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THE FARRELL LAW FIRM, P.C. 290 Broadhollow Road Suite 210E Melville, NY 11747			LU, KUEN S	
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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* GIRISH KULKARNI and BELA ANAND

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Appeal 2011-010114  
Application 12/017,816  
Technology Center 2100

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Before: JOSEPH L. DIXON, ST. JOHN COURTENAY III, and  
CARLA M. KRIVAK, *Administrative Patent Judges*.

DIXON, *Administrative Patent Judge*.

DECISION ON APPEAL



## ANALYSIS

With respect to independent claims 1 and 12, Appellants provide arguments with respect to independent claim 1 and indicate that similar arguments apply to independent claim 12. Therefore, we select independent claim 1 as the representative claim and group independent claim 12 with representative claim 1.

Appellants contend that in a conventional blog, the information or comments added by other users in a video blog are placed sequentially, and there is no mechanism currently available to relate user comments and a specific portion of the original video blog. Appellants contend that the present system is directed to a "system and method for interactive video blogging wherein the user can download the original blog and comments of the user's choice." (App. Br. 7). Appellants contend that independent claim 1 recites "a server, which provides a blog, converts comments attached to a blog file to separate descriptor files and stores the separate descriptor files and the blog file, and a plurality of terminals uploading the comments, and downloading and playing the descriptor files attached to the blog file." We note that this portion of independent claim 1 (prior to the insertion of the elements claimed in dependent claim 7) merely referred to a "blog" rather than a "video blog file." (App. Br. 7). However, now with the limitations of claim 7 we find the totality of the claim refers to video blogs.

Appellants proffer the distinction of representative independent claim 1 is based upon the addition of the "wherein" clause that includes the elements of dependent claim 7. (App. Br. 7-10). The Examiner identifies paragraphs [0064]-[0076] of Mays and maintains:

**The Examiner respectfully submits that Mays teaches the subject matter (corresponding disclosure) **at various paragraphs and/or figures, listed is an example to further clarify what is described in the final rejections:****

**where the blog file is a video blog file** (See [0076], a blog comprising a visual travel guide),

**the terminals uploading the comments further comprises creating and entering the comments in a text form, an audio form, or an audio-video form** (See [0064]-[0069], user uploads, enters, obtains, and/or selects desired content for a particular route when creating a visual travel guide; please **note a travel guide creation includes uploading is self[sic] an uploading step**, further, the step comprises **entering**, obtaining and/or selecting desired content and then converts standard video into web streaming video format is **creating** the new video format; furthermore, Mays teaches entering text, video recording and/or video recording to the travel guide at [0072]) **at a predetermined point of time while the video blog is played** (See [0064]-[0075], the user uploads travel guide in interactive mode via web browser to create, enter, view, edit, stream view, modify for **rendering the guide available before user can use** it for travel).

(Ans. 11-12). We agree with the Examiner and note that Appellants have not filed a Reply Brief to address the further support provided by the Examiner regarding the online visual travel guide and or video guide as described by Mays.

We further note that the "wherein" clause proffered for the distinction of the system of independent claim 1 does not change the structure of the system to differentiate the claimed invention from the system as described by Mays.<sup>1</sup> We further find Mays provides the ability to annotate, revise, and

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<sup>1</sup> See MPEP §2111.04 regarding "wherein" clauses:

transfer annotations concerning video recordings. Mays further describes the ability to "revise, and/or manage content that is: associated with a particular video guide provided by the subscriber; not associated by that subscriber with a particular video guide; associated with a video guide of another; and/or is available for use in assembling a video guide." (Mays ¶[0075]). Since Appellants do not provide any response to the Examiner's express identification of clearly relevant descriptions in Mays and merely states that:

upon review of these sections [Examiner cited paragraphs [0046], [0106], and [0123] in the final rejection], and the remainder of *Mays*, Appellants can find nothing in *Mays* that explicitly teaches or even suggests in a case where the blog file is a video blog file, the terminals uploading the comments further comprises creating and entering the comments in a text form, an audio form, or an audio-video form at a predetermined point of time while the video blog is played.

(App. Br. 8), we find Appellants' argument to be a general allegation for patentability which does not address the specific citations and discussions by the Examiner in the Examiner's Answer. Therefore, we find Appellants' arguments do not show error in the Examiner's finding of anticipation, and

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Claim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure. However, examples of claim language, although not exhaustive, that may raise a question as to the limiting effect of the language in a claim are:

- (A) "adapted to" or "adapted for" clauses;
  - (B) "wherein" clauses; and
  - (C) "whereby" clauses.
- (MPEP §2111.04 Eighth Edition, Rev. 9, Aug. 2012).

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we will sustain the rejection of representative independent claim 1 and independent claim 12 grouped therewith.

With respect to dependent claims 2-6, 8-11, 13-16, and 18-22 Appellants rely upon the arguments advanced with respect to independent claim 1. Since we found no error in the Examiner's finding of anticipation, we similarly sustain the rejection of these claims.

#### CONCLUSIONS OF LAW

The Examiner did not err in rejecting independent claim 1 based upon anticipation by Mays.

#### DECISION

For the above reasons, the Examiner's rejection of claims 1-6, 8-16, and 18-22 is affirmed.

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)(2009).

AFFIRMED

msc