

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DELL INC.; RIVERBED TECHNOLOGY, INC.; HEWLETT-PACKARD
ENTERPRISE CO.; HP ENTERPRISE SERVICES, LLC; TERADATA
OPERATIONS, INC.; ECHOSTAR CORPORATION; HUGHES
NETWORK SYSTEMS, LLC; ORACLE AMERICA, INC.; and VERITAS
TECHNOLOGIES, LLC,
Petitioner,

v.

REALTIME DATA LLC,
Patent Owner.

Case IPR2016-01002¹
Patent 9,116,908 B2

Before JAMES B. ARPIN, JASON J. CHUNG, and
KEVIN C. TROCK, *Administrative Patent Judges*.
CHUNG, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
Inter Partes Review
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

¹ Cases IPR2016-01672 and IPR2017-00364 have been joined with this proceeding. Paper 53. In our Decision, we refer to the paper numbers from IPR2016-01002.

I. INTRODUCTION

Hewlett-Packard Enterprise Company, HP Enterprise Services, LLC, and Teradata Operations, Inc. (collectively “Petitioner”)² filed a Petition to institute an *inter partes* review of claims 1, 2, 4–6, 9, 11, 21, 22, 24, and 25 of U.S. Patent No. 9,116,908 B1 (“the ’908 patent”). Paper 5 (“Pet.”). Realtime Data LLC (“Patent Owner”) filed a Preliminary Response pursuant to 35 U.S.C. § 313. Paper 19 (“Prelim. Resp.”).

Upon consideration of the Petition and the Preliminary Response, on November 4, 2016, we instituted *inter partes* review of claims 1, 2, 4–6, 9, 11, 21, 22, 24, and 25 (“instituted claims”), pursuant to 35 U.S.C. § 314. Paper 25 (“Dec.”).

Subsequent to institution, Patent Owner filed a Corrected Patent Owner Response. Paper 39 (“PO Resp.”). Petitioner filed a Reply to Patent Owner’s Response. Paper 48 (“Reply”). An oral hearing was held on June 30, 2017, and a transcript of the oral hearing is available in the record. Paper 59 (“Tr.”).

We issue this Final Written Decision pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons discussed herein, Petitioner has not shown by a preponderance of the evidence that claims 1, 2, 4–6, 9, 11, 21, 22, 24, and 25 of the ’908 patent are unpatentable. *See* 35 U.S.C. § 316(e).

A. Related Matters

Petitioner and Patent Owner inform us that the ’908 patent is involved in multiple suits in the U.S. District Court for the Eastern District of Texas.

² The other named petitioners were named in the joined cases. *See supra* n.1.

Pet. 3–4; Paper 11, 2; Paper 14, 1–2. The parties also inform us that the '908 patent is involved in a suit in the U.S. District Court for the Northern District of California and several *Inter Partes* Review proceedings. Pet. 3–4; Paper 14, 1–2.

B. The Instituted Grounds

We instituted review on the following grounds of unpatentability:

References ³	Basis	Instituted Claims
Franaszek ⁴ and Osterlund ⁵	§ 103(a) ⁶	1, 9, 11, 21, 22, 24, and 25
Franaszek, Osterlund, and Fall ⁷	§ 103(a)	2, 4, 5, and 6

C. The '908 Patent

The '908 patent describes systems and methods “for providing accelerated data storage and retrieval utilizing lossless data compression and decompression.” Ex. 1001, Abst. The '908 patent further describes providing an effective increase of data storage and retrieval bandwidth of a memory storage device. *Id.* at 2:60–62. The data storage and retrieval accelerator method and system reduces the time required to store and retrieve data from a computer to a disk memory device. *Id.* at 3:25–28.

³ Petitioner also relies upon the Declaration of Dr. Charles D. Creusere, Ph.D. Ex. 1002.

⁴ U.S. Patent No. 5,870,036, issued Feb. 9, 1999 (Ex. 1004, “Franaszek”).

⁵ U.S. Patent No. 5,247,646, issued Sept. 21, 1993 (Ex. 1005, “Osterlund”).

⁶ The Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112-29, 125 Stat. 284, 287–88 (2011), revised 35 U.S.C. § 103, effective March 16, 2013. The '908 patent was issued prior to the effective date of the AIA. Thus, we apply the pre-AIA version of § 103.

⁷ U.S. Patent No. 5,991,515, filed July 15, 1997, issued Nov. 23, 1999 (Ex. 1006, “Fall”).

D. The Instituted Claims

We instituted *inter partes* review of claims 1, 2, 4–6, 9, 11, 21, 22, 24, and 25. Claims 21 and 25 are similar to claim 1, except that claims 21 and 25 are method claims reciting acts that articulate essentially similar limitations as claim 1. Claim 25 and claim 21 recite essentially similar limitations, except that claim 25 “receiv[es] a first and second data block over a communications channel” whereas claim 21 lacks a recitation of “receiving” and “over a communications channel.” Claims 1, 21, and 25 are illustrative and reproduced below:

1. A system comprising:

a memory device; and

a data accelerator configured to compress: (i) a first data block with a first compression technique to provide a first compressed data block; and (ii) a second data block with a second compression technique, different from the first compression technique, to provide a second compressed data block;

wherein the compressed first and second data blocks are stored on the memory device, and the compression and storage occurs faster than the first and second data blocks are able to be stored on the memory device in uncompressed form.

Ex. 1001, 18:50–62.

21. A method for accelerated data storage of data, comprising:

compressing a first data block with a first data compression technique to provide a first compressed data block; and

compressing a second data block with a second data compression technique to provide a second compressed data block, wherein the first data compression technique and the second data compression technique are different;

storing the first and second data compressed blocks on a memory device wherein the compression and storage occurs faster than the first and second data blocks are able to be stored on the

memory device in uncompressed form.

Id. at 19:60–20:5.

25. A method for accelerated data storage of data, comprising:
receiving a first and a second data block over a communications
channel;

compressing the first data block with a first data compression
technique to provide a first compressed data block; and

compressing the second data block with a second data
compression technique to provide a second compressed data
block, wherein the first data compression technique and the
second data compression technique are different;

storing the first and second data compressed blocks on a memory
device wherein the compression and storage occurs faster than
the first and second data blocks are able to be stored on the
memory device in uncompressed form.

Id. at 20:22–36.

II. ANALYSIS

A. Principles of Law

A claim is unpatentable under 35 U.S.C. § 103(a) if “the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of underlying factual determinations, including: (1) the scope and content of the prior art; (2) any differences between the claimed subject matter and the prior art; (3) the level of skill in the art; and (4) objective evidence of nonobviousness, i.e., secondary considerations.⁸ *See Graham v. John Deere Co. of Kansas*

⁸ Patent Owner has not raised arguments or produced evidence of secondary

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