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10/887,437	07/08/2004	Blaine H. Dolph	AUS920040397US1	1723
45442	7590	01/24/2013	EXAMINER	
IBM CORPORATION (RVW) C/O ROBERT V. WILDER, ATTORNEY AT LAW 4235 KINGSBURG DRIVE ROUND ROCK, TX 78681			YEN, SYLING	
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rwilder6@austin.rr.com

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* BLAINE H. DOLPH

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Appeal 2010-007549  
Application 10/887,437  
Technology Center 2100

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Before RICHARD E. SCHAFER, JEFFREY S. SMITH, and STANLEY M.  
WEINBERG, *Administrative Patent Judges*.

SMITH, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1-23, which are all the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

*Representative Claim*

1. A method for enabling a processing system to process an un-segmented media file received by a user from a content provider, said un-segmented media file being arranged for being played by a media player, said method comprising:

providing means for dividing said un-segmented media file into a plurality of segment files smaller than said un-segmented media file;

providing a video database for listing un-segmented and segmented media files;

providing means for playing individual selected ones of said segment files by said media player;

marking each of said selected ones of said segment files after each of said selected ones of said segment files has been played by said media player, said marking being indicative that said selected one of said segment files has been played;

maintaining said played segment files in memory after being played whereby said played segment files may be played again by said user;

determining when additional memory space is needed to store a new un-segmented media file received by said user; and

deleting one or more of said played segment files from memory in order to provide available memory space for said new un-segmented media file.

*Prior Art*

Inoue	US 6,011,663	Jan. 4, 2000
Ange	US 6,121,963	Sep. 19, 2000
Shnier	US 2002/0049974 A1	Apr. 25, 2002
Pecus	US 2002/0131428 A1	Sep. 19, 2002
Schwartz	US 2002/0156783 A1	Oct. 24, 2002
Lu	US 2003/0156824 A1	Aug. 21, 2003
Hull	US 2005/0229107 A1	Oct. 13, 2005

*Examiner's Rejections*

Claims 1-4, 6, 10-15, 17, and 21-23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lu, Ange, and Pecus.

Claims 5 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lu, Ange, Pecus, and Schwartz.

Claims 7 and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lu, Ange, Pecus, and Shnier.

Claims 8 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lu, Ange, Pecus, Shnier, and Inoue.

Claims 9 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lu, Ange, Pecus, Shnier, and Hull.

ANALYSIS

The Examiner finds that paragraphs 133 and 134 of Pecus teach “deleting one or more of said played segment files from memory in order to provide available memory space for said new un-segmented media file” as

recited in claim 1. Ans. 6-7. The Examiner interprets the scope of “played segment files” as encompassing previously received files that have expired or are marked for deletion as taught by Pecus. Ans. 13-14. Appellant contends that deleting expired files or files marked for deletion does not teach deleting played segment files. Br. 17-18.

We agree with Appellant. The Examiner has not provided persuasive evidence or explanation to establish that expired or marked files of Pecus teach “played segment files” recited in claim 1. Therefore, we find that the combination of Lu, Ange, and Pecus does not teach “deleting one or more of said played segment files from memory in order to provide available memory space for said new un-segmented media file” as recited in claim 1.

Independent claims 12 and 23 contain a limitation similar to that recited in claim 1 for which the rejection fails. We do not sustain the rejection of claims 1-23 under 35 U.S.C. § 103.

#### DECISION

The rejection of claims 1-4, 6, 10-15, 17, and 21-23 under 35 U.S.C. § 103(a) as being unpatentable over Lu, Ange, and Pecus is reversed.

The rejection of claims 5 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Lu, Ange, Pecus, and Schwartz is reversed.

The rejection of claims 7 and 18 under 35 U.S.C. § 103(a) as being unpatentable over Lu, Ange, Pecus, and Shnier is reversed.

The rejection of claims 8 and 19 under 35 U.S.C. § 103(a) as being unpatentable over Lu, Ange, Pecus, Shnier, and Inoue is reversed.

The rejection of claims 9 and 20 under 35 U.S.C. § 103(a) as being unpatentable over Lu, Ange, Pecus, Shnier, and Hull is reversed.

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REVERSED

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