

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HTC CORPORATION and HTC AMERICA, INC.,
Petitioner,

v.

E-WATCH, INC. and E-WATCH CORPORATION,
Patent Owner.

Case IPR2014-00989
Patent 7,643,168 B2

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

ANDERSON, *Administrative Patent Judge*.

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

On June 19, 2014, HTC Corporation and HTC America, Inc. (“Petitioner”) filed a Petition (Paper 1) pursuant to 35 U.S.C. §§ 311–319 to institute an *inter partes* review of claims 1–6, 8, 10, 11, 13–18, 21–29, and 31 of U.S. Patent No. 7,643,168 B2 (“the ’168 patent”), filed January 12, 1998.¹ e-Watch, Inc. and e-Watch Corporation (“Patent Owner”) elected not to file a preliminary response. Applying the standard set forth in 35 U.S.C. § 314(a), which requires demonstration of a reasonable likelihood that Petitioner would prevail with respect to at least one challenged claim, we institute an *inter partes* review of claims 1–6, 8, 10, 11, 13–18, 21–29, and 31. The Board has not made a final determination of the patentability of any claim.

I. BACKGROUND

A. *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.

¹ Petitioner alleges the ’168 patent claims priority to a continuation application No. 10/336,470 (US Pat. No. 7,365,871) (“the ’470 application”) filed January 13, 2003. Pet. 3. The ’470 application is a divisional of an application No. 09/006,073 filed January 12, 1998. *Id.* Petitioner alleges that is the earliest date to which Patent Owner could claim priority. *Id.* We use the 1998 date as the priority date for purposes of this Decision.

Figure 4 of the '168 patent is reproduced below.

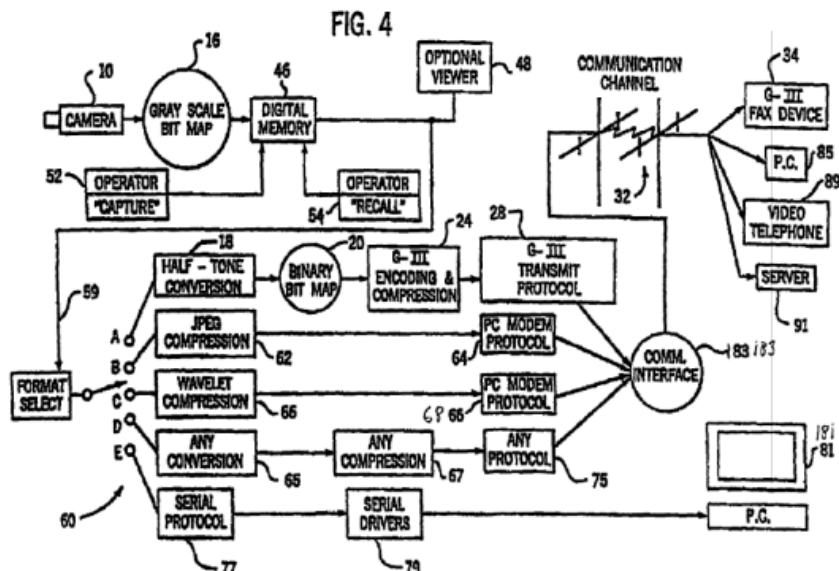


Figure 4 of the '168 Patent illustrates the data path after an image is captured by camera 10 and conditioned by gray scale bit map 16. *Id.* at 7:65–8:41. The device includes memory 46, optional viewer 48, and format select interface switch 60 that permits automated or manual selection of the transmitting 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.*

B. Illustrative claim

Claims 1, 22, 24, 26, 27, and 29 are the independent claims of the '168 patent. Claim 1 is illustrative of the claims at issue:

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.

C. References relied upon

Petitioner relies on the following references. Pet. 6–9.

Reference	Description	Publication or Issue Date	Exhibit No.
Morita ²	JP H06-133081	May 13, 1994	Ex. 1002
Sarbadhikari	US 5,477,264	Dec. 19, 1995	Ex. 1003
Longginou	WO 95/23485	Aug. 31, 1995	Ex. 1004
Wilska	GB 2,289,555 A	Nov. 22, 1995 ³	Ex. 1005
Yamagishi-992	EP 0 594 992 A1	May 4, 1994	Ex. 1006
McNelley	US 5,550,754	Aug. 27, 1996	Ex. 1007

D. Asserted grounds of unpatentability

Petitioner challenges claims 1–6, 8, 10, 11, 13–18, 21–29, and 31 of the '168 patent as unpatentable on the following grounds. Pet. 12–59.

Reference(s)	Basis	Claim(s) Challenged
Morita and Sarbadhikari	§ 103(a)	1–6, 8, 10, 11, 13–15, 21–29, and 31
Morita, Sarbadhikari, and Longginou	§ 103(a)	16–18
Wilska and Yamagishi-992	§ 103(a)	1–6, 8, 10, 11, 16–18, 21, 22, 24, 26, 27, and 29
Wilska, Yamagishi-992, and McNelley	§ 103(a)	13–15, 23, 25, 28, and 31

E. Related proceedings

Patent Owner has asserted the '168 patent against Petitioner in the following action: *E-WATCH, INC. v. HTC*, No. 2:13-cv-01063, filed in the

² Petitioner filed Morita as pp. 28–37 of Exhibit 1002. Petitioner provided a certified English translation of Morita at pp. 1–28 of Exhibit 1002.

³ Petitioner mistakenly used a publication date of December 11, 1995. Pet. 8.

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