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Paper 7
Entered: February 16, 2017

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

PERSONALIZED MEDIA COMMUNICATIONS LLC,
Patent Owner.

Case IPR2016-01520
Patent 8,559,635 B1

Before KARL D. EASTHOM, TRENTON A. WARD, and GEORGIANNA W. BRADEN, *Administrative Patent Judges*.

WARD, *Administrative Patent Judge*.

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

I.INTRODUCTION

A. Background

Apple Inc. ("Petitioner") filed a Petition to institute an *inter partes* review of claims 3, 4, 7, 13, 18, 20, 21, 28–30, 32 and 33 ("challenged claims") of U.S. Patent No. 8,559,635 B1 (Ex. 1003, "the '635 patent") pursuant to 35 U.S.C. §§ 311–319. Paper 1 ("Pet."). Personalized Media Communications LLC ("Patent Owner") filed a Preliminary Response. Paper 5 ("Prelim. Resp."). We have statutory authority under 35 U.S.C. § 314(a), 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." *See also* 37 C.F.R § 42.4(a) (delegating authority to the Board).

Upon consideration of the Petition, Patent Owner's Preliminary Response, and the associated evidence, we conclude Petitioner has established a reasonable likelihood it would prevail with respect to at least one of the challenged claims. Accordingly, for the reasons that follow, we institute an *inter partes* review.

B. Additional Proceedings

Petitioner informs us that the '635 patent is the subject of a lawsuit: *Personalized Media Communications, LLC v. Amazon.com, Inc.*, No. 2:15-cv-1366-JRG–RSP (E.D. Tex. filed July 30, 2015). Pet. 61. Petitioner and Patent Owner also list a number of related patents involved in district court cases and other related patents involved in *inter partes* reviews. *Id*. at 61–62; Paper 4, 1.

C. The '635 Patent

The '635 patent is titled "Signal Processing Apparatus and Methods" and generally relates to a unified system of programming communication. Ex. 1003, Abstr. The challenged claims relate to methods of controlling the decryption of programming at a subscriber station or receiver station. As noted above, Petitioner challenges claims 3, 4, 7, 13, 18, 20, 21, 28–30, 32 and 33, of which claims 13, 18, 20, 32, and 33 are independent. Dependent claim 4 and the independent claim from which it depends, claim 2 (not challenged in this proceeding), are reproduced below:

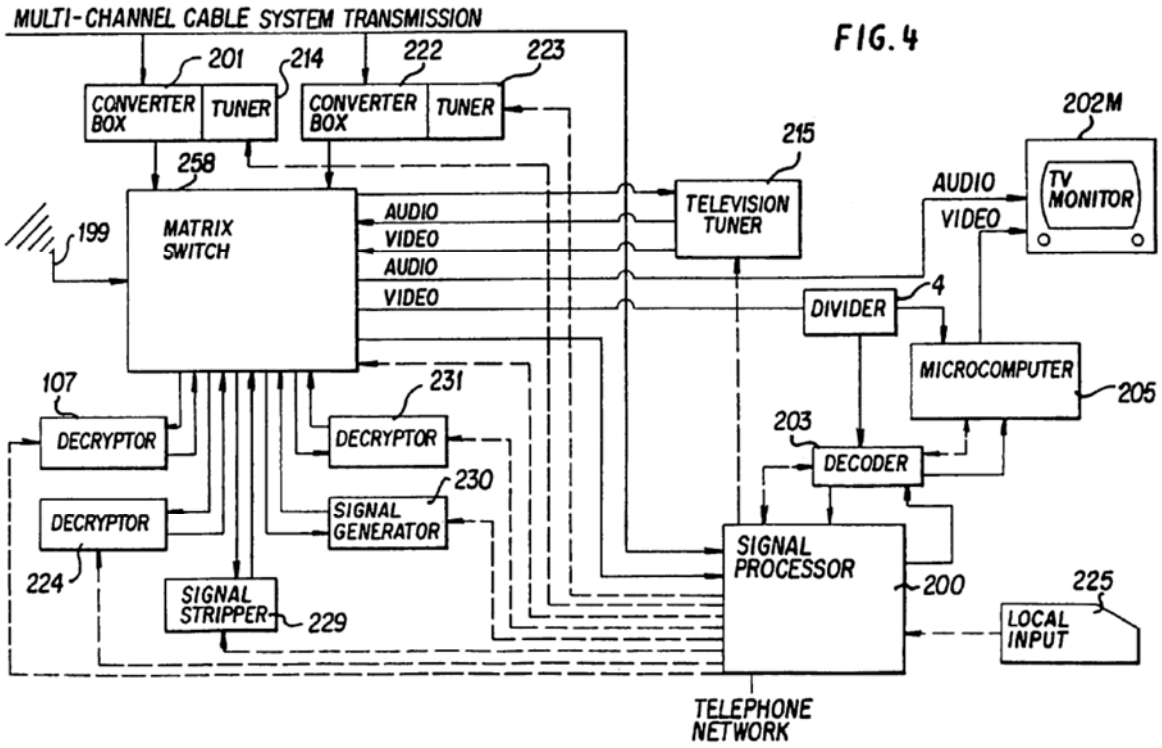
> 2. A method for controlling the decryption of programming at a subscriber station, said method comprising the steps of:
>
> receiving programming, said programming having a first encrypted digital control signal portion and an encrypted digital information portion;
>
> detecting said first encrypted digital control signal portion of said programming;
>
> passing said first encrypted digital control signal portion of said programming to a first decryptor at said subscriber station;
>
> decrypting said first encrypted digital control signal portion of said programming using said first decryptor at said subscriber station;
>
> passing said encrypted digital information portion of said programming and the decrypted control signal portion to a second decryptor at said subscriber station;
>
> decrypting said encrypted digital information portion of said programming using said second decryptor at said subscriber station based on the decrypted control signal portion; and
>
> presenting said programming.
>
> 4. The method of claim 2, wherein said programming further includes encrypted video.

Id. at 286:7–28, 286:54–55. Also, independent claim 18, which is representative of the alleged invention, is reproduced below:

> 18. A method of processing signals at a receiver station comprising the steps of:
>
> receiving at least one encrypted digital information transmission, wherein the at least one encrypted digital information transmission is unaccompanied by any non-digital information transmission;
>
> locating code;
>
> passing said code to a processor;
>
> controlling a decryptor that decrypts encrypted digital data to decrypt in a specific fashion on the basis of said code;
>
> decrypting a portion of said at least one information transmission in said specific fashion; and
>
> passing said decrypted portion of said at least one encrypted digital information transmission to one of said processor and an output device.

Id. at 288:10–25.

The '635 patent describes access control to transmitted content at a receiver station. Ex. 1003, Abstr. Figure 4 of the '635 patent, reproduced below, illustrates a receiver station:



As shown above in Figure 4, the ’635 patent discloses a receiver station having signal processor 200 to control tuners 214, 215, and 223, the switching of matrix switch 258, and decrypting by decryptors 107, 224, and 230. *Id*. at 148:30–35. In one example described in the Specification, the “Wall Street Week” program is transmitted to the receiver station by a cable television head end. *Id*. at 149:23–26. Prior to transmission, the cable head end “encrypts the digital audio information of said transmission, in a fashion well known in the art, using particular cipher algorithm C and cipher key Ca, then transmits the information of said program on cable channel 13.” *Id*. at 149:26–30. Furthermore, a SPAM message consisting of an “01” header, local-cable-enabling-message (#7), is transmitted with instructions that enable the “Wall Street Week” programming. *Id*. at 150:24–33. Executing the instructions causes controller 20 to receive the cable channel transmission, select the information of a cipher key Ca from among the

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