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KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			PATEL, DHAIRYA A	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MICHAEL WOLLBORN

Appeal 2010-007983
Application 10/399,633
Technology Center 2400

Before KRISTEN L. DROESCH, HUNG H. BUI, and
LYNNE E. PETTIGREW, *Administrative Patent Judges*.

PETTIGREW, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134(a) from a final rejection of claims 13, 15-22, and 24-28. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

STATEMENT OF THE CASE

Introduction

Appellant's invention relates to multimedia descriptions and in particular to a method for structuring a bitstream of binary multimedia descriptions and parsing such a bitstream. Spec. 1, ll. 7-10.

Claim 13 is illustrative of the invention (emphasis added to disputed limitations):

13. A method for structuring a bitstream for a binary multimedia description in which binary identifiers representing opening tags and closing tags of at least one of descriptors and description schemes are used, the method comprising:

positioning binary identifiers on at least one regular positioning grid within the bitstream, wherein the at least one regular positioning grid limits a number of possible positions for positioning the binary identifiers;

assigning a unique number to each opening binary identifier corresponding to a same descriptor or description scheme;

assigning the unique number to each corresponding closing binary identifier; and

parsing the bitstream by only checking the binary identifiers on positions defined by the at least one regular positioning grid.

Rejection on Appeal

The Examiner rejected claims 13, 15-22, and 24-28 under 35 U.S.C. § 103(a) as being unpatentable over Yamane (US 6,393,196 B1, May 21, 2002) and Basso (US 6,751,623 B1, June 15, 2004).

ANALYSIS

Appellant contends that the portion of Yamane cited by the Examiner does not disclose or suggest assigning a unique number to each opening binary identifier corresponding to a same descriptor or description scheme, and assigning the unique number to each corresponding closing binary identifier, as recited in claim 13. App. Br. 7; Reply Br. 3-4.¹ We agree with Appellant.

The Examiner finds that VTS #0 in Figure 1 of Yamane corresponds to the claimed “opening binary identifier” and that VTS #K in Figure 1 of Yamane corresponds to the claimed “closing binary identifier.” Ans. 3. In rejecting claim 13, however, the Examiner has not identified anything in Yamane that suggests assigning a unique number to an opening binary identifier and its corresponding closing binary identifier. *See* Ans. 3-4, 8-12.

Specifically, in the Grounds of Rejection section of the Answer, the Examiner fails to address the limitations relating to assigning a unique number. Ans. 3-4. In the Response to Argument section, the Examiner states: “The opening identifier is number VTS # 0 (assign unique numbers for opening identifier) and the closing identifier is VTS # K (assign unique number for closing identifier).” Ans. 9. This statement, however, does not address the requirement in Appellant’s claim 13 that the same unique number is assigned to an opening binary identifier and its corresponding closing binary identifier.

¹ In this opinion we refer to the Supplemental/Replacement Appeal Brief dated Dec. 2, 2009, and the Reply Brief dated May 6, 2010.

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For at least this reason, we do not sustain the Examiner's rejection under 35 U.S.C. § 103(a) of claim 13 and of claims 15-22 and 24-28 dependent thereon.

CONCLUSION

On the record before us, we conclude that the Examiner erred in rejecting claims 13, 15-22, and 24-28 as being unpatentable under 35 U.S.C. § 103(a).

DECISION

The Examiner's rejection of claims 13, 15-22, and 24-28 is reversed.

REVERSED

ELD