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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DRAFTKINGS INC.
Petitioner

v.

WINVIEW IP HOLDINGS, LLC
Patent Owner

IPR2026-00175
U.S. Patent No. 11,338,189

**PETITION FOR *INTER PARTES* REVIEW OF
U.S. PATENT NO. 11,338,189
CHALLENGING CLAIMS 14-15, 17, 19-20, 22-26, 31, 33-35, 37, AND 38
UNDER 35 U.S.C. §312 AND 37 C.F.R. §42.104**

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DraftKings Inc. (“Petitioner” or “DraftKings”) respectfully requests *inter partes* review (“IPR”) of claims 14-15, 17, 19-20, 22-26, 31, 33-35, 37, and 38 of U.S. Patent No. 11,338,189 (the “’189 patent”) (EX1001) pursuant to 35 U.S.C. §§311-19 and 37 C.F.R. §42.1 *et seq.*

I. INTRODUCTION

The ’189 patent is related to a well-understood concept in the fields of gaming and sports betting: simultaneously participating in multiple contests that correspond to a live event. According to the ’189 patent, the purportedly novel aspect of the alleged invention lies in allowing users to simultaneously participate in multiple contests based on a single entry. But simultaneous participation across multiple contests through a single entry is a longstanding feature of fantasy sports, and the ’189 patent is indistinguishable from that prior art. For the reasons detailed below, the challenged claims of the ’189 patent should therefore be canceled.

II. MANDATORY NOTICES

A. Real Party-in-Interest

DraftKings Inc., DK Crown Holdings Inc., and Crown Gaming Inc. are real parties-in-interest.

B. Related Matters

According to USPTO records, the ’189 patent is owned by WinView IP Holdings, LLC (“Patent Owner” or “PO”). PO has asserted the ’189 patent in

WinView IP Holdings, LLC v. DraftKings Inc., No. 3:25-cv-01143 (D.N.J.) and in
WinView IP Holdings, LLC v. FanDuel, Inc. et al., Case No. 3:25-cv-01146 (D.N.J.).

The earliest date of service on Petitioner in the co-pending litigation was February 10, 2025. Petitioner is concurrently filing an *inter partes* review petition challenging certain claims of U.S. Patent No. 11,451,883 (*see* IPR2026-00140), which has been asserted by PO against Petitioner in the above-referenced case.

C. Counsel

Under 37 C.F.R. §§42.8(b)(3)-(4), Petitioner identifies the following lead and backup counsel, to whom all correspondence should be directed.

Lead Counsel: John Hobgood (Reg. No. 61,540)

Backup Counsel: Andrew Danford (*pro hac vice* to be filed)

Zachary Nemptzow (Reg. No. 81,444)

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Petitioner consents to service by e-mail on lead and backup counsel.

III. LEVEL OF ORDINARY SKILL

A person of ordinary skill in the art (“POSITA”) at the time of the earliest claimed priority date of the ’189 patent (January 10, 2006) would have had at least the equivalent of a Bachelor’s degree in computer science, computer engineering, or a related subject and two or more years of experience in the field of distributed systems, networking, and software design. Less work experience may be compensated by a higher level of education, and vice versa. EX1002-Houh-Decl., ¶35-36.

IV. CERTIFICATION OF GROUNDS FOR STANDING

Petitioner certifies under 37 C.F.R. §42.104(a) that the patent for which review is sought is available for inter partes review (IPR) and under 37 C.F.R. §§42.101(a)-(c) that Petitioner is not barred or estopped from requesting an IPR challenging the patent claims on the grounds identified in this Petition.

V. OVERVIEW OF CHALLENGE AND RELIEF REQUESTED

Petitioner requests review of claims 14-15, 17, 19-20, 22-26, 31, 33-35, and 37-38 of the '189 patent and cancellation of these claims as unpatentable over the prior art.

A. Prior Art

The earliest claimed priority date of the '189 patent is January 10, 2006. EX1001-USP189, 2. Petitioner relies on the documents in the Table of Exhibits, including:

- U.S. Patent No. 7,614,944 to Hughes et al. (“Hughes”) (EX1003), filed on August 30, 2002 and issued on November 10, 2009, as prior art at least under §102(e);
- U.S. Patent No. 5,813,913 to Berner et al. (“Berner”) (EX1005), issued on September 29, 1998, as prior art at least under §§102(b), 102(a), and 102(e); and
- U.S. Patent No. 8,538,563 to Barber (“Barber”) (EX1006), filed on August 30, 2002 and issued on September 17, 2012, as prior art at least under §102(e).

B. Grounds for Challenge

Under 37 C.F.R. §§42.22(a)(1) and 42.104(b)(1)-(2), Petitioner requests cancellation of claims 14-15, 17, 19-20, 22-26, 31, 33-35, and 37-38 of the '189 patent on the following grounds:

Ground	Basis	Claims	References
1	§102	14-15, 17, 22, 24-25, 31, 37	Hughes
2	§103	19-20, 34-35	Hughes in view of Berner
3	§103	23, 25-26, 33, 38	Hughes in view of Barber

This Petition, supported by the declaration of Dr. Henry Houh (EX1002-Houh-Decl.), demonstrates that there is a reasonable likelihood Petitioner will prevail with respect to cancellation of at least one of the challenged claims. *See* 35 U.S.C. §314(a).

VI. TECHNOLOGY BACKGROUND

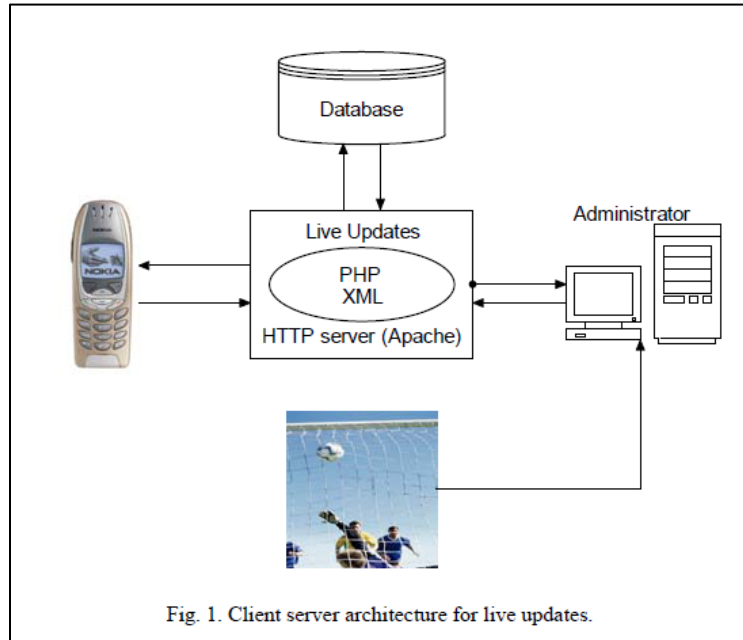
Fantasy sports have existed since the mid-20th century. EX1009-Ruihley, 19-20; EX1010-Trippiedi, 204-05. Typical fantasy sports contests allowed participants to draft real-life players and compete based on their statistical performance. EX1009-Ruihley, 19-20. For example, participants might wager money to bid on and assemble a team of baseball players, with winners determined based on real-life performance of those players. EX1009-Ruihley, 19. By the 1990s, fantasy sports became digital and moved online, as participation increased. EX1012-Hu, 4-5. The

rise of online fantasy sports lowered the barrier to entry, increasing participation to an estimated 500,000 participants by 1990. EX1011-Vichot; EX1009-Ruihley, 20-21.

With the rise of the Internet also came an increase in the use of real-time statistics. EX1010-Trippiedi, 206. In 1996, Motorola and Sports Team Analysis and Tracking Systems, Inc. created “a wireless device that would deliver in-game score and [statistics] information.” *Id.* By the mid-2000s, real-time statistics and live in-game information were “common features of fantasy sports.” *Id.* For example, by 2006, technology had been developed to provide live updates on scores in fantasy sports contests. EX1012-Hu, 2. Statistics and other information could be sent directly to clients, who often created their own live Web scoreboards and conducted their own scoring for their fantasy leagues based on the data. EX1012-Hu, 3.

By 2003, fantasy sports mobile applications had begun relying on the increasing capabilities of cell phones. EX1016-Coulton, 1-2. Constraints on device memory and screen size guided the development of efficient mobile applications with user interfaces to receive user inputs. EX1016-Coulton, 2. Early mobile applications relied on Short Message Service (“SMS”) messages to gather information, while more advanced mobile applications could use other means to gather data from servers. EX1016-Coulton, 4. An example of the client-server

architecture for receiving live updates in a fantasy sports mobile application as of 2003 is shown below in Coulton, Fig. 1.



EX1016-Coulton, FIG. 1

As shown, it was known that a live-update component of an application could send requests to a server, receive live information, and store that information in memory. EX1016-Coulton, 5.

By 2006, participants in fantasy sports contests could create their own leagues, create informal money pools, and enter multiple leagues for different sports, such as football, baseball, and basketball. EX1012-Hu, 5-6; EX1014-Harmon, 66-67. One participant (the “commissioner”) could choose a platform on which their group could play, such as an interactive fantasy-game website, as well as various aspects of the competition. EX1014-Harmon, 66, 68. It was known that players could

choose from a variety of competitions based on different sporting events or television shows, and could configure their leagues in multiple ways to tailor their fantasy game to their preferred style of play. *See* EX1014-Harmon, 73-74, 319-327.

VII. OVERVIEW OF THE '189 PATENT

A. Alleged Invention

The '189 patent is generally directed to “a method of and system for conducting multiple competitions of skill for a single performance.” EX1001-USP189, 2:36-37. Before the '189 patent, players could use mobile devices to engage in games of skill or chance by controlling inputs to a television. EX1001-USP189, 1:52-64. The '189 patent acknowledges that conducting contests involving simultaneous games of skill or chance was known in the prior art. EX1001-USP189, 1:65-2:2. According the '189 patent, the novelty of its alleged invention lies in allowing users to participate in multiple simultaneous games of skill or chance by answering the same questions or making the same selections related to a single event. EX1001-USP189, 2:38-41. In particular, the patent describes allowing users to choose which competitions to join and then make a single set of selections related to the event, with results tabulated separately for each competition group. EX1001-USP189, 2:44-50. EX1002-Houh-Decl., ¶45-48.

The '189 patent also describes competitive groups, either system generated or user generated. EX1001-USP189, 8:38-43; Fig. 1, step 100. Users are informed

which competitions are available for participation and select which to join. EX1001-USP189, 8:59-9:8, Fig. 1. User selections are then sent to a server within the network, and standings for each competition are determined. EX1001-USP189, 9:12-16, Fig. 1. The '189 patent describes that results based on the users' selections are stored, and each user then receives the results on their personal device. EX1001-USP189, 9:22-48, Fig. 1. EX1002-Houh-Decl., ¶46.

The supposed benefits of the alleged invention arise from allowing users to simultaneously participate in multiple competitions. EX1001-USP189, 14:4-5. For example, the '189 patent suggests that user interaction would be increased by allowing multiple competitions with various formats, such that the same selections or entries might perform well in one competition despite underperforming in another. EX1001-USP189, 14:6-34. EX1002-Houh-Decl., ¶47.

Despite the assertions of the '189 patent that this was novel, simultaneous participation in multiple competitions was well-known in the prior art. As the grounds below demonstrate, the challenged claims of the '189 patent are either anticipated or rendered obvious by the prior art. EX1002-Houh-Decl., ¶48.

B. Prosecution History

The '189 patent issued from U.S. Patent Application No. 17/024,330 (the “'330 application”), filed on September 17, 2020. The '330 application claims priority to U.S. Prov. Application No. 60/757,960, filed on January 10, 2006.

Without conceding the appropriateness of this priority claim, Petitioner understands the '189 patent is subject to pre-AIA provisions, and this Petition relies on prior art as of January 10, 2006.

The '330 application received a non-final office action on August 24, 2021, rejecting all claims for non-statutory obviousness-type double patenting over U.S. Patent No. 10,806,988. EX1007-FH189, 919. The claims were allowed after filing of a terminal disclaimer. EX1007-FH189, 1084.

VIII. PRIOR ART PATENTS AND PUBLICATIONS

The following references are pertinent to the grounds of unpatentability:

A. Hughes

U.S. Patent No. 7,614,944 to Hughes et al. (“Hughes”) (EX1003) was filed on August 30, 2002 and issued on November 10, 2009. Hughes is prior art at least under 35 U.S.C. §102(e). Although Hughes was disclosed during prosecution, Hughes was not cited as the basis of a rejection. As highlighted by the grounds presented herein, failing to reject the claims in view of Hughes amounted to examiner error. EX1002-Houh-Decl., ¶52-54.

Hughes describes fantasy sports contests where users simultaneously compete in multiple contests corresponding to the same live sporting event. EX1003-Hughes, 1:9-21, 1:33-43, 2:44-47, 12:20-25, 13:4-13. These fantasy sports contests are managed by a fantasy sports-contests application, implemented at a central computer

server or at a user device. *Id.*, 7:62-8:2, 9:25-32, 11:8-16; FIG. 1. To participate in one or more of the fantasy sports contests, users create a roster of players that are submitted to individual contests, called award leagues, that correspond to a real-life sporting event or events. *Id.*, 1:16-43 6:57-61, 18:11-13. After submitting their roster to the award leagues, users may continue participating in the fantasy -sports contests, e.g., by managing their roster and/or by predicting the outcome of plays in real time. *Id.*, 6:55-7:12. For each award league, users' rosters are scored and ranked by comparison to real-life outcomes in the corresponding sporting events. *Id.*, 1:22-31, 7:13-25, 18:53-19:21, 20:66-21:5.

Like the '189 patent, the goal of Hughes is to simplify entering and simultaneously competing in multiple fantasy sports contests. *Id.*, 2:18-22 (“It is therefore an object of the present invention to provide improved ways for ***allowing the user to participate in multiple leagues.***”).¹ One way Hughes achieves this is by providing functionality that “allow[s] the user to enter the same team... or roster to compete in more than one award leagues.” EX1003-Hughes, 15:57-61. Indeed, Hughes touts that its fantasy sports-contest application “allows the user to enter multiple award leagues (in the same sports category), ***while maintaining only one***

¹ Emphasis is added throughout unless otherwise noted.

team” as an express advantage of its fantasy sports-contest application. *Id.*, 16:18-20.

B. Berner

U.S. Patent No. 5,813,913 to Berner et al. (“Berner”) (EX1005) issued on September 29, 1998. Berner is prior art at least under 35 U.S.C. §102(b). The ’189 patent incorporates the disclosure of Berner by reference. EX1001-USP189, 5:61-66. Applicant incorporated Berner by reference in preliminary amendments in both U.S. Patent No. 11,951,402 and U.S. Patent No. 11,918,880, later-filed patents in the same family as the ’189 patent, to disclose that “game data includes a lockout signal to prevent improper game inputs by participants.” *See* EX1017-FH880, 89-90; EX1018-FH402, 68. Although Berner was disclosed during the pendency of the ’189 patent, Berner was not cited as the basis of a rejection. EX1002-Houh-Decl., ¶55-57.

Berner describes an apparatus that allows multiple groups of participants to play a game of skill simultaneously. EX1005-Berner, Abstract; 1:36-44; Claim 1. Berner “includes a central computer system (CCS) 11 which regulates or controls the overall system.” EX1005-Berner, 2:7-9, Fig. 1. The CCS broadcasts game data to a remote-control unit in the customer’s home . EX1005-Berner, 2:17-22. The game data “includes lockout signals involving player predictions.” EX1005-Berner, 2:28-29. The purpose of the lockout signal is to prevent improper game inputs by

participants of the game, such as bets or predictions made after the outcome is known. EX1005-Berner, claims 3, 5. As Berner demonstrates, preventing such entries is fundamental to ensuring fairness in any competition involving predictions.

Berner states that its lockout signal is described in U.S. Pat. No. 4,592,546 to Fascenda and Lockton (“Fascenda”; EX1008). EX1005-Berner, 2:28-29. Fascenda describes a “game of skill playable by several remote participants in conjunction with a live event such as a football game.” EX1008-Fascenda, 1:54-57. The game of skill described in Fascenda allows players to input a future predicted play. *Id.*, 2:37-40. A microprocessor contains a real-time clock (*id.*, 3:12-15) and receives inputs from a keyboard and an FM receiver (*id.*, 3:46-53). Fascenda’s lockout works by comparing the times at which the microprocessor received signals indicating that (1) a player made a prediction and (2) the relevant live event (e.g., a snap in a football game) occurred. EX1008-Fascenda, 3:53-61, Fig. 3. If the prediction was made after the relevant event occurred, the system ignores the player’s prediction. *Id.* Berner therefore prevents untimely player predictions using this same type of lockout signal that Fascenda describes. EX1005-Berner, 2:28-29.

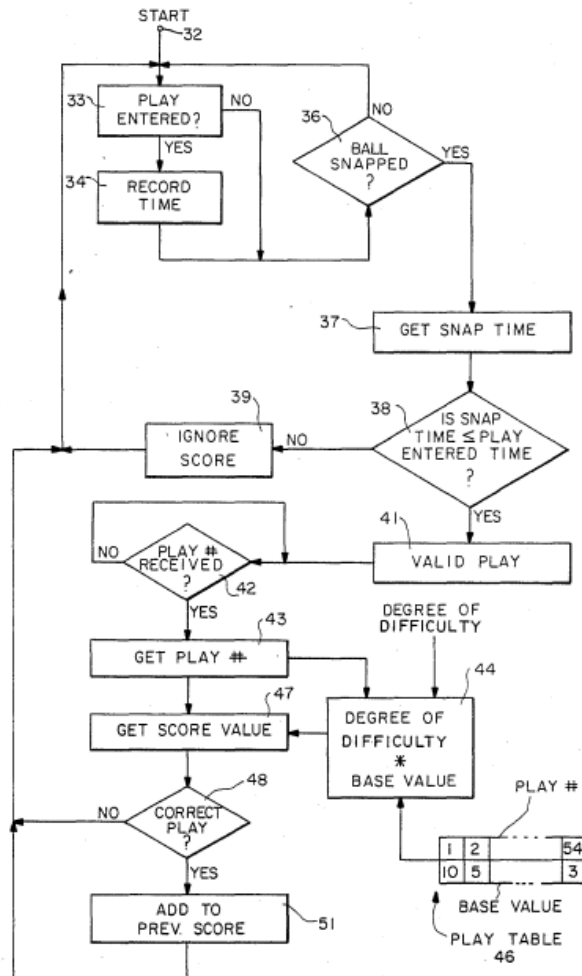


FIG. - 3

EX1008-Fascenda, FIG. 3

C. Barber

U.S. Patent No. 8,538,563 to David Barber (“Barber”) (EX1006) issued on September 17, 2013. Barber is prior art at least under 35 U.S.C. §102(a). Although Barber was disclosed during prosecution, Barber was not cited as the basis of a rejection. EX1007-FH189. EX1002-Houh-Decl., ¶58-60

Barber discloses “systems and methods for providing wagering opportunities in conjunction with fantasy sports contests.” EX1006-Barber, 2:11-13. Barber describes a fantasy sports-contest application that allows users to place a wager related to a fantasy sports contest. EX1006-Barber, 2:28-31. Users can place a wager “based on a portion of a sporting event, a sporting event, or *more than one* sporting event that is related to a fantasy sports contest.” EX1006-Barber, 2:39-51; *see also id.*, 21:31-39 (“[T]he fantasy sports contest application may provide to fantasy sports contestants the ability to wager based on more than one event.”). For example, Barber states that “multiple fantasy sports contest leagues can be grouped together in a fantasy sports contest.” EX1006-Barber, 3:25-34. Contests can include one or more leagues for a particular sport, multiple sports, or may not be sub-divided into leagues. *Id.* Barber also gives users the opportunity for inter-league wagering opportunities in which they can wager between contest leagues or between contestants of different leagues. EX1006-Barber, 3:48-61, 18:29-50.

Barber discloses that users can make wagers for fantasy sports-contest points, points redeemable for prizes, non-cash prizes, or money. EX1006-Barber, 3:8-13, 3:23-24. The payout schedule for the wagering opportunities in Barber may be predetermined, allowing, for example, the winner to receive “a specified percentage of the sum of all the entry fees to a wagering pool” or may use a pari-mutuel approach. EX1006-Barber, 3:13-19.

IX. CLAIM CONSTRUCTION

The challenged claims of the '189 patent are construed “using the same claim construction standard that would be used to construe the claim in a civil action under 35 U.S.C. §282(b).” 37 C.F.R. §42.100(b) (Nov. 13, 2018). Each claim term should be given its plain and customary meaning as understood by one of ordinary skill in the art, in accordance with *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc). No additional claim construction is necessary because the claims are unpatentable under any reasonable interpretation. If PO offers a specific construction or interpretation, Petitioner reserves the right to respond.

X. SPECIFIC GROUNDS FOR UNPATENTABILITY

Under 37 C.F.R. §42.104(b)(4)-(5), the following sections (as confirmed in Dr. Houh's declaration, EX1002-Houh-Decl., ¶¶61-200) detail the grounds of unpatentability, the limitations of challenged claims 14-15, 17, 19-20, 22-26, 31, 33-35, 37, and 38 of the '189 patent, and how these claims were therefore anticipated by or obvious in view of the prior art.

A. Ground 1: Claims 14-15, 17, 22, 24-25, 31, and 37 are Anticipated by Hughes

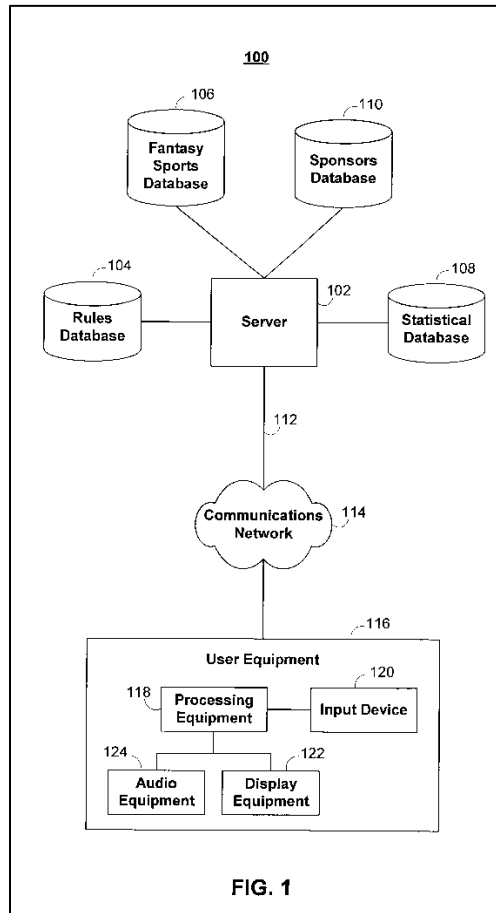
1. Claim 24²

a) 24[preamble]: “A method programmed in a memory of a device comprising:”

Regardless of whether the preamble is limiting, Hughes discloses it. Hughes “relates to systems and *methods* for providing multi-level fantasy sports contests in fantasy sports contest applications.” EX1003-Hughes, 1:9-11. Hughes describes methods for implementing multi-level fantasy sports contests such that users may simultaneously and in real time compete in multiple contests corresponding to the same live sporting event. *Id.*, 1:16-21, 1:33-43, 2:44-47, 12:20-25, 13:4-13. According to Hughes, these methods are performed by a fantasy sports-contest application, which is implemented on (i.e., programmed in the memory of) a computer server. *Id.*, 7:62-8:2, 9:25-32. EX1002-Houh-Decl., ¶63-64.

A schematic diagram of an illustrative system for implementing Hughes’s fantasy sports-contest application is shown at FIG. 1:

² Because claim 24 includes more limitations than claim 14, this Petition addresses the invalidity of claim 24 first.



Id., FIG. 1. Referencing this diagram, Hughes teaches that “[t]he fantasy sports contest application may be any suitable software” that is implemented, for example in devices including “at user equipment 116, at server 102, at any other suitable location..., or at any combination thereof.” *Id.*, 11:8-16. A POSITA would understand that “software” refers to a sequence of computer-executable instructions that underlie the programs that can be run by a computer’s processor. EX1002-Houh-Decl., ¶63-64. Executing a program “implies loading the machine code of the program into memory and then performing the instructions.” EX1002-Houh-Decl., ¶64. A POSITA would therefore understand that, to run an application or software

such as Hughes’s fantasy sports-contest application, the software must be stored in a memory of that device (i.e., either long-term or transient memory). EX1002-Houh-Decl., ¶64. For Hughes’ application to be implemented “at user equipment 116, at server 102, at any other suitable location,” Hughes necessarily discloses a set of instructions in a computer program that are loaded into a memory of a device, such as the user equipment, server, or another suitable location to be run. EX1003-Hughes, 11:8-16. Thus, Hughes teaches a method programmed in a memory of a device. EX1002-Houh-Decl., ¶63-64.

- b) 24[a]-[b]: “a. generating a list of multiple contests of skill or chance to join;
b. presenting the list of multiple contests of skill or chance to join,””**

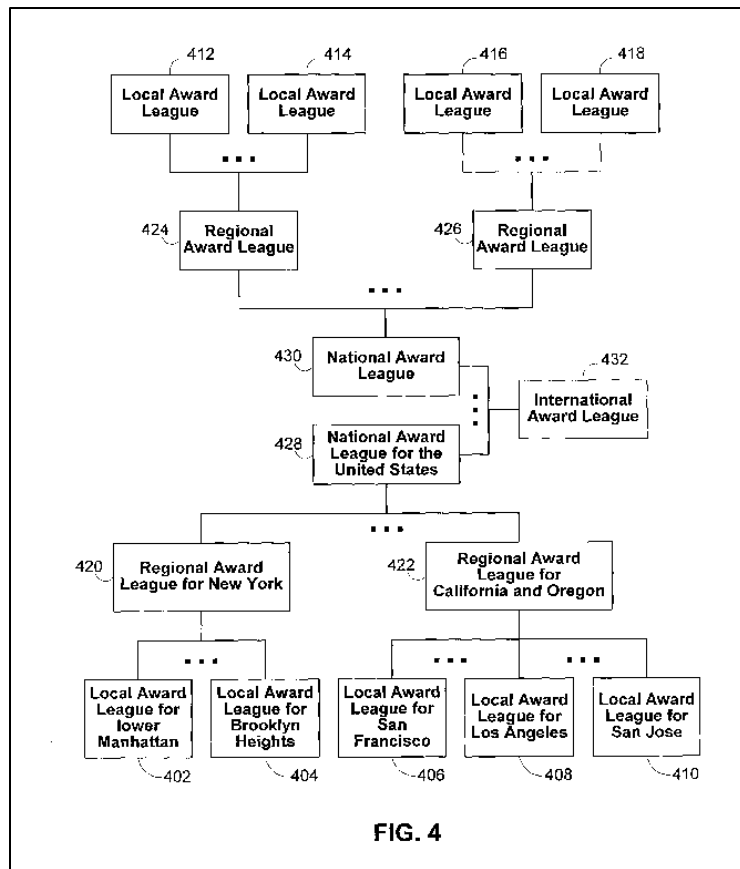
Hughes teaches elements 24[a]-[b]. As described below, Hughes explains that its fantasy sports-contest application administers fantasy sports contests that involve multiple sub-contests of skill or chance, presented in lists to users wishing to enter the contests. EX1002-Houh-Decl., ¶65-77.

(1) “multiple contests”

Hughes teaches that the fantasy sports-contest application generates a fantasy sports contest with multiple sub-contests, each of which is an “award league.” EX1003-Hughes, Abstract (“The fantasy sports contest application may create award leagues of different levels and focus on various geographical units.”), 2:40-

58. These award leagues may be based on a variety of criteria, including location, age, sex, or any other suitable criteria. *Id.*

In one example, Hughes describes a fantasy sports contest whereby a single contest sponsor creates multiple local, regional, national, and international award leagues. *Id.*, 3:4-22, 12:7-25, 12:60-13:3. A schematic of these multiple award leagues is shown in FIG. 4:



Id., FIG. 4. In these embodiments, the fantasy sports contest, directly or through a sponsor, generates various award leagues that are geographically focused. *Id.*, 12:30-46.

Hughes also explains that a user may simultaneously participate in multiple of these award leagues (i.e., contests). *Id.*, 3:17-22, 12:20-25, 13: 4-13. In fact, the express objective of Hughes’s invention is facilitating user participation in multiple fantasy sports contests. *Id.*, 2:18-22 (“It is therefore an object of the present invention to provide improved ways for allowing *the user to participate in multiple leagues* having uniform rules...”).

Thus, Hughes discloses multiple contests for a user to join as part of a fantasy sports contest. EX1002-Houh-Decl., ¶66-70.

(2) “contests of skill or chance”

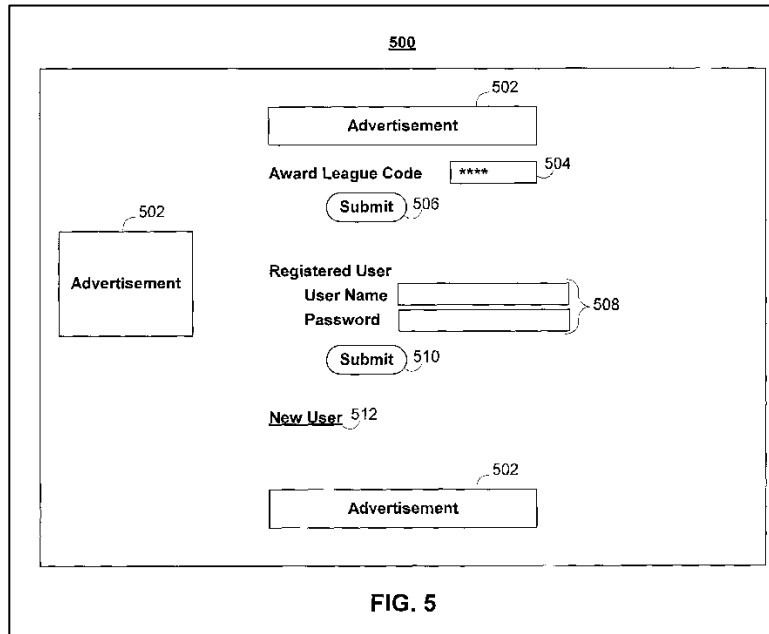
The fantasy sports contests described in Hughes may take a variety of forms involving games of skill or chance. Broadly, the contests give users the ability to make decisions or predictions that may affect the users’ standing in the sports contest. EX1003-Hughes, 6:52-55. This may involve, for example, creating and maintaining a sports-team roster, as well as determining or guessing whether particular outcomes will occur. *Id.*, 6:57-7:13. In some cases, these contests may involve user skill in utilizing their knowledge of the sporting event or blind guesses left to chance. *See, e.g., id.*, 7:7-11 (referencing user “blindly or with calculation” guessing outcome). The fantasy sports-contest application may even provide additional statistics to inform the user’s skill in making contest-related decisions. *Id.*, 1:28-32, 7:32-56. By inviting the user to make rosters or predictions scored

against real-life outcomes, the fantasy sports contests of Hughes mirror those described in the '189 patent. *See, e.g.*, EX1001-USP189, 6:27-29 (“Player A... tries to get the best possible score by ***predicting the plays correctly*** before they happen.”). Thus, each award league in the fantasy sports contests described in Hughes is a contest of skill or chance. EX1002-Houh-Decl., ¶71.

(3) ***“generating a list of multiple contests... to join”
“presenting the list of multiple contests... to
join,”***

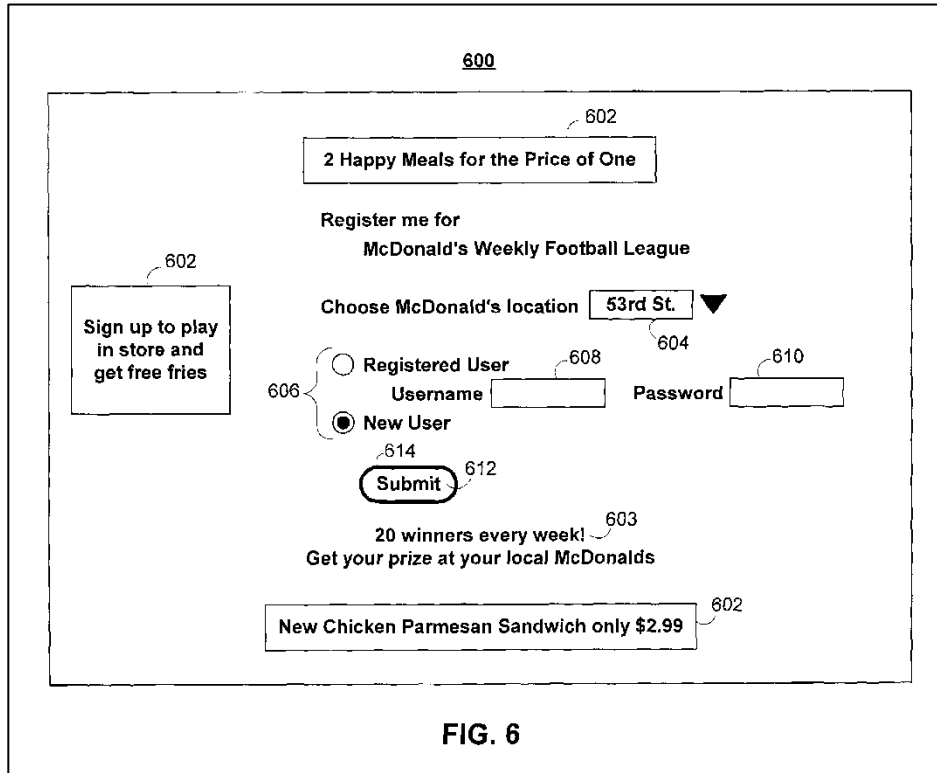
As described above, the fantasy sports-contest application of Hughes operates a fantasy sports contest with multiple sub-contests called award leagues. *Supra* Section X.A.1.b)(1); EX1003-Hughes, Abstract, 2:40-58. When a user wishes to participate in the fantasy sports contests, Hughes explains that the available award leagues are generated and presented to the user, e.g., as a list displayed at a user device. EX1003-Hughes, 8:29-36, 13:31-63, 17:6-28; *see also id.*, 8:18-23, 9:33-36 (describing communication between a server device and a user device). Thus, Hughes discloses both generating and presenting the list of multiple contests to join. EX1002-Houh-Decl., ¶72-77.

In one embodiment, Hughes describes presenting the available award leagues in a fantasy sports-contests login screen, *id.*, 13:31-63, illustrated in FIG. 5:



Id., FIG. 5. Using the display screen, a user may search for a specific award league using an award-league code. *Id.*, 13:31-34. Hughes explains that in other embodiments, the list of available award leagues may be presented as “a drop down list” or “any other suitable approach to search for the award league.” *Id.*, 13:43-47.

In another embodiment, Hughes describes presenting the available award leagues in a fantasy sports-contest award-league registration screen, *id.*, 13:64-37, illustrated in FIG. 6:



Id., FIG. 6. On the screen, a user may select the desired award league from “a drop down menu.” *Id.*, 14:10-14.

In each embodiment, the fantasy sports-contest application of Hughes creates and provides a list of the available award leagues to users who wish to participate. Thus, Hughes teaches generating and presenting the list of multiple contests of skill or chance to users. EX1002-Houh-Decl., ¶72-77.

- c) ***24[c]: “wherein the multiple contests of skill or chance correspond to one or more events;”***
24[e]: “wherein the multiple contests of skill or chance are selected from single entry contests and multiple entry contests”

Hughes teaches element 24[c] and this portion of element 24[e]. Hughes’s award leagues correspond to one or more live sporting events and may be either single entry or multiple entry contests. EX1002-Houh-Decl., ¶178-82.

Hughes explains that its fantasy sports-contest application administers fantasy sports contests that correspond to one or more sporting events. EX1003-Hughes, 1:33-43. These may include, for example, team sports (e.g., football, baseball, basketball), individual sports (e.g., golf, tennis), or contests involving animals (e.g., horse racing). *Id.* This is similar the ’189 patent, which describes contests relating to one or more football games. EX1001-USP189, 1:52-58, 6:1-4, 6:27-29, 8:52-55.

Moreover, Hughes explains that users may enter the described fantasy sports-contests in several ways and provides no limitations on how and when entries are allowed in its award leagues. For example, Hughes identifies limits on when users can join a contest as a problem to be solved by its invention. EX1003-Hughes, 1:65-67, 2:10-14. Hughes solves this problem by allowing unlimited entries into award leagues, which thus encompasses both single entry and multiple entry contests. EX1003-Hughes, 16:43-46 (“[T]hus the fantasy sports contest application allows ***unlimited numbers of users*** to compete in a single award league.”). Moreover,

Hughes explains that “the fantasy sports contest application may allow a user to join an award league *at any time* during the season.” *Id.*, 4:21-23. That is, the fantasy sports contest may involve a single entry for all users to join the competition all at one time or may involve multiple entries, such that users can join during a season that is already in progress. In this regard, Hughes thus provides at least as much detail regarding entering contests as the ’189 patent, which merely states that users enter the contests “on an ad hoc or seasonal basis.” EX1001-USP189, 6:44-47.

Thus, Hughes teaches that the multiple contests correspond to one or more events and may be either single-entry or multiple-entry contests. EX1002-Houh-Decl., ¶78-82.

- d) 24[d]: “c. receiving user input including event selections related to the one or more events and to which of the multiple contests of skill or chance the selections are to be applied, wherein the event selections are separately applied to each of the selected multiple contests of skill or chance,”*

Hughes teaches element 24[d]. As described below, in the fantasy sports contests described in Hughes, users select which award leagues to enter from the list of options and provide rosters and predictions that are separately applied to each selected award league. EX1002-Houh-Decl., ¶83-92.

(1) “...user input including event selections related to the one or more events”

As noted above, Hughes describes a fantasy sports-contest application that conducts a fantasy sports contest involving multiple award leagues in which users may participate. *Supra* Section X.A.1.a)-b); *see* EX1003-Hughes, Abstract, 1:9-21, 1:33-43, 2:40-58, 7:62-8:2, 9:25-32, 12:7-25, 13:4-13. As in conventional fantasy sports contests, users enter by providing selections related to a live sporting event:

In known fantasy sports contests, ***a user selects a roster, a team, a particular individual, or a group of individuals in an athletic contest.*** The user is given the ability to take on the role of a fictional general manager with powers which may include the ability to draft, trade, dismiss and otherwise manage the player or players on the user's fantasy sports team.

Conventionally, either a fantasy sports contest provider or a league commissioner sets the rules under which a group of fantasy sports users compete against each other in a fantasy sports contest. For example, ***for every goal scored in real-life by a member of the user's fantasy***

*soccer team, the user may be awarded five points in the
fantasy sports contest.*

EX1003-Hughes, 1:16-27; *see also id.*, 1:33-43 (explaining that fantasy sports contest may be based around variety of “real-life athletic events”).

Hughes explains that fantasy sports contests may involve the user “creating a team roster (e.g., drafting players), selecting player positions, selecting starters, selecting relievers, making trades, and otherwise maintaining the composition of the user’s team roster.” *Id.*, 6:57-61. Hughes describes fantasy sports contests that rely on users entering their rosters into an award league. *Id.*, 18:11-13 (“[T]he fantasy sports contest application may allow the user to draft a new team to enter into an award league.”), 15:57-61 (“[T]he fantasy sports contest application may allow the user to enter the same team... or roster to compete in more than one award leagues.”). The user’s roster is an event selection related to the corresponding sporting event. EX1002-Houh-Decl., ¶84-86.

Hughes also explains that fantasy sports contests may include other predictions related to the sporting event. EX1003-Hughes, 7:5-12. In these embodiments, “the user is not necessarily playing the role of a general manager.” *Id.*, 7:5-7. Hughes explains that fantasy sports contests may involve “the user determining or guessing ... whether particular outcomes will occur.” *Id.*, 7:7-11.

For example, the user may predict the real-time outcome of a specific play or occurrence in a live sporting event. Such predictions are like those described in the '189 patent. EX1001-USP189, 6:27-29 (“Player A... tries to get the best possible score by *predicting the plays correctly before they* happen.”), 9:12-15. In these contests, the user’s prediction of real-time outcome is also an event selection related to the corresponding sporting event. EX1002-Houh-Decl., ¶84-86.

(2) ***“...user input including... to which of the multiple contests of skill or chance the selections are to be applied”***

Hughes explains that, in addition to providing their rosters or predictions of real-time outcomes, users select which of multiple award leagues to participate in. EX1003-Hughes, 13:4-8, 13:31-47, 17:6-28, 17:32-18:10. That is, the user may specify to which award leagues the roster or predictions are to be applied. EX1002-Houh-Decl., ¶87-89.

For example, Hughes explains that the user may select which award leagues to enter using a login screen. *Id.*, 13:31-63. Using the display screen, a user may search for a specific award league using an award-league code. *Id.*, 13:31-34. The user may also “select the [award league] from a drop down list.” *Id.*, 13:43-47. The latter approach is like the '189 patent, wherein a user joins desired contests by selection from a list. EX1001-USP189, 9:6-11. In either approach, the user provides input to select which award leagues to enter. EX1002-Houh-Decl., ¶88.

Hughes also explains that a user may choose to apply a previously made roster to award leagues. EX1003-Hughes, 17:32-18:10. For example, a user may have a roster from a non-award league, and the fantasy sports-contests application may allow the user to select one or more award leagues in which to enter that roster. *Id.*, 17:32-36. Thus, the user provides input to select to which award leagues to apply their roster. EX1002-Houh-Decl., ¶87-89.

(3) “receiving user input...”

As noted above, Hughes describes a user providing input including both their roster (i.e., event selection) and to which award leagues to apply the roster. *Supra* Section X.A.1.d)(1)-(2). Throughout its disclosure, Hughes explains that user input is provided at a user device. *See, e.g.*, EX1003-Hughes, 8:18-23, 13:4-8, 13:31-47, 17:6-28, 17:32-18:10. In some cases, the user device may be a user’s television. *Id.*, 9:33-65. Alternatively, the user may make their selections at a terminal, such as a personal computer. *Id.*, 14:59-15:6; *see also id.*, 15:7-10 (associating terminal with user equipment of FIG. 1). Regardless of the specific equipment used, Hughes explains that user equipment is communicably linked to the computer server that implements the fantasy sports-contest application, mirroring the disclosure of the ’189 patent. *Id.*, 8:18-23 (“Communication network 114 may be used for communication between users having user equipment 116 and server 102.”), 11:8-16 (explaining that fantasy sports-contest application is implemented at server);

EX1001-USP189, 9:12-15 (explaining users participate “by sending user selections... to a server within the network for monitoring, analyzing and determining results”). Based on this disclosure, a POSITA would have understood that, in order to operate fantasy sports contests, the user input provided at the user equipment is received by the computer server via a communication link. EX1002-Houh-Decl., ¶90.

(4) ***“the event selections are separately applied to each of the selected multiple contests of skill or chance”³***

As discussed above, Hughes describes a fantasy sports contest in which a user may participate in multiple simultaneous award leagues. *Supra* Section X.A.1.b). In these contests, the user’s roster (i.e., event selection) is separately applied to each award league that the user enters. EX1002-Houh-Decl., ¶91-92.

Hughes explains that “the fantasy sports contest application may allow the user to enter the same team ... or roster to compete in more than one award leagues.” EX1003-Hughes, 15:57-61. Indeed, Hughes touts that its fantasy sports-contest

³ In contrast to claim 1 of the ’189 patent, which specifies “the event selections are separately *and simultaneously* applied to each of the selected multiple contests of skill or chance,” claim 24 only requires that the selections are “separately applied” to each contest. EX1001-189patent, claims 1, 24.

application “allows the user to enter multiple award leagues (in the same sports category), ***while maintaining only one team***” as an express advantage of its fantasy sports contest application. *Id.*, 16:18-20. Hughes also explains that a user may apply a previously made roster to be used in other award leagues. EX1003-Hughes, 17:32-18:10. For example, a user may have already prepared a roster, and the fantasy sports-contests application may allow the user to select one or more award leagues in which to enter that roster. *Id.*, 17:32-36. Once the user enters their single roster into these separate award leagues, the user receives separate scores and standings based on the roster, showing that the roster (i.e., event selections) is applied separately to each scored contest. *Id.*, 18:53-19:21, 20:66- 21:5. FIG. 12; *see also infra* Section X.A.1.f)(3). In doing so, Hughes accomplishes the same result as the ’189 patent: allowing a user to separately participate in multiple contests with the same entry. EX1001-USP189, 6:29-33. Thus, Hughes teaches that the user’s event selections are separately applied to award league that the user chooses to enter. EX1002-Houh-Decl., ¶91-92.

- e) ***24[e]: “wherein the event selections enable simultaneously and in real time participating in the selected multiple contests of skill or chance; ”***

Hughes teaches element 24[e]. In the fantasy sports contests described in Hughes, a user’s roster (i.e., event selection) may be entered into multiple award leagues such that the user simultaneously participates in these award leagues.

EX1003-Hughes, 15:57-61, 16:18-20; *see supra* Section X.A.1.d). Users make event selections regarding the makeup of their team, including “selecting player positions, selecting starters, selecting relievers, making trades, and otherwise maintaining the composition of the user’s team roster.” EX1003-Hughes, 6:57-61. Users also make event selections regarding the award league or leagues they would like to enter. EX1003-Hughes, 17:63-67. Hughes teaches that these selections enable simultaneous and in real time participation in fantasy sports contests, as discussed below. *Infra X.A.1.e)(1)-X.A.1.e)(2)*, EX1002-Houh-Decl., ¶¶93-99.

(1) “enable simultaneously... participating in the selected multiple contests of skill or chance”

As detailed above, Hughes explains that its fantasy sports-contest application allows users to enter a single roster into multiple simultaneous award leagues. *Supra* Section X.A.1.d); EX1003-Hughes, 15:57-61. Hughes expressly states that the fantasy sports-contest application “allows [i.e., enables] the user to enter multiple award leagues (in the same sports category).” *Id.*, 16:18-20. Hughes makes clear that users participate in these multiple award leagues simultaneously:

As another example, the fantasy sports contest application may allow the McDonald's Corporation to create ***numerous local award leagues, multiple regional award leagues, multiple national award leagues, and an***

international award league to allow McDonald's customers all over the world to participate in one or more McDonald's award leagues (e.g., a World Cup Soccer League).... The fantasy sports contest application may *allow the user to simultaneously participate in McDonald's local, regional, national, and international award leagues at the same time* and may award prizes to the user based on, for example, weekly scores, leaderboard standings, or any other suitable criteria.

Id., 3:4-22; *accord id.*, 12:7-29. Thus, Hughes teaches that the user's roster enables simultaneously participating in the selected multiple contests. EX1002-Houh-Decl., ¶94.

(2) ***“enable... in real time participating in the selected multiple contests of skill or chance”***

Hughes teaches that the fantasy sports contests may involve various types of “in real time” participation in the award leagues. *First*, Hughes describes fantasy sports contests that require continued, real-time participation by “determining or guessing... whether particular outcomes will occur.” EX1003-Hughes, 7:5-12. That is, the user may predict the real-time outcome of a specific play or occurrence in a live sporting event. *Id.* Hughes notes than an exemplary prediction in these contests

may be “whether a particular golfer will make the next put [sic].” *Id.*, 7:10-11. These predictions of outcomes in real-time as the sporting event unfolds (i.e., “the *next* put[t]”) are identical to the real time predictions of the ’189 patent, which describes players “tr[ying] to get the best possible score by *predicting the plays correctly before they happen.*” EX1001-USP189, 6:27-29; *see also* EX1002-Houh-Decl., ¶95-96. Furthermore, the ’189 patent recognizes that real-time participation in sports betting had been known. EX1001-USP189, 1:52-58 (“[C]ompanies are able to now use the cellular phone and other mobile communication devices... to control television viewers in games of skill based upon predicting, for example, what the quarterback may call on the next play within a football game.”).

Second, Hughes identifies another form of fantasy sports contests that involve continued, real-time participation. In contests where users act as a general manager by assembling a roster, Hughes notes that the user’s role as a general manager involves continued participation. EX1003-Hughes, 6:55-64. For example, the user can participate by “selecting play positions, selecting starters, selecting relievers, making trades, and otherwise maintaining the composition of the user’s team roster.” *Id.*, 6:57-61. The fantasy sports contest “may last an entire season, a portion of the season,... or any other suitable period of time.” *Id.*, 6:66-7:4. Hughes teaches that participating in the award league may involve “maintaining the composition of the user’s team roster” throughout an entire season. *Id.*, 6:57-7:4. Continued

participation while the competition is active (i.e., during the sports season) by maintaining the composition of the team's roster (e.g., by selecting starting players or making trades with other users) involves "in real time participating" in the award league. EX1002-Houh-Decl., ¶97-98.

Thus, Hughes teaches a contest in that provides in real time participating in the selected multiple contests. EX1002-Houh-Decl., ¶99.

- f) 24[f]: "d. storing results and standings based on the event selections, wherein the standings are based on the results, wherein the standings are separated for each of the multiple contests of skill or chance; and e. transmitting the standings to the device."*

Hughes teaches element 24[f]. As detailed below, Hughes describes determining scores and standings for each award league in which a user participates. *Infra X.A.1.f)(1)-X.A.1.f)(3)*, EX1002-Houh-Decl., ¶100-110.

- (1) "results and standings based on the events selections, wherein the standings are based on the results"*

As discussed above and acknowledged in Hughes, users in conventional fantasy sports contests earn points by comparing the user's selections to real-life performances in corresponding sporting events. *Supra* Section VI; EX1003-Hughes, 1:22-31. In describing its own fantasy sports contests, Hughes states that "any suitable one or more scoring systems" may be used and expressly describes several methods for calculating the score. *Id.*, 7:13-25. In the award leagues implemented

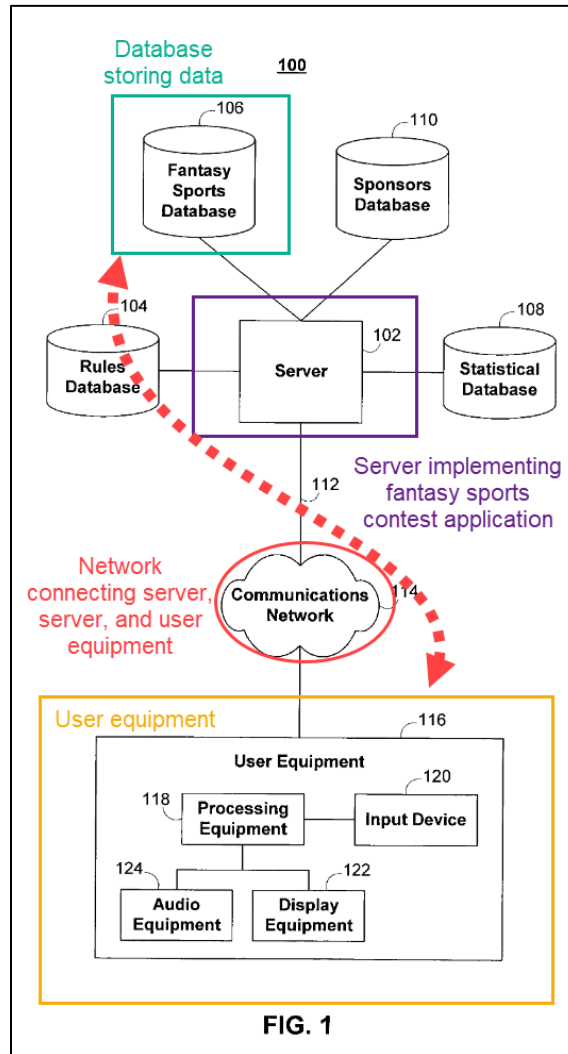
by the fantasy sports contest, Hughes discloses that scores (i.e., results) are determined for each award league that a user participates in. EX1003-Hughes, 18:53-19:21, 20:66-21:5 (“[T]he fantasy sports contest application may display user performance information such as *scores, rankings*, prizes, or any other suitable information in connection with all the award leagues that the user currently participates in as shown in FIG. 12.”). A user’s standings may then be reported on a scoreboard screen. *Id.*, 18:66-19:1.

Based on a user’s score (i.e., the “results”), the user is assigned a standing or a ranking in the award league. Hughes repeatedly acknowledges that both determining and conveying both a user’s score and ranking are key features of the fantasy sports contest application. *See, e.g.*, EX1003-Hughes, 18:48-50 (“Performance information may include, for example, *weekly score*, league names, *rankings within the leagues*, prizes won, or any other suitable performance information.”), 19:11-12. EX1002-Houh-Decl., ¶101-02.

(2) ***“storing results and standings” and “transmitting the standings to the device”***

Hughes teaches that a user’s score (i.e., “results”) and the user’s ranking (i.e., “standing”) are both stored in a database and then transmitted to user equipment. More specifically, Hughes explains that both a user’s score (i.e., “results”) and the user’s ranking (i.e., “standing”) in each contest are considered fantasy sports contest-

related information. EX1003-Hughes, 7:37-41 (“[F]antasy sports contest-related information may include information regarding the user’s one or more rosters, ***the user’s standing in one or more fantasy sports contests, point tallies associated with the user in one or more fantasy sports contests....***”). Hughes indicates that such information is stored in a fantasy sports database. *Id.*, 8:7-10, FIG. 1. As illustrated below, the fantasy sports database, as well as a variety of other databases, are accessed by the server in implementing the fantasy sports-contest application, and the scores (i.e. results) and standings are stored in one or more of these. EX1003-Hughes, 7:64-8:10, 9:13-18, Fig. 1; EX1002-Houh-Decl., ¶103-104.



Hughes explains that fantasy sports-contests data, such as a user’s score (i.e., results) and rankings, are transmitted from the server to the user to display the user’s standings. *Id.*, 8:18-24. In one embodiment, for example, Hughes explains that “any suitable communication link for communicating fantasy sports contest data” may connect the main server to a television distribution facility. *Id.*, 8:56-67. Hughes states that the television distribution facility “may receive fantasy sports contest data

(e.g., rosters, *standings*, statistical information, or any other suitable data).” *Id.*, 9:13-15.

Thus, Hughes teaches that the results and standings are stored in a database and transmitted between the server and the user device. EX1002-Houh-Decl., ¶103-105.

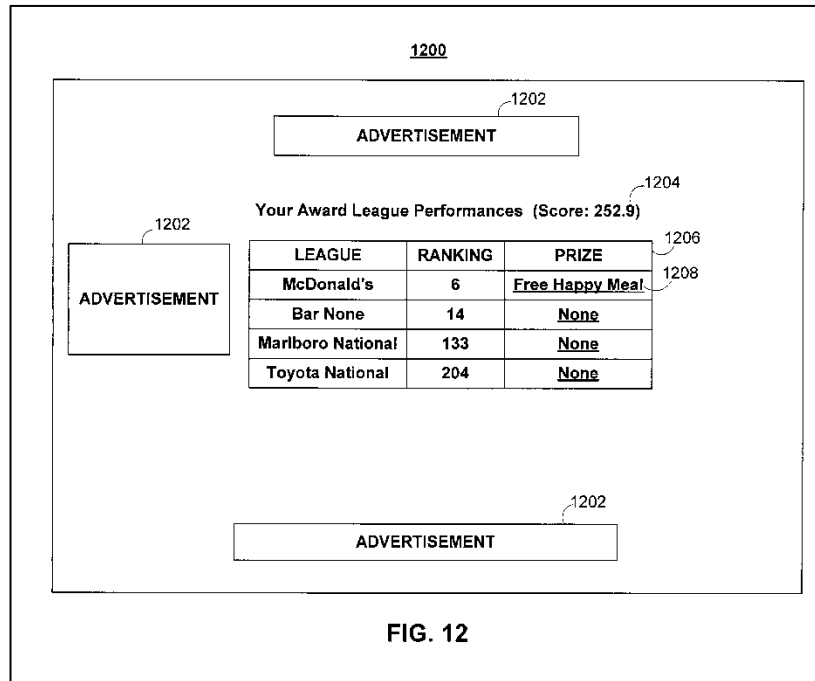
(3) “wherein the standings are separated for each of the multiple contests of skill or chance”

Hughes discloses that standings for each award league are separately stored in the fantasy sports database, because doing so is necessary to report the results for each award league. EX1002-Houh-Decl., ¶106-09.

Hughes discloses that scores and standings are determined for each award league that a user participates in. Notably, Hughes explains that the standings for each award league may be separately displayed to the user. EX1003-Hughes, 18:53-19:21, 20:66- 21:5 (“[T]he fantasy sports contest application may display user performance information such as scores, *rankings*, prizes, or any other suitable information in connection *with all the award leagues* that the user currently participates in as shown in FIG. 12.”). For example, a user’s standings may be reported on a scoreboard screen, which shows “the user’s performance information in all the award leagues for a particular sports category that the user competes in.” *Id.*, 18:65-19:1. In particular, the scoreboard screen may include a grid “show[ing]

the user's ranking... based on [the user's] score." *Id.*, 19:11-13. EX1002-Houh-Decl., ¶107.

An exemplary scoreboard screen is shown in FIG. 12 of Hughes:



EX1003-Hughes, FIG. 12. As shown, the scoreboard screen includes a column that separately displays a user's ranking across each of four award leagues in which the user participated.

A POSITA would have understood that, in order to display standings separately for each award league (e.g., as shown in FIG. 12), the standings would also have been *stored* separately. Figure 12 makes clear that the standings are reported in separate rows of a table. If the data were not stored separately, and thus were aggregated, producing a table with such separate results would not be possible.

Thus, Hughes teaches that, when storing the standings from the award leagues, the standings are separated for each award league. EX1002-Houh-Decl., ¶106-09.

* * *

Because Hughes teaches the preamble and limitations [a]-[f] of claim 24, Hughes anticipates claim 24. EX1002-Houh-Decl., ¶110.

2. Claim 25

“The method as claimed in claim 24 wherein users are provided a currency for watching the one or more events or participating in the multiple contests of skill or chance.”

Hughes anticipates dependent claim 25. As described with respect to elements [a]-[b] and [d] of claim 24, Hughes describes a fantasy sports contest involving multiple award leagues that users may participate in. *Supra* Section X.A.1.b) and X.A.1.d). In some cases, users participate by creating and maintaining a sports-team roster. *Id.*; EX1003-Hughes, Abstract, 3:27-31, 6:55-61, 15:57-65. Hughes teaches that users may receive fictional dollars (i.e., a currency) to prepare rosters and thus participate in award leagues:

For example, *the fantasy sports contest application may give the user a certain amount of fictional dollars to spend on drafting athletes for the user’s roster* in a football award league. The fantasy sports contest application may assign each available football player a

fictionally [sic] dollar value based on, for example, performance from the previous season, statistical value associated with the user, real-life salary, any other suitable approach, or combination thereof. The fantasy sports contest application may then *allow the user to exchange a portion of the user's wealth for athletes according to the dollar amount associated with the athlete*. This draft system allows the same athlete to be drafted by multiple users, thus the fantasy sports contest application allows unlimited numbers of users to compete in a single award league.

EX1003-Hughes, 4:7-20; *accord id.*, 16:33-46. Thus, Hughes teaches that users are provided a currency for participating in the multiple contests of skill or chance. EX1002-Houh-Decl., ¶111-12.

3. Claim 31

“The method as claimed in claim 24 wherein promotional awards are awarded for participating.”

Hughes anticipates dependent claim 31. As described with respect to elements [a]-[b] and [d] of claim 24, Hughes describes a fantasy sports contest involving multiple award leagues that users may participate in. *Supra* Section

X.A.1.b) and X.A.1.d). Hughes teaches that users may receive prizes based on their performance in these contests. EX1003-Hughes, 2:47-50, 2:59-3:3, 4:26-35, 8:46-55; 11:31-12:6. Users may receive promotional awards, such as a free drink, simply for participating in the award league. EX1003-Hughes, 2:59-3:3, 11:31-12:6. Thus, Hughes teaches that promotional awards are awarded for participation. EX1002-Houh-Decl., ¶113-14.

4. Claim 37

“The method of claim 24 wherein the multiple contests of skill or chance include different types of competitions selected from single day competitions, multiple day competitions and season long competitions.”

Hughes anticipates dependent claim 37. As described with respect to elements [a]-[b] and [d] of claim 24, Hughes describes a fantasy sports contest involving multiple award leagues that users may participate in. *Supra* Section X.A.1.b) and X.A.1.d). Moreover, as described with respect to element [e] of claim 24, Hughes explains that the award leagues may last an entire season, a portion of the season, the duration of an event, or any other suitable period. *Supra* Section X.A.1.e); EX1003-Hughes, 6:66-7:4. Hughes highlights that, by administering award leagues of various lengths relative to the corresponding sporting events, users have more opportunities to enter the fantasy sports contests. EX1003-Hughes, 1:65-67, 2:10-14, 4:21-23. This is achieved by administering award leagues of different lengths. “For example, within a season long contest, the fantasy sports contest

application may provide one or more weekly contests that award the users according to, for example, weekly score.” *Id.*, 4:32-35. That is, Hughes discloses that the award leagues include both season-long contests and weekly (i.e., multiple day) contests. Thus, Hughes teaches multiple contests of skill or chance that include different types of competitions. EX1002-Houh-Decl., ¶115-16.

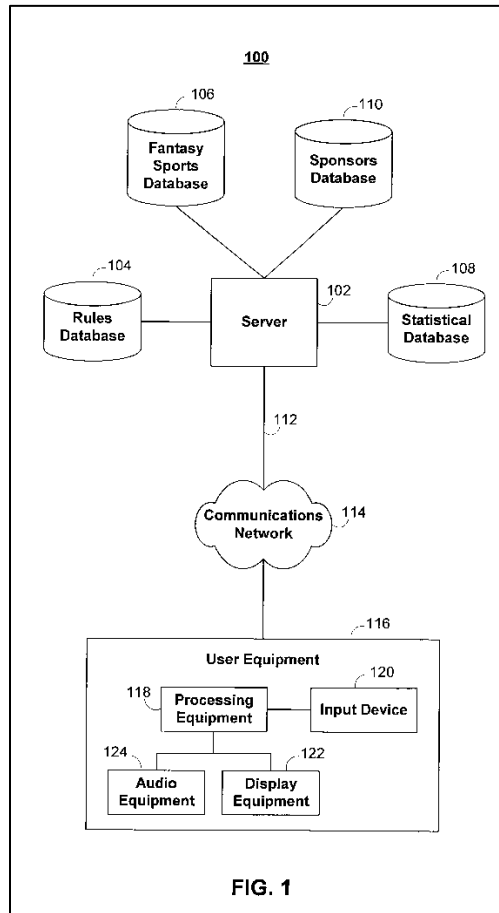
5. Claim 14

- a) 14[preamble]: “A device for participating in multiple real time contests of skill or chance corresponding to one or more events comprising:”*

Regardless of whether the preamble is limiting, Hughes discloses it. EX1002-Houh-Decl., ¶117-144.

- (1) “a device for participating in... contests of skill or chance corresponding to one or more events”*

Hughes describes systems for both providing and participating in multi-level fantasy sports contests. EX1003-Hughes, 1:9-11. The fantasy sports-contest system implements multi-level fantasy sports contests such that users may simultaneously and in real time compete in multiple contests corresponding to the same live sporting event. *Id.*, 1:16-21, 1:33-43, 2:44-47, 12:20-25, 13:4-13. A schematic diagram of an illustrative fantasy sports-contest system for implementing Hughes’s fantasy sports-contest application is shown at FIG. 1:



Id., FIG. 1. As shown in FIG. 1, the system includes *user equipment* (i.e., a device), which allows a user to provide input and make selections related to the fantasy sports contests. *Id.*, 8:18-36; *see infra* Section X.A.5.d).

As described in Section X.A.1.c), Hughes explains that its fantasy sports-contest application administers a variety of fantasy sports contests that correspond to one or more sporting events. EX1002-Houh-Decl., ¶118-20.

Thus, Hughes teaches a user device for participating in multiple contests of skill or chance corresponding to one or more events. EX1002-Houh-Decl., ¶121.

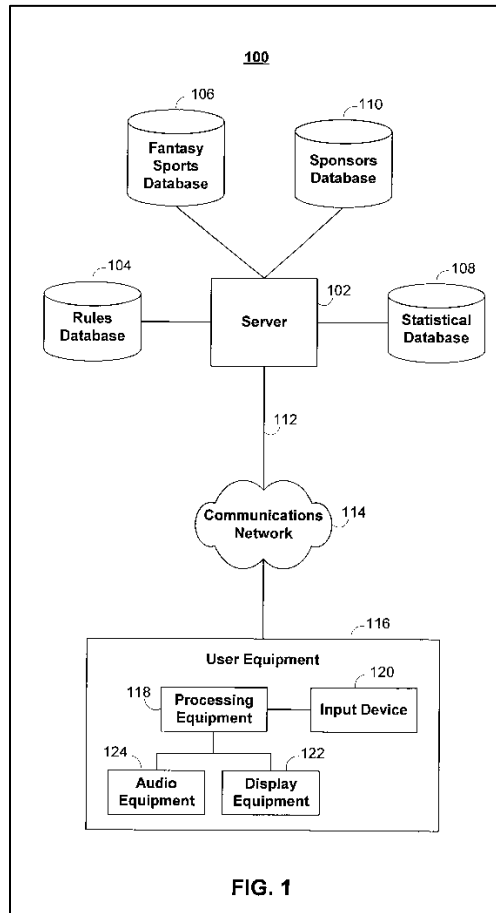
(2) “multiple real time contests of skill or chance”

As described above in Section X.A.1.b), Hughes discloses users participating in fantasy sports contests that involve multiple sub-contests of skill or chance, each of which is referred to as an “award league.” EX1002-Houh-Decl., ¶122. Hughes also explains that a user may simultaneously participate in multiple of these award leagues (i.e., contests) at the same time. *Id.*, 3:17-22, 12:20-25, 13: 4-13. In fact, the express objective of Hughes’s invention is to facilitate user participation in multiple fantasy sports contests. *Id.*, 2:18-22. Moreover, as discussed below in Section X.A.5.e)(2), Hughes teaches award leagues with real-time participation (i.e., real time contests). EX1002-Houh-Decl., ¶#.

Thus, Hughes discloses a server device for conducting multiple, real time, simultaneous contests. EX1002-Houh-Decl., ¶122-23.

b) 14[a]: “a. a communications module for coupling to a server; and”

Hughes discloses element 14[a]. Hughes describes the fantasy sports contest system as including a communication network to connect user equipment (i.e., the device) to a server. EX1003-Hughes, 8:18-23. The communication network between the user equipment and the server is illustrated in FIG. 1:



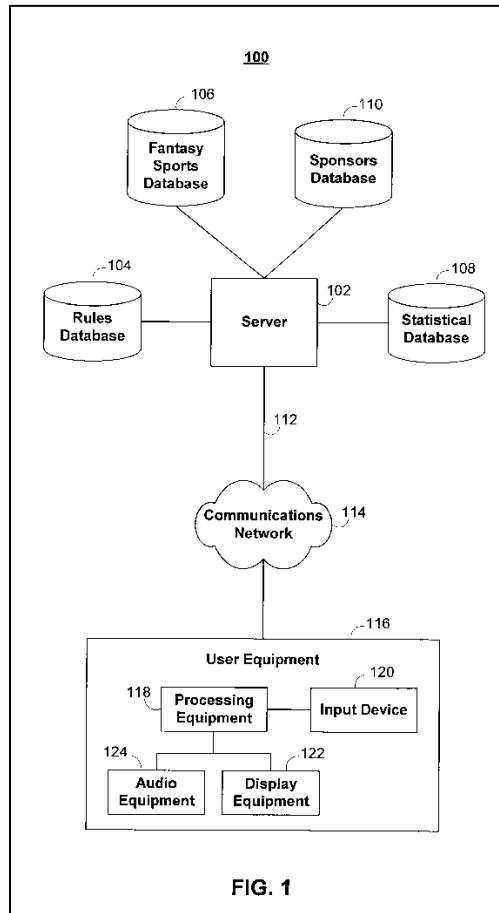
Id., FIG. 1. The user equipment connects to the communications network utilizing a communications module as indicated by the line connecting the user's equipment to the communications network, which couples the user's equipment to the server. EX1003-Hughes, 8:18-24, 15:7-10. Thus, Hughes teaches a communications module for coupling the user device to a server. EX1002-Houh-Decl., ¶124-25.

- c) ***14[b]: “b. an application for utilizing the communications module for coupling to a server to communicate with the server to allow a user to simultaneously compete in the multiple real time contests of skill or chance,”***

Hughes discloses element 14[b]. Hughes describes a fantasy sports-contest application for administering fantasy sports contests that involve multiple, simultaneous award leagues. EX1002-Houh-Decl., ¶126.

- (1) ***“an application for utilizing the communication module for coupling to a server to communicate with the server”***

As discussed above, Hughes describes both systems and methods for implementing multi-level fantasy sports contests. *Supra* section X.A.5.a); EX1003-Hughes, 1:16-21, 1:33-43, 2:44-47, 12:20-25, 13:4-13. Hughes explains that fantasy sports contests are implemented using a fantasy sports contest application. *Id.*, 7:62-8:2, 9:25-32. A schematic diagram of an illustrative fantasy sports contest system for implementing Hughes’s fantasy sports-contest application is shown at FIG. 1:



Id., FIG. 1. Referencing this diagram, Hughes teaches that “[t]he fantasy sports contest application may be any suitable software” that is implemented, for example “*at user equipment 116, at server 102, at any other suitable location...*, or at any combination thereof.” *Id.*, 11:8-16. Throughout its disclosure, Hughes explains that user input is provided at a user device. *See, e.g.*, EX1003-Hughes, 8:18-23, 13:4-8, 13:31-47, 17:6-28, 17:32-18:10. As shown in Figure 1, the user device is communicably linked to the computer server that implements the fantasy sports-contest application utilizing a communications module. *Id.*, 8:18-24 (“Communication network 114 may be used for communication between users

having user equipment 116 and server 102.”), 11:8-16 (explaining that the fantasy sports contest application is implemented at the server), 15:7-10 (“The terminal may include processing equipment 118 for receiving and transmitting fantasy sports contest data.”). Thus, Hughes discloses a fantasy sports-contest application that utilizes the communication module to link the user device to the server. EX1002-Houh-Decl., ¶127-28.

(2) ***“to allow a user to simultaneously compete in the multiple real time contests of skill or chance,”***

As detailed below, Hughes explains that its fantasy sports-contest application allows users to enter a single roster into multiple simultaneous award leagues. *Infra* Section X.A.5.d)-e); EX1003-Hughes, 15:57-61. Hughes expressly states that the fantasy sports-contest-application “allows the user to enter multiple award leagues (in the same sports category).” *Id.*, 16:18-20. In describing exemplary embodiments, Hughes makes clear that users participate in these multiple award leagues simultaneously:

As another example, the fantasy sports contest application may allow the McDonald’s Corporation to create ***numerous local award leagues, multiple regional award leagues, multiple national award leagues, and an international award league*** to allow McDonald’s

customers all over the world to participate in one or more McDonald's award leagues (e.g., a World Cup Soccer League)... The fantasy sports contest application may *allow the user to simultaneously participate in McDonald's local, regional, national, and international award leagues at the same time* and may award prizes to the user based on, for example, weekly scores, leaderboard standings, or any other suitable criteria.

Id., 3:4-22; *accord id.*, 12:7-29. Moreover, as described above in Section X.A.1.e)(2), Hughes discloses that the event selections enable real-time participation in the selected multiple contests of skill or chance. EX1002-Houh-Decl., ¶129. Thus, Hughes teaches that the fantasy sports-contest application allows a user to simultaneously participate in the selected multiple real-time contests. *Id.*

d) 14[c]: “wherein the application is configured for receiving user input including in which of the multiple real time contests of skill or chance to join and receiving additional user input including a single set of event selections related to the one or more events,”

Hughes teaches element 14[c]. As described below, in the fantasy sports contests described in Hughes, users select which award leagues to enter and provide a roster that is applied to each award league. *Infra X.A.5.d)(1)-X.A.5.d)(4)*, EX1002-Houh-Decl., ¶130-35.

(1) “user input including in which of the multiple real time contests of skill or chance to join”

As described above in Section X.A.1.d)(2), Hughes discloses that the fantasy sports-contest application receives input from a user, including information regarding which award leagues to join. EX1002-Houh-Decl., ¶131. As described above in Section X.A.1.e)(2), Hughes discloses that the event selections enable real-time participation in the selected multiple contests of skill or chance. *Id.*

(2) “additional user input including a... set of event selections related to the one or more events”

As described above in Section X.A.1.d)(1), Hughes discloses that the fantasy sports-contest application receives input from a user including event selections, such as rosters and real-time predictions, that correspond to real-life sporting events. EX1002-Houh-Decl., ¶132.

(3) “receiving user input”

As described above in Section X.A.1.d)(3), which is incorporated herein, Hughes discloses that its fantasy sports-contest application receives user input at a user device. EX1002-Houh-Decl., ¶133.

(4) “a single set of event selections”

As has been discussed, Hughes describes a fantasy sports contest in which a user may participate in multiple simultaneous award leagues. In these contests, the

user may provide a single roster (i.e., a single set of event selections) applied to each award league that the user enters. EX1002-Houh-Decl., ¶134-35.

Hughes explains that “the fantasy sports contest application may allow the user to enter *the same team ... or roster* to compete in more than one award leagues.” EX1003-Hughes, 15:57-61. Indeed, Hughes touts that its fantasy sports contest application “allows the user to enter multiple award leagues (in the same sports category), *while maintaining only one team*” as an advantage of its fantasy sports contest application. *Id.*, 16:18-20. Hughes explains that a user may apply a previously made roster to be used in other award leagues. EX1003-Hughes, 17:32-18:10. For example, a user may have a roster from a non-award league, and the fantasy sports-contests application may allow the user to select one or more award leagues in which to enter that roster. *Id.*, 17:32-36. Once the user enters their single roster into these separate award leagues, the user receives separate scores and standings based on the roster. *Id.*, 18:53-19:21, 20:66- 21:5. FIG. 12; *see also infra* Section X.A.1.f)(3). Thus, Hughes teaches that the user’s single set of event selections is received by the fantasy sports-contest application. EX1002-Houh-Decl., ¶135.

- e) ***14[d]: “wherein the single set of event selections enable simultaneously and in real time participating separately with the selected multiple real time contests of skill or chance,”***

Hughes teaches element 14[d]. In the fantasy sports contests described in Hughes, a user’s roster (i.e., the single set of event selections) may be entered into multiple award leagues such that the user simultaneously participates in these award leagues. EX1003-Hughes, 15:57-61, 16:18-20.; *see supra* Section X.A.1.d). Therefore, as explained below, Hughes teaches in real time participation in fantasy sports contests. EX1002-Houh-Decl., ¶136-142.

- (1) ***“wherein the single set of event selections enable simultaneously... participating... with the selected multiple real time contests of skill or chance”***

As described in Section X.A.1.e)(1), Hughes teaches that the user’s single roster enables simultaneously participating in the selected multiple contests. EX1002-Houh-Decl., ¶137.

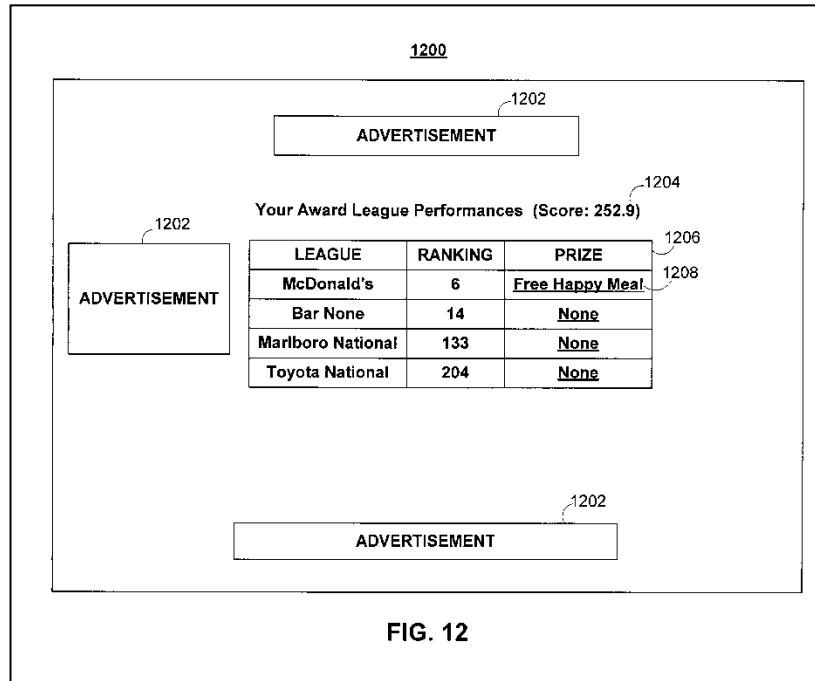
- (2) ***“enable... in real time participating... with the selected multiple real time contests of skill or chance”***

As described in Section X.A.1.e)(2), Hughes teaches a contest in which the user’s roster enables in real time participating in the selected multiple contests. EX1002-Houh-Decl., ¶138. By including users’ real-time participation, the fantasy sports contests of Hughes are “real time contests.” *Id.*

(3) “*participating separately*”

As discussed above, Hughes discusses applying the user’s roster to each selected award league. *Supra* Section X.A.5.d)(4). The discussion of these award leagues throughout Hughes makes clear that the user separately participates in each of the award leagues. EX1002-Houh-Decl., ¶139-42.

Hughes discloses that scores and standings are determined for each award league a user participates in. EX1002-Houh-Decl., ¶140-41. Notably, Hughes explains that the standings for each award league may be separately displayed to the user. EX1003-Hughes, 18:53-19:21, 20:66- 21:5 (“[T]he fantasy sports contest application may display user performance information such as scores, *rankings*, prizes, or any other suitable information in connection *with all the award leagues* that the user currently participates in as shown in FIG. 12.”). For example, a user’s standings may be reported on a scoreboard screen, which shows “the user’s performance information in all the award leagues for a particular sports category that the user competes in.” *Id.*, 18:66-19-1. In particular, the scoreboard screen may include a grid “show[ing] the user’s ranking... based on [the user’s] score.” *Id.*, 19-11-13. An exemplary scoreboard screen is shown in FIG. 12 of Hughes:



Id., FIG. 12. As shown, the scoreboard screen includes a column that separately displays a user’s ranking across each of four award leagues in which the user participated. The separate standings for each award league indicates that the user participated separately in each award league. Thus, Hughes teaches that the user separately participates in each selected contest. EX1002-Houh-Decl., ¶139-42.

f) 14[e]: “wherein the multiple contests of skill or chance are selected from single entry contests and multiple entry contests.”

Hughes teaches element 14[e]. As described above in Section X.A.1.c), Hughes describes award leagues that may be either single entry or multiple entry contests. EX1002-Houh-Decl., ¶143.

* * *

Because Hughes teaches the preamble and limitations [a]-[e] of claim 14, Hughes anticipates claim 14. EX1002-Houh-Decl., ¶144.

6. Claim 15

[15] The device as claimed in claim 14 wherein the one or more events are selected from the group consisting of a television-based event, a scheduled competition, a scheduled series of competitions, a sporting event, an event based on a video game, computer game or electronic game, an entertainment show, a game show, a reality show, a news show and a commercial contained in a broadcast.

Hughes anticipates dependent claim 15. As described with respect to the preamble of claim 14, Hughes describes a device for participating in a fantasy sports contest involving multiple award leagues. *Supra* Section X.A.5.a). The fantasy sports contests correspond to one or more sporting events, such as team sports, individual sports, or even contests involving animals. EX1003-Hughes, 1:33-43. This is like the '189 patent, which describes contests relating to one or more football games. EX1001-USP189, 1:52-58, 6:1-4, 6:27-29, 8:52-55. Thus, Hughes teaches that the one or more events are a sporting event. EX1002-Houh-Decl., ¶145-46.

7. **Claim 17**

“The device as claimed in claim 14 wherein the application allows a user to join one or more competitive groups which comprise user generated competitive groups including existing groups on a social networking site or a physical site hosting a social group.”

Hughes anticipates dependent claim 17. As described with respect to the preamble of claim 14, Hughes describes a device for participating in a fantasy sports contest involving multiple award leagues. *Supra* Section X.A.5.a). In particular, the award leagues of Hughes are operated by a fantasy sports-contest application. *Supra* Section X.A.5.c)-d). Hughes further explains that the award leagues may take various forms. In some cases, award leagues involve user-generated private leagues. EX1003-Hughes, 1:44-54 (“To participate in a private league, ***the user may either start the league himself or join a private league created by another user.***”). In some cases, award leagues involve public leagues. *Id.*, 1:61-67. For example, a sponsor may manage an award league that users access at the sponsor’s location site. *Id.*, 4:48-55 (“[T]he fantasy sports contest application may allow the user to access a specific award league using ***a terminal located at the sponsor’s physical location.***”); *see also* 2:59-63 (describing operating award leagues for customers who regularly watching sports at establishment); 14:59-62, 20:7-11, FIG. 14. Thus, Hughes teaches that application allows users to join both user-generated groups as

well as groups associated with a physical site hosting a social group. EX1002-Houh-Decl., ¶147-48.

8. Claim 22

“The device of claim 14 wherein the multiple contests of skill or chance include different types of competitions selected from single day competitions, multiple day competitions and season long competitions.”

Hughes anticipates dependent claim 22. As described in Section X.A.4, Hughes teaches multiple contests of skill or chance that include different types of competitions. EX1002-Houh-Decl., ¶149.

B. Ground 2: Claims 19-20, and 34-35 are Obvious over Hughes in View of Berner

Dependent claims 19-20 and 34-35 recite the additional claim element of a lockout to prevent users from placing bets after the underlying event has occurred. This claim element is a longstanding feature of sports betting which is necessary to ensure fair competition; indeed, state laws require gaming operators not to accept bets after the result is known. *See, e.g.*, Nev. Rev. Stat. § 465.070(5) (“It is unlawful for any person ... [t]o place or increase a bet after acquiring knowledge of the outcome of the game”); N.J. Admin. Code § 13:69N-1.9(n) (prohibiting sports betting “after the outcome of an event is known”). Including this lockout feature as part of Hughes’ fantasy sports contest would have been obvious to a person of ordinary skill in the art.

1. **Claim 19**

“The device as claimed in claim 14 further configured for implementing a lockout to prevent input after beginning of the one or more events.”

The combination of Hughes and Berner renders claim 19 obvious. As described with respect to the preamble of claim 14, Hughes describes a device for participating in a fantasy sports contest involving multiple award leagues. *Supra* Section X.A.5.a). Users participate in the award leagues by providing user input, including both input regarding which of the multiple award leagues to join and additional input including a single set of event selections related to corresponding sporting events. *Supra* Section X.A.5.d). EX1002-Houh-Decl., ¶150-58.

Hughes explains that, at some point, the fantasy sports-contest application may prevent users from entering inputs. EX1003-Hughes, 7:32-47. In particular, the award leagues may include “***deadlines*** to make trades or to perform any other suitable task associated with one or more fantasy sports contests.” *Id.* Though it describes these deadlines, Hughes does not explicitly describe how such deadlines are implemented. EX1002-Houh-Decl., ¶152.

Berner discloses a lockout for preventing user input at certain times when participating in electronic gaming. Like Hughes, Berner describes systems and methods for operating games of skill that correspond to a live event and that are simultaneously played by multiple players. EX1005-Berner, Abstract, 1:36-44,

Claim 1. As part of these games, lockouts are implemented to prevent user input after the live event has begun. *Id.*, 2:28-29, Claim 3, Claim 5. Berner explains that lockouts “prevent improper game inputs by [the] participants.” *Id.*, Claim 5. These lockout are transmitted by “mass communication means,” such as radio or television signals. *Id.*, Claim 3. U.S. Pat. 4,592,546, which Berner incorporates, explains that the lockout prevents users from entering enter a wager (i.e., input) after the relevant play in the corresponding sporting event has occurred. EX1008-Fascenda, Abstract, 2:44-48 (“[W]hen the ball is snapped... there would be a lock-out of this prediction and any attempted prediction after the ball snap time would be ineffectual.”), 3:53-65; *see* EX1005-Berner, 1:13-20, 2:27-28 (“Game data include lockout signal involving player predictions as described in the ’546 patent”). Berner provides as much detail regarding lockouts as the ’189 patent, which incorporates Berner by reference. EX1001-USP189, 1:65-2:22. Indeed, the applicant of ’189 patent cited Berner as support when amending claims in related applications to recite a lockout signal. *See* EX1017-FH880, 89-90; EX1018-FH402, 68. Thus, Berner discloses implementing a lockout to prevent input after beginning of the one or more events. EX1002-Houh-Decl., ¶153.

A POSITA would have been motivated to modify Hughes’s fantasy sports contest application to implement a lockout to prevent input after beginning of the one or more events, as described in Berner. Hughes acknowledges the need to

enforce deadlines when operating a fantasy sports game, but Hughes does not describe the mechanism for imposing such deadlines. EX1003-Hughes, 7:32-47. However, the use of lockouts to prevent user inputs after an event occurs were well known in the field of electronic gaming, including as described in Berner. A person of ordinary skill would have been motivated to combine the teachings of Hughes and Berner. Hughes and Berner are references in the field of electronic gaming and describe games of skill that correspond to a live event and that are played simultaneously by multiple players. Moreover, both Hughes and Berner recognize the same problem (i.e., the need to enforce deadlines and ensure fair play). The use of a lockout as described in Berner is a known technique that had been used to improve similar contests by eliminating user's ability to obtain an unfair advantage by submitting inputs after the result is known. A POSITA would have applied that known technique (i.e., a lockout) to improve the award leagues of Hughes. EX1002-Houh-Decl., ¶154-55.

A POSITA would have had a reasonable expectation of success in combining the device for participating in a fantasy sports contest involving multiple award leagues described in Hughes with the lockout of Berner. Lockouts were known prior to the '189 patent. EX1005-Berner, 1:13, 2:27-28; *see also* EX1008-Fascenda, 2:44-48. A POSITA would have reasonably expected success in implementing a lockout in the fantasy sports contests of Hughes at least because Hughes suggests specific

times to trigger the lockout. For example, Hughes discloses that in some embodiments, the application “may allow the user to enter the same team...or roster to compete in more than one award leagues.” EX1003-Hughes, 3:27-31. A lockout may be employed before the start of a season such that every participant must enter their team into the one or more award leagues before games commence in that league. Hughes also discloses that “fantasy sports contest-related information may include... information regarding deadlines to make trades or to perform any other suitable task associated with one or more fantasy sports contests....” EX1003-Hughes, 7:37-47. A lockout could therefore be employed during a season to allow, for example, players to be traded before the start of each game throughout the season, but not during active game play. Berner elaborates that “[g]ame data includes lockout signals involving player predictions as described in [Fascenda].” EX1005-Berner, 2:27-28. Fascenda describes using a lockout to prevent a game prediction after a ball has been snapped. EX1008-Fascenda, 3:46-65. Thus, the lockout described in Fascenda and Berner could be incorporated into the fantasy sports contest of Hughes by preventing trades and predictions either before a season begins or during the season before games begin. EX1002-Houh-Decl., ¶156-57.

Thus, the combination of Hughes and Berner renders obvious claim 19. EX1002-Houh-Decl., ¶158.

2. Claim 20

“The device as claimed in claim 19 wherein the lockout occurs immediately before competitors in the contests of skill or chance are able to see relevant live game action unfold.”

The combination of Hughes and Berner renders claim 20 obvious. As described with respect to the preamble of claim 14, Hughes describes a device for participating in a fantasy sports contest involving multiple award leagues. *Supra* Section X.A.5.a). Users participate in the award leagues by providing user input, including both input regarding which of the multiple award leagues to join and additional input including a single set of event selections related to corresponding sporting events. *Supra* Section X.A.5.d).

As described in Section X.B.1, Berner discloses the use of a lockout as claimed in the '189 patent. In particular, Berner explains that a lockout prevents user input upon the occurrence of the relevant live game action. EX1005-Berner, Claim 5, 1:13-20, 2:27-28; *see also* EX1008-Fascenda, Abstract, 2:44-48 (“[W]hen the ball is snapped... there would be a lock-out of this prediction and any attempted prediction after the ball snap time would be ineffectual.”), 3:53-65. Furthermore, a POSITA would have been motivated to modify Hughes’s fantasy sports-contest application to implement the lockout described in Berner and have had a reasonable expectation of success in doing so. *Supra* Section X.B.1.

Thus, the combination of Hughes and Berner renders obvious claim 20.

EX1002-Houh-Decl., ¶159-62.

3. Claim 34

“The method as claimed in claim 24 further comprising implementing a lockout to prevent input after beginning of the one or more events.”

The combination of Hughes and Berner renders claim 34 obvious. As described with respect to elements [a]-[b] and [d] of claim 24, Hughes describes a fantasy sports contest involving multiple award leagues that users may participate in. *Supra* Sections X.A.1.b) and X.A.1.d). Users participate in the award leagues by providing user input, including both input regarding which of the multiple award leagues to join and additional input including a single set of event selections related to corresponding sporting events. *Supra* Section X.A.1.d).

As described in Sections X.B.1-X.B.2, the combination of Hughes and Berner renders obvious a fantasy sports contests that implements a lockout to prevent input after beginning of the one or more events. Thus, the combination of Hughes and Berner renders obvious claim 34. EX1002-Houh-Decl., ¶163-66.

4. Claim 35

“The method as claimed in claim 34 wherein the lockout occurs immediately before competitors in the contests of skill or chance are able to see relevant live game action unfold.”

The combination of Hughes and Berner renders claim 35 obvious. As described with respect to elements [a]-[b] and [d] of claim 24, Hughes describes a fantasy sports contest involving multiple award leagues that users may participate in. *Supra* Sections X.A.1.b) and X.A.1.d). Users participate in the award leagues by providing user input, including both input regarding which of the multiple award leagues to join and additional input including a single set of event selections related to corresponding sporting events. *Supra* Section X.A.1.d).

As described in Sections X.B.1-X.B.3, the combination of Hughes and Berner renders obvious a fantasy sports contest that implements a lockout to prevent input after beginning of the one or more events, where the lockout occurs immediately before competitors in the contests of skill or chance are able to see relevant live game action unfold. Thus, the combination of Hughes and Berner renders obvious claim 35. EX1002-Houh-Decl., ¶167-170.

C. Ground 3: Claims 23, 25-26, 33, and 38 are Obvious over Hughes in View of Barber

Dependent claims 23, 25-26, 33, and 38 recite limitations relating to wagering cash or currency when placing bets and winning prizes. As detailed below, cash

wagers and prizes were well known in the prior art and would have been obvious. A POSITA would have understood that fantasy sports contests have included bets since their inception.

1. Claim 23

“The device of claim 14 wherein users wager cash to participate in the multiple real time contests of skill or chance.”

The combination of Hughes and Barber renders claim 23 obvious. As described with respect to the preamble of claim 14, Hughes describes a device for participating in a fantasy sports contest involving multiple award leagues. *Supra* Section X.A.5.a). Users participate in the award leagues by providing user input, including both input regarding which of the multiple award leagues to join and additional input including a single set of event selections related to corresponding sporting events. *Supra* Section X.A.5.d).

Hughes explains that these award leagues may be created by a fantasy sports-contest application. EX1003-Hughes, 2:44-50. Hughes further explains that “[t]he fantasy sports contest application may... award prizes to the user based on, for example, weekly scores, leaderboard standings, or any other suitable criteria. *Id.*, 3:17-22. In particular, the “fantasy sports contest application may produce winners and award prizes in these award leagues on semi-cumulative or non-cumulative basis.” *Id.*, 4:26-30. Hughes also acknowledges in its background that “[a]thletic

endeavors have long supported a broad range of secondary contests, which include wagering on the outcome.” *Id.*, 1:12-15. Though Hughes describes awards in the fantasy sports-contest application, it does not detail how such awards are implemented or how wagering is conducted. EX1002-Houh-Decl., ¶171-74.

Barber, meanwhile, does disclose “a fantasy sports contest application that provides to a user the ability [to access] fantasy sports contests and wagering opportunities.” EX1006-Barber, 2:14-17. Like Hughes, Barber describes systems and methods for operating games of skill that correspond to a live event and that are simultaneously played by multiple players. *Id.*, 2:18-31, 3:35-47. As part of these games, users can wager cash (*i.e.*, “money”). *Id.*, 3:8-13, 3:23-24 (“Wagering opportunities... may be opportunities to wager for... money.”). Barber also explains that users can participate in multiple real-time contests of skill or chance. *Id.*, 2:39-51 (“the fantasy sports contest application may provide to the user the ability to place a wager based on a portion of a sporting event, a sporting event, or *more than one* sporting event that is related to a fantasy sports contest...”); *see also id.*, 21:31-39 (“[T]he fantasy sports contest application may provide to fantasy sports contestants the ability to wager based on more than one event.”). Thus, Barber discloses implementing fantasy sports contests wherein users wager cash to participate in the multiple real-time contests of skill or chance. EX1002-Houh-Decl., ¶174.

A POSITA would have been motivated to modify Hughes's fantasy sports-contest application to implement "the ability to place a wager related to the fantasy sports contest," as described in Barber. Despite describing the ability of the fantasy sports-contest application to award prizes, Hughes does not describe the mechanism for placing wagers. EX1003-Hughes, 4:26-30. That shortcoming in Hughes would have motivated the POSITA to identify other references that do describe the ability to access wagering opportunities through a fantasy sports contest application. Barber is one such reference. Both Hughes and Barber are in the same field and address the same problem. For example, both Hughes and Barber describe games of skill that correspond to a live event and that are played simultaneously by multiple players. The systems and methods for providing wagering opportunities detailed in Barber are a known technique that had been used to improve similar contests by allowing contestants to wager based on real-life athletic events as a hobby and for entertainment purposes. The POSITA would have applied that known technique (*i.e.*, placing a wager) to improve the fantasy sports-contest application of Hughes. EX1002-Houh-Decl., ¶175-.

A POSITA would have had a reasonable expectation of success in combining the device for participating in a fantasy sports contest involving multiple award leagues described in Hughes with the cash-wagering system of Barber. Barber and Hughes both describe similar fantasy sports-contest applications. EX1006-Barber,

2:14-17; Hughes 2:23-26. Barber describes how a cash-wagering system is implemented in its fantasy sports-contest application. *See, e.g.*, EX1006-Barber, 8:1-9, 13:24-55, 17:10-20, 20:43-56. Implementing Barber’s cash-wagering system in Hughes would amount to no more than the use of this known technique to improve the similar fantasy sports-contest application of Hughes. A POSITA would have reasonably expected to successfully combine Barber’s cash-wagering system with Hughes’ fantasy sports contest application because the cash-wagering system could have been implemented the same way in Hughes’ fantasy sports-contest application as in Barber’s similar application. EX1002-Houh-Decl., ¶176.

Thus, the combination of Hughes and Barber renders obvious claim 23. EX1002-Houh-Decl., ¶177.

2. Claim 25

“The method as claimed in claim 24 wherein users are provided a currency for watching the one or more events or participating in the multiple contests of skill or chance.”

As described in Section X.A.2, Hughes discloses claim 25. To the extent PO argues that Hughes does not disclose this claim, the combination of Hughes and Barber renders this claim obvious. EX1002-Houh-Decl., ¶178-82.

Barber further discloses “opportunities to wager for, for example, fantasy sports contest points (i.e., points that accumulate to increase the user’s standing in the fantasy sports contest), points redeemable for prizes (i.e., cash or non-cash

prizes), non-cash prizes, or money.” EX1006-Barber, 3:8-13. The points disclosed by Barber are a “currency” because participants have “wagering opportunities for fantasy sports contest points between a contestant of a fantasy sports contest league and the fantasy sports contest application system.” EX1006-Barber, 3:44-47.

3. Claim 26

“The method as claimed in claim 25 where the currency is redeemable for prizes or services.”

As described with respect to elements [a]-[b] and [d] of claim 24, Hughes describes a fantasy sports-contest involving multiple award leagues that users may participate in. *Supra* Sections X.A.1.b) and X.A.1.d). As described with respect to claim 25, Hughes explains that users may receive fictional dollars to create rosters that are entered in the award leagues. *Supra* Section X.A.2. Hughes explains that, by utilizing the fictional dollars and participating in the award league, users may receive prizes. EX1003-Hughes, 4:26-35 (“The fantasy sports contest application ***may produce winners and award prizes*** in these award leagues on semi-cumulative or non-cumulative basis (e.g., based on weekly scores) to keep the contest challenging to all users throughout the season.”). Prizes awarded may be a cash prize or a service, such as a free meal from the restaurant sponsoring the award leagues. *Id.*, 2:59-3:3, 8:46-55, 11:31-12:6, 2:20-25. Users may receive these prizes by redeeming a receipt received from the fantasy sports-contest application. *Id.*,

5:47-58, 19:22-32. Thus, Hughes teaches that the currency is redeemable for prizes or services. EX1002-Houh-Decl., ¶189-89.

Barber discloses “opportunities to wager for, for example, fantasy sports contest points (i.e., points that accumulate to increase the user’s standing in the fantasy sports contest), points redeemable for prizes (i.e., cash or non-cash prizes), non-cash prizes, or money.” EX1006-Barber, 3:8-13. Barber further elaborates that “the fantasy sports contest application may provide to fantasy sports contestants the ability to wager for points redeemable for prizes.” *Id.*, 21:1-3. Such prizes for which points might be redeemed include, for example, “sports apparel redeemable through a catalog or cash prizes.” *Id.*, 33:19-20. The points disclosed by Barber are thus “redeemable for prizes or services” as required by Claim 26. EX1002-Houh-Decl., ¶183-89.

A POSITA would be motivated to combine Barber’s system of points that are directly redeemable for prizes or services with Hughes’ fantasy sports contests to implement a system of currency for users. Hughes discloses that users may earn a currency to be redeemed for prizes or services. A POSITA would have realized the efficiency of allowing users to effectively cash out their in-game currency by redeeming currency directly for prizes. A POSITA would therefore have recognized that the method of Hughes would be improved by allowing points or other currency to be directly redeemed for prizes, as Barber discloses. Moreover, a POSITA would

have reasonably expected success in implementing Barber's currency system because both Hughes and Barber address problems in the same field: both references describe games of skill that correspond to a live event and that are played simultaneously by multiple players. The systems and methods for allowing contestants to redeem currency for prizes or services detailed in Barber use a known technique that had been used to improve similar contests by allowing contestants to directly exchange an in-game currency such as points or money for real-world cash or non-cash prizes. The POSITA would have applied that known technique (i.e., redeeming currency for prizes) to improve the fantasy sports-contest application of Hughes. EX1002-Houh-Decl., ¶188.

4. Claim 33

“The method as claimed in claim 24 wherein a user pays a separate consideration to play in a contest of the multiple contests of skill or chance through a micro-payments system, where a prize is supplemented or funded by an entry fee or consideration paid by all who participate in a group.”

The combination of Hughes and Barber renders claim 33 obvious. As described with respect to elements [a]-[b] and [d] of claim 24, Hughes describes a fantasy sports contest involving multiple award leagues in which users may participate. *Supra* Section X.A.1.b) and X.A.1.d). Users participate in the award leagues by providing user input, including both input regarding which of the multiple

award leagues to join and additional input including a single set of event selections related to corresponding sporting events. *Supra* Section X.A.1.d).

As described in Section X.C.1, Barber discloses “wherein users wager cash to participate in the multiple real time contests of skill or chance.” Barber further teaches that users can pay a separate consideration to play in a contest of the multiple contests of skill or chance. EX1006-Barber, 3:25-34 (“[M]ultiple fantasy sports contest ***leagues can be grouped together*** into a fantasy sports contest. A fantasy sports contest league for a particular sport may be a sub-division of a larger fantasy sports contest for that sport...”). For example, Barber states that the fantasy sports contest application may interface with multiple wagering applications that have “separate wagering application display screens.” *Id.*, 23:38-60. Barber also teaches that a prize can be supplemented or funded by an entry fee or consideration paid by all who participate in a group. *Id.*, 3:13-19 (“Wagering opportunities of the present invention may have, for example, a predetermined payout schedule (e.g., the winner receiving 25 points redeemable for prizes, the winner receiving a specified percentage of the ***sum of all the entry fees to a wagering pool***, etc.) or may be organized in a pari-mutuel approach...”). Barber also discloses a micropayments system by which users can pay fees or consideration. *See* EX1006-Barber, 13:43-47, 37:22-41. The ’189 patent defines a micropayments system as one “where a prize is supplemented or funded by an entry fee or consideration paid by all who

participate in a group.” EX1001-USP189, 3:33-34. Barber’s micropayments system allows, for example, “the winner receiving a specified percentage of the sum of all the entry fees to a wagering pool.” EX1006-Barber, 3:13-19. Furthermore, as described in Section X.C.1, a POSITA would have been motivated to modify Hughes’s fantasy sports contest application to implement a wager system as described in Barber. Thus, the combination of Hughes and Barber renders obvious claim 33. EX1002-Houh-Decl., ¶190-95.

5. Claim 38

“The method of claim 24 wherein users wager cash to participate in the multiple contests of skill or chance.”

The combination of Hughes and Barber renders claim 38 obvious. As described with respect to elements [a]-[b] and [d] of claim 24, Hughes describes a fantasy sports contest involving multiple award leagues that users may participate in. *Supra* Sections X.A.1.b) and X.A.1.d). Users participate in the award leagues by providing user input, including both input regarding which of the multiple award leagues to join and additional input including a single set of event selections related to corresponding sporting events. *Supra* Section X.A.1.d).

As described in Section X.C.1, the combination of Hughes and Barber renders obvious a fantasy sports contest wherein users wager cash to participate in the multiple contests of skill or chance. Thus, the combination of Hughes and Berner renders obvious claim 38. EX1002-Houh-Decl., ¶196-99.

XI. CONCLUSION

Petitioner requests institution of an *inter partes* review of the '189 patent and cancellation of claims 14-15, 17, 19-20, 22-26, 31, 33-35, 37, and 38.

Respectfully Submitted,

Dated: January 16, 2025

/John V. Hobgood/
John Hobgood, Lead Counsel
Registration No. 61,540

TABLE OF EXHIBITS

Exhibit	Description
1001	U.S. Patent No. 11,338,189 (“USP189”)
1002	Declaration of Dr. Henry Houh
1003	U.S. Patent No. 7,614,944 to Hughes et al. (“Hughes”)
1004	[Reserved]
1005	U.S. Patent No. 5,813,913 to Berner et al. (“Berner”)
1006	U.S. Patent No. 8,538,563 to David Barber (“Barber”)
1007	File History of U.S. Patent 11,338,189 (“FH189”)
1008	U.S. Pat. No. 4,592,546 to Fascenda and Lockton (“Fascenda”)
1009	Brody James Ruihley, <i>The Fantasy Sport Experience: Motivations, Satisfaction and Future Intentions</i> (2010) (“Ruihley”)
1010	Michael Trippiedi, <i>Daily Fantasy Sports Leagues: Do You Have the Skill to Win at These Games of Chance?</i> , 5 UNLV Gaming L.J. 201 (Fall 2014) (“Trippiedi”)
1011	Ray Vichot, <i>History of Fantasy Sports and its Adoption by Sports Journalists</i> , Newsgames (Jan. 2, 2009, at 7:47 AM), https://web.archive.org/web/20111003143620/http://newsgames.gatech.edu/blog/2009/01/history-of-fantasy-sports-and-its-adoption-by-sports-journalists.html (“Vichot”)
1012	Jim Hu, <i>Sites See Big Season for Fantasy Sports</i> , CNET (Aug. 8, 2003, at 4:00 AM PT), https://www.cnet.com/culture/sites-see-big-season-for-fantasy-sports/ (“Hu”)
1013	Lee K. Farquhar, Robert Meeds, <i>Types of Fantasy Sports Users and Their Motivations</i> , J. Computer-Mediated Comm., July 2007,

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of U.S. Patent No. 11,338,189

Exhibit	Description
	https://academic.oup.com/jcmc/article/12/4/1208/4582982 ("Farquhar")
1014	Michael Harmon, <i>The SAVVY Guide to Fantasy Sports</i> (2005) ("Harmon")
1015	Microsoft, <i>Computer Dictionary</i> (5 th ed., 2002) ("Microsoft"), https://burmatarrecords.wordpress.com/wp-content/uploads/2009/12/microsoft_computer_dictionary__fifth_edition1.pdf
1016	Paul Coulton et al., <i>Creating Entertainment Applications for Cellular Phones</i> , <i>ACM Computers in Entertainment</i> , July 2005 ("Coulton")
1017	File History of U.S. Patent No. 11,918,880 ("FH880")
1018	File History of U.S. Patent No. 11,951,402 ("FH402")

CERTIFICATE 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 *Inter Partes* Review totals 13,893, which is less than the 14,000 words allowed under 37 CFR §42.24(a)(1)(i).

Respectfully submitted,

Dated: January 16, 2025

/ Akkad Y. Moussa /
Akkad Y. Moussa
Reg. No. 77,078

CERTIFICATE OF SERVICE

I hereby certify that on January 16, 2025, I caused a true and correct copy of the foregoing materials:

- Petition for *Inter Partes* Review of U.S. Patent No. 11,338,189 under 35 U.S.C. §312 and 37 C.F.R. §42.104
- Exhibit List
- Exhibits for Petition for *Inter Partes* Review of U.S. Patent No. 11,338,189 (Exhibits 1001-1003, 1005-1018)
- Power of Attorney
- Fee Authorization
- Word Count Certification Under 37 CFR §42.24(d)

to be served via electronic mail at the email address listed below. This email address is for the attorney of record for the '189 patent as listed on USPTO Patent Center and who has agreed to electronic service:

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