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Paper 9
Entered: June 24, 2015

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

CONTENTGUARD HOLDINGS, INC.,
Patent Owner.

Case IPR2015-00352
Patent 7,774,280 B2

Before MICHAEL R. ZECHER, BENJAMIN D. M. WOOD, and GEORGIANNA W. BRADEN, *Administrative Patent Judges*.

ZECHER, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
35 U.S.C. § 314(a) and 37 C.F.R. § 42.108

I. INTRODUCTION

Petitioner, Apple Inc. ("Apple"), filed a Petition ("Pet.") requesting an *inter partes* review of claims 1–5, 8, 11–16, 19, 22, 24–28, 31, and 34 of U.S. Patent No. 7,774,280 B2 ("the '280 patent," Ex. 1001). Paper 1. Patent Owner, ContentGuard Holdings, Inc. ("ContentGuard"), timely filed a Preliminary Response ("Prelim. Resp."). Paper 8.

We have jurisdiction under 35 U.S.C. § 314(a), which provides that an *inter partes* review may not be instituted unless the information presented in the Petition shows "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 the arguments presented in ContentGuard's Preliminary Response, we conclude that the information presented in the Petition does not establish that there is a reasonable likelihood that Apple will prevail in challenging claims 1–5, 8, 11–16, 19, 22, 24–28, 31, and 34 of the '280 patent as unpatentable under 35 U.S.C. § 103(a). We, therefore, deny the Petition.

A. Related Matters

The '280 patent has been asserted in the following three district court cases: (1) *ContentGuard Holdings, Inc. v. Amazon.com Inc.*, No. 2:13-cv-01112 (E.D. Tex.); (2) *Google Inc. v. ContentGuard Holdings, Inc.*, No. 3:14-cv-00498 (N.D. Cal.); and (3) *ContentGuard Holdings, Inc. v. Google Inc.*, No. 2:14-cv-00061 (E.D. Tex). Pet. 1; Paper 7, 2. In addition to this Petition, Apple filed at least seven other Petitions challenging the patentability of a certain subset of claims in the following patents owned by ContentGuard: (1) the '280 patent (Cases IPR2015-00351, IPR2015-00353, and IPR2015-00354); and (2) U.S. Patent No. 8,001,053 B2 (Cases

IPR2015-00355, IPR2015-00356, IPR2015-00357, and IPR2015-00358). Pet. 2; Paper 7, 1.

B. The '280 Patent

The '280 patent, titled "System and Method for Managing Transfer of Rights Using Shared State Variables," issued August 10, 2010, from U.S. Patent Application No. 10/956,121, filed on October 4, 2004. Ex. 1001, at [54], [45], [21], [22]. The '280 patent is a continuation-in-part of U.S. Patent Application No. 10/162,701, filed on June 6, 2002. *Id*. at [63]. The '280 patent also claims priority to the following provisional applications: (1) U.S. Provisional Application No. 60/331,624, filed on November 20, 2001; (2) U.S. Provisional Application No. 60/331,623, filed on November 20, 2001; (3) U.S. Provisional Application No. 60/331,621, filed on November 20, 2001; (4) U.S. Provisional Application No. 60/296,113, filed June 7, 2001; (5) U.S. Provisional Application No. 60/296,117, filed on June 7, 2001; and (6) U.S. Provisional Application No. 60/296,118, filed on June 7, 2001. *Id*. at [60].

The '280 patent generally relates to a method and system for managing the transfer of rights associated with digital works using shared state variables. Ex. 1001, 1:18–20. According to the '280 patent, one of the most important issues impeding the widespread distribution of digital works is the current lack of ability to enforce the rights of content owners during the distribution and use of their digital works. *Id*. at 1:24–29. In particular, content owners do not have control over downstream parties unless they are privy to transactions with the downstream parties. *Id*. at 2:33–34. Moreover, the concept of content owners simply granting rights to others

that are a subset of the possessed rights is not adequate for multi-tier distribution models. *Id*. at 2:45–48.

The '280 patent purportedly addresses these problems by providing a method and system for transferring rights associated with an item—presumably a digital work—from a supplier to a consumer. Ex. 1001, 2:52–55. The consumer obtains a set of rights associated with the digital work, which includes meta-rights specifying rights that may be derived therefrom. *Id*. at 2:55–57. If the consumer is entitled to the rights derived from the meta-rights, the disclosed invention then derives at least one right from the meta-rights. *Id*. at 2:58–60. The rights that may be derived from the meta-rights include at least one state variable based on the set of rights, which, in turn, may be used to determine a state of the derived right. *Id*. at 2:62–64.

C. Illustrative Claim

Of the challenged claims, claims 1, 12, and 24 are independent. Claims 1, 12, and 24 are directed to a method, a system, and a device, respectively, for transferring rights associated with an item from a rights supplier to a rights consumer. Claims 2–5, 8, and 11 directly depend from independent claim 1; claims 13–16, 19, and 22 directly depend from independent claim 12; and claims 25–28, 31, and 34 directly depend from independent claim 24. Independent claim 1 is illustrative of the challenged claims and is reproduced below:

> 1. A computer-implemented method for transferring rights adapted to be associated with items from a rights supplier to a rights consumer, the method comprising:
>
> obtaining a set of rights associated with an item, the set of rights including a meta-right specifying a right that can be created when the meta-right is exercised, wherein the meta-

right is provided in digital form and is enforceable by a repository;

determining, by a repository, whether the rights consumer is entitled to the right specified by the meta-right; and

exercising the meta-right to create the right specified by the meta-right if the rights consumer is entitled to the right specified by the meta-right, wherein the created right includes at least one state variable based on the set of rights and used for determining a state of the created right.

Ex. 1001, 15:7–22.

D. Prior Art Relied Upon

Apple relies upon the following prior art references:

Wiggins	US 5,717,604	Feb. 10, 1998	Ex. 1011
Gruse	US 6,389,538 B1	May 14, 2002 (filed Oct. 22, 1998)	Ex. 1008

E. Asserted Grounds of Unpatentability

Apple challenges claims 1–5, 8, 11–16, 19, 22, 24–28, 31, and 34 of the '280 patent based on the asserted grounds of unpatentability ("grounds") set forth in the table below. Pet. 2–3, 24–60.

Reference(s)	**Basis**	**Challenged Claims**
Gruse	§ 103(a)	1–5, 8, 11–16, 19, 22, 24–28, 31, and 34
Gruse and Wiggins	§ 103(a)	1–5, 8, 11–16, 19, 22, 24–28, 31, and 34

II. ANALYSIS

A. Claim Construction

In an *inter partes* review, we construe claims by applying the broadest reasonable interpretation in light of the specification. 37 C.F.R. § 42.100(b); *see In re Cuozzo Speed Tech., LLC*, 778 F.3d 1271, 1281–82 (Fed. Cir. 2015) ("Congress implicitly adopted the broadest reasonable interpretation

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