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Paper No. 57
Filed: March 29, 2016

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMAZON.COM, INC. and AMAZON WEB SERVICES, LLC,
Petitioner,

v.

PERSONALIZED MEDIA COMMUNICATIONS, LLC,
Patent Owner.

Case IPR2014-01532
Patent 7,801,304 B1

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

WARD, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 318 and 37 C.F.R. § 42.73

I. INTRODUCTION

We have jurisdiction to hear this *inter partes* review under 35 U.S.C. § 6(c), and this Final Written Decision is issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons that follow, we determine that Petitioner has shown by a preponderance of the evidence that claims 1, 11, 16, 18, 22, 23, and 24 of U.S. Patent No. 7,801,304 B1 (Ex. 1004, “the ’304 patent”) are unpatentable. We also determine that Patent Owner has not met its burden on its Motion to Amend regarding entry of the proposed substitute claims, and thus, we deny the Motion to Amend.

A. Procedural History

Amazon.Com, Inc. and Amazon Web Services, LLC (“Petitioner”) filed a Petition (Paper 1, “Pet.”) to institute an *inter partes* review of claims 1, 11, 16, 18, 22, 23, and 24 of the ’304 patent. Personalized Media Communications, LLC (“Patent Owner”) filed a Preliminary Response (Paper 6, “Prelim. Resp.”). Pursuant to 35 U.S.C. § 314(a), we instituted an *inter partes* review on three grounds: (1) claims 1, 11, 18, 23, and 24 as unpatentable under 35 U.S.C. § 103 in view of Guillou,¹ (2) claim 22 as unpatentable under 35 U.S.C. § 103 in view of Guillou, Block,² and Guillou ’011,³ and (3) claims 11 and 16 as unpatentable under 35 U.S.C. § 103 in view Guillou and Block. *See* Paper 8 (“Dec. to Inst.”), 31.

¹ US Patent No. 4,337,483, filed Jan. 31, 1980 (Ex. 1007) (“Guillou”).

² US Patent No. 4,225,884, filed Jun. 30, 1978 (Ex. 1008) (“Block”).

³ US Patent No. 4,352,011, filed Jan. 23, 1980 (Ex. 1009) (“Guillou ’011”).

After institution of trial, Patent Owner then filed a Patent Owner Response (Paper 24, "PO Resp."), to which Petitioner filed a Reply (Paper 35, "Reply").

In addition, Patent Owner also filed a Contingent Motion to Amend (Paper 25), to which Petitioner filed an Opposition (Paper 36). Patent Owner then filed a Reply to Petitioner's Opposition to the Contingent Motion. Paper 43.

Patent Owner filed observations on the cross-examination of Petitioner's declarant (Paper 48), to which Petitioner filed a Response (Paper 51). Petitioner filed observations and amended observations on the cross-examination of Patent Owner's declarant (Papers 49 and 53), to which Patent Owner filed a response (Paper 52).

An oral argument was held on Dec. 8, 2015. A transcript of the oral argument is included in the record. Paper 56 ("Tr.").

B. Related Proceedings

Petitioner informs us that the '304 patent is the subject of a lawsuit: *Personalized Media Commc'ns, LLC v. Amazon.com, Inc.*, No. 1:13-cv-1608-RGA (D. Del. Sept. 23, 2013). Pet. 1. According to Petitioner, the District Court's judgment in the lawsuit has been appealed to the Court of Appeals for the Federal Circuit as Appeal No. 15-2008. Paper 38, 1. Six patents related to the '304 patent are the subject of concurrently filed petitions for *inter partes* review. Pet. 1; Paper 38, 1; *see* IPR2014-01527, IPR2014-01528, IPR2014-01530, IPR2014-01531, IPR2014-01533, and IPR2014-01534.

C. The '304 Patent

The '304 patent is titled "Signal Processing Apparatus and Methods" and generally relates to a unified system of programming communication. Ex. 1004, Abstr. The challenged claims relate to methods of controlling the decryption of programming at a subscriber station or receiver station.

Claim 1 is reproduced below:

1. 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 decryptor at said subscriber station;

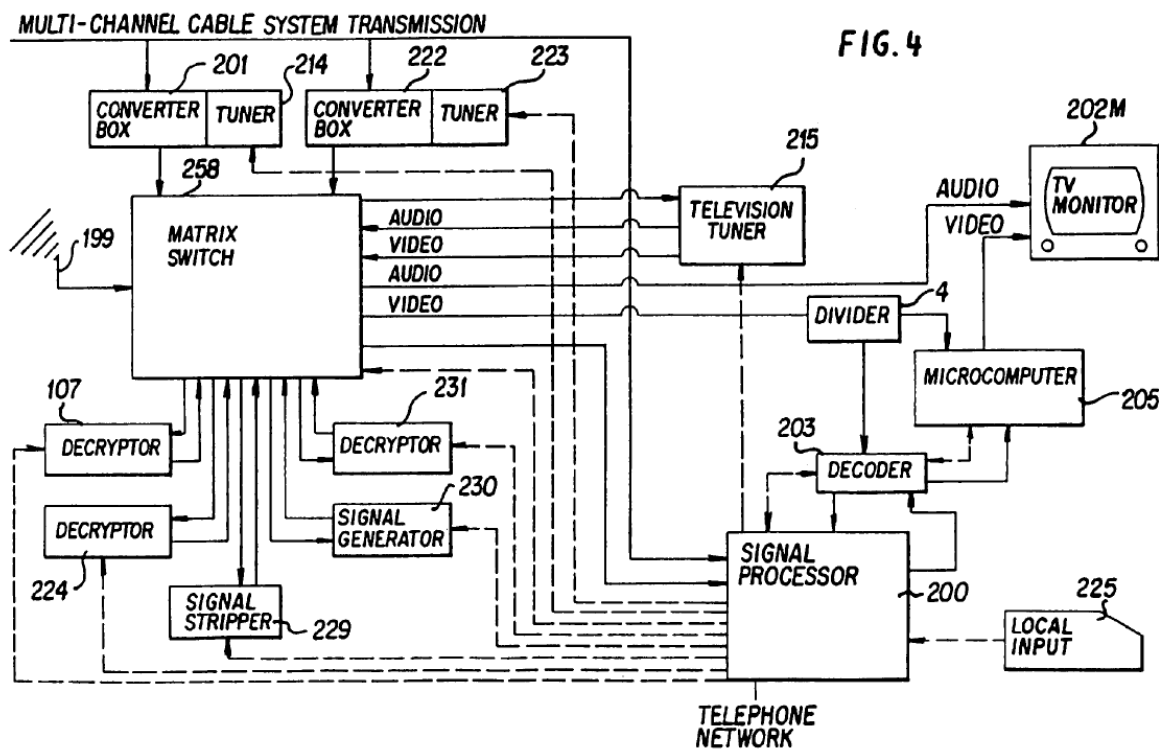
decrypting said first encrypted digital control signal portion of said programming using said decryptor at said subscriber station;

passing said encrypted digital information portion of said programming to said decryptor;

decrypting said encrypted digital information portion of said programming using said decryptor at said subscriber station based on the decrypted control signal portion; and
presenting said programming.

Patent Owner describes the '304 patent as directed to a system including doubly-encrypted content (e.g., digital video encrypted using two keys) and layered encryption (e.g., the content is encrypted with a key that is

itself encrypted). PO Resp. 4. The '304 patent describes access control to transmitted content at a receiver station. Ex. 1004, 143:39–49. Figure 4 of the '304 patent, reproduced below, illustrates a receiver station:



As shown above in Figure 4, the '304 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 231. *Id.* at 148:12–16. 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 149:5–8. 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 149:8–12. Furthermore, a SPAM message consisting of a “01” header,

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