

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RACKSPACE US, INC. and RACKSPACE HOSTING, INC.,
Petitioners,

v.

PERSONALWEB TECHNOLOGIES, LLC and
LEVEL 3 COMMUNICATIONS,
Patent Owners.

Case IPR2014-00062
Patent 7,802,310 B2

Before KEVIN F. TURNER, JONI Y. CHANG, and
MICHAEL R. ZECHER, *Administrative Patent Judges*.

TURNER, *Administrative Patent Judge*.

DECISION
Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

Rackspace US, Inc. and Rackspace Hosting, Inc. (collectively, “Rackspace”) filed a Petition (Paper 1, “Pet.”) requesting *inter partes* review of claims 1, 2, 5-8, 10-12, 14, 16-19, 24, 29, 32, 70, 81, 82, and 86 of U.S. Patent No. 7,802,310 B2 (“the ’310 Patent”). Patent owners, PersonalWeb Technologies, LLC and Level 3 Communications, LLC (collectively, “PersonalWeb”), filed a Preliminary Response (Paper 8, “Prelim. Resp.”). 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:

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.

Taking into account PersonalWeb’s Preliminary Response, we conclude that the information presented in the Petition demonstrates that there is a reasonable likelihood that Rackspace will prevail in challenging claims 1, 2, 5-8, 10-12, 14, 16-19, 24, 29, 32, 70, 81, 82, and 86 as unpatentable under 35 U.S.C. § 103. Pursuant to 35 U.S.C. § 314, we hereby authorize an *inter partes* review to be instituted as to claims 1, 2, 5-8, 10-12, 14, 16-19, 24, 29, 32, 70, 81, 82, and 86 of the ’310 Patent.

A. *Related Matters*

Rackspace indicates that the '310 Patent was asserted against it in *PersonalWeb Technologies LLC v. Rackspace US, Inc.*, Case No. 6:12-cv-00659, pending in the United States District Court for the Eastern District of Texas. Pet. 1.

Other petitions seeking *inter partes* review of PersonalWeb's patents have been filed, with those patents and the '310 Patent sharing a common disclosure. *Id.* at 1-3.

PersonalWeb also notes that another petition, namely IPR2013-00596, was also pending regarding the '310 Patent. Prelim. Resp. 1. We instituted a trial based on that petition on March 26, 2014. PersonalWeb argues that it would be duplicative and highly prejudiced if two *inter partes* reviews regarding the same patent were to proceed. *Id.* at 1-2. While PersonalWeb views the differing claims under consideration in each petition, as well as similar art, as placing a burden upon it, we are persuaded that both petitions should be considered on their own merits. The panel will be amenable to requests for consolidation under 35 U.S.C. § 315(d), post-institution.

B. *The Invention of the '310 Patent (Ex. 1001)*

The '310 Patent relates to a data processing system that identifies data items using substantially unique identifiers, otherwise referred to as True Names, which depend on all the data in the data item and only on the data in the data item. Ex. 1001, 1:44-48; 3:52-55; 6:20-24. According to the '310

Patent, the identity of a data item depends only on the data and is independent of the data item's name, origin, location, address, or other information not derivable directly from the data associated therewith. *Id.* at 3:55-58. The invention of the '310 Patent also provides that the system can publish data items, allowing other, possibly anonymous, systems in a network to gain access to the data items. *Id.* at 4:32-34.

C. Challenged Claims

Independent claims 1, 24, 70, 81, and 86, as well as dependent claims 2, 5-8, 10-12, 14, 16-19, 29, 32 and 82, are challenged by Rackspace in this *inter partes* review. Claims 1 and 70 are deemed representative and are reproduced below:

1. A computer-implemented method in a system which includes a network of computers, the method implemented at least in part by hardware comprising at least one processor, the method comprising the steps:

(a) at a first computer, obtaining a content-based name for a particular data item from a second computer distinct from the first computer, the content-based name being based at least in part on a function of at least some of the data which comprise the contents of the particular data item, wherein the function comprises a message digest function or a hash function, and wherein two identical data items will have the same content-based name; and

(b) by hardware in combination with software, a processor at said first computer ascertaining whether or not the content-based name for the particular data item corresponds to an entry in a database comprising a plurality of identifiers; and

(c) based at least in part on said ascertaining in (b), determining whether or not access to the particular data item is authorized.

70. A computer-implemented method operable in a system which includes a network of computers, the system implemented at least in part by hardware including at least one processor, the method comprising the steps of:

in response to a request at a first computer, from another computer, said request comprising at least a content-based identifier for a particular data item, the content-based identifier for the particular data item being based at least in part on a given function of at least some data which comprise the contents of the particular data item, wherein the given function comprises a message digest or a hash function, and wherein two identical data items will have the same content-based identifier:

(A) hardware in combination with software, determining whether the content-based identifier for the particular data item corresponds to an entry in a database comprising a plurality of content-based identifiers; and

(B) based at least in part on said determining in step (A), selectively permitting the particular data item to be accessed at or by one or more computers in the network of computers, said one or more computers being distinct from said first computer.

D. Prior Art Relied Upon

Rackspace relies upon the following prior art references:

Woodhill	US 5,649,196	Jul. 15, 1997	(Ex. 1003)
Francisco	US 4,845,715	Jul. 4, 1989	(Ex. 1004)
Brunk	US 7,289,643	Oct. 30, 2007	(Ex. 1006)
Kinetech	WO 96/32685	Oct. 17, 1996	(Ex. 1005)

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