UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/970,575	12/16/2010	Jaime Hintz	40205/03001	6373

30636 7590 11/30/2016

FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK, NY 10038

EXAMINER	
BROWN, ALVIN L	

ART UNIT	PAPER NUMBER
3682	

MAIL DATE	DELIVERY MODE
11/30/2016	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JAIME HINTZ, MARK FORTNER, ADAM SOLOMON, COLIN MCNAMARA, and MARK THEOPHILIS

Appeal 2014-009441[1]
Application 12/970,575
Technology Center 3600

Before MURRIEL E. CRAWFORD, JOSEPH A. FISCHETTI, and MICHAEL W. KIM, *Administrative Patent Judges*.

FISCHETTI, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellants seek our review under 35 U.S.C. § 134 from the Examiner's final rejection of claims 1–21.

We AFFIRM.

---

[1] Appellants identify Viacom International Inc. as the real party in interest. (Appeal Br. 2).

THE CLAIMED INVENTION

Appellants claimed invention relates generally to integration of video advertising digital media content. (Spec., para. 1).

Claim 1 is illustrative of the claimed subject matter:

> 1. A method for dynamic integration and presentation of advertising content and media content, the method comprising:
>
> receiving, by a server computing device, a request for media content from a remote computing device;
>
> providing, by the server computing device in response to the request, an interactive advertising unit comprising:
>
> a first content layer including the requested media content and a media player;
>
> a second content layer including the advertising content, wherein the advertising content comprises static content and interactive content; and
>
> an integration module configured to:
>
> display the requested media content in the media player; and
>
> reveal the advertising content in an area extending from a boundary of a playback window of the media player, wherein revealing the advertising content includes moving web page content to accommodate the advertising content; and
>
> transmitting, by the server computing device, the interactive advertising unit for presentation on the remote computing device.

REFERENCES

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Gonzalez	US 2007/0005795 A1	Jan. 4, 2007
McMahon	US 2008/0010076 A1	Jan. 10, 2008
Wurster	US 2009/0063280 A1	Mar. 5, 2009

REJECTIONS

The following rejections are before us for review.

The Examiner rejected claims 1–12 and 14–21 under 35 U.S.C. § 103(a) as unpatentable over Gonzalez and Wurster.

The Examiner rejected claim 13 under 35 U.S.C. § 103(a) as unpatentable over Gonzalez, Wurster, and McMahon.

FINDINGS OF FACT

We find the following facts by a preponderance of the evidence.

1. The Specification does not define the claim term "content layer."
2. We rely on the ordinary and customary meaning of "layer" in a multimedia environment to be "things grouped together and lying between two other horizontal strata" (last retrieved on November 9, 2016 from http://www.thefreedictionary.com/layer).
3. Gonzalez discloses multiple content layers and control over the display of the layers, in that an:

> object of the invention is to provide content personalisation through dynamic media composition ("DMC") which is the process of permitting the actual content of a displayed video scene to be changed dynamically, in real-time while the scene is being viewed, by inserting, removing or replacing any of the arbitrary shaped visual/audio video objects that the scene includes, or by changing the scene in the video clip.

(Gonzalez, para. 32).

4. Gonzalez discloses embedding multiple content layers, with interactive content, in a system that:

> provides advanced interactive video capabilities and allows dynamic composition of multiple video objects from multiple sources to customise the content that users experience. The

> system permits not only multiple, arbitrary-shaped video objects to coexist, but also determines what objects may coexist at any moment in real-time, based on either user interaction or predefined settings.

(*Id.* at para. 292).

5. Gonzalez discloses the unpacking and separate display of content layers at a computing device remote from the server, in that the "player client includes a decoding engine 62, which decompresses the object data stream and renders the various objects before sending them to the appropriate hardware output devices 61." (*Id.* at para. 293).
6. Gonzalez discloses functionality from a server, to control display of content to a user, in that "[c]lient side interaction is supported via a set of defined actions that may be invoked through objects that cause modification of the user experience, shown herein as object control packets 68." (*Id.* at para. 307).
7. Gonzalez discloses an embodiment with the "operation of the local client performing Dynamic Media Composition (DMC)." (*Id.* at para. 355).
8. Wurster discloses "advertisements that are not meant to take over the whole screen of a mobile device." (Wurster, para. 33).
9. Wurster discloses "layering the advertisement on the media thus obscuring part of the video (i.e., it is possible to allow the original media to show through the advertisement by making the advertisement transparent to some degree), or resizing the video to make room for the advertisement." (*Id.* at para. 21).
10. Gonzalez discloses a media player at a remote computing device that "renders the various objects before sending them to the appropriate hardware output devices **61**." (Gonzalez, para. 293).

ANALYSIS

Claims 1–12 and 14–21

Initially, we note that the Appellants argue independent claims 1, 20, and 21 together as a group. (Appeal Br. 9). Correspondingly, we select representative claim 1 to decide the appeal of these claims, with remaining independent claims 20 and 21 standing or falling with claim 1. Appellants do not provide a substantive argument as to the separate patentability of claims 2–12 and 14–19 that depend from claim 1. Thus claims 1–12 and 14–21 stand or fall with claim 1. *See* 37 C.F.R. § 41.37(c)(1)(vii).

Appellants argue Gonzales does not disclose the claimed "interactive advertising unit" because, in part, Gonzales does not disclose two "content layers." (Appeal Br. 4–5; *see also* Reply Br. 3–4). We are not persuaded by Appellants' argument.

The Specification does not define or limit the meaning of the term "content layer." (FF 1). We rely on the ordinary and customary meaning of "layer" to be a grouping of data so different groups can be shown over or under each other on a graphics display. (FF 2). Gonzalez discloses multiple content layers, with each layer in a content "object," such as a video object, where each object groups data relevant to that content together and keeps it independent from other objects, even though within a single compressed transport stream. (FF 3–5). Thus, we find that each of the multiple "objects" embedded in the transport stream in Gonzalez is a "content layer" within an "interactive advertising unit," as claimed.

Appellants next equate the "scene" of Gonzalez with a single content layer, arguing Gonzalez, thus, fails to disclose two content layers as claimed. (Appeal Br. 7–9). We are not persuaded by Appellants' argument. We

disagree that either of Gonzalez' combined, compressed stream corresponds to a single content layer, because each of the video objects exists independently within the compressed delivery stream and "scene" as a separate content layer, as claimed. (FF 3–5).

Appellants next argue that Gonzalez and Wurster both fail to disclose local functionalities performed on the client device to control the display of the two content layers, and, thus, fail to disclose the claimed "integration module." (Appeal Br. 9–10; *see also id.* at 5–7; Reply Br. 3–5). We are not persuaded by Appellants' arguments because Gonzalez discloses a media player at the player client (FF 5, 10), and the display and interactive control takes place at the user device, as claimed. Furthermore, Gonzalez also discloses server "DMC" functions executed at the remote client system. (FF 6–7, 10).

Appellants argue that combining the claimed "moving web page content to accommodate the advertising content," which the Examiner finds in Wurster, with the system of Gonzalez would have no reasonable expectation of success and would be against the teaching of Gonzalez. (Appeal Br. 10–11; *see also* Reply Br. 6). We are unpersuaded by Appellants' arguments.

Wurster discloses separate content and advertising layers, where the display of the content layer can be resized, and, thus, "moved," to make room for the display of the advertisement layer. (FF 8, 9). Because Gonzalez controls display of each video object separately at the client (FF 3–7), merely permitting movement and resizing of one of those content layers in the user's display would be in accordance with the general capabilities of the Gonzalez system.

Claim 13

Appellants argue the rejection of claim 13 only by reference to the arguments advanced for claim 1. (Appeal Br. 12). We affirm the rejection of claim 13 for the same reasons we set forth above at claim 1.

CONCLUSIONS OF LAW

The Examiner did not err in rejecting claims 1–21 under 35 U.S.C. § 103(a).

DECISION

For the above reasons, the Examiner's rejections of claims 1–21 are 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).

AFFIRMED