UNITED STATES PATENT AND TRADEMARK OFFICE
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BEFORE THE PATENT TRIAL AND APPEAL BOARD
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VERITAS TECHNOLOGIES, LLC,
Petitioner,

v.

REALTIME DATA LLC,
Patent Owner.

_____

Case IPR2017-01688
Patent 7,161,506 C2

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Before JASON J. CHUNG, SCOTT C. MOORE, and
SHEILA F. MCSHANE, *Administrative Patent Judges*.

CHUNG, *Administrative Patent Judge*.

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

Grant of Motion for Joinder
37 C.F.R. § 42.122(b)

I. INTRODUCTION

A. Background

On June 28, 2017, Veritas Technologies, LLC ("Petitioner") filed a Petition (Paper 1, "Pet.") requesting *inter partes* review of claims 104 and 105 ("the challenged claims") of U.S. Patent No. 7,161,506 C2 (Ex. 1001, "the '506 patent"). Concurrently with the Petition, Petitioner filed a Motion for Joinder (Paper 3, "Mot."), requesting that this proceeding be joined with *Dell, Inc. et al. v. Realtime Data LLC*, Case IPR2017-00176 ("176 IPR"). Mot. 1. Realtime Data LLC ("Patent Owner") did not file an Opposition to the Motion for Joinder and did not file a Preliminary Response.

We have jurisdiction under 35 U.S.C. § 314(a), which provides that an *inter partes* review may not be instituted "unless . . . there is a reasonable likelihood that the Petitioners would prevail with respect to at least 1 of the claims challenged in the petition." For the reasons discussed below, we institute an *inter partes* review of all challenged claims and grant Petitioner's Motion for Joinder.

B. Related Proceedings and Asserted Grounds of Unpatentability

In the 176 IPR, we instituted an *inter partes* review of claims 104 and 105 the '506 patent under 35 U.S.C. § 103(a) as unpatentable over

Franaszek[1], Hsu[2], and Sebastian[3]. 176 IPR, slip op. at 4, 19 (PTAB Nov. 4, 2016) (Paper 19).

The Petition in this proceeding challenges the same claims on identical grounds of unpatentability, and relies on the same evidence and arguments as presented in the 176 IPR. Pet. 1; Mot. 1–2. Petitioner represents that "[i]ntentionally, the Petition is nearly word-for-word identical to the petition in the [176] IPR in an effort to avoid multiplication of issues before the Board" and relies upon similar evidence, including an "essentially identical" expert declaration. Mot. 1–2. Petitioner notes that its Petition is "supplemented with additional support." Pet. 1. Patent Owner did not file a Preliminary Response and has not presented any arguments regarding the merits of the Petition.

For the above reasons, in particular the fact that the present Petition is virtually identical to the petition in the 176 IPR, we determine Petitioner has demonstrated sufficiently under 35 U.S.C. § 314 that an *inter partes* review should be instituted in this proceeding on the same grounds of unpatentability as the grounds on which we instituted *inter partes* review in the 176 IPR.

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[1] US Patent No. 5,870,036, filed Feb. 24, 1995, issued Feb. 9, 1999 (176 IPR, Exhibit 1004, "Franaszek").
[2] W. H. Hsu and A. E. Zwarico, "Automatic Synthesis of Compression Techniques for Heterogeneous Files," *Software—Practice and Experience*, Vol. 25(10), 1097–1116 (1995) (176 IPR, Exhibit 1005, "Hsu").
[3] US Patent No. 6,253,264 B1, filed Mar. 6, 1998, issued June 26, 2001 (176 IPR, Exhibit 1030, "Sebastian").

C. The '506 Patent

The '506 patent describes systems and methods "for providing fast and efficient data compression using a combination of content independent data compression and content dependent data compression." Ex. 1001, Abst. The '506 patent further describes the input data type includes a plurality of disparate data types. *Id.*

D. Challenged Claims

As noted above, Petitioner challenges claims 104 and 105 of the '506 patent, both of which are independent claims. Claim 104 and 105 are reproduced below:

> 104. A computer implemented method for compressing data, comprising:
>
> analyzing data within a data block of an input data stream to identify one or more data types of the data block, the input data stream comprising a plurality of disparate data types;
>
> performing content dependent data compression with a content dependent data compression encoder if a data type of the data block is identified; and
>
> performing data compression with a single data compression encoder, if a data type of the data block is not identified;
>
> wherein the analyzing of the data within the data block to identify one or more data types excludes analyzing based only on a descriptor that is indicative of the data type of the data within the data block.

Ex. 1001, 6:34–49.

> 105. A computer implemented method comprising:
>
> receiving a data block in an uncompressed form, said data block being included in a data stream;
>
> analyzing data within the data block to determine a type of said data block; and

compressing said data block to provide a compressed data block;

wherein if one or more encoders are associated to said type, compressing said data block with at least one of said one or more encoders, otherwise compressing said data block with a default data compression encoder, and

wherein the analyzing of the data within the data block to identify one or more data types excludes analyzing based only on a descriptor that is indicative of the data type of the data within the data block.

Id. at 6:50–64.

E. Motion for Joinder

An *inter partes* review may be joined with another *inter partes*

review, subject to certain statutory provisions:

(c) JOINDER.—If the Director institutes an inter partes review, the Director, in his or her discretion, may join as a party to that inter partes review any person who properly files a petition under section 311 that the Director, after receiving a preliminary response under section 313 or the expiration of the time for filing such a response, determines warrants the institution of an inter parties review under section 314.

35 U.S.C. § 315(c); *see also* 37 C.F.R. § 42.122 (Any request for joinder

must be filed, as a motion under § 42.22, no later than one month after the

institution date of any *inter partes* review for which joinder is requested).

A motion for joinder should (1) set forth reasons why joinder is

appropriate; (2) identify any new grounds of unpatentability asserted in the

petition; (3) explain what impact (if any) joinder would have on the trial

schedule for the existing review; and (4) address specifically how briefing

and discovery may be simplified. *See, e.g., Kyocera Corp. v. Softview LLC*,

Case IPR2013–00004, slip op. at 4 (PTAB Apr. 24, 2013) (Paper 15). As

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