UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MICROSOFT CORPORATION
Petitioner

v.

PROXYCONN, INC.
Patent Owner

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Case IPR2012-00026
Case IPR2013-00109
Patent 6,757,717

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Before SALLY C. MEDLEY, THOMAS L. GIANNETTI, and
MITCHELL G. WEATHERLY *Administrative Patent Judges.*

WEATHERLY, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. BACKGROUND

A. *Introduction*

On September 18, 2012, Microsoft Corporation ("Microsoft"), filed a petition under 35 U.S.C. §§ 311-319 for *inter partes* review of claims 1, 3, 10–12, 14, and 22–24 of U.S. Patent No. 6,757,717 ("the '717 Patent"). IPR2012-00026, Paper 6 ("the '026 Petition"). We granted the '026 Petition as to certain challenges to the patentability of claims 1, 3, 10, and 22–24, and denied the '026 Petition as to all challenges to the patentability of claims 11, 12, and 14 on December 21, 2012. IPR2012-00026, Paper 17 ("the '026 Decision").

Soon afterward, on January 11, 2013, Microsoft filed a second petition for *inter partes* review, this time challenging the patentability of claims 6, 7, 9, 11, 12, and 14 of the '717 Patent. IPR2013-00109, Paper 1 ("the '109 Petition"). Microsoft concurrently filed a motion to join IPR2013-00109 with IPR2012-00026. IPR2013-00109, Paper 7. We granted the '109 Petition as to certain challenges to patentability of claims 6, 7, 9, 11, 12, and 14 of the '717 Patent. IPR2013-00109, Paper 14 ("the '109 Decision"). We also granted Microsoft's motion for joinder and joined IPR2013-00109 with IPR2012-00026. IPR2013-00109, Paper 15.

After institution and joinder of both trials, Proxyconn, Inc. ("Proxyconn") filed its Corrected Patent Owner's Response ("Resp."). Paper 45.[1] Proxyconn also filed Patent Owner's Corrected Motion to Amend ("Mot. Amend") in which Proxyconn moved to substitute claims 35–

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[1] This reference to "Paper" and all other references to "Paper" from this point forward in this Final Written Decision are to papers filed in the joined proceeding, which is captioned as IPR2012-00026 and IPR2013-00109.

41 for claims 1, 3, 6, 10, 11, 22, and 23, respectively, if the Board were to
cancel any of those challenged claims as unpatentable. Paper 44.[2] This
Final Written Decision addresses challenges to the patentability of claims 1,
3, 6, 7, 9–12, 14, and 22–24. Because claims 1, 3, 6, 10, 11, 22, and 23 are
found unpatentable, this Decision also addresses the patentability of
proposed substitute claims 35–41.

B. The '717 Patent

The '717 Patent describes a system for data access in a packet
switched network. Ex. 1002, Abstract. The system has a sender/computer
including an operating unit, a first memory, a permanent storage memory,
and a processor. The system also has a remote receiver/computer including
an operating unit, a first memory, a permanent storage memory, and a
processor. The sender/computer and receiver/computer communicate
through the network. *Id*. The sender/computer further includes a device for
calculating digital digests on data; the receiver/computer further includes a
network cache memory and a device for calculating digital digests on data in
the network cache memory; and the receiver/computer and/or the
sender/computer includes a device for comparison between digital digests.
Id.

As described in the '026 Petition, the '717 Patent provides a way to
reduce the amount of redundant data transmitted over a network. '026
Petition, 4. The processes described in the '717 Patent check for the identity

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[2] Proxyconn filed Patent Owner's Motion to Amend under 37 C.F.R.
§ 42.121 on May 21, 2013. Paper 37. In an Order entered June 20, 2013,
Proxyconn was granted permission to file its Corrected Motion to Amend to
address typographical errors and file corrected exhibits. Paper 43.
Proxyconn filed its Corrected Motion to Amend later that same day.

between two sets of data by comparing respective digital fingerprints of that

data. *Id.* As described in the Summary of the Invention:

> If a sender/computer in the network is required to send data to another receiver/computer, and the receiver/computer has data with the same digital digest as that of the data to be sent, it can be assumed with sufficient probability for most practical applications that the receiver/computer has data which is exactly the same as the data being sent. Then, the receiver/computer can use the data immediately without its actual transfer through the network. In the present invention, this idea is used in a variety of ways.

Ex. 1002, col. 2, ll. 16-24.

The patent discloses several embodiments. In one, a sender/computer required to send data to a receiver/computer initially sends a digital digest of the data. If the receiver/computer already has data with the same digital digest, it uses this data as if it were actually transmitted from the sender/computer. *Id*. at col. 2, ll. 26-31. This embodiment is illustrated in Figures 5-7. Figure 5 is reproduced below:

Receiver   Sender

Calculate digital digest

Send digital digest

Check for digest in cache

Issue "positive" or "negative" signal

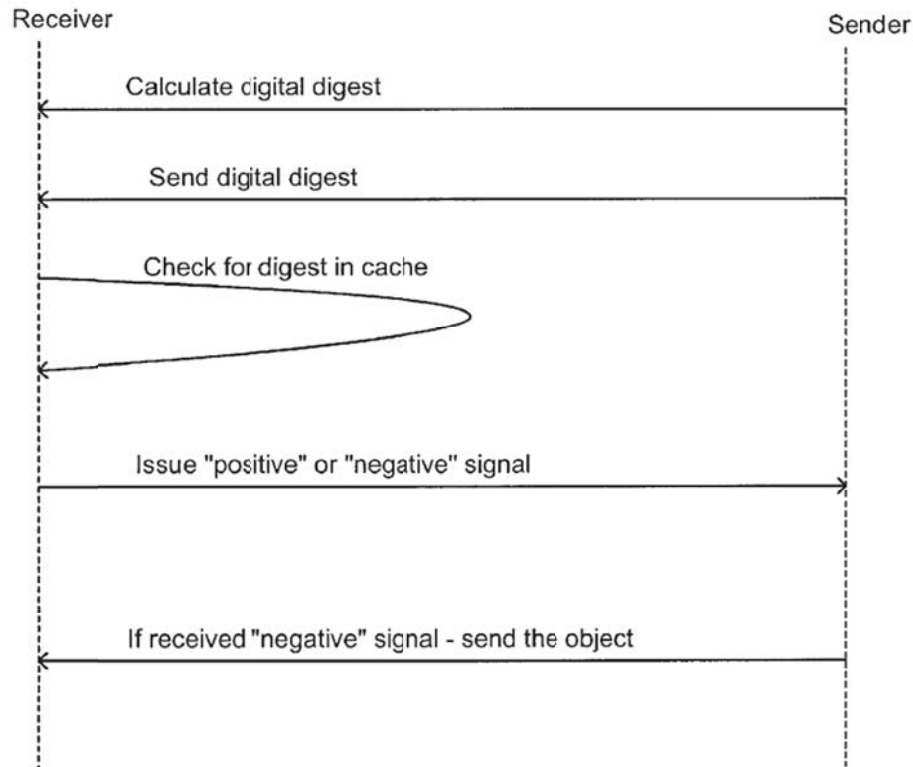If received "negative" signal - send the object

FIG. 5

Figure 5 is a schematic representation illustrating the
interaction between a sender/computer and a receiver/computer
according to the teachings of one embodiment of the '717
Patent. *Id.* at col. 5, ll. 49-51.

In this embodiment, the receiver/computer receives a digital digest

from a sender/computer and searches its network cache memory for data

with the same digest. If the receiver/computer finds such data, it uses that

data as if the data were received from the sender/computer and issues a

positive indication signal to the sender/computer. Otherwise it sends a

negative indication signal to the sender/computer. *Id.* at col. 7, ll. 51–60.

In another embodiment, auxiliary digital digests for other data objects

can be sent together with the principal digest. If the receiver/computer

cannot find data having the principal digest, it searches for data with one of

the auxiliary digests. If such data is found, the sender/computer is required

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