

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DRAFTKINGS INC.,
Petitioners,

v.

WINVIEW IP HOLDINGS, LLC,
Patent Owner.

Case IPR2026-00140
U.S. Patent No. 11,451,883

PATENT OWNER'S PRELIMINARY RESPONSE

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I. INTRODUCTION

The Board should deny institution because DraftKings has not demonstrated a reasonable likelihood of prevailing on any challenged claim. Across all asserted grounds, the Petition fails at the threshold to show that the cited prior art—either alone or in combination—discloses key claim limitations of the '883 Patent.

The Petition fails to establish a coherent mapping of “an application” and “the application” in Independent Claim 20 (and corresponding limitations in Claim 81). DraftKings identifies Montagna's game client as the claimed application. But the game client cannot be “the application” whose execution causes the server to receive additional information or “the application” that requires a list of assets for its execution, because the game client is already running when those events occur.

With respect to Claim 1, DraftKings' own obviousness theory replaces Montagna's asset-reuse architecture with Lewin's downloading of entire gaming applications. In doing so, the Petition eliminates the very circumstance the claim requires—a pre-existing set of assets on the device to which a list of assets is compared. Instead of building a customized gaming interface capable of running different games that reuse certain assets, Lewin discloses an entirely different architecture directed to downloading and executing entire applications within a client application. The Petition does not demonstrate that the features it attributes to Montagna would remain present—let alone operative—after the modifications

DraftKings proposes. As a result, the asserted combinations do not disclose the claimed invention even if a skilled artisan were motivated to combine the references.

Because the Petition fails to demonstrate that the prior art discloses essential claim elements, and instead relies on internally inconsistent mappings and combinations that abandon required claim features, DraftKings has not met its burden under § 314(a). Institution should, therefore, be denied.

II. OVERVIEW OF THE PATENTED TECHNOLOGY AND ASSERTED GROUNDS

A. The '883 Patent Relates to a System that Receives and Manages Only the Necessary Assets to Deploy Applications

The '883 Patent describes a distributed entertainment system in which a computing device executes interactive activities—such as games—with an activity client that efficiently receives and manages only the software assets necessary to run a selected activity. *See* '883 Patent at 1:54-58, 3:29-42, 4:30-36. The specification describes that the activity client receives assets needed for executing a selected application, such as a game, survey, or poll. *Id.* at 3:29-31 (an application is selected from “a game, a survey and a poll”), 4:30-36 (the activity client receives assets related to the application).

Rather than downloading entire applications, the activity client receives a list of assets from a server and downloads only those assets necessary to execute the selected application on the client device. This approach minimizes bandwidth usage,

memory consumption, and download latency. *Id.* at 3:29-42; 4:30-36; 9:1-12; 16:16-19. The activity client compares the received list of assets against assets already resident on the computing device and then requests only the missing assets required for execution of the application. Assets may be prioritized, grouped into necessary and preferred sets, and delivered just in time to enable the application to execute as the related live or televised event occurs. *Id.* at 13:36-53; 16:16-27; 17:45-52. Once the necessary assets are received, the activity client, using an activity interpreter, executes the application. *Id.* at 3:21-42; 15:56-61; 8:36-37.

Accordingly, in this architecture, the activity client functions as the execution environment, while the application is the executable activity whose operation depends on receiving the correct list of assets. *Id.* at 4:29-36.

B. The Grounds and Relevant Asserted Art

The Petition presents the following grounds for challenging the claims of the '883 Patent.

Ground	Claims	Basis	References Relied Upon
1	1 ¹ , 2, 5-9, 17, 20 -23, 26-30, 38, 81 -84, 87-91, 99	§ 103	Montagna and Lewin
2	7, 28, 89	§ 103	Montagna, Lewin, and Mathews

¹ Bolded text represents an independent claim.

Ground	Claims	Basis	References Relied Upon
3	18-19, 39-40, 100-101	§ 103	Montagna, Lewin, and Zilliacus

Pet. at 5. Because Ground 1 is the only ground that challenges the independent claims, the Preliminary Response focuses primarily on this ground.

III. PERSON OF ORDINARY SKILL IN THE ART

For the purposes of this preliminary response only, WinView adopts DraftKings' proposed definition of a person of ordinary skill in the art ("POSITA"), which is a person who at the earliest claimed priority "had at least the equivalent of a Bachelor's degree in computer science, computer engineering, or a related subject and two or more years of experience in the field of distributed systems, networking, and software design. Less work experience may be compensated by a higher level of education, such as a Master's Degree, and vice versa." Pet. at 4.

IV. CLAIM CONSTRUCTION

For the purposes of this Preliminary Response only, no construction is necessary to resolve the dispute and uphold patentability.

**V. THE PETITION DOES NOT PRESENT A REASONABLE
LIKELIHOOD THAT ANY CLAIM IS UNPATENTABLE**

**A. Ground 1: DraftKings Does not Show a Reasonable Likelihood of
Prevailing on Any Challenged Claim**

1. Claim 20[a], [d], and [f]: Montagna's Game Client is Not the
Claimed Application

Under DraftKings theory, Montagna's game client is "***an*** application" (20[a]) and "***the*** application" (20[d] and 20[e]). Yet DraftKings fails to identify with particularity how the game client meets the recited requirements of limitations 20[d] and 20[e]. 35 U.S.C. § 312(a)(3) (requiring *inter partes* review petitions to identify "with particularity . . . the evidence that supports the grounds for the challenge to each claim"); 37 C.F.R. § 42.104(b)(4).

Montagna's game client cannot be the application recited in Elements 20[a], 20[d], and 20[e], which recite: "transmitting a set of service related information to an application," "receiving additional information based on a user's execution of the application on the mobile Internet-connected computing device," and "transmitting a list of assets necessary for executing the application, wherein the assets necessary for executing the application directly affect the operation of the application." Although Montagna's game client receives information from a server, the server does not "receive[] additional information based on a user's execution of the [game client]," which is already being executed, or "transmit[] a list of assets necessary for executing the [game client]," which is already being executed.

a) *Montagna's Game Client is Not "the Application" that is the Basis for Receiving Additional Information Based on Its Execution (Claim Limitation 20[d])*

Although DraftKings identifies the game client as "**an** application," it is not "**the** application" that is the basis for receiving additional information based on its execution, as claimed. *See* '883 Patent, Claim 20 ("receiving additional information based on a user's execution of the application"). DraftKings advances three theories for limitation 20[d], and all three fail for the same reason: the **game client** is not executed to trigger the alleged "additional information" in Montagna. Pet. at 39-41.

First, DraftKings argues that the user's selection of an in-progress game triggers the server to receive "additional information," *i.e.* "the user would like to launch their in-progress game." Pet. at 39. But executing an in-progress game is not executing the "game client," which was already being executed when the user selected the in-progress game. *Id.* ("collect[ing] additional information based on the user's execution, *i.e.*, whether the user would like to launch the game that they already have in progress"). As DraftKings admits, the server "collects [the] additional information based on the user's execution" of the in-progress game, not the user's execution of the game client, which was necessarily already running. *Id.*

Second, DraftKings's argument that user actions that occur while playing a game can be considered the "additional information" received by the server fails because those actions are based on the user's execution of the game, not the game

client. Pet. at 39-40 (“additional information about their actions is collected, such as drawing cards or placing bets during a card game”). As DraftKings acknowledges, the game client simply provides the location for the user to separately execute and play the game. *Id.* at 62 (alleging that “execution of the game . . . occurs directly within the game client”); *see also id.* at 40 (alleging that “the user’s execution of the application [game] is performed at the game client (red) residing on the user device (pink)”). For example, when playing a poker game, the user interacts with the poker game, not the game client. *Id.* at 39 (arguing that when a poker game is played “additional information about their actions is collected,” e.g. drawing cards or placing bets); Montagna at ¶¶ 56-57.

Third, although DraftKings also argues that Claim 20 is obvious over Montagna in view of Lewin, Lewin is not asserted to resolve the deficiencies related to the claimed “application.” *See* Pet. at 40-41. DraftKings relies on Lewin’s “transitional content collect[] user input” for the “additional information,” it does not rely on any element in Lewin for the “the application.” *See id.* Therefore, Lewin does not resolve Montagna’s deficiencies with respect to claim limitation 20[d].

b) *Montagna's Game Client is Not "the Application" That Requires a List of Assets Necessary for Its Execution and Which "Directly Affects its Operation" (Claim Limitation 20[e])*

Because the game client is already running when it is used to request and receive the UI definition (the alleged "list of assets necessary for executing the application"), it cannot be "*the* application" that requires the listed assets for its operation. '883 Patent, Claim 20 ("transmitting a list of assets necessary for executing the application, wherein the assets necessary for executing the application directly affect the operation of the application").

The '883 Patent specification describes "[t]he application" as either "a game, a survey, [or] a poll" that corresponds to a "list of assets" necessary to execute the application. '883 Patent at 3:29-30; 4:30-36 ("The activity client receives a set of assets related to an application. The application is selected from a group consisting of a game, a survey and a poll Only a set of necessary assets are downloaded to the activity client."). The prosecution history confirms that the listed assets are those necessary for execution of "the application":

The presently claimed invention specifies: *executing an application* related to the selected option within the activity client on the mobile Internet-connected computing device, and *receiving a list of assets necessary for executing the application from the server*. Therefore, *the list of assets are aspects of the application that are necessary for executing the single application*.

Ex. 1010 at 1511-12 (emphasis added); *id.* at 1514-15 (when addressing then-pending claim 86 (now Independent Claim 20), the Applicant referred back to the passage cited above to distinguish the pending claim over the prosecution art).

DraftKings' allegation that "the assets described by the UI definition are necessary for executing *the game client*" is incorrect because the UI definition is received by the game client, which is already running. Pet. at 45 (emphasis added); *see also id.* at 41 (alleging that the "UI definition . . . is a list of assets"). Because the game client must be running when it receives the UI definition, the UI definition is not necessary for the game client's execution. Montagna at ¶ 58 (disclosing that the game client "requests a UI definition"). The UI definition therefore cannot be "necessary for executing" the game client, because the game client is executing to request and receive when the UI definition.

DraftKings acknowledges that the game client is already running when it receives the UI definition and builds the selected game. Pet. at 44 ("the list of assets (UI definition) is transmitted from the GDE . . . to the game client"), 47 ("After the UI definition is sent to the game client . . . the instance of the game [is] built for the user."), 45 (without the UI definition "the user game interface could not be built and, thus, the user could not participate in the selected game"). Thus, DraftKings' analysis and evidence show that the UI definition is requested for the selected game, which is not the game client that DraftKings likens to the claimed "application."

Because the game client requests the UI definition in the first place, it cannot be “*the* application” which requires the “list of assets” for its execution. ’883 Patent, Claim 1; Ex. 1010 at 1512.

Furthermore, because the game client is already in operation, DraftKings’ allegation that “the UI definition *directly affect[s]* the operation of the application (game client)” is also incorrect. Pet. at 46. The UI definition does not directly affect the operation of the game client—which is already running when it receives the UI definition.

2. Claim 1: Montagna in View of Lewin Does Not Disclose
Comparing a List of Assets with a First Set of Assets

Independent Claim 1 is patentable over Montagna in view of Lewin at least because the combination does not disclose “comparing the list of assets with a first set of assets on the mobile Internet-connected computing device,” as recited in Independent Claim 1. Whether or not Montagna discloses this limitation in isolation, DraftKings has not demonstrated that it is taught when Montagna is modified by Lewin.

DraftKings’ obviousness combination requires replacing Montagna’s “game client” with Lewin’s “client application.” Pet. at 61-62. According to DraftKings, the motivation for the proposed substitution is that “Montagna is adept at minimizing the information transfer and memory storage *required when building a customized*

gaming interface” Id. at 62-63 (emphasis added). As Montagna discloses, the “methods and apparatus can provide a uniform look and feel to the user interfaces provided by an enterprise, even when the user interfaces relate to different applications”:

The methods and apparatus can provide a *uniform look and feel* to the user interfaces provided by an enterprise, even when the user interfaces relate to different applications. The methods and apparatus take a modular approach that allows different user interfaces to *share common resources*. A single user interface definition engine can create different user interface definitions for multiple users using different computing devices. Moreover, the resources can be generic and as such can be used by different applications, even those from different enterprises. *The resources can thus be shared*. Furthermore, resources from previous game sessions can be *reused* in a current game session and the time needed to download resources to a client terminal is thus reduced.

Montagna at ¶ 14 (emphasis added).

DraftKings has not alleged, let alone demonstrated, that a POSITA would (or could) have maintained Montagna’s disclosure of caching and reusing shared resources when modifying Montagna to use Lewin’s architecture. On this point, DraftKings’ explanation is entirely conclusory, arguing that the systems of minimizing these transfers are naturally paired with Montagna’s system. In support

of this conclusory statement, DraftKings cites unrelated arguments regarding limitations 20[e] and 20[f] and the declaration of its expert, Dr. Chatterjee, who merely parrots the same conclusory language. Pet. at 62-63 (citing Petition Section VIII.A.3.f (limitation 20[e]), VIII.A.3.g (limitation 20[f]), and Ex. 1002, Chatterjee-Decl., ¶ 192).

When modified with Lewin, the combined system no longer builds “a customized gaming interface,” it downloads “an entire gaming application” for execution within Lewin’s “client application”:

Because of the benefits of the system taught by Montagna, a POSITA would have been motivated to use it on larger game transfers, up to and including entire game applications, as taught by Lewin. And, as Lewin notes, when transferring an *entire gaming application*, transfers can become unwieldy. EX1004-Lewin, 11:43-52 (“[T]he game content that is delivered to users can involve large amounts of data...”), 9:59-63.

Pet. at 63 (emphasis added). When downloading “an entire gaming application” rather than building a “customized gaming interface,” DraftKings has not alleged, let alone demonstrated, that there would be any cached assets (alleged to be the “first set of assets on the mobile Internet-connected computing device”) to be compared against a “list of assets necessary for executing the application.” *Id.*; ’883 Patent, Claim 1.

For at least the foregoing reasons, Montagna in view of Lewin does not disclose “comparing the list of assets with a first set of assets on the mobile Internet-connected computing device.”

3. Independent Claim 81: Montagna Does Not Disclose Claim Limitations 81[b] and 81[c]

DraftKings alleges that claim limitations 81[b] and 81[c] are substantially the same as claim limitations 20[d] and 20[e], respectively, and refers to its analysis for those limitations. Pet. at 70. Therefore, WinView's arguments for Claim 20, particularly limitations 20[d] and 20[e], apply equally to Claim 81. *See, e.g.,* § V.A.1, *supra*.

B. Ground 2: DraftKings Does not Show a Reasonable Likelihood of Prevailing on Dependent Claims 7, 28, And 89

Because DraftKings does not demonstrate a reasonable likelihood of prevailing on the independent claims, it also fails to demonstrate a reasonable likelihood that Dependent Claims 7, 28, and 89, which depend on the independent claims, are unpatentable over Montagna, Lewin, and Mathews. *See* Pet. at 5. Mathews does not resolve the above-mentioned deficiencies.

C. Ground 3: DraftKings Does not Show a Reasonable Likelihood of Prevailing on Dependent Claims 18-19, 39-40, And 100-101

Because DraftKings does not demonstrate a reasonable likelihood of prevailing on the independent claims, it also fails to demonstrate a reasonable likelihood that Dependent Claims 18-19, 39-49, and 100-101, which depend on the

independent claims, are unpatentable over Montagna, Lewin, and Zilliacus. *See* Pet. at 5. Zilliacus does not resolve the above-mentioned deficiencies.

VI. CONCLUSION

For at least the foregoing reasons, the Director should deny institution because DraftKings fails to show a reasonable likelihood of success that any challenged claim is unpatentable.

Patent Owner's Preliminary Response
IPR2026-00140 (U.S. Patent No. 11,451,883)

Respectfully submitted,

Date: April 21, 2026

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CERTIFICATE OF COMPLIANCE WITH 37 C.F.R. § 42.24

The undersigned hereby certifies that the portions of the foregoing **PATENT OWNER'S PRELIMINARY RESPONSE** has 2,893 words in compliance with the 14,000 word limit set forth in 37 C.F.R. § 42.24. This word count was prepared using the Microsoft Word word-processing system used to prepare this paper.

Dated: April 21, 2026

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CERTIFICATE OF SERVICE

The undersigned certifies, in accordance with 37 C.F.R. § 42.6(e), that service was made on Petitioner as detailed below.

<i>Date of service</i>	April 21, 2026
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