UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Home Depot U.S.A., Inc.,
Petitioner

v.

H2 Intellect LLC,
Patent Owner

Post-Grant Review No.: PGR2025-00047

PETITION FOR POST-GRANT REVIEW OF U.S. PATENT NO. 12,056,736

TABLE OF CONTENTS

Page

INDEX OF EXHIBITS

Exhibit No.	Description
1001	U.S. Patent No. 12,056,736.
1002	Declaration of David H. Williams.
1003	File History of U.S. Pat. No. 12,056,736.
1004	*Samsung Electronics America, Inc., v. Hardin*, IPR2022-01331, Paper 4 (PTAB Aug. 2, 2022).
1005	*Samsung Electronics America, Inc., v. Hardin*, IPR2022-01331, Paper 14 (PTAB Feb. 8, 2023).
1006	*Hardin v. Samsung Electronics Co.*, Case No. 2:21-cv-290-JRG, Document 218 (EDTX Jan. 28, 2023) ("**Pretrial Conference**").
1007	*H2 Intellect LLC v. The Home Depot, Inc.*, Case No. 2:24-cv-00694-JRG-RSP, Dkt. No. 26 (EDTX Jan. 09, 2025) ("**First Complaint**").
1008	U.S. Patent No. 8,433,296 ("**'296 patent**").
1009	U.S. Patent No. 8,977,247 ("**'247 patent**").
1010	U.S. Patent No. 9,286,625 ("**'625 patent**").
1011	U.S. Patent No. 9,779,418 ("**'418 patent**").
1012	U.S. Patent No. 10,049,387 ("**'387 patent**").
1013	U.S. Patent No. 10,984,447 ("**'447 patent**").
1014	U.S. Patent No. 11,948,171 ("**'171 patent**").
1015	U.S. Patent Publication No. 2014/0279018 ("**'018 publication**").
1016	File History of Application No. 14/292,204.
1017	File History of U.S. Patent No. 9,286,625.
1018	File History of U.S. Patent No. 9,779,418.
1019	File History of U.S. Patent No. 8,433,296.
1020	File History of U.S. Patent No. 8,977,247.
1021	File History of U.S. Patent No. 10,049,387.
1022	File History of U.S. Patent No. 10,984,447.
1023	*H2 Intellect LLC v. The Home Depot, Inc., et al.*, Infringement Contentions, November 1, 2024.
1024	*Samsung Electronics Co., Ltd. v. Ryan Hardin*, IPR2022-01327, Paper 13 (PTAB Feb. 2, 2023).
1025	*Samsung Electronics Co., Ltd. v. Ryan Hardin*, IPR2022-01333, Paper 13 (PTAB Feb. 2, 2023).
1026	File History of U.S. Patent No. 11,948,171.
1027	U.S. Patent No. 6,807,427 ("**Sakamoto**").
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Exhibit No.	Description
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1032	What We Do, Locating What's Important To You, Cell-Loc, http://web.archive.org/web/20030411221815/http://cellloc.com/what_locating.html (last visited February 10, 2025).
1033	Alan Cohen, "Location, Location, Location," PC Mag., available at https://books.google.com/books?id=eIvagv988JgC&pg=PA82#v=onepage&q&f=false (last visited February 10, 2025).
1034	U.S. Patent No. 7,133,685.
1035	U.S. Patent No. 7,164,986.
1036	U.S. Patent No. 8,536,999.
1037	U.S. Patent Publication No. US 2008/0094256.
1038	U.S. Patent No. 8,010,134.
1039	U.S. Patent Publication No. US 2006/0116817.
1040	*H2 Intellect LLC v. The Home Depot, Inc.*, Case No. 2:25-cv-00123-JRG-RSP, Dkt. No. 1 (EDTX Feb. 03, 2025) ("**Second Complaint**").
1041	Papers of H. Bentley Hahn: The Man Who Invented the 5-Digit ZIP Code. https://jfk.blogs.archives.gov/2021/07/01/papers-of-h-bentley-hahn-the-man-who-invented-the-5-digit-zip-code/ (July 1, 2021).

CHART OF CLAIMS
[1.pre] A method for creating and offloading location awareness, the method comprising:
[1.a] sending, via use of at least one processor, to a content delivery platform: a request to have an identifier, being associated with a selected geographic area of interest, delivered to a computer program on a mobile device after it has been determined, by at least use of location information representing at least one physical geographic location of the mobile device, that the mobile device has at least entered the selected geographic area of interest; and
[1.b] [sending…to a content delivery platform:] geographic reservation data to have the selected geographic area of interest reserved for delivery of the identifier to the computer program, wherein the geographic reservation data comprises a geometric construct used to establish at least one perimeter as a boundary for the selected geographic area of interest; and
[1c] receiving, via the computer program, the identifier delivered by the content delivery platform after it has been determined, by at least use of location information representing at least one physical geographic location of the mobile device, that the mobile device has at least entered the selected geographic area of interest and has remained therein for at least a predetermined length of time.
[2] The method of claim 1, further comprising, in response to receiving, via the computer program, the identifier delivered by the content delivery platform, displaying content associated with the selected geographic area of interest.
[3] The method of claim 1, further comprising, sending the identifier to the content delivery platform.
[4] The method of claim 3, wherein a data string of characters comprises the identifier.
[5] The method of claim 1, wherein the geographic reservation data comprises information indicating an area bounded by the at least one perimeter as the selected geographic area of interest.
[6.pre] The method of claim 1, wherein the geographic reservation data comprises:
[6.a] first information indicating a first area bounded by the at least one perimeter as a first selected geographic area of interest; and
[6.b] second information indicating a second, distinct area bounded by the at least one perimeter as a second selected geographic area of interest.
[7] The method of claim 6, wherein the request comprises a request to have the identifier delivered to the computer program after it has been determined that the mobile device has at least entered the second selected geographic area of interest.

CHART OF CLAIMS
[8] The method of claim 7, further comprising receiving, via the computer program, the identifier delivered by the content delivery platform after it has been determined, by at least use of location information representing at least one physical geographic location of the mobile device, that the mobile device has at least entered the second selected geographic area of interest.
[9] The method of claim 8, further comprising, in response to receiving, via the computer program, the identifier delivered by the content delivery platform, displaying content associated with the second selected geographic area of interest.
[10] The method of claim 1, further comprising providing the identifier for delivery to the mobile device via the computer program.
[11] The method of claim 1, further comprising providing the computer program to the mobile device.
[12.pre] The method of claim 1, further comprising:
[12.a] receiving, via the content delivery platform, the request and the geographic reservation data;
[12.b] storing, in memory accessible to the content delivery platform, a record comprising the identifier;
[12.c] reserving the selected geographic area of interest for delivery of the identifier to the computer program;
[12.d] obtaining location information representing at least one physical geographic location of the mobile device; and
[12.e] delivering, via the content delivery platform, data comprising the identifier from the record stored in the memory to the computer program after it has been determined, using the obtained location information, that the mobile device has at least entered the selected geographic area of interest.
[13] The method of claim 12, wherein delivering the data comprising the identifier to the computer program comprises delivering the data comprising the identifier to the computer program after it has been determined, using the obtained location information, that the mobile device has at least entered the selected geographic area of interest and after it has been determined that the mobile device has remained therein for at least a predetermined length of time.
[14] The method of claim 12, further comprising determining, using the obtained location information, that the mobile device has at least entered the selected geographic area of interest.
[15] The method of claim 14, further comprising determining that the mobile device has remained within the selected geographic area of interest for at least a predetermined length of time.

CHART OF CLAIMS
[16] The method of claim 14, wherein the determining considers whether a portion of the selected geographic area of interest is at least partially located within a predetermined radial distance of the mobile device.
[17] The method of claim 12, further comprising creating a notification indicating that the mobile device has at least entered the selected geographic area of interest.
[18] The method of claim 12, further comprising creating a notification indicating that the mobile device has at least entered the selected geographic area of interest and has remained therein for at least a predetermined length of time.
[19.pre] The method of claim 12, wherein:
[19.a] the identifier is delivered to the computer program after availability for reservation of the selected geographic area of interest has been positively determined by the content delivery platform; and
[19.b] the method further comprises determining availability, by the content delivery platform, for reservation of the selected geographic area of interest for delivery of the identifier to the computer program.
[20.pre] The method of claim 12, wherein:
[20.a] reserving the selected geographic area of interest for delivery of the identifier to the computer program comprises reserving the selected geographic area of interest for delivery of the identifier to the computer program only if it has been determined that the selected geographic area of interest is available for reservation; and
[20.b] the method further comprises returning an indication to the computer program when the selected geographic area of interest is unavailable for reservation.
[21] The method of claim 12, further comprising returning an indication to the computer program that the selected geographic area of interest has been reserved.
[22] The method of claim 12, further comprising discontinuing future delivery of the identifier to the computer program after it is determined that the mobile device has exited the selected geographic area of interest.
[23] The method of claim 12, wherein the obtained location information comprises at least one physical geographic location of the mobile device when the computer program is not being executed on the mobile device.
[24] The method of claim 12, wherein delivering the data comprising the identifier to the computer program comprises delivering the data comprising the identifier when the computer program is not being executed on the mobile device.

CHART OF CLAIMS
[25] The method of claim 12, further comprising considering the mobile device as a device being stationary after the mobile device has been considered as a device being carried by a person.
[26] The method of claim 12, further comprising considering the mobile device as a device being stationary after the mobile device has been considered as a device being transported in a motor vehicle.
[27] The method of claim 12, wherein the obtained location information is determined at least in part by using cellular tower information received via a cellular antenna of the mobile device and not by using information received via a GPS antenna of the mobile device.
[28] The method of claim 12, wherein the obtained location information is determined at least in part by using data received, by the mobile device, from one or more third party wireless networks and not by using information received via a GPS antenna of the mobile device.
[29] The method of claim 12, wherein the obtained location information is determined at least in part by using information received via a GPS antenna of the mobile device and not by using information received via a cellular antenna of the mobile device.
[30] The method of claim 12, wherein delivering the data comprising the identifier to the computer program comprises delivering the data comprising the identifier to the computer program after it has been determined, using the obtained location information, that at least a portion of the selected geographic area of interest is contained within an area having a predetermined radius encircling the physical geographic location of the mobile device.
[31] The method of claim 12, further comprising receiving location information from one or more mobile devices, wherein the received location information is received by the one or more mobile devices from one or more third party sources and is to be used, in combination with cellular tower information received by an antenna of the mobile device, for positioning the location of the mobile device.
[32.pre] The method of claim 31, further comprising:
[32.a] storing, on the mobile device, the received location information from the one or more mobile devices; and
[32.b] using the stored, received location information on the mobile device, in combination with cellular tower information received by an antenna of the mobile device operable to communicate with a cellular network, to position the location of the mobile device.
[33] The method of claim 12, further comprising receiving location information from one or more mobile devices, wherein the received location information is

CHART OF CLAIMS
received by the one or more mobile devices from one or more third party sources and is to be used, in combination with data associated with a wireless data network received by an antenna of the mobile device, for positioning the location of the mobile device.
[34.pre] The method of claim 33, further comprising:
[34.a] storing, on the mobile device, the received location information from the one or more mobile devices; and
[34.b] using the stored, received location information on the mobile device, in combination with data associated with a wireless data network received by an antenna of the mobile device operable to communicate with one or more wireless data networks, to position the location of the mobile device.
[35] The method of claim 12, further comprising receiving, via the content delivery platform, data comprising the identifier.
[36] The method of claim 35, wherein the data comprising the identifier is sent to the content delivery platform.
[37] The method of claim 12, wherein delivering data comprising the identifier from the record stored in the memory to the computer program comprises delivering data comprising the identifier from the record stored in the memory exclusively to the computer program and not broadcast to other computer programs.
[38] The method of claim 12, further comprising performing a verification whether the computer program has authorization to initiate a location session with the content delivery platform.
[39.pre] The method of claim 38, wherein:
[39.a] if the verification passes, allowing the computer program to initiate a location session with the content delivery platform; and
[39.b] if the verification fails, not allowing the computer program to initiate a location session with the content delivery platform.
[40] The method of claim 38, wherein performing a verification comprises performing a check on a key associated with the computer program and stored on the mobile device.
[41] The method of claim 12, wherein delivering the data comprising the identifier to the computer program comprises delivering, via the content delivery platform, the data comprising the identifier from the record stored in the memory to the computer program after it has been determined, using the obtained location information, that the mobile device has at least entered the selected geographic area of interest and after a predetermined duration of time has passed following

CHART OF CLAIMS
the determination that the mobile device has at least entered the selected geographic area of interest.
[42.pre] The method of claim 1, wherein:
[42.a] the request comprises a request to have the identifier delivered to the computer program after it has been determined, by at least use of location information representing at least one physical geographic location of the mobile device, that the mobile device has at least entered the selected geographic area of interest and has remained therein for at least a predetermined length of time; and
[42.b] the request comprises the predetermined length of time.
[43.pre] The method of claim 1, wherein:
[43.a] the request comprises a request to have the identifier delivered to the computer program after it has been determined, by at least use of location information representing at least one physical geographic location of the mobile device, that the mobile device has at least entered the selected geographic area of interest after a designated start time and during a designated duration of time; and
[43.b] the request comprises a data value representing the designated duration of time.
[44.pre] The method of claim 1, wherein:
[44.a] the geometric construct comprises at least a radius value, a latitude value, and a longitude value.
[45.pre] The method of claim 1, wherein:
[45.a] the geometric construct comprises at least three latitude and longitude coordinates.
[46] The method of claim 1, further comprising receiving, via the computer program, an indication that the selected geographic area of interest has been reserved.
[47] The method of claim 1, wherein third-party location information provided by one or more third party sources and received on the mobile device is used in combination with cellular tower information received by an antenna of the mobile device operable to communicate with a cellular network to position the location of the mobile device.
[48] The method of claim 1, wherein third-party location information provided by one or more third party sources and received on the mobile device is used in combination with data associated with a wireless data network received by an antenna of the mobile device operable to communicate with one or more wireless data networks to position the location of the mobile device.

CHART OF CLAIMS
[49.pre] The method of claim 1, further comprising sending, via use of the at least one processor, to the content delivery platform:
[49.a] a second request to have a second identifier, being associated with a second selected geographic area of interest, delivered to the computer program after it has been determined, by at least use of location information representing at least one physical geographic location of the mobile device, that the mobile device has at least entered the second selected geographic area of interest; and
[49.b] second geographic reservation data defining the second selected geographic area of interest to reserve the second selected geographic area of interest for delivery of the second identifier to the computer program, wherein the second geographic reservation data comprises a second geometric construct used to establish at least one second perimeter as a boundary for the second selected geographic area of interest.
[50.pre] The method of claim 1, wherein:
[50.a] the computer program is a first computer program; and
[50.b] the method further comprises sending, via use of the at least one processor, to the content delivery platform:
[50.c] a second request to have a second identifier, being associated with a second selected geographic area of interest, delivered to a second computer program on the mobile device after it has been determined, by at least use of location information representing at least one physical geographic location of the mobile device, that the mobile device has at least entered the second selected geographic area of interest; and
[50.d] second geographic reservation data defining the second selected geographic area of interest to reserve the second selected geographic area of interest for delivery of the second identifier to the second computer program, wherein the second geographic reservation data comprises a second geometric construct used to establish at least one second perimeter as a boundary for the second selected geographic area of interest.
[51.pre] The method of claim 50, further comprising sending, via use of the at least one processor, to the content delivery platform:
[51.a] a third request to have a third identifier, being associated with a third selected geographic area of interest, delivered to the first computer program after it has been determined, by at least use of location information representing at least one physical geographic location of the mobile device, that the mobile device has at least entered the third selected geographic area of interest; and
[51.b] third geographic reservation data defining the third selected geographic area of interest to reserve the third selected geographic area of interest for

CHART OF CLAIMS
delivery of the third identifier to the first computer program, wherein the third geographic reservation data comprises a third geometric construct used to establish at least one third perimeter as a boundary for the third selected geographic area of interest.
[52] The method of claim 1, wherein the identifier is associated with the boundary.
[53] The method of claim 1, wherein the request to have an identifier delivered to the computer program comprises a request to have an identifier delivered exclusively to the computer program and not broadcast to other computer programs.
[54] The method of claim 1, wherein receiving, via the computer program, the identifier delivered by the content delivery platform comprises receiving the identifier delivered by the content delivery platform exclusively to the computer program and not broadcast to other computer programs.
[55] The method of claim 1, wherein the computer program is an application program.
[56] The method of claim 1, wherein the computer program operates as a function of operating system software.
[57] The method of claim 1, wherein the content delivery platform operates as a function of operating system software.
[58] The method of claim 1, wherein the content delivery platform includes a communications interface.
[59] The method of claim 58, wherein the communications interface is an application programming interface.
[60] The method of claim 58, wherein the communications interface is a device driver interface.
[61.pre] A method for creating and offloading location awareness, the method comprising:
[61.a] receiving, via a content delivery platform, a request to have an identifier, being associated with a selected geographic area of interest, delivered to a computer program on a mobile device after it has been determined, by at least use of location information representing at least one physical geographic location of the mobile device, that the mobile device has at least entered the selected geographic area of interest;
[61.b] receiving, via the content delivery platform, geographic reservation data to have the selected geographic area of interest reserved for delivery of the identifier to the computer program, wherein the geographic reservation data

CHART OF CLAIMS
comprises a geometric construct used to establish at least one perimeter as a boundary for the selected geographic area of interest;
[61.c] storing, in memory accessible to the content delivery platform, a record comprising the identifier;
[61.d] reserving the selected geographic area of interest for delivery of the identifier to the computer program;
[61.e] obtaining location information representing at least one physical geographic location of the mobile device; and
[61.f] delivering, via the content delivery platform, data comprising the identifier from the record stored in the memory to the computer program after it has been determined, using the obtained location information, that the mobile device has at least entered the selected geographic area of interest and has remained therein for at least a predetermined length of time.
[62.pre] A method for creating and offloading location awareness, the method comprising:
[62.a] receiving, via a content delivery platform, a request to reserve a selected geographic area of interest for delivery of an identifier associated with the selected geographic area of interest to a computer program on a mobile device;
[62.b] obtaining location information representing at least one physical geographic location of the mobile device as the mobile device moves over time;
[62.c] using location information to determine whether the mobile device has entered the selected geographic area of interest;
[62.d] using location information to determine whether the mobile device has remained within the selected geographic area of interest for a particular duration of time; and
[62.e] after it has been determined that the mobile device has remained within the selected geographic area of interest for the particular duration of time, delivering, via the content delivery platform, the identifier to the computer program.
[63] The method of claim 62, wherein the request includes a value representing the particular duration of time.
[64] The method of claim 62, wherein the particular duration of time is a value associated with the selected geographic area of interest.
[65] The method of claim 62, wherein the particular duration of time is a desired length of time for increasing the precision of the content delivery.
[66] The method of claim 62, wherein delivering the identifier to the computer program comprises a notification that the mobile device has at least entered the selected geographic area of interest.

CHART OF CLAIMS
[67] The method of claim 66, further comprising, receiving the notification that the mobile device has at least entered the selected geographic area of interest.
[68] The method of claim 67, further comprising, in response to receiving the notification, displaying content associated with the selected geographic area of interest.
[69] The method of claim 62, wherein using location information to determine whether the mobile device has remained within the selected geographic area of interest for a particular duration of time comprises using, after it has been determined that the mobile device has entered the selected geographic area of interest, location information to determine whether the mobile device has remained within the selected geographic area of interest for the particular duration of time.
[70] The method of claim 62, wherein the identifier is exclusively associated with both the selected geographic area of interest and the computer program and is not associated with other computer programs.
[71] The method of claim 62, further comprising sending data to the content delivery platform comprising the identifier associated with the selected geographic area of interest for delivery to the computer program.
[72] The method of claim 62, further comprising receiving, via the content delivery platform, data comprising the identifier associated with the selected geographic area of interest for delivery to the computer program.
[73] The method of claim 62, further comprising storing, in memory accessible to the content delivery platform, a record comprising the identifier for future delivery of the identifier to the computer program.
[74.pre] The method of claim 73, wherein:
[74.a] delivering the identifier to the computer program comprises delivering the identifier from the record stored in the memory; and
[74.b] the method further comprises restricting delivery of the identifier from the record stored in the memory to the computer program until after it has been determined that the mobile device has remained within the selected geographic area of interest for the particular duration of time.
[75] The method of claim 62, further comprising receiving, via the content delivery platform, geographic reservation data to have the selected geographic area of interest reserved for delivery of the identifier to the computer program, wherein the geographic reservation data comprises a geometric construct used to establish at least one perimeter as a boundary for the selected geographic area of interest.

CHART OF CLAIMS
[76] The method of claim 62, further comprising reserving the selected geographic area of interest for delivery of the identifier to the computer program.
[77] The method of claim 62, wherein delivering the identifier to the computer program comprises delivering the identifier exclusively to the computer program and not to other computer programs.
[78] The method of claim 62, wherein the request to reserve a selected geographic area of interest for delivery of an identifier associated with the selected geographic area of interest to a computer program comprises a request to reserve a selected geographic area of interest for delivery of an identifier associated with the selected geographic area of interest exclusively to the computer program and not to other computer programs.
[79] The method of claim 62, further comprising performing a verification whether the computer program has authorization to initiate a location session with the content delivery platform.
[80.pre] The method of claim 79, wherein:
[80.a] if the verification passes, allowing the computer program to initiate a location session with the content delivery platform; and
[80.b] if the verification fails, not allowing the computer program to initiate a location session with the content delivery platform.
[81] The method of claim 79, wherein performing a verification comprises performing a check on a key associated with the computer program and stored on the mobile device.
[82.pre] A method for creating and offloading location awareness, the method comprising:
[82.a] receiving, via a content delivery platform, a request to reserve a selected geographic area of interest for delivery of an identifier associated with the selected geographic area of interest to a computer program on a mobile device;
[82.b] obtaining location information representing at least one physical geographic location of the mobile device as the mobile device moves over time;
[82.c] using location information to determine whether the mobile device is located within the selected geographic area of interest;
[82.d] using location information to determine whether the mobile device has remained within the selected geographic area of interest for a particular duration of time; and
[82.e] after it has been determined that the mobile device has remained within the selected geographic area of interest for the particular duration of time, delivering, via the content delivery platform, the identifier to the computer program.

I. INTRODUCTION

Home Depot U.S.A., Inc. ("Petitioner") hereby petitions for post-grant review of claims 1-82 ("Challenged Claims") of U.S. Patent No. 12,056,736 (the "'736 patent") (EX1001).

Petitioners certify that the '736 patent is available for post-grant review, and Petitioners are not barred or estopped from requesting a post-grant review challenging the patent claims on the grounds identified in this Petition.

Petitioner is filing this Petition within nine months of the '736 patent's issue date of August 6, 2024, and this Petition is therefore timely. *See* 37 C.F.R. §42.202.

II. STATEMENT OF PRECISE RELIEF REQUESTED

Petitioner requests cancellation of claims 1-82 of the '736 patent in view of the following grounds:

Ground	Claims	Stat. Basis	Prior Art
1	1-82	§101	
2	1, 61-62, 82	§103	Elliott, Jacob
3	1, 61-62, 82	§103	Elliott, Jacob, Sakamoto

III. THE '736 PATENT

A. Shared Specification

The '736 patent issued from U.S. Patent Application No. 17/182,809 (the "'809 application"), filed February 23, 2021. The '736 patent claims priority to a

series of applications, the earliest of which is U.S. Patent No. 8,433,296 (the "'296 patent"), filed May 1, 2009. EX1001, cover page. The '809 application and each of the purported priority applications share the same specification. EX1001; EX1008-EX1014. EX1002, ¶75.

In a lawsuit involving the related '296 patent, Patent Owner asserts that the '296 patent is entitled to a priority date of March 11, 2008. EX1023, 4. Although Petitioner does not concede that the '296 or '736 patent is entitled to a priority date, for the purposes of this petition, the Petitioner assumes a March 11, 2008 priority date. EX1002, ¶76.

The specification describes a content delivery system that delivers content to applications executing on mobile devices based on locations associated with the mobile devices. EX1001, 1:37-39, 1:66-2:7. The operator of the content delivery platform establishes geographic areas, which a sponsor can reserve via the content delivery platform for delivery of content associated with that sponsor to a particular application on the mobile device. EX1001, abstract, 3:9-19. When the mobile device enters a sponsor's reserved geographic area, the content delivery platform delivers the sponsor's content to the application on the mobile device. EX1001, abstract, 3:20-24. According to the specification, "sponsors" can (i) reserve geographic areas, and (ii) provide "advertisements or other content

controlled by the sponsor" to the content delivery platform for later delivery to mobile devices. *See*, *e.g.*, EX1001, 3:43-54, 9:12-16. EX1002, ¶77.

Figure 1 of the specification illustrates the basic architecture of the system, including a content delivery platform 112 (red), developer platform 108 (green), one or more sponsors (e.g., sponsors 121, 123, 125) (yellow), and devices (blue):

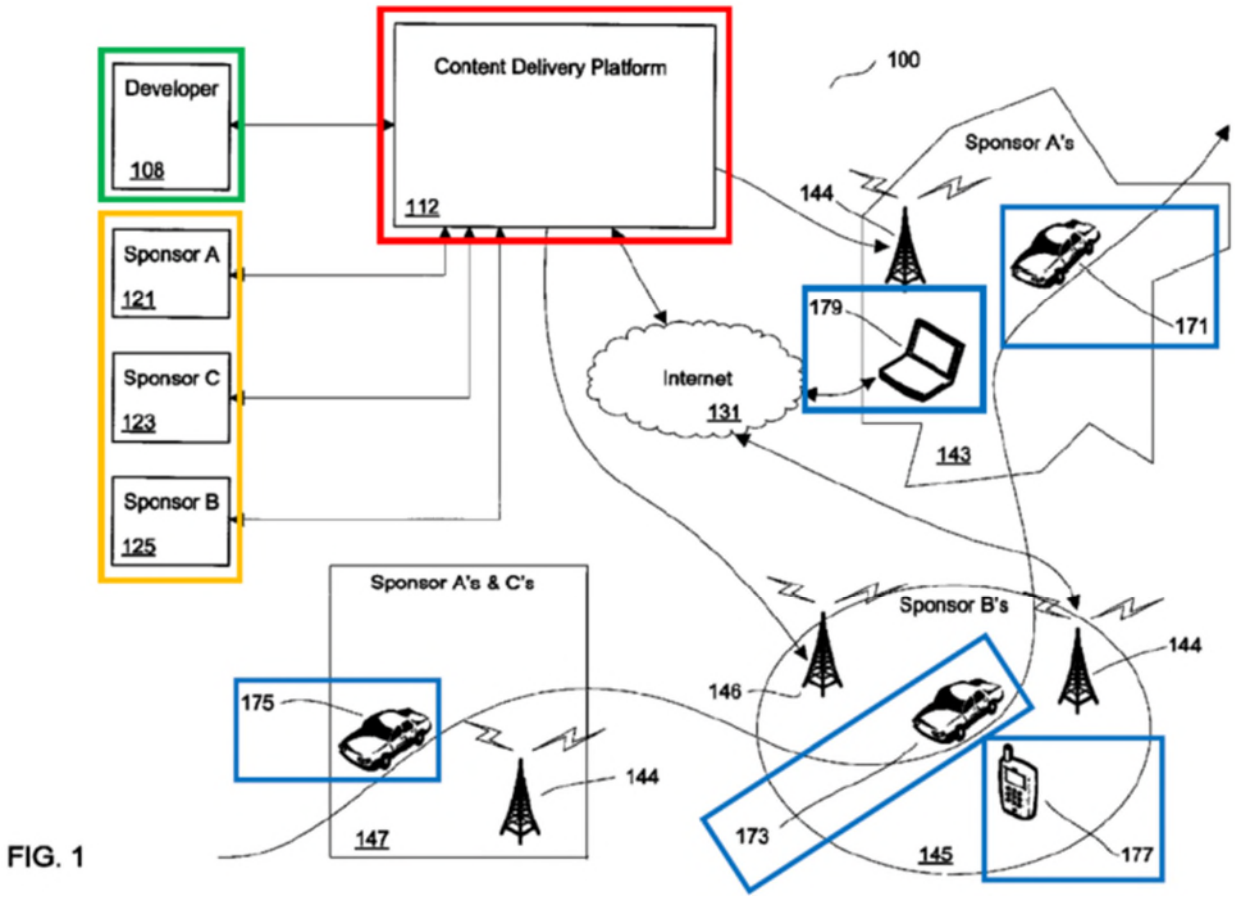


FIG. 1

EX1001, FIG. 1 (annotated), 3:20-42. EX1002, ¶78.

System 100 is used to "provide for exclusive delivery of advertising or other content to registered applications running on mobile devices located within a particular proximity to a reserved geographic area." EX1001, 3:21-24. In

operation, developer platform 108 communicates a request to content delivery platform 112 "to register a program or other application for use on mobile devices" such that content delivery platform "can use the registered application program to provide selected content to mobile devices." EX1001, 3:28-32. EX1002, ¶79.

Sponsors request to reserve specified geographic areas for delivering content (e.g., advertisements) to users through the registered application programs. EX1001, 3:43-50 ("Sponsor A 121, sponsor C 123, or sponsor B 125 can reserve an exclusive interest in a particular geographic area by sending a request to content delivery platform 112…the request can be for exclusive delivery of content to mobile devices running any registered application within given geographic areas, or for content to be delivered to particular registered applications based on a target location"), 9:8-10 ("a content delivery platform, for example content delivery platform 112...can receive a request for sponsor registration"), 9:12-16 ("the sponsor can establish perimeters defining geographic areas of exclusive or semi-exclusive control. These geographic areas are areas the sponsor wishes to reserve for delivery of his own advertisements or other content controlled by the sponsor"). The perimeter can be established based on a geographic construct, which can include information such as, but not limited to map features, latitude/longitude coordinates, or other various geometric constructs. EX1001, 9:17-30. When a mobile device is determined to be located proximate to a geographic area reserved

for Sponsor A, content delivery platform 112 provides advertisements to a mobile device to be displayed via the registered application program. EX1001, 4:16-27, 4:23-26 ("because first motor vehicle 171 is located within sponsor A's reserved geographic area 143, content delivery platform 121 provides content exclusively related to sponsor A"), 4:41-60, 10:12-13 ("a request for content can be received from a device running a registered application"), 10:21-24 ("a determination is made as to whether the application sending the request for content has a target location that is located within a sponsor's reserved geographic area"). The specification also describes the sponsor as a separate component that is remote from the mobile device. EX1001, 3:32-36 ("a registered application program is provided to mobile devices by...one of sponsor A 121, sponsor C 123, or sponsor B 125"), 6:24-26 ("to allow second sponsor 225 to deliver second sponsor's content 214 to registered application 231"), 9:53-55 ("sponsor can provide content for delivery to mobile devices having target locations contained within its reserved area"), 9:66-67 ("content can be delivered to a mobile device by the sponsor"). For example, the specification explains that the sponsors communicate with multiple mobile devices. EX1001, 6:24-26 ("to allow second sponsor 225 to deliver second sponsor's content 214 to registered application 231"), 9:66-67 ("content can be delivered to a mobile device by the sponsor"). A POSITA would have understood that if the sponsor and the mobile device were one and the same, then the mobile

device would not need to communicate with the content delivery platform to receive advertisements, still images, animations, video, audio, alphanumeric identifiers, or other content. EX1002, ¶80.

Importantly, nothing in the specification indicates that a mobile device or an application running on mobile device reserves the geographic area. Indeed, there is no reference to any entity other than a sponsor submitting a request to reserve a geographic area. In other words, there is no disclosure of a mobile device or a registered application running on a mobile device requesting to reserve a geographic area. EX1002, ¶81.

Figure 2 depicts a user of registered application 231 located within a first sponsor's reserved area 207 and an object of interest 233 located in a second sponsor's reserved area 205:

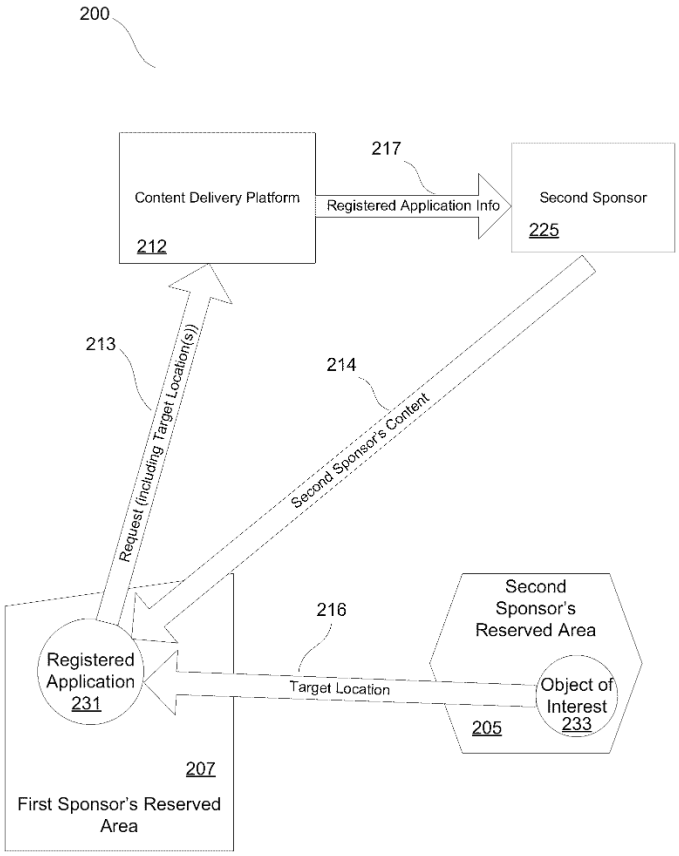


FIG. 2

EX1001, FIG. 2. Although Figure 2 shows that registered application 231 sends "request 213" to content delivery platform 212, request 213 is a request for content and not a request to reserve a geographic area. EX1001, 6:5-22. Further, request 213 may include "information indicating the location of object of interest 233, a request for content, information indicating the location of registered application 231, information indicating the identity of the registered application 231, and a previously received request identifier." EX1001, 6:8-13. Nothing in the specification discloses that an application program (or a mobile device) can request to reserve the geographic area. EX1002, ¶82.

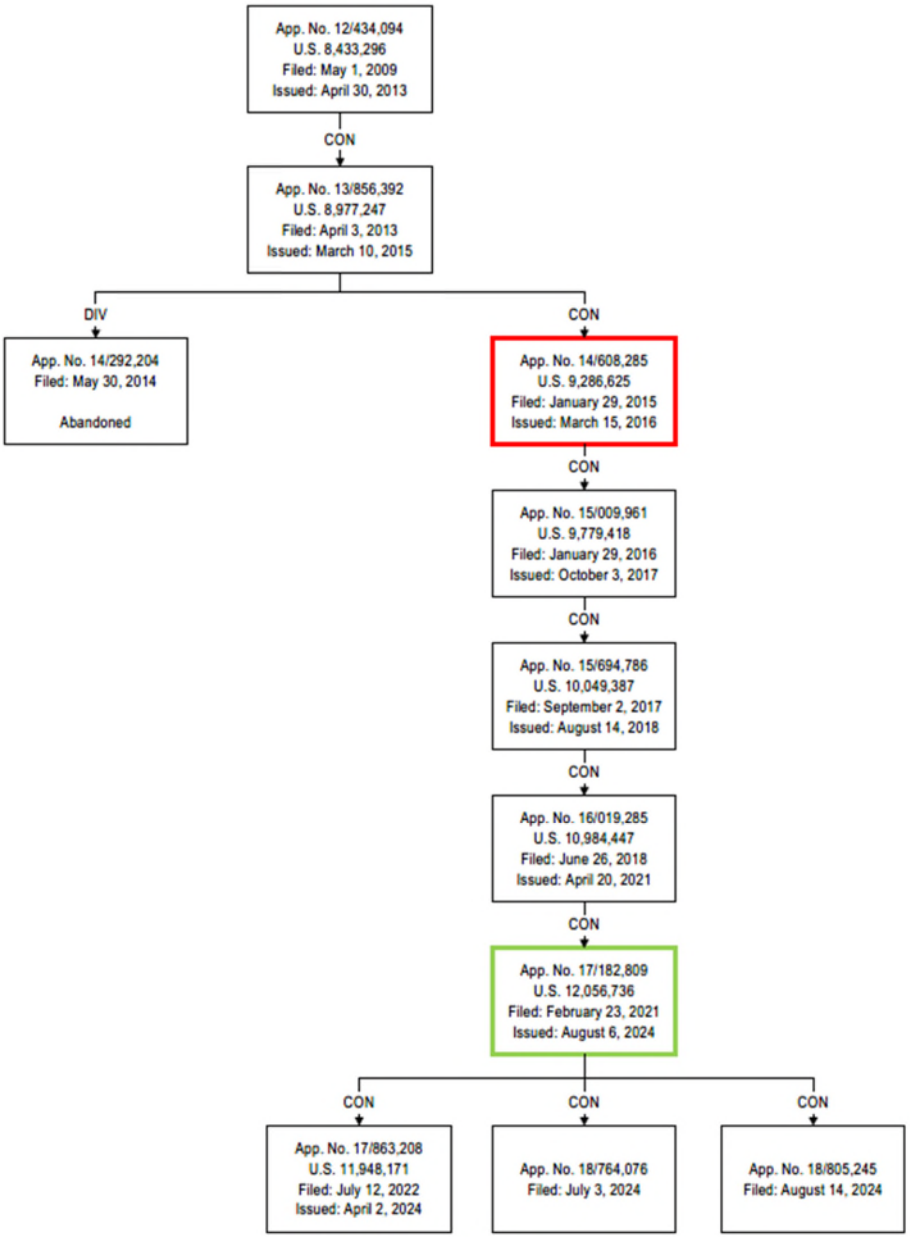
In addition, the specification describes the content delivery platform as a separate component that is remote from the mobile device. EX1001, 12:15-23 ("the mobile device can forward information associated with a target location to the content delivery platform, or the content delivery server can obtain location information from a third party application or device…or otherwise."); FIGs. 1-3, 3:33-35 ("a registered application program is provided to mobile devices by developer platform 108, content delivery platform 112…"), 11:48-49 ("a method of interaction between a mobile device and a content providing platform"), 12:1-3 ("a session can be initiated between the application on the mobile device, and the content delivery platform"). For example, the specification explains that the content delivery platform communicates with multiple mobile devices (and therefore cannot be hosted on the mobile devices). EX1001, FIG. 3, 7:13-36, 10:16-20 ("multiple devices may execute copies of the same registered application…and multiple different registered applications may be executed on multiple devices"). The specification also explains that the content delivery platform communicates with mobile devices via the internet and communication towers. EX1001, FIG. 1, 3:55-58 ("System 100 can include a network, for example Internet 131, through which content delivery platform 112, can communicate to other networked devices; and communication towers 144"). A POSITA would have understood that if the content delivery platform was on the same mobile

device as the registered application, then it would not need to communicate with the mobile device via the internet or communication towers. EX1002, ¶83.

Indeed, the specification explains that the content delivery platform "may be implemented in a processing system executing a set of instructions stored in memory, or on a removable computer readable medium," as shown in Figure 7. EX1001, 13:4-19, FIG. 7, 2:42-48. A POSITA would have understood that such a generic statement, especially in the context of the entire specification, does not teach that the content delivery platform is implemented on a mobile device. Nothing in the specification discloses a content delivery platform implemented on the same mobile device as the registered application programs. EX1002, ¶84.

B. Prosecution History

The '736 patent's family tree:



EX1002, ¶85.

1. ’296 Patent (’094 Application)

As filed claim 1 of the first application in the chain, the ’094 application, recited, *inter alia*, “reserving respective ones of the plurality of geographic areas for delivery of content associated with respective ones of a plurality of sponsors.”

EX1019, 263. As-filed independent claims 8 and 15 included similar limitations. EX1019, 264, 266. Thus, the as-filed independent claims of the ’094 application did not recite which entity (*e.g.,* sponsors, application programs) submits requests to reserve geographic areas. As-filed dependent claims 5, 12, and 19, however, recited “***receiving, from a sponsor,*** a request to obtain an interest in a selected one of the plurality of geographic areas.” EX1019, 264-267. EX1002, ¶86.

When the ’094 application later issued as the ’296 patent, claim 1 recited “***receiving, from a sponsor,*** a request to obtain an interest in a selected one of the plurality of geographic areas.” EX1008, claim 1. Similarly, independent claims 6 and 11 recite an “instruction to ***receive, from a sponsor,*** a request to obtain an interest in a selected one of the plurality of geographic areas.” EX1008, claims 6, 11. The claims do not recite receiving, ***from an application program,*** a request to reserve or obtain an interest in a geographic area. EX1002, ¶87.

2. ’247 Patent (’392 Application)

The next application in the chain is the ’392 application that issued as the ’247 patent. Like the ’094 application, the as-filed independent claims of the ’392 application did not specify the entity submitting requests to reserve a geographic area. EX1020, 261-266 (claims 1, 8, 15). In contrast, certain dependent claims recited “***receiving, from a sponsor,*** a request to obtain an interest in a selected one

of the plurality of geographic areas." EX1020, 261-266 (claims 5-6, 12-13, 19-20). EX1002, ¶88.

In response to a rejection, the Applicant amended claim 1 to recite, *inter alia*, "receiving" such requests "***from one or more sponsors.***" EX1020, 143-144. The Applicant also amended certain dependent claims to recite "the one or more sponsors ***is at least one of the one or more instances of the application program.***" EX1020, 145 (claim 6), 149 (claim 13), 152 (claim 18). The Applicant argued that this added language in the dependent claims "finds support in the specification…at least at paragraphs 0019, 0067 and 0068." EX1020, 160. However, these paragraphs do not disclose that sponsors can be application programs or identify the entity submitting the reservation request. EX1020, 243, 259. EX1002, ¶89.

In a later office action, the examiner determined that the amended claims were directed to a non-elected invention and withdrew the claims. EX1020, 135-139. The Applicant subsequently amended the independent claims to recite "receiving" the reservation request "***from the one or more of the registered application programs,***" and the '247 patent issued. EX1020, 110-131. EX1002, ¶90.

3. '204 Application

The Applicant filed the '204 application as a division of the '392 application. As-filed claim 1 recited, *inter alia*, "receiving, from one or more

sponsors, at least one request to obtain an interest in a designated geographic area." EX1016, 114. The other independent claims included similar limitations. EX1016, 116-119. Certain dependent claims recited "wherein the one or more sponsors is at least one of the one or more instances of the application program." EX1016, 115 (claims 4, 6), 118 (claims 11, 13), 120 (claim 18). EX1002, ¶91.

Examiner Nguyen rejected all pending claims on several grounds, including under §112. EX1016, 3-24. In particular, the examiner rejected dependent claims 4, 6, 11, 13, and 18 reciting "wherein the one or more sponsors is at least one of the one or more instances of the application program" because "[t]he scope of this limitation is indefinite/unclear because it appears to be inconsistent meaning [sic] with the Applicant's specification." EX1016, 11-12. As the examiner explained, the specification does not describe a sponsor being an application program:

> [P]aras 0019-0020 mainly indicates application program is merely software that is running on the mobile devices, applicant program is registered by the Applicant developer/Applicant platform 108 but not the Sponsors, and ***the Applicant developer 108 and Sponsors are two different parties.*** Para 0020 mainly indicates sponsor requests for delivery of content to mobile devices running any application program….. ***These paras do not indicate "wherein the one or more sponsors is at least one of the one or more instances of the application program"*** as recited in these claims. Further, it is so unclear how the one or more sponsors/advertisers is one of the application program

> (merely software that is running on the user mobile devices)?
>
> ***The Examiner has reviewed the rest of the Applicant's specification*** and has ***found no indication*** of "*wherein the one or more sponsors is at least one of the one or more instances of the application program*".

EX1016, 11-12. EX1002, ¶92.

The Applicant did not reply to this office action and the '204 application went abandoned. EX101 1-2. EX1002, ¶93.

4. '625 patent ('285 Application)

The '285 application, which issued as the '625 patent, included as-filed claim 1, which recited that "a request to obtain an interest in the designated geographic area" is received "from the registered application program." EX1017, 135. The other independent claims included similar limitations. EX1017, 138-134 (claims 19-20). This limitation—which is found in every issued claim of the '625 patent —is not disclosed by the specification or by the as-filed claims of the '094 and '392 applications. Thus, the '625 patent claims are not entitled to either the '094 or '392 application's filing date. EX1002, ¶94.

In addition, dependent claim 9 includes essentially the same limitation as the '204 application's dependent claims that were rejected on §112 grounds by Examiner Nguyen; namely, "wherein the registered application program is the at least one of the one or more sponsors." EX1017, 136; EX1016, 115, 118, 120

(reciting "wherein the one or more sponsors is at least one of the one or more instances of the application program"). Examiner Akonai, however, failed to reject this claim under §112 and erroneously allowed it in the '625 patent. EX1010, claim 9. EX1002, ¶95.

Moreover, dependent claims 17 and 18 recite "wherein receiving the request to obtain the interest in the designated geographic area includes receiving the request on a mobile device" and "wherein the registered application program is being executed on the mobile device." EX1010, claims 17-18. These limitations are not disclosed by the specification or by the as-filed claims of the '094 and '392 applications. Thus, the issued claims of the '625 patent are not entitled to the filing date of either the '094 or '392 application. EX1002, ¶¶96-97.

5. '418 Patent ('961 Application)

The '961 application, which issued as the '418 patent, included as-filed claim 1 of the '961 application, which recited that "at least one request to obtain an interest in the designated geographic area" is received "from the registered application program." EX1018, 356. Again, this is not disclosed by the specification or by the as-filed claims of the '094 and '392 applications. EX1002, ¶98.

In a preliminary amendment, the Applicant cancelled claims 1-20 and added new claims 21-40. EX1018, 257-589. The examiner then rejected all pending

claims on several grounds, including §112. EX1018, 222-229. The Applicant subsequently amended the claims, which the examiner allowed. EX1018, 155-206, 136-142. Each of the '418 patent's independent claims recite, *inter alia:*

> **implementing, on a mobile device,** at least one computer readable program instruction, made available for use by one or more distinct application programs operating on the mobile device, for **receiving, from a particular one application program…a request to reserve,** for the particular one application program, at least one designated geographic area of interest.

EX1011, Claims 1, 11, 19. These limitations are not disclosed by the specification or by the as-filed claims of the '094 and '392 applications. Thus, the claims of the '418 patent are not entitled to the filing date of either the '094 or '392 application. EX1002, ¶¶99-100.

6. '736 Patent ('809 Application)

During prosecution, the Examiner issued an Office Action rejecting the pending claims under 35 U.S.C. §112 based on the Applicant attempting to obtain subject matter that was deemed unsupported in earlier filings. EX1003, 155-167. In response, Applicant filed several sets of claim amendments to overcome the rejection. EX1003, 91-109, 115-141. The Examiner then issued a notice of allowance. EX1003, 66-76. Shortly thereafter, Applicant filed a post allowance amendment. EX1003, 12-43. EX1002, ¶101.

C. PGR Eligibility

The ’736 patent is eligible for PGR if the ’736 patent, or any of its priority applications, contains or contained at any time a claim with an effective filing date on or after 03/16/2013. *See* AIA §3(n)(1). The ’736 patent is eligible for PGR because (1) one or more of the ’736 patent’s priority applications contain a claim with an effective filing date after 03/16/2013; and (2) the ’809 application had contained, at some time during examination, a claim with an effective filing date after 03/16/2013. EX1002, ¶¶102-104.

1. ’736 Patent’s Priority Applications Contain an AIA Claim

The ’736 patent claims priority to the ’625 patent and the ’418 patent. §III(B) (Prosecution History). For the reasons provided below, the ’625 patent and the ’418 patent include claims that have an effective filing date no earlier than January 29, 2015. As such, the ’736 patent is PGR eligible because the ’625 patent and the ’418 patent include claims with an effective filing date on or after March 16, 2013. EX1002, ¶105.

a. ’285 Application’s Priority Date

When a continuation application is filed with a claim not supported by earlier-filed applications from which the application claims priority, the claim does not receive the benefit of the earlier application’s filing date. *Reiffin v. Microsoft Corp.*, 214 F.3d 1342, 1346 (Fed. Cir. 2000).

The ’285 application, which issued as the ’625 patent, included as-filed claim 1, which recites that “a request to obtain an interest in the designated geographic area” is received “from the registered application program.” §III(B)(4) (’285 Application). In other words, the claims require the “registered application program” to make the request to obtain an interest in or reserve a geographic area of interest. As explained above, the specification only discloses a system in which sponsors can make reservation requests. *See* §III(A) (Shared Specification). The specification neither discloses a system in which an application program—or any entity other than a sponsor—can send a request to obtain an interest or reserve a geographic area of interest. EX1002, ¶106.

When the Applicant originally added this limitation while prosecuting the ’392 application, the Applicant claimed that the limitation was supported by paragraphs [0019], [0067], and [0068] of the specification. *See* §III(B)(2) (’392 application); EX1020, 160. None of these paragraphs disclose a system in which an application program can send a reservation request or suggest that an application program could be a sponsor. Paragraph [0019] merely describes the architecture of system 100, which includes content delivery platform 112, developer platform 108, sponsors 121-125, and mobile devices. EX1003, 660-661. Paragraph [0067] merely explains that the invention can be implemented in hardware and/or software, and paragraph [0068] generally describes the meaning

of computer-usable or computer readable media. EX1003, 681. There is no support anywhere in the specification for this claim limitation. EX1016, 11-12. EX1002, ¶107.

Indeed, a USPTO examiner already found that the specification did not disclose that an application program could be a sponsor. As explained above, the independent claims of the ’204 application recited “receiving, from one or more sponsors, at least one request to obtain an interest in a designated geographic area,” and certain dependent claims recited “wherein the one or more sponsors is at least one of the one or more instances of the application program.” *See* §III(B)(3) (’204 application). The examiner rejected the dependent limitation because “[t]he scope of this limitation is indefinite/unclear because it appears to be inconsistent meaning[sic] with the Applicant’s specification.” EX1016, 11. Referring to paragraphs [0019]-[0021] of the specification, the examiner explained that “[t]hese paras do not indicate ‘wherein the one or more sponsors is at least one of the one or more instances of the application program’ as recited in these claims” and that the examiner “**has reviewed the rest of the Applicant’s specification and has found no indication** of ‘wherein the one or more sponsors is at least one of the one or more instances of the application program.’” EX1016, 11-12. Thus, the examiner rejected the claims under §112 based on a finding that there was no support for this limitation. EX1002, ¶108.

Thus, the ’285 application included at least one claim with an earliest effective filing date of 01/29/2015. EX1002, ¶109.

b. ’961 Application’s Priority Date

Independent claim 11 of the ’418 patent (issued from the ’961 Application) recites “implementing, on the mobile device, at least one computer readable program instruction...for receiving, from a particular one application program...during the particular one application program’s execution on the mobile device, a request to reserve...at least one designated geographic area of interest.” EX1011. In other words, claim 11 requires that the reservation request must be received on the same mobile device as the application that sent it or, in other words, the content delivery platform must run on the same mobile device as the application program making the request. As discussed above, the specification only discloses a system in which the content delivery platform is separate from the mobile device. *See* §III(A) (Shared Specification); EX1001, FIG. 1-3, 3:32-41, 11:48-51, 12:1-3, 12:14-23. There is no disclosure in the specification of a system in which the content delivery platform runs on the mobile device. Indeed, the specification explains that the content delivery platform must communicate with a mobile device via the internet or communication towers. EX1001, FIG. 1, 3:55-4:15. The specification further explains that the content delivery platform registers

applications on different mobile devices. EX1001, 7:13-36, 10:4-20. EX1002, ¶110.

During prosecution of the ’418 patent, the Applicant amended the independent claims to recite “implementing, on a mobile device, at least one computer readable program instruction” for receiving a reservation request. EX1018, 156-162, 168-175, 179-186. The Applicant asserted that this limitation was supported by paragraphs [0022], [0064], and [0067] of the specification. EX1018, 201. This is incorrect. Paragraph [0022] generally describes how the content delivery platform communicates with mobile devices and the types of devices with which the content delivery platform can communicate. EX1018, 328-329. Paragraph [0064] generally explains that the content delivery platform may be “implemented in a processing system executing a set of instructions stored in memory.” EX1018, 347. Paragraph [0067] explains that the invention can be implemented in hardware and/or software. EX1018, 348. None of these paragraphs disclose that the content delivery platform may be implemented on the same mobile device as the registered application program. Thus, there is no disclosure anywhere in the specification of a content delivery platform being embodied on a mobile device that receives reservation requests from an application program on the same mobile device. EX1002, ¶111.

As explained above, the first instance of this functionality being disclosed in this family is with respect to dependent claims 17 and 18 of the ’625 patent, which recite “wherein receiving the request to obtain the interest in the designated geographic area includes receiving the request on a mobile device” and “wherein the registered application program is being executed on the mobile device.” *See* §III(B)(4) (’285 Application). These limitations are not disclosed by the specification or by the as-filed claims of the ’094 and ’392 applications. EX1002, ¶112.

Accordingly, because support for the limitation “implementing, on the mobile device, at least one computer program instruction...for receiving, from a particular one application program...during the particular one program’s execution on the mobile device, a request to reserve...at least one designated area of interest” can be found only in the ’285 application and not in the ’094 or ’392 applications, the ’418 includes a claim that has an earliest effective filing date of 01/29/2015. EX1002, ¶113.

c. Board’s Prior Institutions

In IPR2022-01331, the Board instituted IPR on the basis that the ’418 patent cannot claim priority all the way back to the ’296 patent (i.e., the ’094 application) because there is no support that the mobile device can reserve the geographic area. EX1005, 28 (“we agree with Petitioner that the ’094 application consistently and

repeatedly discloses that a sponsor makes such a request and does not attribute that action expressly, inherently, or otherwise to any other aspect of the invention"); EX1004, 3-19, 21-27; EX1005, 30 ("we determine that the challenged claims of the '418 patent are not entitled to the priority date of the '094 application"). The PTAB made the same finding for the '387 patent and the '447 patent". EX1024-EX1025. EX1002, ¶114.

2. '809 Application Had Pending Claims with an Effective Filing Date After March 16, 2013

Additionally, the '736 patent is also eligible for AIA post-grant review because it contained at some point in time a claim with an effective filing date on or after 3/16/2013 during prosecution. Original claim 1 recites that at least one processor tangibly embodied by a mobile device sends to a module resident in the mobile device "particular geographic data to be used for defining the particular designated geographic area of interest and to be used with the particular identifier to establish, in a memory tangibly embodied by the mobile device and coupled to the at least one processor, the particular designated geographic area of interest as an area specifically reserved for delivery of the particular identifier related to the program of computer executable instructions." EX1003, 653-654. As previously discussed, the shared specification discloses that sponsors are the only party that can define designated geographic areas of interest, i.e., reserve a geographic area of interest, not the computer program of the mobile device. §III(B) (Prosecution

History), §III(D)(1) (Priority Applications). The earliest application in the priority family that provides support for this claim language is the ’285 application. §III(B)(4)-(5) (’625 patent, ’418 patent), §III(D)(1) (Priority Applications). Therefore, the effective filing date of original claim 1 is 01/29/2015, which is after 03/16/2013. EX1002, ¶116.

Accordingly, because the application that led to the ’736 patent included at some time a claim that has an effective filing date after 03/16/2013, the ’736 patent is PGR eligible. EX1002, ¶117.

D. Person of Ordinary Skill in the Art

A person of ordinary skill in the art as of 3/11/2008 (“POSITA”) would have had a Bachelors’ degree in electrical or computer science or a comparable field of study, plus at least three years of professional experience in advertisement delivery systems or other relevant academic experience. Additional graduate education could substitute for professional experience, and significant experience in the field could substitute for formal education. EX1002, ¶118.

E. Claim Construction

The Challenged Claims are interpreted using the same claim construction standard that is used to construe the claim in a civil action in federal district court. 37 C.F.R. §42.100(b). Petitioner does not contend that its proposed constructions are complete constructions of these limitations or the claims for any other purpose.

Because the asserted prior art discloses embodiments within the indisputable scope of the claims, the Board need not construe the outer bounds of the claims. Any claim term not listed below shall be given its plain and ordinary meaning to a POSITA.

1. "at least one processor" (claim 1)

This limitation requires that the processor (i.e., at least one processor) must be capable of performing each of the instructions included in the code that is configured for execution. *Salazar v. AT&T Mobility LLC,* 64 F.4th 1311, 1317 (Fed. Cir. 2023) ("while the claim term 'a microprocessor' does not require there be only one microprocessor, the subsequent limitations referring back to 'said microprocessor' require that at least one microprocessor be capable of performing each of the claimed functions"), *Convolve, Inc. v. Compaq Computer Corp.,* 812 F.3d 1313, 1321 (Fed. Cir. 2016) (use of "the processor" to refer back to "processor" in "claims 1, 3, and 5 require the user interface to work with a single processor in performing all of the claim steps"). In other words, in claim 1, the same single processor must be able to perform the sending of both the request to have an identifier delivered to a computer program on a mobile device and geographic reservation data. EX1002, ¶120.

Because the sending must be performed by the same processor, the "at least one processor" must be construed as being the processor of the sponsor. Claim 1

requires that the processor executes code that includes instructions for "sending to a content delivery platform ...." Therefore, the processor cannot be that of the content delivery platform. Claim 1 also recites that the processor executes code for "sending, to a content delivery platform...a request to have an identifier...delivered to a computer program on the mobile device...and...geographic reservation data to have the selected geographic area of interest reserved for delivery of the identifier to the computer program...." As previously established, only the sponsor is able to reserve a geographic area of interest. §III(A) (Shared Specification). Furthermore, the claim requires that the same single processor be capable of sending each item to the content delivery platform. Therefore, the "at least one processor" must be a processor of the sponsor. EX1002, ¶121.

2. "geometric construct" (claims 1 and 61)

The '736 patent explains that perimeters "can be based on map features, such as streets, rivers, landmarks, or any of the other various map features…by latitude and longitude, or various ***geometric constructs having a given relative position to either a point location, a map location, a physical address, or otherwise***." EX1001, 9:17-22 (emphasis added). Perimeters may also be "based on a combination of the various types of constructs." EX1001, 9:23-24. As such, a geometric construct is data that defines a geographic location relative to either a point location, a map location, a physical address, or otherwise. EX1002, ¶122.

3. "identifier" (claims 1, 61-62, 82)

During prosecution of the '171 patent, which is a continuation of the '736 patent, the Applicant defined an identifier as "a string of characters used to identify an element of a computer program such as a variable, a data structure, a procedure, a statement, a higher-level unit, or the program itself." EX1026, 204. That lexicography is consistent with the plain meaning of that term and should be adopted. *Microsoft Corp. v. Multi-Tech Sys., Inc.*, 357 F.3d 1340. 1350 (Fed. Cir. 2004) ("we conclude that Multi-Tech's statements made during the prosecution of the '627 patent with regard to the scope of its inventions as disclosed in the common specification are relevant not only to the '627 and '532 patents, but also to the earlier issued '649 patent"). EX1002, ¶123.

4. "reserving" (claim 61)

A POSITA would have understood "reserving" to include making an exclusive or non-exclusive reservation. EX1001, 3:14-16 ("Sponsors can reserve an exclusive interest, or in some embodiments, a semi-exclusive interest, in a geographic area"), 3:53-54 ("the reserved interest can be either completely exclusive, or semi-exclusive"), 9:47-49 ("if an area selected for exclusive or semi-exclusive content delivery is available, the selected geographic area can be reserved for the sponsor"). EX1002, ¶124.

IV. GROUND 1: CLAIMS 1-84 ARE UNPATENTABLE UNDER 35 U.S.C. §101

The ’736 patent claims are unpatentable under §101 because they recite the abstract activity of delivering content to a mobile device when it enters a certain geographic area based on known computer technology which PO admittedly did not invent (geofencing). Indeed, one district court has already determined at the summary judgment stage that the claims of multiple parent patents of the ’736 patent, which share an identical specification, constituted abstract ideas. EX1006, 67 (“With regard to the *Mayo/Alice* analysis imputed by the Court, imputed to the Court by our appellate courts, I am persuaded that under step 1 these claims are directed to an abstract concept.”). In this same vein, there is no “inventive concept” in the claims sufficient to ensure that the patent amounts to anything more than the abstract concept itself. Where, as here, the claims use only generic, conventional computers and software components to perform a series of functions, there is simply nothing inventive to transform the abstract claims into something more. EX1002, ¶¶125-140.

A. Section 101 Legal Standard

In step one of the two-step test for determining whether a patent is directed to ineligible subject matter under Section 101, the Board must decide whether the claims are “directed to” an abstract idea. *Alice Corp. Pty. Ltd. V. CLS Bank Int’l*, 573 U.S. 208, 218 (2014). If the claim’s “‘character as a whole’ is directed to

excluded subject matter" (an abstract idea), the Court proceeds to step two. *Affinity Labs of Tex. v. DIRECTV, LLC*, 838 F.3d 1253, 1257 (Fed. Cir. 2016). In step two, the Board should "look with more specificity at what the claim elements add, in order to determine 'whether they identify an 'inventive concept' in the application of the ineligible subject matter' to which the claim is directed." *Affinity Labs of Tex.*, 383 F.3d at 1258. The Court must decide whether the elements of the claim, taken "both individually and 'as an ordered combination,'" provide an "inventive concept" that is "sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [abstract idea] itself." *Alice*, 573 U.S. at 217-18. Any "additional features" in the claim related to the inventive concept "must be more than 'well-understood, routine, conventional activity.'" *Intell. Ventures I LLC v. Erie Indem. Co.*, 850 F.3d 1315, 1328 (Fed. Cir. 2017).

B. Alice Step One: Claim 1 Is Directed to an Abstract Idea

At step one, the Board is to "focus…on whether the *claims* of the asserted patents fall within the excluded category of abstract ideas." *PersonalWeb Techs. v. Google LLC*, 8 F.4th 1310, 1313, 1316 (Fed. Cir. 2021). Representative Claim 1 is drafted in functional language and amounts to nothing more than the abstract idea of targeting the delivery of content based on the location of a mobile device. The claim limitations merely (i) send/receive request that a generic "identifier" be sent to a mobile device after it enters a specific location that has been reserved; (ii)

send/receive information to reserve the specific location for delivery of content to a mobile device through the use of generic "geographic reservation data;" and (iii) receive the generic "identifier" from the mobile device once the mobile device has entered that location. *See* Limitations [1.a]-[1.c]. The process of targeting content for delivery based on an individual's geographic location has been occurring for ages: selecting advertisements for billboards based on a billboard's location and the nearby businesses, inserting a local affiliate's television commercial in a commercial break for shows that are broadcasted nationally, selecting advertisements for local businesses on AM/FM radio based on audience and location, and many others. Indeed, as explained in the '736 patent, advertisements traditionally have been limited by location due to signal range: "[a]dvertisements can be delivered...within communications range of areas transmitters or other information providers." EX1001, 1:42-45. EX1002, ¶¶126-129.

The Federal Circuit has repeatedly rejected claims as abstract where they use "result-based functional language" and fail to "sufficiently describe how to achieve these results in a non-abstract way" (like the claims of the '185 patent). *Two-Way Media Ltd. v. Comcast Cable Commc'ns, LLC*, 874 F.3d 1329, 1337 (Fed. Cir. 2017) (noting that "[t]he claim requires the functional results of 'converting,' 'routing,' 'controlling,' 'monitoring,' and 'accumulating records,' but does not sufficiently describe how to achieve these results in a non-abstract way."); *accord*

Int'l Bus. Machs. Corp. v. Zillow Grp., 50 F.4th 1371, 1378 (Fed. Cir. 2022) (patent is "result-oriented," describing required functions "presenting," "receiving," "selecting," "synchronizing" without explaining *how* to accomplish any of the tasks); *Affinity Labs of Texas*, 838 F.3d at 1260-61 (functional claim invalidated because there was nothing in the claim that described how to perform the claimed function).

As in *Two-Way*, *IBM*, and *Affinity Labs*, claim 1 of the '736 patent describes in functional terms the delivery of content based on a mobile device's location ("sending" a request for content delivery, "sending" data to have a geographic area reserved, and "receiving" the identifier back from the mobile device when the mobile device enters the geographic area) without identifying how these steps would be performed in any manner that constitutes any sort of technical improvement. Claim 1 does not disclose *how* to send a request for delivery of an identifier, *how* to reserve a specific geography for identifier delivery, or *how* the identifier would be received by the content delivery platform. Instead, the claim elements recite functions in the abstract, couched as computer instructions. *Broadband iTV v. Amazon.com, Inc.*, 113 F.4th 1359 (Fed. Cir. 2024). Nothing in this claim identifies a specific method of solving a problem unique to computers or the Internet—rather, these are "tasks for which a computer is used in its ordinary

capacity." *Finjan, Inc. v. Blue Coat Sys., Inc.*, 879 F.3d 1299, 1305 (Fed. Cir. 2018). EX1002, ¶128.

Post-*Alice*, the Federal Circuit has repeatedly held that claims targeting content delivery based on location (and analogous concepts) are directed to abstract ideas. *See Beteiro, LLC v. DraftKings Inc.*, 104 F. 4th 1350, 1356 (Fed. Cir. 2024) (exchanging information and allowing or disallowing a bet based on where a user is located is an abstract idea); *Broadband iTV v. Amazon.com*, 113 F.4th 1359 (Fed. Cir. 2024) (targeted advertising constitutes abstract idea); *Sanderling Mgmt. Ltd. v. Snap, Inc.*, 65 F.4th 698, 703 (Fed. Cir. 2023) (claims "directed to the abstract idea of 'providing information—in this case, a processing function—based on meeting a condition,' e.g., matching a GPS location indication with a geographic location.") *Intellectual Ventures I LLC v. Capital One Bank* (USA), 792 F.3d 1363 (Fed. Cir. 2015) (tailoring website content based on viewer's location or the time of day when the user navigated to the website is abstract). [1]

[1] *Accord PersonalWeb Techs., LLC v. Google LLC*, 8 F.4th 1310, 1313, 1316 (Fed. Cir. 2021) (invalidating claims that use "identifiers to perform various data management functions" including "controlling access to data items" and "retrieving and delivering copies of data items").

The Federal Circuit's reasoning in *Beteiro, LLC* is on all fours with the case at bar. The representative claim in that case contained the steps of:

> (1) detecting information about a gambling activity; (2) generating and transmitting a notification message regarding the activity to a user; (3) receiving a bet message that includes information regarding a bet to be placed and the location of the user; (4) determining whether the bet is allowed or disallowed using the location information; and (5) processing information for placing the bet or disallowing the bet.

Beteiro, 104 F. 4th at 1355. The Federal Circuit determined this was directed to the abstract idea of "exchanging information concerning a bet and allowing or disallowing the bet ***based on where the user is located***." *Beteiro,* F.4th at 1355. (emphasis added).

Claim 1 of the '736 patent is similarly directed to the abstract idea of delivering content based on location. Indeed, the claim features the same generic steps found to be abstract in *Beteiro:*

- sending a request to have content (e.g., an identifier) be associated with a geographic area of interest and be delivered to a mobile device in that area (limitations 1[a]); **[1]-[2]** (*Beteiro*'s detecting information and generating and transmitting a notification to a user in a particular area based on information)

- sending geographic reservation data to reserve a geographic area of interest (limitations 1[b]); **[2]-[3]** (*Beteiro*'s processing information for allowing/disallowing a bet based on location);
- receiving the identifier from the mobile device after the identifier has been delivered to the mobile device based on location (limitation 1[c]); **[4]-[5]** (*Beteiro*'s receipt and use of geographic information in connection with a bet).

See Beteiro, F.4th at 1355. The Federal Circuit noted that the claim at issue in *Beteiro,* like the claims here, are "drafted using largely (if not entirely) result-focused language, containing no specificity about how the purported invention achieves those results." *Beteiro,* F.4th at 1356 (emphasis added).

Many district courts have reached the same conclusion with location-based claims, relying on consistent, well-established Federal Circuit authority. *See, e.g.*, *PerDiemCo LLC v. NexTraq LLC*, 720 F. Supp. 3d 1365, 1383 (N.D. Ga., 2024) (*Appeal Filed*) (finding claims "directed to the abstract idea of collecting, analyzing, and distributing information from geo-tracking devices"). *GeoComply Sols. Inc. v. Xpoint Servs. LLC*, 2023 WL 1927393, at *6 (D. Del. Feb. 10, 2023), aff'd, 2024 WL 4717268 (Fed. Cir. Nov. 8, 2024) (finding claims directed to the abstract idea of "determining the location of a device based on geolocation information and programs present on the device"); *Front Row Techs., LLC v. Cisco Sys., Inc*., 2023 WL 11800705, at *6 (W.D. Tex. Sept. 13, 2023) (finding claims directed to the abstract idea of "restrict[ing] content based on the user's location-

based data"); *CG Tech. Dev., LLC v. FanDuel, Inc.*, 442 F. Supp. 3d 840, 847 (D. Del. 2020), *aff'd*, 858 F. App'x 363 (Fed. Cir. 2021) (claims directed to the "basic concept of determining game configuration based on the location of a mobile device" are abstract).

In sum, claim 1 "preempt[s] the entire industry's ability to use" the abstract idea, no matter how it is implemented. *See, e.g., ChargePoint, Inc. v. SemaConnect, Inc.*, 920 F.3d 759, 769-70 (Fed. Cir. 2019) (explaining that a broad claim drafted in "a result-oriented way" that amounts to preempting the entire industry's ability to use the abstract idea is patent ineligible); *see also GeoComply*, 2023 WL 1927393, at *8 ("[C]laim 1 by its terms would accord patent protection to any method of verifying a person's location using geolocation data and the presence of certain programs on the person's device. As such, it would result in the preemption of a wide range of activities relating to geolocation, even outside the context of online gaming.").

C. Alice Step Two: No Inventive Concept Sufficient to Transform the Abstract Idea

Because claim 1 is directed to an abstract idea, the next step is to determine whether it contains an "inventive concept...sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the ineligible concept itself." *Alice*, 573 U.S. at 217-18 (citations and quotations omitted). It does not. Importantly, "a claimed invention's use of the ineligible concept to which it is

directed cannot supply the inventive concept that renders the invention 'significantly more' than that ineligible concept." *BSG Tech LLC v. Buyseasons, Inc.*, 899 F.3d 1281, 1290 (Fed. Cir. 2018).

1. Mere Use of a General-Purpose Computer is Insufficient.

Claim 1 is a method claim that includes two steps: (1) a sending step performed "via user of at least one processor" to a "content delivery platform;" and (2) a receiving step performed "via the computer program" that is on a mobile device. There is nothing whatsoever in the claim which would support the notion that the at least one processor, the mobile device, or the content delivery platform is anything other than a generic, conventional hardware or software component. Claim 1 neither seeks to solve any technological problems arising in the realm of computers or computer networks nor offer any unconventional technological solutions. And the specification of the '736 patent confirms that this is indeed the intention of claim 1. EX1001, 13:4-9 ("The methods and processes discussed previously, as well as other embodiments, may be implemented in a processing system executing a set of instructions stored in memory, or on a removable computer readable medium. An example of a system according to some embodiments is illustrated in FIG. 7"), 13:10-13 ("Processing System 700 includes one or more central processing units...which may be *conventional* microprocessors.") (emphasis added); 13:20-24 ("Processing system 700 includes

random access memory (RAM) 720; read-only memory (ROM) 715, wherein the ROM 715 could also be erasable programmable read-only memory (EPROM) or electrically erasable programmable read-only memory (EEPROM).”). EX1002, ¶127.

The Federal Circuit has repeatedly held that merely invoking “computers and networks that are not even arguably inventive are ‘insufficient to pass the test of an inventive concept in the application’ of an abstract idea.” *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1355 (Fed. Cir. 2016) (citation omitted). Claims that recite “no improved computer resources” and use “already available computers, with their already available basic functions, to use as tools in executing” the abstract idea do not provide an inventive concept. *SAP Am. Inc. v. InvestPic LLC*, 898 F.3d 1161, 1169-70 (Fed. Cir. 2018). The recitation of generic computer components in claim 1 accordingly cannot provide the requisite inventive concept. *See GeoComply*, 2023 WL 1927393, at *12 (“What is claimed and disclosed, therefore, is no more than the general idea of using generic computer components to obtain geolocation information from a user’s device, to consider whether certain programs are present on that device, and to report the results of an unspecified analysis of that information.”).

2. The Purported Advantages Are Insufficient.

The Shared Specification does not recite any purported advantages over the prior art. At best, the Shared Specification provides that "[c]urrent technologies are...less than perfect," but fails to describe what aspect of current technologies are less than perfect. The '736 patent is not the subject of any litigation between Petitioner and Patent Owner. However, a parent of the '736 patent, namely, U.S. Patent No. 8,433,296 (EX1008) is a subject to a litigation between Petitioner and Patent Owner in *H2 Intellect LLC v. The Home Depot, Inc.*, Case No. 2:24-cv-00694-JRG-RSP, (EDTX Aug. 22, 2024) ("First EDTX litigation") and additional parents of the '736 patent, namely U.S. Patent No. 8,977,247 (EX1009) and U.S. Patent No. 9,286,625 (EX1010) are subjects to a litigation between Petitioner and Patent Owner in *H2 Intellect LLC v. The Home Depot, Inc.*, Case No. 2:25-cv-00123-JRG-RSP, (EDTX Feb. 03, 2025) ("Second EDTX litigation"). EX1002, ¶131.

In its First Complaint in the First EDTX litigation involving the '296 patent and in its Second Complaint in the Second EDTX litigation involving the '274 and '625 patents (collectively, the "Complaints"), all of which share the same specification as the '736 patent, PO alleges multiple purported advantages in preemptively addressing eligibility. EX1007, ¶¶24-29; EX1040, ¶¶25-31. These alleged advantages are either not tethered to the claims of the '736 patent or merely

relate to advantages of the abstract idea itself, not advantages of a claimed inventive concept. *See ChargePoint, Inc.,* at 766 ("[W]hile the specification may help illuminate the true focus of a claim, when analyzing patent eligibility, reliance on the specification must always yield to the claim language in identifying that focus."). EX1002, ¶¶132-136.

Customizable Content. The Complaints allege that "content delivery is customizable, which enables delivery of content in near-real time to areas as specific as particular business or home locations." This area could be defined by "map features, such as streets, rivers, [or] landmarks…" EX1007, ¶24; EX1040, ¶25. The '736 claims, however, say nothing about "real-time" delivery, nor do they mention specific map features such as streets, rivers or landmarks, and "[u]nclaimed features cannot function to remove [a claim] from the realm of ineligible subject matter." *Am. Axle & Mfg., Inc. v. Neapco Holdings LLC,* 967 F.3d 1285, 1295 (Fed. Cir. 2020); *Intell. Ventures I LLC v. Symantec Corp.,* 838 F.3d 1307, 1322 (Fed. Cir. 2016) (finding that the district court erred in "relying on technological details set forth in the patent's specification and not set forth in the claims to find an inventive concept"). Rather, two of the '736 independent claims simply mention "the geographic reservation data comprises a geometric construct used to establish at least one perimeter as a boundary for the selected geographic area of interest" (EX1001, claim 1[b], 61[b]), while the remaining independent

claims only generically refer to a "geographic area of interest" (EX1001, claim 62[a], 81[a]). This limitation is nothing more than an extension of the abstract idea itself: defining desired locations for content delivery. Furthermore, even if this were an improvement (it is not), it would still not be an inventive concept because it flows from the abstract idea itself. *See BSG Tech LLC,* 899 F.3d at 1288-89 (explaining that benefit of allowing users quicker access to relevant data did not provide a sufficient improvement because that benefit "flow[ed] from performing an abstract idea"). EX1002, ¶132.

Dwell Time/Alert Spam. The Second Complaint further alleges that "delivery of content is based on the mobile device entering an area for a predetermined/specified period of time," and this feature allowed the industry to avoid the problem of "alert spam." EX1040, ¶¶26-27. This feature, however, does not provide an inventive concept—it is just another rule for delivering content, devoid of any technological improvement, and thus itself is an abstract idea. The Federal Circuit has confirmed that providing information based on a condition or rule occurring (namely, matching a GPS indication with a geographic location) is abstract. *See Sanderling,* 65 F.4th at 703 (terming this a "distribution rule"). As in *Sanderling,* conditioning delivery of content based on the mobile device remaining within the specified geographic area for a predetermined length of time *(see, e.g.* claim 60) is nothing more than a distribution rule, and the specification does not

describe any technological improvement or inventive concept associated with this rule. EX 1001, 3:50-53 ("[t]he request can also include time limitations, limitations based on the length of time a mobile device remains within a given geographic area, or other desired limitations."); 9:64-66 ("when the mobile device or target location physically enters or remains within the sponsor's reserved area for a desired length of time.") Here, there is no description of *how* to determine what the predetermined time should be or *how* to apply these restrictions. At best, only claims 62 and 82 specify that this is determined using location information. Claims 62 and 82 similarly do not specify ***how*** the location information is used to make this determination. Further, while the claims recite that the mobile device "remained therein for at least a predetermined length of time," the claims do not recite how that length of time is determined or what that length of time is. For example, a mobile device entering a geographic area and remaining therein for any time t, where $t > 0$, would satisfy the claim limitation. Without any further details regarding the duration of the length of time, the mobile device simply existing in the geographic area of interest could satisfy the claim limitation. EX1002, ¶133.

Centralized Management System. The Complaints further allege that using a centralized management system "can thereby deliver specific content to each of a number of registered apps within specific regions under centralized management." EX1007, ¶25; EX1040, ¶28. But none of the asserted claims recite "centralized

management" or a "central management system" or anything similar. At best, some recite a "content delivery platform," which can be a generic computer or Internet server that communicates with the mobile devices as depicted in Figure 1 of the '736 patent. *See also* Fig. 7; EX1001, 13:11-36 (describing conventional microprocessor-based computer systems). Moreover, simply centralizing control or allowing a multiplicity of the same idea is not inventive. *See, e.g., Amdocs (Isr.) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1319 (Fed. Cir. 2016) ("'enhancement procedure'" of "combining data from multiple network devices" is not an inventive concept "because the abstract idea of 'gathering and combining data' is not patent-eligible"); *Realtime Data LLC v. Array Networks Inc.*, 2023 WL 4924814 at *11 (Fed. Cir. Aug. 2, 2023) ("[u]sing multiple compression techniques and compressing and storing data on a generic component faster than if it were uncompressed data, moreover, is an abstract idea and cannot provide an inventive concept"). Moreover, the Complaints further allege that the "centralized management solution allows for battery savings through the reduction of instances in which a device's location must be polled." EX1007, ¶29; EX1040, ¶31. However, this power savings is not claimed (or depicted anywhere in the specification), and therefore this alleged benefit need not be considered in the search for an inventive concept to save claim 1 from patent ineligibility. *See ChargePoint, Inc. v. SemaConnect, Inc.*, 920 F.3d 759, 766. EX1002, ¶134.

Identifier. The First Complaint further alleges that providing a request identifier for each request for content from an application program is "a unique technical solution for the tracking of user interaction with content delivered based on geographic areas of interest and allowing further tailored content to be delivered to the user." EX1007, ¶26. Again, the use of a request identifier to track user interaction with content is not claimed; instead, claim 1, at best, recites a generic identifier that is sent and received between the content delivery platform and the mobile device. Therefore, this alleged benefit need not be considered in the search for an inventive concept to save claim 1 from patent ineligibility. Moreover, the Federal Circuit has determined that identifiers which perform data-management functions constitute abstract ideas without an inventive contribution. *PersonalWeb Techs. v. Google LLC*, 8 F.4th 1310, 1313, 1316 (Fed. Cir. 2021). EX1002, ¶135.

Exclusivity/Resolving Competing Claims. The Complaints also allege the features that geographic areas can be exclusively reserved -- and that competing claims to geographic areas can be resolved – as technological improvements. EX1007, ¶¶27-28; EX1040, ¶¶29-30. But these concepts are not embodied in the claim language; instead, the '736 patent claims discuss "sending…geographic reservation data to have the selected geographic area of interest reserved for delivery of the identifier to the computer program." Nothing in the '736 patent claims cover an *exclusive* reservation or resolving *competing* claims. Moreover,

PO's purported improvements apply to traditional broadcast as well. Radio and TV stations can only broadcast one commercial in a timeslot. Thus, scheduling of advertisements, i.e., resolving competing claims, already existed (e.g., TV stations auctioned off advertisement timeslots). Even if the claims did recite exclusivity, semi-exclusivity, or scheduling of advertisements, they are not improvements. EX1002, ¶136

Accordingly, the '736 patent claims should be held invalid under §101.

D. Claim 1 Is Representative of the Challenged Claims

When analyzing a patent under §101, it is appropriate to consider the issue based on a representative claim. *Accenture Glob. Servs. v. Guidewire Software, Inc.*, 728 F.3d 1336, 1344 (Fed. Cir. 2013) ("Because the system claim and method claim contain only minor differences in terminology but require performance of the same basic process, they should rise or fall together.") (cleaned up). A claim is representative when "the claims of the…patents are substantially similar in that they recite little more than the same abstract idea." *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat'l Ass'n*, 776 F.3d 1343, 1348 (Fed. Cir. 2014); *see also Phoenix Licensing, L.L.C. v. Consumer Cellular, Inc.*, 2017 WL 1065938, at *8-9 (E.D. Tex. Mar. 8, 2017) ("[H]ere, as the Federal Circuit stated in the case of *Content Extraction*, the representative claims are 'substantially

similar' to the other claims and all of the claims are 'linked to the same abstract idea.'").

Claim 1 is representative of the independent claims (1, 61, 62, and 82). The independent claims generally include the same limitations:

- Reserving a geographic area for delivery of an identifier (e.g., claims 1[b], 61[b]-[d], 62[a], and 82[c]);
- Determining/obtaining a mobile device location within the geographic area (e.g., claims 1[c], 61[e], 62[b]-[c], and 82[b]-[c]);
- Determining that a mobile device is located within the geographic area for a threshold period of time (e.g., claims 1[c], 61[f], 62[d], and 82[d]);
- Requesting/Receiving an identifier associated with a geographic area (e.g., claims 1[a], 61[a], 62[a], and 82[a]); and
- Receiving/Delivering the identifier when the mobile device is located within a geographic area for the threshold period of time (e.g., claims 1[c], 61[f], 62[e], and 82[e]).

Claim 61 is similar to claim 1, with the difference being that claim 61 is drafted from the perspective of the content delivery platform—limitations 1.a-1.b correspond to limitations 61.a-61.b, 61.d (sending/receiving and reserving information between the sponsor and the content delivery platform); limitation 61.c recites a conventional and routine storing step; limitations 61.e-61.f correspond to limitation 1.c (obtaining and delivering the identifier based on location information). This difference is not relevant to the analysis under §101. Claim 62 is

substantially the same as claim 61, with the differences being that claim 62 does not require receipt of the geographic reservation data and that the location information is obtained as the mobile device moves over time. These differences are not relevant to the analysis under §101. Similarly, claim 82 is substantially the same as claim 62, with the difference being that claim 82 recites "whether the mobile device *is located within* the selected geographic area of interest" rather than "whether the mobile device *has entered* the selected geographic area of interest." This difference is not relevant to the analysis under §101. Thus, claim 1 is representative of the independent claims for the purposes of analysis under §101. EX1002, ¶¶137-138.

Claim 1 is representative of the dependent claims because they merely add additional conventional and routine limitations as described below. *See Content Extraction & Transmission LLC*, 776 F.3d at 1349 (dependent claims adding "well-known, routine, and conventional functions" merely narrow representative claims).

- Claim 2 requires the display of content associated with the geographic area of interest when the identifier is received via the computer program.
- Claims 3, 71-72 require the identifier be sent to the content delivery platform and/or received via the content delivery platform.
- Claim 4 requires the identifier to be a data string of characters.
- Claim 5 requires the geographic reservation data to be an area bounded by a perimeter.

- Claim 6 requires the geographic reservation data to include two geographic areas of interest.
- Claims 7-8 require the identifier be sent/received when the mobile device enters the second geographic area of interest.
- Claim 9 requires display of content associated with the geographic area of interest when the identifier is received via the computer program.
- Claim 10 requires the identifier be sent via the computer program.
- Claim 11 requires the computer program be provided to the mobile device.
- Claims 12-15 cover the same process recited in claim 1, but is drafted from the perspective of the content delivery platform.
- Claim 16 requires the geographic area of interest be located within a predetermined radial distance of the mobile device.
- Claims 17-18, 66-68 require the creation of a notification when the mobile device enters the geographic area of interest.
- Claim 19-20 requires determining the availability for the reservation of the geographic area before providing the identifier and making the reservation.
- Claim 21 requires returning an indication that the geographic area of interest was reserved.
- Claim 22 requires discontinuing delivery of the identifier when the mobile device has exited the geographic area of interest.
- Claim 23 requires the location information be obtained when the computer program is not being executed on the mobile device.
- Claim 24 requires the identifier be delivered when the computer program is not being executed on the mobile device.
- Claim 25 requires considering the device stationary if the mobile device was carried by a person.

- Claim 25 requires considering the device stationary if the mobile device was transported in a motor vehicle.
- Claims 27-29 recite ways in which the location information is determined, e.g., cellular tower, GPS, wireless networks.
- Claim 30 requires use of a predetermined radius encircling the physical location of the mobile device in determining the location of the mobile device.
- Claims 31-34 require use of one or more third party sources in combination with cell tower information or a wireless data network for determining the location of the mobile device.
- Claims 35-36 require receipt of data that includes the identifier.
- Claim 37 requires the delivery of the identifier exclusively to the computer program.
- Claim 38-40, 79-81 require a verification check to determine a location of the mobile device.
- Claims 41-43, 63-65, and 69 requires delivery of the content after it has been determined that the mobile device was in the geographic area for a predetermined duration and/or satisfies further constraints of the request.
- Claims 44-45 define the geometric construct as including a radius value, a latitude value, and a longitude value or at least three latitude and longitude coordinates.
- Claim 46 requires receipt of an indication that the geographic area of interest was reserved.
- Claims 47-48 require use of one or more third party sources in combination with cell tower information or a wireless data network for determining the location of the mobile device.

- Claims 49-50 simply allow second requests, second identifiers, and second selected geographic areas of interest.
- Claim 51 simply allows third requests, third identifiers, and third selected geographic areas of interest.
- Claim 52 requires the identifier be associated with the boundary.
- Claims 53-54, 70 require the request to include a request to have an identifier delivered exclusively to the computer program and not broadcast to other computer programs.
- Claim 55 requires the computer program to be an application program.
- Claim 56 requires the computer program to operate as a function of operating system software.
- Claim 57 requires the content delivery platform to operate as a function of operating system software.
- Claims 58-60 require the content delivery platform to includes a communications interface and defines the communications interface as an application programming interface or a device driver interface.
- Claims 73-74 require storing a record of the identifier for future delivery of the identifier to the computer program and use of that record for delivering the identifier.
- Claim 75 define requires receipt of geographic reservation data and defines the geographic reservation data as including a geometric construct used to establish at least one perimeter as a boundary for the selected geographic area of interest.
- Claim 76 requires reserving the selected geographic area of interest for delivery of the identifier to the computer program.

- Claims 77-78 require exclusive delivery of the identifier to the computer program and not to other computer programs.

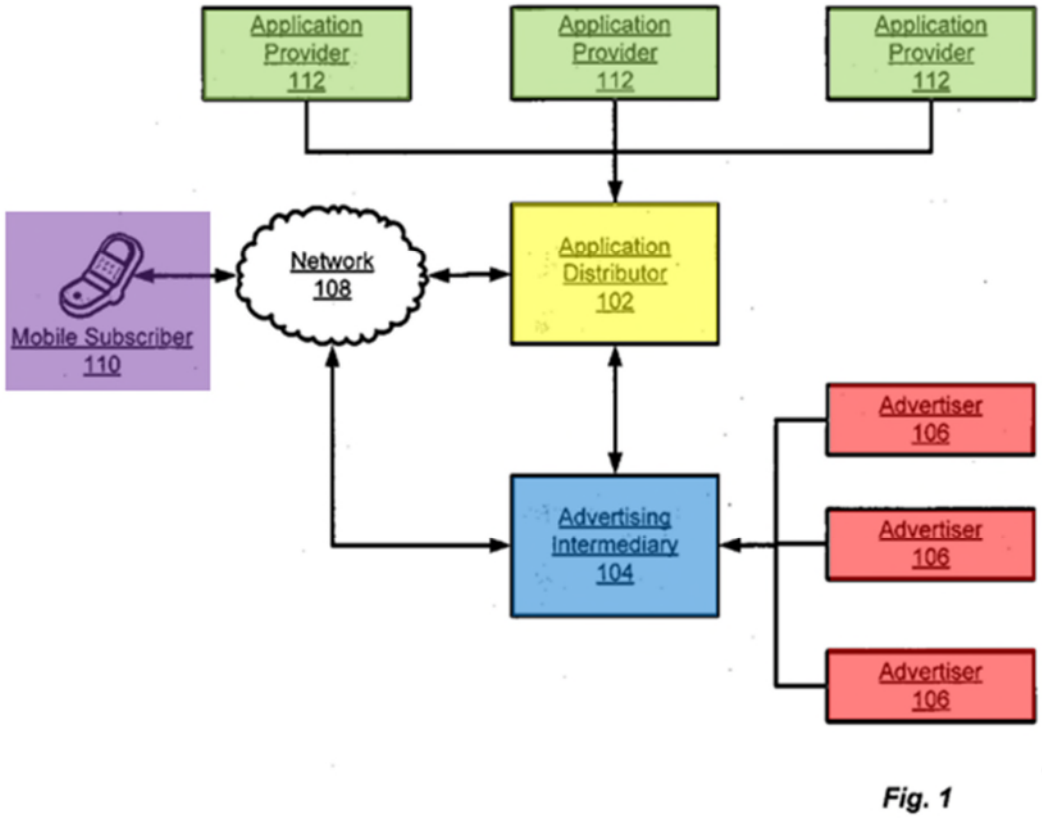
None of these additional limitations change the fundamental character of the claims and none of these limitations are new; therefore, all dependent claims are linked to the abstract idea of claim 1: delivering content based on location. At bottom, no dependent claim adds any inventive concept because they all recite insignificant pre- or post-solution activity. *See Apple, Inc. v. Ameranth, Inc.*, 842 F.3d 1229, 1242 (Fed. Cir. 2016). The dependent claims add routine and conventional limitations, *e.g.*, providing notifications, using well-known means to determine location of the mobile device, and additional rules for content delivery based on time and exclusivity—none of which are new or inventive. Claim 1 of the '736 Patent is therefore representative of claims 1-82 of the '736 Patent. EX1002, ¶¶139-140.

V. GROUND 2

A. Overview of Elliott

U.S. Patent Appl. Pub. No. 2006/0149630 ("Elliott") was filed November 16, 2005, and published July 6, 2006. EX1028, cover page. Elliott is prior art under 35 U.S.C. §§102(a), (b), and (e) (pre-AIA). EX1002, ¶141.

Elliott generally relates to systems and methods for delivering advertisements to mobile devices. EX1028, ¶3, ¶9. Figure 1 reproduced below broadly illustrates the core components of Elliott's system:



EX1028, FIG. 1 (annotated). As shown, Elliott's system generally includes a plurality of advertisers 106 (red), an advertising intermediary 104 (blue), a plurality of application providers 112 (green), an application distributor 102 (yellow), and a mobile subscriber 110 (purple). EX1028, ¶13. Each of the plurality of advertisers 106 provides advertisements to advertising intermediary 104 for delivery to mobile subscriber 110. EX1028, ¶13. Each of the plurality of application providers 112 provides applications to application distributor 102 for delivery to mobile subscriber 110. EX1028, ¶13. Application provider 112 may provide application distributor 102 with one of the advertisements for delivery to the mobile subscriber 110. EX1002, ¶142.

Elliott's advertising intermediary 104 receives advertisements from advertisers 106 along with targeting information that specifies advertisers' 106 "preference[s] for which demographic should receive each advertisement." EX1028, ¶15. Advertising intermediary 104 stores the advertisements in advertisement database 206 along with the targeting information. EX1028, ¶15. Advertising intermediary 104 also includes a subscriber database 208 that stores account information for each mobile phone service subscriber 110. EX1028, ¶16 ("Account information…includes an e-mail address, physical address or telephone number…, the user's name, and other contact information" as well as "demographic information about the subscriber" and "preferences about the kinds of advertisements the subscriber wishes to receive"). Advertising intermediary includes an advertisement selection engine 202 which "matches advertisements in advertisement database 206 with subscriber information in subscriber database 208, choosing the most desirable advertisements to show to each subscriber based both on the advertiser's specified target demographic for the advertisement and on the subscriber's indicated preferences for advertisements." EX1028, ¶17. EX1002, ¶143.

Elliott is analogous art to the '736 patent and was not considered during prosecution of the '736 patent. EX1002, ¶144.

B. Overview of Jacob

Jacob was filed on April 27, 2001, and published on October 31, 2002. EX1029, cover page. Jacob is prior art under at least 35 U.S.C. §§102(a), (b), and (e) (pre-AIA). EX1002, ¶145.

Jacob discloses an advertising system based on a user's location. EX1029, Abstract. As shown in the annotated Figure 1 below, the system includes information providers (red) such as advertisers 119, 121 who send information through a service provider 123 (green) to a consumer's communications unit 103, 105 (blue), which can be a mobile device. EX1029, Abstract.

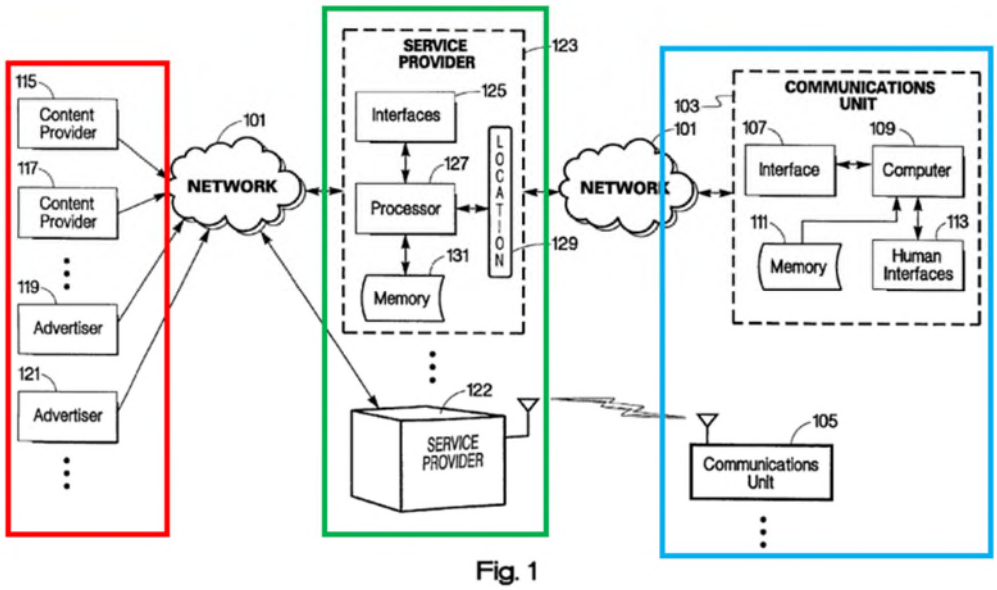


Fig. 1

EX1029, Fig. 1, ¶23. EX1002, ¶146.

Along with advertisements, advertiser 119 sends "attributes" for advertising effectiveness, such as a business category, *e.g.*, "restaurant," and a defined location for the advertisement to be sent, *e.g.*, "local address and ZIP code(s) (i.e., local

market).” EX1029, ¶28. The service provider stores advertisements and advertisement attributes corresponding to the advertisements. EX1029, ¶22. One of the advertisement attributes includes geographic location. EX1029, ¶27 (“The significance of the geographic location can be the physical presence of an advertiser’s place of business or a general geographic area in which the advertiser believes the target advertisement recipient should be located for optimum value of the advertisement”), ¶28 (“Jane’s identifies the following attributes for her pancake house: 1) restaurant and 2) local address and ZIP code(s) (i.e., local market)”). EX1002, ¶147.

In operation, the communications unit 103, 105 sends location information to the service provider 122, 123. EX1029, ¶29, ¶32. The service provider 122, 123 converts the information to a format to enable a match with the aforementioned location “attributes.” EX1029, ¶29, ¶32. Then, the service provider 122, 123 matches the location attributes between advertiser 119 and a communications unit 103, 105 and sends the associated advertisement to the communications unit 103, 105. EX1029, ¶¶29-30, ¶32. EX1002, ¶148.

Jacob is analogous art to the ’736 patent and was not considered during prosecution of the ’736 patent. EX1002, ¶149.

C. Motivation to Combine

A POSITA would have been motivated to modify the teachings of Elliott (§V(A)) based on the teachings of Jacob (§V(B)) because Elliott teaches targeting information provided with advertisements that specifies an advertiser's 106 "preference[s] for which demographic should receive each advertisement," and Jacob discloses a means "to better provide content-subsidized advertising [that is] useful to a user" by taking into account "the significance of the user's location relative to the pertinent location of the advertising...when the advertising is delivered to the user" in the form of a geographic location advertisement attribute. EX1028, ¶15, ¶17 ("choosing the most desirable advertisements to show to each subscriber based both on the advertiser's specified target demographic for the advertisement and on the subscriber's indicated preferences for advertisements"); EX1029, ¶17. A POSITA would have been motivated by the teachings of Jacob to implement Jacob's geographic location advertisement attribute with Elliott's targeting information to further individualize "content tailored to the expressed preferences of a person." EX1029, ¶3. Such a combination involves a simple addition of one known element (Jacob's geographic location advertisement) with other similar elements (*e.g.*, Elliott's targeting information) to obtain predictable results (providing advertisers with the ability to define the geographic area for delivering advertisements). Accordingly, a POSITA would have had a reasonable

expectation of success in making the proposed combination given the teachings of Elliott and Jacob. Such a combination would have required minimal modifications to Elliott to implement Jacob's geographic location advertisement attribute and thus would have been well within the skillset of a POSITA. The proposed combination would not have required undue experimentation and would have yielded a predictable result. EX1002, ¶150.

If PO argues the portions of Elliott or Jacob cited below relate to different, incompatible embodiments (they do not), it would have been obvious to a POSITA to combine such embodiments into a single system for providing the ability to deliver advertisements at least because such embodiments are described in the same prior art reference, are fully compatible with each other, and could be combined with minimal effort to achieve predictable results. EX1002, ¶151.

D. Claim 1

Elliott renders this claim obvious in combination with Jacob. EX1002, ¶152.

1. [1.pre] A method for creating and offloading location awareness, the method comprising:

Elliott-Jacob combination discloses *a method for creating and offloading location awareness.* EX1028, ¶3 ("The present invention relates generally to the delivery of advertisements on mobile devices"); EX1029, ¶1 ("The present invention generally relates to…delivery of advertisements included with content in an electronic publication that have a geographic location significance to a user"),

¶27 ("One of the attributes that can be assigned to an advertisement is that of geographic location. The significance of the geographic location can be the physical presence of an advertiser's place of business or a general geographic area in which the advertiser believes the target advertisement recipient should be located for optimum value of the advertisement"), ¶¶28-32. EX1002, ¶153.

2. [1.a] sending, via use of at least one processor, to a content delivery platform: a request to have an identifier, being associated with a selected geographic area of interest, delivered to a computer program on a mobile device after it has been determined, by at least use of location information representing at least one physical geographic location of the mobile device, that the mobile device has at least entered the selected geographic area of interest;

Elliott-Jacob combination discloses *sending, via use of at least one processor* (processor of advertiser device), *to a content delivery platform* (application distributor 102 and advertising intermediary 104): *a request to have an identifier* (indication of advertisement in response mechanism), *being associated with a selected geographic area of interest, delivered to a computer program* (application) *on a mobile device* (mobile subscriber) *after it has been determined, by at least use of location information representing at least one physical geographic location* (location coordinates) *of the mobile device, that the mobile device has at least entered the selected geographic area of interest*. EX1028, ¶¶13-15, ¶17, ¶21, ¶¶32-33, FIG. 2; EX1029, ¶22, ¶¶27-29, ¶32, ¶37, FIGS. 3, 9. EX1002, ¶¶154-155.

Elliott discloses *sending, via use of at least one processor* (processor of advertiser device), *to a content delivery platform* (application distributor 102 and advertising intermediary 104). Elliott's system includes one or more advertisers 106 communicating with advertising intermediary 104:

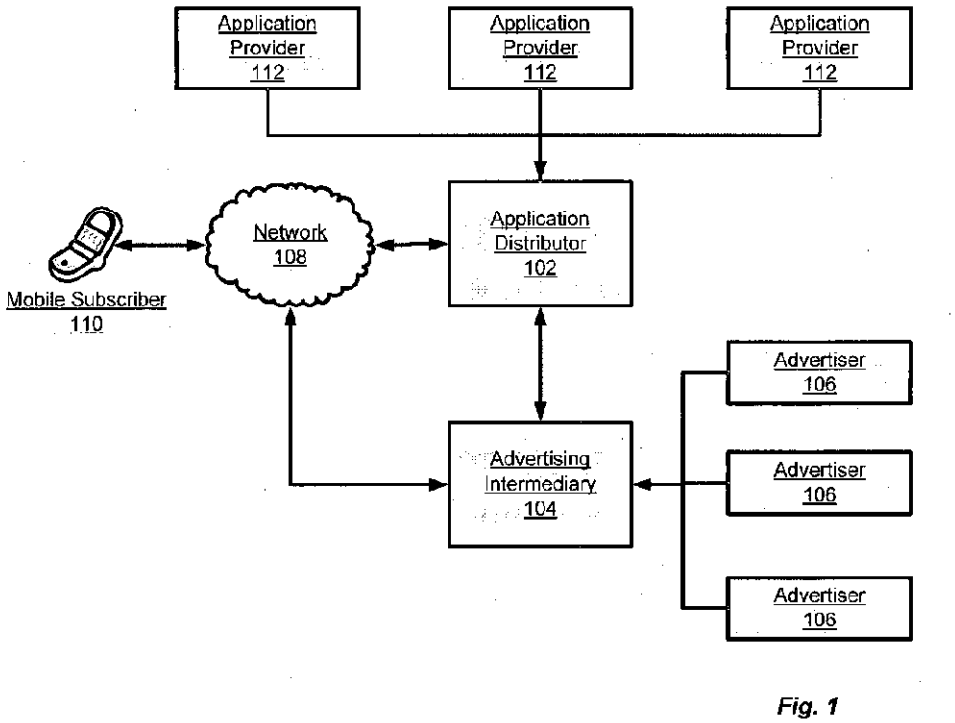


Fig. 1

EX1028, FIG. 1. Elliott's advertisers 106 send requests to advertising intermediary 104 and application distributor 102 (collectively, the content delivery platform) to deliver an advertisement to an application executing on a mobile device of mobile subscriber 110. EX1028, ¶13 ("FIG. 1 includes a plurality of advertisers 106, each of which provides advertisements to advertising intermediary 104" and an "[a]pplication distributor 102 [which] distributes…advertisements over a network

108 to a mobile device 110"), ¶14 ("advertiser 106 provides advertisements that appear on all or part of a display screen of a subscriber's mobile device 110"), ¶15 ("Advertisers 106 provide their advertisements to advertising intermediary 104"). This request is sent *via use of at least one processor* (processor of a computing device sponsor uses to communicate with advertising intermediary 104, *i.e.*, processor of advertiser device). EX1028, ¶14, ¶27, ¶33, FIG. 3 (element 302). EX1002, ¶156.

The advertiser's request to the advertising intermediary 104 to deliver an advertisement to the mobile device is *a request to have an identifier* (indication of the advertisement in the response mechanism)*…delivered to a computer program on the mobile device*. In particular, when an application in Elliott "requests an advertisement from application distributor 102, application distributor 102 transmits 304 data to advertising intermediary 104 about which subscriber is using which application" and "[i]n response to the request for an advertisement…advertisement intermediary 104 selects an appropriate advertisement and transmits 306 the selected advertisement back to application distribution 102," which "forwards 308 advertisement to the mobile subscriber" for display via the requesting application. EX1028, ¶27. Elliott's advertisements include "a response mechanism by which the mobile subscriber 110 can indicate his interest in obtaining further information anonymously from the advertiser."

EX1028, ¶21, ¶17 ("Each advertisement preferably includes a response option by which the mobile phone service subscriber can reply to an advertisement that piques his interest"). The response mechanism, also referred to as a response option in Elliott, can take the form of a link or URL included in the advertisements delivered to the mobile subscriber. EX1028, ¶17 ("In one embodiment, the response option is a link…displayed as part of the advertisement"). EX1002, ¶157.

A POSITA would have understood that the link (*i.e.*, URL) that includes the indication of the advertisement (*i.e.*, the response mechanism) is an identifier, *i.e.*, a string of characters used to identify an element of a computer program, such as an element of the program executing on the advertising intermediary 104, *i.e.*, the response engine 204. *See, e.g.*, EX1028, ¶15 ("Advertising intermediary 104 is illustrated in greater detail in FIG. 2, and includes an advertisement selection engine 202, a response engine 204, an advertisement database 206, and a subscriber database 208"), ¶21 ("By triggering the response mechanism, a message is sent from the mobile subscriber's device over the network 108 to the response engine 204 of advertising intermediary 104"), ¶32 ("process steps and instructions of the present invention could be embodied in software, firmware or hardware, and when embodied in software, could be downloaded to reside on and be operated from different platforms used by real time network operating systems"), FIG 2 ("response engine 204"); §III(E)(3) ("identifier" construction). EX1002, ¶158.

Furthermore, the Elliott-Jacob combination discloses the identifier *being associated with a selected geographic area of interest*. EX1028, ¶15; EX1029, ¶22, ¶¶27-28, FIG. 3, Abstract. Elliott's request from the advertiser to deliver an advertisement includes targeting information that specifies the advertiser's 106 "preference[s] for which demographic should receive each advertisement." EX1028, ¶15. Though Elliott does not explicitly describe that the advertisement or identifier is associated with a selected geographic area of interest, Jacob discloses this functionality. Jacob discloses a system in which a service provider delivers content and advertisements to a user's communication unit or mobile device. EX1029, Abstract. The service provider stores advertisements and advertisement attributes corresponding to the advertisements. EX1029, ¶22. One of the advertisement attributes includes geographic location specified as a zip code. EX1029, ¶27 ("The significance of the geographic location can be the physical presence of an advertiser's place of business or a general geographic area in which the advertiser believes the target advertisement recipient should be located for optimum value of the advertisement"), ¶28 ("Jane's identifies the following attributes for her pancake house: 1) restaurant and 2) local address and ZIP code(s) (i.e., local market)").

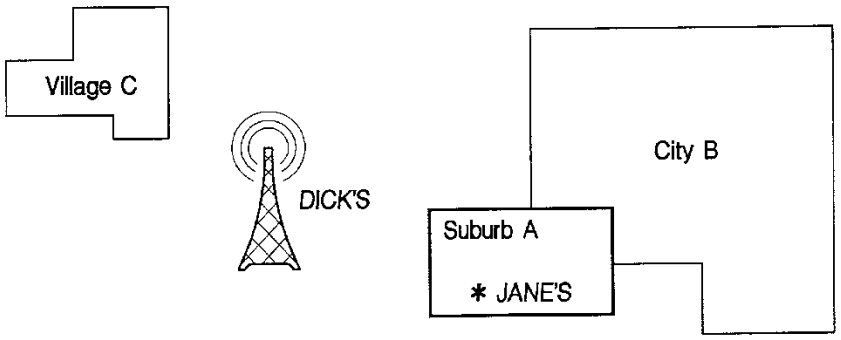


Fig. 3

EX1029, FIG. 3 (outline of City B is a perimeter that defines the geographic area of City B; similar reasoning applies for Suburb A and Village C). Because Jacob's advertisement includes the advertisement attributes of geographic location, the advertisement is *associated with a selected geographic area of interest*. Moreover, a POSITA would have understood and found obvious to implement the targeting information provided by Elliott's advertisers 106 to advertising intermediary 104 to include Jacob's location attributes provided by the advertisers 119, 121 to the service provider 123. §V(C) (motivation to combine). Therefore, because the Elliott-Jacob combination discloses an advertisement that is associated with a selected geographic area of interest and that advertisement includes an identifier in the form of the response mechanism, a POSITA would have understood and found obvious that the Elliott-Jacob combination discloses that the identifier is associated with a selected geographic area of interest. EX1002, ¶159.

Elliott-Jacob combination discloses that the *identifier* (indication of the advertisement in the response mechanism) is delivered to the application on the mobile device *after it has been determined…that the mobile device has at least entered the selected geographic area of interest*. EX1029, ¶29, ¶37; §V(C). Jacob discloses delivering an advertisement from a particular advertiser to mobile devices when the mobile devices are determined to have at least entered (e.g., be within) a geographic area of interest. EX1029, ¶29 ("It is a feature of the present invention that the advertising added to the delivered publication be selected for, inter alia, a location attribute of the advertising"), ¶37 ("When the user requests content, at 904, or when the communications unit in accordance with its programmed instructions requests content, the communications unit conveys the content request and the geographic coordinates to the service provider" and the "service provider obtains the content, sorts one or more subsidizing advertisements by location attribute, populates a publication , and transmits (publishes) the publication to the communications unit"). Therefore, because the Elliott-Jacob combination discloses delivering the advertisement to the computer program on the mobile device when the mobile device enters a geographic area, the Elliott-Jacob combination discloses that the identifier that is included with the advertisement is delivered to the computer program on the mobile device when the mobile device

enters the geographic area because the identifier is sent with the advertisement. EX1002, ¶160.

Elliott-Jacob combination discloses that a determination that the mobile device has entered a selected geographic area of interest is performed using *location information* (location coordinates or similar data) *representing at least one physical geographic location* (current location) *of the mobile device* (mobile subscriber). §V(C). Elliott-Jacob combination uses location coordinates to determine the physical location of the mobile subscriber. EX1029, ¶29 ("the communications unit provides location coordinates (or similar data) to the service provider, which then uses a conventional algorithm to detect, or otherwise convert, the location coordinates to a ZIP code area"), ¶37 ("the user communications unit derives its location information from an integral global positioning receiver that receives signals from GPS satellites and conventionally calculates the position coordinates for the communications unit, as identified at 902 in FIG. 9. Other location techniques may alternatively be employed, for example, the use of cellular radiotelephone base site location information"), FIG. 9. EX1002, ¶161.

3. [1.b] [sending…to a content delivery platform:]…geographic reservation data to have the selected geographic area of interest reserved for delivery of the identifier to the computer program, wherein the geographic reservation data comprises a geometric

construct used to establish at least one perimeter as a boundary for the selected geographic area of interest

Elliott-Jacob combination discloses this limitation. EX1002, ¶162.

As discussed in limitation 1.a, Elliott's advertiser sends to the advertising intermediary 104 (*i.e.*, the content delivery platform) a request to send an advertisement to mobile subscribers. Elliott's request further includes advertisement targeting information that specifies the advertiser's 106 "preference[s] for which demographic should receive each advertisement." EX1028, ¶15. Though Elliott does not explicitly describe sending geographic reservation data with the request, Jacob discloses this functionality. In particular, when Jacob's advertisers provide their advertisements to service provider 123 for delivery to mobile devices, Jacob's advertisers also send advertisement attributes associated with the advertisements. EX1029, ¶22. One of the advertisement attributes is a geographic location attribute. EX1029, ¶27 ("The significance of the geographic location can be the physical presence of an advertiser's place of business or a general geographic area in which the advertiser believes the target advertisement recipient should be located for optimum value of the advertisement"), ¶28 ("Jane's identifies the following attributes for her pancake house: 1) restaurant and 2) local address and ZIP code(s) (i.e., local market)"). §IV(D)(3) (limitation 1.b.). Jacob's request to deliver advertisements to a particular geographic area using the geographic location attribute constitutes geographic

reservation data to have the selected geographic area of interest reserved for the delivery of the advertisement with the response mechanism to the application on the mobile device. EX1029, ¶27, ¶28 ("let us consider one advertiser, 119, to be Jane's Pancake House and another advertiser, 121, to be Dick's Television Broadcasting Company…Jane's identifies the following attributes for her pancake house: 1) restaurant and 2) local address and ZIP code(s) (i.e., local market)…Dick's identifies the attributes: 1) entertainment, 2) television, and 3) regional market. As depicted in the map representation of FIG. 3, Jane's Pancake House is located in suburb A while Dick's Television Broadcasting Company provides a television signal that covers suburb A, city B, and village C"), ¶36 ("a subscriber having a current location code matching the advertisement location attribute location code and advertising preferences of 'restaurant' and 'television' will get matches for Jane's Pancake House and Dick's Television Broadcasting Company"), FIG. 3. A POSITA would have understood and found obvious to implement the targeting information provided by advertisers 106 to advertising intermediary 104 in Elliott to include the geographic location attributes provided by the advertisers 119, 121 to the service provider 123 in Jacob. §V(C) (motivation to combine). EX1002, ¶163.

Elliott-Jacob combination further discloses *the geographic reservation data* (geographic location attribute) *comprises a geometric construct* (e.g., zip code)

used to establish at least one perimeter as a boundary for the selected geographic area of interest. §III(E)(2) ("geometric construct" construction). One of Jacob's advertisement attributes is a geographic location attribute specified as a zip code. EX1029, ¶27 ("The significance of the geographic location can be the physical presence of an advertiser's place of business or a general geographic area in which the advertiser believes the target advertisement recipient should be located for optimum value of the advertisement"), ¶28 ("Jane's identifies the following attributes for her pancake house: 1) restaurant and 2) local address and ZIP code(s) (i.e., local market)").

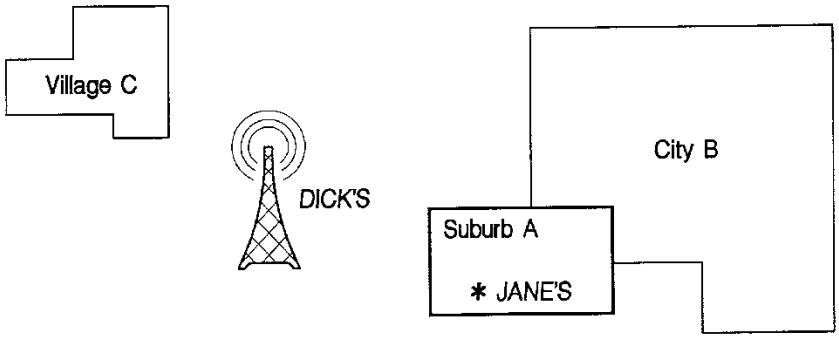


Fig. 3

EX1029, FIG. 3 (outline of City B is a perimeter that defines the geographic area of City B; similar reasoning applies for Suburb A and Village C). A ZIP code is a geometric construct because it is data that defines a geographic location relative to a point location, a map location, a physical address, or otherwise. §III(E)(2) ("geometric construct" construction). Furthermore, a zip code is well-known to be a pre-established perimeter that acts as a boundary for the geographic area of

interest. EX1041, 4 ("The first three digits of the ZIP code were invented by Robert A. Moon, who came up with a system for dividing the country into approximately 900 geographical areas"). Therefore, Jacob's ZIP codes constitute the claimed geometric construct used to establish at least one perimeter as a boundary for the selected geographic area of interest. A POSITA would have understood and found obvious to implement Jacob's geographic location advertisement attribute with Elliott's targeting information to further individualize "content tailored to the expressed preferences of a person," such as content tailored to the current location of the user. EX1029, ¶3; §V(C) (motivation to combine). EX1002, ¶164.

4. [1.c] receiving, via the computer program, the identifier delivered by the content delivery platform after it has been determined, by at least use of location information representing at least one physical geographic location of the mobile device, that the mobile device has at least entered the selected geographic area of interest and has remained therein for at least a predetermined length of time.

Elliott-Jacob combination discloses this limitation. EX1002, ¶165.

Elliott-Jacob combination discloses *receiving, via the computer program* (application on mobile device), *the identifier* (indication of the advertisement) *delivered by the content delivery platform* (application distributor 102 and advertising intermediary 104). EX1028, ¶17, ¶21; §V(D)(2) (limitation 1.a). Elliott's content delivery platform receives "a message…sent from the mobile

subscriber's device over the network 108 to the response engine 204 of advertising intermediary." EX1028, ¶21. The message is sent responsive to the user interacting with the advertisement by selecting the response mechanism or response option included in the advertisement. EX1028, ¶17 ("Each advertisement preferably includes a response option by which the mobile phone subscriber can reply to an advertisement that piques his interest…the response option is a link or a form field displayed as part of the advertisement in a mobile web…browser"), ¶17 ("there is a user interface provided in a binary application allowing user interaction, and the application provides that response to the advertising intermediary 106 over the mobile network 108 using an appropriate encoding and communication protocol"), ¶21 ("By triggering the response mechanism, a message is sent from the mobile subscriber's device over the network 108 to the response engine 204 of advertising intermediary 104"). A POSITA would have understood that because the advertisement is displayed via the application that requested the advertisement, the message is sent *via the computer program*. §V(D)(2) (limitation 1.a); EX1028, ¶27. A POSITA would have further understood that the message sent from the mobile subscriber (*i.e.*, *via the computer program*) to the response engine 204 of advertising intermediary 104 must necessarily include the identifier, because activating the link or URL response mechanism provides the advertising intermediary with information corresponding to the link or URL. *See, e.g.*,

EX1028, ¶21 ("the message includes information to identify the subscriber, such as the subscriber's telephone number or subscriber ID; the advertisement being responded to; the application associated with the advertisement; and the time at which the response was made"). EX1002, ¶166.

Elliott-Jacob combination further discloses that *the identifier* is received *after it has been determined, by at least use of location information representing at least one physical geographic location of the mobile device, that the mobile device has at least entered the selected geographic area of interest*. In particular, in order to receive the identifier from the mobile device, the identifier is first provided to the mobile device based on the determination. §V(D)(2) (limitation 1.a). Therefore, the identifier received by the content delivery platform is received ***after*** it is sent to the mobile device because the mobile device cannot send an identifier it has not received. EX1002, ¶167.

Elliott-Jacob combination further discloses that the identifier is received after it has been determined that the mobile device…*has remained therein for at least a predetermined length of time.* As previously discussed, the Elliott-Jacob combination discloses that the content management system receives the identifier delivered by the content delivery platform after it has been determined, by at least use of location information representing at least one physical geographic location of the mobile device, that the mobile device has at least entered the selected

geographic area of interest. §V(D)(4) (limitation 1.c). Because the identifier is sent to the mobile device when the mobile device is determined to have entered the selected geographic area of interest, a POSITA would have understood and found obvious that the identifier is sent to the mobile device upon a determination that the mobile device has remained within the selected geographic area of interest for a predetermined length of time, where the predetermined length of time is anytime greater than 0 seconds. *See, e.g.*, EX1027, 5:5-8 (showing that pushing information to a remote device predicated on the remote device remaining in a location for a prescribed period of time is well-known in the art). EX1002, ¶168.

E. Claim 61

Elliott renders this claim obvious in combination with Jacob. EX1002, ¶169.

1. [61.pre] A method for creating and offloading location awareness, the method comprising:

Elliott-Jacob combination discloses this limitation. *See* §V(D)(1) (limitation 1.pre). EX1002, ¶170.

2. [61.a] receiving, via a content delivery platform, a request to have an identifier, being associated with a selected geographic area of interest, delivered to a computer program on a mobile device after it has been determined, by at least use of location information representing at least one physical geographic location of the mobile device, that the

mobile device has at least entered the selected geographic area of interest;

Elliott-Jacob combination discloses this limitation. This limitation is substantially similar to limitation 1.a. §IV(D); §V(D)(2) (limitation 1.a). EX1002, ¶171.

3. [61.b] receiving, via the content delivery platform, geographic reservation data to have the selected geographic area of interest reserved for delivery of the identifier to the computer program, wherein the geographic reservation data comprises a geometric construct used to establish at least one perimeter as a boundary for the selected geographic area of interest;

Elliott-Jacob combination discloses this limitation. This limitation is substantially similar to limitation 1.b. §IV(D); §V(D)(3) (limitation 1.b). EX1002, ¶172.

4. [61.c] storing, in memory accessible to the content delivery platform, a record comprising the identifier;

Elliott-Jacob combination discloses *storing, in memory accessible to the content delivery platform, a record comprising the identifier*. EX1028, ¶15, ¶17. EX1002, ¶173.

Elliott's advertising intermediary 104 stores advertisements in advertisement database 206 along with the targeting information. EX1028, ¶15. As indicated above for limitation 61.a, Elliott's advertising intermediary 104 generates response mechanisms or response options for each advertisement that it delivers so that the mobile subscriber can reply to an advertisement that piques their interest. EX1028,

¶17; §V(E)(2) (limitation 61.a). A POSITA would have understood and found obvious to modify Elliott's advertisement database to include the advertisement identifiers to be sent with each advertisement. Such a modification is supported by the teachings of Elliott because Elliott teaches storing additional information in advertisement database 206 with the advertisements, such as an indication of the type of advertisement and the targeting information supplied with the advertisements. EX1028, ¶15. Furthermore, a POSITA would have understood and found it obvious to modify each advertisement record to include a corresponding advertisement identifier for inclusion in the response mechanism or response option so that the advertisement identifier need not be generated each time an advertisement is retrieved from advertisement database 206. EX1002, ¶174.

5. [61.d] reserving the selected geographic area of interest for delivery of the identifier to the computer program;

Elliott-Jacob combination discloses *reserving the selected geographic area of interest for delivery of the identifier to the computer program*. EX1028, ¶¶14-18; §V(D)(3) (limitation 1.b); §III(E)(4) ("reserving" construction). This limitation is substantially similar to limitations 1.a-1.b. §IV(D); EX1002, ¶175.

Elliott-Jacob combination discloses that when an advertiser interfaces with advertising intermediary 104 for the delivery of advertisements to the mobile subscriber, the advertising intermediary 104 creates an exclusive or non-exclusive reservation in the selected geographic area of interest to deliver the identifier to the

advertisement that includes the identifier to the computer program. EX1028, ¶15 (Elliott's advertisement intermediary 104 stores the advertisements "in advertisement database 206, along with an indication of the type of advertisement…[and the] [t]argeting information…supplied by the advertiser 106"). A POSITA would have found it obvious to modify Elliott's targeting information to include Jacob's location attributes provided by the advertisers 119, 121 to the service provider 123. §V(D)(3) (limitation 1.b); §V(C) (motivation to combine). The act of advertisement intermediary 104 interfacing with advertisers 106 to receive the advertisements, along with the modified targeting information, for subsequent delivery of the advertisements and the identifier in accordance with the targeting information in an exclusive or non-exclusive manner is an act of making a reservation. EX1028, ¶¶14-15, ¶17 ("choosing the most desirable advertisement to show each subscriber based…on the advertiser's specified target demographic for the advertisement"), ¶18 ("Application distributor 102 distributes mobile applications provided by application providers 112 to mobile subscribers" and "Advertising content is typically provided over network 108 after the application is installed on the mobile device"); §III(D)(4) ("reserving" construction). EX1002, ¶176.

6. [61.e] obtaining location information representing at least one physical geographic location of the mobile device; and

Elliott-Jacob combination discloses *obtaining location information* (location coordinates or similar data) *representing at least one physical geographic location of the mobile device*. EX1029, ¶29, ¶37, FIG. 9. This limitation is substantially similar to limitation 1.c. §IV(D). EX1002, ¶177.

Elliott-Jacob combination discloses a content delivery system (advertising intermediary 104 and application distributor 102) that obtains the mobile subscriber's current location coordinates from the mobile subscriber for purposes of delivering an advertisement to the mobile subscriber. EX1028, ¶27 ("When an application requests an advertisement from application distributor 102, application distributor 102 transmits 304 data to advertising intermediary 104 about which subscriber is using which application" and "advertisement selection engine 202 of advertisement intermediary 104 selects an appropriate advertisement and transmits 306 the selected advertisement back to application distributor 102"), ¶17 ("Advertisement selection engine 202…choosing the most desirable advertisements to show to each subscriber based both on the advertiser's specified target demographic for the advertisement"); EX1029, ¶29 ("the communications unit provides location coordinates (or similar data) to the service provider, which then uses a conventional algorithm to detect, or otherwise convert, the location coordinates to a ZIP code area"), ¶37 ("the user communications unit derives its

location information from an integral global positioning receiver that receives signals from GPS satellites and conventionally calculates the position coordinates for the communications unit, as identified at 902 in FIG. 9. Other location techniques may alternatively be employed, for example, the use of cellular radiotelephone base site location information"), FIG. 9. EX1002, ¶178.

A POSITA would have been motivated by the teachings of Jacob to implement Jacob's geographic location advertisement attribute with Elliott's advertisers' target demographic information to further individualize "content tailored to the expressed preferences of a person." EX1029, ¶3. Such a combination involves a simple addition of one known element (Jacob's geographic location advertisement) with other similar elements (*e.g.*, Elliott's target demographic information or targeting information) to obtain predictable results (providing advertisers with the ability to define the geographic area for delivering advertisements). A POSITA would have understood that in order for the content delivery system to deliver advertisements based on geographic area, the content management system would request location information from the mobile device to determine which advertisements are relevant to the mobile subscriber based on their location. §V(C) (motivation to combine). EX1002, ¶179.

7. [61.f] delivering, via the content delivery platform, data comprising the identifier from the record stored in the memory to the computer program after it has been determined, using the obtained location information, that

the mobile device has at least entered the selected geographic area of interest and has remained therein for at least a predetermined length of time.

Elliott-Jacob combination discloses this limitation. This limitation is substantially similar to limitation 1.c. §IV(D); §V(D)(4) (limitation 1.c); §V(E)(6) (limitation 61.e). EX1002, ¶180.

F. Claim 62

Elliott renders this claim obvious in combination with Jacob. EX1002, ¶181.

1. [62.pre] A method for creating and offloading location awareness, the method comprising:

Elliott-Jacob combination discloses this limitation. §V(E)(1) (limitation 61.pre). EX1002, ¶182.

2. [62.a] receiving, via a content delivery platform, a request to reserve a selected geographic area of interest for delivery of an identifier associated with the selected geographic area of interest to a computer program on a mobile device;

Elliott-Jacob combination discloses this limitation. §§V(E)(2)-(3) (limitations 61.a-61.b). EX1002, ¶183.

3. [62.b] obtaining location information representing at least one physical geographic location of the mobile device as the mobile device moves over time;

Elliott-Jacob combination discloses this limitation. *See* §V(E)(6) (limitation 61.e); EX1029, ¶23, ¶28. EX1002, ¶184.

Elliott-Jacob combination discloses *obtaining location information* (location coordinates or similar data) *representing at least one physical geographic location of the mobile device*. *See* §V(E)(6) (limitation 61.e). EX1002, ¶185.

Elliott-Jacob combination further discloses that the location information is obtained *as the mobile device moves over time*. EX1029, ¶23 ("communications unit 103, 105 is a moveable, portable device" and "the most useful application of the present invention is for moveable communications units"), ¶28 ("Dick's Television Broadcasting Company wants to advertise to those users on the move throughout the geographic area include Suburb A, City B, and Village C and includes those ZIP codes for those areas in the advertising attributes stored by the service provider"). EX1002, ¶186.

4. [62.c] using location information to determine whether the mobile device has entered the selected geographic area of interest;

Elliott-Jacob combination discloses *using location information* (location coordinates or similar data) *to determine whether the mobile device* (mobile subscriber) *has entered the selected geographic area of interest*. EX1029, ¶29, ¶37, FIG. 9. EX1002, ¶187.

Jacob discloses determining whether the mobile device has entered the geographic area of interest. EX1029, ¶29 ("It is a feature of the present invention that the advertising added to the delivered publication be selected for, inter alia, a

location attribute of the advertising"), ¶37 ("When the user requests content, at 904, or when the communications unit in accordance with its programmed instructions requests content, the communications unit conveys the content request and the geographic coordinates to the service provider" and the "service provider obtains the content, sorts one or more subsidizing advertisements by location attribute, populates a publication , and transmits (publishes) the publication to the communications unit"). This determination is performed using *location information* (location coordinates or similar data). EX1029, ¶29 ("the communications unit provides location coordinates (or similar data) to the service provider, which then uses a conventional algorithm to detect, or otherwise convert, the location coordinates to a ZIP code area"), ¶37 ("the user communications unit derives its location information from an integral global positioning receiver that receives signals from GPS satellites and conventionally calculates the position coordinates for the communications unit, as identified at 902 in FIG. 9. Other location techniques may alternatively be employed, for example, the use of cellular radiotelephone base site location information"), FIG. 9. EX1002, ¶¶188-189.

5. [62.d] using location information to determine whether the mobile device has remained within the selected geographic area of interest for a particular duration of time; and

Elliott-Jacob combination discloses *using location information* (location coordinates or similar data) *to determine whether the mobile device* (mobile

subscriber) *has remained within the selected geographic area of interest for a particular duration of time.* EX1002, ¶190.

As previously discussed, the Elliott-Jacob combination discloses that the content management system uses location information to determine whether the mobile device has entered the selected geographic area of interest. §V(E)(4) (limitation 62.c). Because the Elliott-Jacob combination uses location information to determine whether the mobile device has entered into the selected geographic area of interest, a POSITA would have understood and found obvious that the Elliott-Jacob combination also uses this information to determine whether the mobile device has remained within the selected geographic area of interest for a particular duration of time, where the particular duration of time is any duration of time greater than 0 seconds. *See, e.g.,* EX1027, 5:5-8 (showing that pushing information to a remote device predicated on the remote device remaining in a location for a prescribed period of time is well-known in the art). EX1002, ¶191.

6. [62.e] after it has been determined that the mobile device has remained within the selected geographic area of interest for the particular duration of time, delivering, via the content delivery platform, the identifier to the computer program.

Elliott-Jacob combination discloses this limitation. §V(E)(7) (limitation 61.f). EX1002, ¶192.

G. Claim 82

Elliott renders this claim obvious in combination with Jacob. EX1002, ¶193.

1. [82.pre] A method for creating and offloading location awareness, the method comprising:

Elliott-Jacob combination discloses this limitation. §V(F)(1) (limitation 62.pre). EX1002, ¶194.

2. [82.a] receiving, via a content delivery platform, a request to reserve a selected geographic area of interest for delivery of an identifier associated with the selected geographic area of interest to a computer program on a mobile device;

Elliott-Jacob combination discloses this limitation. §V(F)(2) (limitation 62.a). EX1002, ¶195.

3. [82.b] obtaining location information representing at least one physical geographic location of the mobile device as the mobile device moves over time;

Elliott-Jacob combination discloses this limitation. §V(F)(3) (limitation 62.b). EX1002, ¶196.

4. [82.c] using location information to determine whether the mobile device is located within the selected geographic area of interest;

Elliott-Jacob combination discloses this limitation. §V(F)(4) (limitation 62.c). Claim 82 is substantially the same as claim 62, with the difference being that claim 82 recites "whether the mobile device *is located within* the selected geographic area of interest" rather than "whether the mobile device *has entered* the selected geographic area of interest." EX1002, ¶197.

5. [82.d] using location information to determine whether the mobile device has remained within the selected geographic area of interest for a particular duration of time; and

Elliott-Jacob combination discloses this limitation. §V(F)(5) (limitation 62.d). EX1002, ¶198.

6. [82.e] after it has been determined that the mobile device has remained within the selected geographic area of interest for the particular duration of time, delivering, via the content delivery platform, the identifier to the computer program.

Elliott-Jacob combination discloses this limitation. §V(F)(6) (limitation 62.e). EX1002, ¶199.

VI. GROUND 3

A. Elliott-Jacob

§§V(A), (B), (C). EX1002, ¶¶200-202.

B. Overview of Sakamoto

Sakamoto was filed on November 28, 2000, and published on October 19, 2004. EX1027, cover page. Sakamoto is prior art under at least 35 U.S.C. §§102(a), (b), and (e) (pre-AIA). EX1002, ¶203.

Sakamoto is generally directed to a radio communication system in which base stations for transmitting push-type distribution information are provided. EX1027, abstract. This push-type information "can be advertisement information or the like that is broadcasted by the radio base station." EX1027, 8:42-44. Sakamoto's radio terminal receives the push-type distribution information "when

the radio terminal stays in the same area for more than a prescribed period of time." EX1027, 5:7-8. The radio terminal includes a time location recognition unit 103 and a measurement unit 104. EX1027, FIG. 1. Time location recognition unit 103 is configured for "recognizing a location of this radio terminal 101." EX1027, 5:18-19. Measurement unit 104 is configured "for measuring a period of time for which this radio terminal 101 stays in the same area by utilizing information regarding a location recognized by the location recognition unit 103." EX1027, 5:21-24. In operation, location recognition unit 103 "recognizes the location of the radio terminal 101 by utilizing a radio base station identifier or the like that is contained in the control information" transmitted by the base station. EX1027, 5:55-58. Measurement unit uses this information to determine whether the radio terminal has remained in a given area. EX1027, 5:62-67. When the radio terminal has remained in a given location for the prescribed period of time, the radio terminal is able to receive the push notification. EX1027, 6:21-27. EX1002, ¶204.

Sakamoto is analogous art to the '736 patent and was not considered during prosecution of the '736 patent. EX1002, ¶205.

C. Motivation to Combine Sakamoto with Elliott and Jacob

As indicated above, a POSITA would have been motivated to modify the teachings of Elliott (§V(A)) based on the teachings of Jacob (§V(B)). §VI(C). A POSITA would have been further motivated to modify the combination of Elliott

and Jacob based on the teachings of Sakamoto because the Elliott-Jacob combination discloses use of geographic location attributes in determining whether to send advertisements to a given mobile subscriber and Sakamoto discloses pushing information to a mobile radio terminal "when the radio terminal stays in the same area for more than a prescribed period of time." EX1027, 5:5-8. A POSITA would have been motivated by the teachings of Sakamoto to implement Sakomoto's selective approach for pushing information based on a radio terminal remaining in the same area for a threshold amount of time so as to "prevent the radio terminal from receiving an excessively large amount of advertising information and thereby improve the handling of the radio terminal for the user" when the radio terminal is in transit and is only passing through the area of interest. Such a combination involves a simple addition of one known element (Sakamoto's timing mechanism) with other similar elements (*e.g.*, Elliott-Jacob's location-based advertising system) to obtain predictable results (sending advertisements to mobile subscribers that remain in a geographic area of interest for a predefined duration). Accordingly, a POSITA would have had a reasonable expectation of success in making the proposed combination given the teachings of Elliott, Jacob, and Sakamoto. Such a combination would have required minimal modifications to the Elliott-Jacob combination to implement Sakamoto's time thresholding for delivering notifications to radio terminals and thus would have been well within

the skillset of a POSITA. The proposed combination would not have required undue experimentation and would have yielded a predictable result. EX1002, ¶¶206-207.

If PO argues the portions of Elliott, Jacob, or Sakamoto cited below relate to different, incompatible embodiments (they do not), it would have been obvious to a POSITA to combine such embodiments into a single system for providing the ability to deliver advertisements at least because such embodiments are described in the same prior art reference, are fully compatible with each other, and could be combined with minimal effort to achieve predictable results. EX1002, ¶208.

D. Claim 1

Elliott renders this claim obvious in combination with Jacob and Sakamoto. EX1002, ¶209.

1. [1.pre]

Elliott-Jacob-Sakamoto combination discloses this limitation. §V(D)(1) (limitation 1.pre). EX1002, ¶210.

2. [1.a]

Elliott-Jacob-Sakamoto combination discloses this limitation. §V(D)(2) (limitation 1.a). EX1002, ¶211.

3. [1.b]

Elliott-Jacob-Sakamoto combination discloses this limitation. §V(D)(3) (limitation 1.b). EX1002, ¶212.

4. [1.c]

Elliott-Jacob-Sakamoto combination discloses this limitation. §V(D)(4) (limitation 1.c). EX1002, ¶213.

To the extent that the Elliott-Jacob combination does not explicitly disclose or suggest that the identifier is received after it has been determined that the mobile device *has remained therein for at least a predetermined length of time*, Sakamoto discloses this limitation. EX1027, 5:5-8; §VI(E) (motivation to combine). EX1002, ¶214.

Sakamoto discloses that a radio base station pushes notifications to a radio terminal "when the radio terminal stays in the same area for more than a prescribed period of time." EX1027, 5:5-8. Once the radio terminal determines that it has stayed in a given location for the prescribed threshold, the radio terminal's "reception control unit 105 controls the reception unit 102 to receive the push type distribution information transmitted by the radio base station." EX1027, 8:38-44. EX1002, ¶215.

A POSITA would have been further motivated to modify the combination of Elliott and Jacob based on the teachings of Sakamoto because the Elliott-Jacob combination discloses use of geographic location attributes in determining whether to send advertisements to a given mobile subscriber and Sakamoto discloses pushing information to a mobile radio terminal "when the radio terminal stays in

the same area for more than a prescribed period of time." EX1027, 5:5-8. A POSITA would have been motivated by the teachings of Sakamoto to implement Sakomoto's selective approach for pushing information based on a radio terminal remaining in the same area for a threshold amount of time so as to "prevent the radio terminal from receiving an excessively large amount of advertising information and thereby improve the handling of the radio terminal for the user" when the radio terminal is in transit and is only passing through the area of interest. Such a combination involves a simple addition of one known element (Sakamoto's timing mechanism) with other similar elements (*e.g.*, Elliott-Jacob's location-based advertising system) to obtain predictable results (sending advertisements to mobile subscribers that remain in a geographic area of interest for a predefined duration. EX1002, ¶216.

E. Claim 61

Elliott renders this claim obvious in combination with Jacob and Sakamoto. EX1002, ¶217.

1. [61.pre]

Elliott-Jacob-Sakamoto combination discloses this limitation. *See* §V(G)(1) (limitation 61.pre). EX1002, ¶218.

2. [61.a]

Elliott-Jacob-Sakamoto combination discloses this limitation. *See* §V(G)(2) (limitation 61.a). EX1002, ¶219.

3. [61.b]

Elliott-Jacob-Sakamoto combination discloses this limitation. *See* §V(G)(3) (limitation 61.b). EX1002, ¶220.

4. [61.c]

Elliott-Jacob-Sakamoto combination discloses this limitation. *See* §V(G)(4) (limitation 61.c). EX1002, ¶221.

5. [61.d]

Elliott-Jacob-Sakamoto combination discloses this limitation. *See* §V(G)(5) (limitation 61.d). EX1002, ¶222.

6. [61.e]

Elliott-Jacob-Sakamoto combination discloses this limitation. *See* §V(G)(6) (limitation 61.e). EX1002, ¶223.

7. [61.f]

Elliott-Jacob-Sakamoto combination discloses this limitation. §V(D)(7) (limitation 61.f). EX1002, ¶224.

To the extent that the Elliott-Jacob combination does not explicitly disclose or suggest that the identifier is delivered after it has been determined that the mobile device *has remained therein for at least a predetermined length of time*, Sakamoto discloses this limitation. EX1027, 5:5-8; §VI(E) (motivation to combine). EX1002, ¶225.

Sakamoto discloses that a radio base station pushes notifications to a radio terminal "when the radio terminal stays in the same area for more than a prescribed period of time." EX1027, 5:5-8. Once the radio terminal determines that it has stayed in a given location for the prescribed threshold, the radio terminal's "reception control unit 105 controls the reception unit 102 to receive the push type distribution information transmitted by the radio base station." EX1027, 8:38-44. EX1002, ¶226.

A POSITA would have been further motivated to modify the combination of Elliott and Jacob based on the teachings of Sakamoto because the Elliott-Jacob combination discloses use of geographic location attributes in determining whether to send advertisements to a given mobile subscriber and Sakamoto discloses pushing information to a mobile radio terminal "when the radio terminal stays in the same area for more than a prescribed period of time." EX1027, 5:5-8. A POSITA would have been motivated by the teachings of Sakamoto to implement Sakomoto's selective approach for pushing information based on a radio terminal remaining in the same area for a threshold amount of time so as to "prevent the radio terminal from receiving an excessively large amount of advertising information and thereby improve the handling of the radio terminal for the user" when the radio terminal is in transmit and is only passing through the area of interest. Such a combination involves a simple addition of one known element

(Sakamoto's timing mechanism) with other similar elements (*e.g.*, Elliott-Jacob's location-based advertising system) to obtain predictable results (sending advertisements to mobile subscribers that remain in a geographic area of interest for a predefined duration. EX1002, ¶227.

F. Claim 62

Elliott renders this claim obvious in combination with Jacob and Sakamoto. EX1002, ¶228.

1. [62.pre]

Elliott-Jacob-Sakamoto combination discloses this limitation. §VI(G)(1) (limitation 61.pre), §V(F)(1) (limitation 62.pre). EX1002, ¶229.

2. [62.a]

Elliott-Jacob-Sakamoto combination discloses this limitation. §VI(G)(2) (limitation 61.a), §V(F)(2) (limitation 62.a). EX1002, ¶230.

3. [62.b]

Elliott-Jacob-Sakamoto combination discloses this limitation. §VI(G)(6) (limitation 61.e), §V(F)(3) (limitation 62.b). EX1002, ¶231.

4. [62.c]

Elliott-Jacob-Sakamoto combination discloses this limitation. §V(F)(4) (limitation 62.c). EX1002, ¶232.

5. [62.d]

Elliott-Jacob-Sakamoto combination discloses this limitation. §VI(G)(7) (limitation 61.f), §V(F)(5) (limitation 62.d). EX1002, ¶233.

6. [62.e]

Elliott-Jacob-Sakamoto combination discloses this limitation. §VI(G)(7) (limitation 61.f), §V(F)(6) (limitation 62.e). EX1002, ¶234.

G. Claim 82

Elliott renders this claim obvious in combination with Jacob and Sakamoto. EX1002, ¶235.

1. [82.pre]

Elliott-Jacob-Sakamoto combination discloses this limitation. §VI(H)(1) (limitation 62.pre), §V(G)(1) (limitation 82.pre). EX1002, ¶236.

2. [82.a]

Elliott-Jacob-Sakamoto combination discloses this limitation. §VI(H)(2) (limitation 62.a), §V(G)(2) (limitation 82.a). EX1002, ¶237.

3. [82.b]

Elliott-Jacob-Sakamoto combination discloses this limitation. §VI(H)(3) (limitation 62.b), §V(G)(3) (limitation 82.b). EX1002, ¶238.

4. [82.c]

Elliott-Jacob-Sakamoto combination discloses this limitation. §VI(H)(4) (limitation 62.c), §V(G)(4) (limitation 82.c). EX1002, ¶239.

5. [82.d]

Elliott-Jacob-Sakamoto combination discloses this limitation. §VI(H)(5) (limitation 62.d), §V(G)(5) (limitation 82.d). EX1002, ¶240.

6. [82.e]

Elliott-Jacob-Sakamoto combination discloses this limitation. §VI(H)(6) (limitation 62.e), §V(G)(6) (limitation 82.e). EX1002, ¶241.

VII. DISCRETIONARY DENIAL IS NOT WARRANTED

Pursuant to Acting Director Coke M. Stewart's March 26, 2025, Memorandum regarding Interim Processes for PTAB Workload Management, Petitioner understands that discretionary denial issues if any will be raised in a separate brief to be filed by Patent Owner. If Patent Owner files such a brief, Petitioner intends to respond in an opposition brief consistent with Acting Director Coke M. Stewart's March 26, 2025, Memorandum regarding Interim Processes for PTAB Workload Management. Accordingly, Petitioner will not address discretionary denial issues in this Petition.

VIII. MANDATORY NOTICES UNDER 37 C.F.R. §§42.8(B)(1)-(4)

A. Real Party-In-Interest

Home Depot U.S.A., Inc., and Home Depot Product Authority, LLC are the real parties-in-interest ("RPI").

B. Related Matters

The '736 patent is not subject to any actions.

C. Lead and Backup Counsel

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D. Service Information

Service information for lead and backup counsel is provided in the designation of lead and backup counsel above. Petitioner consents to electronic service to lead and backup counsel and to:

DLA-HD-H2@us.dlapiper.com

IX. CONCLUSION

All Challenged Claims of the ’736 patent should be found unpatentable for the reasons discussed in this Petition.

Dated: May 6, 2025

Respectfully Submitted,

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CERTIFICATION UNDER 37 CFR §42.24(d)

Under the provisions of 37 CFR §42.24(d), the undersigned hereby certifies that the word count for the foregoing Petition for *Post-Grant* Review totals 18,672, as calculated by Microsoft Word, exclusive of the table of contents, mandatory notices under §42.8, certificates of service, word count, claim listing, and exhibits.

Date: May 6, 2025

Respectfully Submitted,

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§42.6(e) and 42.205(b), the undersigned hereby certifies that a copy of the foregoing Petition for *Post-Grant* Review and all Exhibits was served via overnight mail on the Patent Owner at the below correspondence address of record:

Davidson Kappel LLC
589 8th Avenue
22nd Floor
New York, NY
UNITED STATES

A courtesy copy was sent to the below counsel via electronic mail:

Winston-H2@winston.com

Date: May 6, 2025

Respectfully Submitted,

/s/*Jennifer Librach Nall*