

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

SEVEN NETWORKS, LLC,
Patent Owner.

IPR2020-00235
Patent 10,091,734 B2

Before THU A. DANG, KARL D. EASTHOM, and
JONI Y. CHANG, *Administrative Patent Judges*.

EASTHOM, *Administrative Patent Judge*.

DECISION
Granting Institution of *Inter Partes* Review
35 U.S.C. § 314

Apple Inc. (“Petitioner”) filed a Petition (Paper 2, “Pet.”) requesting an *inter partes* review of claims 1–14 (the “challenged claims”) of U.S. Patent No. 10,091,734 B2 (Ex. 1001, “the ’734 patent”). Petitioner filed a Declaration of Thomas Wenisch, Ph.D. (Ex. 1003) with its Petition. Patent Owner, Seven Networks, LLC (“Patent Owner”), filed a Preliminary Response (Paper 6, “Prelim. Resp.”). The parties filed additional briefing to address the Board’s discretionary authority to deny a petition based on a parallel district court proceeding under 35 U.S.C. § 314(b). Paper 8 (“Pet. Prelim. Reply”); Paper 9 (“PO Prelim. Sur-reply”).

We have authority to determine whether to institute an *inter partes* review (“IPR”). *See* 35 U.S.C. § 314(b); 37 C.F.R. § 42.4(a). Under 35 U.S.C. § 314(a), we may not authorize an *inter partes* review unless the information in the Petition and the Preliminary 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.” For the reasons that follow, we institute an *inter partes* review as to the challenged claims of the ’734 patent on all grounds of unpatentability presented.

I. BACKGROUND

A. *Real Parties-in-Interest*

Petitioner identifies Apple Inc. as the real party-in-interest. Pet. 68.

B. *Related Proceedings*

The parties identify *SEVEN Networks, LLC v. Apple Inc.*, No. 2:19-cv-00115 (E.D. Tex.) (“District Court Action” or “District Court”) as a related matter involving the ’734 patent. Pet. 69; Paper 5.

C. *The ’734 patent*

The ’734 patent describes mobile device power management techniques. Ex. 1001, code (57). A local proxy can reduce the number of

times “the radio module is powered up” by batching data transfers, thereby reducing battery consumption. *Id.* at 15:32–41. A mobile phone can initiate batch transfers with applications in a background mode or based on user configurations or device settings. *Id.* at 21:37–47. The user can enter into a power save mode, and “[i]n one embodiment, power save mode is not applied when the device 550 is plugged into a charger.” *Id.* at 37:19–25. The challenged claims recite network communication activities that occur during power save mode and after exiting power save mode.

D. Illustrative Claim 1

Of the challenged claims, independent claim 1, recites a “mobile device which improves network resource utilization in a wireless network.” Independent method claim 9 recites materially similar limitations. Remaining challenged claims 2–8 and 10–14 depend from claim 1 or claim 9.

Claim 1 illustrates the challenged claims at issue:

1. A mobile device which improves network resource utilization in a wireless network, the mobile device, comprising:

a memory; a radio; and

a processor coupled to the memory and configured to:
receive instructions from a user to enter a power save mode;

while in the power save mode, block transmission of outgoing application data requests, wherein the outgoing application data requests are background application requests for more than one application;

while in the power save mode, allow transmission of additional outgoing application data requests in response to occurrence of receipt of data transfer from a remote entity,

user input in response to a prompt displayed to the user, and a change in a background status of an application executing on the mobile device, wherein the additional outgoing application data requests are foreground application requests,

wherein the remote entity is an intermediary server that provides connectivity between an application server for the application and the mobile device;

exit the power save mode based on received instructions from the user to exit the power save mode,

wherein, when the power save mode is exited, the outgoing application data requests occurring while the mobile device is not in the power save mode are blocked by user selection on an application-by-application basis, wherein the user selection instructs the mobile device whether to block the outgoing application data requests for each application that is selected by the user for blocking.

Ex. 1001, 49:23–57.

E. The Asserted Grounds

Petitioner challenges claims 1–14 of the ’734 patent on the following grounds (Pet. 2):

Claims Challenged	35 U.S.C. §	References
1–3, 5–11, 13, 14	103 ¹	Douglis, ² Van Milligan, ³ Sharp ⁴
1–14	103	Douglis, Van Milligan, Sharp, Lee ⁵

II. DISCRETION TO DENY INSTITUTION UNDER § 314(a)

Regarding the parallel District Court Action (*supra* Section I.B), Patent Owner argues “[t]he circumstances here present an even clearer case for non-institution under 35 U.S.C. § 314(a) than the circumstances that warranted it in *NHK Spring Co. v. Intri-Plex Techs., Inc.*, IPR2018-00752, Paper 8 [at] 20 (PTAB Sept. 12, 2018) (*‘NHK’*) (precedential).” Prelim. Resp. 4–5.

¹ The Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112-29, 125 Stat. 284, 287–88 (2011), amended 35 U.S.C. § 103. For purposes of institution, the ’734 patent contains a claim with an effective filing date before March 16, 2013 (the effective date of the relevant amendment), so the pre-AIA version of § 103 applies. Regardless of the applicable version of § 103, Petitioner shows sufficiently that the claims would have been obvious for purposes of institution.

² Douglis et al., US 2005/0108075 A1, published May 19, 2005 (Ex. 1004).

³ Van Milligan et al., US 2011/0249668 A1, published Oct. 13, 2011 (Ex. 1005).

⁴ Sharp et al., US 2009/0228566 A1, published Sept. 10, 2009 (Ex. 1006).

⁵ Lee et al., US 2011/0080422 A1, published Apr. 7, 2011 (Ex. 1007).

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