

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ZTE (USA) INC.,
Petitioner,

v.

PAPST LICENSING GMBH & CO. KG,
Patent Owner.

Case IPR2017-00711
Patent 8,966,144 B2

Before JONI Y. CHANG, JENNIFER S. BISK, and JAMES B. ARPIN,
Administrative Patent Judges.

ARPIN, *Administrative Patent Judge.*

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

I. INTRODUCTION

ZTE (USA) Inc. (“Petitioner”) filed a Petition requesting *inter partes* review of claims 1, 2, 16, 26, 28, 31, 41, 72, 80, 83, 86, and 87 (“the challenged claims”) of U.S. Patent No. 8,966,144 B2 (Ex. 1001, “the ’144 patent”). Paper 1 (“Pet.”). Papst Licensing GmbH & Co., KG (“Patent Owner”) filed a Preliminary Response. Paper 6 (“Prelim. Resp.”).

Under 35 U.S.C. § 314(a), an *inter partes* review may not be instituted unless 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.” For the reasons set forth below, we determine that, on this record, Petitioner has not established a reasonable likelihood that it would prevail with respect to any of the challenged claims. We hereby decline to institute an *inter partes* review in this proceeding.

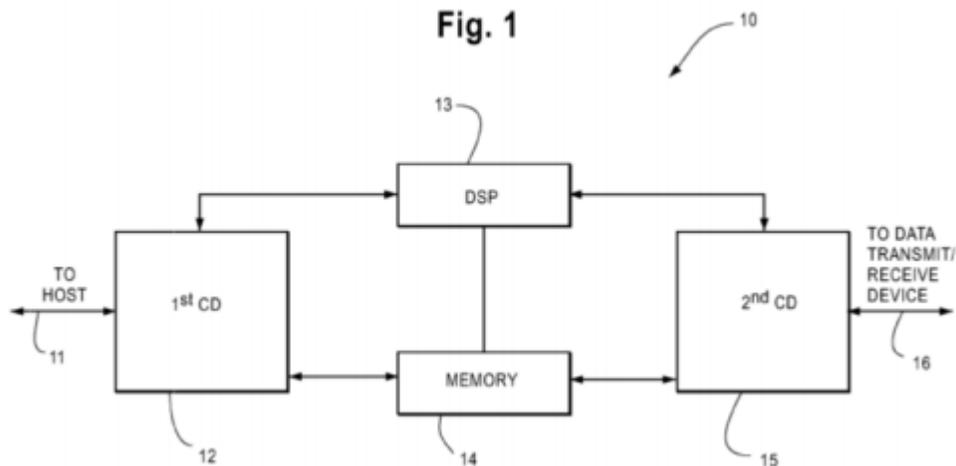
A. Related Matters

The parties indicate that the ’144 patent is involved in *Papst Licensing GmbH & Co. KG v. ZTE Corp. et al.*, No. 6:15-cv-1100 (E.D. Tex.) and other proceedings. Pet. 2–3, 5 n.1; Paper 4, 2–5.

B. The ’144 Patent

The ’144 patent describes interface devices for communication between a computer host device and a data transmit/receive device (e.g., a multi-meter, transmitting measured data to a computer). Ex. 1001, 1:18–22, 1:54–57. According to the ’144 patent, using a specific driver to match very closely to an individual host system would achieve high data transfer rates across the interface, but the specific driver cannot be used with other host

systems. *Id.* at 2:4–19. Several solutions to this problem were known in the art. *Id.* at 2:20–3:25. For example, IOtech introduced an interface device for laptops, using a plug-in card for converting the personal computer memory card association (“PCMCIA”) interface into a known standard interface (IEEE 1284). *Id.* at 2:23–29. The plug-in card provided a printer interface for enhancing data transfer rates. *Id.* at 2:29–33. In another example, a floppy disk drive interface was used for connecting a host device to a peripheral device. *Id.* at 3:10–14. The interface appeared as a floppy disk drive to the host, allowing a floppy disk drive and another peripheral device to be connected to the host device. *Id.* at 3:17–19. The ’144 patent indicates that its “invention is based on the finding that both a high data transfer rate and host device-independent use can be achieved if a driver for an input/output device customary in a host device” is utilized. *Id.* at 3:33–37. Figure 1 of the ’144 patent, reproduced below, illustrates a block diagram of an interface device.



As shown in Figure 1 above, interface device 10 connects to a host device via host line 11, and to a data transmit/receive device via output line

16. *Id.* at 4:62–5:10. Interface device 10 includes first connecting device 12, second connecting device 15, digital signal processor 13, and memory means 14. *Id.* In a preferred embodiment, the interface device is attached to a host device via a multi-purpose interface—e.g., a small computer systems interface (“SCSI”) interface—which includes both an interface card and the driver for the interface card. *Id.* at 3:51–57, 8:42–46. According to the ’144 patent, SCSI interfaces were known to be present on most host devices or laptops. *Id.* at 8:42–46. By using a standard interface of a host device and by simulating an input/output device to the host device, the interface device “is automatically supported by all known host systems without any additional sophisticated driver software.” *Id.* at 11:38–44.

C. Illustrative Claim

Of the challenged claims, claims 1 and 86 are independent. Claims 2, 16, 26, 28, 31, 41, 72, 80, and 83 depend directly or indirectly from claim 1; and claim 87 depends from claim 86. Claim 1 is illustrative and is reproduced below:

1. An analog data generating and processing device (ADGPD), comprising:

an input/output (i/o) port;

a program memory;

a data storage memory;

a sensor designed to transmit data;

a processor operatively interfaced with the i/o port, the program memory, the data storage memory and the sensor;

wherein the processor is adapted to be involved in a data generation process by which the sensor generates analog data, the analog data is processed, and the processed analog data is stored in the data storage memory as at least one file of digitized

analog data; wherein the processor also is adapted to be involved in an automatic recognition process in which, when the i/o port is operatively interfaced with a multi-purpose interface of a computer, the processor executes at least one instruction set stored in the program memory and thereby causes at least one parameter which provides identification information regarding the ADGPD to be automatically sent through the i/o port and to the multi-purpose interface of the computer (a) without requiring any end user to load any software onto the computer at any time, (b) without requiring any end user to interact with the computer to set up a file system in the ADGPD at any time, (c) before a time when the computer is able to receive the at least one file of digitized analog data from the data storage memory, and (d) regardless of the identity of a manufacturer of the computer, wherein the at least one parameter is consistent with the ADGPD being responsive to commands issued from a customary driver;

wherein the processor is further adapted to be involved in an automatic file transfer process in which, when the i/o port is operatively interfaced with the multi-purpose interface of the computer, and after the at least one parameter has been received by the multi-purpose interface of the computer, the processor executes at least one other instruction set stored in the program memory and thereby causes the at least one file of digitized analog data to be transferred to the computer regardless of the identity of the manufacturer of the computer and without requiring any user-loaded file transfer enabling software to be loaded on or installed in the computer at any time.

Ex. 1001, 11:56–12:36.

D. Asserted Ground of Unpatentability

Petitioner asserts the single ground that the challenged claims are unpatentable, as anticipated under 35 U.S.C. 102(b)¹ by Patent Cooperation

¹ Because the claims at issue have a filing date prior to March 16, 2013, the effective date of the Leahy-Smith America Invents Act, Pub. L. No. 112-29,

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