Trials@uspto.gov
571.272.7822

Paper No. 7
Entered: March 14, 2017

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.,
Petitioner,

v.

REALTIME DATA LLC,
Patent Owner.

Case IPR2016-01739
Patent 8,880,862 B2

Before GEORGIANNA W. BRADEN, J. JOHN LEE, and JASON J. CHUNG, *Administrative Patent Judges*.

BRADEN, *Administrative Patent Judge*.

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

I. INTRODUCTION

A. Background

Apple, Inc. ("Petitioner") filed a Petition (Paper 2, "Pet.") requesting an *inter partes* review of claims 5, 35–46, 97, 98, and 112 ("the challenged claims") of U.S. Patent No. 8,880,862 B2 (Ex. 1001, "the '862 Patent"). Realtime Data, LLC ("Patent Owner") timely filed a Preliminary Response (Paper 6, "Prelim. Resp.").

Under 35 U.S.C. § 314, an *inter partes* review may not be instituted unless the information presented in the Petition shows "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 evidence cited therein, we determine that the information presented demonstrates a reasonable likelihood that Petitioner would prevail in establishing the unpatentability of each of the challenged claims. Accordingly, we institute an *inter partes* review of the challenged claims.

B. Related Proceedings

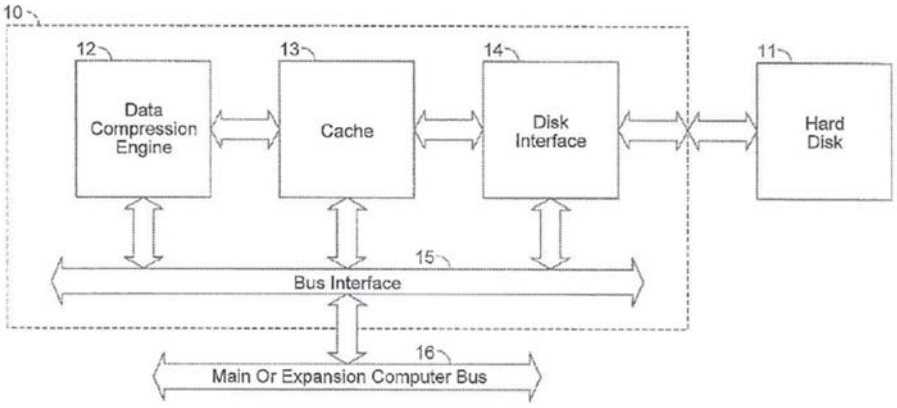
The parties identify the following cases as related to the challenged patent: *Realtime Data, LLC v. Microsoft Corporation*, Case No. 4:14-cv-00827 (E.D. Tex.), *Realtime Data, LLC v. Apple, Inc.*, Case No. 6:15-cv-00885 (E.D. Tex.), and *Realtime Data, LLC v. Apple, Inc.*, Case No. 3:16-cv-02595 (N.D. Cal.) (transferred from *Realtime Data, LLC v. Apple, Inc.*, Case No. 6:15-cv-00885 (E.D. Tex.)). Pet. 1; Paper 5, 2.

C. The '862 Patent

The '862 Patent relates to "providing accelerated loading of operating system and application programs upon system boot or application launch," and the use of data compression and decompression techniques for such purpose. Ex. 1001, 1:20–26. The specification discusses the limits of prior art storage devices, particularly the significant bandwidth limitations of "mass storage devices" such as hard disk drives. *Id.* at 1:43–57, 2:9–18. According to the specification,

> "[A]ccelerated" data storage comprises receiving a digital data stream at a data transmission rate which is greater than the data storage rate of a target storage device, compressing the input stream at a compression rate that increases the effective data storage rate of the target storage device and storing the compressed data in the target storage device.

Id. at 5:41–47. One embodiment of the '862 Patent is illustrated in Figure 1, reproduced below.



As shown in Figure 1, data storage controller 10 is "operatively connected" to hard disk 11 and to host system's bus 16. *Id.* at 5:63–6:53. Controller 10 includes cache 13 for data storage/preloading, and data compression engine 12 for data compression/decompression. *Id.* at 5:63–6:53, 20:50–22:11. The '862 Patent explains that, following reset or power on of a computer

system, the "initial bus commands inevitably instruct the boot device controller [e.g., controller 10] to retrieve data from the boot device (such as a disk) [e.g., hard disk 11] for the operating system." *Id.* at 20:36–49.

D. Illustrative Claims

As noted above, Petitioner challenges claims 5, 35–46, 97, 98, and 112 of the '862 Patent. Pet. 2. Of the challenged claims, claims 5 is the only independent claim. Claim 5 is illustrative of the challenged claims, and is reproduced below:

5. A method for booting a computer system, the method comprising:
storing boot data in a compressed form that is associated with a portion of a boot data list in a first memory;
loading the stored compressed boot data from the first memory;
accessing the loaded compressed boot data;
decompressing the accessed compressed boot data;
utilizing the decompressed boot data to at least partially boot the computer system; and
updating the boot data list,
wherein the loading, the accessing, and the decompressing occur within a period of time which is less than a time to access the boot data from the first memory if the boot data was stored in the first memory in an uncompressed form.

Ex. 1001, 26:60–27:8.

E. The Evidence of Record and Asserted Grounds of Unpatentability

Petitioner asserts the following grounds of unpatentability under 35 U.S.C. § 103 (Pet. 2):

Challenged Claims	Asserted Prior Art
5, 35–46, 97	Settsu[1]
5, 35–46, 97, 98, 112	Settsu and Zwiegincew[2]
5, 35–46, 97	Settsu and Dye[3]
5, 35–46, 97, 98, 112	Settsu, Zwiegincew, and Dye

Additionally, Petitioner relies on the Declaration of Dr. Charles J. Neuhauser (Ex. 1003) to support its challenges.

II. ANALYSIS

A. Claim Construction

In an *inter partes* review, claim terms in an unexpired patent are interpreted according to their broadest reasonable construction in light of the specification of the patent in which they appear. 37 C.F.R. § 42.100(b); *see Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2144–46 (2016) ("We conclude that the regulation represents a reasonable exercise of the rulemaking authority that Congress delegated to the Patent Office."). Under that standard, and absent any special definitions, we give claim terms their ordinary and customary meaning, as would be understood by one of ordinary skill in the art at the time of the invention. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). An inventor, however, may provide a meaning for a term that is different from its ordinary meaning by defining

[1] U.S. Patent No. 6,374,353 B1, filed Mar. 3, 1999, issued Apr. 16, 2002 (Ex. 1006, "Settsu").
[2] U.S. Patent No. 6,317,818 B1, filed Mar. 30, 1999, issued Nov. 13, 2001 (Ex. 1010, "Zwiegincew").
[3] U.S. Patent No. 6,145,069, filed Apr. 26, 1999, issued Nov. 7, 2000 (Ex. 1008, "Dye").

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.