

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTERACTIVE COMMUNICATIONS INTERNATIONAL, INC.,
Petitioner,

v.

BLACKHAWK NETWORK INC.,
Patent Owner.

Case No. IPR2023-01235

U.S. Patent No. 9,865,135

PATENT OWNER'S RESPONSE

TABLE OF CONTENTS

Table of Authorities	iii
Exhibit List.....	v
The Challenged Claims	ix
I. Introduction.....	1
II. The '135 Patent.....	2
A. Summary of the '135 Patent's Specification Disclosure	2
B. Prosecution History	6
C. Other Proceedings	9
III. Brief Summary of the Petition's Prior Art	10
A. Szrek	10
B. Llach	15
IV. Legal Standards	17
V. Level of Ordinary Skill in the Art	19
VI. Claim Construction.....	20
A. "Pre-Printed Lottery Ticket"	20
B. "Product Information"	23
VII. The Petition Fails to Show Invalidity of the Challenged Claims.....	28
A. Ground 1	28
1. Claims 1-6: Szrek does not teach or suggest a "pre-printed lottery ticket."	28
2. Claims 1-3, 5, and 6: Szrek does not teach or suggest transmitting product information to a lottery administration system, as claimed.....	37
B. Ground 2	48
1. Claims 1-6: Llach and Szrek do not teach or suggest a "pre- printed lottery ticket."	48

2. Claims 1-3, 5, and 6: Szrek and Llach do not teach or suggest transmitting product information to a lottery administration system, as claimed. 50

VIII. Conclusion 53

TABLE OF AUTHORITIES

Cases

<i>Becton, Dickinson & Co. v. Tyco Healthcare Grp., LP</i> , 616 F.3d 1249 (Fed. Cir. 2010).....	25
<i>CCS Fitness, Inc. v. Brunswick Corp.</i> , 288 F.3d 1359 (Fed. Cir. 2002).....	17
<i>Data Engine Techs. LLC v. Google LLC</i> , 10 F.4th 1375 (Fed. Cir. 2021)	17, 22
<i>Gaus v. Conair Corp.</i> , 363 F.3d 1284 (Fed. Cir. 2004).....	25
<i>Graham v. John Deere Co.</i> , 383 U.S. 1 (1966).....	18
<i>Honeywell Inc. v. Victor Co. of Japan</i> , 298 F.3d 1317 (Fed. Cir. 2002).....	17
<i>KSR Int’l Co. v. Teleflex Inc.</i> , 550 U.S. 398 (2007).....	18
<i>Kyocera Senco Indus. Tools Inc. v. ITC</i> , 22 F.4th 1369 (Fed. Cir. 2022).	25
<i>Nichia Corp. v. DSS, Inc.</i> , 2023 WL 7211097 (Fed. Cir. 2023).....	20
<i>Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.</i> , 868 F.3d 1013 (Fed. Cir. 2017).....	20
<i>Poly-America, L.P. v. API Indus., Inc.</i> , 839 F.3d 1131 (Fed. Cir. 2016).....	18, 22, 33
<i>Quad Env. Techs. Corp. v. Union Sanitary Dist.</i> , 946 F.2d 870 (Fed. Cir. 1991).....	36
<i>Thorner v. Sony Comput. Entm’t Am., LLC</i> , 669 F.3d 1362 (Fed. Cir. 2012).....	18
<i>TMC Fuel Injection Sys., LLC v. Ford Motor Co.</i> , 682 Fed. App’x. 895 (Fed. Cir. 2017).....	22
<i>Uship Intell. Props., LLC v. United States</i> , 714 F.3d 1311 (Fed. Cir. 2013).....	18

Statutes

35 U.S.C. § 103 18

35 U.S.C. § 316 17

Rules

37 C.F.R. § 42.100 17

EXHIBIT LIST

EXHIBIT	DESCRIPTION
EX2001	Complaint, <i>Blackhawk Network, Inc. v. SL Card Company Inc.</i> , No. 2022-051638 (Superior Court of Ariz.), dated May 23, 2022.
EX2002	SL Card Company's Amended Answer to Complaint, Affirmative Defenses and Counterclaims, <i>Blackhawk Network, Inc. v. SL Card Company Inc.</i> , No. 2022-051638 (Superior Court of Ariz.), dated July 19, 2023.
EX2003	Product Distribution Agreement between Blackhawk Network, Inc., SL Card Company Inc., and Linq3 Technologies LLC, effective January 1, 2017.
EX2004	Blackhawk confidential presentation entitled "New Products Discussion: BHN Linq3," dated May 2018, and May 8, 2018 cover e-mail.
EX2005	Correspondence, California Lottery to Linq3, dated November 9, 2017.
EX2006	Blackhawk and Linq3 e-mail correspondence, dated February 14, 2018, re "Texas-Gary Grief, Lottery Director."
EX2007	Blackhawk and Linq3 e-mail correspondence, dated April 26, 2018, re "AZ Update 4-26-2108."
EX2008	Blackhawk and Linq3 e-mail correspondence, dated November 9-11, 2018, re "Hugo Lopez: Response to Your Letter."
EX2009	Ontario Lottery & Gaming Annual Report 2017-2018
EX2010	Blackhawk and Linq3 e-mail correspondence Nov. 10-13, 2017 re "California Lottery – Lopez Summary."
EX2011	Blackhawk and Linq3 e-mail correspondence, dated Dec. 7, 2017, re QuickTicket.
EX2012	Blackhawk confidential presentation entitled "QuickTicket," dated December 2017.

EXHIBIT	DESCRIPTION
EX2013	Blackhawk confidential e-mail correspondence, dated May 1, 2018, re “New Products Deck- BHN Linq3,” and attachment.
EX2014	Blackhawk and Linq3 e-mail correspondence, dated September 17, 2018, re “Linq3-Blackhawk Amendment re QuickTicket.”
EX2015	Canadian Patent Application 2 855 434, entitled “Pre-Printed Lottery Tickets Systems and Methods,” filed July 3, 2014.
EX2016	Patent Assignment OLG to BHN Canada, March 2016
EX2017	Patent Assignment Agreement, dated August 30, 2016.
EX2018	U.S. Patent 10,229,561, entitled “Processing of a User Device Game-Playing Transaction based on Location,” filed June 18, 2018.
EX2019	U.S. Patent 10,217,326, entitled “Processing of a User Device Game-Playing Transaction based on Location,” filed November 20, 2017.
EX2020	U.S. Patent No. D877,812, entitled “Quick ticket for lottery,” filed August 22, 2018.
EX2021	U.S. Patent No. 1020,943,432, entitled “Processing of a Game-Playing Transaction based on Location,” filed March 12, 2019.
EX2022	U.S. Patent No. 10,943,438, entitled “Processing of a Game-Playing Transaction based on Location,” filed March 11, 2019.
EX2023	Prosecution History of Trademark Appl’n. 87/953,104 to QUICKTICKET
EX2024	Motion To Dismiss Second Amended Complaint Under Federal Rules of Civil Procedure 12(B)(1), 12(B)(2), and 12(B)(6) by Defendants Interactive Communications International, Inc. and E2interactive, Inc., <i>Blackhawk Network, Inc. v. SL Card Company Inc.</i> , c.a. CV-21-00813-PHX-MTL (D. Az.), filed August 18, 2021, with Exhibit A thereto.
EX2025	Press Release, “InComm Expands into Lottery Industry with Linq3 Technologies Acquisition,” dated March 12, 2019.

EXHIBIT	DESCRIPTION
EX2026	InComm Webpage, “About Us - InComm Payments,” https://www.incomm.com/about-us/ (retrieved Nov. 9, 2023).
EX2027	InComm Webpage, “Helping Consumers Cash In With Ease,” https://www.incomm.com/products/lottery-gaming/ (retrieved Nov. 6, 2023).
EX2028	USPTO Assignment Record Search
EX2029	U.S. Patent No. 11,580,823, entitled “Processing of a Game-Playing Transaction based on Location,” filed March 9, 2021.
EX2030	U.S. Patent No. 11,776,355, entitled “Processing of a Game-Playing Transaction based on Location,” filed March 9, 2021.
EX2031	USPTO Patent Center report re Continuity of U.S. Appl’n. 16/010,398 (dated November 6, 2023).
EX2032	Scheduling Order, <i>Blackhawk Network, Inc. v. SL Card Company Inc.</i> , No. 2022-051638 (Superior Court of Ariz.), dated March 13, 2023.
EX2033	Notice of Conference Reset, <i>Blackhawk Network, Inc. v. SL Card Company Inc.</i> , No. 2022-051638 (Superior Court of Ariz.), dated November 11, 2023.
EX2034	Declaration of James McDonald
EX2035	Protective Order [Proposed for this <i>Inter Partes</i> Review]
EX2036	Declaration of Jason Hoffman in Support of Patent Owner’s Motion for <i>Pro Hac Vice</i> Admission
EX2037	<i>Interactive Communications International, Inc., v. Blackhawk Network Inc.</i> , PGR2020-00084, Paper 22 (Patent Owner’s Response)
EX2038	Declaration of Jeffrey Miller, Ph.D.
EX2039	Jeffrey Miller curriculum vitae

EXHIBIT	DESCRIPTION
EX2040	U.S. Patent No. 10,769,894, entitled “Methods for Selling Pre-Printed Online Lottery Tickets.”
EX2041	U.S. Patent No. 6,322,446, entitled “System and a Method for Operating On-Line State Lottery Games.”
EX2042	<i>Interactive Communications International, Inc., v. Blackhawk Network Inc.</i> , PGR2020-00084, Paper 11 (Institution Decision).
EX2043	<i>Interactive Communications International, Inc., v. Blackhawk Network Inc.</i> , PGR2020-00084, Paper 7 (Patent Owner’s Preliminary Response).
EX2044	Deposition of Michael Hutton (May 2, 2024)

THE CHALLENGED CLAIMS

Claim 1:

A method of providing a lottery ticket for a random draw comprising:

- [a] scanning at a point-of-sale (POS) terminal a pre-printed lottery ticket to obtain [1] unique identification information and [2] product information from the pre-printed lottery ticket;
- [b] transmitting the [1] unique identification information and [2] product information from the POS terminal to a lottery administration system;
- [c] receiving at the POS terminal payment confirmation;
- [d] transmitting payment confirmation from the POS terminal to the lottery administration system;
- [e] receiving at the POS terminal from the lottery administration system draw details associated with the pre-printed lottery ticket; and
- [f] printing the draw details on a receipt.

Claim 2:

A method of providing a lottery ticket, for a random draw comprising:

- [a] scanning at a point-of-sale (POS) terminal a pre-printed lottery ticket to obtain [1] unique identification information and [2] product information from the pre-printed lottery ticket;
- [b] transmitting the [1] unique identification information and [2] product information from the POS terminal to a transaction processor;
- [c] transmitting the [1] unique identification information and [2] product information from the transaction processor to a lottery administration system;
- [d] receiving at the POS terminal payment confirmation;
- [e] transmitting payment confirmation from the POS terminal to the transaction processor;

- [f] transmitting payment confirmation from the transaction processor to the lottery administration system;
- [g] receiving by the transaction processor from the lottery administration system draw details associated with the pre-printed lottery ticket;
- [h] receiving at the POS terminal from the transaction processor draw details associated with the pre-printed lottery ticket; and
- [i] printing the draw details on a receipt.

Claim 3:

The method of claim 1 or 2, further comprising transmitting the draw details by the lottery administration system, wherein transmitting the draw details generating at the lottery administration system an image or data package containing at least the draw details.

Claim 4:

A lottery administration system comprising:

- [a] at least one communication interface for communicating with other computing systems;
- [b] at least one processing unit for executing instructions; and
- [c] at least one memory unit for storing instructions, which when executed by the at least one processing unit configure the lottery administration system to provide a method of generating a lottery ticket for a random draw, wherein the method of generating a lottery ticket for a random draw comprises
 - [1] receiving at the lottery administration system unique identification information from a pre-printed lottery ticket,
 - [2] determining at the lottery administration system draw information for a subsequent draw being held,

- [3] associating at the lottery administration system the determined draw information with the unique identification information,
- [4] receiving at the lottery administration system payment confirmatio[n]; and
- [5] transmitting from the lottery administration draw details.

Claim 5:

A point-of-sale (POS) terminal comprising:

- [a] at least one communication interface for communicating with other computing systems;
- [b] at least one scanning component;
- [c] at least one processing unit for executing instructions; and
- [d] at least one memory unit for storing instructions, which when executed by the at least one processing unit configure the POS terminal to provide a method of providing a lottery ticket for a random draw, wherein the method of providing a lottery ticket for a random draw comprises
 - [1] scanning at the POS terminal a pre-printed lottery ticket to obtain [i] unique identification information and [ii] product information from the pre-printed lottery ticket,
 - [2] transmitting the [i] unique identification information and [ii] product information from the POS terminal to a lottery administration system,
 - [3] receiving at the POS terminal payment confirmation,
 - [4] transmitting payment confirmation from the POS terminal to the lottery administration system,
 - [5] receiving at the POS terminal from the lottery administration system draw details associated with the pre-printed lottery ticket, and
 - [6] printing the draw details on a receipt.

Claim 6:

transaction processor comprising:

- [a] at least one communication interface for communicating with other computing systems;
- [b] at least one processing unit for executing instructions; and
- [c] at least one memory unit for storing instructions, which when executed by the at least one processing unit configure the transaction processor to provide a method of providing a lottery ticket for a random draw, wherein the method of providing a lottery ticket for a random draw comprises
 - [1] scanning at a point-of-sale (POS) terminal pre-printed lottery ticket to obtain [i] unique identification information and [ii] product information from the pre-printed lottery ticket,
 - [2] transmitting the [i] unique identification information and [ii] product information from the POS terminal to the transaction processor,
 - [3] transmitting the [i] unique identification information and [ii] product information from the transaction processor to the lottery administration system,
 - [4] receiving at the POS terminal payment confirmation,
 - [5] transmitting payment confirmation from the POS terminal to the transaction processor,
 - [6] transmitting payment confirmation from the transaction processor to the lottery administration system,
 - [7] receiving by the transaction processor from the lottery administration system draw details associated with the pre-printed lottery ticket,
 - [8] receiving at the POS terminal from the transaction processor draw details associated with the pre-printed lottery ticket, and
 - [9] printing the draw details on a receipt.

I. INTRODUCTION

The Board should reject the invalidity Grounds proposed in the Petition because they fail to properly construe the term “pre-printed lottery ticket.” That term is defined in clear, unmistakable terms in the prosecution history. There, Patent Owner defined “pre-printed lottery ticket” to refer to a ticket “which has no lottery numbers associated with it at the time of customer purchase,” and it successfully distinguished applied prior art (Yacenda) that disclosed tickets that already had lottery numbers associated with them at the time of customer purchase.

Both Grounds allege obviousness of claims 1-6 (the “Challenged Claims”) of U.S. Patent No. 9,865,135 (the “’135 Patent”), relying on a Szrek reference that, like Yacenda, discloses tickets that already have lottery numbers associated with them at the time of customer purchase. Szrek does not disclose a “pre-printed lottery ticket” any more than Yacenda did. The Petition’s invalidity Grounds, therefore, fail.

The Board also should reject the Petition’s invalidity challenges to Challenged Claims 1-3 and 5-6 because they are based on a flawed construction of “product information,” which represents information about a product but is separate and distinct from a lottery ticket’s lottery numbers and from “unique identification information.” The Petition asserts that Szrek discloses transmission of product information to a lottery administration because Szrek allegedly transmits a “bet combination” and a “sequence counter” to a game provider. But Szrek’s bet

combination reflects a ticket's lottery numbers. And Szrek's sequence counter merely is another type of unique ticket identifier. These elements do not qualify as "product information," under Challenged Claims 1-3 and 5-6 and, therefore, both Grounds fail for this additional reason.

II. THE '135 PATENT

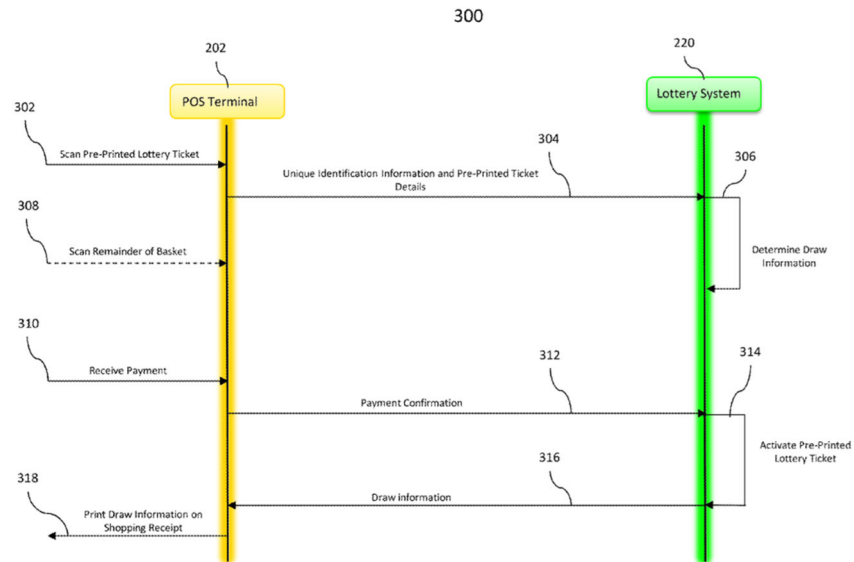
A. Summary of the '135 Patent's Specification Disclosure

The '135 Patent is directed "to lottery systems and in particular to the sale and activation of pre-printed draw based lottery tickets through the retailers Point of Sale without the need for additional lottery hardware." EX1001.0011 (col. 1:13-16). At the time of the invention, "[t]ickets for draw based lotteries [were] typically printed at the time of purchase on special ticket paper by a printing device approved by the lottery administering body." *Id.* (col. 1:37-39). These issues created barriers to use of lottery systems at multi-lane retail environments due to capital expense and the requirement of operator training. *Id.* (col. 1:59-67). Use of existing retailer Point of Sale ("POS") equipment also was regarded as ineffective because the retailers' low quality receipt paper deteriorates prematurely. *Id.* (col. 2:1-4).

The '135 Patent discloses techniques "that provide[] the ability to include online lottery tickets that can be placed in a customer's shopping cart and paid for during the normal checkout process without the use of specialized hardware such as lottery terminals, ticket printers or customized devices at the point of purchase for

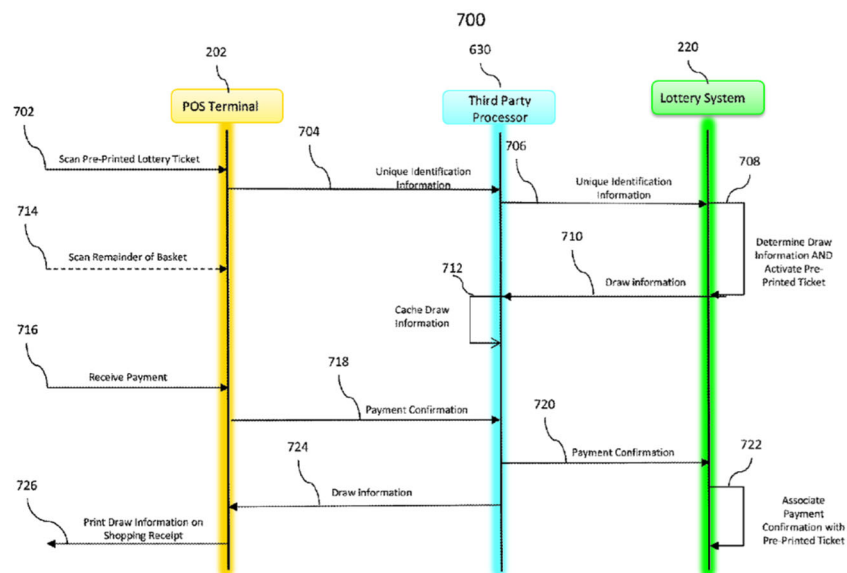
the purpose of producing the lottery ticket.” *Id.* (col. 2:44-52). “The online lottery ticket is manufactured and distributed as pre-printed lottery tickets that do not have a draw date or wager (i.e. lottery numbers) assigned or associated to the pre-printed ticket.” EX1001.0011-12 (cols. 2:65-3:1). The pre-printed tickets each have a unique bar code that identifies the particular pre-printed ticket and a Universal Product Code bar code that identifies the lottery product. EX1001.0012 (col. 3:1-4). “Once scanned by the retailer’s POS and paid for by the customer, the lottery system will generate wagers for the pre-printed ticket and assign the next available draw date.” *Id.* (col. 3:11-14). “The generated numbers, the draw date and unique ticket identifier is printed on the customers shopping receipt.” *Id.* (col. 3:14-16).

The Challenged Claims recite methods and apparatuses for activating a lottery ticket. The ’135 Patent discloses two basic implementations. In a first implementation, a POS terminal 202 (*gold*) communicates directly with a lottery system 220 (*green*) to activate the lottery ticket:



'135 Patent (EX1001), FIG. 3 (annotated)

See also EX1001.0013-14 (col. 6:61-7:65), FIGS. 4-5. In a second implementation, the POS terminal 202 (*gold*) communicates with a third party transaction processor 630 (*blue*), and the transaction processor communicates with a lottery system 220 (*green*):



'135 Patent (EX1001), FIG. 7 (annotated)

See also EX1001.0014-15 (col. 7:66-9:55), FIGS. 6, 8.

In both implementations, a POS terminal scans a pre-printed lottery ticket. EX1001.0013 (col. 6:62-65), EX1001.0014-15 (col. 8:66-9:3). The scan captures information from a bar code that “identifies the particular pre-printed ticket” and from a “Universal Product Code bar code that would identify the lottery product.” EX1001.0012 (col. 3:1-4); *see also* EX1001.0013 (col. 5:59-61) (“Barcode information will contain the Ticket Unique Identifier, Universal Product Code and may contain price information.”). In the FIG. 3 implementation, the POS terminal 202 communicates the unique identification information and details of the pre-printed ticket to the lottery system 220. EX1001.0013 (col. 6:64-67). In the FIG. 7 implementation, the POS terminal 202 communicates the “unique identification information and details of the pre-printed ticket ... to the transaction processor 630 who in turn communicates (706) the unique identifier and pre-printed ticket details to a lottery system 220.” EX1001.0014-15 (col. 8:66-9:4).

In both implementations, the lottery system 220 verifies the ticket information, and it determines draw and wager information. EX1001.0013-14 (col. 6:67-7:1); EX1001.0015 (col. 9:4-6). The lottery system 220 activates the ticket and communicates draw and wager information to the POS terminal in a process that varies by implementation. In the FIG. 3 implementation, the lottery system 220 activates the ticket after receiving payment confirmation, and it communicates the

draw and wager information directly to the POS terminal. EX1001.0014 (col. 7:6-12). In the FIG. 7 implementation, the lottery system 220 activates the lottery ticket even before receiving payment confirmation, and it sends draw and wager information to the transaction processor 630. EX1001.0015 (col. 9:2-10). The transaction processor 630 caches the draw and wager details, and it sends these details to the POS terminal 202 only after it receives confirmation from the POS terminal that payment has been received. *Id.* (col. 9:8-21). FIGS. 4-6 and 8 describe other variations of ticket activation processes.

B. Prosecution History

The '135 Patent granted from application s.n. 14/679,028 (the "'028 Application"), which was filed April 6, 2015. EX1001.0001, EX1002.0178. The '028 Application claims priority to a provisional application filed in January 2015. *Id.* The '028 Application was filed with twenty-two claims. EX1002.0214-0219. The '028 Application granted in January 2018 (EX1001.0001) after several office actions.

In January 2017, the Office rejected all claims on prior art grounds. It rejected claims 1-9 & 20 as anticipated by Yacenda, U.S. Patent No. 6,322,446 ("Yacenda"). EX1002.0148-49. It rejected other claims as obvious over Yacenda and McBride, U.S. Patent Publ'n. No. 2009/0227320. EX1002.0149-50. The Office also raised

indefiniteness and subject matter rejections in the same office action. EX1002.0142-48.

Patent Owner argued against the prior art rejections. EX1002.0075-77. In particular, Patent Owner argued that “Yacenda discloses that its system allows the customer to select the numbers it wishes to play - i.e., not a pre-printed lottery ticket.” EX1002.0076. The response reviewed portions of Yacenda’s disclosure demonstrating that, in Yacenda’s system, players select lottery numbers themselves:

To purchase lottery tickets, **a lottery player enters** his/her player information and **ticket information at a player terminal (step 101)**. The player information includes name, age, address, and account information of the lottery player. The ticket information includes types and numbers of the lottery tickets to be purchased by the lottery player. ... After receiving the serial numbers, the lottery agent transmits to the player terminal lottery game data including image data of the lottery tickets (step 113), and at the same time the lottery agent debits the player’s account for the purchase of the lottery tickets (step 115) with the lottery game data, the player terminal displays virtual lottery tickets corresponding to the lottery tickets purchased **including ticket numbers selected by the player and associated with the serial numbers**. The player then plays a lottery game with the virtual lottery tickets displayed on the player terminal (step 117). After winning numbers are drawn by the state and transmitted to the lottery agent (step 119), **the lottery agent compares the winning numbers with the ticket numbers selected by the lottery player (step 121)**.

Id. (emphases original) (quoting Yacenda (EX2041) at col. 6:44-7:13).

In these same remarks, Patent Owner provided a definition of “pre-printed lottery ticket” that distinguished Yacenda:

Based on the foregoing, Yacenda’s system is directly opposite of the instant claims, as *the instant claims require a “pre-printed lottery ticket” which has no lottery numbers associated with it at the time of customer purchase*. The instant Specification defines the “pre-printed lottery ticket” as follows:

The online lottery ticket is manufactured and distributed as pre-printed lottery tickets that do not have a draw date or wager (i.e. lottery numbers) assigned or associated to the pre-printed ticket.

EX1002.0076-77 (emphasis added). The Office accepted the argument and withdrew the rejections based on Yacenda in the next office action. EX1002.0048-60; *see also* EX1002.0017-18.

The Office raised other rejections to the claims in that next office action. It raised an anticipation rejection to claim 21 (EX1002.0056), which did not use the term “pre-printed lottery ticket” (EX1002.0094), over McBride. It also maintained a 35 U.S.C. § 101 rejection to claims 1-14 (EX1002.0050) that ultimately resulted in cancellation of those claims (EX1002.0037-42) and allowance of the remaining claims 15-20 (EX1002.0015-19, EX1002.0001).

C. Other Proceedings

Petitioner filed PGR2020-00084 against U.S. Patent No. 10,769,894 (the “’894 Patent”), which is a continuation patent claiming priority to the ’135 Patent. There, Petitioner challenged claims of the ’894 Patent as obvious over: 1) Szrek alone, 2) Llach in view of Szrek, and 3) Szrek in view of Gilmore. EX1007.0031. The Office accepted the invalidity challenges based on Szrek and Szrek in view of Gilmore. EX1008.0069. It did not reach the invalidity challenges based on Llach in view of Szrek. *Id.* The Office’s final written decision was affirmed on appeal. EX1009.

Patent Owner presented several patentability arguments during PGR2020-00084, including:

- Szrek fails to disclose a transaction processor as claimed,
- The proposed combination of Llach and Szrek is incompatible with lottery systems,
- The prior art fails to disclose a payment confirmation for the pre-printed lottery ticket, and
- The prior art fails to teach subject matter from several dependent claims.

See EX2037 §§ VII.A-D. The Board was not presented with and it did not consider the patentability arguments presented hereinbelow.

In January 2024, Petitioner filed IPR2024-00465 against U.S. Patent No. 11,488,451, a continuation patent that claims priority to the '135 and '894 Patents. Briefing is underway. The Office has not yet decided whether to institute review in IPR2024-00465.

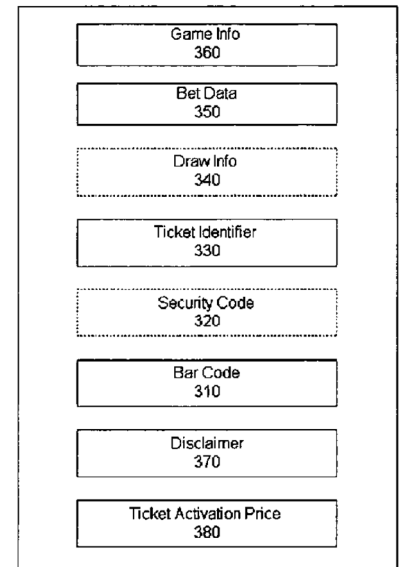
III. BRIEF SUMMARY OF THE PETITION'S PRIOR ART

A. Szrek

Szrek discloses a system for selling preprinted lottery tickets from a POS terminal. EX1005.0001 (Title). The lottery ticket may be preprinted by a commercial printer, printed via an in-store kiosk, at a self-service terminal or on a standard gaming terminal. *Id.* Abstract. The preprinted tickets are not eligible to win prizes unless they are activated at a cash register. *Id.*

In Szrek's system, "[a]ll tickets are 'preloaded' in the game provider's system." EX1005.0006 (col. 3:46-50). "[D]uring ticket activation, the game provider system merely recognizes from the ticket identifier what transaction is activated." *Id.*

Szrek provides a diagrammatic representation of a preprinted lottery ticket 300 in FIG. 3. *See* EX1005.0007 (col. 5:62-6:6). “Each ticket 300 preferably has a disclaimer 370 printed such as ticket 300 will not be eligible in the draws until activated or the like.” *Id.* The ticket 300 contains “bet selections 350, unique ticket identifier 330, barcode 310 that includes ticket identifier 330, duration for number of eligible draws (if activated) 340, ticket price or ticket activation price 380.” *Id.* The bet data 350, which is preprinted on the lottery ticket, represents lottery numbers that are assigned to the ticket



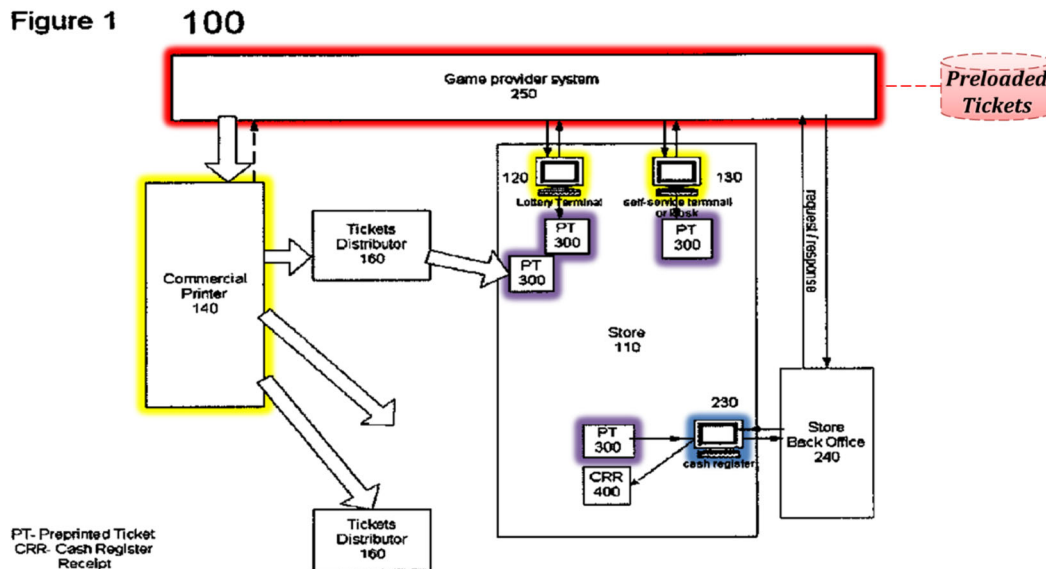
300

**Preprinted Ticket
Figure 3**

***Szrek* (EX1005), FIG. 3**

when it is printed. EX2044 at 11:17-22, 16:16-22, 18:5-19:6. 34:9-39:18, 41:3-45:17; *see also* EX2038 ¶¶ 54, 56, 83-91, 95. The barcode 310 has a fixed part that “indicate[s] the product type” and a variable part that “contain[s] ticket identifier 330.” EX1005.0007 (col. 6:11-12).

Szrek illustrates the logical process of selling lottery tickets in FIG. 1:



Szrek (EX1005), FIG. 1 (annotated)

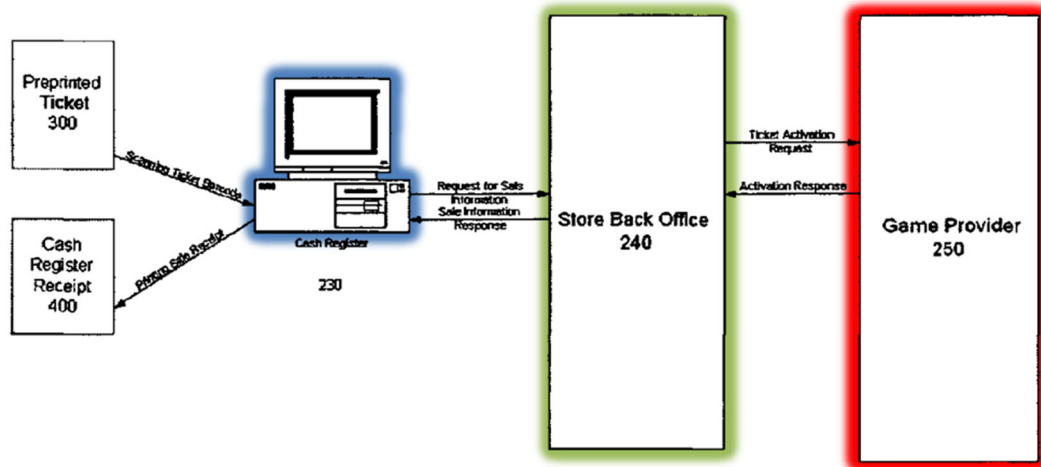
As indicated, the game provider system 250 (*red*) is preloaded with tickets. EX1005.0006 (col. 3:46-50); *see also* EX2044 at 21:1-25:7 (the game provider 250 has a database that stores information about tickets). The preprinted tickets 300 (*purple*) preferably are preprinted by a commercial printer 140 (*yellow*), by a lottery kiosk 130 (also *yellow*), or in a so-called “regular” lottery terminal 120 (again, *yellow*). EX1005.0007 (col. 5:57-61). No matter how they are created, the preprinted tickets 300 are activated at a cash register 230 (*blue*) when they are purchased. EX2038 ¶¶ 93-94, 96; *see also* EX2044 at 40:1-8.

At a commercial printer 140, the preprinted tickets 300 may be generated in response to a processing request from the game provider 250, or they may be generated based on a method of assignment agreed upon between the game provider

250 and the commercial printer 140 that relates a ticket identifier and a data bet on the ticket. EX1005.0008 (col. 7:12-18); *see also* EX2044 at 25:21-27:13. In the case of tickets generated by a self-service terminal 130 or kiosk 130, a lottery player may choose his/her own bet selection and have it printed on the ticket. EX1005.0007 (col. 6:24-25); *see also* EX1005.0006 (col. 3:29-31) (“The ticket can be preprinted according to player’s selection, his favorite bet, or as a computer generated selections (quick pick).”); EX2044 at 34:3-35:13, 37:4-21, 38:11-39:18.

Szrek discloses another embodiment in which self-service terminals 130 and kiosks 130 “print[] customer selected wagers on tickets 300 ... without game provider 250 connectivity.” EX1005.0008 (col. 7:32-35). Here, “the preprinted ticket identifier 330 on the self-service terminal 130 or kiosk 130 could be constructed in a way that part of ticket identifier 330 could correspond to the bet combination 350 chosen by the players.” *Id.* (col. 7:28-32). Again, the ticket has lottery numbers assigned to it when it is preprinted. EX2044 at 43:5-45:17; *see also* EX2038 ¶¶ 54, 56, 83-91, 95.

Szrek illustrates “the logical process 200 of activation of lottery ticket 300 via a cash register 230” (*blue*) in FIG. 2:



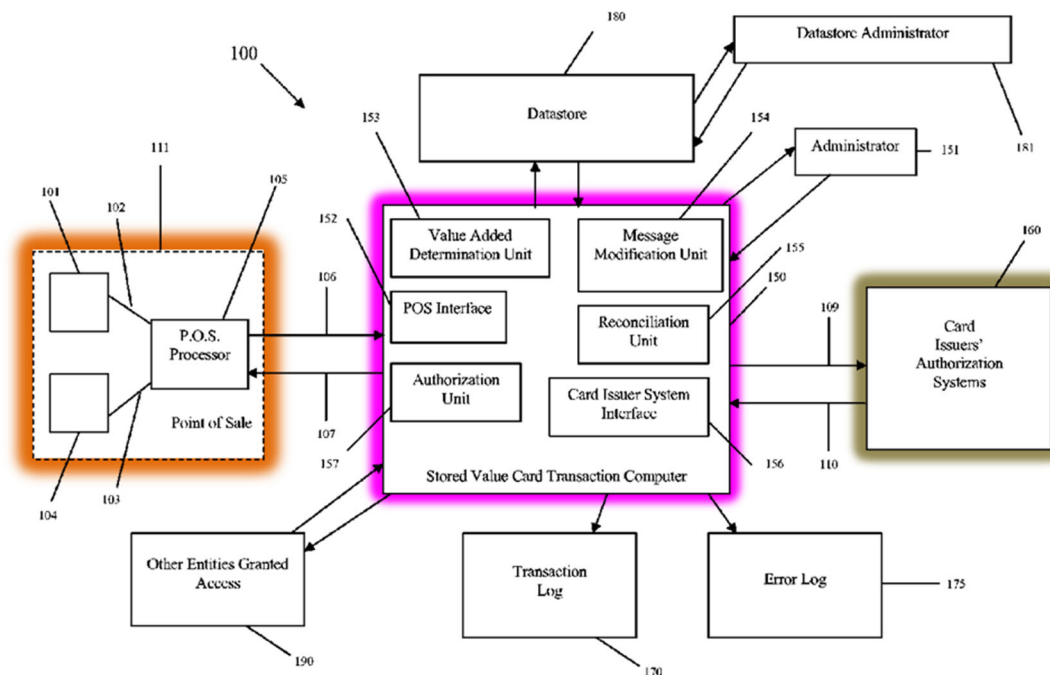
Szrek (EX1005), FIG. 2 (annotated)

“The store clerk scans ticket 300 like any other product.” EX1005.0007 (col. 6:30-31). “Normally when a barcode 310 is scanned for any merchandise, the checkout register 230 application looks up the merchandise price in database [(*green*)] or checks the price by using some algorithmic interface.” *Id.* (col. 6:31-34). In the case of a lottery ticket, the cash register’s “request will be transformed into transactional request to the game provider 250” (*red*). *Id.* (col. 6:34-38). If the ticket had not been activated already, the game provider 250 “activate[s] this ticket by marking a status or state of corresponding identifier or record in the computer memory or on the computer disk or it may even create a record with the corresponding identifier.” *Id.* (col. 6:38-41). The game provider 250 sends back lottery product description, price, and activation receipt identifier, usually with some

security code. EX1005.0006 (col. 4:60-64). “Once the ticket 300 is activated, product type 410 (sale of lottery ticket, or a sale of ticket for the specific game or game event), the original preprinted ticket identifier 330, activation identifier 430, security codes 440, an activation price 450 and valid draw identifier 460, such as draw number or draw time, are printed on cash register receipt.” EX1005.0007 (col. 6:54-59).

B. Llach

Llach discloses a system for processing, activating and redeeming value-added prepaid cards. EX1006.0001 (Title). The system includes a point of sale component 111 (*orange*), a stored value card transaction computer 150 (*pink*), and a card issuers’ authorization system 160 (*brown*):



***Llach* (EX1006), FIG. 1 (annotated)**

The Llach system manages transactions involving stored value cards, such as “gift cards, prepaid telephone cards, loyalty cards, membership cards, ticket cards, entertainment cards, sports cards, prepaid cards, and the like.” EX1006 [0012]. Llach is directed to managing transactions in which value may be added to a stored value card over and above the card’s face value. In one example, a card with a \$25 face value is activated for \$30 when purchased. *Id.* [0016]. In another, a \$15 gift card to a coffee house may have an electronic redemption coupon for a free shot of syrup to be added to coffee. *Id.*

The point of sale component 111 typically is located on a merchant’s premises. *Id.* [0019]-[0022]. It initiates various requests to activate and redeem stored value cards (*id.* [0034]), and it receives response messages when those requests are processed (*id.* [0050], [0052]).

The transaction processor receives requests from the point of sale component 111 and processes them. *Id.* [0023], [0046]. As part of its operation, it determines whether the card to which requests apply is “eligible for value differentiation.” *Id.* If so, the transaction processor 150 modifies a received request to add value before sending the request to a card issuers’ authorization system 160. *Id.* [0048], [0051]. The card issuers’ authorization system 160 activates, deactivates, and redeems value from stored value cards. *Id.* [0023].

Llach has no disclosure related to lottery tickets or activation protocols for lottery tickets. *See* EX1003 ¶ 209 (“Llach does not expressly disclose activating a pre-printed lottery ticket”); *see also* EX2038 ¶ 67, EX2044 at 85:19-86:3.

IV. **LEGAL STANDARDS**

Petitioner bears the burden to prove invalidity by a preponderance of the evidence. 35 U.S.C. § 316 (e).

In an *inter partes* review, claims are construed using the same claim construction standard that would be used to construe claims in a civil action. *See* 37 C.F.R. § 42.100(b) (2020). Claims are construed in accordance with the ordinary and customary meaning of such claims as understood by one of ordinary skill in the art at the time of the invention. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312-14 (Fed. Cir. 2005) (en banc). To begin with, the context in which a term is used in a claim can be highly instructive. *Id.* at 1314. In construing claims, the Board must take into account the specification and prosecution history. *Id.* at 1315-17. If the specification or prosecution history “reveal[s] a special definition given to a claim term by the patentee that differs from the meaning it would otherwise possess[,] ... the inventor’s lexicography governs.” *Id.* at 1316 (citing *CCS Fitness, Inc. v. Brunswick Corp.*, 288 F.3d 1359, 1366 (Fed. Cir. 2002)); *Data Engine Techs. LLC v. Google LLC*, 10 F.4th 1375 (Fed. Cir. 2021) (“a patentee may define a claim term ... in the prosecution history”) (quoting *Honeywell Inc. v. Victor Co. of Japan*, 298

F.3d 1317, 1323 (Fed. Cir. 2002)). Another exception to the general rule that claims are given their ordinary and customary meaning is “when the patentee disavows the full scope of a claim term either in the specification or during prosecution.” *Uship Intell. Props., LLC v. United States*, 714 F.3d 1311, 1313 (Fed. Cir. 2013) (quoting *Thorner v. Sony Comput. Entm’t Am., LLC*, 669 F.3d 1362, 1365 (Fed. Cir. 2012)); *see also Poly-America, L.P. v. API Indus., Inc.*, 839 F.3d 1131, 1136 (Fed. Cir. 2016) (“Disavowal ... requir[es] clear and unequivocal evidence that the claimed invention includes or does not include a particular feature.”).

A claim is obvious when “the differences between the claimed invention and the prior art are such that the claimed invention as a whole would have been obvious before the effective filing date of the claimed invention to a person having ordinary skill in the art to which the claimed invention pertains.” 35 U.S.C. § 103. The question of obviousness is resolved on the basis of underlying factual determinations, including: (1) the scope and content of the prior art; (2) any differences between the claimed subject matter and the prior art; (3) the level of ordinary skill in the art; and (4) when available, objective evidence such as commercial success, long-felt but unsolved needs, and failure of others. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966); *see KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 407 (2007) (“[T]he [*Graham*] factors continue to define the inquiry that controls.”).

V. LEVEL OF ORDINARY SKILL IN THE ART

For purpose of this proceeding, Patent Owner adopts the Petition's proposed definition of the level of ordinary skill in the art. Petition (paper 2) at 2-3 (herein "Pet."). The ordinary level of skill in the art is an artisan with a working knowledge of POS activation systems and lottery systems that was gained through a mixture of training and work experience in the relevant field such as (i) having a Bachelor's degree in computer science, computer communications, electrical engineering, or equivalent degree, coupled with at least three years of work experience; (ii) having a Master's degree in computer science, computer communications, or electrical engineering, but having less work experience; or (iii) having no formal degree, but having experience in the relevant field of at least six years of work experience.

Patent Owner's expert, Dr. Jeffrey Miller, has a level of experience that exceeds this ordinary level of skill. *See generally* EX2038 ¶¶ 3-15, 51; *see also* EX2039. Dr. Miller has a Ph. D. in computer science. *Id.* He has over 20 years of experience teaching computer science and software engineering at various universities. *Id.* And Dr. Miller has a working familiarity with both POS activation systems and lottery systems. *Id.*

VI. CLAIM CONSTRUCTION

A. “Pre-Printed Lottery Ticket”

The term “pre-printed lottery ticket” should be construed as: a lottery ticket which has no lottery numbers associated with it at the time of customer purchase.¹ Patent Owner provided this construction expressly during prosecution of the ’135 Patent, and it successfully distinguished prior art on this basis. And, of course, the construction is supported by the specification.

Taking the specification, first, the specification identifies the pre-printed lottery tickets as being “manufactured and distributed as pre-printed lottery tickets that do not have a draw date or wager (i.e. lottery numbers) assigned or associated

¹ In PGR2020-00084, Patent Owner argued, in a Patent Owner’s Preliminary Response, that the term “pre-printed lottery ticket” “prohibits the inclusion of certain draw information—namely, draw date—on the pre-printed ticket.” EX2043.0012. Draw date information is not mentioned in the construction, here, simply because it is unrelated to the present patentability arguments and, therefore, the Board need not decide that aspect of claim construction to resolve the present dispute. *See Nichia Corp. v. DSS, Inc.*, 2023 WL 7211097, at *3 (Fed. Cir. 2023) (citing *Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017)).

to the pre-printed ticket.” EX1001.0011-12 (cols. 2:65-3:1). “Until purchased and activated, the pre-printed tickets have no value, nor do they have any wager or draw date assigned.” *Id.* (col. 2:8-9). After tickets are scanned and the unique identification information and product information therefrom are transmitted to a lottery administration system, “the lottery system will generate wagers for the pre-printed ticket and assign the next available draw date.” *Id.* (col. 2:11-14).²

As explained (§ II.B *supra*), during prosecution, when confronted by prior art rejections based on Yacenda, Patent Owner made this definition express:

Yacenda’s system is directly opposite of the instant claims, as ***the instant claims require a “pre-printed lottery ticket” which has no lottery numbers associated with it at the time of customer purchase.*** The instant Specification defines the “pre-printed lottery ticket” as follows:

The online lottery ticket is manufactured and distributed as pre-printed lottery tickets that do not have a draw date or wager (i.e. lottery numbers) assigned or associated to the pre-printed ticket.

² The specification discloses another embodiment in which a lottery ticket 912 already is associated with wager information 914 which may be printed on a ticket to allow selection of preferred numbers by a consumer. *See* EX1001.0015 (col. 10:5-10). As explained, this embodiment was disavowed by the definition provided in the ’135 Patent’s prosecution history. EX1002.0076-77.

EX1002.0076-77 (citing EX1001.0011-12 (cols. 2:65-3:1)) (emphasis added). The term “pre-printed lottery ticket” distinguishes Yacenda because, there, players enter ticket information including lottery numbers at a player terminal. EX1002.0075-76. The Office accepted the definition, and it withdrew the rejection based on Yacenda. *See* EX1002.0048-60. Patent Owner’s argument represents an express definition of the term “pre-printed lottery ticket” and a clear disavowal of claim scope to tickets that already have lottery numbers assigned to them at the time of customer purchase. *See Data Engine*, 10 F.4th at 1375 (“a patentee may define a claim term ... in the prosecution history”); *TMC Fuel Injection Sys., LLC v. Ford Motor Co.*, 682 Fed. App’x 895, 898 (Fed. Cir. 2017) (“Prosecution history disclaimer applies when a patentee makes statements during prosecution that would cause ‘a competitor [to] reasonably conclude that the applicant clearly and unmistakably limited’ the scope of its claims.”); *see also Poly-America*, 839 F.3d at 1136 (“Disavowal ... requir[es] clear and unequivocal evidence that the claimed invention includes or does not include a particular feature.”). This definition should be applied in this IPR.

Although the Petition cites to these prosecution arguments, it fails to acknowledge the claim construction provided therein. *See* Pet. § VI.B (“The applicant successfully argued that the prior art cited by the examiner failed to disclose a ‘pre-printed lottery ticket.’”); *see also id.* § VIII (no construction of “pre-printed lottery ticket”). And, as discussed below, the Petition fails to demonstrate

that the cited art discloses a “pre-printed lottery ticket” when that term is given its proper construction.

B. “Product Information”

Claims 1-2 and 5-6 recite two types of information, “unique identification information” and “product information,” that are scanned by point-of-sale equipment and transmitted to a lottery administration system. These claims recite this subject matter as follows:

Claim	Claim Language
	Claim 1: [a] scanning at a point-of-sale (POS) terminal a pre-printed lottery ticket to obtain [1] unique identification information and [2] product information from the pre-printed lottery ticket; [b] transmitting the [1] unique identification information and [2] product information from the POS terminal to a lottery administration system;
	Claim 2: [a] scanning at a point-of-sale (POS) terminal a pre-printed lottery ticket to obtain [1] unique identification information and [2] product information from the pre-printed lottery ticket; [b] transmitting the [1] unique identification information and [2] product information from the POS terminal to a transaction processor; [c] transmitting the [1] unique identification information and [2] product information from the transaction processor to a lottery administration system;

Claim	Claim Language
Claim 5:	[d]at least one memory unit for storing instructions, which when executed by the at least one processing unit configure the POS terminal to provide a method of providing a lottery ticket for a random draw, wherein the method of providing a lottery ticket for a random draw comprises [1]scanning at the POS terminal a pre-printed lottery ticket to obtain [i] unique identification information and [ii] product information from the pre-printed lottery ticket, [2]transmitting the [i] unique identification information and [ii] product information from the POS terminal to a lottery administration system,
Claim 6:	[c]at least one memory unit for storing instructions, which when executed by the at least one processing unit configure the transaction processor to provide a method of providing a lottery ticket for a random draw, wherein the method of providing a lottery ticket for a random draw comprises [1]scanning at a point-of-sale (POS) terminal pre-printed lottery ticket to obtain [i] unique identification information and [ii] product information from the pre-printed lottery ticket, [2]transmitting the [i] unique identification information and [ii] product information from the POS terminal to the transaction processor, [3]transmitting the [i] unique identification information and [ii] product information from the transaction processor to the lottery administration system,

EX1001.0015-16 (bracketed annotations added).

The term “product information” means information that identifies a product but is separate and distinct from wager information and unique identification

information. This construction is mandated by the term’s usage within these claims, the specification description, and the prosecution history.

Consider, first, the claims’ usage of the term “product information” in context with other claim terms. *See Phillips*, 415 F.3d at 1314. The claim’s “scanning” elements recite that the product information is “obtain[ed] from the pre-printed lottery ticket” when “scan[ned] at a point-of-sale (POS) terminal.” As set forth in the prosecution history (§ II.B), a pre-printed lottery ticket is a ticket that “has no lottery numbers associated with it at the time of customer purchase.” *See also* § VI.A *supra*. Because product information is obtained from a scan of a ticket that has no lottery numbers associated with it, the scanned “product information” cannot include lottery numbers.

Additionally, “product information” is recited in these claims separately from the term “unique identification information,” which demonstrates that these two types of information are separate and distinct from each other. *Kyocera Senco Indus. Tools Inc. v. ITC*, 22 F.4th 1369, 1382 (Fed. Cir. 2022) (“There is ... a presumption that those components [separately listed] are distinct.”); *Becton, Dickinson & Co. v. Tyco Healthcare Grp., LP*, 616 F.3d 1249, 1254 (Fed. Cir. 2010) (“Where a claim lists elements separately, ‘the clear implication of the claim language’ is that those elements are ‘distinct component[s]’ of the patented invention.”) (quoting *Gaus v. Conair Corp.*, 363 F.3d 1284, 1288 (Fed. Cir. 2004)). Specifically, claims 1-3 and

5-6 recite that the product information and the unique identification information both are obtained by scanning the pre-printed lottery ticket, and they are transmitted to a lottery administration system. Therefore, each type of information is distinct from the other.

Claim 4 recites “unique identification information” in a claim that does not recite “product information.” The different recitations among these claims buttress the presumption that the separately recited product information and unique identification information are separate and distinct from each other. *Phillips*, 415 F.3d at 1314 (the usage of a term in one claim often illuminates the meaning of the same term in other claims.).

The specification confirms the understanding provided by the claims. As discussed, the “pre-printed lottery tickets [] do not have a draw date or wager (i.e. lottery numbers) assigned or associated to the pre-printed ticket” (EX1001.0011-12 (col. 2:65-3:1)), which shows that the product information does not include lottery numbers. *See also id.* (col. 3:11-14) (“Once scanned by the retailer’s POS and paid for by the customer, the lottery system will generate wagers for the pre-printed ticket and assign the next available draw date.”).

The specification further explains that pre-printed lottery tickets may “have a Universal Product Code bar code that would identify the lottery product.” EX1001.0012 (col. 3:1-4). The lottery tickets also may “include[] ... purchase

information, such as the cost of the pre-printed ticket 108 and the product the pre-printed ticket is for.” EX1001.0013 (col. 5:53-56); *see also id.* (col. 5:59-61) (price information). A POSITA would recognize these informational elements as product information, and they are separate and distinct from the tickets’ unique identifiers.

Other specification description confirms that product information is separate and distinct from unique identification information. A “pre-printed lottery ticket is scanned (402) at a POS terminal 202 and unique identification information ***along with*** product information of the pre-printed ticket is cached at the POS terminal (404).” EX1001.0014 (col. 7:18-21) (emphasis added). The product information may or may not be transmitted from a POS terminal when the POS terminal transmits unique identification information. EX1001.0012 (col. 4:25-28) (“The retailer’s POS will communicate the transaction type, such as purchase or cancel, and the pre-printed ticket details, such as product information ***and/or*** a unique identifier, to the lottery system”) (emphasis added); *see also* EX1001.0013 (col. 5:34-38) (“product information ***and/or*** a unique identifier”) (emphasis added). Thus, the specification disclosure supports this construction.

As discussed below, the Petition fails to demonstrate that the cited art discloses “product information,” as claimed.

VII. THE PETITION FAILS TO SHOW INVALIDITY OF THE CHALLENGED CLAIMS.

The Petition advances two grounds of invalidity, as follows:

Ground	Reference(s)	Basis	Claims
1	Szrek	§ 103	1-6
2	Llach, Szrek	§ 103	1-6

Pet. at 2. The Board should reject both Grounds.

A. Ground 1

1. Claims 1-6: Szrek does not teach or suggest a “pre-printed lottery ticket.”

The Petition fails to meet its burden to prove obviousness on Ground 1 because Szrek fails to disclose a system that processes a “pre-printed lottery ticket,” as claimed, one that does *not* have lottery numbers associated with it at the time of customer purchase. *See* § VI.A *supra*. The Petition’s invalidity challenges apply prior art to improperly-construed claims because the Petition overlooks the claim construction that Patent Owner presented during prosecution. *See* Pet. §§ VI.B, VIII.

In Szrek’s system, by the time lottery tickets 300 are purchased at a cash register 230, they have lottery numbers already assigned to them and, therefore, they are not “pre-printed lottery tickets,” as claimed:

In accordance with the novel method of the present invention, ... the ticket is preprinted (*printed ahead of the ticket sale* by a commercial printer capable of printing lottery tickets or on a wagering terminal, self-service lottery terminal, or at a lottery kiosk).

The ticket can be preprinted according to player's selection, his favorite bet, or as a computer generated selections (quick pick).

EX1005.0006 (col. 3:23-31) (emphases added); *see also* EX1005.0007 (col. 6:24-27); EX2038 ¶¶ 56-61, 83-84, 86-91; EX2044 at 11:11-22, 16:9-22, 34:20-25, 37:4-21, 38:11-40:8. In this regard, Szrek suffers from the same defect as the Yacenda reference that Patent Owner distinguished during prosecution. *See* § II.B *supra*.

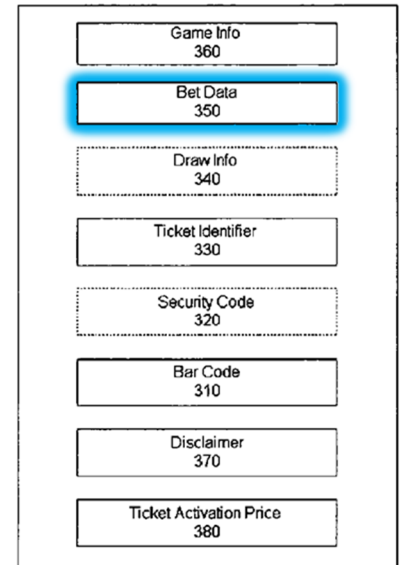
All challenged claims recite “pre-printed lottery tickets:”

Claim	Claim Language
Claim 1:	scanning at a point-of-sale (POS) terminal <i>a pre-printed lottery ticket</i> to obtain unique identification information and product information from <i>the pre-printed lottery ticket</i> ; ... receiving at the POS terminal from the lottery administration system draw details associated with <i>the pre-printed lottery ticket</i> ;
Claim 2:	scanning at a point-of-sale (POS) terminal <i>a pre-printed lottery ticket</i> to obtain unique identification information and product information from <i>the pre-printed lottery ticket</i> ; ... receiving by the transaction processor from the lottery administration system draw details associated with <i>the pre-printed lottery ticket</i> ; receiving at the POS terminal from the transaction processor draw details associated with <i>the pre-printed lottery ticket</i> ;

Claim	Claim Language
Claim 4:	wherein the method of generating a lottery ticket for a random draw comprises receiving at the lottery administration system unique identification information from <i>a pre-printed lottery ticket</i> ,
Claim 5:	wherein the method of providing a lottery ticket for a random draw comprises scanning at the POS terminal <i>a pre-printed lottery ticket</i> to obtain unique identification information and product information from <i>the pre-printed lottery ticket</i> , ... receiving at the POS terminal from the lottery administration system draw details associated with <i>the pre-printed lottery ticket</i> ,
Claim 6:	wherein the method of providing a lottery ticket for a random draw comprises scanning at a point-of-sale (POS) terminal <i>pre-printed lottery ticket</i> to obtain unique identification information and product information from <i>the pre-printed lottery ticket</i> , ... receiving at the POS terminal from the transaction processor draw details associated with <i>the pre-printed lottery ticket</i> ,

Claim 3 depends multiply from claims 1 and 2 and, therefore, includes their features.

In Szrek's system, the lottery ticket has lottery numbers—called “bet data” or “bet selections”—associated with it prior to the time of customer purchase. EX2038 ¶ 84; EX2044 at 11:17-2, 16:16-22, 40:1-8. The lottery ticket “contains many elements of a traditional lottery ticket, including bet selections 350” (*blue*). EX1005.0007 (col. 5:65-67), *see also* EX1005.0008 (col. 7:17-18) (discussing a “data bet on the ticket 350”). In all the embodiments disclosed by Szrek, the lottery ticket 300 already has lottery numbers (Szrek's bet selections 350) associated with them at the time of purchase. Therefore, Szrek's tickets are not “pre-printed lottery tickets” within the meaning of the challenged claims. *See* EX1002.0076-77 (“the instant claims require a ‘pre-printed lottery ticket’ which has no lottery numbers associated with it at the time of customer purchase.”).



300

**Preprinted Ticket
Szrek (EX1005), FIG. 3**

Szrek's tickets 300 may be generated in several ways: They may be generated by a commercial printer 140, they may be generated by a lottery terminal 120 or they may be generated at a self-service kiosk 130. *See* EX1005, FIG. 1, cols. 3:61-4:6, 5:57-61; EX2044 at 32:1-7. When the tickets are generated by a commercial printer 140, “[t]he game provider will either provide bets information to the commercial printer or agree on the method of generation of selections,” also described as an “algorithmic method of generation of the bets.” EX1005.0006 (col. 4:1-6). These

bet selections are the tickets' lottery numbers, and they are assigned to the tickets before the time of customer purchase. EX2038 ¶¶ 87-88; EX2044 at 11:17-22, 16:16-22, 40:1-8.

Tickets from self-service terminals, kiosks, or so-called “regular” lottery terminals are created by transactions initiated at those devices before the tickets are scanned at a cash register. EX2038 ¶¶ 89-90. These tickets are “logged and processed on the game provider system and then printed on these devices.” EX1005.0006 (col. 4:63-66). “A lottery player may choose his own selection and have it printed at the kiosk 130 or self-service terminal 130, or he may pick up a ticket 300 printed by the commercial printer 140.” EX1005.0007 (col. 6:24-27). Here, again, these bet selections are the tickets' lottery numbers, and they are assigned to the tickets before the time of customer purchase. EX2038 ¶¶ 89-90, 95, 98-101; EX2044 at 11:17-22, 34:20-25, 37:4-21, 40:1-89, 45:5-17. Thus, Szrek's tickets are not pre-printed lottery tickets, as claimed.

Neither Petitioner nor its expert alleges that Szrek meets the claims under the proper construction of “pre-printed lottery ticket.” As explained (§ VI.A), although the Petition acknowledges the prosecution argument that distinguished Yacenda, it ignores the definition that Patent Owner provided when making that argument. *Compare* Pet. § VI.B (no construction of “pre-printed lottery ticket” or discussion of prosecution history) *with* EX1002.0076-77 (“the instant claims require a ‘pre-

printed lottery ticket’ which has no lottery numbers associated with it at the time of customer purchase.”). So, too, does its expert. *See* EX1003 §§ III.C (prosecution history discussion fails to acknowledge claim construction), IV (“pre-printed lottery ticket” not construed). The prosecution argument is a clear disavowal because it clearly and unequivocally demonstrates that the term “pre-printed lottery ticket” does not include tickets that have lottery numbers associated with them at the time of customer purchase. *Poly-America*, 839 F.3d at 1136 (Fed. Cir. 2016) (Disavowal occurs when there is “clear and unequivocal evidence that the claimed invention includes or does not include a particular feature.”).

With respect to “pre-printed lottery ticket,” the Petition argues:

[S]canning at a point-of-sale (POS) terminal a pre-printed ticket to obtain unique information ... from the pre-printed lottery ticket: Szrek discloses “*Preprinted tickets* (PT) 300,” where “[e]ach ticket 300 preferably has a barcode 310 that could be *scanned* on the cash register [i.e. *POS terminal*], with information allowing identifying this *barcode as lottery ticket 300* and *uniquely identifying* the ticket 330,” element 330 being the “*unique ticket identifier 330*.” Ex. 1005, 5:57, 5:67, 6:7-10. Thus, Szrek discloses that a pre-printed lottery ticket contains a *barcode* which *uniquely identifies* the ticket when *scanned at a POS terminal*. Ex. 1003, ¶¶108-09.

Pet. at 21 (emphasis in original).³ Nothing in this argument suggests that the Szrek ticket meets the express construction applied during prosecution of the '135 Patent. EX1002.0076-77 (“the instant claims require a ‘pre-printed lottery ticket’ which has no lottery numbers associated with it at the time of customer purchase.”).

The Petition’s other arguments, however, recognize that Szrek’s tickets have the lottery numbers associated with them before the time of customer purchase:

Szrek discloses that each ticket “has a barcode 310 that could be scanned on the cash register, with information identifying this barcode as lottery ticket 300 and uniquely identifying the ticket 330.” *Id.*, 6:7-10. The barcode could also include product information *like the chosen bet combination* or the sequence counter. *Id.*, 7:21-31.

Pet. at 10-11 (emphasis added).

Szrek further discloses that “[t]he ticket can be preprinted ... as a computer generated selections (quick pick),” and a POSITA would understand that “quick pick” refers to an option for a customer of a lottery ticket to have *a computer choose random numbers for a random draw*. *Id.*, 3:28-31; Ex. 1003, ¶106.

Id. at 20 (emphases added).

³ The Petition makes no separate argument on this issue for any other claim. *See* Pet. at 37 (claim 2), 45-46 (claim 4), 49-50 (claim 5), 52-53 (claim 6).

Along with this information encoded in the barcode, Szrek discloses that the ticket identifier itself (which as discussed above is scanned from the barcode) also contains product information. For example, Szrek discloses that “part of ticket identifier 330 could correspond to ***the bet combination 350 chosen by the players*** [or] some element making this ticket unique, such as issued tickets sequence counter on said self-service terminal 130 or kiosk 130,” i.e. product information. Ex. 1005, 7:21-31.

Id. at 22 (emphasis added); *see also id.* at 25 (also relating a “bet combination 350 chosen by the players” to the ticket’s identifier 330). And Petitioner’s expert agrees that, no matter whether Szrek’s tickets are preprinted at the commercial printer 140, the lottery terminal 120, or the self-service terminal 130, the tickets have lottery numbers associated with them at the time of printing, before the time of customer purchase. EX2044 at 11:17-22, 16:16-22, 32:1-7, 34:20-25, 37:4-21, 40:1-8, 43:5-8, 44:16-45:17, 49:24-50:17.

Thus, Petitioner and its expert acknowledge what Szrek’s FIG. 3 shows expressly: The ticket’s lottery numbers, because they are preprinted as bet data 350 on the lottery tickets 300, are associated with Szrek’s tickets prior to the time of customer purchase. There can be no dispute that Szrek fails to disclose a “pre-printed lottery ticket” that “has no lottery numbers associated with it at the time of customer purchase.” EX1002.0076-77; § VI.A *supra*. Thus, Ground 1 fails.

The Board should reject the Petition’s argument the Board’s analysis of the ’894 Patent in PGR2020-00084 somehow shows that Szrek discloses a “pre-printed lottery ticket,” as claimed in the ’135 Patent. Pet. at 21. The term “pre-printed lottery ticket” was not construed in PGR2020-00084. See EX1008 § III. In fact, the Board declined to consider the effect of the prosecution history’s disavowal in its institution decision in PGR2020-00084. EX2042.0011.

More importantly, the claims of the ’894 Patent are materially different than those of the ’135 Patent.⁴ The claims of the ’894 Patent demonstrate that the term “pre-printed lottery ticket,” as used in that patent’s claims, could have lottery numbers associated with them at the time of purchase. For example, dependent claims 21 and 44 of the ’894 Patent recite that “one or more randomly determined lottery numbers [are] associated with the pre-printed lottery ticket prior to the time the pre-printed lottery ticket is purchased at the POS.” EX2040.0017-18. While the

⁴ Petitioner’s suggestion, that the terminal disclaimer filed in the ’894 Patent somehow informs the Board’s obvious analysis of the ’135 Patent (Pet. at 1, 9), is misguided. A terminal disclaimer merely is an expedient that removes a double patenting rejection. *Quad Env. Techs. Corp. v. Union Sanitary Dist.*, 946 F.2d 870, 874 (Fed. Cir. 1991). The Board’s obviousness decision in PGR2020-00084 does not extend to the Challenged Claims of the ’135 Patent.

definitional statement provided during prosecution of the '135 Patent may not be a good fit for the '894 Patent's claims, it governs construction of the Challenged Claims of the '135 Patent and it constitutes a clear disavowal of claim scope.

Ground 1 should be rejected.

2. Claims 1-3, 5, and 6: Szrek does not teach or suggest transmitting product information to a lottery administration system, as claimed.

On Ground 1, the Petition also fails to meet its burden to prove obviousness of claims 1, 2, 5, and 6 because the cited prior art fails to teach or suggest transmitting product information to a lottery administration system, as claimed. The claims recite these features as follows:

Claim	Claim Language
Claim 1:	[b]transmitting the [1] unique identification information and [2] product information from the POS terminal to a lottery administration system;
Claim 2:	[c] transmitting the [1] unique identification information and [2] product information from the transaction processor to a lottery administration system;

Claim	Claim Language
	Claim 5: [d]at least one memory unit for storing instructions, which when executed by the at least one processing unit configure the POS terminal to provide a method of providing a lottery ticket for a random draw, wherein the method of providing a lottery ticket for a random draw comprises... [2]transmitting the [i] unique identification information and [ii] product information from the POS terminal to a lottery administration system,
	Claim 6: [c]at least one memory unit for storing instructions, which when executed by the at least one processing unit configure the transaction processor to provide a method of providing a lottery ticket for a random draw, wherein the method of providing a lottery ticket for a random draw comprises ... [3]transmitting the [i] unique identification information and [ii] product information from the transaction processor to the lottery administration system,

The Petition argues that Szrek renders obvious “transmitting ... product information to the lottery administration system” because Szrek discloses transmitting a ticket identifier 330, which includes bet combinations or sequence counters selected by players to the game provider 250:

[T]ransmitting ... the product information: Szrek also discloses that the transmitted transaction request contains product information. Ex. 1003, ¶118. As just discussed, Szrek discloses or renders obvious that the ticket identifier 330 is sent by the cash register (*i.e. POS terminal*) to the game provider (*i.e. lottery administration system*) via a transaction request. Ex. 1005, 3:47-50; 6:36-39. The ticket identifier contains product information.

Szrek discloses that “part of ticket identifier 330 could correspond to the bet combination 350 chosen by the players [or] some element making this ticket unique, such as issued tickets sequence counter on said self-service terminal 130 or kiosk 130,” *i.e. product information*. Ex. 1005, 7:21-31. Thus, Szrek discloses that the POS terminal transmits a transaction request to the game provider, and the transaction request contains the ticket identifier 330 which includes product information such as bet combination or sequence counter.

Pet. at 25 (emphases in original). This argument fails to meet the claims’ requirements that “product information” be transmitted to a lottery administration system, because neither type of information is separate and distinct from the ticket’s lottery numbers and from the unique identification information, as the claims require. *See* § VI.B *supra*.

The Petition’s first theory, that a bet combination (a player’s selected lottery numbers) represents “product information,” should be rejected because “product information” does not include information about a ticket’s lottery numbers. *See* § VI.B *supra* (“product information” is separate and distinct from a ticket’s lottery numbers because the product information is obtained from a scan of a “pre-printed lottery ticket,” which has no lottery numbers associated with it at the time of customer purchase). Even if Szrek teaches to send bet combination information to a game provider system 250 when a ticket is scanned, this bet combination data

reflects the ticket's lottery numbers which cannot be "product information," under the claims. EX2038 ¶¶ 114-116.

This first theory also is wrong because Szrek teaches that the bet combination is integrated within the lottery ticket's ticket identifier 330. EX1005.0008 (col. 8:21-22) ("part of ticket identifier 330 could correspond to the bet combination 350 chosen by the players"); *see also* EX2044 at 19:2-6 (the ticket's lottery number information is embedded into the ticket identifier 330), EX2038 ¶ 117. As explained, under the claims, "product information" is separate and distinct from a ticket's unique identification information. § VI.A *supra*. Transmission of bet combination data simply does constitute transmitted "product information" under the claims.

The Petition's second theory, that a sequence counter represents "product information," should be rejected because "product information" must be separate and distinct from a ticket's unique identification information. § VI.B *supra*. Szrek discloses that an issued tickets sequence counter is a unique identifier for the ticket. EX1005.0008 (col. 7:28-30) (the sequence counter is "[a]nother part of ticket identifier ...making this ticket unique"); *see also* EX2044 at 46:9-17 (a sequence counter is a unique serial number), 51:9-24 (the sequence counter is a unique identifier of the ticket "without the ticket identifier being previously known to the game provider system"); EX2038 ¶¶ 118-119. In the parlance of the Challenged

Claims, the sequence counter operates as “unique identification information” for a ticket, but it does not correspond to “product information.”

The passages cited by the Petition—Szrek at cols. 3:47-50, 6:36-39 and 7:21-37 (Pet. at 25-26)—fail to show that Szrek teaches or suggests transmitting product information a lottery administration system, as claimed. At col. 3:47-50, Szrek states:

All tickets are “preloaded” in the game provider’s system, and during ticket activation, the game provider system merely recognizes *from the ticket identifier* what transaction is activated (e.g. lotto, 6 specific boards known to the system and the player).

EX1005.0006 (col. 3:47-50). This disclosure does not teach or suggest a transmission of product information to a lottery ticket, as claimed. Instead, this passage only discusses transmission of a ticket identifier. EX2038 ¶ 111. As discussed, the claims’ “product information” is separate and distinct from “unique identification information” (§ VI.B). Moreover, Szrek discloses that the game provider 250 “sends back lottery product description [and] prices” to a store back office 240 in response to the activation request (EX1005.0006 (col. 4:60-64)), which teaches to a POSITA that it would be superfluous to send product information to Szrek’s game provider 250 because it already stores product information before the ticket is activated.

Szrek's disclosure at col. 6:36-39 likewise fails to teach or suggest transmission of product information separate from unique product information, as claimed. Here, Szrek states:

In case of the ticket 300 of the present invention, this [cash register] request will be transformed into transactional request to the game provider 250 who verifies if this Checkout Play 300 was already activated. If not, it will activate this ticket by marking a status or state of corresponding identifier or record in the computer memory or on the computer disk ...

EX1005.0007 (col. 6:34-39). This disclosure fails to teach or suggest that any transmission to a lottery administration system includes “product information,” as claimed. Here, Szrek teaches that the information communicated between the cash register 202 and the store back office 240 is different from the information communicated between the store back office 240 and the game provider system 250 because the cash register's request is *transformed*. See also EX1005.0006 (col. 4:59-60). A POSITA, reading the passage at col. 6:34-39 together with the passage at col. 3:47-50, would recognize that the store back office 240 transforms a request from the cash register 230 into an activation request that includes only the ticket's ticket identifier 300. EX2038 ¶¶ 109-110. Nothing in this passage teaches or suggests that Szrek's system transmits “product information” to the game provider 250, the Petition's purported “lottery administration system.”

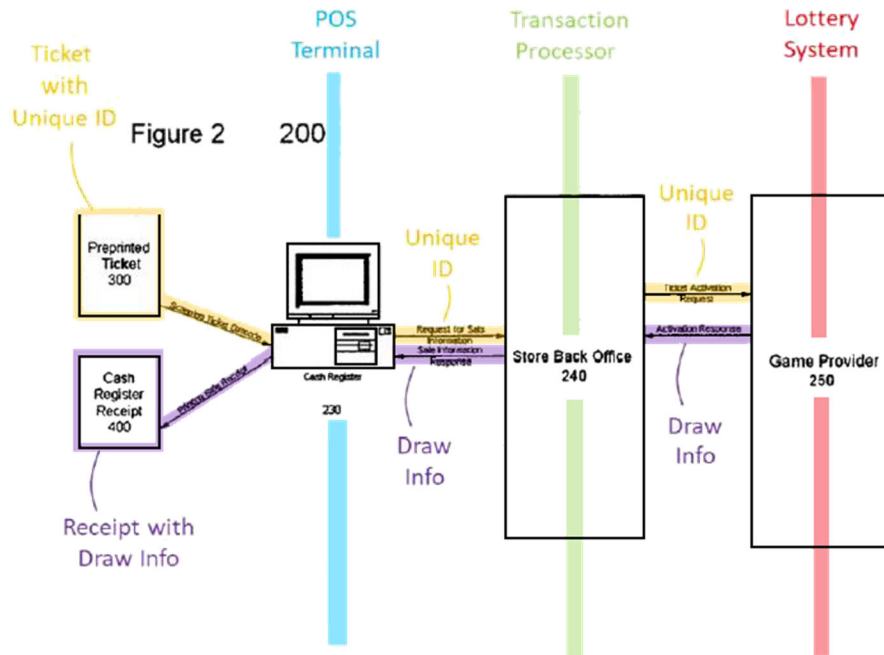
Finally, the passage at col. 7:21-37 fails to teach or suggest a transmission of product information, as claimed. This passage states:

In some embodiments of this invention, the preprinted ticket identifier 330 on the self-service terminal 130 or kiosk 130 could be constructed in a way that part of ticket identifier 330 could correspond to the bet combination 350 chosen by the players.

For example, in a lotto game 6 of 49, each combination corresponds to one of the numbers from 1 to 13,983,816, e.g. combination 1, 2, 3, 4, 5, 6 could correspond to 1 and 1, 2, 3, 4, 5, 7 to 2 etc. In this case, the game provider system may learn bet combination from the ticket identifier and authorize this bet. Another part of ticket identifier could contain some element making this ticket unique, such as issued tickets sequence counter on said self-service terminal 130 or kiosk 130. Such an approach may introduce some limitations i.e. limit number of bets played on a single preprinted ticket 300, but in exchange offer some advantages. E.g. this type of ticket identifier assignment allows printing customer selected wagers on tickets 300 on self-service terminals 130 and in kiosks 130 without game provider 250 connectivity.

EX1005.0008 (col. 7:18-37). This passage describes the bet combination and sequence counter on which the Petition's "product information" theories are based (Pet. at 25), but, as discussed above, neither qualifies as "product information," as claimed. Again, a bet combination represents a ticket's lottery numbers and a sequence counter represents a ticket's unique identifier. "Product information" must be separate and distinct from both types of information. *See* § VI.B *supra*.

The Board should reject the Petition’s suggestion that it already decided the issue of “product information” in PGR2020-00084. Pet. at 26 (citing EX1008.0056). In PGR2020-00084, the Board was confronted by a different recitation than here, namely, a dependent claim 11 that recited properties of a receiving step that, as recited in parent independent claim 7, occurs at a transaction processor. *See* EX2040.0017 (claim 7) (“(a) receiving, **by a transaction processor**, a transaction request from a retailer point of sale (POS)...”); *id.* (claim 11) (“wherein receiving the transaction request comprises receiving unique product information associated with the pre-printed lottery ticket ...”); *see also* EX1008.0055-56. Here, however, claims 1-3, 5 and 6 refer to operations at a different location: unique identification information and product information are transmitted **to a lottery administration system**. *See* elements 1[b], 2[c], 5[d][2], and 6[c][3] (p. viii). Neither Petitioner nor the Board ever equated the transaction processor to the lottery administration. Here and in PGR2020-00084, Petitioner asserts they are met by distinct elements in Szrek:



Pet. at 21 (annotations in Petition)

See also Pet. at 11, EX1007.0008.

As discussed above, the information that a cash register 202 sends to the store back office 240 is different from the information that the store back office 240 sends to the game provider 250. *See* EX1005.0006 (col. 4:59-60) (A request from the cash register is “transformed into an activation request by the store back office software”); EX1005.0007 (col. 6:34-38) (a request from the cash register 230 “will be transformed into transactional request to the game provider 250”). Because the Board in PGR2020-00084 did not encounter the claim language presented in elements 1[b], 2[c], 5[d][2], and 6[c][3] and because Szrek discloses a system that operates differently from the manner recited by these elements, the Board should reach a different conclusion than in PGR2020-00084.

The only other evidence cited by the Petition to support its argument that Szrek discloses product information transmitted to a lottery administration system is its expert declaration. *See* Pet. at 25-26 (citing EX1003 ¶¶ 118-119). But Petitioner’s expert merely parrots argument from the Petition, using nearly the same text and making the same analytical errors. He fails to recognize the definition of “pre-printed lottery ticket” that disavowed lottery tickets that have lottery numbers associated with them at the time of customer purchase. *Compare* EX1002.0076-77 (defining pre-printed lottery ticket) *with* EX1003 §§ III.D, IV (no acknowledgment of definition). He also fails to consider whether “product information” can contain information identifying lottery numbers. EX1003 § IV (product information not defined). And he fails to recognize that “product information” is separate and distinct from “unique identification information.”

In ¶ 118, Petitioner’s expert declaration cites the same passages from Szrek as the Petition does (cols. 3:47-50, 6:36-39, and 7:21-31) and argues the same invalidity theory. But transmission of a bet combination or sequence counter to a game provider cannot represent “transmitting ... the product information ... to a lottery administration system,” under the claims, as explained above. Transmitting a bet combination (Szrek’s lottery tickets) shows, at the outset, that Szrek is not directed to “pre-printed lottery tickets,” as claimed, because Szrek’s tickets have lottery numbers already associated with the tickets at the time of purchase. *See*

EX2044 at 16:16-22, 44:16-45:17. Moreover, because the claims’ “product information” is obtained by scanning a “pre-printed lottery ticket,” as claimed, a transmission of “product information” cannot be met by a transmission of bet selections. And, as explained above, Szrek’s sequence counter makes a ticket unique and it is part of the ticket identifier. EX2044 at 46:9-17, 51:9-52:10. Because “product information” must be separate and distinct from “unique identification information,” a transmission of the sequence counter does not count as a transmission of “product information.” The expert’s analysis fails for the same reasons as the Petition.

In ¶ 119, the expert purports to “agree” with the Board “that Szrek discloses that a ‘transaction request’ received ... from a point of sale (POS) system includes ‘unique product information associated with the pre-printed lottery ticket.’” EX1003 ¶ 119 (citing EX1008.00056). But, as explained above, the Board’s analysis was directed to a different issue than that presented, here, and they involve different claim recitations. In PGR2020-00084, the Board’s analysis at p. 56 involved evaluation of dependent claims 11 and 34 from the ’894 Patent, which recited that a “‘transaction request’ *received by the transaction processor* in claims 7 and 33 includes ‘unique product information associated with the pre-printed lottery ticket over a secure communication channel from a point of sale (POS) system.’” EX1008.0055-56 (emphasis added). Here, as explained the claims recite

“transmitting ... product information ... to a lottery administration system.” *See* elements 1[b], 2[c], 5[d][2], and 6[c][3] (p. ix). And, as discussed above, Szrek teaches that a transaction request that is received by the store back office 240 is ***transformed*** before it is send to the game provider’s system. EX1005.0007 (col. 6:3-38) (“In case of the ticket 300 of the present invention, ***this request will be transformed*** into transactional request to the game provider 250”) (emphasis added); *see also* EX1005.0006 (col. 4:59-60). The Board’s analysis in PGR2020-00084 does not inform an analysis of the transmitting elements at issue, here, and the expert’s so-called agreement with analysis that the Board did not make is of no moment.

Ground 1, therefore, should be rejected as to claims 1-3 and 5-6 on this basis.

B. Ground 2

1. Claims 1-6: Llach and Szrek do not teach or suggest a “pre-printed lottery ticket.”

On Ground 2, the Petition refers solely to Szrek for disclosure of a “pre-printed lottery ticket:”

As discussed above in Ground 1 for limitation 1[a], ***Szrek discloses a pre-printed lottery ticket*** containing a bar code from which unique identification information and product information (such as bet combination or sequence counter) are obtained when the bar code is scanned. *See* Ex. 1005, 5:57, 5:67, 6:7-12, 7:21-31. Szrek also discloses that “[t]he barcode on the preprinted ticket should be compatible with barcode technology commonly used at the cash registers [such as] EAN-

128.” *Id.*, 4:42. Since both Llach and Szrek disclose support for EAN-128 barcodes, the Llach-Szrek combination results in Llach’s POS terminal scanning the barcode of Szrek’s pre-printed lottery ticket to obtain unique identification and product information from the ticket. Ex. 1003, ¶222.

Pet. at 60 (emphasis added). Llach is not directed to pre-printed lottery tickets. *See* Pet. at 55 (“Llach does not expressly disclose activating a pre-printed lottery ticket”), EX1003 ¶ 209 (same), EX2038 ¶¶ 67, 127, EX2044 at 85:19-86:3.

The Petition fails to meet its burden to prove obviousness under Ground 2 for the same reason that it fails under Ground 1. As explained above, Szrek fails to disclose a system that processes a “pre-printed lottery ticket,” one that does *not* have lottery numbers associated with the ticket at the time of customer purchase. *See* § VI.A *supra*. The Petition ignores the claim construction presented during prosecution. *See* Pet. §§ VI.B, VIII.

Llach has no teaching that is relevant to a pre-printed lottery ticket, as claimed. Pet. at 55; EX1003 ¶ 209 (same); EX2038 ¶¶ 67, 127; EX2044 at 85:19-86:3. Llach is directed to a system for processing, activating and redeeming value-added prepaid cards. EX1006.0001 (Title), Abstract; EX2038 ¶¶ 63-66, 127. The Petition does not identify any teaching from Llach that is relevant to this element.

Because the proposed combination of Llach and Szrek fails to teach or suggest a “pre-printed lottery ticket,” as claimed, Ground 2 should be rejected.

2. Claims 1-3, 5, and 6: Szrek and Llach do not teach or suggest transmitting product information to a lottery administration system, as claimed.

On Ground 2, just as in Ground 1, the Petition fails to meet its burden to prove obviousness of claims 1-3, 5, and 6 because the proposed prior art combination fails to teach or suggest “transmitting ... product information ... to a lottery administration system,” as recited in elements 1[b], 2[c], 5[d][2], and 6[c][3] (p. ix).

The Petition argues that a POSITA would combine Llach’s system with Szrek’s teachings “by modifying Llach’s system to send and receive that data disclosed in Szrek, as well as modifying Llach’s authorization system to perform the same functions as Szrek’s game provider.” Pet. at 56; *see also id.* at 58 (A “POSITA would understand that the proposed combination would simply be the application of Szrek’s known techniques for activating lottery tickets to Llach’s known system”). This combination does not lead to a system that “transmit[s] ... product information ... to a lottery administration system,” as claimed.

On this element, the Petition makes the same argument as in Ground 1, namely, that “Szrek discloses a pre-printed lottery ticket containing a bar code from which unique identification information and product information (such as a bet combination or sequence counter) are obtained when the bar code is scanned.” Pet. at 60 (identifying argument as same for Ground 1, limitation 1[a]). But, as explained above, the claims’ “product information” is separate and distinct from wager

information, unique identification information. *See* § VI.B. Szrek’s bet combination reflects lottery numbers that are assigned to the lottery ticket prior to the time of purchase. EX1005.0006 (col. 4:1-3) (the game provider provides selections to a commercial printer or agrees on a method of generating them); EX1005.0007 (col. 6:24-27) (when the lottery player chooses his/her own selection, it is printed). Transmitting a bet combination to an authorization system does not qualify as a transmission of product information to a lottery administration system under the claims.

And, because “product information” is distinct from unique identification information, Szrek’s transmission of a sequence counter also fails to represent a transmission of “product information ... to a lottery administration system,” as recited in elements 1[b], 2[c], 5[d][2], and 6[c][3]. Szrek discloses that the sequence counter is “[a]nother part of ticket identifier ... making this ticket unique.” EX1005.0008 (col. 7:27-30). Thus, while the sequence counter might qualify as unique identification information, it is not product information under the claims.

Here, again, the Board should not be misled about Szrek’s disclosure of a transaction request being sent from a cash register 230 to a store back office 240. EX1005.0006 (col. 4:56-59), EX1005.0007 (col. 6:31-34). As explained, Szrek teaches that the store back office 240 *transforms* the incoming transaction request before it is sent to the game provider 250. EX1005.0006 (col. 4:59-60);

EX1005.0007 (col. 6:34-38), EX2038 ¶¶ 109-111. Szrek's system activates the lottery tickets "from the ticket identifier." EX1005.0006 (col. 3:46-50). Thus, in the combination proposed in Ground 2, where "Llach's system [is modified] to send and receive the data disclosed in Szrek" and "Llach's authorization system [is modified] to perform the same functions as Szrek's game provider" (Pet. at 56), Llach's authorization system also would activate lottery tickets "from the ticket identifier." EX1005.0006 (col. 3:46-50). Szrek discloses no transmission of product information to a game provider 250, only a ticket identifier, and no record evidence suggests a reason to modify Szrek or Llach to do so. Therefore, Llach and Szrek, even when considered according to the Petition's proposed combination, fails to teach or suggest "transmitting ... product information ... to a lottery administration system," as recited in elements 1[b], 2[c], 5[d][2], and 6[c][3].

Ground 2, therefore, should be rejected as to claims 1-3 and 5-6 on this basis.

VIII. CONCLUSION

For the foregoing reasons, Patent Owner requests the Board to reject the invalidity challenges proffered in Grounds 1 and 2.

Respectfully submitted,

Date: May 15, 2024

By: / Robert L. Hails /
Robert L. Hails
Reg. No. 39,702

Jason F. Hoffman (admitted *pro hac vice*)

BAKER & HOSTETLER LLP
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5304

Telephone: 202-861-1500
Facsimile: 202-861-1783

Counsel for Patent Owner

CERTIFICATE OF WORD COUNT

The undersigned certifies that the foregoing Patent Owner's Response, exclusive of the Table of Contents, Table of Authorities, and Exhibit List has a word count of 11,463 words as computed by Microsoft Word.

Date: May 15, 2024

By: /Robert L. Hails/
Robert L. Hails
Reg. No. 39,702

Counsel for Patent Owner

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Patent Owner's Response and all exhibits (EX2037, EX2038, EX2039, EX2040, EX2041, EX2042, EX2043, and EX2044) were served electronically via email on May 15, 2024, on the following:

jimglass@quinnemanuel.com

quincylu@quinnemanuel.com

Date: May 15, 2024

By: /Robert L. Hails/
Robert L. Hails
Reg. No. 39,702

Counsel for Patent Owner