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EXAMINER
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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* THOMAS ANSCHUTZ

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Appeal 2012-007920  
Application 11/437,016  
Technology Center 2400

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Before CARLA M. KRIVAK, JEFFREY S. SMITH, and  
CHARLES J. BOUDREAU, *Administrative Patent Judges*.

BOUDREAU, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant Thomas Anschutz<sup>1</sup> appeals under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1, 2, 4–9, 11, 12, and 15–20.<sup>2</sup> We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

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<sup>1</sup> Appellant identifies AT&T Intellectual Property I, L.P. as the real party in interest. App. Br. 1.

<sup>2</sup> Claims 3, 10, 13, and 14 have been canceled. App. Br. 1.

## STATEMENT OF THE CASE

Appellant's claimed invention "generally relates to interactive video distribution systems and to computers and, more particularly, to synchronized media experiences." Spec. ¶ 2.

Independent claim 1, reproduced below, is representative of the subject matter on appeal.

1. A method for synchronizing a media experience, comprising:

receiving a request at a server sent from a host device, the request identifying an invitee device for a shared video-on-demand collaborative session;

sending a session invitation from the server to the invitee device, the session invitation identifying content to be collaboratively shared during the video-on-demand collaborative session, a name of the host device, a start time of the video-on-demand collaborative session, and a stop time of the video-on-demand collaborative session;

receiving a session confirmation at the server sent from the invitee device;

sending a session acknowledgment from the server to the host device to confirm the video-on-demand collaborative session;

streaming a content stream from a media content server to the host device and to the invitee device;

establishing a common control between the host device and the invitee device;

receiving the common control at the server; and

sending an instruction from the server to the media content server to synchronously control the content stream to the host device and to the invitee device.

Claims 1, 2, 4–9, 11, 12, and 15–20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Schneider (US 2006/0053195 A1; published Mar. 9, 2006) and Kinney (US 5,808,662; issued Sept. 15, 1998). Ans. 4–14.

### ANALYSIS

The Examiner finds Schneider discloses all elements of independent claims 1, 8, and 15, with the exception of explicit disclosure that the collaborative session is a video-on-demand collaborative session and that the shared content is streamed from a media content server, as recited in claim 1, and similar limitations recited in claims 8 and 15. Ans. 5–6, 10–14. The Examiner finds those remaining elements are nonetheless taught by Kinney. *Id.* at 6–7, 12–13.

Appellant argues “[t]he proposed combination of *Schneider* with *Kinney* fails to teach or suggest all the features recited by independent claim 1.” App. Br. 7. Specifically, Appellant contends:

Independent claim 1, for example, recites “*streaming a content stream from a media content server to the host device and to the invitee device.*” The Examiner contends that *Schneider* with *Kinney* teaches these features, and the Examiner specifically cites to portions of *Schneider*.

The Examiner is mistaken. . . . *Schneider* expressly states that only “miniature screen shots” are sent from a server to different client devices. These “miniature screen shots” are static and are not logically or reasonably equivalent to “*a content stream,*” as independent claim 1 recites. When *Schneider* is correctly interpreted, independent claim 1 cannot be obvious over *Schneider* with *Kinney*. The Examiner has thus erred in finding independent claim 1 is obvious over *Schneider* with *Kinney*.

*Id.* at 7–8. Throughout the remainder of the discussion of claim 1 in the Appeal Brief, Appellant addresses specific portions of *Schneider* but does not specifically address the portions of *Kinney* upon which the Examiner relies. *See id.* at 8–12. With respect to independent claim 8, Appellant asserts, again without any discussion of the cited portions of *Kinney*, that “the proposed combination of *Schneider* with *Kinney* expressly states that only a static ‘miniature screen shot’ is shared with client devices,” and that “[b]ecause this ‘miniature screen shot’ is static and NOT equivalent to ‘stream[ing] content,’ the Examiner has erred in finding independent claim 8 is obvious over *Schneider* with *Kinney*.” *Id.* at 12. Appellant’s argument with respect to independent claim 15 is similar. *See id.* at 12–13.

Appellant’s arguments are not persuasive of Examiner error. As stated above, each of the claims is rejected over the combination of *Schneider* and *Kinney*. The Examiner expressly finds that “*Schneider* . . . did not explicitly disclose . . . that the shared content is streamed form [*sic*] a media content server,” whereas “*Kinney* [*sic*] . . . in the same field of endeavor teaches a video-on-demand collaborative session wherein the shared content is streamed form [*sic*] a media content server . . . .” Final Rejection 7, 12, and 14. Accordingly, Appellant’s arguments regarding the teachings of *Schneider* alone are unpersuasive. *See In re Keller*, 642 F.2d 413, 426 (CCPA 1981) (“One cannot show non-obviousness by attacking

references individually where . . . the rejections are based on combinations of references.”).<sup>3</sup>

Accordingly, we affirm the rejection of independent claims 1, 8, and 15, as well as the rejection of dependent claims 2, 4–7, 9, 11, 12, and 16–20, argued to be patentable on the same grounds as independent claims 1, 8, and 15 (*see* App. Br. 13–15), under 35 U.S.C. § 103(a) over Schneider and Kinney.

#### DECISION

We affirm the Examiner’s rejection of claims 1, 2, 4–9, 11, 12, and 15–20 under 35 U.S.C. § 103(a) as being unpatentable over Schneider and Kinney.

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

#### AFFIRMED

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<sup>3</sup> We note Appellant presents an argument directed to Kinney in the Reply Brief. *See* Reply Br. 2–3. Because Appellant has not shown good cause explaining why that argument could not have been presented in the opening Appeal Brief, that argument is deemed waived and will not be considered. *See* 37 C.F.R. § 41.37(c)(1)(vii) (2011) (second sentence); *Ex parte Nakashima*, 93 USPQ2d 1834, 1837 (BPAI 2010) (explaining that any argument not timely presented in the principal brief on appeal will not be considered when filed in a reply brief, absent a showing of good cause explaining why the argument could not have been presented in the principal brief); *Ex parte Borden*, 93 USPQ2d 1473, 1474 (BPAI 2010) (informative) (“[T]he reply brief [is not] an opportunity to make arguments that could have been made in the principal brief on appeal to rebut the Examiner’s rejections, but were not.”).