

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PNC Bank, N.A.
Petitioner,

v.

SECURE AXCESS, LLC,
Patent Owner.

Case CBM2015-00039
Patent 7,631,191 B2

Before BARBARA A. BENOIT, TRENTON A. WARD, and
GEORGIANNA W. BRADEN, *Administrative Patent Judges*.

BENOIT, *Administrative Patent Judge*.

DECISION

Denying Institution of Covered Business Method Patent Review
35 U.S.C. 324(a) and 37 C.F.R. § 42.208

I. INTRODUCTION

PNC Bank, N.A. (“Petitioner” or “PNC Bank”) filed a revised Petition (Paper 6, “Pet.”) requesting institution of a covered business method patent review of claims 1–32 of U.S. Patent No. 7,631,191 B2 (Ex. 1001, “the ’191 patent”). Pet. 1. This filing constitutes PNC Bank’s second covered business method patent review challenge to the ’191 patent. Patent Owner, Secure Axxess, LLC, filed a Preliminary Response (“Prelim. Resp.”). Paper 8. We have jurisdiction under 35 U.S.C. § 324.

For the reasons that follow, we determine that the ’191 patent qualifies as a covered business method patent for purposes of section 18(d)(1) of the Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112–29, 125 Stat. 284, 331. Based on the particular circumstances of this case, we exercise our discretion and deny review under 35 U.S.C. §§ 324(a) and 325(d).

A. *Related Matters*

Petitioner represents that the ’191 patent has been asserted against it in *Secure Axxess, LLC v. PNC Bank, N.A.*, Case No. 6:13-cv-00722 (E.D. Tex). Pet. 3; *see* Paper 6 (Patent Owner’s Notice of Related Matters). Petitioner also identifies seventeen other court proceedings in which Patent Owner has asserted the ’191 patent. *See* Pet. 3–4; *see* Paper 6 (Patent Owner’s Mandatory Notice).

The Board instituted, on September 9, 2014, a covered business method patent review of claims 1–32 of the ’191 patent (*PNC Bank, N.A. v. Secure Axxess, LLC*, Case CBM2014-00100 (PTAB September 9, 2014)

CBM2015-00039
Patent 7,631,191 B2

(Paper 10)) and an *inter partes* review of claims 1–23 and 25–32 of the ’191 patent (*EMC Corp. v. Secure Axxess, LLC*, Case IPR2014–00475 (PTAB September 9, 2014) (Paper 10)). The Board also instituted, on April 13, 2015, a covered business method patent review of claims 1–32 of the ’191 patent brought by another petitioner (*Bank of the West v. Secure Axxess, LLC*, Case CBM2015-00009 (PTAB May 13, 2015) (Paper 21)), which was then consolidated with CBM2014-00100. *See* CBM2015-00009 (Paper 27) (Decision on Petitioners’ Unopposed Joint Motion for Consolidation). The Board further instituted, on June 22, 2015, a covered business method patent review of claims 1–5, 16, and 29–32 of the ’191 patent brought by yet another petitioner (*T. Rowe Price Inv. Servs., Inc. v. Secure Axxess, LLC*, Case CBM2015-00027 (PTAB June 22, 2015) (Paper 9)).

B. The ’191 Patent

The ’191 patent relates to authenticating a web page, such as “www.bigbank.com.” Ex. 1001, Abstract, 1:16–18, 1:28–34. The ’191 patent explains that customers can be deceived by web pages that appear to be authentic, but are not. *See id.* at 1:28–34. A web page that has been authenticated according to the techniques described by the ’191 patent includes “all of the information in the same format as the non-authenticated page.” *Id.* at 2:58–60. The authenticated web page, however, also includes an “authenticity stamp.” *Id.* at 2:60–62.

Figures 1 and 2 are set forth below:

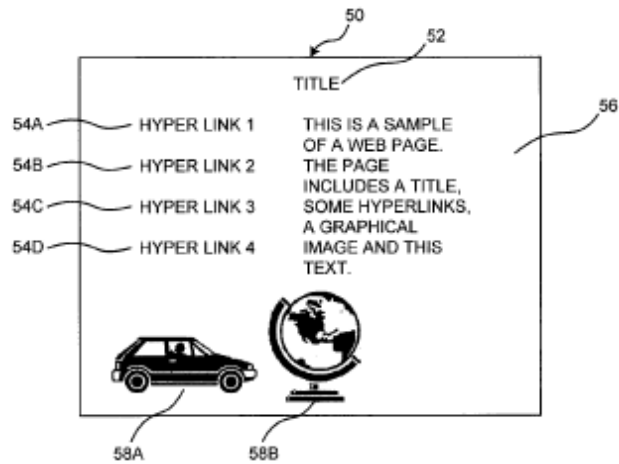


Figure 1

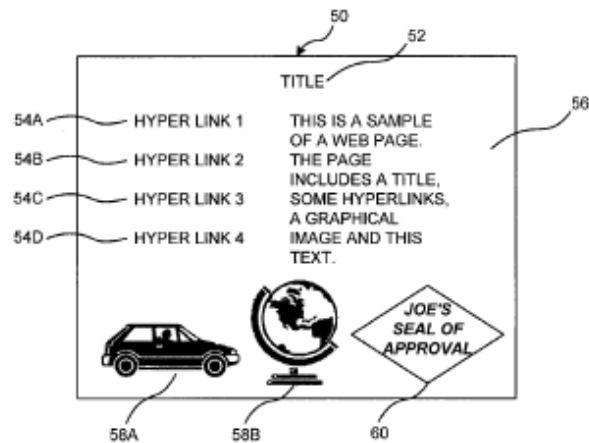


Figure 2

Each of Figures 1 and 2 shows web page 50, having title 52, hyperlinks 54A, 54B, 54C, and 54D, textual information 56, and graphical images 58A and 58B. *Id.* at 2:54–57. Figure 1 shows web page 50 has not been authenticated, whereas Figure 2 shows web page 50 has been authenticated. *Id.* at 2:54–61. The authenticated web page shown in Figure 2, unlike the non-authenticated web page shown in Figure 1, includes authenticity stamp 60. *Id.*

C. Illustrative Claims

Petitioner challenges claims 1–32 of the '191 patent. Claims 1 and 29 are illustrative of the claims at issue and read as follows:

1. A method comprising:

transforming, at an authentication host computer, received data by inserting an authenticity key to create formatted data; and

returning, from the authentication host computer, the formatted data to enable the authenticity key to be retrieved from the formatted data and to locate a preferences file,

wherein an authenticity stamp is retrieved from the preferences file.

29. An authentication system comprising:

an authentication processor configured to send formatted data having an authenticity key to a client, wherein the authenticity key enables location of a preferences file, and wherein an authenticity stamp is retrieved from the preferences file.

D. Asserted Grounds of Unpatentability

The information presented in the Petition sets forth Petitioner's contentions of unpatentability of claims 1–32 of the '191 patent under 35 U.S.C. §§ 101, 102, 103, and 112, first paragraph, based on the following specific grounds:

Basis	Challenged Claims	Reference(s)
§ 101	1–32	
§ 112	1–16 and 29–32	
§ 102	1–9, 11, 12, 14–22, 24, 25, 27–29, 31, and 32	Mosaic Manual ¹
§ 102	1–9, 11, 12, 14–22, 24, 25, 27–29, 31, and 32	SecureWeb Guide ²
§ 102	10, 13, 23, and 26	Mosaic Manual
§ 102	10, 13, 23, and 26	SecureWeb Guide
§ 103	10, 13, 23, and 26	Mosaic Manual and SHTTP Overview ³
§ 103	10, 13, 23, and 26	SecureWeb Guide and SHTTP Overview

II. ANALYSIS

A. *Standing*

Section 18 of the AIA provides for the creation of a transitional program for reviewing covered business method patents. Section 18 limits reviews to persons or their privies who have been sued or charged with infringement of a “covered business method patent.” AIA § 18(a)(1)(B); *see* 37 C.F.R. § 42.302. As discussed above in Section I.A., Petitioner represents it has been sued for infringement of the ’191 patent and is not

¹ WILLIAM T. WONG, *Secure NCSA Mosaic Reference Manual*, Enterprise Integration Technologies (Draft) (Nov. 14, 1994) (Ex. 1010) (“Mosaic Manual”).

² TERISA SYSTEM, *SecureWeb Document User’s Guide*, Version 1.0, (Oct. 18, 1996) (Ex. 1011) (“SecureWeb Guide”).

³ ADAM SHOSTACK, *An Overview of SHTTP*, May 1995 (Ex. 1012) (“SHTTP Overview”).

estopped from challenging the claims on the grounds identified in the Petition. Pet. 12–3; *see* Paper 5 (Patent Owner’s Mandatory Notice).

The parties dispute whether the ’191 patent is a “covered business method patent,” as defined in the AIA and 37 C.F.R. § 42.301. *See* Pet. 9–12; Prelim. Resp. 27–31. “[T]he term ‘covered business method patent’ means a patent that claims a method or corresponding apparatus for performing data processing or other operations used in the practice, administration, or management of a financial product or service, except that the term does not include patents for technological inventions.” AIA § 18(d)(1); *see* 37 C.F.R. § 42.301(a).

We conclude that the ’191 patent meets the definition of a “covered business method patent” for the reasons set forth below, and that Petitioner has standing to file a petition for a covered business method patent review.

1. Financial Product or Service

One requirement of a covered business method patent is for the patent to “claim[] a method or corresponding apparatus for performing data processing or other operations used in the practice, administration, or management of a financial product or service.” AIA § 18(d)(1); *see* 37 C.F.R. § 42.301(a). The legislative history of the AIA “explains that the definition of covered business method patent was drafted to encompass patents ‘claiming activities that are financial in nature, incidental to a financial activity or complementary to a financial activity.’” 77 Fed. Reg. 48,374, 48,735 (Aug. 14, 2012) (quoting Cong. Rec. S5432 (daily ed. Sept. 8, 2011)). The legislative history of the AIA further indicates that the

language “practice, administration and management” of a financial product or service “is intended to cover any ancillary activities related to a financial product or service, including, without limitation, marketing, customer interfaces, *Web site management and functionality*, transmission or management of data, servicing, underwriting, customer communications, and back office operations—e.g., payment processing, stock clearing.” 157 Cong. Rec. S1364–65 (daily ed. Mar. 8, 2011) (statement of Sen. Schumer) (emphasis added).

Petitioner contends the ’191 patent meets the financial product or service requirement because the claims are directed to performing data processing used in the administration of a financial product or service. Pet. 9–10. Specifically, Petitioner refers to our determination in CBM2014-00100 that the ’191 patent is a covered business method patent. *Id.* at 10 (citing Ex. 1004 (CBM2014-00100, Paper 10)).

Patent Owner, however, contends that covered business method patent review is only available for a narrow range of patents. Prelim. Resp. 27–28. According to Patent Owner, the ’191 patent claims an authentication server that authenticates data (such as a web page) from a server. *Id.* at 28. As such, Patent Owner contends the ’191 patent is not a covered business method patent, because the claimed method and apparatus are directed to techniques to distinguish authenticated data. *Id.* at 29.

Based on the record before us, we determine that the method and apparatus claimed by the ’191 patent perform operations used in the administration of a financial product or service and are incidental to a

financial activity. The '191 patent discloses a need by financial institutions to ensure customers are confident that the financial institution's web page is authentic (Ex. 1001, 1:28–33). The '191 patent further discloses an embodiment of the invention as being used by financial institutions. *Id.* at 8:21–23 (“In various embodiments . . . a portion of a URL . . . is encrypted, such as “bigbank.com”), 11:23–25, 11:52–67. The '191 patent also indicates embodiments can be used in commerce, including (i) transacting business over a network, such as the Internet (*id.* at 10:65–11:3); and (ii) selling goods, services, or information over a network (*id.* at 11:17–21).

The '191 patent relates to authenticating a web page and claims a particular manner of doing so— by inserting an authenticity key to create formatted data, enabling a particular type of computer file to be located, from which an authenticity stamp is retrieved. Ex. 1001, 1:16–18, 12:9–18. The '191 patent is directed to solving problems related to providing a web site to customers of financial institutions. Thus, the '191 patent covers the ancillary activity related to a financial product or service of Web site management and functionality and so, according to the legislative history of the AIA, the method and apparatus of the '191 patent perform operations used in the administration of a financial product or service. *See PNC Bank, N.A. v. Secure Access, LLC*, Case CBM2014-00100 (PTAB September 9, 2014) (Paper 10) (“CBM2014-00100 Institution Decision”), 15 (similarly determining that the method and apparatus claimed by the '191 patent are incidental to financial activity).

Although not determinative, Patent Owner's many suits alleging infringement of claims of the '191 patent by financial institutions is a factor weighing toward the conclusion that the '191 patent claims a method or apparatus that at least is incidental to a financial activity, even if other types of companies also practice the claimed invention.

Therefore, we conclude the '191 patent claims a method or corresponding apparatus for performing data processing or other operations used in the practice, administration, or management of a financial product or service. *See* 37 C.F.R. § 42.301(a).

2. Exclusion for Technological Inventions

The definition of "covered business method patent" in Section 18 of the AIA expressly excludes patents for "technological inventions." AIA § 18(d)(1); *see* 37 C.F.R. § 42.301(a). To determine whether a patent is for a technological invention, we consider "whether the claimed subject matter as a whole recites a technological feature that is novel and unobvious over the prior art; and solves a technical problem using a technical solution." 37 C.F.R. § 42.301(b). The following claim drafting techniques, for example, typically do not render a patent a "technological invention":

(a) Mere recitation of known technologies, such as computer hardware, communication or computer networks, software, memory, computer-readable storage medium, scanners, display devices or databases, or specialized machines, such as an ATM or point of sale device.

(b) Reciting the use of known prior art technology to accomplish a process or method, even if that process or method is novel and non-obvious.

(c) Combining prior art structures to achieve the normal, expected, or predictable result of that combination.

Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,764 (Aug. 14, 2012).

Petitioner indicates that the '191 patent is not directed to a technological invention, because the '191 patent does not claim a novel, nonobvious technological feature and does not solve a technical problem using a technical solution. Pet. 11–12. Petitioner cites to our decision in CBM2014-00100 that the claims recite only known computer components and do not claim specialized technology, such as encryption algorithms, for authenticating a web page. *Id.* According to Petitioner, the '191 patent is directed to solving a non-technical problem—ensuring customers are confident that web pages are authentic. *Id.* at 12.

Patent Owner disagrees. Prelim. Resp. 29–31. Patent Owner contends that every claim of the '191 patent “solves the technical problem of distinguishing authentic data (e.g., data for web pages) sent by a legitimate site from fraudulent data sent by a fraudulent site.” *Id.* at 30. Patent Owner further contends the claimed subject matter, as a whole, recites a technological solution—a computer-implemented system, including an authentication system, an authentication key, and an authentication stamp—that executes a particular series of steps. *Id.* at 31.

Although the claimed steps of the '191 patent may be an allegedly novel and nonobvious process, based on the record before us, we find that the technological features of the claimed steps are directed to using known technologies. *See* 77 Fed. Reg. at 48,764 (indicating use of known

technologies does not render a patent a technological invention). The '191 patent indicates that components of the computer system used in the claimed authentication process are known technologies. For example, the Specification discloses known computer systems and devices running known operating systems (Ex. 1001, 3:30–34, 10:30–35, 11:7–12), known user input devices (*id.* at 11:3–6), and known networks and networking and communication protocols (*id.* at 3:38–49, 10:67–11:3, 11:12–17). The '191 patent further discloses that the system is programmed using known programming and scripting languages, and known data structures (*id.* at 10:35–40), and discloses that the system uses “conventional techniques for data transmission, signaling, data processing, network control, and the like” (*id.* at 10:41–44).

Furthermore, the '191 patent describes using known cryptography techniques for encrypting and decrypting the authenticity key. *See id.* at 6:28–32. Also, the '191 patent incorporates by reference a cryptography text. *Id.* at 10:44–48. The recited authentication stamp is described as having a number of variations, including graphics only, text only, text and graphics, audio, blinking (*id.* at 2:67–3:4), but does not describe novel or nonobvious technology used to implement those features.

Patent Owner has not shown sufficiently that the claimed subject matter, as a whole, requires any specific, unconventional software, computer equipment, cryptography algorithms, processing capabilities, or other technological features. Patent Owner's identification of allegedly novel or unobvious steps, such as limitations in independent claim 1 and dependent

claims 3 and 4 (Prelim. Resp. 30–31), does not persuade us that any of the steps require the use of specific computer hardware alleged to be novel and unobvious over the prior art. Nor are we persuaded that any of the claimed steps, the claimed instructions, or the claimed authentication system solves a technical problem using a technical solution, as Patent Owner contends (*id.* at 30–31). Reciting the use of known prior art technology to accomplish a process or method, even if that process or method is novel and non-obvious, does not render the claimed subject matter a technological invention. *See* 77 Fed. Reg. at 48,764.

Thus, we conclude the '191 patent is not directed to a technological invention, which is excluded from a covered business method patent review. Accordingly, the '191 patent is eligible for a covered business method patent review.

B. Background Regarding Petitioner's Related Cases

One of two pending covered business method patent reviews challenging the '191 patent includes the Petitioner in the instant matter, PNC Bank, as a party challenging the patent. *See PNC Bank, N.A. v. Secure Access, LLC*, Case CBM2014-00100 (PTAB September 9, 2014) (Paper 10) (“CBM2014-00100 Institution Decision”). The CBM2014-00100 Petition (“the previous PNC Bank Petition”) challenged all 32 claims of the '191 patent as unpatentable under 35 U.S.C. §§ 101 and 103, as well as challenging claims 1–16 and 29–32 under 35 U.S.C. § 112, first paragraph, as not satisfying the written description requirement if a claim term was construed in a certain manner. CBM2014-00100 Institution Decision 6, 34.

We authorized a covered business method patent review for the '191 patent on the ground that claims 1–32 under 35 U.S.C. § 103 would have been obvious over a reference describing the Secure HyperText Transfer Protocol⁴ and a patent⁵ describing techniques for displaying a graphic “certification indicator” on a web page if data related to an online transaction has been authenticated. *Id.* at 25–26 (describing asserted references), 34–35 (ordering institution). Oral argument for CBM2014-00100 was held on May 20, 2015, and a final written decision is due no later than September 9, 2015.

C. Analysis

The Board has discretion whether to institute a covered business method patent review. 35 U.S.C. § 324(a) (indicating a post-grant review may not be instituted *unless* a determination is made that the information presented in the petition, if such information is not rebutted, would demonstrate that it is more likely than not at least one of the claims challenged in the petition is unpatentable). A petitioner is not entitled to unlimited challenges against a patent. 35 U.S.C. § 325(d) (indicating a determination whether to institute may take into account whether the same or substantially the same prior art or arguments previously were presented); 35 U.S.C. § 325(e)(1) (when a post-grant review results in a final written decision, a petitioner is prohibited from requesting or maintaining a

⁴ E. Rescorla & A. Schiffman, *The Secure HyperText Transfer Protocol*, the Internet Engineering Task Force (July 1996) (“SHTTP Reference”).

⁵ U.S. Patent 6,018,724, issued Jan. 25, 2000 (“Arent”).

CBM2015-00039
Patent 7,631,191 B2

proceeding with respect to a claim challenged on any ground that the petitioner raised or reasonably could have raised during the post-grant review). Further, concerning multiple proceedings or matters involving the same patent when a post-grant review is pending, the manner in which the post-grant review or the other proceeding or matter may proceed is discretionary and may include termination of any such matter or proceeding. 35 U.S.C. § 325(d); 37 C.F.R. 42.222(a) (“*Multiple proceedings.* Where another matter involving the patent is before the Office, the Board may during the pendency of the post-grant review, enter any appropriate order regarding the additional matter including providing for the stay, transfer, consolidation, or termination of any such matter.”).

The Board has instituted four proceedings challenging the ’191 patent—IPR2014-00475, CBM2014-00100, CBM2015-00009, and CBM2015-00027. Under 35 U.S.C. § 325(d), we consolidated CBM2015-00009 with CBM2014-00100 (CBM2014-00100, Paper 41), leaving three of those four proceedings pending before the Board. Accordingly, under 35 U.S.C. § 325(d), the present Petition is “another matter” involving the ’191 patent when a post-grant review is pending. Therefore, the Board may determine how this matter, as well as the other post-grant reviews instituted, are to proceed, including determining whether to terminate this matter or terminate any or all of the instituted post-grant reviews. *See* 35 U.S.C. § 325(d) (“may determine the manner in which the post-grant review or other proceeding or matter may proceed, including providing for

the stay, transfer, consolidation, or termination of any such matter or proceeding”).

Furthermore, the Petitioner here (i.e., PNC Bank) is a party to the Petition filed in CBM2014-00100. *See* CBM2014-00100 Institution Decision 2. Thus, the present Petition is the second petition brought by PNC Bank against the ’191 patent. Accordingly, under 35 U.S.C. § 325(d), it is appropriate for us to take into account, in determining whether to institute a proceeding in the present case, whether the same or substantially the same prior art or arguments previously were presented.

Both Petitions of PNC Bank challenge claims 1–32 as unpatentable under 35 U.S.C. § 101 and argue that some claims are unpatentable under 35 U.S.C. § 112, first paragraph, if a certain claim construction is applied to a claim term. In both Petitions, Petitioner argues that each claim of the ’191 patent fails to recite patentable subject matter under § 101, because the claims fall within the judicially created exception encompassing abstract ideas and also fail the “machine-or-transformation test.” *Compare* CBM2014-00100, Paper 3 (“CBM2014-00100 Petition” or “CBM2014-00100 Pet.”) 73–77 *with* Pet. 57–76. More specifically, Petitioner asserts the claims are directed to the fundamental economic practice of notarizing documents. *Compare* CBM2014-00100 Pet. 74 *with* Pet. 57–67.

In the instant Petition, Petitioner attempts to bolster its previously unsuccessful argument and submits evidence, presumably in response to the Board found lacking in the first Petition, regarding notary practice and

history. Pet. 60–66 (citing Exs. 1015⁶, 1016⁷); *see* CBM2014-00100 Institution Decision, 21 (“We also find that Petitioner does not provide sufficient persuasive evidentiary support that the placing of a trusted stamp or seal on a document is ‘a fundamental economic practice’ or a ‘building block of the modern economy.’”). Petitioner’s attempt at a second bite of the apple weighs against institution. *See ZTE Corp. v. ContentGuard Holdings Inc.*, Case IPR2013-00454, Paper 12 (Decision on Institution), 6 (PTAB Sept. 25, 2013) (informative) (“[a] decision to institute review on some claims should not act as an entry ticket, and a how-to guide, for the same Petitioner”).

With respect to 35 U.S.C. § 112, first paragraph, Petitioner argues in both Petitions that the written description does not provide support for “enabl[ing] the authenticity key . . . to locate a preferences file,” as recited in independent claims 1, 29, 31, and 32, if these claims require the authenticity key is used to provide the location of a preferences file. *Compare* CBM2014-00100 Petition 76–79 *with* Pet. 78–80. The repetition of this argument also weighs against institution.

Additionally, both Petitions assert prior art references related to the Secure HyperText Transfer Protocol (“SHTTP protocol”). Pet. 17 (“The cited prior art relates to Secure HyperText Transfer Protocol (SHTTP) and browsers implementing SHTTP.”). The SHTTP reference asserted in CBM2014-00100 is the SHTTP standard by the Internet Engineering Task

⁶ MICHAEL CLOSEN, *Notary Law & Practice Cases & Materials* (1997).

⁷ RAYMOND C. ROTHMAN, *Notary Public: Practices & Glossary* (1978).

Force. CBM2014-00100 Pet. viii, 20. In the present Petition, the prior art in the asserted grounds “all relates to the same SHTTP system.” Pet. 18. One primary reference (“Mosaic Manual”) describes a browser that implements the SHTTP protocol. *Id.* Another primary reference (“SecureWeb Guide”) describes a software add-on (“a plug-in”) to a different browser that implements the SHTTP protocol (that is, Netscape Navigator browser). *Id.* Petitioner asserts that Mosaic Manual and SecureWeb Guide—“as primary references, each anticipates or, in view of secondary references, renders obvious all claims of the ’191 patent.” *Id.* PNC Bank, however, relies on different declarants for support for each Petition. *Compare* CBM2014-00100 Pet. (relying on the Declaration of Paul Clark (Ex. 1002)) *with* Pet. (relying on the Declaration of William T. Wong (Ex. 1002)).

In the present Petition, PNC Bank indicates that it “in no way seeks for this petition to interfere with” instituted proceedings CBM2014-00100 and CBM2015-00027. Pet. 2 n.1. In attempting to distinguish this Petition from the CBM2014-00100 Petition, PNC Bank asserts in a footnote that “[d]istinct invalidating prior art references are cited in each of the petitions.” *Id.* Petitioner’s statement is correct—different prior art references are cited. Petitioner, however, does not address directly the fact that the references relate to the same protocol—Secure HyperText Transfer Protocol (“SHTTP protocol”). Petitioner acknowledges it is a party in CBM2014-00100 and contends that “the prior art asserted in this petition [are not references] that a skilled searcher conducting a diligent search reasonably could have been expected to discover in preparing the previous CBM petition.” *Id.* at 13 n.4.

CBM2015-00039
Patent 7,631,191 B2

Petitioner fails to provide, however, evidence or analysis as to why a diligent search would not have discovered the prior art relied upon in this Petition.

Petitioner's unsupported, conclusory statements are not persuasive in view of the relationship between the prior art asserted in the two Petitions. In CBM2014-00100, the SHTTP reference asserted in CBM2014-00100 is the SHTTP standard by the Internet Engineering Task Force. CBM2014-00100 Pet. viii, 20. In the present Petition, the Petitioner indicates that "cited prior art relates to Secure HyperText Transfer Protocol (SHTTP) and browsers implementing SHTTP." Pet. 17. Although not the same references, Petitioner challenges the same claims using the same or substantially the same prior art or arguments.

Under 35 U.S.C. § 325(d), the AIA grants broad discretion to determine the course that best balances the parties' competing interests in these proceedings. We recognize the need to balance permitting Petitioner to present new evidence and arguments in multiple petitions against protecting Patent Owner from harassment in the form of repetitive, serial petitions challenging the same patent. *See* H.R. Rep. No. 112-98, pt.1, at 48 (2011) (AIA proceedings "are not to be used as tools for harassment or a means to prevent market entry through repeated litigation and administrative attacks on the validity of a patent. Doing so would frustrate the purpose of the section as providing quick and cost effective alternatives to litigation."). We also are mindful of the need for efficiency. It is more efficient for the parties and the Board to address a matter once rather than multiple times.

CBM2015-00039
Patent 7,631,191 B2

We also note the status of CBM2014-00100 for which oral argument was heard May 20, 2015 and a final written decision is due no later than September 9, 2015. *See* 35 U.S.C. § 325(e)(1) (prohibiting a petitioner, when a post-grant review results in a final written decision, from requesting or maintaining a proceeding with respect to a claim challenged on any ground that the petitioner raised or reasonably could have raised during the post-grant review).

Balancing the competing interests involved in the multiple Petitions challenging the '191 patent, and taking full account of the facts and equities involved in this particular matter, we exercise our discretion, under 35 U.S.C. §§ 324(a) and 325(d), to deny the Petition and decline to institute a covered business method patent review.

III. ORDER

For the foregoing reasons, it is

ORDERED that the Petition is denied as to all challenged claims in U.S. Patent No. 7,631,191 B2; and

FURTHER ORDERED that no covered business method patent review is instituted.

CBM2015-00039
Patent 7,631,191 B2

For PETITIONER:

Lionel M. Lavenue
Shaobin Zhu
Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
lionel.lavenue@finnegan.com
shaobin.zhu@finnegan.com

For PATENT OWNER:

Gregory Gonsalves
gonsalves@gonsalveslawfirm.com

Andre Bahou
aj.bahou@secureaxcess.com