

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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PNC BANK NA and SUNTRUST BANK,  
Petitioner,

v.

PARUS HOLDINGS, INC.,  
Patent Owner.

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Case CBM2015-00109  
Case CBM2015-00149  
Patent 8,838,074 B2<sup>1</sup>

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Before BART A. GERSTENBLITH, DAVID C. McKONE, and  
PATRICK M. BOUCHER, *Administrative Patent Judges*.

McKONE, *Administrative Patent Judge*.

DECISION

Denying Institution of Covered Business Method Patent Reviews  
*37 C.F.R. § 42.208*

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<sup>1</sup>This paper addresses issues in the above-listed cases. The parties are not authorized to use this heading style for any subsequent papers.

## I. INTRODUCTION

### *A. Background*

In Case CBM2015-00109 (“CBM-109”), PNC Bank NA and SunTrust Bank (collectively, “Petitioner”) filed a Petition (CBM-109, Paper 3, “Pet. 109”) to institute a covered business method patent review of claims 1–26 of U.S. Patent No. 8,838,074 B2 (“the ’074 patent”). In Case CBM2015-00149 (“CBM-149”), Petitioner filed a Petition (CBM-149, Paper 3, “Pet. 149”) to institute a covered business method review of claims 1–26 of the ’074 patent. SunTrust Mortgage Inc. is listed as a real party-in-interest in each Petition. Pet. 109, 1; Pet. 149, 1. Parus Holdings, Inc. (“Patent Owner”) filed Preliminary Responses to both Petitions (CBM-109, Paper 7, “Prelim. Resp. 109”; CBM-149, Paper 7, “Prelim. Resp. 149”).

Upon consideration of the Petitions and Preliminary Responses, we conclude that, under Section 18(a)(1)(E) of the Leahy-Smith America Invents Act (“AIA”) and 37 C.F.R. § 42.304(a), Petitioner has not shown that the ’074 patent is eligible for covered business method patent review. Accordingly, we deny both Petitions and do not institute a covered business method patent review.

### *B. Related Matters*

Petitioner filed six covered business method patent review petitions challenging three patents related to the ’074 patent: CBM2015-00110 and CBM2015-00150, challenging U.S. Patent No. 8,843,120 B2 (“the ’120 patent”); CBM2015-00111 and CBM2015-00151, challenging U.S. Patent No. 8,843,141 B2 (“the ’141 patent”); and CBM2015-00112 and CBM2015-00152, challenging U.S. Patent No. 8,098,600 B2 (“the ’600

CBM2015-00109; CBM2015-00149  
Patent 8,838,074 B2

patent”). CBM-149, Paper 6, 4. The ’074, ’120, ’141, and ’600 patents share a common specification, and the ’074, ’141, and ’120 patents are direct or indirect continuations of the application that issued as the ’600 patent.

Petitioner has been sued for infringement of the ’074 patent in *Parus Holdings, Inc. v. PNC Bank, N.A.*, No. 1:14-cv-01428-UNA (D. Del.), and *Parus Holdings, Inc. v. SunTrust Bank*, No. 1:14-cv-01429-UNA (D. Del.). Pet. 109, 1; CBM-109, Paper 6, 2; Pet. 149, 1–2; CBM-149, Paper 6, 2.

The ’074 patent also has been asserted in *Parus Holdings, Inc. v. Sallie Mae Bank*, No. 1:14-cv-01427-UNA (D. Del.). Pet. 109, 1; CBM-109, Paper 6, 2; Pet. 149, 1–2; CBM-149, Paper 6, 2. According to Patent Owner, the District Court, on October 16, 2015, granted Petitioner’s motion to dismiss in each of these district court matters on the ground that the ’074 patent is ineligible under 35 U.S.C. § 101. CBM-109, Paper 8; CBM-149, Paper 8.

### *C. Request for Authorization to Terminate*

Following the District Court’s grant of Petitioner’s motion to dismiss, discussed above, a teleconference was held with the parties on November 5, 2015. Petitioner and Patent Owner jointly request authorization to file a motion for termination under 35 U.S.C. § 327, the statute governing termination of *instituted* post-grant reviews due to settlement, but confirmed during the call that no written settlement agreement currently exists. The parties request that the proceedings terminate without estoppel, such that Petitioner can re-file the petitions upon completion of Federal Circuit review of the District Court’s ineligibility determination, if necessary. Patent Owner limits its agreement to Petitioner re-filing the same petitions.

Effectively, the parties request that we stay these proceedings pending Federal Circuit review of the District Court’s decision.

We deny the parties’ request. As explained below, the ’141 patent is not eligible for covered business method patent review. Deferring entering such a decision is inconsistent with our policy objective of “secur[ing] the just, speedy, and inexpensive resolution of every proceeding.” 37 C.F.R. § 42.1. We do not reach, and, thus, express no opinion on, eligibility of the claims of the ’074 patent under 35 U.S.C. § 101.

*D. The Asserted Grounds*

In CBM-109, Petitioner challenges claims 1–26 on the following grounds:

Claims	Grounds
1–26	35 U.S.C. § 101
1–26	35 U.S.C. § 102(a) as anticipated by Bowater (EP 0 794 650 A2, published Sept. 10, 1997) (CBM-109, Ex. 1009)
1–26	35 U.S.C. § 103(a) as obvious over Bowater and Bordeaux (US 4,852,170, issued July 25, 1989) (CBM-109, Ex. 1010)

In CBM-149, Petitioner challenges claims 1–26 on the following grounds:

Claims	Grounds
1–26	35 U.S.C. § 101

Claims	Grounds
1, 3–9, and 11–26	35 U.S.C. § 103(a) as obvious over DirectTalk (IBM, AIX DirectTalk/6000: <i>General Information and Planning</i> , Release 6, GC33-1720-00 (Dec. 1995)) (CBM-149, Ex. 1010), DirectTalkMail (IBM, DirectTalkMail: <i>Administration</i> , Release 6, SC33-1733-00 (Feb. 1996)) (CBM-149, Ex. 1011), and Hark (IBM, AIX DirectTalk/6000, <i>Speech Recognition with the BBN Hark Recognizer</i> , Release 6, SC33-1734-00 (Feb. 1996)) (CBM-149, Ex. 1012)
2 and 10	DirectTalk, DirectTalkMail, Hark, and Bordeaux (CBM-149, Ex. 1013)
2, 10, and 11	35 U.S.C. § 112 ¶ 1 (written description)

## II. ANALYSIS

### A. The '074 Patent

The '074 patent describes a “unified messaging service” that allows a user to access communications such as e-mail and voice mail using “a single point of access to all communications, integrated with personal information management tools and customized public content delivery.” Ex. 1001,<sup>2</sup> 2:38–49. For example, the user can connect to the Internet with a computer to retrieve e-mail, voice mail, and faxes from a common website. *Id.* at 3:47–51; *see also id.* at 5:12–16 (“As for Web connections, you can boot up your computer, sign onto the internet, go through the system’s secure web site and play your voice mails, read your e-mail and faxes, manage your

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<sup>2</sup> The '074 patent is Exhibit 1001 in both proceedings.

contacts and schedule conferences. The website thus becomes a unified-messaging system.”).

In another example, a user can retrieve messages and perform other tasks by navigating a system menu with a telephone. *Id.* at 4:9–59. Example tasks include opening a mailbox (Fig. 4B), listening to messages in the mailbox (Fig. 4C), forwarding and returning messages (Fig. 4D), returning a call (Fig. 4F), and leaving a voice message for another user (Fig. 4G). *Id.* at 4:16–33; *see also id.* at 6:60–67 (“Subscribers can access and play back their voice mail from any telephone or from their personal Web page. Voice mail messages can be saved, retrieved, deleted or rerouted to other individuals, groups or broadcast and voice responses can be returned immediately to the caller. Also, e-mail messages can be viewed on the subscriber’s personal home page or the system will read the e-mail to the subscriber from any telephone using text-to-speech technology.”).

The user can listen to e-mails over the Internet or the telephone with text-to-speech software:

The system also utilizes text-to-speech so you can listen to your e-mail over the phone, or the subscriber can display his e-mail on his computer where he can reply to it and send e-mail to his contacts with audio (using audio attachments). Further, using Vosaic’s internet audio program, the system can deliver voice mail via streaming audio over the internet using Java without a plug-in.

*Id.* at 5:30–36.

When navigating the system menu with a telephone, users can use voice commands to (1) build, edit and manage their contact lists, (ii) review, play back, read, reply to and/or reroute voice mail and e-mail, (iii) schedule conference calls with 800 number access, and (iv) maintain an itemized calling log listing all calls with a running total of all charges.

*Id.* at 6:20–25. Specifically, the system can process a user’s voice using “Dialogic’s [Signal Computing System Architecture] extended bus and board-level resources [and] Purespeech speech recognition running on Dialogic Antares boards.” *Id.* at 5:60–63.

According to the ’074 patent, “[b]asically, the system provides a unified solution to the many varied communications and messaging devices used daily by mobile professionals and active consumers. With simple voice commands, subscribers can easily access and respond to all of their communications and messaging media in the same session.” *Id.* at 6:40–45.

Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method for managing user-related communications by a voice-enabled system driven by natural voice commands received from users, involving the user-related communications including at least a telephone call, a facsimile message, an e-mail message and a message containing data, the method comprising:

receiving respective user-related communications, via a network, relating to the users at one or more servers in a collection of servers, at least one of the user-related communications including a natural speech input from a respective user, the one or more servers configured to receive and transmit the respective user-related communications via at least one of a telephone connection and an internet connection in accordance with a plurality of network protocols;

providing access to data at a database, the database associated with the collection of servers, and the data associated with a respective user account, the respective user account resident at the database;

recognizing and interpreting the natural speech input at a speaker-independent speech recognition functionality

resident at the one or more servers, by comparing the natural speech input to a plurality of stored commands to select a voice-enabled function from a plurality of voice-enabled functions, each of the plurality of stored commands being an alternative intuitive description of a voice-enabled function and executing the voice-enabled function selected for an operation relating to the data, the voice-enabled function based at least in part on the natural speech input and configured to generate and transmit at least one of a message and a notification relating to the operation over at least one of the telephone connection and the internet connection that is not the connection over which the respective user's user-related communication is received; and

receiving a DTMF signal from one of electronic communication devices associated with the respective user and executing the voice-enabled function based at least in part on the DTMF signal.

### *B. Claim Construction*

We interpret claims of an unexpired patent using the broadest reasonable construction in light of the specification of the patent in which they appear. *See* 37 C.F.R. § 42.300(b); *In re Cuozzo Speed Techs., LLC*, 793 F.3d 1268, 1278 (Fed. Cir. 2015). In applying the broadest reasonable construction, claim terms generally are given their ordinary and customary meaning, as would be understood by one of ordinary skill in the art in the context of the entire disclosure. *See In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). No claim term requires express construction for purposes of this Decision.

*C. Whether the '074 Patent is a Covered Business Method Patent*

Section 18 of the Leahy-Smith America Invents Act (“AIA”) provides for the creation of a transitional program for reviewing covered business method patents. “The Director may institute a transitional proceeding only for a patent that is a covered business method patent.” Pub. L. No. 112-29, § 18(a)(1)(E), 125 Stat. 284, 330 (Sept. 16, 2011). A “covered business method patent” is 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.” Pub. L. No. 112-29, § 18(d)(1), 125 Stat. at 331; *accord* 37 C.F.R. § 42.301(a) (providing the same definition of “covered business method patent”). “The petitioner must demonstrate that the patent for which review is sought is a covered business method patent.” 37 C.F.R. § 42.304(a).

The Patent Office has noted, “the legislative history reveals that ‘[t]he plain meaning of ‘financial product or service’ demonstrates that section 18 is not limited to the financial services industry.’” Transitional Program for Covered Business Method Patents—Definitions of Covered Business Method Patent and Technological Invention, 77 Fed. Reg. 48,734, 48,736 (Aug. 14, 2012) (quoting 157 Cong. Rec. S5432 (daily ed. Sept. 8, 2011) (statement of Sen. Schumer)). According to Senator Schumer, “[t]he plain meaning of ‘financial product or service’ demonstrates that section 18 is not limited to the financial services industry. At its most basic, a financial product is an agreement between two parties stipulating movements of money or other consideration now or in the future.” 157 Cong. Rec. S5432.

A patent need have only one claim directed to a covered business method to be eligible for review. *See* 77 Fed. Reg. at 48,736. Nevertheless, “the definition set forth in § 42.301(a) . . . is based on what the patent claims.” *Id.*

In arguing that the '074 patent is eligible for covered business method patent review, Petitioner does not focus on the language of a particular claim. Rather, Petitioner makes two arguments in support of its contention that all of the claims are directed to financial products or services. First, Petitioner argues that Patent Owner has asserted the '074 patent only against financial institutions, and, accordingly, that “[e]ach of claims 1–26 are directed to a method or corresponding apparatus for sending and managing information from a subscriber to a network used in the practice, administration, or management of a financial product or service.” Pet. 109, 7; Pet. 149, 6. Petitioner (Pet. 109, 7 n.2; Pet. 149, 6 n.2) cites to an additional statement from Senator Schumer during the debate of Section 18:

The amendment also requires a patent to relate to a “financial product or service.” To meet this requirement, the patent need not recite a specific financial product or service. Rather the patent claims must only be broad enough to cover a financial product or service. For example, if a patent claims a general online marketing method but does not specifically mention the marketing of a financial product, such as a savings account, if that marketing method could be applied to marketing a financial product or service, the patent would be deemed to cover a “financial product or service.” Likewise, *if a patent holder alleges that a financial product or service infringes its patent, that patent shall be deemed to cover a “financial product or service” for purposes of this amendment regardless of whether the asserted claims specifically reference the type of product of service accused of infringing.*

CBM2015-00109; CBM2015-00149

Patent 8,838,074 B2

157 Cong. Rec. S1365 (daily ed. Mar. 8, 2011) (statement of Sen. Schumer) (emphasis added). According to Petitioner, Patent Owner has asserted the '074 patent in district court against the “online and mobile banking products” of financial institutions. Pet. 109, 7; Pet. 149, 7. In light of Senator Schumer’s statement, Petitioner argues that Patent Owner’s district court assertions are sufficient to show that the claims of the '074 patent are directed to financial products and services. *Id.*

Second, Petitioner argues that the '074 patent Specification “discloses that the claimed components are used for financial purposes” and, thus,

the patent describes using the claimed systems and methods in the practice, administration, or management of a financial product or service as it was designed to be able to provide access to financial content, and custom content that may include personal financial information (such as personal banking as is accused in the various litigations filed by the Patent Owner).

Pet. 109, 8–9; Pet. 149, 7–8. Petitioner (Pet. 109, 8; Pet. 149, 6–7) cites the '074 patent’s Background of the Invention, which states that “[i]ndividuals and business people seek to communicate with each other, obtain useful information, *interact commercially* and entertain themselves in an increasingly mobile society.” Ex. 1001, 1:40–42 (emphasis added).

According to Petitioner, the '074 patent’s description of using the system to “provide[] direct access to news, weather, sports, **financial**, travel, and other custom content” is an example of interacting commercially. Pet. 109, 8 (quoting Ex. 1001, 7:36–38); Pet. 149, 7 (same). Petitioner also points to a depiction of “billing info” stored in the database of Figure 6 and speculates that it “is presumably related to the ‘itemized calling log with a running total of all charges’ and most likely, for billing the particular user for the listed charges.” Pet. 109, 9 (quoting Ex. 1001, 6:24–25); Pet. 149, 7–8 (same).

In response, Patent Owner argues that the '074 patent does not claim financial products or services because its claims are directed to technology applicable across a variety of industries and business sectors and do not relate particularly to the financial services sector. Prelim. Resp. 109, 13; Prelim. Resp. 149, 19. Patent Owner (Prelim. Resp. 109, 16; Prelim. Resp. 149, 22) points to a statement of Senator Leahy:

There has been some question about the scope of patents that may be subject to the transitional program for covered business method patents, which is section 18 of the Leahy-Smith America Invents Act. This provision is intended to cover only those business method patents intended to be used in the practice, administration, or management of financial services or products, and *not to technologies common in business environments across sectors and that have no particular relation to the financial services sector*, such as computers, communications networks, and business software.

157 Cong. Rec. S5441 (daily ed. Sept. 8, 2011) (statement of Sen. Leahy) (emphasis added). Patent Owner argues that several panels of the Board have relied on Senator Leahy's statement in declining to institute covered business method patent reviews of patents claiming technologies generally applicable to business environments. Prelim. Resp. 109, 16–17; Prelim. Resp. 149, 22–23.

Patent Owner further argues that Petitioner has failed to identify in the claims any recitation of the movement of money or other financial transactions. Prelim. Resp. 109, 20–21; Prelim. Resp. 149, 26–27. For example, Patent Owner argues that Petitioner points to nothing in the claims directed to accomplishing the commercial interaction and access to financial content Petitioner references in the Specification. Prelim. Resp. 109, 20–21 (citing Ex. 1001, 1:40–47, 7:36–38); Prelim. Resp. 149, 26–27 (same).

As to the products it has accused, Patent Owner argues that it has asserted infringement allegations against systems of general applicability, rather than financial products or services. Prelim. Resp. 109, 17 n.4; Prelim. Resp. 149, 23 n.6. The general allegations in the district court pleadings (Exs. 1005–07 in both proceedings) do not articulate the precise nature of the products accused of infringement.

We acknowledge that both parties have marshalled statements from the legislative history favorable to their positions regarding the reach of Section 18. Nevertheless, a previous panel of this Board has observed that “members of Congress expressed varying views concerning the scope of a ‘covered business method patent’ during the debate leading up to passage of the AIA” and reasoned that “when an adjudicator considers legislative intent ‘the Supreme Court has cautioned that the adjudicator must consider the legislative intent as a *whole*—not just ‘isolated fragments’ of congressional comments.’” *Par Pharm., Inc. v. Jazz Pharms., Inc.*, Case CBM2014-00149, slip op. at 17–18 (PTAB Jan. 13, 2015) (Paper 12) (quoting *New England Power Co. v. New Hampshire*, 455 U.S. 331, 342 (1982)). Indeed, in evaluating whether decisions of the Board regarding Section 18 are reviewable, the Federal Circuit stated:

The parties, digging through the legislative record, come up with competing statements from various legislators with regard to the possible scope of the issues to be heard on appeal. Even assuming such statements are thought to be relevant, the variety of conflicting views illustrates why we must focus on the structure and language of the act, not on what its advocates and detractors may say about it.

*Versata Dev. Grp., Inc. v. SAP Am., Inc.*, 793 F.3d 1306, 1321 (Fed. Cir. 2015).

Panels of this Board, focusing on the language of Section 18, have declined to institute covered business method patent review of patents with claims that, although usable in commerce, nevertheless are applicable generally to a variety of industries. For example, in *Par Pharmaceutical*, we declined to institute a review of a patent directed to a computerized method of distributing a prescription drug. Case CBM2014-00149 (Paper 12). Looking to the language of the statute, the *Par Pharmaceutical* panel reasoned that

Congress did not say in the statute that a business method patent “used in commerce” or covering “core activities” of running a business is eligible for CBM review. To the contrary, the language of the statute excludes such a business method from CBM review unless a petitioner demonstrates that the method is “used in the practice, administration, or management of a financial product or service.”

*Id.*, slip op. at 17 (citing AIA § 18(d)(1)).

More recently, in *ServiceNow, Inc. v. Hewlett-Packard, Co.*, the Board declined to institute a review of a patent with claims “directed to systems or computer program products for managing a conversation in a Web service, and contain[ing] no finance-related terminology or limitations.” Case CBM2015-00108, slip op. at 15 (PTAB Oct. 8, 2015) (Paper 10). The *ServiceNow* panel reasoned that, although “at least one illustrative embodiment [was] directed to applications of the claimed system in financial systems,” the patent’s claims “are of general utility.” *Id.* at 16. According to *ServiceNow*,

[f]inancially-related, illustrative embodiments in the specification of the patent at issue may be sufficient in cases where the specification indicates particular advantages or applicability to financial embodiments, where the specification makes clear that claim limitations are interpreted expressly to

cover financial embodiments, or where there is an absence of evidence that the claimed invention has general utility.

*Id.* at 17. On the other hand, reading Section 18 to apply to any patent that could be used in conjunction with financial products and services could lead to an unreasonable result. *Id.* at 13 (“[F]inding that anything with a possible use with respect to activities involving financial products and services would capture claimed inventions only tangentially related to activities involving financial products and services.”).

In this proceeding, Petitioner points to no recitations in the claims addressing financing, commerce, or the movement of money. We find no such recitation. Rather, the claims, in general, are directed to methods, systems, and devices for managing user communications, including using speech recognition to interpret input from users. As explained above, whether the ’074 patent is directed to a covered business method is based on what the patent claims. *See* 77 Fed. Reg. at 48,736; *see also ServiceNow*, Case CBM2015-00108, slip op. at 8 (Paper 10) (“In making this determination, our focus is firmly on the claims.”) (quoting *Par Pharm.*, Case CBM2014-00149, slip op. at 9 (Paper 12)). On their faces, the claims are not limited to any particular context and, instead, are directed to commercial and non-commercial applications alike. This supports Patent Owner’s argument that the claims are directed to an invention that is applicable to a variety of industries, with no particular focus on financial services or products.

Petitioner’s citations to the Specification also do not provide a persuasive basis to conclude that the claims deal with the movement of money in anything other than a tangential way. Rather, the Specification confirms that the invention of the ’074 patent is one of general applicability.

CBM2015-00109; CBM2015-00149  
Patent 8,838,074 B2

For example, the Background of the Invention expresses a desire of both individuals and businesspeople to communicate for a variety of reasons, such as obtaining information, interacting commercially, and for entertainment. Ex. 1001, 1:40–42. Likewise, the Specification contemplates using the inventive system to retrieve various types of information, such as “news, weather, sports, financial, travel and other custom content.” *Id.* at 7:36–38; *see also id.* at 6:40–42 (“Basically, the system provides a unified solution to the many varied communications and messaging devices used daily by mobile professionals and active consumers.”). Rather than focusing the claims on financial products and services, these examples make clear that any financial aspect of the invention is, at most, a non-limiting example. The Specification, thus, supports Patent Owner’s argument as well.

Moreover, even assuming that Patent Owner has asserted the ’074 patent only against financial products of financial service firms, we do not consider this dispositive, contrary to Petitioner’s contention (Pet. 109, 7 & n.2; Pet. 149, 6 & n.2). In this regard, we consider persuasive the reasoning by the panel in *PNC Financial Services Group Inc. v. Intellectual Ventures I LLC*, Case CBM2014-00032 (PTAB May 22, 2014) (Paper 13). In *PNC Financial Services*, the Board considered Senator Schumer’s statement (at 157 Cong. Rec. S1365, quoted above) in determining whether to institute a review of a patent directed to a computer-implemented method for identifying and characterizing stored electronic files, which was asserted in district court against a bank’s payment card industry data security standard. *PNC Fin. Servs. Grp.*, Case CBM2014-00032, slip op. at 6–7 (Paper 13). According to the panel in that case, “when taken in context of the entire legislative history associated with the AIA § 18(d)(1), we do not

CBM2015-00109; CBM2015-00149  
Patent 8,838,074 B2

consider the statement by Senator Schumer cited by Petitioners as opening CBM review to all patents asserted against financial institutions. Instead, we deem such activity as one factor to be considered in making that determination.” *Id.* at 14. The *PNC Financial Services* panel reasoned that “the mere assertion of a patent against a bank or other financial institution is not sufficient by itself to transform a patent claiming a generally applicable data processing technique to a covered business method patent.” *Id.*

Like the patent in *PNC Financial Services*, the ’074 patent claims and describes an invention that is related only tangentially to financial products and services. This outweighs Petitioner’s evidence that the ’074 patent has been asserted against financial service firms. *Cf. FedEx Corp. v. Ronald A. Katz Tech. Licensing, L.P.*, Case CBM2015-00053, slip op. at 12 (PTAB June 29, 2015) (Paper 9) (“We do not find the nature of Petitioner’s accused product determinative of whether the [challenged] patent is a CBM patent.”).

In sum, we recognize that financial products and services are not limited to the financial services industry, but are also cognizant that the claims must be directed to something more than techniques applicable to a wide variety of industries. We have considered Petitioner’s evidence that the claims have been asserted against financial service firms in district court. We also have considered Petitioner’s argument that the Specification describes the invention as applicable in a commercial context. Nevertheless, we do not find that evidence persuasive in light of the lack of any recitation in the claims of financing, commerce, or the movement of money, and the Specification’s clear expression that the invention is applicable in both commercial and non-commercial contexts. *Cf. Service Now*, Case CBM2015-00108, slip op. at 11 (Paper 10) (“We note that other panels also

CBM2015-00109; CBM2015-00149  
Patent 8,838,074 B2

have considered evidence of the problem addressed and the parties against whom the patent is asserted. While each of these decisions identifies factors that a panel may weigh in reaching its eligibility decision, we are not in any way bound by the factors considered in these cited decisions, and we determine eligibility based on the arguments and evidence regarding the challenged claims of the patent before us.”) (internal citations omitted).

On this record, Petitioner has not introduced persuasive evidence to show that at least one claim of the '074 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. Accordingly, Petitioner has not met its burden of demonstrating that the '074 patent is eligible for covered business method patent review.

### III. CONCLUSION

For the foregoing reasons, we are not persuaded that the '074 patent is eligible for covered business method patent review.

### IV. ORDER

Accordingly, it is:

ORDERED that, pursuant to 35 U.S.C. § 324(a), a covered business method patent review is not instituted for claims 1–26 of U.S. Patent No. 8,838,074 B2 in either CBM2015-00109 or CBM2015-00149; and

FURTHER ORDERED that the parties' joint request for authorization to file a motion to terminate the proceedings is *denied*.

CBM2015-00109; CBM2015-00149

Patent 8,838,074 B2

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