

## **Travelocity.com L.P., Priceline.com Inc., and Expedia, Inc. v. Cronos Technologies, LLC, Denying Institution Where the Same Prior Art and Arguments were Previously Presented**

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*Takeaway: The Board has the discretion to deny a petition if either (a) the same or substantially the same prior art OR (b) the same or substantially the same arguments were previously presented in an earlier Petition.*

In its [Decision](#), the Board denied the Petition as to all challenged claims. No covered business method patent review was instituted.

In this proceeding, Petitioner had sought covered business method patent review of claims 1-3, 8-12, 14-18, 22, 24, 26-28, 30-32, 34, 41, 42, 44-46, 49, 50, 52-55, 57-66, 71-73, and 75 of the '110 patent. The '110 patent was challenged in a previous Petition for covered business method patent review, namely, *Travelocity.com L.P. v. Cronos Techs., LLC*, Case CBM2014-00082, but the Board had denied that previous Petition.

The Board exercised its discretion to decline review in the instant proceeding as per the case of *Conopco, Inc. v. The Procter & Gamble Co.*, Case IPR2014. As noted by the Board, a Petition may be rejected if either (a) “the same or substantially the same prior art” OR (b) “[the same or substantially the same] arguments” were previously presented in an earlier Petition.

Following this authority, the Board noted that in the instant proceeding “Petitioner acknowledges that the *same* references are applied in the earlier and the present Petitions.” Thus, the Board concluded that “[o]n that basis alone, [it] may exercise [its] discretion and decline to institute covered business method patent review.”

The Board went on to additionally find that it was “persuaded that Petitioner asserts the same or substantially the same arguments in the present Petition that were asserted in the earlier Petition.” In this regard, the Board was not persuaded by Petitioner that the instant Petition presents different legal arguments, but instead, concluded that the instant Petition “simply recasts the facts in the context of the same legal arguments.”

***Travelocity.com L.P., Priceline.com Inc., and Expedia, Inc. v. Cronos Technologies, LLC, CBM2015-00047***

Paper 7: Decision Denying Covered Business Method Patent Review

Dated: June 15, 2015

Patent: 5,664,110

Before: Jennifer S. Bisk, James B. Arpin, and Lynne E. Pettigrew

Written by: Arpin

Related proceedings: *Cronos Technologies LLC v. Travelocity.com L.P.*, Case No.

1:13-cv-01544-LPS (D. Del.); *Cronos Technologies LLC v. Priceline.com*, Case No.

1:13-cv-01541-LPS (D. Del.); *Cronos Technologies LLC v. Expedia Inc.*, Case No.

1:13-cv-01538-LPS (D. Del.); and *Travelocity.com L.P. v. Cronos Techs., LLC* (Case CBM2014-00082)

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