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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* JESSE W. BENNETT, SURI MADDHULA, and  
DON W. SCHOPPE

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Appeal 2010-007519  
Application 11/114,430  
Technology Center 2400

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Before: JEAN R. HOMERE, TREVOR M. JEFFERSON, and  
MICHAEL J. STRAUSS, *Administrative Patent Judges*.

JEFFERSON, *Administrative Patent Judge*.

DECISION ON APPEAL

## STATEMENT OF CASE

Appellants appeal under 35 U.S.C. § 134 from a Final rejection of claims 1-39. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

### *Introduction*

The claims are directed to a remote control of media devices via a communication network. Spec. ¶ [0003]. Claim 1, reproduced below with disputed limitation in italics, is illustrative of the claimed subject matter:

1. A method of remotely controlling a media device comprising:
  - establishing a multimedia session with the media device via an Internet-protocol communication link; and
  - remotely controlling the media device by sending control commands to the media device as multimedia messages in the context of said multimedia session.*

### *Rejections*

The Examiner made the following rejections:

Claims 1-2, 4-9, 11-15, 17-22, and 24-39 stand rejected under 35 U.S.C §102(e) as being anticipated by Krzyzanowski (US 6,792,323,; Filing Date: Sep. 14, 2004/Mar. 7, 2003). Ans. 2-8.

Claims 3, 10, 16, and 23 stand rejected under 35 U.S.C §103(a) as being rendered obvious by Krzyzanowski in view of Mayer (US 2005/0213580; Pub. Date: Sep. 29, 2005). Ans. 7-8.

## ANALYSIS

We consider Appellants' arguments seriatim as they are presented in the principal Appeal Brief, pages 7-18.

*Independent Claim 1 – 35 U.S.C §102(e)*

*Issue:* Did the Examiner err in finding that Krzyzanowski discloses “remotely controlling the media device by sending control commands to the media device as multimedia messages in the context of said multimedia session” as recited in claim 1?

Appellants contend that the Examiner erred by finding that the control messages in Krzyzanowski were the multimedia messages of claim 1. App. Br. 8. Although Appellants admit that Krzyzanowski uses the terms “‘control command’, ‘control request’ and ‘control signal’ to generally indicate a communication used for control of a device . . . . Krzyzanowski never explains the contents of the control messages anywhere in the reference, or provides any examples of a control message.” App. Br. 8-9 (citation omitted). Thus, Appellants contend Krzyzanowski fails to disclose that the control messages are multimedia messages. App. Br. 9.

The Examiner found that Krzyzanowski discloses control request that are sent by a user to multimedia devices. Ans. 8. Furthermore, Krzyzanowski discloses the creation of multimedia messages and their use in the multimedia system. *Id.* (citing Krzyzanowski col. 13 ll. 12-28). The Examiner concludes that these “control request or commands are essentially multimedia messages sent to a TV or an audio device.” Ans. 8.

We agree with the Examiner. Appellants have narrowly construed multimedia messages as used in claim 1. Giving the claim the broadest reasonable construction in light of the disclosure, *see In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004), a device that creates multimedia messages that sends control messages to various multimedia components meets the requirement of control commands sent as multimedia messages. Krzyzanowski col. 13 ll. 12-28. We also note that

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Krzyzanowski discloses that the control server interacts with computer client or other system components to search and/or retrieve data, *see* Ans. 8; Krzyzanowski col. 13 ll. 12-28. We find that control messages enabled via the messaging controller of the Krzyzanowski system fall within the broadest reasonable construction of “multimedia messages” as claimed.

Contrary to Appellants’ arguments, the Examiner did not commit “clear technical error”, (Reply 2, 3), but instead properly relied on the breadth of “multimedia messages” which broadly includes messages of various media types within its scope. *See* Ans. 8-9. Although Appellants admit that “multimedia devices in Krzyzanowski can receive multimedia messages,” they argue that those messages are not control messages. App. Br. 3. We agree with the Examiner, however, that Krzyzanowski not only discloses that multimedia devices can receive multimedia messages, but that such messages provided by the messaging controller include commands to search or retrieve data. *See* Krzyzanowski col. 13 ll. 12-28; Ans. 8. We also agree with the Examiner that the control server of Krzyzanowski supports operating using numerous transport protocols, including Real-time Transport Protocol (RTP) and thus, discloses that interaction and communication between the control server and media devices takes place over numerous protocols. Ans. 9 (citing Krzyzanowski col.9 lines 31-44).

Based on the foregoing, we find that the Examiner did not err in finding that Krzyzanowski discloses “remotely controlling the media device by sending control commands to the media device as multimedia messages in the context of said multimedia session” as recited in claim 1. Accordingly, the Examiner’s rejection of claim 1 under 35 U.S.C §102(e) is sustained.

*Dependent Claims 2 and 15 – 35 U.S.C §102(e)*

*Issue:* Did the Examiner err in finding that Krzyzanowski discloses that “control commands” are sent as text messages as recited in claims 2 and 15?

Appellants present the same arguments for dependent claims 2 and 15. App. Br. 11, 14; Reply 4. Accordingly, we address claims 2 and 15 together.

Based on the arguments presented for claim 1, Appellants contend that Krzyzanowski fails to disclose that control commands are sent as either text messages or any particular multimedia messages as recited in claims 2 and 15. App. Br. 11, 14; Reply 4. Appellants admit that “multimedia devices in Krzyzanowski can receive multimedia messages” (App. Br. 3), but dispute that text messages fall within the multimedia messages sent to control the various media devices. App. Br. 11, 14; Reply 4.

As the Examiner found, Krzyzanowski discloses that the controller client supports various text, graphical or verbal command interfaces for the use in communicating commands to various media components. Ans. 9. We agree with Appellants that Krzyzanowski discloses that multimedia messages are sent to media devices. See App. Br. 3. We also agree with the Examiner Krzyzanowski teaches that a “user can operate any of the other system components to send control requests, provided the system component is configured” to support the user interface, using “various text, graphical or verbal command interfaces for presenting the control options to a user.” Krzyzanowski, col.21, ll. 22-30; *see* Ans. 9, 11. In addition, Krzyzanowski discloses “[a] text-based or graphical user interface” that “can also be used to control the operations and functions of system components.” Krzyzanowski, col.15, ll. 23-28; *see* ans. 3.

For the foregoing reasons, we agree with the Examiner that Krzyzanowski discloses control messages or “control commands” that are sent as text messages. Therefore we sustain the Examiner’s rejection of independent claims 2 and 15 under 35 U.S.C §102(e).

*Dependent Claims 4, 9, 17 and 22 – 35 U.S.C §102(e)*

*Issue:* Did the Examiner err in finding that Krzyzanowski discloses sending control command using the Real-Time Transport Protocol (RTP) as recited in dependent claims 4?

Appellants’ argument for dependent claim 4 raises similar issues argued in connection with dependent claims 9, 17, and 22. Reply 4; App. Br. 10, 11, and 13. Appellants contend that Krzyzanowski only generally states that its control server can operate according to RTP but is silent as to whether control command are sent using RTP. Reply 4; App. Br. 11, 13-16. Appellants conclude that “Krzyzanowski does not teach sending any control commands to the media device using RTP” or text messages and multimedia messages. App. Br. 11.

We disagree with Appellants’ contention. As the Examiner found, Krzyzanowski states that the control server of the Krzyzanowski system is configured to support RTP protocols and that the control server interacts with other components including media devices. Ans. 3, 9 (citing Krzyzanowski col.9 lines 31-44; col. 11, ll. 12-14). Krzyzanowski also discloses that the “[c]ontrol server 114 provides centralized command and control of various functions within a controlled environment.” Krzyzanowski col. 11, ll. 12-14. Thus, the Examiner did not err in finding that Krzyzanowski discloses communication of control commands using RTP as recited in dependent claim 4.

Appellants incorporate the arguments for dependent claim 4 into the arguments for dependent claims 9, 17, and 22. Reply 4; App. Br. 10, 11, and 13. As stated above, Appellants' arguments have not persuaded us that the Examiner erred in finding that Krzyzanowski discloses the claimed RTP limitation.

For the foregoing reasons, we sustain the Examiner's rejection of dependent claims 4, 9, 17, and 22 under 35 U.S.C §102(e).

*Independent claim 8 and dependent claims 14 and 21 – 35 U.S.C §102(e)*

*Issue:* Did the Examiner err in finding that the transmission protocols disclosed in Krzyzanowski anticipate Appellants' claims reciting that control commands are encapsulated in media messages?

Appellants contend that Krzyzanowski fails to disclose control commands that are "encapsulated in media messages" as recited by independent claims 8 and 34 and independent claims 14 and 21. Although the claims use slightly different terminology, Appellants argue that the encapsulating packets with header information "has nothing to do with encapsulating control commands in multimedia messages" as recited in the claims at issue Reply 5.

We are not persuaded by Appellants' arguments. We note that Appellants' neither define "encapsulated" as used in the claims, nor explain why Krzyzanowski's discloses use of transport protocols does not include packets "encapsulated with header information at the transport layer before transmission." See Reply 4-5; App. Br. 13-14, 15, 17-18; Ans. 10. Appellants Specification does not define or use the term "encapsulated." The portion of the Specification Appellants cite for support for encapsulating the control commands simply refers to various protocols and

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services including RTP that are used in Appellants' system architecture. *See* App. Br. 3 (citing Spec. ¶¶[0024]-[0029]; Figs 3 and 4). Giving the claim the broadest reasonable construction in light of the disclosure, we find that the RTP protocol among other transport protocols disclosed in Krzyzanowski encompass the exchange of encapsulated commands recited in Appellants' claims.

Appellants also incorporate the same arguments presented for independent claim 1 into arguments for independent claims 8 (App. Br. 12), 14 (App. Br. 13-14), and 21 (App. Br. 15). As stated above with respect to claim 1, Appellants have not persuaded us that the Examiner erred in finding that Krzyzanowski discloses controlling the media device by sending control commands to the media device as multimedia messages.

Based on the foregoing we find that the Examiner did not err in finding that Krzyzanowski discloses the control commands are encapsulated in media messages limitation found in claim 8. Accordingly, we sustain the Examiner's rejection under 35 U.S.C §102(e) of independent claim 8 and independent claims 14 and 21.

*Independent claims 27 and 34 – 35 U.S.C §102(e)*

*Issue:* Did the Examiner err in finding that Krzyzanowski discloses “establishing concurrent media sessions via an Internet-protocol communication link” as recited in claim 27 and similarly recited in 34?

Appellants make the same arguments for independent claims 27 and 34. App. Br. 16-18; Reply 5-6. In particular Appellants argue that “Krzyzanowski teaches nothing about the timing of when the user . . . may receive media from the control server 114, and therefore teaches nothing

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about whether a user may do both concurrently” as required in the claims 27 and 34. Reply 5.

The Examiner relies on extrinsic evidence of the RTP for the common knowledge that RTP allows multiple sessions at the same time. Ans. 15. Therefore, the Examiner argues, Krzyzanowski’ s use of RTP sessions for sending messages teaches concurrent first and second media sessions as recited in claims 27 and 34. The Examiner also argues that Krzyzanowski teaches that commands can be used to establish multiple media sessions. Ans. 14.

We agree with Appellants’ argument. Although RTP may allow for concurrent media sessions and Krzyzanowski allows for multiple sessions, we are not persuaded that Krzyzanowski discloses concurrent media sessions, such that the sessions happen at the same time as recited in the claims.

We find that the Examiner has not shown that Krzyzanowski discloses concurrent sessions as required in claims 27 and 34. Accordingly, we do not sustain the Examiner’s rejection of claims 27 and 34 under 35 U.S.C. §102(e) or claims 28-33 and 35-39 that depend therefrom.

*Dependent Claims 5-7, 11-13, 18-20, 22, 24-26 – 35 U.S.C §103(a)*

Appellants made no separate arguments for the Examiner’s rejection of dependent claims 5-7, 11-13, 18-20, 22, and 24-26. Accordingly they fall with their respective independent claims. Therefore we sustain the Examiner’s rejection of claims 5-7, 11-13, 18-20, 22, and 24-26 under 35 U.S.C §102(e).

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*Dependent Claims 3, 10, 16, and 23 – 35 U.S.C §103(a)*

Appellants make no separate arguments of error in connection with the Examiner's 35 U.S.C §103(a) rejection of claims 3, 10, 16, and 23 over Krzyzanowski in view of Mayer. Thus, we summarily sustain the Examiner's rejection of claims 3, 10, 16, and 23 under 35 U.S.C. § 103(a) as unpatentable over Torii and Reutter. *See In re Berger*, 279 F.3d 975, 984, 985 (Fed. Cir. 2002).

DECISION

We AFFIRM the Examiner's rejection of claims 1-2, 4-9, 11-15, 17-22, and 24-26 under 35 U.S.C §102(e) as anticipated by Krzyzanowski.

We AFFIRM the Examiner's rejection of claims 3, 10, 16 and 23 under 35 U.S.C. § 103(a) as unpatentable over Krzyzanowski and Mayer.

We REVERSE the Examiner's rejection of claims 27-39 under 35 U.S.C §102(e) as anticipated by Krzyzanowski.

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) (2012).

AFFIRMED-IN-PART

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