

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PLR WORLDWIDE SALES LIMITED,

Petitioner,

v.

FLIP PHONE GAMES INC.,

Patent Owner.

Case No. IPR2024-00132

U.S. Patent No. 9,731,202

**PETITION FOR *INTER PARTES* REVIEW
OF U.S. PATENT NO. 9,731,202**

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Petition for *Inter Partes* Review
U.S. Patent No. 9,731,202

EXHIBIT LIST

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1006	U.S. Patent Pub. No. 2007/0174490 (“Choi”)
1007	U.S. Patent No. 7,698,178 (“Chu”)
1008	U.S. Patent Pub. No. 2007/0088801 (“Levkovitz”)
1009	U.S. Patent No. 9,129,301 (“van Datta”)
1010	Steven Kent, <i>The Ultimate History of Video Games</i> (2001)
1011	Frans Mayra, “Mobile Games,” in the <i>International Encyclopedia of Digital Communications and Society</i> , 1st ed. (2015)
1012	N. Leavitt, “Will wireless gaming be a winner?” in <i>Computer</i> , Vol. 36, No. 1, pp. 24-27 (Jan. 2003)
1013	Jason Soh & Bernard Tan, “Mobile Gaming,” in <i>Communications of the ACM</i> , Vol. 51, No. 3, pp. 35-39 (Mar. 2008)
1014	Michael Zyda et al., “Educating the Next Generation of Mobile Game Developers,” in <i>IEEE Computer Graphics and Applications</i> , Vol. 27, No. 2, pp. 92-96 (Mar./Apr. 2007)
1015	Mark Andrejevic, “Productive Play 2.0: The Logic of In-Game Advertising” in <i>Media International Australia</i> , Vol. 130, No. 1, pp. 66-76 (Feb. 2009)

1016	Ilya Vedrashko, Advertising in Computer Games (Doc. No. 123290221) [Master's Thesis, Mass. Inst. of Technology], DSpace@MIT
1017	Exit Games, In-Game Advertising Goes Mobile [Press Release] (Mar. 21, 2006)
1018	Jussi-Pekka Partanen, Mobile Gaming: A Framework for Evaluating the Industry 2000-2005 (2001)

LIST OF CHALLENGED CLAIMS

Claim	Limitation
1[pre]	A method for providing updated video-game content to a mobile communication device for use in a mobile video game, the method comprising the steps of:
1[a]	receiving a request for the updated video-game content from the mobile communication device, the updated video-game content being usable in the video game that already exists on the mobile communication device;
1[b]	checking what updated video-game content to send based on one of the factors including a type of the mobile communication device, a telecom service associated with the mobile communication device, and a service provider of the telecom service; and
1[c]	uploading updated video-game content to the communications device, the video-game content being usable when the video game operates on the communications device.
2	The method of claim 1, wherein the updated video-game content is promotional content.
3	The method of claim 1, further comprising the step of checking whether the communications device should receive the updated video-game content before uploading the updated video-game content to the communications device.
4	The method of claim 1, further comprising the step of sending information to the mobile communication device as part of the updated content, the information providing an in-game

Claim	Limitation
	placement location associated with the updated video-game content.
5	The method of claim 1, further comprising the step of tracking what has been uploaded to the mobile communication device.
6	The method of claim 1, wherein uploading updated video-game content to the mobile communication device further comprises displaying the video-game content within the game at a location based on user interaction.
7	The method of claim 1, wherein the video-game content is displayed in the video game for a predetermined period of time.
8	The method of claim 1, wherein the video-game content is selected based on the location of the mobile communication device.
9	The method of claim 1, wherein the video-game content is selected based on user information specific to a user of the mobile communication device.

I. INTRODUCTION

PLR Worldwide Sales Limited (“Petitioner”) respectfully requests *inter partes* review of claims 1-9 (the “Challenged Claims”) of U.S. Patent No. 9,731,202 (the “’202 patent”) pursuant to 35 U.S.C. §311 and 37 C.F.R. §42.100.

The ’202 patent, which has a filing date of June 26, 2007, claims a method for providing advertisements to be displayed in a mobile game based on factors such as the type of mobile device or the mobile device’s carrier. The simplicity of this description, which is reflected in the plain language of the claims, underscores the obviousness of the challenged claims as of 2007. Petitioner presents two references, Hays and Levkovitz, both of which alone disclose or render obvious every limitation of independent claims 1, and most or all of the dependent claims.

For example, Hays describes a system for presenting advertisements within a game played on a game console, which includes mobile devices such as cellular phones. The game console requests an advertisement, and the system selects an advertisement based on numerous factors, including the type of mobile device and the demographics of the user. The advertisement is then displayed within the game, such as on a store front or on a car within the game.

Levkovitz similarly describes presenting advertisements for game applications running on a mobile device. The mobile device may request an advertisement from the ad server, which selects an advertisement based on the type

of mobile device and the demographics of the user. The advertisement is then displayed within the application.

II. STANDING

Petitioner certifies that the '202 patent is available for IPR and that Petitioner is not barred or estopped from presenting the grounds identified in this Petition.

III. IDENTIFICATION OF CHALLENGE AND RELIEF REQUESTED

Petitioner requests cancellation of claims 1–9 (“Challenged Claims”) on the following grounds:

Ground	Reference(s)	Basis	Claims
1	Hays	§103	1-9
2	Hays, Choi	§103	1-9
3	Hays (or Hays/Choi), Chu	§103	4
4	Hays (or Hays/Choi), van Datta	§103	6
5	Levkovitz	§103	1-3, 5-9
6	Levkovitz, Chu	§103	4
7	Levkovitz, van Datta	§103	6

IV. LEVEL OF ORDINARY SKILL IN THE ART

A person of ordinary skill in the art (“POSITA”) as of June 26, 2007 would have had an undergraduate degree in game design or development, computer science, computer engineering, or a related field, with at least two years of experience working with computer gaming systems or software application development. Ex. 1003, ¶¶66-70. Less work experience may be compensated by a

higher level of education or vice versa. *Id.* Petitioner’s expert, Dr. José Zagal, exceeds this definition. *Id.*, ¶71.

V. THE ’202 PATENT

A. Overview

U.S. Pat. No. 9,731,202 (the “’202 patent”) is directed to “updating content of a mobile video game [that] allow for mobile communication devices to receive updated content for video games that operate on the devices.” Ex. 1001, Abstract. These “updates may be promotional in nature,” *i.e.* advertisements. *Id.* The ’202 patent explains that “[a]fter server 120 receives a communication request from mobile communication device 110, server 120 may check whether updated content is available for one or more mobile video games.” *Id.*, 5:56-59. The server determines “whether updated content should be sent to the particular mobile communication device 110,” and “user information may also be utilized to determine which updated content to download, such as the sex, age, or interests of the user.” *Id.*, 5:64-6:5; Ex. 1003, ¶¶55-58.

When the “updated content has been downloaded by the mobile communication device 110, the content may be placed in-game (*i.e.*, within the video game environment).” Ex. 1001, 6:11-13; Ex. 1003, ¶59.

B. Prosecution History of the ’202 patent

The ’202 patent was filed on June 26, 2007 as Application No. 11/768,892. Ex. 1001.

During prosecution of the '202 patent, the examiner made a number of rejections. Ex. 1003, ¶¶60-61. In response to those rejections, applicant generally did not amend its claims (except to add the limitation “video-game”). *Id.* Following a second final rejection on August 18, 2014, applicant filed an appeal to the Patent Trial and Appeal Board. Ex. 1002, 67-85. On February 2, 2017, the Board reversed the examiner, finding that the reference US 2006/0136297 A1 (“Willis”) does not disclose “checking what updated video-game content to send based on ... a type of mobile communication device.” *Id.*, 41. The Board found that Willis only “discloses that advertising content is sent based on the physical geographic location of the gamer,” and “not based on the console type.” *Id.*, 42. The Board also agreed that Willis’s content “could be adapted by the mobile communication device, rather than by a separate device that provides or uploads the updated content to the mobile communication device, as required by Appellant’s claims.” *Id.* Following the Board’s decision, the patent issued on April 7, 2017. Ex. 1003, ¶¶62-63.

Both of Petitioner’s primary references, Hays and Levkovitz, disclose a server selecting an advertisement based on the type of the mobile communication device. Neither reference was cited or considered by the examiner. Ex. 1003, ¶64.

VI. TECHNOLOGY BACKGROUND

A. Video Games

The history of video games spans decades. For example, in 1961, students at MIT programmed an early, very expensive, very large computer to play a game they titled “Spacewar,” which simulated duels between rocket ships in space. Ex. 1003, ¶44; Ex. 1010 at 34-35. Video games rose in popularity and entered the mainstream in the 1970s and 1980s, particularly with the development and release of coin-operated arcade machines and home video game consoles, such as the Magnavox Odyssey, the Atari Video Computer System, the Nintendo Entertainment System, and the Sega Master System. Ex. 1003, ¶45; Ex. 1010 at 42, 124, 140-166, 295, 320. By the end of the 1980s, video games were already a multi-billion dollar business. Ex. 1003, ¶45; Ex. 1010 at 429.

B. Mobile Games

Portable video game systems began to launch at roughly the same time as home video game consoles. For example, in the late 1970s, Nintendo released its “Game & Watch” series of watch-shaped portable video games. Ex. 1003, ¶46; Ex. 1010 at 296; Ex. 1011 at 2. Ten years later, in 1989, Nintendo released the Game Boy, one of the first handheld video game systems that supported multiple games by way of interchangeable cartridges. Ex. 1003, ¶46; Ex. 1010 at 430; Ex. 1011 at 2.

Video games began appearing on mobile phones in the late 1990s. For example, in 1997 Nokia began pre-installing a mobile version of the game *Snake* on

its mobile handsets. Ex. 1003, ¶47; Ex. 1011 at 2; Ex. 1012 at 2. As mobile phones incorporated increasingly more powerful hardware, demand for mobile games increased and more mobile game developers emerged to meet that demand. Ex. 1003, ¶47; Ex. 1012 at 2; Ex. 1013 at 2. Following that trend, in 2003, handset manufacturer Nokia released a portable gaming device built on a mobile phone, called the N-Gage. Ex. 1003, ¶47; Ex. 1013 at 4. Market analysts in the early 2000s considered mobile games to be one of the fastest growing segments in the video game industry, and established video game publishers invested hundreds of millions of dollars to acquire a presence in that market. Ex. 1003, ¶48; Ex. 1014 at 1. Indeed, as the '202 Patent acknowledges, by its priority date “[m]any mobile communication devices ... [were] capable of operating video games,” and “gaming on mobile communication devices [had] become a popular mode of entertainment.” Ex. 1001, 1:13-16, 1:25-27.

Although mobile game development posed some unique challenges, hardware manufacturers and software developers quickly adapted to meet these challenges. Ex. 1003, ¶¶48-49. For example, Intel and NVIDIA developed hardware and software specifically designed to support 3D graphics on mobile phones; handset manufacturers such as Ericsson and Motorola defined software interfaces to support standard functions used in video games; and platform developers such as Oracle and

Qualcomm released software development platforms to facilitate programming of mobile games. Ex. 1003, ¶49; Ex. 1012 at 3; Ex. 1013 at 2-3; Ex. 1014 at 1.

C. Dynamic Content and In-Game Ads

Game developers embraced the idea of updateable games even before mobile games became popular. Ex. 1003, ¶52. Many game publishers released expansion packs for popular games that added new levels or new in-game characters or items to keep players interested. *Id.* For example, in 2001, Nokia launched a subscription service that allowed members to download new levels for certain mobile games. *Id.*; Ex. 1018 at 52.

Dynamic content updates also allowed advertisers to expand into video games. Ex. 1003, ¶53. By 2006, a number of different advertising companies offered in-game advertising networks that allowed game developers to incorporate dynamic ads from third parties into their games, including mobile games. *Id.*; Ex. 1015 at 1-2; Ex. 1016 at 22-23; Ex. 1017 at 1. Many of these in-game ads took the form of billboards and similar passive advertisements within the game world; however, interactive ads were also incorporated into games, requiring the user to interact with an in-game object in order to trigger advertising content to appear. Ex. 1013, ¶53; Ex. 1016 at 45. At least some of the grounds presented in this petition rely on prior art references originating at several of the in-game advertisement network companies from that era. Ex. 1003, ¶54; *see also, e.g.*, Ex. 1006; Ex. 1007.

VII. OVERVIEW OF THE PRIOR ART

The below is an overview of the asserted prior art. All of the below references relate to provision and display of advertisements in a video game, and typically a video game running on a mobile communication device. Ex. 1003, ¶¶74-75. Thus, all of these references would be obvious sources that a POSITA would have considered when seeking to improve the provision of updated content to a mobile video game, as they all relate to the same field of endeavor, *i.e.*, systems and methods for delivering updated content, such as advertisements, to video games. *Id.*

A. Hays (Ex. 1005)

U.S. Patent Pub. No. 2008/0102947 (“Hays”) was filed on March 8, 2005 and is therefore prior art under pre-AIA §102(e).

Hays is directed to “[a]n advertisement delivery scheme and associated facility provide targeted advertisements for multiple video games without advertisers having to specify specific game titles in which they would like their advertisements placed.” Ex. 1005, Abstract. In particular, Hays describes “[a]n advertisement delivery scheme and associated computerized facility” that “allow advertisers to deliver their campaign messages to specific audiences they wish to target across one or more multiple game titles played across multiple platforms (e.g., PC, console, mobile, etc.).” *Id.*, ¶17. This is done by the “game playing device ... request[ing] and receiv[ing] advertisements from the advertisement management

service system.” *Id.*, ¶51. The advertisement management service system selects which advertisements to deliver using “an advertising matching and weighting system,” which “calculate[s] [a] weight of each advertisement based on several factors including ... information regarding the specific client type.” *Id.*, ¶43.

When the video game receives the advertisement, they are “presented in the appropriate available ad units at the appropriate time during game play.” *Id.*, ¶21. For example, “a game character [that] may move around a screen holding a can of Pepsi and ask player if they would like a drink.” *Id.*, ¶79. The below annotated Figure 1A shows the relationship between Hays’s various systems. Ex. 1003, ¶¶76-78.

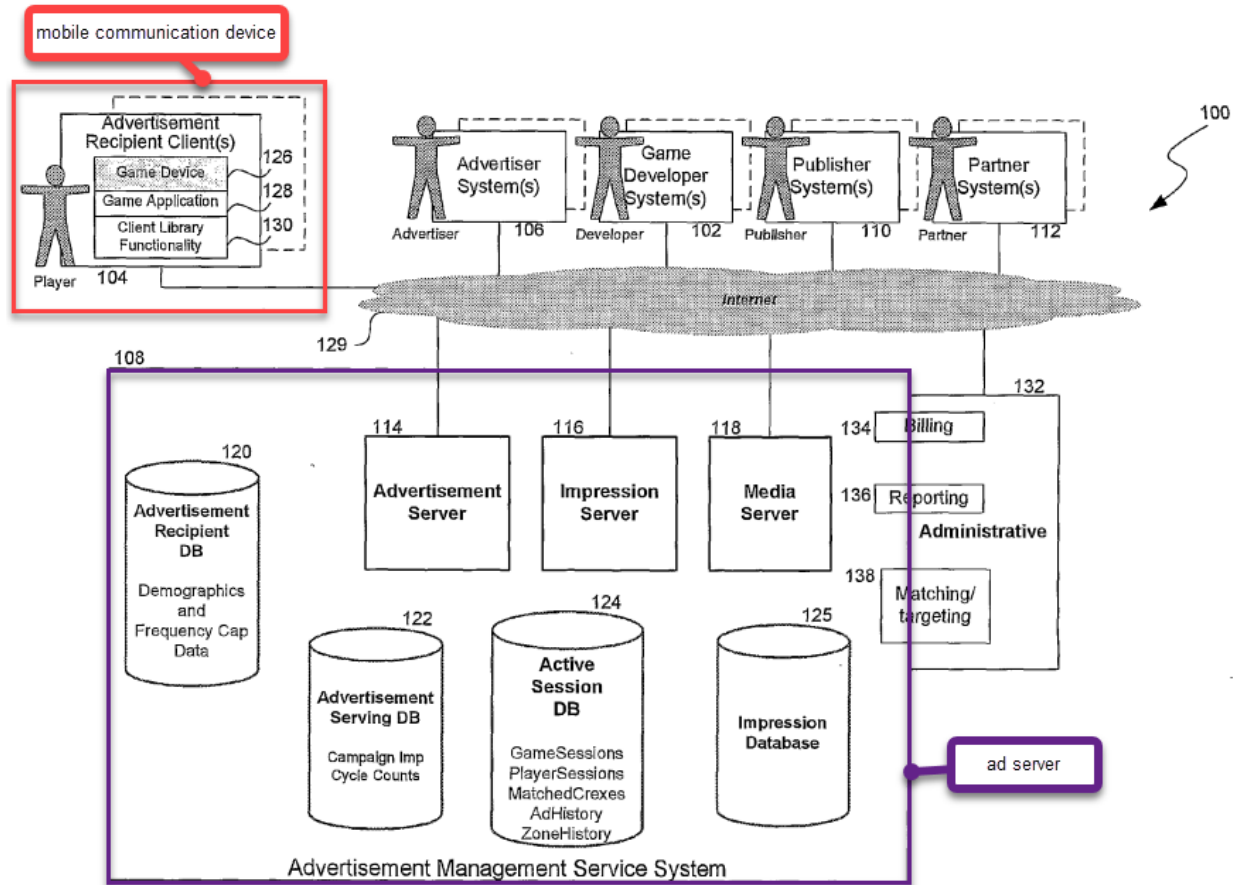


FIG. 1A

B. Choi (Ex. 1006)

U.S. Patent Pub. No. 2007/0174490 (“Choi”) was filed on January 19, 2007 and claims priority to several provisional applications filed in 2006. It is therefore prior art under pre-AIA §102(e).

Choi is directed to “[m]ethods and systems for managing distribution and retrieval of data (for example advertising content and viewing statistics) ... into pre-existing mobile applications” such as “portable game consoles.” Ex. 1006, Abstract, ¶3. In selecting advertisements to deliver to the mobile game, Choi describes using “demographic information from the carrier” of the mobile device as well as using

“GPS location information to request location-specific advertising.” Ex. 1006, ¶¶84, 43. Choi obtains demographic information from the carrier by inference because “a users’ carrier implies a certain demographic.” *Id.*, ¶86, ¶96 (“[S]ome carriers have users that are older, younger, businesses, family, etc.”); Ex. 1003, ¶¶79-80

C. Chu (Ex. 1007)

U.S. Patent No. 7,698,178 (“Chu”) was filed on November 22, 2005 and published on April 20, 2006. It is therefore prior art under pre-AIA §102(a), (b) and (e).

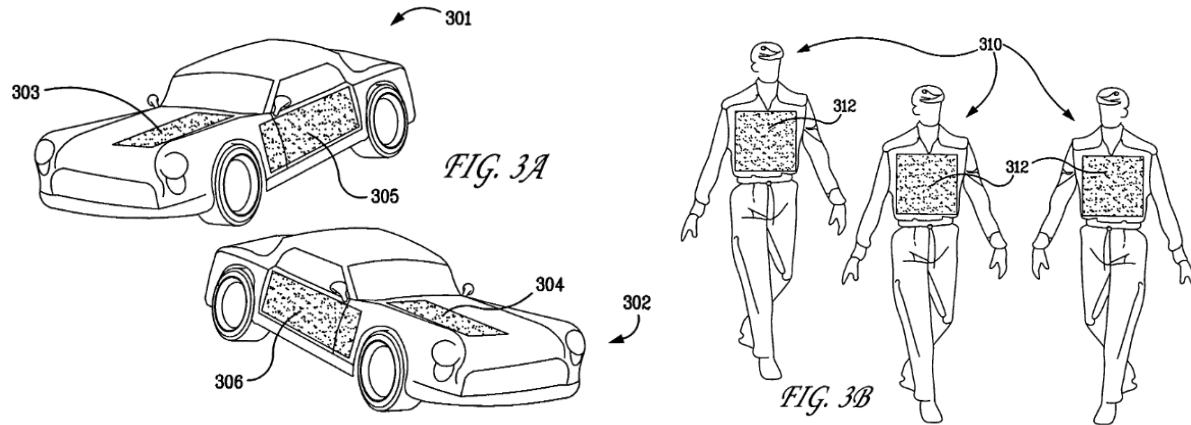
Chu is directed to “[A]n online game advertising system ... for enabling ... interactive advertisements ... that appear within an online video game.” Ex. 1007, Abstract. Chu discloses “advertising metadata and schedules that determine what advertisements are to display in specified locations within the game,” and in turn receiving advertisements that include “[a] location object (530, 630) [that] represents the location within a game at which advertisements are to appear.” Ex. 1007, 14:20-15:5; Ex. 1003, ¶¶81-82.

D. Van Datta (Ex. 1009)

U.S. Patent No. 9,129,301 (“van Datta”) was June 13, 2006 and published on April 5, 2007. It also claims priority to application No. 11/241,229, filed on September 30, 2005. It is therefore prior art under pre-AIA §102(a) and (e).

Van Datta is directed to “[a] system and method for placing an advertisement in a digital environment based upon a user’s choice, subject to certain predetermined parameters.” Ex. 1009, Abstract. In general, van Datta describes “objects ... in a video game [that] may be ‘tagged,’ these ‘tagged’ areas being subject to the insertion or placement of advertising content.” *Id.*, 2:59-61. For example, “the face of a billboard 100 may be ‘tagged’ (110) to indicate that an advertisement may be embedded in that location.” *Id.*, 2:61-64. Such “dynamic advertising content may be pushed ... into the video game ... via, for example, an ... advertising server.” *Id.*, 3:5-7. This includes provision of advertisements “to a portable media device or cellular phone.” *Id.*, 11:13.

Van Datta further discloses that, when the video game receives the advertisement, “the user may select particular advertising content for insertion in a digital environment,” such as particular locations on “a vehicle” or “a uniform.” Ex. 1009, 5:62-6:2. Moreover, “[t]he user may ... drag-and-drop an advertisement ... into the particular advertising asset displayed in the environment window,” such that “a particular shape of billboard ... may be populated with a particular advertisement” selected by a user. *Id.*, 7:55-8:9. The below figures from van Datta depict in-game locations for which the user can select a particular advertisement to display. Ex. 1003, ¶¶83-85.



E. Levkovitz (Ex. 1008)

U.S. Patent Pub. No. 2007/0088801 (“Levkovitz”) was filed on May 4, 2006 and published on April 19, 2007. It also claims priority to application No. 11/250,476, which was filed on October 17, 2005. It is therefore prior art under §102(a) and (e).

Levkovitz is directed to “contextual and/or noncontextual placement of content, e.g., advertisements or banners, within an application executed by a cellular phone, a mobile phone, or other wireless communication device.” Ex. 1008, ¶5. The application could be “games for mobile phones.” *Id.*, ¶6; *see also* ¶123 (“The application 176 may be ... a game”), ¶127 (“a first application 176 (e.g., a chess game)”, “a second application 176 (e.g. a racing game).”).

Advertisements are delivered by the mobile game “request[ing] content” from an “ad server” which will “selectively serve content items to the content client, based on parameters related to the mobile phone, e.g., manufacturer identifier, model identifier, available memory, presentation capabilities, or the like..” Ex. 1008, ¶6,

see also id., ¶126 (“[A]d server 110 may select one or more content items which may be adequately presented by device 170 based on properties of device 170, e.g., handset model ...”). The “ad server” then “serve[s] content items directed for presentation using a first application 176 (e.g., a chess game).” Ex. 1008, ¶127. The “[d]evice 170 may present the content item(s),” such as “within application 176, during or together with the execution of application 176.” *Id.*, ¶131. For example, “the user may complete a level in the game, and the first advertisement may be presented.” *Id.*, ¶320; Ex. 1003, ¶¶86-88.

VIII. CLAIM CONSTRUCTION

Petitioner does not believe any terms require construction to resolve the patentability disputes because the challenged claims are rendered unpatentable by the cited art under any reasonable interpretation of the claims. Petitioner takes no position in this Petition as to whether the claims are indefinite, and no statements herein should be interpreted to mean that the terms are definite. Ex. 1003, ¶¶72-73.

IX. DETAILED EXPLANATION OF INVALIDITY GROUNDS

The following grounds establish a reasonable likelihood that the Petitioner will prevail with respect to the Challenged Claims. Ex. 1003, ¶¶89-205.

A. Ground 1: Claims 1-9 and 11-24 are Rendered Obvious in View of Hays

1. Claim 1

- (a) 1[pre]: A method for providing updated video-game content to a mobile communication device for use in a

**mobile video game, the method comprising the steps
of:**

To the extent the preamble is limiting, Hays discloses ***a method for providing updated video-game content to a mobile communication device for use in a mobile video game.*** Ex. 1003, ¶¶92-95. Hays describes “[a]n advertisement delivery scheme and associated computerized facility” that “allow advertisers to deliver their campaign messages [*i.e. updated video-game content*] to specific audiences they wish to target across one or more multiple game titles [*i.e. mobile video games*] played across multiple platforms (e.g., PC, console, mobile, etc.) [*i.e. mobile communication device*].” Ex. 1005, ¶17. For example, Hays discloses that “[w]hen ***a game*** is played at a player’s gaming device ... the client library functions associated with the game application may pull ***media data*** [*i.e. updated video-game content*] from the advertisement server and pass them on to the game code, so that specific advertisements may be presented in the appropriate available ad units at the appropriate time during game play.” *Id.*, ¶21.

According to the ’202 patent, ***updated video-game content*** includes advertisements. Ex. 1001, 6:44-50 (“[V]irtually any of these items may be changed by receiving ***updated content*** on the mobile communication device. For instance, ... [t]he poster 225 might ***advertise an upcoming movie*** for third party Y, and chalk board 220 may contain ***a handwritten advertisement*** for third party Z.”); Ex. 1003, ¶94.

With respect to gaming platforms, Hays further describes that they can include “hand-held devices, wearable computers, cellular or mobile phones, microprocessor-based or programmable consumer electronics, ... and the like,” all of which are examples of ***mobile communication devices***. Ex. 1005, ¶51. Hays also discloses that the terms “game console” and “console” “as used generally herein [*i.e.* the patent], refers to any of the above devices.” *Id.*; Ex. 1003, ¶95.

- (b) 1[a]: receiving a request for the updated video-game content from the mobile communication device, the updated video-game content being usable in the video game that already exists on the mobile communication device;

Hays discloses ***receiving a request for the updated video-game content from the mobile communication device***. Ex. 1003, ¶¶96-98. For example, Hays discloses that “[t]he advertisement recipient client 104 may include a game playing device 126 (e.g., a console, computer, ***portable game device***, ...)” and that it “may ***request*** and receive ***advertisements*** [*i.e.* ***updated video-game content***] from the advertisement management service system.” Ex. 1005, ¶32. As mentioned in 1[pre], the game playing device also includes “cellular or mobile phones.” *Id.*, ¶51; Ex. 1003, ¶97.

Hays also discloses that ***the updated video-game content is usable in the video game that already exists on the mobile communication device***. Ex. 1003, ¶98. Hays discloses that “[w]hen a game is played at a player’s gaming device” (*i.e.* ***a video game that already exists on the mobile communication device***), the

advertisements (*i.e.* **updated video-game content**) are **usable in the game** by being “pass[ed] on to the game code” and “presented in the appropriate available ad units at the appropriate time during game play.” Ex. 1005, ¶21. An example includes the advertisement management service system sending “a game character [that] may move around a screen holding a can of Pepsi and ask player if they would like a drink.” *Id.*, ¶79.

- (c) **1[b]: checking what updated video-game content to send based on one of the factors including a type of the mobile communication device, a telecom service associated with the mobile communication device, and a service provider of the telecom service; and**

Hays discloses **checking what updated video-game content to send based on the type of mobile communication device and a service provider of the mobile communication device’s telecom service**. Ex. 1003, ¶¶99-104. Hays discloses that when the mobile communication device sends a request for advertisements (*i.e.* **updated video-game content**), the “request contains a data structure that includes a unique identifier to indicate the **client type** ... [which] can effectively be a SKU, which includes a **type of game console** ...” Ex. 1005, ¶40. The “advertising request handler 210” forward the request “to an advertising matching and weighting system,” which “calculate[s] [a] weight of each advertisement based on several factors including ... information regarding the specific **client type**.” *Id.*, ¶¶40, 43. Further targeting can be based on “demographic information about a game player collected

via the use of an IP address,” which for a mobile communication device connected to a cellular network would be the IP address associated with the cellular service provider (such as AT&T or Verizon). *Id.*, ¶44; Ex. 1003, ¶100. Different service providers have different ranges of IP addresses, and so the use of an IP address for selecting an advertisement constitutes selection based on a service provider. *Id.*

The “advertising matching and weighting system 220 then selects one or more advertisements from the weighted advertisement set, where the probability of an advertisement being selected is directly derived from the advertisement’s assigned weight, relative to other advertisements in the set.” *Id.*, ¶43. In other words, Hays discloses checking which advertisement (*i.e.* **updated video-game content**) to send using weights assigned to advertisements based on the “type of game console” and demographic information associated with the service provider. Ex. 1003, ¶101.

Hays discloses that “type of game console” is a **type of mobile communication device**. *Id.*, ¶102. Hays for example states that the term “game console ... as used generally herein ... refers to any of the above devices,” which include “hand-held devices, wearable computers, cellular or mobile phones, microprocessor systems, [and] microprocessor-based or programmable consumer electronics,” each of which are a **type of mobile communication device**. *Id.*, ¶51; *see also id.*, ¶23 (“[T]he advertisement delivery scheme enables an advertiser to deliver advertising across a range of electronic mediums including consoles (such as

Sony Play Station and Microsoft Xbox), PC and Macintosh computers, wireless equipment (***cellular phones and other wireless gaming devices***) ...”).

To the extent Patent Owner argues these teachings are from different embodiments, they are not, as Hays makes it clear that the above description of “game console” is how the term is “used generally herein,” *i.e.* how the term is used generally within the patent, including the teachings of weighing the advertisements based on “type of game console.” *Id.*, ¶51; Ex. 1003, ¶103. There is no indication in Hays that a “game console” has different meanings in different embodiments. *Id.*

In any case, it would have been obvious for a POSITA to combine Hays’s teachings of weighing advertisements based on the type of game console (*id.*, ¶43) and Hays’s teachings of the various mobile communication devices that constitute game consoles (*id.*, ¶51). Ex. 1003, ¶104. A POSITA would have been motivated to include as many types of game consoles in order to maximize the number of devices to which advertisements could be delivered, which could increase the revenue generated from advertisers. *Id.* Indeed, Hays teaches that its system is intended to “deliver advertising across ***a range of electronic mediums*** including ... wireless equipment (cellular phones and other wireless gaming devices).” Ex. 1005, ¶23. In other words, Hays itself provides motivation to expand the scope of supported console systems by including all of those listed in Paragraph 51. Ex. 1003, ¶104. A POSITA would also understand that by including mobile devices within

the type of game consoles supported, this would increase the potential number of views of the delivered advertisements since users often play mobile games in places they would otherwise not be able to play other games, such as on the bus or subway.

Id. POSITA would have had a reasonable expectation of success combining these teachings because Hays already teaches supporting multiple types of game consoles thus success is expected. *Id.*

(d) **1[c]: uploading updated video-game content to the communications device, the video-game content being usable when the video game operates on the communications device.**

Hays discloses ***uploading updated video-game content to the communications device, the video-game content being usable when the video game operates on the communications device.*** Ex. 1003, ¶¶105-106. Hays discloses that “selected advertisements” (*i.e.* ***video-game content***) are uploaded to the game playing device (*i.e.* ***mobile communications device***). Specifically, Hays discloses that “[t]he selected advertisements [*i.e.* ***updated video-game content***] are then sent back to the requesting advertising request handler 210 and transmitted [*i.e.* ***uploaded***] back to the advertisement recipient client for display.” Ex. 1005, ¶43. As discussed above in limitation 1[a], the “advertisement recipient client” is “a game playing device 126 (e.g., a console, computer, portable game device, etc.),” *i.e.* ***a communications device***. Because the advertisements are “sent back,” they are ***uploaded to the device***. Ex. 1003, ¶105.

Hays discloses that the advertisement is ***usable when the video game operates on the communications device***, because when the advertisements are uploaded, they are presented (*i.e.* ***usable***) on the mobile communications device. Ex. 1003, ¶106. Specifically, Hays states that “[w]hen a game is played at a player’s gaming device,” the advertisements are “presented in the appropriate available ad units at the appropriate time ***during game play***.” Ex. 1005, ¶21. An example includes the advertisement management service system sending “a game character [that] may move around a screen holding a can of Pepsi and ask player if they would like a drink.” *Id.*, ¶79.

2. Claim 2: The method of claim 1, wherein the updated video-game content is promotional content.

As discussed above in claim 1, Hays discloses ***updated video-game content*** in the form of advertisements, which are ***promotional content***. Ex. 1003, ¶107. For example, Hays discloses “a game character [that] may move around a screen holding a can of Pepsi and ask player if they would like a drink.” Ex. 1005, ¶79.

3. Claim 3: The method of claim 1, further comprising the step of checking whether the communications device should receive the updated video-game content before uploading the updated video-game content to the communications device.

Hays discloses ***the step of checking whether the communications device should receive the updated video-game content before uploading the updated video-game content to the communications device***. Ex. 1003, ¶¶108-10. For

example, Hays discloses that “[t]he advertisement recipient database 122,” the database from which advertisements are retrieved by the advertising matching and weighting system, “contains information about the technical media formats accepted by each advertising destination within an advertisement recipient client and about which advertising has been ***specifically approved for each advertisement recipient client*** by a game publisher/developer.” Ex. 1005, ¶¶42-43. Moreover, “[o]nly advertisements that can provide the correct media format for the requested destination and that have been ***specifically approved to be displayed*** within the client may be included in the set of advertising.” *Id.* This specific approval meets the claimed checking whether the device should receive the advertisement. Ex. 1003, ¶109.

Hays also discloses that “the advertising matching and weighting system 220” uses “frequency caps (e.g. a limit as to a number of times a particular advertisement is displayed in a single game session or level/location in the game),” which is another example of ***checking whether the device should receive updated video-game content***. Ex. 1003, ¶110.

4. **Claim 4: The method of claim 1, further comprising the step of sending information to the mobile communication device as part of the updated content, the information providing an**

in-game placement location associated with the updated video-game content.

Hays discloses *information providing an in-game placement location associated with the updated video-game content*. Ex. 1003, ¶¶111-15. For example, Hays discloses “available ad units” which are “*spaces*” that include “pre-designated geometry *within the game*, such as billboards, storefront signs, panel trucks, Jumbotron screens, in a sports stadium, posters on walls, T-shirts on a game character, items used by game characters ..., and so on.” Ex. 1005, ¶18. Such “ad units” are *in-game placement locations associated with advertising (i.e. updated video-game content)*. Ex. 1003, ¶112.

Hays discloses that available ad units (*i.e. in-game placement locations*) are *sent to the mobile communication device as part of the updated content*. Ex. 1003, ¶113. As discussed above in claim 1, Hays discloses that the “advertisement server 114” provides advertisements (*i.e. updated video-game content*) to the mobile communication device. Hays further discloses that “the advertisement server 114” sends these “requested lists of advertisements *for specific available ad units*,” in other words, the server specifies which advertisements are for which specific ad units. Ex. 1005, ¶29. This is because Hays describes sending multiple advertisements to the client device and therefore the client device would need to know which advertisement is associated with which ad unit, information that could only be provided by the server. Ex. 1003, ¶113. For example, when Hays describes

an interactive ad unit where “a game character eating a brand name energy bar to boost her power in the game,” when the server sends multiple advertisements including the energy bar brand to the client device, the client device would not know the energy bar brand should be used with the power-boosting energy bar item’s ad unit unless the server provided such information. *Id.*

Hays also discloses that “advertisers use insertion orders” to request placement of their advertisements on “specific available ad unit[s] for a defined period of time and view frequency.” *Id.*, ¶57. For example, “a company may request its logo to be placed on any panel trucks in Zone 7 of the game.” *Id.* These “insertion orders” are “entered onto the advertisement serving database” (*id.*, ¶58), which is the same database used by “[t]he advertisement server 114” to retrieve advertisements and advertisement information to be sent to the client device. *Id.*, ¶¶30, 43. A POSITA would understand that when sending the advertisement to the mobile communication device, the ad unit requested by the advertiser is also sent to the mobile communication device because that is the only way for the device to know which ad unit (*i.e.* ***in-game placement location***) the advertiser chose for the proper display of the advertisement in-game. Ex. 1003, ¶114.

A POSITA would have also found it obvious to send the specific ad unit (*i.e.* ***in-game placement location***) with the advertisement sent to the mobile communication device, because a POSITA would be motivated to provide a

mechanism to inform the game running on the device where to place the advertisement, as that would fulfill the contractual obligations to the advertiser. *Id.*, ¶1115. A POSITA would have reasonably expected such a combination to succeed because the modification would simply include information identifying the specific ad unit when sending an advertisement, which is information already stored by the server (such as when advertisers use “insertion orders” as described above). Providing additional information with the server response would be a straightforward change well within the capabilities of a POSITA.

5. Claim 5: The method of claim 1, further comprising the step of tracking what has been uploaded to the mobile communication device.

Hays discloses *the step of tracking what has been uploaded to the mobile communication device*. Ex. 1003, ¶¶116-118. For example, Hays discloses “a record in the active session database 124, which registers the game player as the first member of the new session and is used to *track and record all communications and data* sent to and received from the advertisement recipient client 104,” *i.e. the mobile communication device*. Ex. 1005, ¶38.

Hays also discloses that “the active session database 124 records the advertisements that have been delivered to a session,” *i.e.*, the advertisement server *tracks which advertisements have been uploaded to the mobile device*. *Id.*, ¶45. Hays also discloses that this tracking function allows the system to implement

“frequency caps (e.g. a limit as to a number of times a particular advertisement is displayed in a single game session or level/location in the game).” *Id.*, ¶45. In other words, in order to implement “frequency caps,” the system must know how many times a particular advertisement has been provided to the mobile device, which confirms that the system tracks what has been uploaded to the mobile communication device. Ex. 1003, ¶117.

Hays also discloses that “services that track and audit the quality of presentation of the in-game advertisements,” including “advertisement impressions (which quantify the presentation qualities—e.g., viewing angle, percent screen size, time on screen, etc.—of an advertisement as presented in any given instance).” *Id.*, ¶25. In order to track such information about advertisements, the system would also need to track which advertisements were uploaded to the mobile device. Ex. 1003, ¶118.

6. Claim 6: The method of claim 1, wherein uploading updated video-game content to the mobile communication device further comprises displaying the video-game content within the game at a location based on user interaction.

Hays discloses *wherein uploading updated video-game content to the mobile communication device further comprises displaying the video-game content within the game at a location based on user interaction*. Ex. 1003, ¶¶119-23. Hays provides several examples where the display of ad units (*i.e. in-game locations for displaying advertisements*) is based on user interaction. Ex. 1003, ¶119.

For example, Hays discloses “ad units” that are “mini games ... between levels,” where “[e]ach of these mini games may be associated with one or more specific products, thereby performing an advertising function.” Ex. 1005, ¶78. Because these mini games do not appear until a level is completed, the **location of the advertisement is based on user interaction**, specifically the interaction of completing the level to trigger the mini game which displays the advertisement at a specific location. Ex. 1003, ¶120.

Similarly, Hays discloses “ad units that allow advertising at the beginning and end of a game and in between game levels (similar to commercials),” which is based on the **user interaction** of starting or completing a game or level. *Id.*, ¶80; Ex. 1003, ¶121.

For example, Hays discloses that advertisers can specify that an “[a]dvertisement stays static as long as the user is in the zone, per session,” such as “a McDonald’s store front does not switch to a Citibank in the middle of game play.” *Id.*, ¶62. In other words, whether a McDonald’s or a Citibank ad is displayed at a particular location (*i.e.* a store front) is based on the **user interaction** of continuing the current game play session or logging off and starting a new session. Ex. 1003, ¶122.

Another example is Hays’s disclosure that “the advertisement management service system may send bots or electronic agents into the game as advertising units

or real characters in the game, which advertise or promote a product (e.g., a game character may move around a screen holding a can of Pepsi and ask player if they would like a drink).” *Id.*, ¶79. The location of the game character displaying the Pepsi advertisement is based on the location of the player’s character, which is therefore based on the user interaction of arriving at that location. Ex. 1003, ¶123. Moreover, the location of the displayed advertisement would be based on the user interaction of either staying in that location or moving to a different location. *Id.*

7. Claim 7: The method of claim 1, wherein the video-game content is displayed in the video game for a predetermined period of time.

Hays discloses *wherein the video-game content is displayed in the video game for a predetermined period of time*. Ex. 1003, ¶124. For example, Hays discloses that “[a]dvertisers can also take advantage of the dynamic nature of the advertisement delivery scheme to run time-based advertisement campaigns based on *seasons, specific days* (e.g., only on Sundays), *specific dates* (e.g., the day before Valentine's Day), *specific times of day* (between 6 and 9 p.m.)” Ex. 1005, ¶23; *see also id.*, ¶57 (“[A]dvertisers use insertion orders to contract with the advertisement management service to place advertisements within a ... specific available ad unit for a *defined period of time* ...”). These are all *predetermined periods of time*. Ex. 1003, ¶124.

8. **Claim 8: The method of claim 1, wherein the video-game content is selected based on the location of the mobile communication device.**

Hays discloses *wherein the video-game content is selected based on the location of the mobile communication device*. Ex. 1003, ¶¶125-26. Hays discloses that “the advertisement server 114 may select advertisements [*i.e. video-game content*] based upon ... location.” Ex. 1005, ¶30. Hays further discloses that “advertising can be further targeted based on specific demographic characteristics of a game player” including their “geographic location.” *Id.*, ¶44. A POSITA would understand that the location of a player is *the location of the mobile communication device* used by that player, because the player is playing a video game on the mobile communication device and therefore the device must be co-located with the player. Ex. 1003, ¶125.

A POSITA would also find it obvious to use the location of the mobile communication device (such as its GPS coordinates) as the “geographic location” of the player. Ex. 1003, ¶126. A POSITA would be motivated to use the mobile device’s location because it is likely to be the current location of the player. *Id.* A POSITA would understand that the player, if playing a game on their mobile device, will be co-located with the mobile device. *Id.* Thus, the location of the mobile device will be the geographic location of the player, and likely be a better location than other alternatives for locating the player. *Id.* For example, the player could

have provided the system with his address, but that is not going to be as accurate or up-to-date as the location of the mobile device. *Id.* A POSITA would also reasonably expect this combination to succeed because it would simply involve the well-known practice of obtaining the location of the mobile communication device (such as through its GPS receiver) and sending that data with the request for an advertisement. *Id.*

9. Claim 9: The method of claim 1, wherein the video-game content is selected based on user information specific to a user of the mobile communication device.

Hays discloses *wherein the video-game content is selected based on user information specific to a user of the mobile communication device*. Ex. 1003, ¶127.

Hays discloses that “advertising can be further targeted based on specific demographic characteristics of a game player,” such as “age, sex, geographic location, hardware software platforms, ... purchasing habits of a game player, information about web sites that the game player visits, information about habits of the game player, ..., etc.” Ex. 1005, ¶44. These are examples of information specific to the user. Ex. 1003, ¶127.

B. Ground 2: Claims 1-9 Are Rendered Obvious By Hays and Choi

As discussed above in Ground 1, Hays renders obvious claims 1 through 9. However, the combination of Hays and Choi provides an additional obviousness

theory for limitation 1[b] and claim 8. Ex. 1003, ¶¶128-42. Thus, the combination of Hays and Choi also renders obvious claims 1-9.

1. Rationale to Combine Hays and Choi

A POSITA would have found it obvious to modify Hays's system for providing advertisements to a mobile game by incorporating Choi's teachings of carrier-based and location-specific advertising. Ex. 1003, ¶¶129-36.

References cannot be combined as obvious unless they are analogous art to the challenged patent. Hays and Choi are analogous art to the '202 patent, as they all are directed to delivering updated content, such as advertisements, to video games. *See* Ex. 1001, Abstract (“Systems and methods for updating content of a mobile video game allow for mobile communication devices to receive updated content for video games that operate on the devices.”); Ex. 1005, ¶17 (“An advertisement delivery scheme and associated computerized facility allow advertisers to deliver their campaign messages to specific audiences they wish to target across one or multiple game titles played across multiple platforms (e.g., PC, console, mobile, etc.) ...”); Ex. 1006, Abstract, ¶3 (“Methods and systems for managing distribution and retrieval of data (for example advertising content and viewing statistics) ... into pre-existing mobile applications” such as “portable game consoles”); Ex. 1003, ¶130.

A POSITA would have been motivated to modify Hays according to Choi's teachings. Ex. 1003, ¶131. In particular, a POSITA would have been motivated to modify Hays to include Choi's teaching of "request[ing] demographic information from the carrier" of the mobile communication device to use in the selection of advertisements, as well as Choi's teaching of using "GPS location information to request location-specific advertising." Ex. 1006, ¶¶84, 43.

With respect to information from the carrier, a POSITA would be motivated to request and use such information as taught by Choi because of the information's well-known benefits for targeted advertising without impinging privacy concerns and regulations. Ex. 1003, ¶132. As Choi explains, "[i]t is generally not permissible by advertising industry standard practices to transmit or store any user-related information in such a way that the user identity can be determined from that information." Ex. 1006, ¶84. However, some information about the user can be inferred by the user's carrier because "a users' carrier implies a certain demographic." *Id.*, ¶86, ¶96 ("[S]ome carriers have users that are older, younger, businesses, family, etc."). Choi teaches that the carrier identity is either "typically known at application download time" or can be obtained by having the mobile communication device "send[] a text message to an email address monitored by the ad server" because "the source address domain will identify the carrier." *Id.*, ¶86.

A POSITA would further be motivated to combine the references because Hays already discloses that its advertising system selects targeted advertising based on “predicted demographic information about the players.” Ex. 1005, ¶36; Ex. 1003, ¶133. However, Hays does not expressly describe how to obtain such predicted demographic information. A POSITA would understand that Choi provides one way of obtaining predicted demographic information by obtaining the user’s carrier, which “implies a certain demographic.” Ex. 1006, ¶86; Ex. 1003, ¶133. Thus, this combination is the application of a known technique (demographic information from the carrier) to a known device ready for improvement (Hays’s system that uses location for targeted advertisements) to yield predictable results. Ex. 1003, ¶133.

With respect to GPS location information, a POSITA would be motivated to request and use such information as taught by Choi because of the information’s well-known benefits for targeted advertising. Ex. 1003, ¶134. In particular, Choi teaches that its “Ad Manager module can use GPS location information to request location-specific advertising content from the network server.” Ex. 1006, ¶43. A POSITA would be motivated to use GPS location because the GPS location of the mobile communication device (and therefore of the user) is highly relevant information for targeted advertising. Ex. 1003, ¶134. A POSITA would know that advertisements for services, retailers, and restaurants near the user would be far more relevant than those that are not near the user. *Id.*

A POSITA would be further motivated because Hays already describes “select[ing] advertisements based upon a variety of factors, including location.” Ex. 1005, ¶30; *see also* ¶44. Hays, however, does not expressly describe how a user’s geographic location is determined. Ex. 1003, ¶135. A POSITA would understand that Choi provides one well-known method for obtaining a user’s location: the device’s GPS location information, which reflects the same location as the user when the user is using the device to play a game. *Id.* Thus, this combination is the application of a known technique (GPS location) to a known device ready for improvement (Hays’s system that uses location for targeted advertisements) to yield predictable results. *Id.*

A POSITA would have reasonably expected the proposed Hays and Choi combination to succeed. Ex. 1003, ¶136. Choi describes a simple method for determining the mobile communication device’s carrier information. And a POSITA would already understand that the device’s GPS location could be obtained from the device’s GPS chipset. *Id.* Thus, incorporating Choi’s teachings into Hays would be well within the capabilities of a POSITA, because such modifications would be straightforward to implement. *Id.* Indeed, Hays already provides systems and methods for receiving and handling such information to be used in targeted advertising. *Id.*

2. Limitation 1[b]

The combination of Hays and Choi renders obvious limitation 1[b]. Ex. 1003, ¶¶137-39.

Choi discloses performing “ad targeting” through the use of “user demographic and contextual information.” Ex. 1006, ¶83. One source of demographic information is “from the carrier” because “a users’ carrier implies a certain demographic.” *Id.*, ¶86; *see also* ¶96 (“[S]ome carriers have users that are older, younger, businesses, family, etc.”). Choi teaches that the carrier can be obtained by having the mobile application “communicate its carrier identity by sending a text message to an email address monitored by the ad server; the text message will be sent as an email, and the source address domain will identify the carrier.” *Id.*, ¶86; Ex. 1003, ¶138.

As discussed above, in the Hays-Choi combination, Hays uses demographic information for selection of advertisements, which includes the demographic information obtained from the mobile device’s carrier as taught by Choi. Ex. 1003, ¶139. As a result, the Hays-Choi combination renders obvious ***checking what updated video-game content to send based on a service provider of the telecom service of the mobile connection device.*** *Id.*

3. Claim 8

The combination of Hays and Choi renders obvious claim 8, which recites “[t]he method of claim 1, wherein the video-game content is selected based on the location of the mobile communication device.” Ex. 1003, ¶¶140-42.

Choi discloses “ad targeting [that] depends on ... tracking usage location based on GPS.” Ex. 1006, ¶83. For example, Choi discloses that “the Ad Manager module can use GPS location information to request location-specific advertising content from the network server.” *Id.*, ¶43; Ex. 1003, ¶141.

As discussed above, in the Hays-Choi combination, Hays uses geographic information for selection of advertisements, which includes the GPS location information obtained from the mobile connection device as taught by Choi. Ex. 1003, ¶142. As a result, the Hays-Choi combination renders obvious ***wherein the video-game content is selected based on the location of the mobile communication device.*** *Id.*

C. Ground 3: Claim 4 Is Rendered Obvious by Hays (or Hays and Choi) in Further View of Chu

As discussed above in Grounds 1 and 2, Hays (or Hays and Choi) render obvious claim 4. The combination of Hays (or Hays and Choi) in further view of Chu is an additional obviousness theory for claim 4. Ex. 1003, ¶¶143-52.

1. Rationale to Combine Hays (or Hays and Choi) with Chu

A POSITA would have found it obvious to modify Hays’s system (or the Hays-Choi combined system) for providing advertisements to a mobile game by incorporating Chu’s teachings of requesting and receiving advertisements for specific in-game locations. Ex. 1003, ¶¶144-52.

As discussed above, Hays, Choi and the ’202 patent are analogous art, as they are all directed to delivering updated content, such as advertisements, to video games. Chu is also directed to the same field of endeavor. See Ex. 1007, Abstract (“[A]n online game advertising system ... for enabling ... interactive advertisements ... that appear within an online video game.”); Ex. 1003, ¶145.

A POSITA would have been motivated to modify Hays (or further modify the Hays-Choi combination) according to Chu’s teachings. Ex. 1003, ¶146. In particular, a POSITA would have been motivated to modify Hays (or the Hays-Choi combination) to include Chu’s teaching of a video game requesting “advertising metadata and schedules that determine what advertisements are to display in ***specified locations*** within the game,” and in turn receiving advertisements that include “[a] location object (530, 630) [that] represents ***the location within a game*** at which advertisements are to appear.” Ex. 1007, 14:20-15:5.

A POSITA would have been motivated to incorporate these teachings from Chu because of the well-known benefits of being able to display advertisements at

in-game locations. Ex. 1003, ¶147. For example, Chu explains that “[a] campaign in one embodiment is a grouping of related advertisements that are scheduled or configured to display in a common location during a common time period.” Ex. 1007, 9:66-10:1. Thus, a POSITA would be motivated by the benefit of increased advertising sales through the ability for a server to designate which popular in-game locations would display which advertisements. Ex. 1003, ¶147. Moreover, advertisements could be targeted to relevant in-game locations, such as displaying an advertisement for a soft drink in an in-game restaurant. *Id.*

A POSITA would further be motivated because Hays already discloses that its advertising system provides for targeted advertising for specific in-game locations. Ex. 1003, ¶148. For example, Hays discloses “available ad units” which are “*spaces*” that include “pre-designated geometry *within the game*, such as billboards, storefront signs, panel trucks, Jumbotron screens, in a sports stadium, posters on walls, T-shirts on a game character, items used by game characters ..., and so on.” Ex. 1005, ¶18. To the extent Patent Owner argues that Hays does not explicitly disclose that such locations are provided by the ad server, a POSITA would be motivated to include Chu’s teachings of providing in-game locations for specific advertisements in order to control the location and viewing of advertisements. Ex. 1003, ¶148. Thus, this combination is the application of a known technique (ad server providing in-game location for specific advertisements)

to a known device ready for improvement (Hays’s system that designates specific in-game locations for advertisements) to yield predictable results. Ex. 1003, ¶148.

A POSITA would have reasonably expected the proposed Hays and Chu combination to succeed. Ex. 1003, ¶149. Chu describes a simple method for requesting and receiving advertisements for specific in-game locations. *Id.* And Hays describes using specific in-game locations to display advertisements. *Id.* Thus, incorporating Chu’s teachings into Hays would be well within the capabilities of a POSITA, because such modifications would be straightforward to implement. *Id.*

2. Claim 4

The combination of Hays (or Hays and Choi) with Chu renders obvious claim 4, which recites “[t]he method of claim 1, further comprising the step of sending information to the mobile communication device as part of the updated content, the information providing an in-game placement location associated with the updated video-game content.” Ex. 1003, ¶¶150-52.

Chu discloses that a video game requests “advertising metadata and schedules that determine what advertisements are to display in ***specified locations*** within the game,” and in turn receiving advertisements that include “[a] location object (530, 630) [that] represents ***the location within a game*** at which advertisements are to appear.” Ex. 1007, 14:20-15:5; Ex. 1003, ¶151.

As discussed above, in the Hays-Chu (or Hays-Choi-Chu) combination, Hays already displays advertisements at specific in-game locations, which are received by Hays's system using Chu's teachings of requesting and receiving advertisements at specific in-game locations. Ex. 1003, ¶152. As a result, the Hays-Chu combination renders obvious *the step of sending information to the mobile communication device as part of the updated content, the information providing an in-game placement location associated with the updated video-game content. Id.*

D. Ground 4: Claim 6 is Rendered Obvious by Hays (or Hays and Choi) in Further View of van Datta

As discussed above in Grounds 1 and 2, Hays (or Hays and Choi) render obvious claim 6. The combination of Hays (or Hays and Choi) in further view of van Datta is an additional obviousness theory for claim 6. Ex. 1003, ¶¶153-63.

1. Rationale to Combine Hays (or Hays and Choi) with van Datta

A POSITA would have found it obvious to modify Hays's system (or the Hays-Choi combined system) for providing advertisements to a mobile game by incorporating van Datta's teachings of displaying advertisements on assets within a game based on user selection. Ex. 1003, ¶¶154-58.

As discussed above, Hays, Choi and the '202 patent are analogous art, as they are all directed to delivering updated content, such as advertisements, to video games. Van Datta is also directed to the same subject matter. See Ex. 1009, 3:5-7

(“[D]ynamic advertising content may be pushed or pulled into the video game ... via, for example, an end-user client and/or advertising server.”); Ex. 1003, ¶155.

A POSITA would have been motivated to modify Hays (or further modify the Hays-Choi combination) according to van Datta’s teachings. Ex. 1003, ¶156. In particular, a POSITA would have been motivated to modify Hays (or the Hays-Choi combination) to include van Datta’s teaching that “the user may select particular advertising content for inserting in a digital environment,” such as “drag-and-drop[ping] an advertisement ... into the particular advertising asset displayed in the environment window.” Ex. 1009, 5:62-6:2, 7:55-8:9. A POSITA would also be motivated to incorporate van Datta’s teaching that the user may also “simply point-and-click or highlight and select a particular identifier 410 or group 420 and the appropriate collection of advertisements will randomly be displayed in various ‘tagged’ assets.” *Id.*, 8:20-24; Ex. 1003, ¶156.

A POSITA would have been motivated to incorporate these teachings from van Datta because of the well-known benefits in allowing a user to select which advertisements to display. Ex. 1003, ¶157. As van Datta explains, in “a video game environment, the user may often dislike an advertisement selected automatically or at random, or may wish to customize the environment or game.” Ex. 1009, 1:56-59. Thus, “[m]any users have a genuine interest in a particular product or service, to the extent that they may wish to incorporate advertising content related to that product

or service that they find appealing into their game or other digital environment.” *Id.*, 2:1-4. Moreover, “advertisers spend considerable sums of money for the placement of advertising content in a particular game environment, and may be willing to pay more when they know that the user deems the content to be desirable.” *Id.*, 2:5-8. A POSITA in seeking to improve Hays’s advertising system would be motivated by the fact that Van Datta’s teachings fulfill user needs for increased customization and advertiser needs for advertising the user finds desirable. Ex. 1003, ¶157.

A POSITA would have reasonably expected the proposed Hays and van Datta combination to succeed. Ex. 1003, ¶158. Hays describes a system for delivering advertisements to a mobile video game. *Id.* Van Datta describes a system where, after the receipt of advertisements from a server, it provides an interface for allowing a user to customize the display of advertisements within a mobile video game, and provides detailed explanations for how to implement such systems. *Id.* Incorporating van Datta’s teachings into Hays would involve implementing van Datta’s interface for selecting advertisements into Hays, which would have been straightforward and well within the capabilities of a POSITA. *Id.* A POSITA would have the capabilities of implementing simplistic drag-and-drop or point-and-click interfaces as described in van Datta. *Id.*

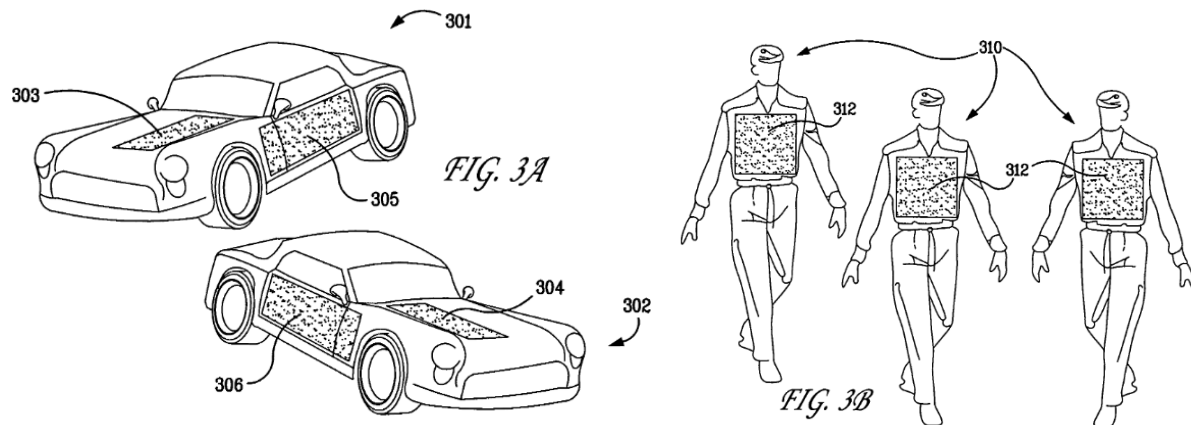
2. Claim 6

The combination of Hays (or Hays and Choi) with van Datta renders obvious claim 6, which recites “[t]he method of claim 1, wherein uploading updated video-game content to the mobile communication device further comprises displaying the video-game content within the game at a location based on user interaction.” Ex. 1003, ¶¶159-63.

Van Datta is directed to “[a] system and method for placing an advertisement in a digital environment based upon a user’s choice, subject to certain predetermined parameters.” Ex. 1009, Abstract. In general, van Datta describes “objects ... in a video game [that] may be ‘tagged,’ these ‘tagged’ areas being subject to the insertion or placement of advertising content.” *Id.*, 2:59-61. For example, “the face of a billboard 100 may be ‘tagged’ (110) to indicate that an advertisement may be embedded in that location.” *Id.*, 2:61-64. Such “dynamic advertising content may be pushed ... into the video game ... via, for example, an ... advertising server.” *Id.*, 3:5-7. This includes provision of advertisements “to a portable media device or cellular phone.” *Id.*, 11:13. Thus, van Datta discloses **uploading advertisements (i.e. updated video-game content) to a mobile communication device**. Ex. 1003, ¶160.

Van Datta further discloses that the **advertisement is displayed in a location based on user location**. Ex. 1003, ¶161. For example, van Datta discloses that “the

user may select particular advertising content for insertion in a digital environment,” such as particular locations on “a vehicle” or “a uniform,” as depicted in Figures 3A and 3B, reproduced below. Ex. 1009, 5:62-6:2.



Van Datta also discloses that “[t]he user may ... drag-and-drop an advertisement ... into the particular advertising asset displayed in the environment window,” such that “a particular shape of billboard ... may be populated with a particular advertisement” selected by a user. *Id.*, 7:55-8:9. The user may also “simply point-and-click or highlight and select a particular identifier 410 or group 420 and the appropriate collection of advertisements will randomly be displayed in various ‘tagged’ assets.” *Id.*, 8:20-24; Ex. 1003, ¶162.

In the Hays-van Datta combination, when advertisements are received by the mobile game to be displayed (as disclosed by Hays), a user can customize which advertisements are displayed in which locations using (as disclosed by van Datta). Ex. 1003, ¶163. The combination therefore renders obvious this claim.

E. Ground 5: Claims 1-3 and 5-9 Are Rendered Obvious by Levkovitz

1. Claim 1

- (a) **1[pre]: A method for providing updated video-game content to a mobile communication device for use in a mobile video game, the method comprising the steps of:**

To the extent the preamble is limiting, Levkovitz discloses *a method for providing updated video-game content to a mobile communication device for use in a mobile video game*. Ex. 1003, ¶¶164-66. For example, Levkovitz discloses providing “contextual and/or noncontextual placement of content, e.g., advertisements or banners [*i.e. updated video-game content*], within an application executed by a cellular phone, a mobile phone, or other wireless communication device [*i.e. mobile communication device*].” Ex. 1008, ¶5. The application could be “games for mobile phones.” *Id.*, ¶6; *see also* ¶123 (“The application 176 may be ... a game”), ¶127 (“a first application 176 (e.g., a chess game)”, “a second application 176 (e.g. a racing game).”); Ex. 1003, ¶166.

- (b) **1[a]: receiving a request for the updated video-game content from the mobile communication device, the updated video-game content being usable in the video game that already exists on the mobile communication device;**

Levkovitz discloses *receiving a request for the updated video-game content from the mobile communication device*. Ex. 1003, ¶¶167-69. For example, Levkovitz discloses that “games for mobile phones” (*i.e. video game that already*

exists on the mobile communication device) may “request content” (i.e. **updated video-game content**) from an “ad server” which will “selectively serve content items to the content client, based on parameters related to the mobile phone.” Ex. 1008, ¶6.

Similarly, Levkovitz discloses that “device 170,” which may be “a wireless communication device, a wireless communication station, ... a wireless phone, a mobile phone” (*id.*, ¶175 (describing many more examples)), may include an application 176” which “may be ... a game,” i.e. **a video game that already exists on the mobile communication device**. *Id.*, ¶123. The application has “a content client 174” which sends “a wireless signal indicating a request (‘content request’) to receive one or more content items, e.g., ... advertisement.” *Id.*; Ex. 1003, ¶169.

- (c) **1[b]: checking what updated video-game content to send based on one of the factors including a type of the mobile communication device, a telecom service associated with the mobile communication device, and a service provider of the telecom service; and**

Levkovitz discloses **checking what updated video-game content to send based on the type of mobile communication device**. Ex. 1003, ¶¶170-71. Levkovitz discloses that after the device requests content from an “ad server,” the “ad server may selectively serve content items to the content client, based on parameters related to the mobile phone, e.g., manufacturer identifier, model identifier, available memory, presentation capabilities, or the like.” Ex. 1008, ¶6. Such parameters,

especially the manufacturer and model identifiers, are ***factors of a type of mobile communication device***. See also *id.*, ¶126 (“[A]d server 110 may select one or more content items which may be adequately presented by device 170 based on properties of device 170, e.g., ***handset model ...***”); Ex. 1003, ¶171.

- (d) **1[c]: uploading updated video-game content to the communications device, the video-game content being usable when the video game operates on the communications device.**

Levkovitz discloses ***uploading updated video-game content to the communications device, the video-game content being usable when the video game operates on the communications device***. Ex. 1003, ¶172. For example, Levkovitz discloses that an “ad server” may “serve content items directed for presentation using a first application 176 (e.g., a chess game).” Ex. 1008, ¶127. The “[d]evice 170 may present the content item(s),” such as “within application 176, during or together with the execution of application 176” (*i.e. the video game operating on the communications device*). *Id.*, ¶131. For example, “the user may complete a level in the game, and the first advertisement may be presented.” *Id.*, ¶320. The presentation of the advertisement within a game shows that the content is usable when the video game is operating on the mobile device. Ex. 1003, ¶172.

2. Claim 2: The method of claim 1, wherein the updated video-game content is promotional content.

As discussed above in claim 1, Levkovitz discloses *updated video-game content* in the form of advertisements, which are *promotional content*. Ex. 1003, ¶173.

3. Claim 3: The method of claim 1, further comprising the step of checking whether the communications device should receive the updated video-game content before uploading the updated video-game content to the communications device.

Levkovitz discloses *the step of checking whether the communications device should receive the updated video-game content before uploading the updated video-game content to the communications device*. Ex. 1003, ¶¶174-75. For example, Levkovitz discloses that “the server is to serve the content item if a number of previously-served content items is smaller than a pre-defined quota.” Ex. 1008, ¶22. Moreover, the “ad server 110 may selectively determine which content items ... match the content request being processed, e.g. using queries, filters, selection rules, capping rules, or other conditions or criteria.” *Id.*, ¶126. The ad server can also select content items based on “types of content items which the device 170 is capable to present.” *Id.* All of these are examples of the system checking whether the mobile communication device can receive the advertisement, such as ensuring the advertisement meets requested filters or capping rules, or ensuring that the mobile is capable of presenting the advertisement. Ex. 1003, ¶175.

4. Claim 5: The method of claim 1, further comprising the step of tracking what has been uploaded to the mobile communication device.

Levkovitz discloses *the step of tracking what has been uploaded to the mobile communication device*. Ex. 1003, ¶176. For example, Levkovitz discloses that “[d]evice 170 may ... log information related to presentations performed by device 170, e.g., data indicating the content item(s) [*i.e. what has been uploaded*] presented.” Ex. 1008, ¶132. In other words, Levkovitz discloses logging (*i.e.* tracking) what advertisements have been presented (and therefore uploaded) to the mobile communication device. Ex. 1003, ¶176.

5. Claim 6: The method of claim 1, wherein uploading updated video-game content to the mobile communication device further comprises displaying the video-game content within the game at a location based on user interaction.

Levkovitz discloses *wherein uploading updated video-game content to the mobile communication device further comprises displaying the video-game content within the game at a location based on user interaction*. Ex. 1003, ¶¶177-79. For example, Levkovitz discloses “presentation rules” which regulate the display of advertisements (*i.e. video-game content within the game*), including a “presentation rule [that] may require ... an animated banner having a size of 200 by 150 pixels” (*i.e. location of the video-game content*) and a “presentation rule [that] may require, for example, that a certain content item be presented only when a pre-defined period of inactivity elapses,” which is *based on user interaction*,

specifically determining the elapsed time since the last user interaction. Ex. 1008, ¶187. These presentation rules are “transmit[ed] to device 170 ... together with the content item(s).” *Id.*, ¶129. Together, these rules determine the location of the advertisement based on user interaction. Ex. 1003, ¶178.

Levkovitz also discloses that “a first advertisement may be presented in response to a first triggering event,” such as “a level in the game may be completed, a goal or score in the game may be reached ...” *Id.*, ¶318. These are conditions achieved ***based on user interaction***. Ex. 1003, ¶179.

6. Claim 7: The method of claim 1, wherein the video-game content is displayed in the video game for a predetermined period of time.

Levkovitz discloses ***wherein the video-game content is displayed in the video game for a predetermined period of time***. Ex. 1003, ¶180. For example, Levkovitz discloses “present[ing] said advertisement for ***a pre-defined time period***.” Ex. 1008, ¶80. Levkovitz gives an example using a “presentation rule” where “an advertisement for a certain restaurant, be presented within a pre-defined time period, for example, between 11:30 a.m. to 1:45 p.m.” *Id.*, ¶187.

7. Claim 8: The method of claim 1, wherein the video-game content is selected based on the location of the mobile communication device.

Levkovitz discloses ***wherein the video-game content is selected based on the location of the mobile communication device***. Ex. 1003, ¶181. For example,

Levkovitz discloses a “presentation rule” where “an advertisement for a certain shop, be presented when *device 170 is geographically located* within a pre-defined distance (e.g., 300 meters) of the address of that shop.” Ex. 1008, ¶187. These presentation rules are provided by “communicator 150” to “device 170 ... together with the content item(s).” *Id.*, ¶129. In other words, an advertisement is selected to be displayed based on the location of the mobile device, specifically its proximity to a particular shop. Ex. 1003, ¶181.

8. Claim 9: The method of claim 1, wherein the video-game content is selected based on user information specific to a user of the mobile communication device.

Levkovitz discloses *wherein the video-game content is selected based on user information specific to a user of the mobile communication device*. Ex. 1003, ¶182. For example, Levkovitz discloses that “[t]he ad server may selectively serve content items to the content client ... based on parameters related to a user of the mobile phone, e.g., age, age group, gender, marital status, profession, occupation, geographical location, proximity to geographical places, or the like.” Ex. 1008, ¶6. All of these parameters are user information specific to a user. Ex. 1003, ¶182.

F. Ground 6: Claim 4 is Rendered Obvious by Levkovitz and Chu

1. Rationale to Combine Levkovitz with Chu

A POSITA would have found it obvious to modify Levkovitz’s system for providing advertisements to a mobile game by incorporating Chu’s teachings of

requesting and receiving advertisements for specific in-game locations. Ex. 1003, ¶¶183-92.

As discussed above, Chu and the '202 patent are analogous art, as they are both directed to delivering updated content, such as advertisements, to video games. Levkovitz is also directed to the same subject matter. See Ex. 1008, Abstract (“Devices, systems and methods of presentation of delivering targeted advertisements using Wireless Application Protocol.”); ¶123 (“The application 176 may be, for example, a game ...”); Ex. 1003, ¶184.

A POSITA would have been motivated to modify Levkovitz according to Chu’s teachings. Ex. 1003, ¶185. In particular, a POSITA would have been motivated to modify Levkovitz to include Chu’s teaching of a video game requesting “advertising metadata and schedules that determine what advertisements are to display in *specified locations* within the game,” and in turn receiving advertisements that include “[a] location object (530, 630) [that] represents *the location within a game* at which advertisements are to appear.” Ex. 1007, 14:20-15:5.

A POSITA would have been motivated to incorporate these teachings from Chu because of the well-known benefits of being able to display advertisements at in-game locations. Ex. 1003, ¶186. For example, Chu explains that “[a] campaign in one embodiment is a grouping of related advertisements that are scheduled or configured to display in a common location during a common time period.” Ex.

1007, 9:66-10:1. Thus, a POSITA would be motivated by the benefit of increased advertising sales through the ability to display ads in a popular in-game location. Moreover, advertisements could be targeted to relevant in-game locations, such as displaying an advertisement for a soft drink in an in-game restaurant. Ex. 1003, ¶186.

A POSITA would further be motivated because Levkovitz already discloses that its advertising system provides conditions for display of advertisements in a video game. Ex. 1003, ¶187. For example, Levkovitz discloses that the “[s]elector 172 may select ... one or more content items for presentation, e.g., content items matching one or more rules, conditions or criteria related to the content items or to properties associated with their presentation.” Ex. 1008, ¶186. The specific in-game locations for advertisements described by Chu are also a “propert[y] associated with [the advertisements’] presentation.” Thus, this combination is the application of a known technique (ad server providing in-game location for specific advertisements) to a known device ready for improvement (Levkovitz’s system that allows for conditions for the presentation of advertisements) to yield predictable results. Ex. 1003, ¶187.

A POSITA would have reasonably expected the proposed Levkovitz and Chu combination to succeed. Ex. 1003, ¶188. Chu describes a simple method for requesting and receiving advertisements for specific in-game locations. *Id.* And

Levkovitz describes using applying conditions and properties to the presentation of in-game advertisements. *Id.* Thus, incorporating Chu’s teachings into Levkovitz would be well within the capabilities of a POSITA, because such modifications would be straightforward to implement. *Id.*

2. Claim 4

The combination of Levkovitz with Chu renders obvious claim 4. Ex. 1003, ¶¶189-91.

Chu discloses that a video game requests “advertising metadata and schedules that determine what advertisements are to display in ***specified locations*** within the game,” and in turn receiving advertisements that include “[a] location object (530, 630) [that] represents ***the location within a game*** at which advertisements are to appear.” Ex. 1007, 14:20-15:5; Ex. 1003, ¶190.

As discussed above, in the Levkovitz-Chu combination, Levkovitz already allows for setting conditions and properties for the presentation of in-game advertisements, and such properties include the received in-game locations for advertisements as taught by Chu. Ex. 1003, ¶191. As a result, the Levkovitz-Chu combination renders obvious ***the step of sending information to the mobile communication device as part of the updated content, the information providing an in-game placement location associated with the updated video-game content.*** *Id.*

G. Ground 7: Claim 6 is Rendered Obvious by Levkovitz in Further View of van Datta

As discussed above in Ground 5, Levkovitz renders obvious claim 6. The combination of Levkovitz in further view of van Datta is an additional obviousness theory for claim 6. Ex. 1003, ¶¶192-202.

1. Rationale to Combine Levkovitz with van Datta

A POSITA would have found it obvious to modify Levkovitz's system for providing advertisements to a mobile game by incorporating van Datta's teachings of displaying advertisements on assets within a game based on user selection. Ex. 1003, ¶¶193-97.

As already discussed above, Levkovitz, van Datta and the '202 patent are all analogous art. Ex. 1003, ¶194.

A POSITA would have been motivated to modify Levkovitz according to van Datta's teachings. Ex. 1003, ¶195. In particular, a POSITA would have been motivated to modify Levkovitz to include van Datta's teaching that "the user may select particular advertising content for inserting in a digital environment," such as "drag-and-drop[ping] an advertisement ... into the particular advertising asset displayed in the environment window." Ex. 1009, 5:62-6:2, 7:55-8:9. A POSITA would also be motivated to incorporate van Datta's teaching that the user may also "simply point-and-click or highlight and select a particular identifier 410 or group 420 and the appropriate collection of advertisements will randomly be displayed in

various ‘tagged’ assets.” *Id.*, 8:20-24. In the proposed combination, after Levkovitz’s “ad server” serves advertisements for presentation in a mobile video game, the mobile video game would use van Datta’s teachings to provide the user with an interface for selecting advertisements to display on selected video game assets. Ex. 1003, ¶195.

A POSITA would have been motivated to incorporate these teachings from van Datta in this manner because of the well-known benefits in allowing a user to select which advertisements to display. Ex. 1003, ¶196. As van Datta explains, in “a video game environment, the user may often dislike an advertisement selected automatically or at random, or may wish to customize the environment or game.” Ex. 1009, 1:56-59. Thus, “[m]any users have a genuine interest in a particular product or service, to the extent that they may wish to incorporate advertising content related to that product or service that they find appealing into their game or other digital environment.” *Id.*, 2:1-4. Moreover, “advertisers spend considerable sums of money for the placement of advertising content in a particular game environment, and may be willing to pay more when they know that the user deems the content to be desirable.” *Id.*, 2:5-8. A POSITA in seeking to improve Levkovitz’s advertising system would be motivated by the fact that Van Datta’s teachings fulfill user needs for increased customization and advertiser needs for advertising the user finds desirable. Ex. 1003, ¶196.

A POSITA would have reasonably expected the proposed Levkovitz and van Datta combination to succeed. Ex. 1003, ¶197. Levkovitz describes a system for delivering advertisements to a mobile video game. *Id.* Van Datta describes a system and interface for allowing a user to customize the display of advertisements within a mobile video game, and provides detailed explanations for how to implement such systems. *Id.* Incorporating van Datta’s teachings into Levkovitz would involve implementing van Datta’s interface for selecting advertisements into Levkovitz, which would have been straightforward and well within the capabilities of a POSITA. *Id.*

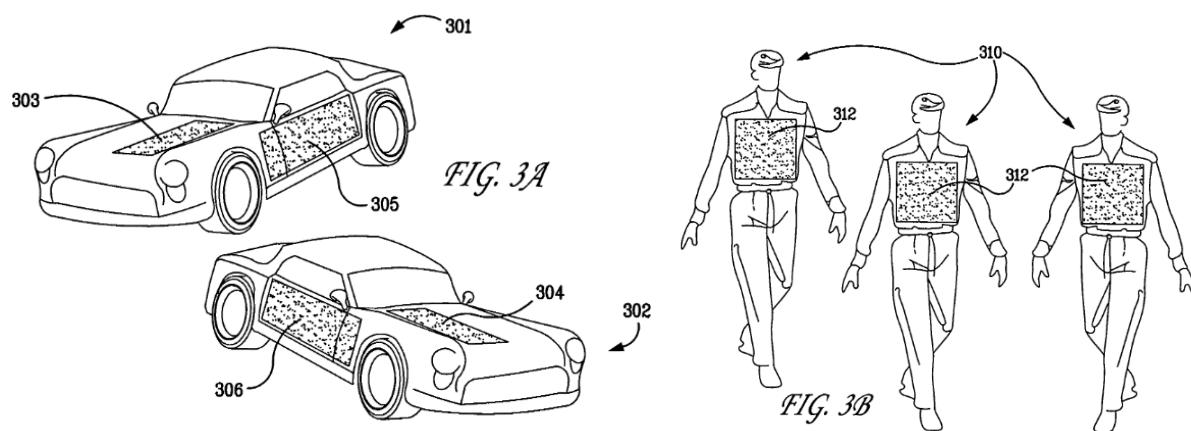
2. Claim 6

The combination of Levkovitz with van Datta renders obvious claim 6, which recites “[t]he method of claim 1, wherein uploading updated video-game content to the mobile communication device further comprises displaying the video-game content within the game at a location based on user interaction.” Ex. 1003, ¶¶198-202.

Van Datta is directed to “[a] system and method for placing an advertisement in a digital environment based upon a user’s choice, subject to certain predetermined parameters.” Ex. 1009, Abstract. In general, van Datta describes “objects ... in a video game [that] may be ‘tagged,’ these ‘tagged’ areas being subject to the insertion or placement of advertising content.” *Id.*, 2:59-61. For example, “the face of a

billboard 100 may be ‘tagged’ (110) to indicate that an advertisement may be embedded in that location.” *Id.*, 2:61-64. Such “dynamic advertising content may be pushed ... into the video game ... via, for example, an ... advertising server.” *Id.*, 3:5-7. This includes provision of advertisements “to a portable media device or cellular phone.” *Id.*, 11:13. Thus, van Datta discloses **uploading advertisements (i.e. updated video-game content) to a mobile communication device**. Ex. 1003, ¶199.

Van Datta further discloses that the **advertisement is displayed in a location based on user location**. For example, van Datta discloses that “the user may select particular advertising content for insertion in a digital environment,” such as particular locations on “a vehicle” or “a uniform,” as depicted in Figures 3A and 3B, reproduced below. Ex. 1009, 5:62-6:2; Ex. 1003, ¶200.



Van Datta also discloses that “[t]he user may ... drag-and-drop an advertisement ... into the particular advertising asset displayed in the environment window,” such that “a particular shape of billboard ... may be populated with a

particular advertisement” selected by a user. *Id.*, 7:55-8:9. The user may also “simply point-and-click or highlight and select a particular identifier 410 or group 420 and the appropriate collection of advertisements will randomly be displayed in various ‘tagged’ assets.” *Id.*, 8:20-24; Ex. 1003, ¶201.

In the Levkovitz-van Datta combination, when advertisements are received by the mobile game to be displayed (as disclosed by Levkovitz), a user can customize which advertisements are displayed in which locations (as disclosed by van Datta). Ex. 1003, ¶202. The combination therefore renders obvious this claim.

X. DISCRETIONARY DENIAL

A. 35 U.S.C. §314(a)

The Board has discretion to deny institution under §314(a). In addition to the strong merits presented herein, Petitioner also hereby provides a *Sotera*-type stipulation and stipulates that if the Board institutes *inter partes* review, Petitioner will not pursue in the district court litigation any ground raised or that could have reasonably been raised in the petition. This stipulation precludes discretionary denial under §314(a). See Director Vidal Memorandum, Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court Litigation, at 3-5, 7-8 (June 21, 2022).

Moreover, the six-factor *Fintiv* analysis weighs in favor of the Board declining to exercise discretionary denial. The district court has not indicated it will

grant or deny a stay, and so that factor is neutral. Currently, trial is set for November 18, 2024, which will be approximately five to six months before the Board's statutory deadline for a final written decision, which given the proximity weighs slightly against denial or at best is neutral. Moreover, the litigation is at an early stage—the parties have only just served infringement and invalidity contentions, have produced a minimal amount of documents, have not deposed any witnesses, and have not begun claim construction briefing. And because of the above *Sotera*-type stipulation, there will be no overlap of issues. These factors weigh strongly in favor of not denying. Finally, the strong merits presented herein also weigh in favor of not exercising discretionary denial. Together, the factors weigh in favor of the Board declining to exercise its discretion to deny the petition.

B. 35 U.S.C. §325(d)

The Board should decline to deny institution under §325(d) because the PTO has not previously considered the same or substantially the same prior art and arguments Petitioner presents here, and the Examiner committed error in evaluating the prior art of record. The references relied upon in this Petition, including Hays, Choi, Chu, van Datta, and Levkovitz, were neither cited nor considered during prosecution of the '202 patent. None of the cited references contain a substantially similar disclosure of a mobile game with dynamically updated hot spots represented in-game as non-promotional background objects, as is disclosed in the combinations

described in the Grounds presented herein. Thus, the Board should decline to deny institution under the discretionary authority of §325(d).

XI. MANDATORY NOTICES AND FEES

A. Real Party-In-Interest

The real parties-in-interest for Petitioner are PLR Worldwide Sales Limited and Playrix Holdings Ltd.

B. Related Matters

Flip Phone Games, Inc. v. PLR Worldwide Sales Limited, 2:23-cv-00139-JRG (E.D. Tex.)

C. Counsel and Service Information

Petitioner provides the following counsel and service information.

Petitioner consents to electronic service the email addresses listed in the table below. Pursuant to 37 C.F.R. § 42.10(b), a Power of Attorney accompanies this Petition.

LEAD COUNSEL	BACK-UP COUNSEL
James M. Glass (Reg. No. 46729) jimglass@quinnemanuel.com QUINN EMANUEL URQUHART & SULLIVAN, LLP 51 Madison Avenue, 22 nd Floor New York, NY 10010 Tel: (212) 849-7000 Fax: (212) 849-7100	Quincy Lu (Reg. No. 76,954) quincylu@quinnemanuel.com QUINN EMANUEL URQUHART & SULLIVAN, LLP 1109 First Avenue, Suite 210 Seattle, WA 98101 Tel: (206) 905-7000 Fax: (206) 905-7100 Ron Hagiz (<i>pro hac vice</i> to be requested upon grant authorization) ronhagiz@quinnemanuel.com QUINN EMANUEL URQUHART & SULLIVAN, LLP 51 Madison Avenue, 22 nd Floor New York, NY 10010 Tel: (212) 849-7000 Fax: (212) 849-7100 Nima Hefazi (Reg. No. 63,658) nimahefazi@quinnemanuel.com QUINN EMANUEL URQUHART & SULLIVAN, LLP 865 S. Figueroa St., 10th Floor Los Angeles, CA 90017 Tel: (213) 443-3000 Fax: (213) 443-3100

D. Payment of Fees

The undersigned authorizes the Office to charge the fee required for this Petition for *Inter Partes* Review to Deposit Account No. 50-5708. Any additional fees that might be due are also authorized.

XII. CONCLUSION

Petitioner requests institution of an IPR and cancellation of the Challenged Claims.

Date: November 1, 2023

Respectfully submitted,

By: /s/ James M. Glass
James M. Glass

Counsel for Petitioner

**CERTIFICATE OF COMPLIANCE WITH
TYPE-VOLUME LIMITATION, TYPEFACE REQUIREMENTS,
AND TYPE STYLE REQUIREMENTS**

1. This Petition complies with the type-volume limitation of 14,000 words, comprising 13,069 words, as counted using the Microsoft Word software that was used to prepare this paper, excluding the parts exempted by 37 C.F.R. § 42.24(a).

2. This Petition complies with the general format requirements of 37 C.F.R. § 42.6(a) and has been prepared using Microsoft® Word 2016 in 14-point Times New Roman.

Date: November 1, 2023

By: /s/ James M. Glass
James M. Glass
QUINN EMANUEL URQUHART
& SULLIVAN, LLP
51 Madison Avenue, 22nd Floor
New York, NY 10010
Tel: (212) 849-7000
Fax: (212) 849-7100

Counsel for Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 1, 2023, true and correct copies of the foregoing document and supporting materials were served in its entirety on the Patent Owner at the following address of record as listed on PAIR via Priority Mail Express® or Express Mail:

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FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC
Official Correspondence Address

Courtesy copies were also sent via electronic mail to Patent Owner's counsel of record in the related district court proceeding

FPG1367020@kilpatricktownsend.com

Date: November 1, 2023

By: /s/ James M. Glass
James Glass
QUINN EMANUEL URQUHART
& SULLIVAN, LLP
51 Madison Avenue, 22nd Floor
New York, NY 10010
Tel: (212) 849-7000
Fax: (212) 849-7100

Counsel for Petitioner