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2014 WL 1784058 (Patent Tr. & App. Bd.)

Patent Trial and Appeal Board
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***1** SILVER PEAK SYSTEMS, INC. PETITIONER
v.
RIVERBED TECHNOLOGY, INC. PATENT OWNER

Case IPR2014-00149
Patent 8,321,580 B2

May 2, 2014

PETITIONER:
Brian Hoffman (Lead Counsel)
FENWICK & WEST LLP
bhoffman@fenwick.com

Jennifer R. Bush (Back-up Counsel)
jbush@fenwick.com
PATENT OWNER:

David M. O'Dell (Lead Counsel)
HAYNES AND BOONE, LLP
david.odell.ipr@haynesboone.com

Kyle L. Howard (Back-up Counsel)
kyle.howard.ipr@haynesboone.com

Before JUSTIN T. ARBES, ADAM V. FLOYD, and FRANCES L. IPPOLITO
Administrative Patent Judges
IPPOLITO
Administrative Patent Judge

DECISION

Institution of *Inter Partes* Review

37 C.F.R. § 42.108

Petitioner Silver Peak Systems, Inc. filed a Petition ("Pet.") to institute an *inter partes* review of claims 1-24 of U.S. Patent No. 8,321,580 B2 (the ""'580 patent") pursuant to 35 U.S.C. §§ 311-319. Paper 1. Patent Owner Riverbed Technology, Inc. filed a Preliminary Response ("Prelim. Resp.") to the Petition. Paper 6. We have jurisdiction under 35 U.S.C. § 314. For the reasons that follow, we institute an *inter partes* review of claims 1-14 of the '580 patent.

I. BACKGROUND

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

> 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 1-24 of the '580 patent as obvious under 35 U.S.C. § 103(a). Pet. 11-44. We have determined that, based on the record before us, there is a reasonable likelihood that Petitioner will prevail in establishing the unpatentability of claims 1-14. Additionally, Petitioner has not demonstrated a reasonable likelihood of prevailing in establishing the unpatentability of claims 15-24. Accordingly, we grant the petition for *inter partes* review of the '580 patent as to claims 1-14 on the asserted grounds discussed below.

A. Related Proceedings

***2** The '580 patent is the subject of federal district court proceedings in *Riverbed Technology, Inc. v. Silver Peak Systems, Inc.*, No. CV-13-2980 (N.D. Cal.). Pet. 1. Petitioner also indicates that commonly-owned and family-related U.S. Patent No. 8,271,688 is involved in the above referenced case and in a parallel petition for *inter partes* review brought by Petitioner. [FN1]*Id.*

Additionally, commonly-owned and family-related U.S. Patent Nos. 7,428,573 ("the '573 patent") and 7,849,134 ("the '134 patent") are involved in *inter partes* reexaminations in which Petitioner is the third-party requestor. [FN2] Pet. 1. Both of these related patents also are the subject of federal district court proceedings in *Riverbed Technology, Inc. v. Silver Peak Systems, Inc.*, C.A. No. 11-484 (D. Del.).*Id.*

B. The '580 Patent (Ex. 1001)

The '580 patent, titled "Transaction Accelerator for Client-Server Communications Systems," issued on November 27, 2012. The '580 patent relates to systems and methods for moving data efficiently through limited-bandwidth channels. Ex. 1001, col. 1, ll. 29-33. In networked file systems, applications may use files stored in another location. *Id.* at col. 1, ll. 44-45. One example of a transaction involving such files may include a client sending a request for the file to a server, and the server sending the file as a response to the client. *Id.* at col. 1, ll. 43-57.

The '580 patent further describes accelerating transactions over a networked client-server system where the clients are coupled to servers over a network via transaction accelerators. Ex. 1001, col. 8, ll. 10-21. Transaction requests and responses between a client and a server are routed through transaction accelerators instead of traveling directly from a client to a server. *Id.* at col. 10, ll. 43-45. The transaction accelerators ("TAs") may improve the responsiveness of the transaction(s) between clients and servers over network links that are slow in terms of latency and bandwidth. Id. at col. 9, ll. 56-60. An example of the embodiment just described is shown in Figure 1 of the '580 patent, reproduced below.

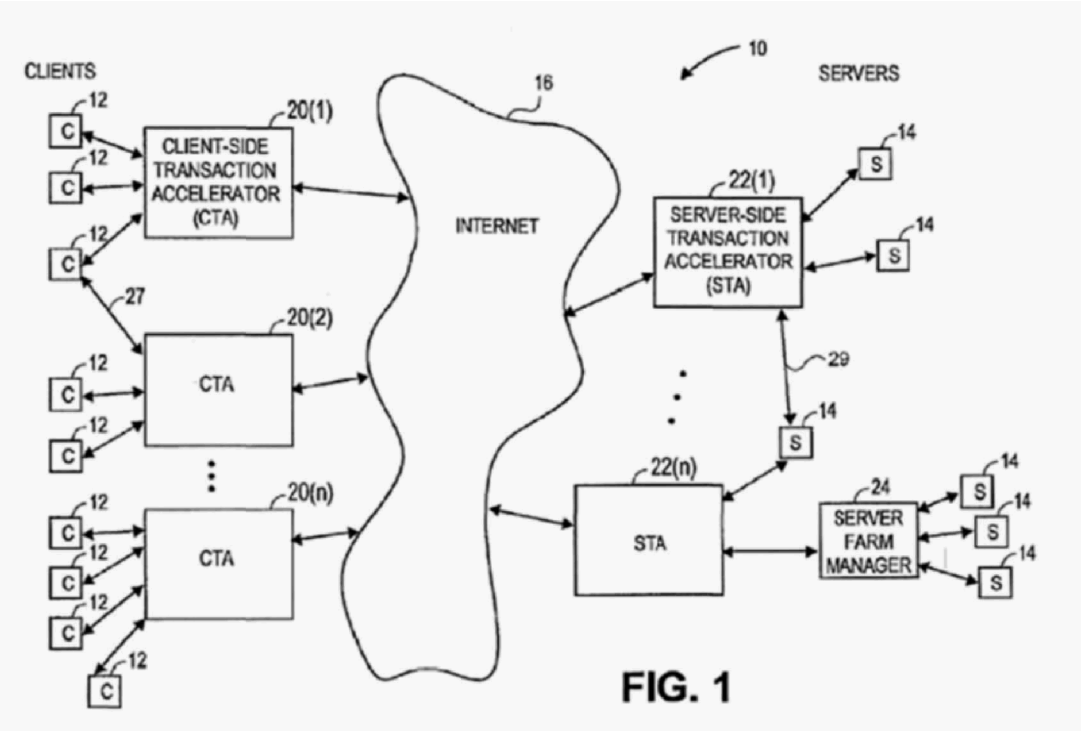

FIG. 1

***3** Figure 1, above, depicts networked client-server system 10 with clients 12 coupled to servers 14 over network 16 via client-side transaction accelerators ("CTAs") 20 and server-side transaction accelerators ("STAs") 22. Ex. 1001, col. 8, ll. 10-15. In a typical transaction, client 12 initiates a transaction with server 14 by sending a request message. *Id.* at col. 10, ll. 4-6. The request passes through CTA 20 and is routed to STA 22. *Id.* at col. 10, ll. 19-31. When server 14 receives the request, it formulates a response and sends the response to the client via STA 22. *Id.* at col. 10, ll. 19-21. The CTAs and STAs may examine the payloads of their transactions and store/cache strings or other sequences of data (i.e., segment data) derived from those payloads. *Id.* at col. 12, ll. 13-17. When sending the payload from one TA to another, the sending TA may replace the segment data with references to the segment data. *Id.* at col. 12, ll. 17-19. By sending references instead of segment data, the total traffic between TAs during the transaction is reduced. *Id.* at col. 13, ll. 33-35.

Continuing with the described embodiment, Figure 2 depicts the interconnections of CTA 20 and STA 22 in greater detail. Figure 2 is reproduced below.

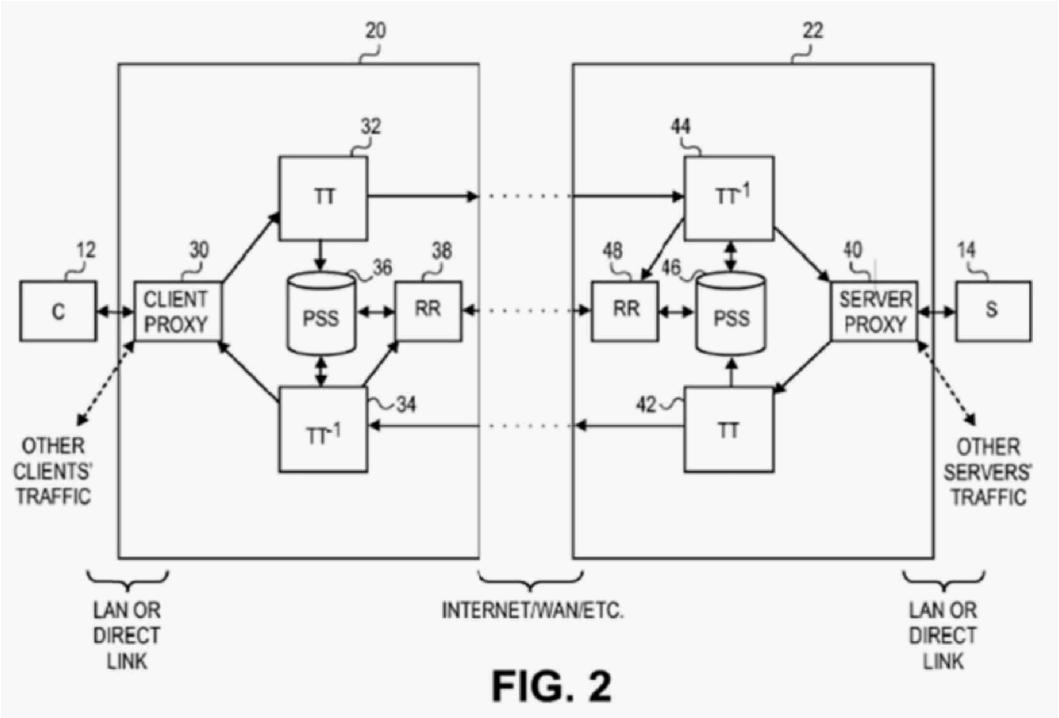

FIG. 2

As shown above in Figure 2, CTA 20 and STA 22 include client 30 or server proxy 40, transaction transformers ("TT") 32 and 42, inverse transaction transformers (" TT^{-1} ") 34 and 44, persistent segment stores ("PSS") 36 and 46, and reference resolvers (RR) 38 and 48. Ex. 1001, col. 11, ll. 11-32. In operation, client 12 sends a request to client proxy 30, which modifies or forwards the request to TT 32. *Id.* at col. 13, ll. 15-18. TT 32 determines how to transform the request, storing segments and references in PSS 36, if needed, and sends the transformed or unmodified request to TT^{-1} 44. *Id.* at col. 13, ll. 18-23. If needed, TT^{-1} 44 performs inverse transformations and then sends the request to server proxy 40. *Id.* at col. 13, ll. 21-23. For example, the TT^{-1} may use the contents of its PSS to reconstruct a transformed message by replacing the references with their corresponding segment data. *Id.* at col. 13, ll. 26-28, 38-40. An analogous path is taken for the response. *Id.* at col. 13, l. 24.

The '580 patent also describes a variation of the described embodiment that includes a proactive segment distributor ("PSD"). Where segments need to be moved from PSS to PSS, a PSD can trigger this process in advance of the actual need for the segment. *Id.* at col. 20, ll. 13-17. A PSD can distribute segments or direct the owner of segments to pass them around. *Id.* at col. 20, ll. 20-22. A PSD also may monitor transaction flow from the CTAs and STAs and from that, determine which segments are likely to be needed and where. *Id.* at col. 20, ll. 25-27. When a PSD "determines that a segment might be needed, it can send a message to the sending TA. . . . The message would direct the sending TA to perform segmentation, store bindings in its own PSS and even propagate the bindings to other PSS's.'D'*Id.* at col. 20, ll. 27-32.

C. Illustrative Claim

***4** Challenged claims 1, 8, 15, and 20 are independent. We reproduce illustrative claim 1:

1. A method for communicating data over a communication network, the method comprising:

a first apparatus receiving a data request from a first computer;

the first apparatus sending the data request to a second apparatus;
the second apparatus sending the data request to a second computer;
the second apparatus receiving response data from the second computer, wherein the second computer generates the response data based on the data request;
the second apparatus determining whether a portion of the response data is locally accessible to the first apparatus;
in response to determining that the portion of the response data is locally accessible to the first apparatus, the second apparatus modifying the response data to obtain modified response data, wherein said modifying includes replacing the portion of the response data with a reference to the portion of the response data, and wherein the modified response data instructs the first apparatus to use the reference to the portion of the response data to retrieve the portion of the response data from a storage that is locally accessible to the first apparatus;
the second apparatus sending the modified response data to the first apparatus;
the first apparatus retrieving the portion of the response data based on the reference to the portion of the response data, wherein the portion of the response data is retrieved from the storage that is locally accessible to the first apparatus; and
the first apparatus sending the response data to the first computer.

D. The Prior Art

Petitioner relies on the following prior art:

1. U.S. Patent No. 6,856,651 B2, issued February 15, 2005 ("Singh") (Ex. 1004);
2. *Peribit Networks, Inc. SR-50 Sequence Reducer Performance Evaluation*, THE TOLLY GROUP (November 19, 2001) ("Tolly") (Ex. 1009);
3. U.S. Patent Publication No. 2003/0004998 A1, published January 2, 2003 ("Datta") (Ex. 1011); and
4. Admitted Prior Art ("APA") -- Petitioner relies on statements made in the "Background of the Invention" section of the '580 patent as " "describing work of others that is prior art to the '580 patent." Pet. 12.

E. The Asserted Grounds

Petitioner challenges claims 1-24 of the '580 patent on the following grounds:

Reference[s]	**Basis**	**Claim(s) Challenged**
Datta and APA	§ 103	1-5, 7-12, 14-17, and 20-22
Datta, APA, Singh, and Tolly	§	103 6, 13, 18, 19, 23, and 24
Singh and APA	4F 103	1-5, 7, and 15-17
Singh, APA, and Tolly	§ 103	6, 18, and 19

II. ANALYSIS

A. Claim Interpretation

***5** As a step in our analysis, we determine the meaning of the claims for purposes of this decision. In an *inter partes* re-

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