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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS INC.,
Petitioner,

v.

BRADIUM TECHNOLOGIES LLC,
Patent Owner.

IPR2018-00952
Patent 9,253,239 B2

Before BRYAN F. MOORE, BRIAN J. McNAMARA, and MINN CHUNG, *Administrative Patent Judges.*

CHUNG, *Administrative Patent Judge.*

JUDGMENT
Final Written Decision
Determining the Challenged Claim Unpatentable
35 U.S.C. § 318(a)

I. INTRODUCTION

In this *inter partes* review, instituted pursuant to 35 U.S.C. § 314, Unified Patents Inc. ("Petitioner" or "Unified Patents") challenges the patentability of claim 20 (the "challenged claim") of U.S. Patent No. 9,253,239 B2 (Ex. 1001, "the '239 patent"), owned by Bradium Technologies LLC ("Patent Owner" or "Bradium"). This Final Written Decision is entered pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons discussed below, we determine Petitioner has shown by a preponderance of the evidence that claim 20 of the '239 patent is unpatentable.

II. BACKGROUND

A. Procedural History

On April 23, 2018, Petitioner filed a Petition (Paper 2, "Pet.") requesting *inter partes* review of claims 1–25 of the '239 patent. Patent Owner filed a Preliminary Response (Paper 19 (filed under seal), Paper 20 (redacted public version)) ("Prelim. Resp."). With our authorization, Petitioner filed a paper to address the real party-in-interest issue raised in the Preliminary Response (Paper 25 (filed under seal), Paper 26 (redacted public version)) and Patent Owner filed a response (Paper 30 (filed under seal), Paper 29 (redacted public version)).

After the filing of the Petition, Patent Owner filed a statutory disclaimer of claims 1–19 and 21–25, leaving only claim 20 for our consideration. Ex. 2027; *see* Prelim. Resp. 1. On December 20, 2018, we

instituted an *inter partes* review of claim 20 based on the only remaining ground as follows (Paper 31, "Dec. on Inst.," 41).

Claim Challenged	35 U.S.C. §	References
20	103(a)[1]	Reddy,[2] Hornbacker,[3] and Rosasco[4]

After institution of trial, Patent Owner filed a Patent Owner Response (Paper 38 (filed under seal), Paper 37 (redacted public version)) ("PO Resp."), Petitioner filed a Reply to Patent Owner Response (Paper 41, "Reply"), and Patent Owner filed a Sur-Reply (Paper 45 (filed under seal), Paper 46 (redacted public version)) ("Sur-Reply"). Patent Owner also filed a contingent Motion to Amend (Paper 39), which was withdrawn upon our authorization (Paper 56). In addition, Petitioner filed motions to seal various papers and exhibits containing purportedly confidential information relating to the real party-in-interest issue. Papers 18, 24, 33, 53. An oral hearing was held on September 17, 2019, and a copy of the hearing transcript has been entered into the record. Paper 59 ("Tr.").

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[1] The Leahy-Smith America Invents Act, Pub. L. No. 112-29, 125 Stat. 284 (2011) ("AIA"), amended 35 U.S.C. § 103. Because the '239 patent has an effective filing date prior to the effective date of the applicable AIA amendment, we refer to the pre-AIA version of § 103.

[2] Ex. 1004, M. Reddy, Y. Leclerc, L. Iverson, N. Bletter, *TerraVision II: Visualizing Massive Terrain Databases in VRML*, IEEE Computer Graphics and Applications, Vol. 19, No. 2, 30–38, IEEE Computer Society, March/April 1999 ("Reddy").

[3] Ex. 1003, WO 99/41675 (Aug. 19, 1999) ("Hornbacker").

[4] Ex. 1018, U.S. Patent No. 6,317,137 B1 (Nov. 13, 2001) ("Rosasco").

B. Related Proceedings

According to Petitioner, the '239 patent was the subject of the following closed proceedings: *Bradium Techs. LLC v. Microsoft Corp.*, 1-15-cv-00031, (D. Del.) (dismissed Oct. 18, 2017); *Microsoft Corp. v. Bradium Techs. LLC*, IPR2016-01897 (terminated Dec. 21, 2017).

C. Real Party-in-Interest

Petitioner identifies only itself, Unified Patents Inc., as the real party-in-interest. Pet. 2. Patent Owner contends that Petitioner has failed to identify all real parties-in-interest. *See infra*.

Patent Owner identifies itself, General Patent Corporation, and MAN Holdings LLC, as the real parties-in-interest. Paper 15, 1.

D. The '239 Patent

The '239 patent describes a network-based image distribution system for retrieving large-scale images over network communication channels for display on client devices. Ex. 1001, 1:27–28, code (57). The retrieval of large-scale images is achieved by selecting an update image parcel of a predetermined image relative to an operator controlled image viewpoint to display on the client device. *Id*. at 3:47–51, code (57). A request for an update image parcel is associated with a request queue for subsequent issuance over a communication channel. *Id*. at 3:51–54. The update image parcel is received in one or more data packets on the communications channel and is displayed as a discrete portion of the predetermined image. *Id*. at 3:54–60. The update image parcel optimally has a fixed pixel array

size and may be constrained to a resolution equal to or less than the display device resolution. *Id*.

The system described in the '239 patent has a network image server and a client system where a user can input navigational commands to adjust a 3D viewing frustum for the image displayed on the client system. Ex. 1001, 5:26–55. When the viewing frustum is changed by user navigation commands, a control block in the client device determines the priority of the image parcels to be requested from the server "to support the progressive rendering of the displayed image," and the image parcel requests are placed in a request queue to be issued in priority order. *Id*. at 7:45–62.

On the server side, high-resolution source image data is pre-processed by the image server to create a series of derivative images of progressively lower resolution. Ex. 1001, 6:3–8. Figure 2 of the '239 patent is reproduced below.

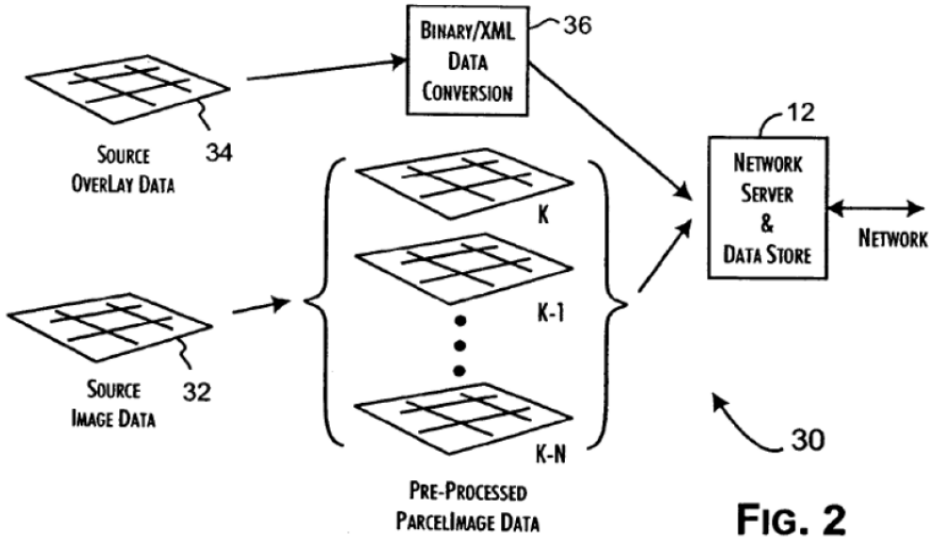

FIG. 2

Figure 2 of the '239 patent depicts preparation of pre-processed image parcels at the network image server. *See id*. at 4:57–60, 6:10. As illustrated

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