UNITED STATES PATENT AND TRADEMARK OFFICE
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BEFORE THE PATENT TRIAL AND APPEAL BOARD
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APPLE INC.,
Petitioner,

v.

CONTENTGUARD HOLDINGS, INC.,
Patent Owner.

_____

Case IPR2015-00457
Patent 7,225,160 B2

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Before JAMESON LEE, BENJAMIN D. M. WOOD, and
BARBARA A. PARVIS, *Administrative Patent Judges.*

WOOD, *Administrative Patent Judge*.

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

I.   INTRODUCTION

A.   *Background*

Apple Inc. ("Petitioner") filed a Petition (Paper 1, "Pet.") to institute an *inter partes* review of claims 1–11 and 23–29 (the "challenged claims") of U.S. Patent No. 7,225,160 B2 (Ex. 1011, "the '160 patent"). ContentGuard Holdings, Inc. ("Patent Owner") filed a Preliminary Response (Paper 8, "Prelim. Resp."). We have jurisdiction under 35 U.S.C. § 314.

Institution of an *inter partes* review is authorized by statute when "the information presented in the petition . . . 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." 35 U.S.C. § 314(a). We determine that Petitioner has not shown a reasonable likelihood that it would prevail with respect to at least one of the claims of the '160 patent. Accordingly, we deny the Petition and decline to institute an *inter partes* review.

B.   *Related Proceedings*

Petitioner discloses that the '160 patent has been asserted in two infringement actions pending in the Eastern District of Texas, and one infringement action pending in the Northern District of California. Pet. 2. Petitioner also indicates that the '160 patent is the subject of another *inter partes* review proceeding, *Apple Inc. v. ContentGuard Holdings, Inc.*, Case IPR2015-00458. *Id*.

The '160 patent was the subject of an earlier *inter partes* view in which the Board instituted a trial: *ZTE Corp. v. ContendGuard Holdings, Inc.*, Case IPR2013-00134 (PTAB June 19, 2013) (Paper 12) ("*ZTE*").

C.   The '160 Patent

The '160 patent is directed to supporting commercial transactions involving "digital works," and, in particular, to enforcing "usage rights" that are associated with the digital works. Ex. 1011, Abstract, 1:15–16, 5:4–5. A "digital work" refers to any work that has been reduced to a digital representation, including any audio, video, text, or multimedia work, and any accompanying interpreter, *e.g.*, software, which may be required to recreate or render the content of the digital work. *Id*. at 5:20–24. "Usage rights" are rights granted to a recipient of a digital work that define the manner in which a digital work may be used and distributed. *Id*. at 5:26–30. "Usage rights are permanently associated with the digital work. . . . the usage rights and any associated fees assigned by a creator and subsequent distributor will always remain with a digital work." *Id*. at 5:34–38.

The Specification states that a digital work's usage rights are enforced by "repositories." *Id*. at 5:39–40. "[R]epositories are used to store digital works, control access to digital works, bill for access to digital works and maintain the security and integrity of the system." *Id*. at 5:40–43. A repository has both "a hardware and functional embodiment," with the functional embodiment typically being software executed on the hardware embodiment. *Id*. at 12:27–29.

The '160 patent discloses dividing a digital work into two files: a contents file and a description tree file. *Id*. at 7:65–67. The contents file is a stream of addressable bytes, the format of which depends on the interpreter or rendering engine used to play, display, or print the digital work. *Id*. at 7:67–8:4. The description tree file contains the digital work's usage rights, and makes it possible for the repository to examine the rights and fees

associated with the digital work without reference to the content of the digital work. *Id*. at 8:4–6, Fig. 7.

Figure 5 of the '160 patent, reproduced below, illustrates a contents file layout for a digital work. *Id*. at 4:16–18, 8:10.
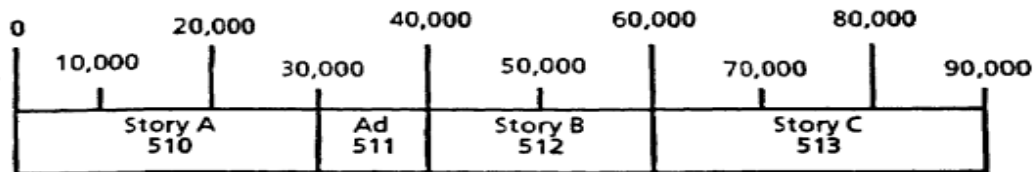

Figure 5

According to the contents file illustrated above, digital work 509 includes story A 510, advertisement 511, story B 512, and story C 513. *Id*. at 8:11–12. Digital work 509 is stored starting at a relative address of 0, with story A 510 stored at address of 0–30,000, advertisement 511 stored at address 30,001–40,000, etc. *Id*. at 8:12–18.

Figure 8 of the '160 patent, reproduced below, illustrates the description tree structure for digital work 509. *Id*. at 4:26–27, 8:55–56.
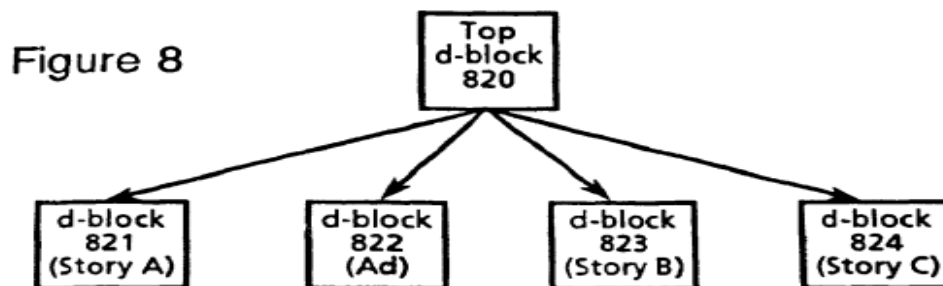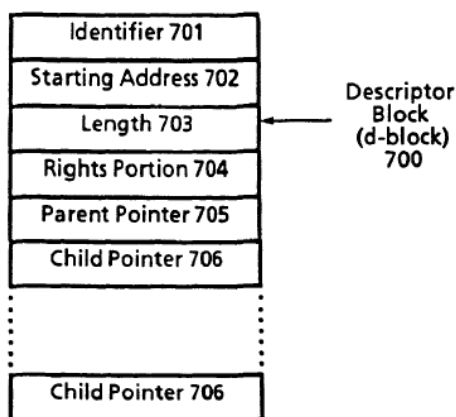

In the description tree illustrated above, digital work 509, as well as each of its components, has a corresponding descriptor block ("d-block") arranged in a tree structure representing the relationship of the various

works. *Id*. at 8:56–58. Thus, d-block 820 corresponds to digital work 509 and points to: (1) d-block 821 representing story A 510; (2) d-block 822 representing advertisement 511; (3) d-block 823 representing story B 512; and (4) d-block 824 representing story C 513. *Id*. at 8:58–61. Figure 9 of the '160 patent further illustrates that d-block 821 is structured in much the same way, pointing to a separate d-block for each component of story A 510. *Id*. at 4:28–29, 8:62–63, Fig. 9.

Figure 7 of the '160 patent, reproduced below, illustrates the information provided by each d-block:

Figure 7

Identifier 701
Starting Address 702
Length 703
Rights Portion 704
Parent Pointer 705
Child Pointer 706

Child Pointer 706

Descriptor Block (d-block) 700

As depicted in Figure 7, each d-block contains, *inter alia*, unique identifier 701 for the digital work in the repository, starting address 702 of the first byte of the work, length 703 representing the number of bytes in the work, and rights portion 704, which maintains the work's granted usage rights and their status data. *Id*. at 8:29–36. "The rights portion 704 will contain a data structure, such as a look-up table, wherein the various information associated with a right is maintained." *Id*. at 8:42–44.

D.   *Illustrative Claims*

Claims 1 and 23 are independent. Independent claim 1 is illustrative:

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