

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Walt Disney Parks and Resorts U.S., Inc.,
Petitioner,

v.

Agile Journeys LLC,
Patent Owner.

PTAB Case No. IPR2024-00029

U.S. Patent No. 7,212,983

PATENT OWNER'S PRESENTATION

Jay P. Kesan

Date: January 14, 2025

OUTLINE



Introduction

Overview of the patent and the key issues.
Outline of today's argument.



Patent Overview

Problem addressed.
Key claims and unique features.



Claim Construction

Detailed analysis of “software that selects” and “substantially matches.”



Arguments Against Grounds

Sim and Doi combination.
Waytena and Herz.
Analysis of dependent claims.



Conclusion

Summary and request to the PTAB.

TODAY'S ARGUMENT

Key Points:

- The **'983 Patent** solves a longstanding problem in itinerary creation by eliminating user dependence through automated attraction selection.
- Petitioner's cited prior art (Sim, Doi, Waytena) fails to meet key limitations of the claims:
 - **"Software that selects"** excludes manual user selection.
 - **"Substantially matches"** provides significant flexibility absent in prior art.
- The Examiner acknowledged the patent's innovation after specific amendments to the claim language.

Purpose of this Presentation:

- To demonstrate that the '983 Patent remains valid and non-obvious in light of the prior art and to refute Petitioner's grounds.

OVERVIEW OF U.S. PATENT NO. 7,212,983

Problem Solved:

- Traditional systems required manual attraction selection, leading to inefficiencies and frustration.

Innovative Solution:

- Automated itinerary creation by software that autonomously selects attractions based on user preferences, privileges, and real-time data.

Distinct Features:

- Fully automated selection process.
- Excludes manual intervention.
- Enhances user experience by reducing decision fatigue.

INDEPENDENT CLAIMS OF THE '983 PATENT

Independent Claims:

- **Claim 1** (a system for providing an itinerary to a party) & **Claim 3** (a method for providing an itinerary to a party):
 - Comprising “**software that selects**” a second set of attractions from a first set of attractions
 - Incorporates data (about a first set of attractions) that “**substantially matches**” information (about a party/visitor).
- “An **itinerary** is comprised of **events**. An **event** is typically a visit to an attraction at a scheduled time. This is not necessarily a reservation, though it can be. It is a time at which the party is recommended to visit an attraction.”
- “**Attractions** are those rides, shows, shops, restaurants, tours, trails, presentations, displays, viewpoints, picnic sites, and other specific features that are to be experienced by the facility’s visitors.”
- Figures 4 and 5 of the '983 Patent are examples of scheduled itineraries.

DEPENDENT CLAIMS OF THE '983 PATENT

Key Dependent Claims:

- **Claim 7:** Prioritizes attractions based on privileges.
- **Claim 11:** Excludes already-visited attractions for dynamic updates.
- **Claim 22:** Software applies perturbation to desirability to affect directed demand.
- **Claim 23:** Further includes messages in the itinerary.

HOW THE SYSTEM OPERATES

Step-by-Step Process:

1. Input Party Information:

- Enter preferences, attributes, and constraints.

2. Data Matching:

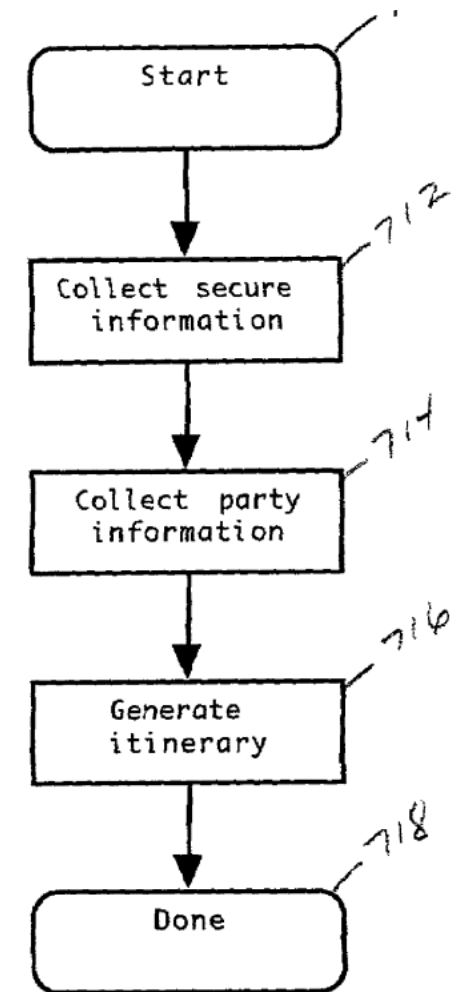
- Attraction data is analyzed against the party inputs.

3. Automated Selection:

- Software autonomously selects attractions.

4. Itinerary Generation:

- Itinerary is created that is customized for the party, balancing user preferences and constraints.



DISTINGUISHING THE '983 PATENT

Comparison:

Feature	Prior Art (Sim/Doi/Waytena)	'983 Patent
Attraction Selection	User-driven manual	Automated software-based
Dynamic Adjustments	Basic real-time filters	Advanced, preference-aware itineraries
User Involvement	High	Minimal

Key Takeaway:

- The '983 Patent eliminates dependency on user-driven decisions, creating a fully automated itinerary generation process unmatched by the prior art.

UNDERSTANDING KEY TERMS IN CLAIM CONSTRUCTION

Key Terms:

- **“Software that selects”:**
 - Requires fully autonomous selection, excluding manual user intervention (see prosecution history).
- **“Substantially matches”:**
 - Allows flexible implementations, enabling designers to tailor definitions to specific contexts.

Significance:

- Each of these terms distinguishes the '983 Patent from the prior art and underscores its novelty and utility.

DETAILED ANALYSIS: “SOFTWARE THAT SELECTS”

Key Points:

- Claim explicitly requires **software** to autonomously generate an itinerary by selecting a second set of attractions.
- Manual selection disclaimed during prosecution: Examiner’s Amendment changed “**software operable to select**” to “**software that selects,**” clarifying the autonomous nature of the selection process.

Feature	Prior Art (Waytena, Sim, Doi)	'983 Patent
Role of Software	Filters options for user	Fully selects attractions
User Dependency	High	Minimal
Key Limitation in Claims	Lacks exclusion of manual step	Excludes manual selection

“SOFTWARE THAT SELECTS” (CONTD.)

Autonomous Selection Defined:

- The software independently generates a complete itinerary without user input.
- Manual selection during itinerary creation is excluded.

Misinterpretation by Petitioner:

- Petitioner equates filtering or user confirmation with autonomous selection, which is incorrect.

Key Distinction:

- Prior art assists users in filtering or choosing attractions.
 - includes prior art cited by Applicants (Mahoney, Kanemitsu), Examiner (Waytena), and Petitioner (Doi)
- The '983 Patent automates the entire process, requiring no user decisions.

FILTERING $\neq$ AUTONOMOUS SELECTION

Patent Owner's Rebuttal:

- **Waytena:** Requires users to manually select attractions from filtered lists.
- **Sim:** Users prioritize attractions for queue registration.
- **Doi:** User confirmation is required for real-time recommendations.
 - **Sim + Doi:** Sim would require user confirmation of Doi's recommendation to operate.
- Federal Circuit precedent, *Spectrum Int'l, Inc. v. Sterilite Corp.*, 164 F.3d 1372, 1380 (Fed. Cir. 1998): "Comprising" does not override core claim limitations.

Key Takeaways:

- Labeling filtering as "selection" misrepresents the prior art.
- The '983 Patent stands apart with fully autonomous functionality.

REBUTTING PETITIONER'S MISINTERPRETATIONS

Petitioner's Arguments vs. Facts:

1. **Argument:** Filtering meets “software that selects.”
 - **Fact:** Filtering assists users but does not autonomously generate itineraries.
2. **Argument:** “Software that selects” does not limit user actions on selected attractions.
 - **Fact:** Users cannot intervene software's selection.
 - **Fact:** User interaction or changed circumstances could induce a new autonomously generated itinerary.
3. **Argument:** Manual selection not explicitly disavowed.
 - **Fact:** Prosecution history explicitly disavows manual selection to overcome prior art.

Key Takeaway:

- Waytena, Sim, and Doi depend on user interaction, while the '983 Patent eliminates it.

“SUBSTANTIAL MATCHES”

Petitioner’s Argument:

- Asserts “substantially matches” includes exact matches.

Patent Owner’s Position:

- The ’983 Patent emphasizes flexibility for defining “substantial matches.”
- Specifications outline a utility function as an example, using a 1-10 scale.
- A substantial match does not imply perfection:
 - A “10” match is the best possible but still “a few steps away.”

Key Takeaway:

- A PHOSITA would understand “substantially matches” excludes poor/neutral matches and emphasizes matches satisfying party preferences **without being exact.**

“SUBSTANTIALLY MATCHES” (CONTD.)

PHOSITA’s Interpretation:

- “Substantially matches” excludes:
 - Poor/low matches violating preferences.
 - Neutral/unalluring matches.
- Includes: Matches meeting preferences and free of objectionable elements.

Specification Highlights:

- Flexible implementations: Fuzzy logic, weighted metrics, regression analysis, or empirical correlations.
- Extensive options allow designers to tailor definitions to specific contexts.

Key Takeaway:

- The ’983 Patent ensures adaptability, supporting non-exact matching for practical use.

PETITIONER'S ADMISSION IN DISTRICT COURT PROCEEDING

- “When guests are unfamiliar with the facility, they need the system, here the **software**, to select attractions suited to their tastes.”
- “And [the ’983 Patent] does this all **without the party selecting** any attractions themselves.”
- “[I]mportantly, it does this matching of party information with attraction data, it does it all with the software. The party **doesn’t select any** attractions itself.”
- “[I]n the ’983 patent that it's the software that does the selection **without the party** . . . visiting the facility, selecting **any** of the attractions themselves, and this is a very important part of the technology because . . . the visitors are unfamiliar with the facility; they don’t know what attractions to select; and so the ’983 patent, it's the software that does the selection.”
- “[M]anual selection has . . . ‘no correspondence in the invention.’ It defeats the purpose of a customized itinerary, and manual selection was described by the applicants as . . . ‘antithetical’ to the purpose of the alleged invention.”

ARGUMENTS AGAINST GROUND 1: SIM AND DOI COMBINATION

Why Sim and Doi Fail:

1. No Autonomous Selection:

- Both systems rely on user-driven choices to create itineraries.
- Sim is inoperable absent a user selection, whether under Sim or in view of Doi.

2. No “Substantially Matches”:

- Doi makes recommendations to a party whose information exactly matches the data about an attraction, rather than finding attractions that substantially match a party’s information.

3. Redundant Combination:

- Sim and Doi address similar problems but fail to combine meaningfully to teach the claimed invention.
- Doi recommendations are real-time, not prospective.

ARGUMENTS AGAINST GROUND 1: SIM AND DOI COMBINATION (CONTD.)

User-driven selection

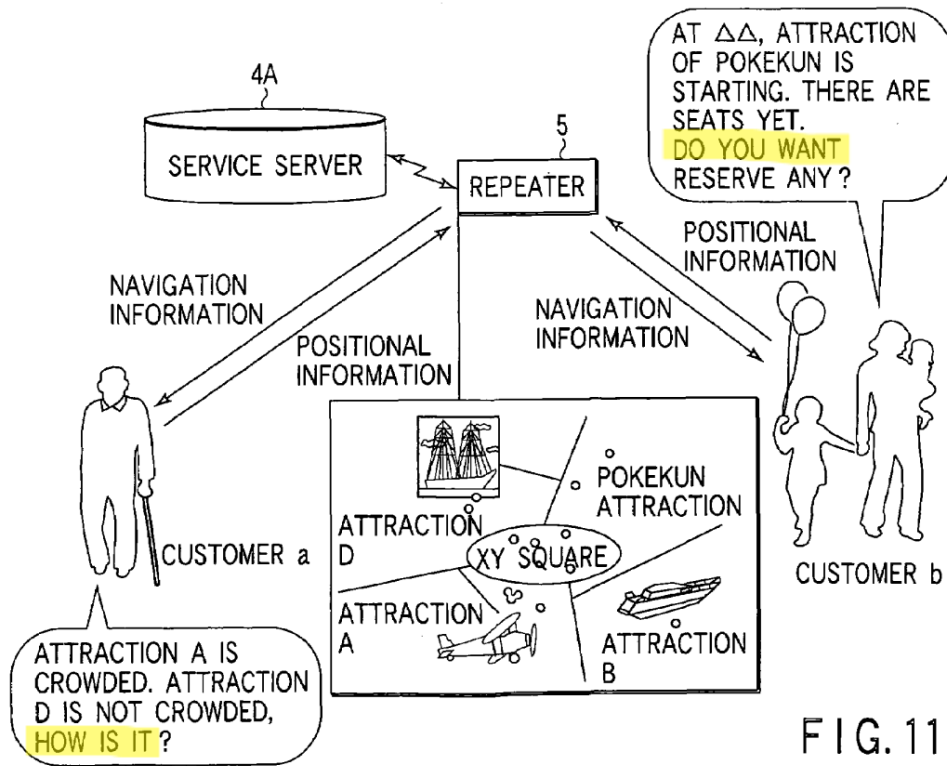


FIG. 11

Doi

Autonomous Selection

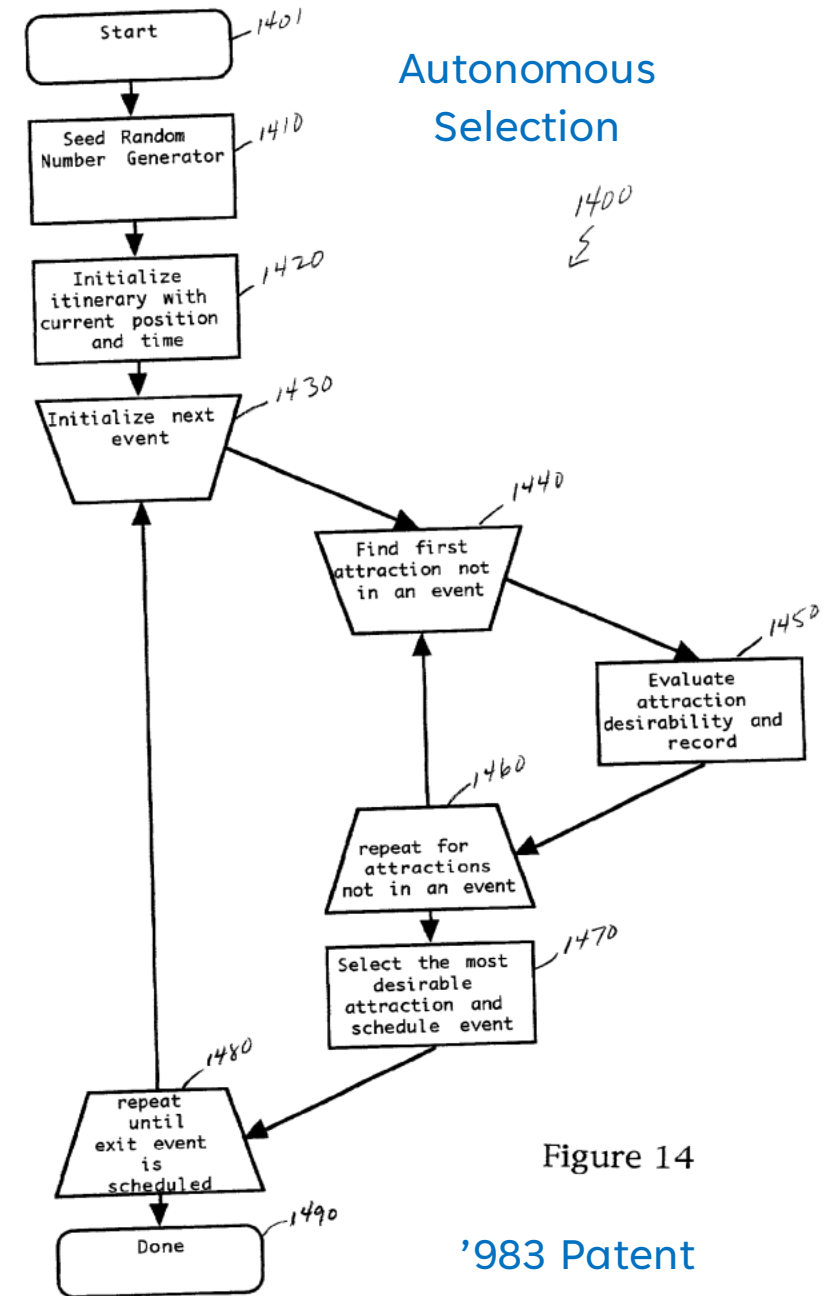


Figure 14

'983 Patent

ARGUMENTS AGAINST GROUNDS BASED ON WAYTENA

1. Already Considered During Prosecution:

- Waytena was evaluated during prosecution.
- The Board's finding: "Waytena was previously provided, and we discern no error on the part of the Examiner. Petitioner has not demonstrated a reasonable likelihood of prevailing . . . under Ground 3."

2. No Autonomous Selection:

- Relies on user-driven attraction selection.
- Fails to generate itineraries independently.

3. Missing Flexibility:

- Requires exact preference matches.
- Lacks "substantially matches" adaptability in the '983 Patent.

ARGUMENTS AGAINST GROUNDS BASED ON WAYTENA (CONTD.)

User-driven Selection

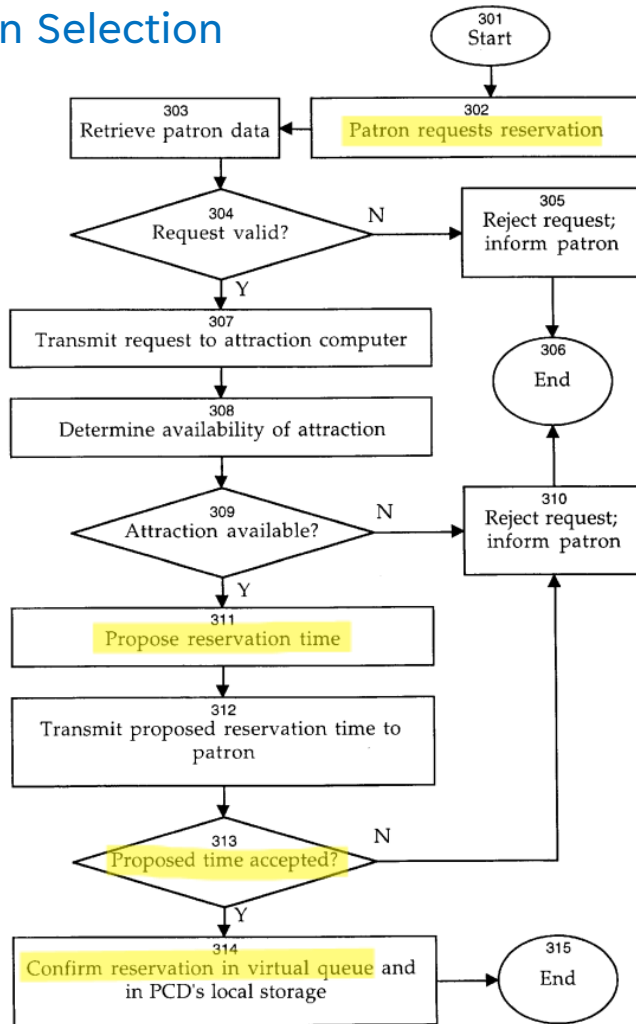


FIGURE 3

Autonomous Selection

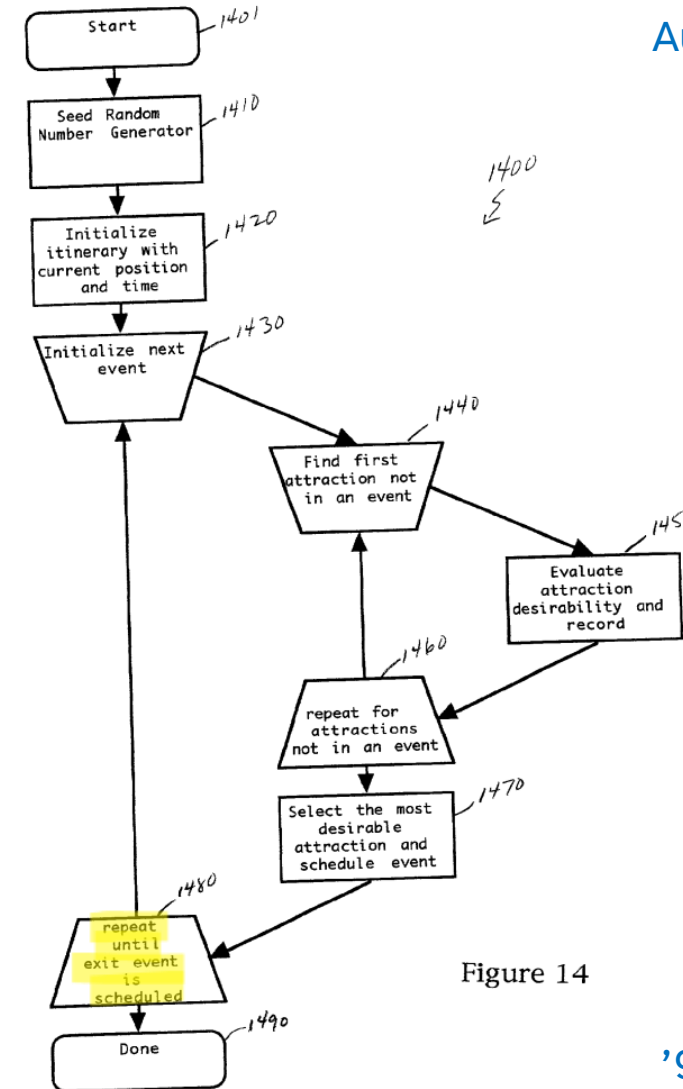


Figure 14

Waytena

'983 Patent

WHY PETITIONER'S MODIFICATION OF WAYTENA FAILS

1. Unsupported Combination:

- No clear motivation for combining Waytena with unrelated technologies.
- Speculative re-design that creates a new invention, not an obvious combination.

2. Technical Incompatibility:

- Queue management focus conflicts with itinerary generation.
- Fundamental re-design would be needed to meet the patent's requirements.

3. No Predictable Results:

- Modified Waytena cannot achieve the automation and flexibility of the '983 Patent.
- Manual intervention remains a limitation.

Key Takeaway:

- Both Waytena and its suggested modifications fail to meet the innovation and autonomy required by the '983 Patent.

WHY PETITIONER'S MODIFICATION OF WAYTENA FAILS (CONTD.)

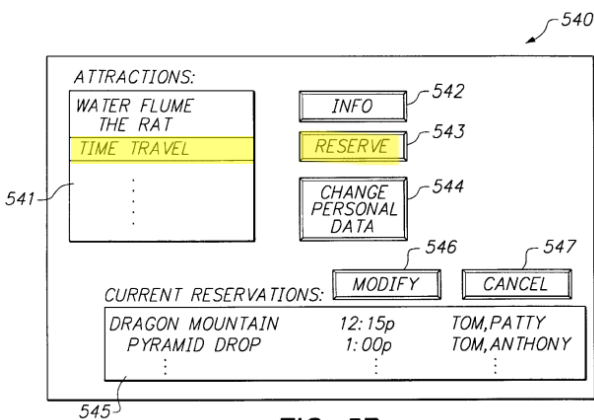


FIG. 5B

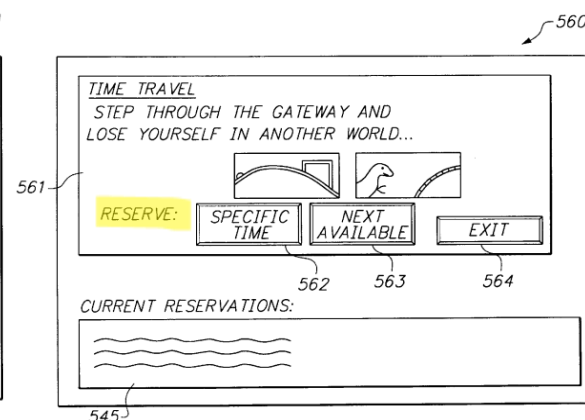


FIG. 5C

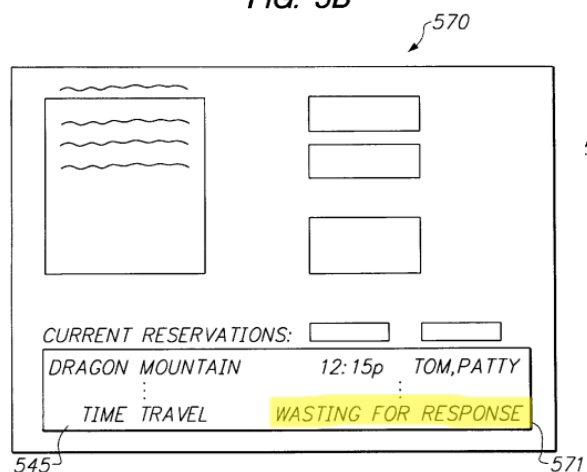


FIG. 5D

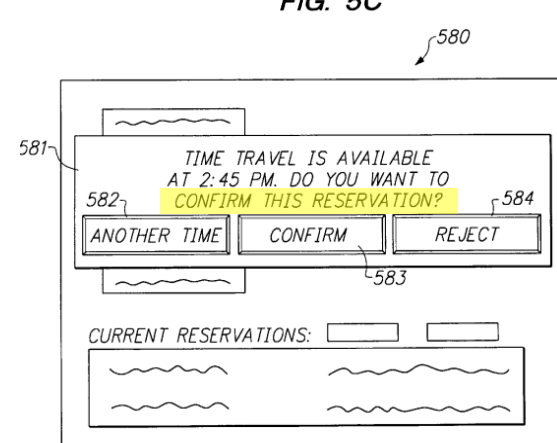


FIG. 5E

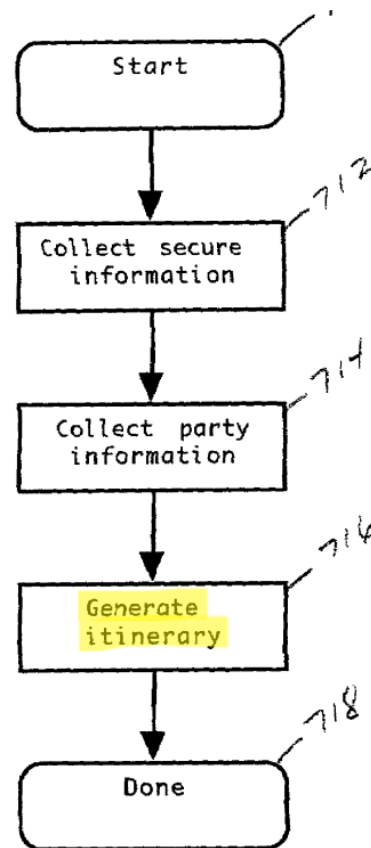
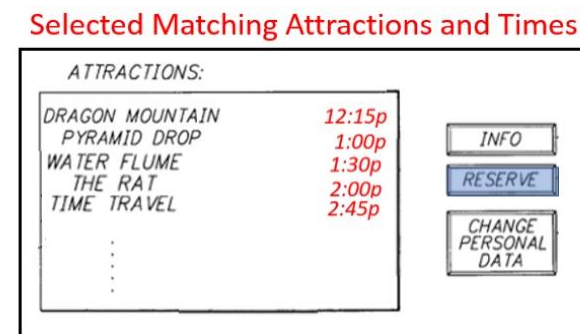


Figure 7



Petitioner

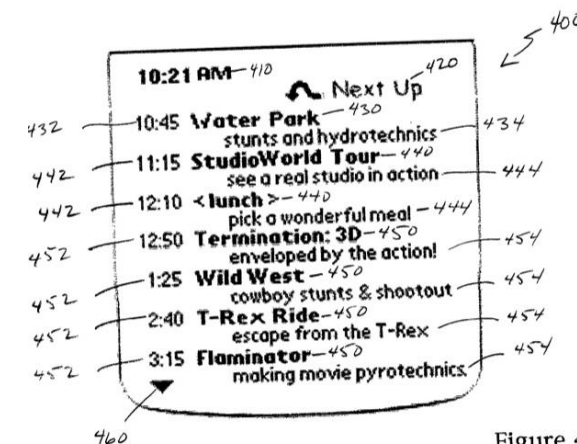


Figure 4

Waytena

'983 Patent

'983 Patent

CLAIM 5: ATTRIBUTES AND DESIRABILITY

Key Features:

- User attributes (e.g., height, age) are used to distinguish attractions as more or less desirable.
- These distinctions influence software-driven selection in the itinerary.

Why Sim and Doi Fail:

- **Sim:** Attributes only regulate access permissions, not selection for itineraries.
- **Doi:** Attributes ensure compliance with attraction requirements but do not automate itinerary creation.
- Doi makes recommendations to a party whose **attribute information exactly matches** the data about an attraction, rather than finding attractions that substantially match a party's attribute information.

Key Takeaway:

- Neither Sim nor Doi achieves the automated selection driven by user attributes as disclosed in the '983 Patent.

CLAIM 7: PRIVILEGES IN ATTRACTION SELECTION

Key Features:

- Privileges distinguish certain attractions as more desirable.
- The software incorporates privileges into the attraction selection process.

Why Prior Art Fails:

- **Sim:** Privileges affect queue priority but not attraction desirability.
- **Waytena:** Privileges enable reservations but do not influence selection criteria.

Key Takeaway:

- The '983 Patent uniquely uses privileges to dynamically select attractions, which prior art systems do not address.

CLAIM 8: ATTRACTION DATA FOR SCHEDULED TIMES

Key Feature:

- Schedules visit to attraction having specific scheduled times.

Petitioner's Arguments:

- Sim discloses calculating actual times and sequence of attendance for users.

Patent Owner's Rebuttal:

- Sim does not provide data for attractions with specific scheduled times, as recited in Claim 8; instead, it offers only next available times computed reactively based on factors like queue length and other considerations.

Key Takeaway:

- The '983 Patent accommodates attractions with discrete, scheduled show times in itinerary generation, a feature absent in Sim and all prior art cited by the petitioner.

CLAIM 10: TRAVEL TIME

Key Feature:

- Considers travel time between attractions when scheduling visits.

Petitioner's Arguments:

- Sim assigns scheduled times to all attractions offered to a party and inherently considers travel time between attractions.

Patent Owner's Rebuttal:

- Sim considers travel feasibility reactively but does not incorporate travel time into itinerary optimization. It lacks any concept of location of attractions, party speed, or variations between light and heavy attendance days. A PHOSITA would not interpret Sim as teaching the “time required between attractions.”
- The '983 Patent uniquely integrates travel time for seamless scheduling.

Key Takeaway:

- The '983 Patent provides dynamic, real-time scheduling and travel time optimization, features absent in Sim or any prior art cited by the petitioner.

CLAIM 11: EXCLUSION OF VISITED ATTRACTIONS

Key Feature:

- The system adjusts itineraries by excluding already visited attractions.

Why Prior Art Fails:

- **Sim:** Re-allocation process allows revisiting attractions, contrary to Claim 11.
- **Doi:** Recommendations can include previously visited attractions.
- **Waytena:** Focusing solely on interruptions at a single attraction, no mechanism for replacing the “remaining portion” of an itinerary.

Key Takeaway:

- Neither Sim, Doi, nor Waytena discloses or suggests automatic exclusion of previously visited attractions.

CLAIM 13: ACCESS CONTROL

Key Feature:

- Coordinates access control with itinerary scheduling.

Petitioner's Arguments:

- Sim discloses access control gates linked to scheduled times, fulfilling Claim 13.

Patent Owner's Rebuttal:

- Sim's access control system is limited to verifying user entry at a specific ride, based on static time slots. The '983 Patent integrates access control dynamically with the itinerary, coordinating system responses to changes in scheduled times or attraction availability.

Key Takeaway:

- The '983 Patent integrates advanced access control capabilities, far beyond Sim's static and limited systems.

CLAIM 17: AUDIBLE PRESENTATION

Key Feature:

- Provides audible presentation of the itinerary to help users navigate.

Petitioner's Arguments:

- Sim's "spoken message" indicator for joining an attraction queue constitutes an audible announcement of a portion of the itinerary.

Patent Owner's Rebuttal:

- Sim provides only basic audible notifications (e.g., tones, beeps, or generic voice alerts) that lack specific itinerary details. In contrast, the '983 Patent teaches providing the next event on an itinerary in the party's preferred language.

Key Takeaway:

- The '983 Patent presents an itinerary event audibly, far beyond Sim's basic queue alert.

CLAIM 18: RESERVATION AVAILABILITY

Key Feature:

- Integrates a “reservation computer” to exclude unavailable attractions from selection.

Petitioner’s Arguments:

- Waytena’s “PCDs” allow parties to transmit reservation requests to attraction computers, which can be integrated into Sim (modified by Doi) to check attraction availability.

Patent Owner’s Rebuttal:

- **User Selection Dependence:** Sim, Doi, and Waytena rely on user selection to request reservations.
- **Waytena Limitation:** Does not prevent unnecessary reservation attempts by users.
- **Doi Limitations:** Focuses on filling empty seats at the last minute, not addressing unavailability.
- **Manual Selection Excluded in ’983 Patent:** “Software that selects” excludes manual selection, Doi relies on user selection influenced by pricing adjustments.

Key Takeaway:

- Sim, Doi, Waytena do not avoid unavailable selection, unlike the ’983 Patent.

CLAIM 19: EXCESSIVE DEMAND

Key Feature:

- Software deprioritizes selection of attractions with excessive demand.

Petitioner's Arguments:

- Sim and Doi manage demand through user-preselected attractions.

Patent Owner's Rebuttal:

- **Sim Limitations:** Relies on user selections, offering no autonomous reduction of high-demand attractions.
- **Doi Limitations:** Recognizes demand in real-time but acts only on preselected attractions, lacking the forecasting capability required for itinerary generation.
- **'983 Patent Innovation:** Dynamically reduces selection likelihood for high-demand attractions.

Key Takeaway:

- Sim and Doi cannot deprioritize selection of attractions based on demand, unlike the '983 Patent.

CLAIM 20: TRACK DIRECTED DEMAND

Key Feature:

- Tracks demand generated by the itinerary process to provide feedback for managing itinerary generation.

Petitioner's Arguments:

- Sim tracks “directed demand” by managing the number of parties directed to each attraction.

Patent Owner's Rebuttal:

- **Sim Limitations:** Sim does not have directed demand; it accepts user-preselected attractions and shifts times without altering total demand.
- **Doi Limitations:** Doi creates no itinerary and does not track directed demand.
- '983 Patent tracks demand generated specifically by the itinerary system and adjusts selections dynamically based on demand exceeding capacity allocated to the system.

Key Takeaway:

- Sim and Doi cannot deprioritize attractions based on directed demand, unlike the '983 Patent.

CLAIM 21: RESERVATION COMPUTER

Key Feature:

- Integrates a “reservation computer” to optimize itineraries based on operating conditions and crowd dynamics.

Petitioner’s Arguments:

- Waytena’s “reservation computer” can be integrated into Sim (modified by Doi) to manage reservations based on crowd and operating conditions.

Patent Owner’s Rebuttal:

- **Waytena Limitations:** The term “reservation computer” does not appear in Waytena; it is a claim element unique to the ’983 Patent.
- **Sim Limitations:** Sim’s Queue Manager already addresses operating conditions and crowd management, including reallocations for weather impacts or ride failures. Adding Waytena’s functionalities is redundant and offers no additional benefit.
- A PHOSITA would not be motivated to combine Waytena with Sim and Doi, as Sim independently fulfills the functions attributed to Waytena.

Key Takeaway:

- Sim’s existing capabilities make Waytena’s integration unnecessary, and Petitioner’s argument fails to establish motivation or added value.

CLAIM 22: PERTURBING DESIRABILITY OF AN ATTRACTION

Key Feature:

- Redistributes directed demand by perturbing attraction desirability.

Why Prior Art Fails:

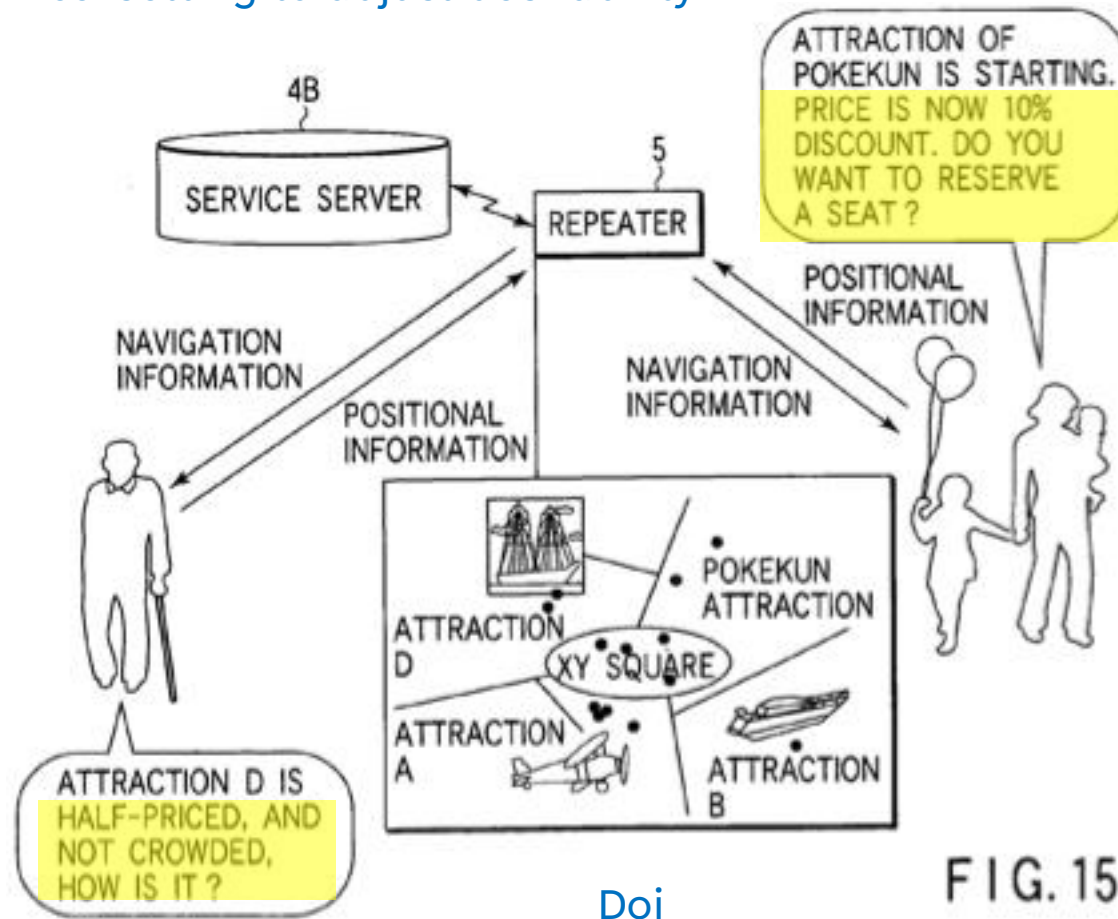
- **Sim, Waytena:** Neither influences which attractions users want to select.
- **Doi:** Relies on price adjustments to influence attraction selection by users.

Key Takeaway:

- Neither Sim, Doi, nor Waytena discloses or suggests any perturbation to desirability to enable software-based selection of different attractions.

ARGUMENTS AGAINST SIM-DOI COMBINATION AND WAYTENA-DOI COMBINATION (CLAIM 22)

Price-setting to adjust desirability



Doi

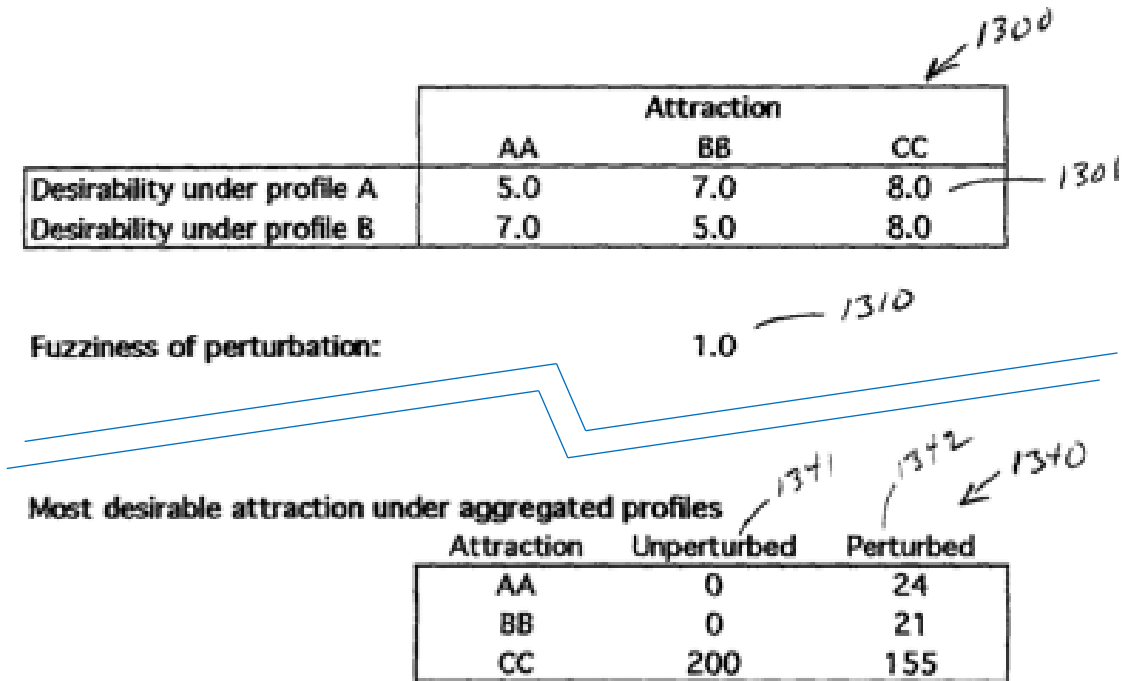


Figure 13

'983 Patent

CLAIM 23: MESSAGES

Key Feature:

- Itinerary includes second set of messages presented in conjunction with the itinerary.

Petitioner's Arguments:

- Sim transmits messages to portable modules, fulfilling the claim.
- “In conjunction” means messages are transmitted near in time to the itinerary display.

Patent Owner's Rebuttal:

- Sim's system operates in two modes: Normal Mode: Displays the itinerary. Pager Mode: Displays messages but erases the itinerary display, requiring up to three minutes to refresh.
- Messages in Sim cannot integrate with the itinerary, nor display alongside the itinerary.
- '983 Patent integrates messages with the itinerary, ensuring simultaneous and complementary presentation.

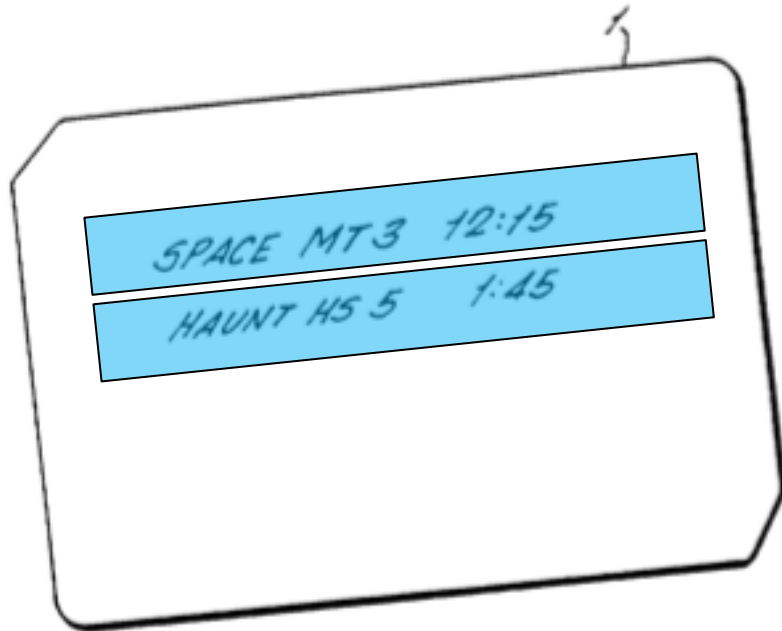
Key Takeaway:

- Unlike the '983 Patent, Sim's messages neither integrate nor display “in conjunction” with the itinerary.

ARGUMENTS AGAINST SIM-DOI COMBINATION(CLAIM 23)

FIG. 3

Itinerary comprising no messages



Sim

169. It is my opinion that Sim can deliver “zone specific” messages as described as note by Dr. Houh, however transmission of such messages, as taught by Sim, **disable presentation of the itinerary in order to present the recommendation.** Accordingly, Sim is **unable to support at least two of the limitations** recited in Claim 23 of “said itinerary further comprising a second set of messages” which is shown in and “each of said second set of messages is provided to said party in conjunction with said itinerary.”

Gonsalves Declaration

HERZ: NOT ANALOGOUS ART

Petitioner's Argument:

- Herz is analogous because it addresses scheduling challenges similar to the '983 Patent.

Facts:

- **Herz Focus:** Deals exclusively with scheduling digital television programs.
- **Irrelevance:** Does not address real-world itinerary generation for physical attractions.
 - Entirely digital.
 - No physical attractions, no itinerary creation, and no user movement.
 - Not constrained by physical resources

Key Takeaway:

- Herz is not analogous art and is irrelevant to the problems solved by the '983 Patent.

FLAWS IN COMBINING REFERENCES

Petitioner's Combination Approach:

- Combines features of Waytena, Sim, and Doi to argue obviousness.

Key Flaws:

1. Technical Incompatibilities:

- The systems operate differently and cannot be seamlessly integrated.

2. Lack of Motivation:

- No reasonable motivation exists to combine these references.

3. No Predictable Results:

- The combination fails to yield the autonomous selection disclosed in the '983 Patent.

Key Takeaway:

- Petitioner's proposed combinations are speculative and unsupported by evidence.

KEY REASONS FOR CLAIM VALIDITY

Ground 1: Sim and Doi Combination

- Lack of autonomous selection.
- No implementation of “substantially matches.”
- Redundancy and incompatibility in combining these references.

Ground 3: Waytena Alone

- User-driven processes incompatible with automated selection.
- No evidence of addressing itinerary generation challenges.

Other Grounds:

- Herz is not analogous art.
- No motivation or reasonable expectation of success in combining references.

INNOVATIONS THAT SET THE '983 PATENT APART

Key Features:

- **Automation:** Removes manual user intervention in itinerary creation.
- **Flexibility:** Incorporates substantial matches to improve compatibility.
- **Real-World Functionality:** Accounts for dynamic conditions, user preferences, and visited attractions.

Why It Matters:

- Simplifies user experience.
- Enhances operational efficiency at venues.

OUR ASK: UPHOLD THE PATENT'S VALIDITY

What We Demonstrated Today:

1. Novelty:

- The '983 Patent's autonomous selection system represents a significant advancement.

2. Non-Obviousness:

- Petitioner's cited prior art fails to meet key limitations and does not combine meaningfully.

3. Support from Prosecution History:

- Examiner acknowledged and validated the unique features of the patent during prosecution.

Our Request:

- Hold the validity of the '983 Patent by rejecting the petitioner's invalidity arguments.