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Paper No. 6
Filed: May 24, 2017

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VERITAS TECHNOLOGIES, LLC,
Petitioner,

v.

REALTIME DATA LLC,
Patent Owner.

Case IPR2017-00366
Patent 8,643,513 B2

Before GEORGIANNA W. BRADEN, J. JOHN LEE, and JASON J. CHUNG, *Administrative Patent Judges*.

BRADEN, *Administrative Patent Judge*.

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

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

I. INTRODUCTION

A. Background

On November 30, 2016, Veritas Technologies, LLC ("Petitioner") filed a Petition (Paper 1, "Pet.") requesting *inter partes* review of claims 1–4, 6, 10–16, 18–20, and 22 ("the challenged claims") of U.S. Patent No. 8,643,513 B2 (Ex. 1001, "the '513 patent"). Concurrently with the Petition, Petitioner filed a Motion for Joinder (Paper 3, "Mot."), requesting that this proceeding be joined with *Riverbed Technology, Inc. et al. v. Realtime Data LLC*, Case IPR2016-00978 ("978 IPR"). Mot. 1. Patent Owner Realtime Data LLC ("Patent Owner") did not file an Opposition to the Motion for Joinder.

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 978 IPR, we instituted an *inter partes* review of claims 1–4, 6, 10–16, 18–20, and 22 the '513 patent under 35 U.S.C. § 103(a) as

unpatentable over Wang[1], Matsubara[2], and Franaszek[3]. 978 IPR, slip op. at 29 (PTAB Nov. 1, 2016) (Paper 24).

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 978 IPR. Pet. 1; Mot. 1–2. Petitioner represents that "[i]ntentionally, the Petition is nearly word-for-word identical to the petition in the [978] IPR in an effort to avoid multiplication of issues before the Board" and relies upon similar evidence, including an "essentially identical" expert declaration. Mot. 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 978 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 978 IPR.

C. The '513 Patent

The '513 patent, titled "Data Compression Systems and Methods," discloses systems and methods for analyzing a data block and selecting a

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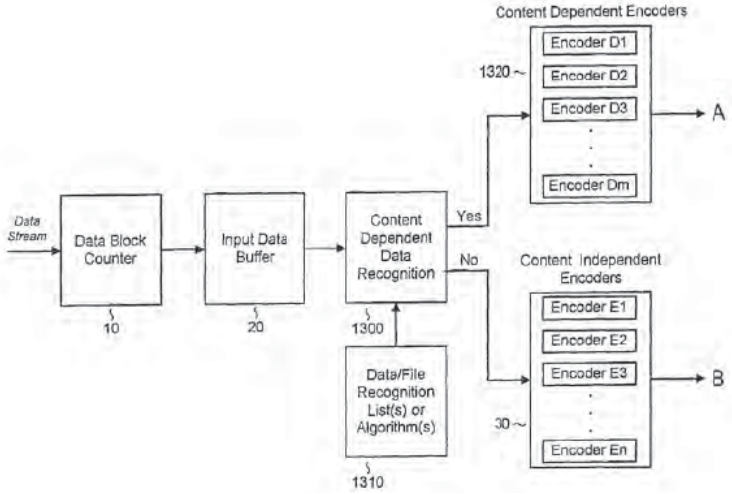
[1] WO 00/46688, issued August 10, 2009 (978 IPR, Exhibit 1009, "Wang").
[2] US Patent No. 5,838,821, issued November 17, 1998 (978 IPR, Exhibit 1010, "Matsubara").
[3] US Patent No. 5,870,036, issued February 9, 1999 (978 IPR, Exhibit 1011, "Franaszek").

compression method to apply to that block. Ex. 1001, Title, Abst. The '513 patent further discloses "fast and efficient data compression using a combination of content independent data compression and content dependent data compression." *Id.* at 3:55–58. One embodiment of the '513 patent is illustrated in Figure 13A reproduced below.

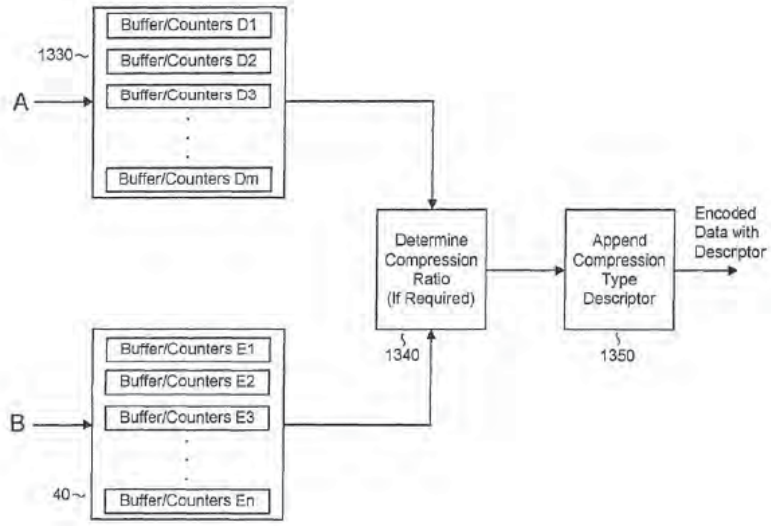


As shown above in Figure 13A of the '513 patent, the system receives an input data stream of data blocks. *Id.* at 15:63–16:5. Content dependent data recognition module 1300 analyzes the incoming data stream to recognize "data types" and other parameters indicative of the "data type/content." *Id.* at 16:15–21. If module 1300 recognizes the data type of a given data block, module 1300 routes the block to content dependent encoder module 1320 (*id.* at 16:24–26); if not, it routes the block to "content independent" (or "default") encoder module 30 (*id.* at.3:66–67, 4:30–35, 15:56–63, 16:26–27, 18:17–25).

Content dependent encoder module 1320 comprises lossy or lossless compression encoders (*id.* at 16:28–37); content independent encoder module 30 comprises only lossless encoders (*id.* at 16:43–50). Lossy

encoders provide for an "inexact" representation of the original uncompressed data (*id.* at 2:4–7); lossless encoders provide for an "exact" representation (*id.* at 2:18–20). The '513 patent teaches that "[e]ncoding techniques" may be selected "based upon their ability to effectively encode different types of input data." *Id.* at 12:54–56.

Another embodiment of the '513 patent is illustrated in Figure 13B reproduced below.



As shown above in Figure 13B of the '513 patent, "compression ratio module 1340, operatively connected to the content dependent output buffer/counters 1330 and content independent buffer/counters 40 determines the compression ratio obtained for each of the enabled encoders and[/]or El . . . En . . . ." *Id.* at 17:28–42. The compression ratio is set "by taking the ratio of the size of the input data block to the size of the output data block stored in the corresponding buffer/counters BCD1, BCD2, BCD3 . . . BCDm and[/]or BCE1, BCE2, BCE3 . . . BCEn." *Id.* at 17:39–42.

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