

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOPRO, INC., GARMIN INTERNATIONAL, INC., AND GARMIN USA, INC.,
Petitioners,

v.

CELLSPIN SOFT, INC.,
Patent Owner.

Case IPR2019-01108
Patent 9,258,698 B2

Before GREGG I. ANDERSON, DANIEL J. GALLIGAN, and
STACY B. MARGOLIES, *Administrative Patent Judges*.

ANDERSON, *Administrative Patent Judge*.

DECISION

Granting Institution of *Inter Partes* Review
35 U.S.C. § 314
Granting Motion for Joinder
35 U.S.C. § 315(c); 37 C.F.R. 42.122

I. INTRODUCTION

Petitioners, GoPro, Inc., Garmin International, Inc., and Garmin USA, Inc. (collectively “1108 Petitioners” or “Petitioner”) filed a Petition (“Pet.”) on May 24, 2019 (Paper 1) requesting *inter partes* review of claims 1, 3, 4, 5, 7, 8, 10, 11, 12, 13, 15, 16, 17, 18, 19 and 20 of U.S. Patent No. 9,258,698 (“the ’698 patent,” Ex. 1003). Pet. 1. Cellspin Soft, Inc. (“Patent Owner”) filed a Preliminary Response (“Prelim. Resp.,” Paper 11).

Concurrently with the Petition, the ’1108 Petitioners, Petitioner filed a Motion for Joinder (“Motion,” “Mot.,” Paper 4) with *Panasonic Corp. of N. Am. et al.* (“Panasonic”) v. *Cellspin Soft, Inc.*, IPR2019-00131 (“’131 IPR”), a pending *inter partes* review also challenging the ’698 patent. Mot. 1. Neither Panasonic nor Patent Owner has opposed the Motion within “one month after service of the motion.” 37 C.F.R. § 42.25(1).

We instituted *inter partes* review on the ’131 IPR on April 29, 2019. ’131 IPR, Paper 11.¹ Upon considering the record developed thus far, for reasons discussed below, we institute an *inter partes* review of all the challenged claims and grant the Motion.

II. BACKGROUND

A. Related Proceedings

In addition to the ’131 IPR, two other *inter partes* reviews have been filed challenging claims 1–22 of the ’698 patent: *Canon U.S.A., Inc. v. Cellspin Soft, Inc.*, IPR2019-00131 and *GoPro, Inc. v. Cellspin Soft, Inc.*, IPR2019-01107. Paper 5, 2.

¹ For purposes of this Decision, hereinafter and unless otherwise indicated, references to Papers (for example “Paper 8” or “Pet.”) are to this ’1108 IPR.

The parties advise us that Patent Owner has asserted the '698 patent against the '1108 Petitioners in *Cellspin Soft, Inc. v. GoPro, Inc.*, No. 4:17-cv-005939 and *Cellspin Soft, Inc. v. Garmin International*, No. 4:17-cv-05934 in the U.S. District Court for the Northern District of California. Pet. 4, 5; Paper 5, 2. Other lawsuits alleging infringement of the '698 patent are pending. Pet. 3; Paper 5, 3–5.

Patent Owner further identifies an appeal to the U.S. Court of Appeals for the Federal Circuit, Appeal No. 2018-1823. Paper 5, 2. Federal Circuit Appeal No. 2018-1817 is the lead case. Paper 5, 2.

B. Technology and the '698 Patent

The '698 patent is directed to “distribution of multimedia content.” Ex. 1003, 1:40–41. The system described includes using a digital data capture device in conjunction with a cellular phone to automatically publish “data and multimedia content on one or more websites simultaneously.” *Id.* at 1:41–45.

1. Technology

According to the '698 patent, in the prior art,

the user would capture an image using a digital camera or a video camera, store the image on a memory device of the digital camera, and transfer the image to a computing device such as a personal computer (PC). In order to transfer the image to the PC, the user would transfer the image off-line to the PC, use a cable such as a universal serial bus (USB) or a memory stick and plug the cable into the PC. The user would then manually upload the image onto a website which takes time and may be inconvenient for the user.

Ex. 1003, 1:46–55.

2. The '698 Patent (Ex. 1003)

The '698 patent describes a digital data capture device, which may be “a digital camera, a video camera, digital modular camera systems, or other digital data capturing systems.” Ex. 1003, 3:34–38, 3:41–44. The digital data capture

device works with a Bluetooth-enabled mobile device, e.g., a cell phone, “for publishing data and multimedia content on one or more websites automatically or with minimal user intervention.” *Id.* at 3:34–38.

Figure 2 of the '698 patent is reproduced below.

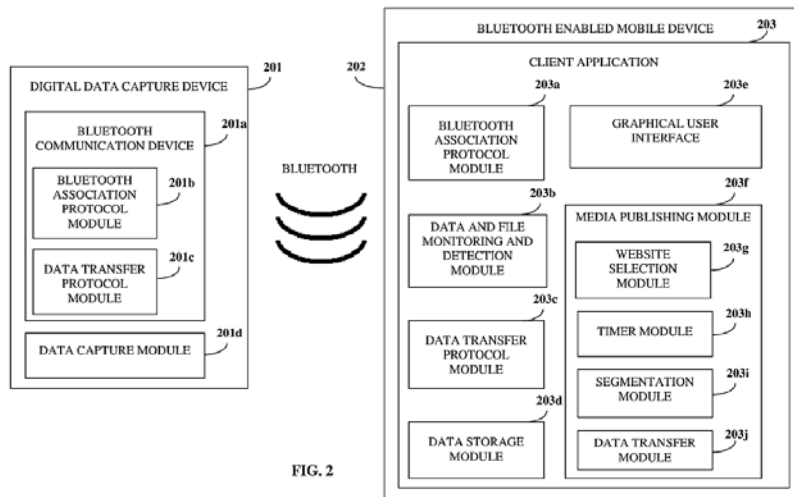


FIG. 2

Figure 2 illustrates a system for utilizing a digital data capture device in conjunction with a Bluetooth enabled mobile device

Ex. 1003, 3:14–18. Referring to Figure 2, “[t]he BT [(Bluetooth)] communication device 201a on the digital data capture device 201 is paired 103 with the mobile device 202 to establish a connection between the digital data capture device 201 and the mobile device 202.” *Id.* at 3:60–63. According to the '698 patent, Bluetooth pairing involves establishing a connection between two Bluetooth devices that “mutually agree to communicate with each other.” *Id.* at 3:60–65. The communication is authenticated cryptographically using a “common password known as a passkey,” which “is exchanged between the BT communication device 201a and the mobile device 202.” *Id.* at 3:65–4:7.

Still referring to Figure 2, a user captures data and multimedia content using digital data capture device 201. *Id.* at 4:26–27. Client application 203 on mobile device 202 detects the captured data, the multimedia content, and “files associated

with the captured data and the multimedia content.” *Id.* at 4:29–32. The client application initiates a transfer of the captured data and the digital data capture device automatically transfers the captured data from the mobile device using one or a combination of file transfer protocols. *Id.* at 4:32–42. The transfer protocols include “one or a combination of BT profile protocols such as the object exchange (OBEX) protocols,” such as the generic object exchange profile (GOEP) protocol; the media transfer protocol (MTP); the picture transfer protocol (PTP); and the PictBridge protocol implemented using a USB. *Id.* at 4:42–48.

The user may set preferences regarding timing of the publication of the captured data and the destination website. Ex. 1003, 5:23–38. “The client application 203 on the mobile device 202 then automatically publishes 107 the transferred data and multimedia content on one or more websites.” *Id.* at 5:39–41.

C. Illustrative Claim

Claims 1 (method), 5 (device), 8 (system), and 13 (computer readable-medium) are independent claims. Claims 2–4 depend directly from claim 1. Claims 6, 7, 17, 19, and 21 depend directly or indirectly from claim 5. Claims 9–12, 20, and 22 depend directly or indirectly from claim 8. Claims 14–16 and 18 depend directly from claim 13.

Claim 1 is reproduced below as illustrative.

1. A machine-implemented method of media transfer, comprising:

for a digital camera device having a short-range wireless capability to connect with a cellular phone, wherein the cellular phone has access to the internet, performing in the digital camera device:

establishing a short-range paired wireless connection between the digital camera device and the cellular phone, wherein establishing the short-range paired wireless connection

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