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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DAN KIKINIS

Appeal 2010-007314¹
Application 10/071,091
Technology Center 2400

Before JEAN R. HOMERE, KALYAN K. DESHPANDE, and JOHN G.
NEW, *Administrative Patent Judges*.

HOMERE, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ The real party in interest is JLB Ventures LLC. (App. Br. 3.)

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1-14, 29-42, and 67-70. Claims 57-66 have been withdrawn from consideration. Claims 15-28 and 43-56 have been canceled. (App. Br. 3.) We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Appellant's Invention

Appellant invented a method and system for implementing an electronic program guide (EPG). In particular, upon storing in its entirety a received EPG data stream in a local storage, a user device scans the storage area to remove therefrom superfluous information to thereby allocate the data stream to discrete portions in the storage area. (Spec., ¶¶ [0017], [0020].)

Illustrative Claim

Independent claim 1 further illustrates the invention as follows:

1. A method for implementing an electronic program guide, the method comprising:
 - receiving programming information from a source;
 - storing the received programming information, in its entirety, in a data storage area; responsive to the received programming information being stored in its entirety, continuously scanning the data storage area, in a cyclical manner, to identify and remove data entries meeting a first predetermined criterion;
 - responsive to storing the received programming information in its entirety, partitioning the data storage area into a plurality of discrete storage areas; and

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distributing stored programming information to each discrete storage area based on a second predefined criterion.

Prior Art Relied Upon

The Examiner relied upon the following prior art as evidence of unpatentability:

Emma	US 5,155,831	Oct. 13, 1992
Arsenault	US 6,728,966 B1	Apr. 27, 2004

Rejections on Appeal

The Examiner rejected the claims on appeal as follows:

1. Claims 1-8, 12-14, 29-36, 40-42, 67, and 68 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Arsenault.
2. Claims 9-11, 37-39, 69, and 70 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Arsenault and Emma.

ANALYSIS

We consider Appellant's arguments *seriatim* as they are presented in the principal Brief, pages 5-7, Reply Br. 1-4.

Dispositive Issue: Has Appellant shown that the Examiner erred in finding that Arsenault describes *in response to storing, in its entirety, in a data storage area, received programming information, a user device continuously scans the data storage area to remove therefrom data entries meeting a first criteria, and the user device further partitions the storage area into a plurality of discrete storage areas*, as recited claim 1?

Appellant argues that Arsenault does not describe the disputed limitations emphasized above. (App. Br. 5-6, Reply Br. 1-2.) In particular, Appellant argues that Arsenault discloses filtering received packets, and storing them as they are received. However, Arsenault does not describe storing the received data in its entirety. Further, Appellant argues that while Arsenault describes storing received data streams in discrete storage areas, it is not made in response to storing the received data in its entirety. (*Id.*)

In response, the Examiner finds that Arsenault's disclosure of storing in discrete regions of a storage medium the content of received program guide data describes disputed limitations, as claimed. (Ans. 7-9.)

On the record before us, we agree with the Examiner's finding of anticipation. Arsenault discloses upon downloading EPG information from a satellite, a local receiver unit (IRD) stores the downloaded data as digital content records that are used to create informational displays in the program guide. (Col. 6, ll. 50-59.) Arsenault also discloses using linked lists to remove redundant data or outdated data from storage. (Abstr., col. 9, ll. 41-48.) While Arsenault discloses that content records are stored as they are received (col. 7, ll. 15-16), such disclosure does not preclude the programming information from being stored in its entirety. That is, we find that the receiver incrementally stores each downloaded content data as it is received until the entire EPG data is stored in the storage areas of the IRD. Further, we find that by removing redundant or obsolete data from the storage areas, Arsenault describes scanning the storage areas to remove therefrom data meeting a first predetermined criterion. Additionally, we

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find that by storing the EPG as discrete records in the storage areas, Arsenault describes that the storage of the IRD is partitioned into corresponding discrete storage areas that store the downloaded EPG. We are therefore satisfied that Arsenault describes the disputed limitations. It follows that Appellant has not shown error in the Examiner's rejection of claim 1 as being anticipated by Arsenault.

Because Appellant argues claims 2, 4-8, 12-14, 29, 30, 32-36, and 40-42 together with claim 1, claims 2, 4-8, 12-14, 29, 30, 32-36, and 40-42 fall therewith as set forth above. *See* 37 C.F.R. § 1.37(c)(1)(vii).

Regarding claims 3 and 31, Appellant argues that while Arsenault discloses that content records are accompanied by a title and a label, Arsenault does not describe tokens that include compressed forms of information about individual programs, nor does it describe associating meanings with tokens. (App. Br. 6, Reply Br. 3.) This argument is not persuasive. Arsenault discloses that downloaded EPG data may be compressed (col. 4, ll. 27-29), and may also include description data. (Col. 4, ll. 60-64.) We find that such disclosure describes the disputed limitations. It follows that Appellant has not shown error in the Examiner's rejection of claims 3 and 31.

Because Appellant reiterates for claims 9-11, 37-39, 67-70, the arguments presented for patentability of claims 1 and 3 above, and we find no discrepancies in Arsenault for Emma to cure, claims 9-11, 37-39, and 67-

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70 fall together with claims 1 and 3 as set forth above. See 37 C.F.R. § 1.37(c)(1)(vii).

DECISION

We affirm the Examiner's decision to reject claims 1-14, 29-42, and 67-70 as set forth above.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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