

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

E-WATCH, INC.,
Patent Owner.

Case IPR2015-00414
Patent 7,643,168 B2

Before JAMESON LEE, GREGG I. ANDERSON, and
MATTHEW R. CLEMENTS, *Administrative Patent Judges*.

ANDERSON, *Administrative Patent Judge*.

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

I. INTRODUCTION

On December 11, 2014, Apple Inc. (“Petitioner”) filed a Petition (Paper 1, “Pet.”) requesting an *inter partes* review of claims 1–31 of U.S. Patent No. 7,643,168 B2 (Ex. 1001, “the ’168 patent”). On April 9, 2015, e-Watch, Inc. (“Patent Owner”), filed a Preliminary Response (Paper 11, “Prelim. Resp.”). We have jurisdiction under 35 U.S.C. § 314.

We have jurisdiction under 35 U.S.C. § 314, which provides that an *inter partes* review may not be instituted “unless . . . there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.”

Upon consideration of the Petition and the Preliminary Response, we determine that Petitioner has demonstrated a reasonable likelihood of prevailing in showing the unpatentability of any of claims 1–31 of the ’168 patent. Accordingly, we institute an *inter partes* review of these challenged claims.

A. Related Proceedings

Petitioner identifies these related cases involving the ’168 patent: (1) *E-Watch, Inc. and E-Watch Corp. v. Apple Inc.*, No. 2:13-CV-1061 (JRG/RSP) (E.D. Tex.), to which the following case numbers in the same tribunal are consolidated: CV-1062, 1063, 1064, 1069, 1070, 1071, 1072, 1073, 1074, 1075, 1077, and 1078. Pet. 53, Paper 9, 1.

In addition to the present proceeding, petitions for *inter partes* review of the ’168 patent have been filed as follows: IPR2014-00989 (instituted and joined with IPR2015-00543, “the ’989 IPR”); IPR2015-00401; IPR2015-00407; IPR2015-00408; IPR2015-00607; and IPR2015-00611. Pet. 53, Paper 9, 1. Separate petitions for *inter partes* review of related U.S.

Patent No. 7,635,871 (“the ’871 patent”)¹ have been filed as follows:
IPR2014-00439; IPR2014-00987(instituted and joined with IPR2015-00541); IPR2015-00402; IPR2015-00404; IPR2015-00406; IPR2015-00411; IPR2015-00610; and IPR2015-00612. Pet. 53, Paper 9, 1–2.

B. The ’168 patent (Ex. 1001)

The ’168 patent describes an image capture, conversion, compression, storage and transmission system. Ex. 1001, Abstract. The system includes a camera and a transmission device; the camera captures an image that is transmitted to another device using, for example, cellular signal, satellite transmission and hard line telephonic. *Id.* at 5:66–6:5. Captured images can be from a digital or analog camera or a video camera (e.g., a camcorder). *Id.* at 2:37–39.

Figure 4 of the ’168 patent is reproduced below.

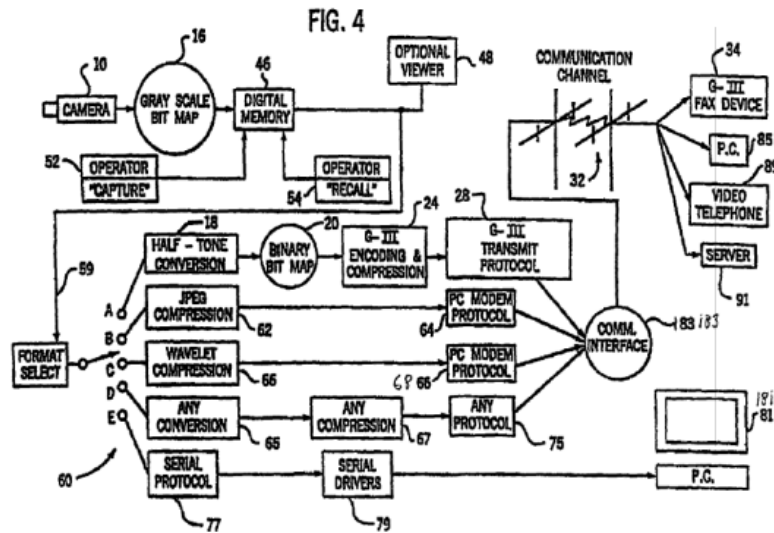


Figure 4 of the ’168 Patent illustrates the data path after an image is captured by camera 10 and conditioned by gray scale bit map 16. *Id.* at 7:65–8:41. The device includes memory 46, optional viewer 48, and format select

¹ The ’168 patent is a continuation of the ’871 patent. Ex. 1001, at [63].

interface switch 60 that permits automated or manual selection of the transmitting protocol, such as a Group-III facsimile format, a PC modem protocol, a wavelet compressor, or others. *Id.* Depending on the selected protocol, the signal output is generated and provided to communications interface module 83 for transmission. *Id.*

C. Illustrative Claim

Of the challenged claims, claims 1, 22, 24, 26, 27, and 29 are independent. Claim 1 is reproduced below:

1. Apparatus comprising:
 - a portable housing, the portable housing being wireless;
 - an image collection device supported by the portable housing, the image collection device being operable to provide visual image data of a field of view;
 - a display supported by the portable housing, the display being operable to display for viewing by a user a perceptible visual image, the perceptible visual image being generated from the visual image data;
 - memory supported by the portable housing, the memory being suitable to receive visual image data in digital format, the memory being suitable to retain the visual image data in digital format,
 - an input device supported by the portable housing, the input device being operable by the user;
 - operation of the input device by the user enabling the memory to retain the visual image data in digital format, the memory being suitable to provide retained visual image data in digital format;
 - media supported by the portable housing, the media being suitable to embody at least one compression algorithm;
 - at least one processing platform supported by the portable housing, the at least one processing platform being operable to execute the at least one compression algorithm, the at least one processing platform being provided the retained visual image data in digital format, execution of the at least one

compression algorithm providing compressed visual image data; and

a mobile phone supported by the portable housing, the mobile phone being operable to send to a remote recipient a wireless transmission, the wireless transmission conveying the compressed digital image data; and

movement by the user of the portable housing commonly moving the image collection device,

movement by the user of the portable housing commonly moving the display.

Ex. 1001, 15:14–50.

D. Asserted Grounds of Unpatentability

Petitioner asserts that claims 1–31 of the '168 patent are unpatentable under 35 U.S.C. § 102(b) as anticipated by Monroe.²

Pet. 6–7.

E. Claim construction

In *inter partes* review, claim terms are given their broadest reasonable interpretation in light of the specification in which they appear. *See* 37 C.F.R. § 42.100(b); *In re Cuozzo Speed Techs., LLC*, 778 F.3d 1271, 1279–83 (Fed. Cir. 2015). Petitioner identifies one term for construction (Pet. 7–8) while Patent Owner's Preliminary Response does not include any proposals.

1. “viewfinder” (claims 10–13, 23, 25, 28, and 31)

Petitioner identifies the term “viewfinder” for construction and proposes it be construed as “a device for depicting a view.” Pet. 8. Petitioner cites to the Specification's description of embodiments in which image data is viewed through the viewfinder but where the image data is not

² Int. Pub. Pat. App. WO 99/035818, to Monroe, published July 15, 1999 (Ex. 1006, “Monroe”).

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