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Paper 17
Date: December 21, 2012

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION
Petitioner

v.

PROXYCONN, INC.
Patent Owner

Case IPR2012-00026 (TLG)
Patent 6,757,717 B1

Before SALLY C. MEDLEY, SCOTT R. BOALICK, and THOMAS L. GIANNETTI, *Administrative Patent Judges.*

GIANNETTI, *Administrative Patent Judge.*

DECISION ON REQUEST FOR INTER PARTES REVIEW

I. BACKGROUND

Petitioner Microsoft Corporation requests inter partes review of claims 1, 3, 10-12, 14, and 22-24 of US Patent 6,757,717 B1 pursuant to 35 U.S.C. §§ 311 et seq. The Patent Owner, ProxyConn Inc., has waived its right to file a preliminary response under 37 C.F.R. § 42.107(b). Paper No. 15. We have jurisdiction under 35 U.S.C. § 314.

The standard for instituting an inter partes review is set forth in 35 U.S.C. § 314(a) which provides as follows:

> THRESHOLD -- The Director may not authorize an inter partes review to be instituted unless the Director determines that the information presented in the petition filed under section 311 and any response filed under section 313 shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.

Petitioner challenges claims 1, 3, 10-12, 14, and 22-24 as anticipated (35 U.S.C. § 102) and obvious (35 U.S.C. § 103). Pet. 3. We grant the petition as to claims 1, 3, 10, and 22-24 and deny the petition as to claims 11, 12, and 14.

A. The '717 Patent (EX1002)

The invention of the '717 patent is a system for data access in a packet switched network. '717 patent 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 Petition, the '717 patent provides a way to reduce the amount of redundant data transmitted over a network. Pet. 4. The algorithm of the invention checks for the identity 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.

'717 patent 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. '717 patent col. 2, ll. 26-31. This embodiment is illustrated in Figs. 5-7. Fig. 5 is reproduced below:

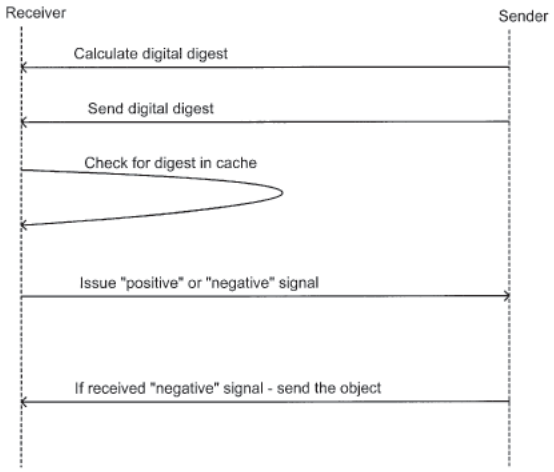

FIG. 5

Fig. 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. 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. Col. 7, ll. 50-60.

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 to send only the difference between the requested data object and the data object corresponding to the auxiliary digest. '717 patent col. 2, ll. 31-37. The expression in the specification "difference between the first data or data object and the second data or data object"

means any bit sequence that enables the restoration of the first data, given the second data, the bit sequence, and the method employed in calculating the difference. *Id.* ll. 37-41. This embodiment is illustrated in Figs. 8-10. Fig. 8 is reproduced below:

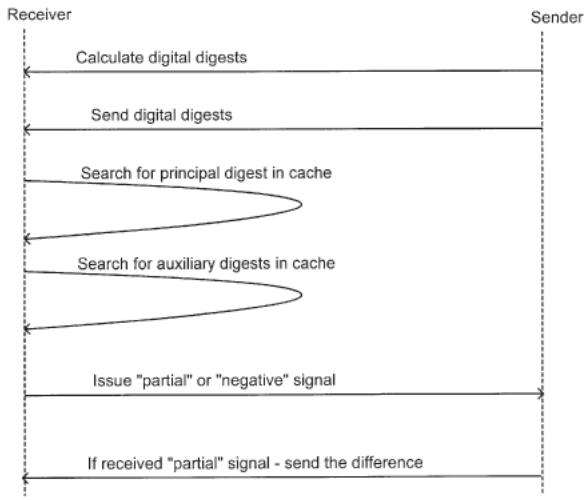

FIG. 8

Fig. 8 is a schematic representation illustrating the interaction between a sender/computer and a receiver/computer according to the teachings of another embodiment of the invention. '717 patent col. 5, ll. 59-61. In this embodiment the sender/computer sends the principal and auxiliary (e.g., of a previous version of the data requested) digests to the receiver/computer. Upon receiving a message with these digital digests from the sender/computer, the receiver/computer searches its network cache memory for data having the same principal digest. If such data is found, the receiver/computer uses the data as if the data were received from the sender/computer and issues a positive indication signal to the sender/computer. Otherwise, the receiver/computer searches its network cache memory for data with the auxiliary digests. If it finds data with a digital digest substantially equal to one

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