

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETFLIX, INC., and COMCAST CABLE COMMUNICATIONS, LLC,
Petitioner,

v.

REALTIME ADAPTIVE STREAMING LLC,
Patent Owner.

Case IPR2018-01187¹
Patent 9,769,477 B2

Before GEORGIANNA W. BRADEN, KEVIN W. CHERRY, and
KAMRAN JIVANI, *Administrative Patent Judges*.

BRADEN, *Administrative Patent Judge*.

JUDGMENT

Final Written Decision

Determining All Challenged Claims Unpatentable

35 U.S.C. § 318(a)

¹ Comcast Cable Communications, LLC, which filed a petition in IPR2019-00786, has been joined as a party to this proceeding.

We have jurisdiction to hear this *inter partes* review under 35 U.S.C. § 6, and this Final Written Decision is issued pursuant to 35 U.S.C. § 318(a). For the reasons that follow, we determine Petitioner has shown by a preponderance of the evidence that claims 1–6, 9–14, 20–22, and 25–27 of U.S. Patent No. 9,769,477 B2 are unpatentable.

I. INTRODUCTION

A. *Procedural History*

Netflix, Inc. (“Petitioner”) filed a Petition² (Paper 4, “Pet.”) requesting an *inter partes* review of claims 1–6, 9–14, 20–22, and 25–27 of U.S. Patent No. 9,769,477 B2 (Ex. 1001, “the ’477 patent”). Realtime Adaptive Streaming LLC (“Patent Owner”) timely filed a Preliminary Response (Paper 19, “Prelim. Resp.”). Pursuant to 35 U.S.C. § 314(a), we instituted an *inter partes* review of all challenged claims on all proposed grounds of unpatentability. *See* Paper 22 (“Dec. to Inst.”), 37.

After institution of trial, Patent Owner filed a Patent Owner Response (Paper 26, “PO Resp.”), to which Petitioner filed a Reply (Paper 28, “Reply”). Patent Owner then filed a Sur-Reply (Paper 33, “PO Sur-Reply”).

An oral argument was held on October 15, 2019. A transcript of the oral argument is included in the record. Paper 38 (“Tr.”).

² Amazon.com Inc. and Hulu, LLC were part of the Petition originally. The Board has granted Amazon.com Inc. and Hulu, LLC’s Joint Motion to Terminate *Inter Partes* Reviews as to Amazon.com, Inc. and Hulu, LLC. Paper 14. Thus, Netflix is the sole remaining original Petitioner in this proceeding. Comcast Cable Communications, LLC, which filed a petition in IPR2019-00786, has been joined as a party to this proceeding. *See* Paper 32.

B. Real Parties-in-Interest

Petitioner certifies that itself and Netflix Streaming Services, Inc. are real parties-in-interest. Pet. 67. Additionally, joined Petitioner, Comcast Cable Communications, LLC, certifies that itself and Comcast Corporation are real parties-in-interest. See IPR2019-00786, Paper 1, 67.

C. Related Matters

Petitioner informs us of multiple pending district court proceedings involving the '477 patent, some of which involve Petitioner. Pet. 67–69. Patent Owner informs us of two pending *inter partes* review petitions challenging the '477 patent, IPR2018-01413 and IPR2018-01630. Paper 15, 1 (Patent Owner's Mandatory Notices). We note IPR2018-01413 was terminated prior to the issuance of a decision on institution. IPR2018-01413, Paper 10.

D. The '477 Patent

The '477 patent was filed on October 6, 2015, and is titled “Video Data Compression Systems.” Ex. 1001, code (54). The '477 patent issued on September 19, 2017. *Id.* at code (45).

1. Written Description

The specification is directed to systems and methods for “compressing and decompressing based on the actual or expected throughput (bandwidth) of a system employing data compression and a technique of optimizing based upon planned, expected, predicted, or actual usage.” Ex. 1001, 7:66–8:3, 9:27–31. The '477 patent states that “dynamic modification of compression system parameters so as to provide an optimal balance between execution speed of the algorithm (compression rate) and the resulting compression ratio, is highly desirable.” *Id.* at 1:64–67. The '477 patent also

states that it seeks to “provide[] a desired balance between execution speed (rate of compression) and efficiency (compression ratio).” *Id.* at 8:24–27. For example, where the speed of the encoder causes a “bottleneck” because “the compression system cannot maintain the required or requested data rates,” “then the controller will command the data compression system to utilize a compression routine providing faster compression . . . so as to mitigate or eliminate the bottleneck.” *Id.* at 14:14–24. The ’477 patent discloses that it can resolve “bottlenecks” in the throughput of a system by switching between different compression algorithms applied to data. *Id.* at 10:3–8.

One embodiment of the ’477 patent is shown in Figure 2, reproduced below.

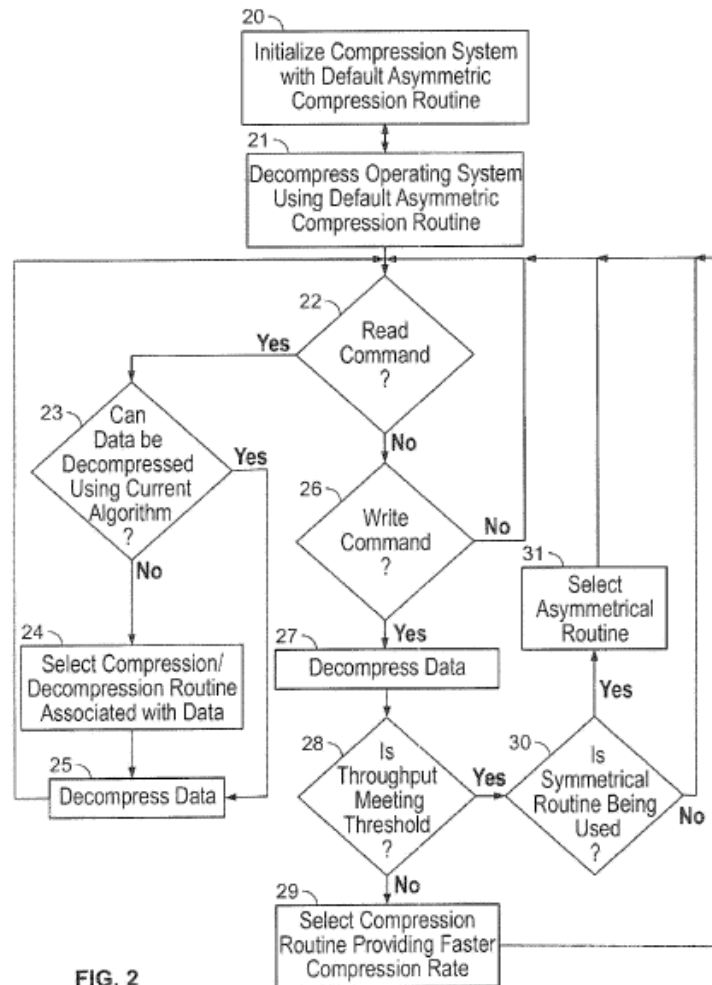


FIG. 2

Figure 2, above, illustrates a method for providing bandwidth sensitive data compression. *Id.* at 13:25–27. The data compression system is initialized during a boot-up process after a computer is powered on and a default compression/decompression routine is initiated (step 20). *Id.* at 13:31–34. According to the '477 patent, the default algorithm comprises an asymmetrical algorithm, because asymmetric algorithms provide “a high compression ratio (to effectively increase the storage capacity of the hard disk) and fast data access (to effectively increase the retrieval rate from the hard disk).” *Id.* at 13:35–45. According to the '477 patent, depending on the access profile, it “is preferable to utilize an asymmetrical algorithm that

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