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Paper 14
Date Entered: February 25, 2013

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION
Petitioner

v.

PROXYCONN, INC.
Patent Owner

Case IPR2013-00109 (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
Institution of Inter Partes Review
37 C.F.R. § 42.108

I. INTRODUCTION

Petitioner Microsoft Corporation requests inter partes review of claims 6, 7, 9, 11, 12, and 14 of US Patent 6,757,717 B1 pursuant to 35 U.S.C. §§ 311 et seq. Patent Owner ProxyConn, Inc. has waived its right to file a preliminary response under 37 C.F.R. § 42.107(b). Paper 13. 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 6, 7, 9, 11, 12, and 14 as unpatentable under 35 U.S.C. § 102 and 35 U.S.C. § 103. Pet. 4-5. We grant the Petition and institute trial as to those claims on the grounds set forth below.

Concurrently with the Petition, Microsoft filed a motion seeking to join this proceeding with IPR2012-00026, involving the same patent and parties. Paper 7. In a separate decision entered today, we grant that motion and join the two trial proceedings.[1]

[1] The joinder of this proceeding with an existing IPR makes the one-year time period under 35 U.S.C. § 315(b), which would otherwise have barred this proceeding, not applicable. *See* 37 C.F.R § 42.122(b).

II. BACKGROUND

Petitioner's Prior Request for Inter Partes Review

This is Petitioner's second request for inter partes review of the '717 patent. The first request, filed on September 18, 2012, was granted-in-part on December 21, 2012. *See* IPR2012-00026 Paper 17, Decision On Request For Inter Partes Review ("Decision"). In that Decision the Board instituted a trial as to claims 1, 3, 10, and 22-24 of the '717 patent, which claims are not involved in this Petition. However, the Decision denied the Petition as to claims 11, 12, and 14 of the '717 patent.[2] Those claims are included in this Petition, and as to those claims Petitioner has provided additional prior art and raised new grounds of challenge that were not previously considered by the Board. The instant Petition additionally raises challenges against claims 6, 7, and 9, claims not at issue in IPR2012-00026.

III. THE '717 PATENT

The technology of '717 patent is described in the prior Decision at pages 2-6. For the purposes of this decision we adopt that prior description. The description that follows will focus on the areas pertinent to the decision that were not previously covered.

[2] In a separate decision entered today in IPR2012-00026, the Board denies Microsoft's request for reconsideration of the denial of review as to claims 11, 12, and 14.

Claims 6, 7, and 9

These claims of the ’717 patent are directed to the embodiment of the invention shown in Figure 11 following:

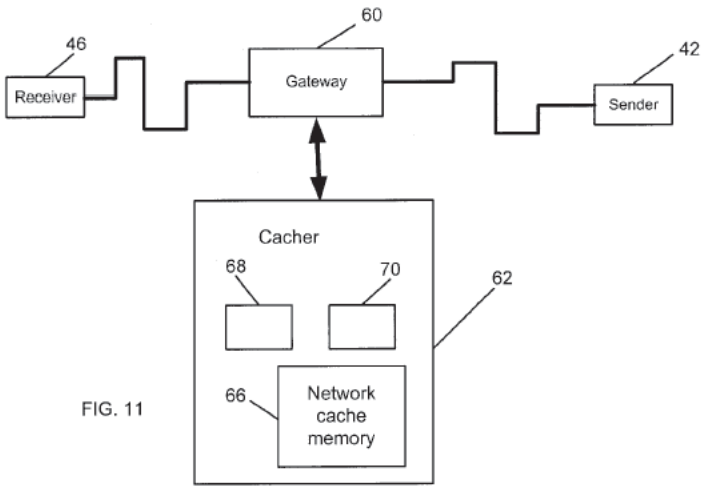

FIG. 11

Figure 11 is a block diagram of a gateway system embodiment of the invention of the ’717 patent. Col. 6, ll. 1-2. As described in the patent, this embodiment comprises a gateway computer or gateway (60), and a caching computer (62) connected to the gateway through a “fast” network connection (64) such as Ethernet. Col. 8, ll. 57-63. The gateway is connected to a wide-area packet switched network such that network packets sent between computers (42) and (46) pass through the gateway. *Id*. at ll. 64-67. The caching computer uses part of its permanent storage for network cache memory (66). Col. 9, l.1. The caching computer also has means (68) for calculating a digital digest in its network cache memory and means (70) for comparison between the calculated digital digest and a digital digest received by the gateway computer from the wide-area network. Col. 9, ll. 2-6.

Claim 6 further illustrates the technology, and reads as follows:

> 6. A system for data access in a packet-switched network, comprising:
>
> a gateway including an operating unit, a memory and a processor connected to said packet-switched network in such a way that network packets sent between at least two other computers pass through it;
>
> a caching computer connected to said gateway through a fast local network, wherein said caching computer includes an operating unit, a first memory, a permanent storage memory and a processor;
>
> said caching computer further including a network cache memory in its permanent storage memory, means for calculating a digital digest and means for comparison between a digital digest on data in its network cache memory and a digital digest received from said packet switched network through said gateway.

Claims 7 and 9 both depend from claim 6.

Claims 11, 12, and 14

These claims are directed to the embodiment of Figures 8-10 of the '717 patent, described in the prior Decision at pp. 4-6. Claim 11 follows:

> 11. A method performed by a sender/computer in a packet-switched network for increasing data access, said sender/computer including an operating unit, a first memory, a permanent storage memory and a processor and said sender/computer being operative to transmit data to a receiver/computer, the method comprising the steps of:
>
> creating and transmitting a digital digest of said data from said sender/computer to said receiver/computer;
>
> receiving a response signal from the receiver/computer at said sender/computer, said response signal containing a positive, partial or negative indication signal for said digital digest, and
>
> if a negative indication signal is received, transmitting said data from said sender/computer to said receiver/computer.

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