

Case IPR2016-00608  
U.S. Patent No. 7,631,346

**UNITED STATES PATENT AND TRADEMARK OFFICE**

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

KAYAK SOFTWARE CORP., OPENTABLE, INC.,  
PRICELINE.COM LLC, and THE PRICELINE GROUP INC.,  
Petitioner

v.

INTERNATIONAL BUSINESS MACHINES CORP.  
Patent Owner

---

Case IPR2016-00608

U.S. Patent No. 7,631,346

TITLE: METHOD AND SYSTEM FOR A RUNTIME USER ACCOUNT  
CREATION OPERATION WITHIN A SINGLE-SIGN-ON PROCESS IN A  
FEDERATED COMPUTING ENVIRONMENT

Issue Date: December 8, 2009

---

**INTERNATIONAL BUSINESS MACHINES CORPORATION'S**  
**NOTICE OF APPEAL**

Mail Stop Patent Board  
Patent Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Case IPR2016-00608

U.S. Patent No. 7,631,346

Pursuant to 35 U.S.C. §§ 141, 142, and 319, and in accordance with 37 C.F.R. §§ 90.2-90.3, Patent Owner International Business Machines Corp. (“IBM”) appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision of the Patent Trial and Appeal Board (“Board”) entered on August 7, 2017 in Case IPR2016-00608 (Paper 67) (“Final Written Decision”), and from all underlying findings, determinations, rulings, opinions, orders, and decisions regarding that *inter partes* review of U.S. Patent No. 7,631,346. This Notice of Appeal is timely filed within 63 days of the Final Written Decision.

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), IBM states that the issues on appeal may include, but are not limited to: the Board’s determination that Claims 1, 3, 12, 14, 15, and 18 of U.S. Patent No. 7,631,346 are unpatentable as anticipated by Sunada; whether Sunada is prior art to Claims 1, 3, 12, 14, 15, and 18 of U.S. Patent No. 7,631,346; the Board’s construction of Claims 1, 3, 12, 14, 15, and 18 of U.S. Patent No. 7,631,346, including its construction of the claim terms “federated computing environment,” “single-sign-on,” “first system,” and “second system;” the Board’s consideration of the expert testimony, prior art, and other evidence in the record; the Board’s factual findings, conclusions of law, or other determinations supporting or related to those issues, as well as all other issues decided adversely to IBM in any orders, decisions, rulings, and opinions; whether *inter partes* review is unconstitutional because it permits an executive

Case IPR2016-00608

U.S. Patent No. 7,631,346

agency to exercise the judicial power of the United States in violation of Article III of the Constitution; whether *inter partes* review is unconstitutional because IBM has the right to a trial by jury on the validity of U.S. Patent No. 7,631,346 under the Seventh Amendment; and whether *inter partes* review is unconstitutional as applied to U.S. Patent No. 7,631,346 because the enactment of the *inter partes* review statutes retroactively impaired IBM's vested rights in U.S. Patent No. 7,631,346, which rights vested when U.S. Patent No. 7,631,346 issued in 2009.

This Notice of Appeal is being e-filed with the Clerk's Office for the United States Court of Appeals for the Federal Circuit, along with payment of the required docketing fees. In addition, a copy of this Notice of Appeal is being filed simultaneously with the Patent Trial and Appeal Board and with the Director of the United States Patent and Trademark Office.

Dated: October 6, 2017

Respectfully submitted,

/kkm/

Kevin K. McNish (Reg. No. 65,047)

kmcnish@desmaraisllp.com

DESMARAIS LLP

230 Park Avenue

New York, NY 10169

Telephone: 212-351-3400

Facsimile: 212-351-3401

*Lead Counsel for Patent Owner  
International Business Machines Corp.*

Case IPR2016-00608  
U.S. Patent No. 7,631,346

**CERTIFICATE OF FILING**

The undersigned certifies that on October 6, 2017, in addition to filing the foregoing electronically through PTAB E2E, a copy of this Notice of Appeal was deposited with Priority Mail Express on October 6, 2017 for filing with the Director of the United States Patent and Trademark Office, at the following address:

Office of the Solicitor  
United States Patent and Trademark Office  
Mail Stop 8  
Post Office Box 1450  
Alexandria, Virginia 22313-1450

The undersigned also certifies that on October 6, 2017, a copy of this Notice of Appeal was filed electronically through the United States Court of Appeals for the Federal Circuit's CM/ECF system.

Dated: October 6, 2017

Respectfully submitted,

/kkm/

Kevin K. McNish (Reg. No. 65,047)  
kmcnish@desmaraisllp.com

DESMARAIS LLP

230 Park Avenue

New York, NY 10169

Telephone: 212-351-3400

Facsimile: 212-351-3401

*Lead Counsel for Patent Owner  
International Business Machines Corp.*

Case IPR2016-00608  
U.S. Patent No. 7,631,346

**CERTIFICATE OF SERVICE**

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on October 6, 2017, a complete copy of the foregoing was served on counsel of record for all parties by filing this document through PTAB E2E and by sending this document via electronic mail to the following addresses:

Richard S. Zembek (Reg. No. 43,306)  
Daniel S. Leventhal (Reg. No. 59,576)  
Daniel A. Prati (Reg. No. 65,689)  
NORTON ROSE FULBRIGHT US LLP  
1301 McKinney Avenue, Suite 5100  
Houston, TX 77010  
713-651-5283 (telephone)  
713-651-5246 (facsimile)  
richard.zembek@nortonrosefulbright.com  
daniel.leventhal@nortonrosefulbright.com  
dan.prati@nortonrosefulbright.com

Gilbert A. Greene (Reg. No. 48,366)  
DUANE MORRIS LLP  
1330 Post Oak Boulevard  
Suite 800  
Houston, TX 77056-3166  
713-402-3946 (telephone)  
713-513-5716 (facsimile)  
bgreene@duanemorris.com

Dated: October 6, 2017

Respectfully submitted,

/kkm/  
Kevin K. McNish (Reg. No. 65,047)  
kmcnish@desmaraisllp.com  
DESMARAIS LLP  
230 Park Avenue  
New York, NY 10169  
Telephone: 212-351-3400  
Facsimile: 212-351-3401

*Lead Counsel for Patent Owner  
International Business Machines Corp.*