

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ZTE CORPORATION AND ZTE (USA) INC.
Petitioner

v.

CONTENTGUARD HOLDINGS INC.
Patent Owner

Case IPR2013-00134
U.S. Patent No. 7,225,160

Before JAMESON LEE, MICHAEL W. KIM, and
MICHAEL R. ZECHER, *Administrative Patent Judges*.

ZECHER, *Administrative Patent Judge*

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

I. INTRODUCTION

ZTE Corporation and ZTE (USA) Inc. (“ZTE”) filed a petition (“Pet.”) requesting *inter partes* review of claims 1-38 of U.S. Patent No. 7,225,160 (“the ’160 patent”). Paper 3. In response, Patent Owner, ContentGuard Holdings Inc. (“ContentGuard”), filed a preliminary response (“Prel. Resp.”). Paper 9. 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.

For the reasons set forth below, we conclude that the information presented in the petition demonstrates that there is a reasonable likelihood that ZTE will prevail in establishing claims 12-22 and 30-38 as unpatentable. However, we conclude that the information presented in the petition does not demonstrate that there is a reasonable likelihood that ZTE will prevail in establishing claims 1-11 and 23-29 as unpatentable. Pursuant to 35 U.S.C. § 314, we hereby authorize an *inter partes* review to be instituted only as to claims 12-22 and 30-38 of the ’160 patent.

A. Related Matters

ZTE indicates that the ’160 patent was asserted against it in *ContentGuard Holdings Inc. v. ZTE Corporation et al.*, Civil Action No.

Case IPR2013-00134
U.S. Patent No. 7,225,160

1:12-cv-0206-CMH-TCB, filed in the U.S. District Court for the Eastern District of Virginia on February 27, 2012. Pet. 1. According to ZTE, this patent infringement lawsuit was transferred to the U.S. District Court for the Southern District of California on May 21, 2012. *Id.* ContentGuard does not dispute that it asserted the '160 patent against ZTE.

ZTE also filed five other petitions seeking *inter partes* review of the following patents: U.S. Patent No. 7,523,072 (IPR2013-00133); U.S. Patent No. 7,359,884 (IPR2013-00136); U.S. Patent No. 6,963,859 (IPR2013-00137); U.S. Patent No. 7,139,736 (IPR2013-00138); and U.S. Patent No. 7,269,576 (IPR2013-00139). Pet. 1-2.

B. The Invention of the '160 Patent (Ex. 1001)

The invention of the '160 patent generally relates to distributing and enforcing usage rights for digital works. Ex. 1001, 1:15-16. A digital work refers to any work that has been reduced to a digital representation, including any audio, video, text, or multimedia work, and any accompanying interpreter, *e.g.*, software, which may be required to recreate or render the content of the digital work. Ex. 1001, 5:20-24. Usage rights refer to rights granted to a recipient of a digital work that define the manner in which a digital work may be used and distributed. Ex. 1001, 5:26-30. According to the '160 patent, the disclosed invention permits the owner of a digital work, or other authorized party, to specify a manner of use of the content associated therewith. Ex. 1001, 3:51-54.

The '160 patent discloses dividing a digital work into two files: (1) a contents file; and (2) a description tree file. Ex. 1001, 7:65-67. The contents file is a stream of addressable bytes, the format of which completely depends on the interpreter or rendering engine used to play, display, or print the digital work. Ex. 1001, 7:67-8:4. The description tree file makes it possible to examine the rights and fees associated with the digital work without reference to the content of the digital work. Ex. 1001, 8:4-6.

Figure 5 of the '160 patent illustrates a contents file layout for a digital work. Ex. 1001, 4:16-18, 8:10. Figure 5 of the '160 patent is reproduced below:

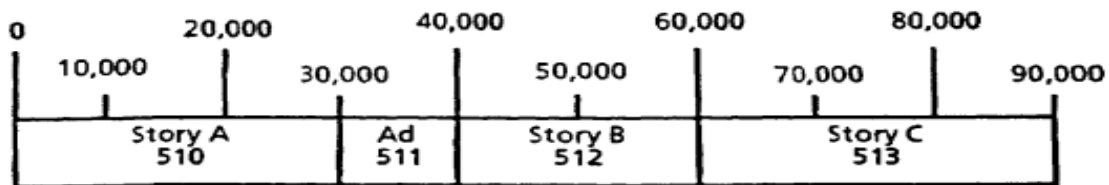


Figure 5

Figure 5 illustrates the format of the contents file of a digital work.

According to the contents file illustrated above, digital work 509 includes story A 510, advertisement 511, story B 512, and story C 513. Ex. 1001, 8:11-12. Assuming that digital work 509 is stored starting at a relative address of 0, the aforementioned portions of digital work 509 are stored so

that story A 510 occupies the address of 0-30,000, advertisement 511 occupies the address of 30,001-40,000, story B 512 occupies the address of 40,0001-60,000, and story C 513 occupies the address of 60,0001-90,000. Ex. 1001, 8:12-18.

Figure 8 of the '160 patent illustrates the description tree layout or structure of digital work 509. Ex. 1001, 4:26-27, 8:55-56. Figure 8 of the '160 patent is reproduced below:

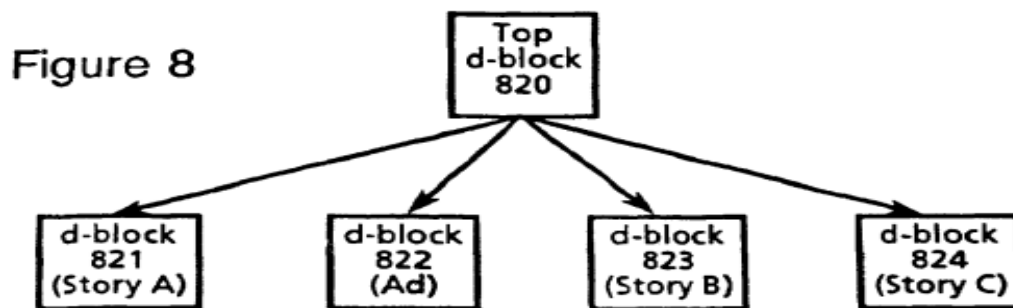


Figure 8 illustrates the structure of the description tree portion of a digital work.

According to the description tree illustrated above, the top descriptor block (“d-block”) 820 of the digital work refers to the various stories and advertisement contained therein. Ex. 1001, 8:56-58. The top d-block 820 points to the following: (1) d-block 821, which represents story A 510; (2) d-block 822, which represents advertisement 511; (3) d-block 823, which represents story B 512; and (4) d-block 824, which represents story C 513. Ex. 1001, 8:58-61.

Figure 9 of the '160 patent further illustrates a portion of the description tree associated with d-block 821, which represents story A 510.

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