi discloses “[a]n interactive wagering application . . . that allows users to place parimutuel wagers on future events.” Ex. 1004, Abstr.; *see also id.* ¶ 9. Garahi’s “interactive wagering system may enable the user to place a wager on the future event by providing multiple wagering pools,” and when a pool is closed, “final odds and payouts may be determined for that wagering pool and a new wagering pool, for the same future event, may be made available.” *Id.* Abstr., ¶ 10. The application “may also monitor the user’s activities to create a user profile,” “use the user profile to find future race events that may be of interest to the user,” and “provide the user with the ability to search for future races according to the future race date, race name, or any other suitable criteria.” *Id.* Abstr., ¶¶ 12–14. The objective of Garahi’s invention is “to provide systems and methods for placing parimutuel wagers on future events while reducing the likelihood of the odds from changing too drastically.” *Id.* ¶ 8.

Garahi’s wagering system 10 “may be used to provide an interactive wagering service to users of various user equipment” via an interactive

wagering application (*id.* ¶ 30) and is shown in Figure 1, which is reproduced below.

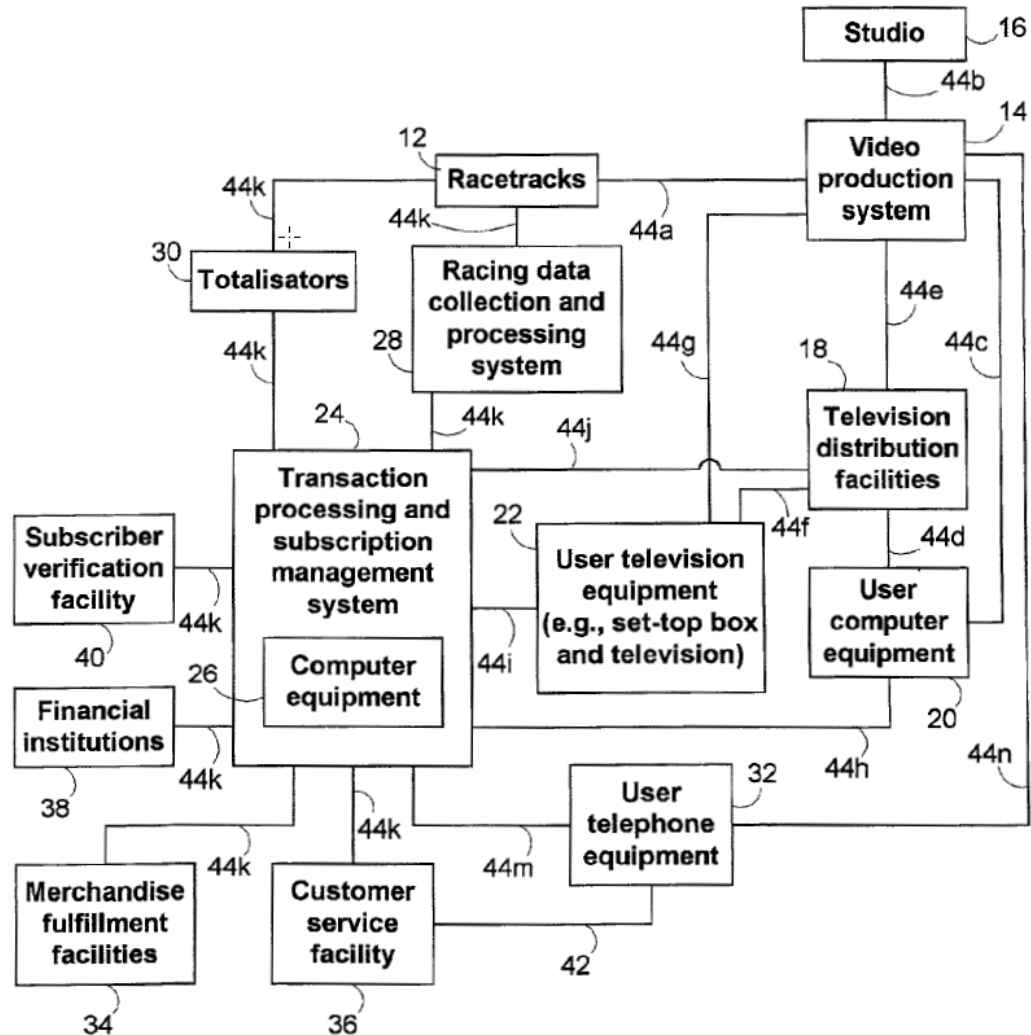


FIG. 1

Figure 1 “is a schematic diagram of an illustrative interactive wagering system in accordance with one embodiment of the present invention” (*id.* ¶ 28) and depicts, in relevant part, transaction processing and subscription management system 24 that includes computer equipment 26, racing data collection and processing system 28, user television, telephone,

and computer equipment 22, 32, and 20, respectively, and subscriber verification facility 40.

“Transaction processing and subscription management system 24 [(“TPSMS”)] may contain computer equipment 26 and other equipment for supporting system functions such as transaction processing” (such as “handling tasks related to wagers” and “adjusting the amount of funds in user accounts based on the outcomes of wagers”), data distribution, and subscriber management (such as opening and closing accounts, allowing users to add or withdraw funds or change their address or personal identification number). *Id.* ¶ 37. “Databases within transaction processing and subscription management system 24 or associated with system 24 may be used to store racing data, wagering data and other transaction data, and subscriber data.” *Id.* Videos and other services such as interactive advertisements that provide information to the user upon being selected by the user may be provided “using services and other equipment located at” the TPSMS. *Id.* ¶ 38. Information including “[a]ny suitable data related to racing” may be provided to the TPSMS by racing data collection and processing system 28 (“RDCPS”) or by totalisators 30. *Id.* ¶ 46. RDCPS collects and provides statistical racing data (such as race numbers and times, jockey and runner names, and number of wins and losses) and weather conditions at various tracks. *Id.* ¶ 40. RDCPS can collect data from totalisators 30 regarding wagering odds. *Id.* TPSMS provides the racing data and other information to users via any communication link such as a modem, network or Internet path, telephone lines, or wireless data paths, in a continuous stream, periodically, or as requested. *Id.* ¶¶ 70, 76.

User television equipment 22 may include a television or other monitor and a set-top box used to receive the television wagering service, to provide wagering data to place wager, and to interact with the wagering service through interactive screens provides by the service. *Id.* ¶¶ 34, 55, 56. “User computer equipment 20 may be any suitable computer equipment that supports an interactive wagering application,” such as a personal, mainframe, networked, laptop, or notebook computer, or a handheld computing device. *Id.* ¶ 33. User telephone equipment 32 may be any telephone such as a conventional, cordless, cellular, portable wireless, “or any other suitable telephone equipment.” *Id.* ¶ 48. “If desired, the user may interact with the wagering service using more than one platform,” such as by cellular phone, televisions, and personal computers. *Id.* ¶ 80.

Subscriber verification facility 40 checks the user’s identity and “may be used to ensure that the user lives in a geographic area in which wagering is legal, that the user is of a legal age, and that the identification information (e.g., the user’s social security number) matches the name provided by the user.” *Id.* ¶ 50. The user’s physical location may be determined by using a global positioning system (GPS). *Id.*

Figure 3, reproduced below, illustrates a “display screen that may be provided by the interactive wagering application.” *Id.* ¶ 88.

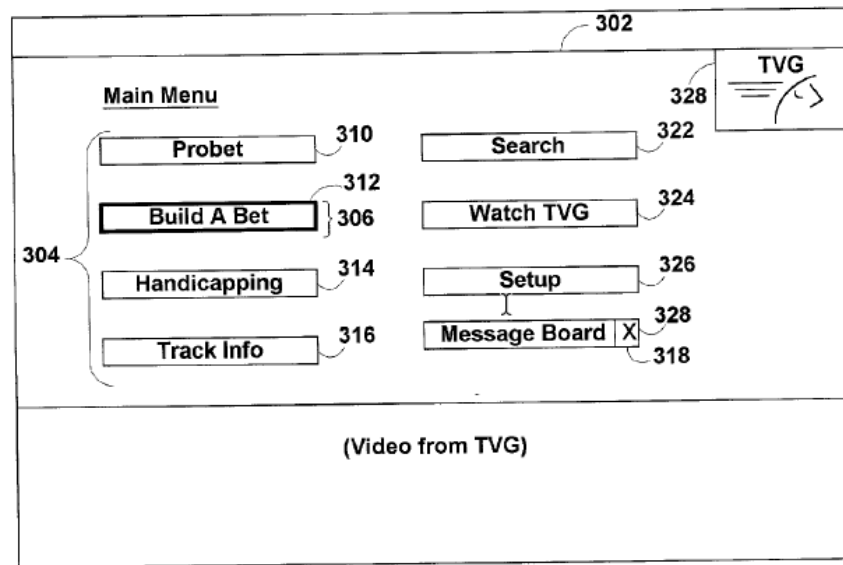


FIG. 3

Figure 3 illustrates a “main menu display screen that may be provided in accordance with one embodiment of the present invention” (*id.* ¶ 17) and depicts screen 300, main menu 301, menu options 304 selectable by the user using highlight region 306, options of “Probet” 310, “Build A Bet” 306, “Handicapping” 314, “Track Info” 316, “Search” 322, “Watch TVG” 324, “Setup” 326, and “Message Board” 328, and icon 318 indicating that information is available for a user (*id.* ¶¶ 88–89; *see also id.* ¶ 107).

After the user selects a desired wager type, the user may be shown odds, wager, and pools information (*id.* ¶¶ 96–98, 101–104) and prompted to make selections and enter wage amounts (*id.* ¶¶ 99, 100).

The interactive wagering system may maintain a user profile that may be used to match future events with the user’s interests. *Id.* ¶ 107. The system “may automatically post or display the future race information to the user” and “may notify the user of new information postings by displaying an

indication icon such as icon 318 on message board option 328 of FIG. 3.”
Id.

Figure 13, reproduced below, “is a flowchart of illustrative steps that may be involved in associating future races with the user for the purpose of notifying the user of relevant race information.” *Id.* ¶ 110.

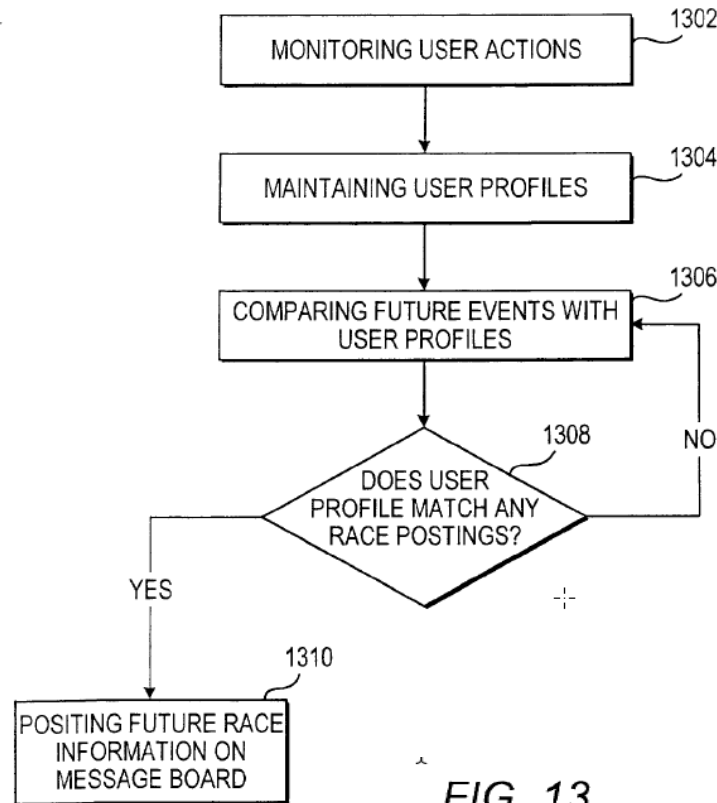


FIG. 13

Figure 13 “is a flowchart of illustrative steps involved in associating future race information with a user in accordance with one embodiment of the present invention.” *Id.* ¶ 27.

At step 1302, the interactive wagering application may monitor user activity. *Id.* ¶ 110. The application may create and store a user profile at step 1304, the profile used at step 1306 to compare with future events such as races to determine at step 1308 whether a match exists with the available

event/race. *Id.* “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.” *Id.* If at least one match exists, “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.” *Id.* The user accesses the message board to retrieve future event/race information and determine interest in participating in the wage pool. *Id.*

2. *Overview 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.

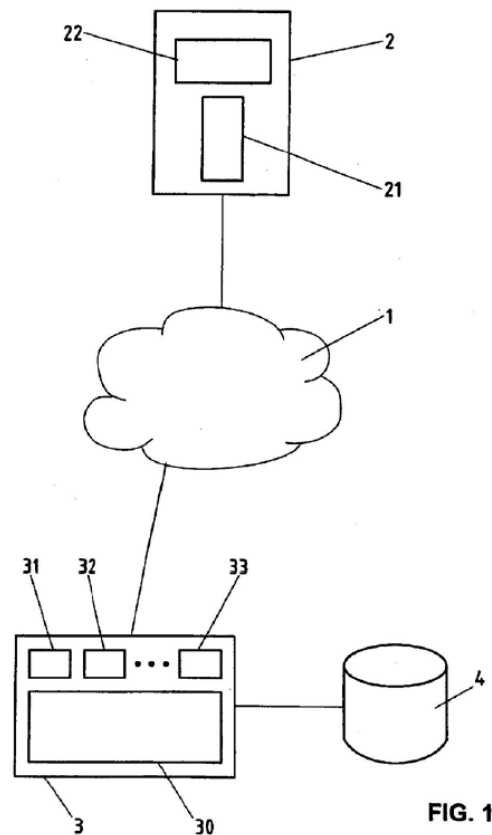


Figure 1 of Stadelmann above provides a diagram view of a gaming system according to the exemplary embodiment. *Id.* at 3b:1–7. A participant using mobile radio device 2 (e.g., mobile phone) opens a game account with the operator of central play station 3 and deposits currency into the account. *Id.*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

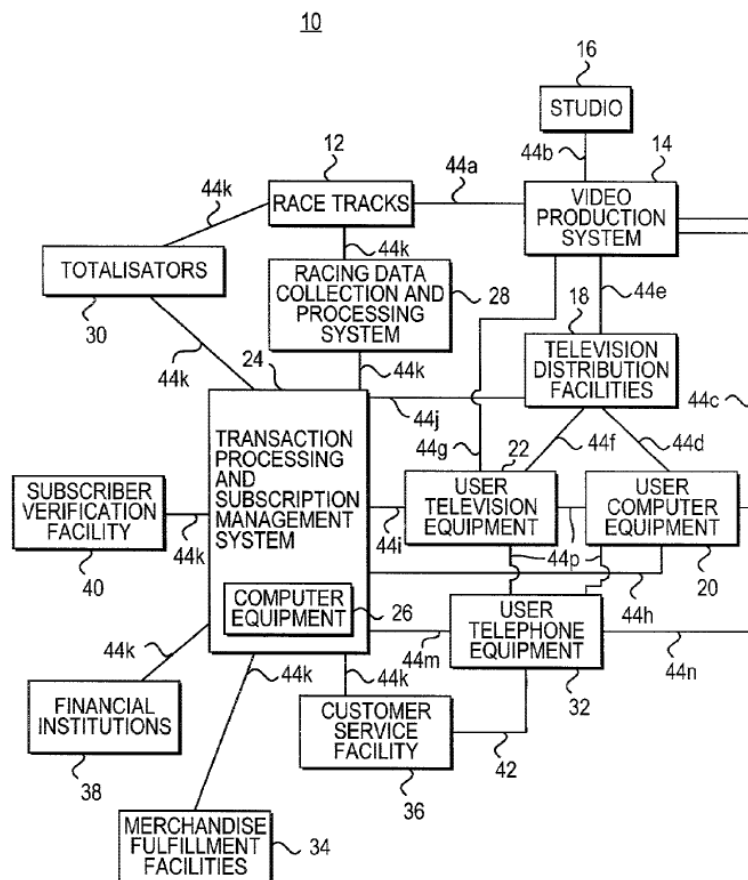


FIG. 1

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.*

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. Discussion

In asserting obviousness of claims 1–5, 7, 10–15, 17, 19, and 20 over Garahi, Stadelmann, and McNutt, Petitioner relies on Garahi when addressing most of the challenged claims' limitations. Pet. 19–48. Petitioner cites Stadelmann, for instance, when addressing certain limitations related to a “request to notify” and “initiat[ing] a communication link.”

Ex. 1001, 94:17–18, 94:22, 94:37–38; Pet. 11–15, 23–25. Petitioner cites McNutt, for instance, when addressing certain limitations related to a “bet message” with “information regarding the position or location of the first communication device or the second communication device,” as well as certain limitations regarding “the computer determin[ing] if the bet is allowed or disallowed using the information regarding the position or location of the first communication device or the second communication device.” Ex. 1001, 94:52–56, 94:60–63; Pet. 27–35.

At this stage, Petitioner’s arguments that claims 1–5, 7, 10–15, 17, 19, and 20 would have been obvious over Garahi, Stadelmann, and McNutt are undisputed. Having reviewed Petitioner’s arguments and evidence, we find Petitioner has demonstrated a reasonable likelihood of establishing that independent claim 1 would have been obvious over Garahi, Stadelmann, and McNutt.

We turn now to a detailed discussion of Petitioner’s arguments regarding independent claim 1, followed by discussion of Petitioner’s arguments and evidence regarding claims 2–5, 7, 10–15, 17, 19, and 20.

a) Independent Claim 1

(1) Preamble

Claim 1’s preamble recites “an apparatus, comprising.” Ex. 1001, 94:11. Addressing this language, Petitioner argues that “Garahi discloses an apparatus including an ‘interactive wagering application allow[ing] a user to place parimutuel wagers on future events.’” Pet. 9 (quoting Ex. 1004 ¶ 9) (citing *id.* ¶¶ 28, 30, Fig. 1) (footnote omitted). The cited portions of Garahi include the following disclosure:

[t]he 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.

Ex. 1004 ¶ 30. At this stage of the proceeding, we find Petitioner’s arguments and evidence regarding claim 1’s preamble sufficient.

(2) *Limitation 1(a)(i)*

Limitation 1(a)(i) recites “a computer, wherein the computer is specially programmed for processing information for providing for a placement of a bet on or regarding a gaming activity, a gambling activity, or a sporting event, wherein the computer further comprises.”

Ex. 1001, 94:12–16. Addressing this claim language, Petitioner argues that Garahi discloses using equipment like a “server computer,” “computer equipment 26,” and “servers” in processes related to wagering. Pet. 9–11 (citing Ex. 1004 ¶¶ 28, 30, 37, 38, 56, 76; Ex. 1003 ¶ 116). At this stage of the proceeding, we find Petitioner’s arguments and evidence regarding limitation 1(a)(i) sufficient.

(3) *Limitation 1(a)(ii)*

Limitation 1(a)(ii) recites “a receiver, wherein the receiver receives a request to notify an individual regarding the gaming activity, the gambling activity, or the sporting event, for or on which the bet can be placed.”

Ex. 1001, 94:17–20. Addressing this claim language, Petitioner argues that a person of ordinary skill in the art would have understood Garahi’s TPSMS has a receiver, citing Garahi’s disclosures of sending wager data to the TPSMS. Pet. 11 (citing Ex. 1004 ¶ 78, Fig. 1; Ex. 1003 ¶ 118).

Regarding limitation 1(a)(ii)'s recitation of "the receiver receiv[ing] a request to notify," Petitioner explains that Garahi discloses "associating future races with the user for the purpose of notifying the user of relevant race information." *Id.* at 12 (quoting Ex. 1004 ¶ 110). Noting that Garahi does not say if its receiver receives a request for notification, Petitioner argues that such an approach would have been obvious in view of Stadelmann. *Id.* (citing Ex. 1003 ¶ 121). According to Petitioner, a person of ordinary skill in the art would have understood that Stadelmann teaches receiving an indication of a user's desire to wager on a horse race, enabling notification when the user can bet on the race. *Id.* at 12–13 (citing Ex. 1005, 5:7–10, 5:20–23; Ex. 1003 ¶¶ 122–123).

Petitioner contends 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 ¶ 124). According to Petitioner, a person of ordinary skill in the art would have been motivated to do so for certain reasons, such as to "predictably increase the likelihood that the user would wager on the event thereby increasing usage of Garahi's interactive wagering application." *Id.* (citing Ex. 1003 ¶ 124). Petitioner also contends that a person of ordinary skill in the art would have had a reasonable expectation of success in implementing such an approach in Garahi's system. *Id.* at 13–14 (citing Ex. 1003 ¶ 124).

At this stage of the proceeding, we find Petitioner's arguments and evidence regarding limitation 1(a)(ii) sufficient.

(4) *Limitation 1(a)(iii)*

Limitation 1(a)(iii) recites “a memory, wherein the memory stores information regarding the request to notify the individual regarding the gaming activity, the gambling activity, or the sporting event.” Ex. 1001, 94:21–24. Addressing this claim language, Petitioner argues that Garahi’s TPSMS comprises a database with subscriber data (Pet. 14 (citing Ex. 1004 ¶ 37)), and “Stadelmann teaches a memory that stores information regarding the request to notify an individual regarding the sporting event” (*id.* at 14 (citing Ex. 1005, 5:7–10)). Petitioner contends that it would have been obvious in view of Stadelmann “to configure Garahi’s memory/database to also store information regarding the request to notify an individual regarding the sporting event.” *Id.* at 15 (citing Ex. 1003 ¶ 126). According to Petitioner, a person of ordinary skill in the art would have been motivated to do so for certain reasons, such as to “predictably enable[] the TPSMS to access the user’s stored request information to determine whether the user should be notified regarding a future racing event.” *Id.* (citing Ex. 1003 ¶ 126). Petitioner also contends that a person of ordinary skill in the art would have had a reasonable expectation of success in implementing such a configuration in Garahi’s system. *Id.* (citing Ex. 1003 ¶ 127).

At this stage of the proceeding, we find Petitioner’s arguments and evidence regarding limitation 1(a)(iii) sufficient.

(5) *Limitation 1(a)(iv)*

Limitation 1(a)(iv) recites

a processor, wherein the processor is specially programmed to detect a posting of information regarding the gaming activity, the gambling activity, or the sporting event, and to generate a notification message regarding the gaming activity, the gambling

activity, or the sporting event, wherein the processor detects the posting of the information regarding the gaming activity, the gambling activity, or the sporting event, and further wherein the processor generates the notification message regarding the gaming activity, the gambling activity, or the sporting event.

Ex. 1001, 94:25–35. Addressing this claim language, Petitioner contends that Garahi’s TPSMS has a processor. Pet. 15–16 (citing Ex. 1004 ¶ 37, Fig. 1; Ex. 1003 ¶ 128). According to Petitioner, in Garahi’s Figure 13, “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 17 (citing Ex. 1003 ¶¶ 130–131).

Noting that Garahi does not disclose explicitly that TPSMS executes Figure 13’s process, Petitioner contends that it would have been obvious to use TPSMS for this purpose. *Id.* at 17–19 (citing Ex. 1003 ¶¶ 132, 133, 135; Ex. 1004 ¶ 37, 46, 110). According to Petitioner, a person of ordinary skill in the art would have been motivated to do so for certain reasons, including “recogni[tion] that it would be a logical choice to perform the processing steps using the computer equipment 26, which, as part of the TPSMS, is also associated with the databases being accessed in Figure 13.” *Id.* at 18 (citing Ex. 1003 ¶ 133). Petitioner also contends that a person of ordinary skill in the art would have had a reasonable expectation of success in implementing such an approach. *Id.* at 19 (citing Ex. 1003 ¶ 135).

At this stage of the proceeding, we find Petitioner’s arguments and evidence regarding limitation 1(a)(iv) sufficient.

(6) *Limitation 1(b)*

Limitation 1(b) recites “wherein the computer, in response to a generating of the notification message by the processor, initiates a

communication link with a first communication device, wherein the first communication device is associated with the individual, and further wherein the computer transmits the notification message to the first communication device.” Ex. 1001, 94:36–42. Petitioner argues that this claim limitation would have been obvious over Garahi. Pet. 19–23. Petitioner contends that Garahi’s user telephone equipment 32 is a first communication device associated with the individual. *Id.* at 19–20 (citing Ex. 1004 ¶¶ 48, 55, 56, 77, 86, 87, 110, Fig. 12; Ex. 1003 ¶ 137). Explaining that Garahi’s TPSMS uses communication link 44m to communicate with user communication device 32, Petitioner argues that it would have been obvious for the TPSMS to initiate communication link to notify the user of an upcoming gaming event of interest to the user. *Id.* at 20–23 (citing Ex. 1004 ¶¶ 74, 86, 107, Fig. 1, Fig. 12; Ex. 1003 ¶¶ 138, 140–143).

Additionally, Petitioner argues in the alternative that limitation 1(b) would have been obvious based on Stadelmann’s teachings. *Id.* at 23–26 (citing Ex. 1004 ¶ 75; Ex. 1005, 5:16–23; Ex. 1003 ¶¶ 144–146). Petitioner explains that Stadelmann discloses using short messages transmitted over mobile radio network 1 to alert players of a gaming opportunity. *Id.* at 23 (citing Ex. 1005, 5:16–23; Ex. 1003 ¶¶ 144). According to Petitioner, “[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 to initiate a communication link with the user telephone equipment in response to generating the notification message and transmit the notification message as an SMS message.” *Id.* at 23–24 (citing Ex. 1003 ¶ 145). Petitioner contends that a person of ordinary skill in the art would have been motivated to do so for certain reasons, such as “recogni[tion] 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.” *Id.* at 24 (citing Ex. 1003 ¶ 145). Petitioner also contends that a person of ordinary skill in the art would have a reasonable expectation of success in implementing such an approach. *Id.* at 24–25 (citing Ex. 1003 ¶ 146; Ex. 1004 ¶ 75).

At this stage of the proceeding, we find Petitioner's arguments and evidence regarding limitation 1(b) sufficient.

(7) *Limitation 1(c)(i)*

Limitation 1(c)(i) recites “wherein the computer receives a bet message transmitted from the first communication device or from a second communication device, wherein the second communication device is associated with the individual.” Ex. 1001, 94:43–46. Petitioner contends that Garahi teaches this limitation, citing Garahi's disclosures regarding transmission of wagering data with user telephone equipment 32 or user television equipment 22. Pet. 25–27 (citing Ex. 1004 ¶ 55, 56, 78, 80, 148, Fig. 1). At this stage of the proceeding, we find Petitioner's arguments and evidence regarding limitation 1(c)(i) sufficient.

(8) *Limitation 1(c)(ii)*

Limitation 1(c)(ii) recites “further wherein the first communication device or the second communication device comprises a global positioning device, wherein the global positioning device determines a position or location of the first communication device or the second communication device.” Ex. 1001, 94:47–51. Petitioner contends that Garahi discloses this limitation, citing Garahi's discussion of a cellular telephone's global positioning system (GPS) receiver capable of determining the user's

location. Pet. 27 (citing Ex. 1004 ¶ 50). At this stage of the proceeding, we find Petitioner’s arguments and evidence regarding limitation 1(c)(ii) sufficient.

(9) *Limitation 1(d)*

Limitation 1(d) recites

wherein the bet message contains information regarding a bet to be placed on or regarding the gaming activity, the gambling activity, or the sporting event, and information regarding the position or location of the first communication device or the second communication device at a time of a transmission of the bet message from the first communication device, or from the second communication device, to the computer.

Ex. 1001, 94:53–59. Petitioner argues that Garahi discloses a bet message in the form of wagering data that includes information about the bet to be placed or the sporting event. Pet. 27–28 (citing Ex. 1004 ¶ 56, 94–101 Figs. 6a–d, 7–9). Noting that Garahi also discloses employing user telephone equipment 32’s position data to confirm the user can legally wager from that place, Petitioner observes that Garahi does not explain exactly how this confirmation happens. *Id.* at 28 (citing Ex. 1004 ¶ 50; Ex. 1003 ¶ 152).

Petitioner contends that “it would have been obvious to a [person of ordinary skill in the art] to configure Garahi to include the first communication device’s location information in the wagering data (i.e., the bet message) as taught by McNutt.” *Id.* (citing Ex. 1003 ¶ 152). Petitioner asserts that Garahi and McNutt have overlapping inventors and “generally describe different features of the same interactive wagering system,” arguing that Garahi’s Figure 1 and McNutt’s Figure 1 present identical schematic diagrams. *Id.* at 28–29 (citing Ex. 1004, code (76), Fig. 1; Ex. 1006, code (76), Fig. 1). Petitioner explains that McNutt teaches precluding a user

from betting when in a location that prohibits wagering. *Id.* at 29 (citing Ex. 1006, code (57), ¶¶ 111, 114). Petitioner elaborates that McNutt teaches ascertaining a user’s position with a cellular telephone’s GPS receiver, as well as sending the position information “to the TPSMS with the wagering information (i.e., the bet message).” *Id.* at 29–30 (citing Ex. 1006 ¶¶ 57, 63, 119, 129; Ex. 1003 ¶ 155).

Petitioner alleges that a person of ordinary skill in the art would have had certain motivations to implement McNutt’s disclosure of sending position information in a betting message with Garahi’s system. *Id.* at 30–31 (citing Ex. 1003 ¶¶ 156–157). For example, Petitioner contends that a person of ordinary skill in the art “would have recognized that 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 ¶ 156). Petitioner also contends that a person of ordinary skill in the art would have had a reasonable expectation of success in sending position information with the wagering data transmitted in Garahi’s system. *Id.* at 31–32 (citing Ex. 1003 ¶¶ 158–159).

At this stage of the proceeding, we find Petitioner’s arguments and evidence regarding limitation 1(d) sufficient.

(10) *Limitation 1(e)*

Limitation 1(e) recites

wherein the computer determines if the bet is allowed or disallowed using the information regarding the position or location of the first communication device or the second communication device and, if the bet is allowed, the computer

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

Ex. 1001, 94:60–67. Addressing this claim language, Petitioner reiterates that Garahi discloses confirming the user is in an area that allows wagering, but does not specify exactly how this happens. Pet. 32 (citing Ex. 1004 ¶ 50). Petitioner asserts that McNutt’s Figure 12 shows a process by which McNutt’s TPSMS restricts or provides wagering access based on location information for the user’s equipment. *Id.* at 32–34 (citing Ex. 1006 ¶¶ 113–117, 119, 126, 142, Fig. 12). Petitioner alleges that a person of ordinary skill in the art would have had certain motivations to “implement the processing steps of McNutt’s Figure 12 to confirm that the user is in a location where wagering is allowed prior to processing the received wagering information.” *Id.* at 34–35 (citing Ex. 1003 ¶ 163). For example, Petitioner argues that

[a person 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 ¶ 163). Petitioner also argues that a person of ordinary skill in the art would have had a reasonable expectation of success in implementing the process of McNutt’s Figure 12 with Garahi’s system. *Id.* at 35 (citing Ex. 1003 ¶ 165).

At this stage of the proceeding, we find Petitioner’s arguments and evidence regarding limitation 1(e) sufficient.

b) Claims 2–5, 7, 10–15, 17, 19, and 20

Petitioner cites Garahi when addressing most limitations of claims 2–5, 7, 10–15, 17, 19, and 20. Pet. 35–48. Petitioner cites Stadelmann, for instance, when addressing limitations of claims 2, 3, and 5. Pet. 35–41. Petitioner cites McNutt, for instance, when addressing certain language in claim 12. Pet. 46–47. At this stage of the proceeding, Petitioner’s arguments that claims 2–5, 7, 10–15, 17, 19, and 20 would have been obvious over Garahi, Stadelmann, and McNutt are undisputed.

D. ALLEGED OBVIOUSNESS OF CLAIMS 6 AND 16 OVER GARAHİ, STADELMANN, MCNUTT, AND ROWE

Claim 6 depends from independent claim 1, and claim 16 depends from independent claim 13. Ex. 1001, 95:21, 98:14. In addition to the limitations of claim 1 or the limitations of claim 13, each of dependent claims 6 and 16 further requires that

the computer processes information for determining a state, a political subdivision, or a country, in which the first communication device or the second communication device was located at the time of the transmission of the bet message from the first communication device, or from the second communication device, to the computer, and further wherein the computer processes information for making or effectuating a payment to the state, the political subdivision, or the country.

Ex. 1001, 95:21–29, 98:14–22. Petitioner argues that Rowe discloses ascertaining the taxes due when a remote player wins a wager, as well as transferring the taxes due “to an IRS deposit account.” Pet. 51 (quoting Ex. 1007 ¶ 203). Petitioner contends that “[b]ased on the teachings of Rowe, it would have been obvious to a [person of ordinary skill in the art] to configure Garahi’s TPSMS to similarly process information processes information for effectuating a payment to the country.” *Id.* (citing Ex. 1003

¶ 217). At this stage of the proceeding, Petitioner's arguments that claims 6 and 16 would have been obvious over Garahi, Stadelmann, McNutt, and Rowe are undisputed.

E. ALLEGED OBVIOUSNESS OF CLAIMS 8 AND 18 OVER GARAHİ, STADELMANN, MCNUTT, AND THOMAS

Claim 8 depends from independent claim 1, and claim 18 depends from independent claim 13. Ex. 1001, 95:40, 98:28. In addition to the limitations of claim 1, claim 8 requires that

the computer detects a use of a gaming account, a gambling account, or a sports betting account, of or associated with the individual, and further wherein the computer generates a gaming account use message, a gambling account use message, or a sports betting account use message, and further wherein the computer transmits the gaming account use message, the gambling account use message, or the sports betting account use message, to the first communication device, to the second communication device, or to a third communication device.

Ex. 1001, 95:40–49. Claim 18 adds similar requirements to the limitations of independent claim 13. *Id.* at 98:28–35. Petitioner argues that Thomas discloses creating and sending a message to remind an account user to generate a bet that requires finalization. Pet. 54–55 (citing Ex. 1008, code (57), ¶¶ 59, 108, 110, Fig. 13; Ex. 1003 ¶ 225). Petitioner contends that

[b]ased on the teachings of Thomas, 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 his or her account to create a bet and then generate and transmit a message regarding use of the account to create the bet.

Id. at 55 (citing Ex. 1003 ¶ 227). At this stage of the proceeding, Petitioner's arguments that claims 8 and 18 would have been obvious over Garahi, Stadelmann, McNutt, and Thomas are undisputed.

F. ALLEGED OBVIOUSNESS OF CLAIM 9 OVER GARAHİ,
STADELMANN, MCNUTT, AND MONICAL

Claim 9 depends from independent claim 1. Ex. 1001, 95:50. In addition to the limitations of claim 1, claim 9 requires that “the apparatus or the computer processes information regarding a placement of a private bet between the individual and a second individual.” Ex. 1001, 95:50–52. Petitioner argues that Monical discloses provisions for a user to offer a private wager to another user with a chat message. Pet. 57–58 (citing Ex. 1009, 14:1–8, Fig. 1). Petitioner contends that “[b]ased on the teachings of Monical, it would have been obvious and a [person of ordinary skill in the art] would have been motivated 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.” Pet. 58 (citing Ex. 1003 ¶ 232). At this stage of the proceeding, Petitioner’s arguments that claim 9 would have been obvious over Garahi, Stadelmann, McNutt, and Monical are undisputed.

III. CONCLUSION

After considering the evidence and arguments of record, we determine that Petitioner has demonstrated a reasonable likelihood of success with respect to at least one of the challenged claims. An *inter partes* review of all of the claims and all of the grounds presented in the Petition is hereby instituted. See *SAS Institute Inc. v. Iancu*, 138 S. Ct. 1348, 1354, 1359–60; *PGS Geophysical AS v. Iancu*, 891 F.3d 1354, 1360 (Fed. Cir. 2018); 37 C.F.R. § 42.108(a).

At this stage of the proceeding, the Board has not made a final determination as to the patentability of any challenged claims or any

underlying factual or legal issues. The final determination will be based on the record as developed during the *inter partes* review.

IV. ORDER

For the reasons given, it is:

ORDERED that, pursuant to 35 U.S.C. § 314(a), an *inter partes* review of claims 1–20 the '341 patent is instituted with respect to all grounds set forth in the Petition; and

FURTHER ORDERED that, pursuant to 35 U.S.C. § 314(a) and 37 C.F.R. § 42.4(b), *inter partes* review of the '341 patent shall commence on the entry date of this Order, and notice is hereby given of the institution of a trial.

IPR2023-00093
Patent 10,043,341 B1

For PETITIONER:

Jennifer Bailey

Eric Buresh

Callie Pendergrass

Tyler Knox

Nathan Byers

George Guy

ERISE IP

Jennifer.bailey@eriseip.com

Eric.buresh@eriseip.com

Callie.pendergrass@eriseip.com

Tyler.knox@eriseip.com

Nathan.byers@eriseip.com

Elizabeth Long

Philip Marsh

ARNOLD & PORTER KAYE SCHOLER LLP

Elizabeth.long@arnoldporter.com

Philip.marsh@apks.com

Jared Newton

QUINN EMANUEL URQUHART & SULLIVAN LLP

jarednewtown@quinnemanuel.com

Eliot Williams

Jamie Lynn

Andrew Wilson

BAKER BOTTS L.L.P.

eliot.williams@bakerbotts.com

Jamie.lynn@bakerbotts.com

Andrew.wilson@bakerbotts.com

Stephen Hemenway

BROWNSTEIN HYATT FARBER SCHRECK, LLC

chemenway@bhfs.com

IPR2023-00093
Patent 10,043,341 B1

For PATENT OWNER:

René A. Vazquez
Sinergia Technology Law Group, PLLC
rvazquez@sinergialaw.com

M. Scott Fuller Reg.
Garteiser Honea PLLC
sfuller@ghiplaw.com