

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 IPR2017-00712
Patent 9,189,437 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, 12, 15, 16, 18, 30, 43 and 45 (“the challenged claims”) of U.S. Patent No. 9,189,437 B2 (Ex. 1001, “the ’437 patent”). Paper 1 (“Pet.”). Papst Licensing GmbH & Co., KG (“Patent Owner”) filed a Preliminary Response. Paper 8 (“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

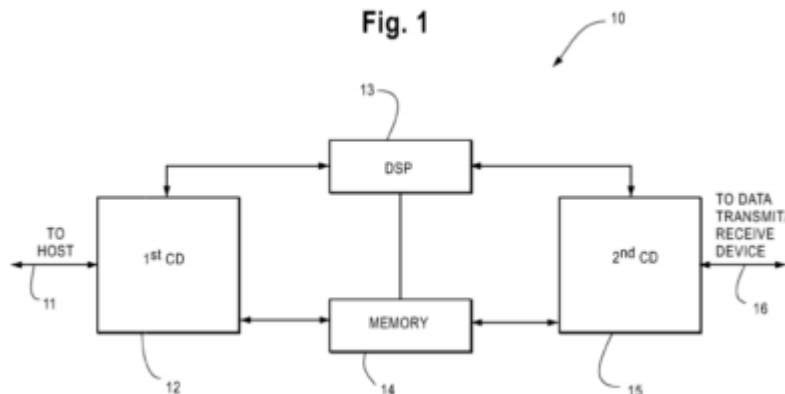
The parties indicate that the ’437 patent is involved in *Papst Licensing GmbH & Co. KG v. ZTE Corp. et al.*, No. 6:15-cv-1100 (E.D. Tex.) and other proceedings. Pet. 2–3, 4 n.1; Paper 4, 2–5.

B. The ’437 Patent

The ’437 patent describes an interface device 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 ’437 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 offered 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 (i.e., IEEE 1284). *Id.* at 2:20–29. 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 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 ’437 patent indicates that the purported “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 ’437 patent, reproduced below, illustrates a block diagram of an interface device.



As shown in Figure 1, 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.* Output line 16 connects interface 10 to a data transmit/receive device and implements an analog input, for example, with a sampling rate of 1.25 MHz and quantization of 12 bits, such as by means of the blocks 1505-1535, as depicted in Figure 2. *Id.* at 9:41–44. By means of programmable amplifier 1525, depicted in Figure 2 of the '437 patent, multiple channels can be programmed independently of each other, for example, in voltage ranges up to a maximum of ± 10 V. *Id.* at 9:45–48. 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 '437 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 the 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 43 are independent. Claims 12, 15, 16, 18, and 30 depend directly from claim 1; and claim 45 depends directly from claim 43. 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 processor operatively interfaced with the i/o port, the program memory and the data storage memory;

wherein the processor is adapted to implement a data generation process by which analog data is acquired from each respective analog acquisition channel of a plurality of independent analog acquisition channels, the analog data from each respective channel is digitized, coupled into the processor, and is processed by the processor, and the processed and digitized 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 of a host computer in which, when the i/o port is operatively interfaced with a multipurpose interface of the host computer, the processor executes at least one instruction set stored in the program memory and thereby causes at least one parameter identifying the analog data generating and processing device, independent of analog data source, as a digital storage device instead of as an analog data generating and processing device 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 and (b) without requiring any end user to interact with the computer to set up a file system in the ADGPD at any time, wherein the at least one parameter is consistent with the ADGPD being responsive to commands issued from a customary device driver;

wherein the at least one parameter provides information to the computer about file transfer characteristics of the ADGPD; and

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 sent from the i/o port to the multi-purpose interface of the computer, the processor executes at least one other instruction set stored in the program memory to thereby cause the at least one file of digitized analog data acquired from at least one of the plurality of analog

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