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Paper No. 19
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE INC.,
Petitioner,

v.

SUMMIT 6 LLC,
Patent Owner.

Case IPR2015-00806
Patent 7,765,482 B2

Before HOWARD B. BLANKENSHIP, GEORGIANNA W. BRADEN, and KERRY BEGLEY, *Administrative Patent Judges*.

BEGLEY, *Administrative Patent Judge*.

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

Google Inc. (“Petitioner”)[1] filed a Petition requesting *inter partes* review of claims 12, 13, 16, 18, 19, 21–25, 35–38, 40–42, 44–46, and 49 (“the challenged claims”) of U.S. Patent No. 7,765,482 B2 (Ex. 1001, “the

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[1] The Petition also lists HTC Corporation and HTC America, Inc. (collectively, “HTC”) as petitioners. Paper 1 (“Pet.”), 1 n.1. HTC and Patent Owner later filed a joint motion to terminate HTC’s participation in the case, pursuant to settlement. Paper 9. We granted the motion. Paper 11.

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’482 patent”). Pet. 1 n.1, 5. Summit 6 LLC (“Patent Owner”) filed a Preliminary Response to the Petition. Paper 12 (“Prelim. Resp.”).

Pursuant to 35 U.S.C. § 314(a), an *inter partes* review may not be instituted unless “the information presented in the petition . . . and any response . . . 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.” Having considered the Petition and the Preliminary Response, we conclude that there is a reasonable likelihood that Petitioner would prevail in establishing the unpatentability of each of the challenged claims of the ’482 patent. Therefore, we institute *inter partes* review of these claims.

I. BACKGROUND

A. THE ’482 PATENT

According to the ’482 patent, at the time of the disclosed invention, sharing digital images over the Internet was complex and required “a level of sophistication . . . beyond that of the ordinary user.” Ex. 1001, 1:20–34. The patent purports to solve this problem with a “web-based media submission tool,” which “allows submission of media objects in a convenient, intuitive manner” that does not require the user to make any modifications to media objects before sending or uploading them. *Id.* at 1:45–48, 2:60–67.

The tool disclosed in the ’482 patent allows a user to select media objects stored at a first location (e.g., a client). *Id.* at [57], 2:3–6, 2:44–47, 4:46–47. The media objects may be “pictures (images), movies, videos, graphics, sound clips.” *Id.* at 2:47–48. The user selects the media objects through either a “drag and drop” or a file browsing functionality. *Id.* at 3:20–48. The tool then may allow the user to confirm the selected media

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objects with a visual representation, such as a thumbnail image. *Id.* at [57], 2:9–11, 3:65–4:3.

Next, the tool pre-processes the selected media objects, "automatically prepar[ing]" the objects "to meet the requirements of [a] second location" (e.g., a server or web site). *Id.* at [57], 2:14–17, 2:44–3:12, 5:1–4, 5:26–33. The media objects may be pre-processed in "any number of ways," such as changing the file format or quality setting, cropping, adding text or annotations, and resizing, which includes "compression." *Id*. at [57], 4:52–4:67. After this pre-processing is complete, the tool transmits or uploads the media objects to the second location. *Id.* at [57], 3:17–19.

B. Illustrative Claim

Challenged claims 12, 13, 24, 25, and 35–38 are independent claims. *See id.* at 10:40–14:41. Claim 12, reproduced below, is illustrative of the recited subject matter.

> 12. A computer implemented method of pre-processing media objects in a local device for subsequent transmission to a remote device, comprising:
>
> a. receiving pre-processing parameters from a remote device, said pre-processing parameters including a specification of an amount of media data;
>
> b. receiving an identification of a group of one or more media objects for transmission, a collective media data of said group of one or more media objects being limited by said received pre-processing parameters;
>
> c. pre-processing said identified group of one or more media objects using said received pre-processing parameters, wherein said pre-processing comprises encoding or otherwise converting said media object; and
>
> d. transmitting said pre-processed group of one or more media objects to the remote device.

Id. at 10:40–55.

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C. Asserted Prior Art

The Petition relies upon the following references, as well as the supporting Declaration of Paul Clark, D.Sc. (Ex. 1003):

U.S. Patent No. 6,018,774 (issued Jan. 25, 2000) (Ex. 1006, "Mayle");

U.S. Patent No. 6,035,323 (issued Mar. 7, 2000) (Ex. 1007, "Narayen");

U.S. Patent No. 6,223,190 B1 (issued Apr. 24, 2001) (Ex. 1005, "Aihara"); and

U.S. Patent No. 6,930,709 B1 (issued Aug. 16, 2005) (Ex. 1004, "Creamer").

D. Asserted Grounds of Unpatentability

Petitioner asserts the following grounds of unpatentability. Pet. 5.

Challenged Claims	Basis	References
12, 13, 16, 18, 19, 21–25, 35–38, 40–42, 44–46, and 49	§ 103	Creamer and Aihara
12, 13, 16, 18, 19, 21–25, 35–38, 40–42, 44–46, and 49	§ 103	Mayle and Narayen

II. ANALYSIS

A. Claim Interpretation

We begin our analysis by addressing the meaning of the claims. The Board interprets claims in an unexpired patent using the "broadest reasonable construction in light of the specification of the patent in which [they] appear[]." 37 C.F.R. § 42.100(b); *see In re Cuozzo Speed Techs., LLC*, 793 F.3d 1268, 1275–79 (Fed. Cir. 2015) (holding that "Congress implicitly approved the broadest reasonable interpretation standard in enacting the AIA" and that "the standard was properly adopted by PTO regulation"). Under this standard, we presume a claim term carries its "ordinary and customary meaning," which is "the meaning that the term

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would have to a person of ordinary skill in the art in question" at the time of the invention. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007) (citation and quotations omitted).

On this record and for purposes of this decision, we determine that only "said identification," in claim 18, requires construction. Claim 18 depends from claim 13, which recites two types of identifications—"identification of digital content" and "identification of a user":

> 13. A computer implemented method of pre-processing digital content in a client device for subsequent electronic publishing, comprising:
>
> a. *receiving an identification of digital content* . . . ;
>
> b. pre-processing said identified digital content at said client device in accordance with one or more pre-processing parameters that are received from a device separate from said client device to produce pre-processed digital content . . . ;
>
> c. *retrieving information that enables identification of a user,* said retrieved information being available to said client device prior to said received identification; and
>
> d. transmitting a message from said client device to said server device for subsequent publishing device to said one or more devices that are remote from said server device and said client device, said transmitted message including said pre-processed digital content and said retrieved information.

Ex. 1001, 10:56–11:12 (emphases added). Claim 18 adds: "wherein said pre-processing comprises pre-processing in accordance with one or more pre-processing parameters that have been stored in memory of said client device prior to *said identification*." *Id.* at 11:22–25 (emphasis added).

Petitioner and Patent Owner agree that "said identification" in claim 18 should be construed to encompass "identification of digital content." Pet. 12–13; Prelim. Resp. 12. On this record, we determine that

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