

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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WESTERN DIGITAL CORPORATION,  
Petitioner,

v.

SPEX TECHNOLOGIES, INC.,  
Patent Owner.

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Case IPR2018-00082  
Patent 6,088,802

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Before LYNNE E. PETTIGREW, DANIEL N. FISHMAN, and  
CHARLES J. BOUDREAU, *Administrative Patent Judges*.

FISHMAN, *Administrative Patent Judge*.

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

## I. INTRODUCTION

Western Digital Corporation (“Petitioner”) requests *inter partes* review of claims 1, 2, 6, 7, 11, 12, 23–25, 38, and 39 (the “challenged claims”) of U.S. Patent No. 6,088,802 (“the ’802 patent,” Ex. 1001) pursuant to 35 U.S.C. §§ 311 *et seq.* Paper 1 (“Petition” or “Pet.”). SPEX Technologies, Inc. (“Patent Owner”) filed a Preliminary Response. Paper 6 (“Prelim. Resp.”). In response to Patent Owner’s Preliminary Response, Petitioner filed an authorized Reply. Paper 9 (“Reply”). Responsive to Petitioner’s Reply, Patent Owner filed an authorized Sur-Reply. Paper 10 (“Sur-Reply”).

Institution of an *inter partes* review is authorized by statute when “the information presented in the petition . . . and any response . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a); *see* 37 C.F.R. § 42.108. Upon consideration of the Petition and Preliminary Response, we conclude the information presented shows there is a reasonable likelihood that Petitioner would prevail in establishing the unpatentability of claims 38 and 39 of the ’802 patent. However, Petitioner has failed to persuade us of a reasonable likelihood of prevailing in showing claims 1, 2, 6, 7, 11, 12, and 23–25 are unpatentable. Because the Petition has established a reasonable likelihood in prevailing in showing that at least one of the challenged claims of the ’802 patent is unpatentable, we institute review of all challenged claims.

### A. *Related Matters*

Petitioner informs us that the ’802 patent is presently asserted against it in the following litigation: *SPEX Techs., Inc. v. Western Digital Corp.*,

IPR2018-00082  
Patent 6,088,802

Case No. 8:16-cv-01799 (C.D. Cal.). Pet. 67–68. In addition, Patent Owner further informs us that the '802 patent is or has been involved in Case Nos. IPR2017-00430 and IPR2017-00824 before the Board (institution denied in both cases); *SPEX Techs., Inc. v. Kingston Techs. Co. Inc., et al.*, Case No. 8:16-cv-01790 (C.D. Cal.); *SPEX Techs., Inc. v. Toshiba Am. Elecs. Components Inc., et al.*, Case No. 8:16-cv-01800 (C.D. Cal.); *SPEX Techs., Inc. v. CMS Prods., Inc.*, Case No. 8:16-cv-01801 (C.D. Cal.); *SPEX Techs., Inc. v. Integral Memory, PLC*, Case No. 8:16-cv-01805 (C.D. Cal.); and *SPEX Techs., Inc. v. Apricorn*, Case No. 2:16-cv-07349 (C.D. Cal.).  
Paper 5, 2.<sup>1</sup>

### *B. The '802 Patent*

The '802 patent is directed to a peripheral device that may be connected to a host computer, where the peripheral device performs security operations such as encryption and decryption on data communicated between the peripheral device and the host computer. Ex. 1001, 1:17–27, 1:35–38, 4:49–5:4. Figures 1, 2, and 3A of the '802 patent are reproduced below.

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<sup>1</sup> Paper 5, as filed, does not include page numbering as required by our rules. For purposes of this decision, we refer to the pages of Paper 5 sequentially with the caption page starting as page number 1. Although the error here is harmless, the parties are reminded to format all papers and exhibits in accordance with 37 C.F.R. §§ 42.6 and 42.63.

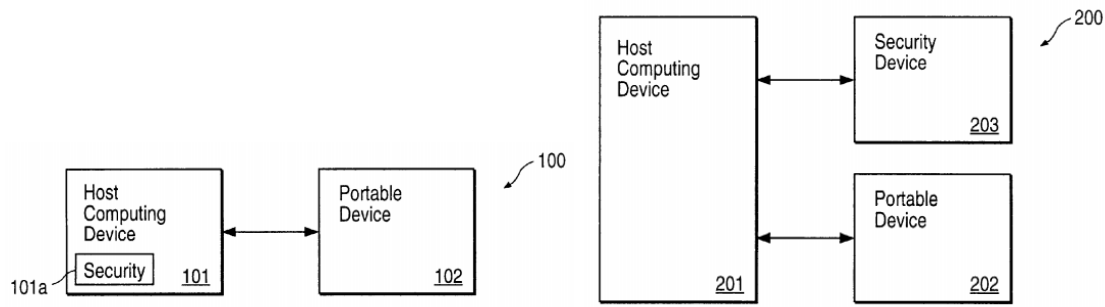


FIG. 1  
(PRIOR ART)

FIG. 2  
(PRIOR ART)

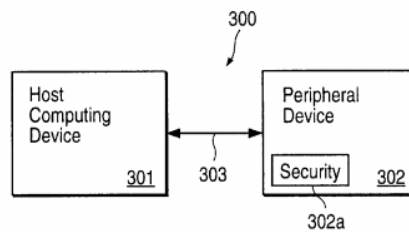


FIG. 3A

Figures 1 and 2 are block diagrams of prior art systems described in the '802 patent. *Id.* at 1:52–3:14, 4:14–19. Figure 3A is a block diagram of a system according to the claimed invention of the '802 patent. *Id.* at 4:20–21. The '802 patent explains that in the prior art, such security operations were either performed by the host computer, as illustrated in Figure 1 with security mechanism 101a included in host computing device 101, or by a standalone security device, as illustrated by security device 203 in Figure 2. *Id.* at 1:58–59, 2:22–32. According to the '802 patent, both of those arrangements were deficient in various ways. *Id.* at 2:10–21, 2:58–3:14.

The '802 patent purports to address these problems by integrating security operations into the peripheral device, as security mechanism 302a is integrated in peripheral device 302 of Figure 3A. *See id.* at 3:27–33, 4:56–62.

*C. Illustrative Claim*

Claims 1, 6, 11, 23, 24, 38, and 39 are the independent claims among the challenged claims. Claims 1, 6, 38, and 39 reproduced below, are illustrative of the claimed subject matter:

1. A peripheral device, comprising:

security means for enabling one or more security operations to be performed on data;

target means for enabling a defined interaction with a host computing device;

means for enabling communication between the security means and the target means;

means for enabling communication with a host computing device;

means for operably connecting the security means and/or the target means to the host computing device in response to an instruction from the host computing device; and

means for mediating communication of data between the host computing device and the target means so that the communicated data must first pass through the security means.

*Id.* at 18:55–19:4.

6. A peripheral device, comprising:

security means for enabling one or more security operations to be performed on data;

target means for enabling a defined interaction with a host computing device;

means for enabling communication between the security means and the target means,

means for enabling communication with a host computing device;

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