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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SUNG-HO RYU, SEOK-HYUN YOON, MIN-HYOK BANG,
WON-HO RYU, and HYUN-JOO KANG¹

Appeal 2014-009513
Application 11/970,214
Technology Center 2100

Before DEBRA K. STEPHENS, JASON V. MORGAN, and
PHILLIP A. BENNETT, *Administrative Patent Judges*.

MORGAN, *Administrative Patent Judge*.

DECISION ON APPEAL

Introduction

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–3, 5–8, 12–14, 16–19, 23–26, and 28. Claims 4, 9–11, 15, 20–22, 27, and 29–31 are canceled. Final Act. 2. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ Appellants identify SAMSUNG ELECTRONICS CO., LTD., as the real party in interest. App. Br. 2.

Invention

Appellants claimed invention is directed to generating a playlist of and playing media content. Abstract.

Exemplary Claims

Claims 1 and 5, reproduced below with key limitations emphasized, are exemplary:

1. A method of generating a playlist of media content to be played, the method comprising:

providing a user interface for setting at least one playlist while a current media content is being played, and arranging a plurality of playlist filters; and

generating the playlist of media content to be played according to the at least one playlist filter setting set through the user interface;

wherein the plurality of playlist filters limits a range of media content to be included in the playlist according to a relation between the current media content that is playing and the media content to be included in the playlist, and the plurality of playlist filters comprise a first playlist filter which limits a first range of media content to be included in the playlist and a second playlist filter which limits a second range of media content to be included in the playlist,

wherein the second range is different from the first range and

wherein the relation between the current media content that is playing and the media content to be included in the playlist, is with regard to a metadata-based playlist filter or at least one similarity-based playlist filter.

5. The method of claim 2, *wherein the providing of the user interface further comprises arranging the plurality of playlist filters in ascending or descending order of widths of respective corresponding ranges of media content to be included in the play list.*

Rejection

The Examiner rejects claims 1–3, 5–8, 12–14, 16–19, 23–26, and 28 under 35 U.S.C. § 103(a) as being unpatentable over Heller et al. (US 2006/0168340 A1; July 27, 2006) and Rogers et al. (US 2006/0195789 A1; Aug. 31, 2006). Final Act. 3–19.

ISSUES

1. Did the Examiner err in finding the combination of Heller and Rogers teaches or suggests: (1) “providing a user interface for setting at least one playlist while a current media content is being played” and (2) “wherein the plurality of playlist filters limits a range of media content to be included in the playlist according to a relation between the current media content that is playing and the media content to be included in the playlist,” as recited in claim 1?

2. Did the Examiner err in finding the combination of Heller and Rogers teaches or suggests “wherein the providing of the user interface further comprises arranging the plurality of playlist filters in ascending or descending order of widths of respective corresponding ranges of media content to be included in the play list,” as recited in claim 5?

ANALYSIS

Claims 1–3, 6–8, 12–14, 17–19, 23–26, and 28

In rejecting claim 1, the Examiner finds Heller’s advanced interface 1002, which allows a user to enable live updating (i.e., dynamic updating) to be enabled for a playlist, teaches or suggests *providing a user interface for setting at least one playlist while a current media content is being played*. Final Act. 3 (citing Heller ¶¶ 58, 83, Figs. 5A–D, 10A).

Appellants contend the Examiner erred because although Heller’s automatically or dynamically updates or regenerates “playlists when a determination is made that media content available to the media system has been altered Heller does not teach or suggest that the playlists are set while a current media content is being played.” App. Br. 9–10; *see also* Reply Br. 4–6. Appellants’ argument is unpersuasive because, as the Examiner correctly notes, the “claim language only requires the playlist be updateable by the user while the current selection is playing.” Ans. 19.

Appellants acknowledge that in Heller, “[o]nce a determination is made that the data source has been updated (for example, deleted), the deleted track in the playlist is processed, and the deleted track is removed from the playlist, thereby removing the data structure which associated the deleted track from the playlist.” Reply Br. 5 (emphasis added). Appellants argue that Heller’s updating of a playlist “has no relation or correspondence to the playing of a current media content.” *Id.* However, with respect to the disputed recitation, the setting (e.g., an updating) need not relate to the playing of a current media content. Rather, the setting merely has to take effect “while a current media content is being played.” This could be, for example, when the device acts upon a determination, that occurs while a current media content is being played, that a data source has been updated.

We agree with the Examiner that such a situation is taught or suggested by Heller. Final Act. 3. Specifically, the Examiner correctly finds that Heller teaches or suggests a playlist update propagating during idle processing. *Id.* (citing Heller ¶ 58, Figs. 5A–D). That is, Heller performs an update to a “dynamic playlist in the idle processing [such that] somewhat intensive computations/processes being performed are able to be done *in a*

background mode without impacting the user’s perceived performance of the computing device (e.g., media system).” Heller ¶ 58 (emphasis added); *see also* Ans. 20. Because Heller explicitly highlights that the update can take effect during a *background* mode, Heller teaches or suggests that other operations, such as playing a current media, can continue operating in a *foreground* mode of operation without impacting the user’s perception of the device’s performance. *See* Heller ¶ 58. Although Heller does not explicitly disclose a *foreground* mode of operation, its existence is implicit in the disclosure of a *background* mode.

Appellants argue that “if the computing device is in an idle state, a current media would not be played, thus clearly undermining the Examiner’s position.” App. Br. 12. That is, Appellants argue that Heller’s computing device idle state cannot occur while the device is playing a current media (i.e., that the operation of playing the current media takes up all computing device resources in Heller). However, Appellants unpersuasively rely on mere attorney argument rather than persuasive evidence to support this conclusory assertion.

The Examiner further finds Heller’s updating of a playlist based on alterations of an underlying data source in combination with Rogers’ creation of a playlist of songs with a high affinity to a selected song teaches or suggests *wherein the plurality of playlist filters limits a range of media content to be included in the playlist according to a relation between the current media content that is playing and the media content to be included in the playlist*. *See* Final Act. 4 (citing Heller ¶¶ 32, 67); Ans. 21 (citing Heller ¶ 83, Fig. 10a; Rogers Fig. 47, ¶¶ 106, 170).

Appellants contend the Examiner erred because Heller “does not teach or suggest **a relation between the current media content that is playing and the media content to be included in the playlist.**” App. Br. 14; *see also* Reply Br. 7. Appellants acknowledge that “Rogers teaches that a user may create a similar playlist of songs based on a song that is selected from a list of songs displayed on a playlist,” but argues that Rogers fails to “teach or suggest that the selected song is a song that is being currently played.” App. Br. 14; *see also* Reply Br. 7.

Appellants’ argument is not persuasive because Rogers depicts an interface having both a “Play Song” button 4705 and a “create a similar playlist of songs” button 4715. Rogers Fig. 47; *see also* Ans. 21. Rogers also depicts the interface having controls for affecting the playback of a current media. *See* Rogers Fig. 47 (play, stop, volume control, etc., depicted at top). This integration of controls related to playing a selected media, affecting the playback of the selected media, and creating a playlist of songs similar to the current media supports the Examiner’s finding that Rogers teaches or suggests selecting “songs with a high affinity to the song selected (the current song playing).” Ans. 5 (citing Rogers ¶ 170, Fig. 47).

For these reasons, we agree with the Examiner that the combination of Heller and Rogers teaches or suggests: (1) “providing a user interface for setting at least one playlist while a current media content is being played” and (2) “wherein the plurality of playlist filters limits a range of media content to be included in the playlist according to a relation between the current media content that is playing and the media content to be included in the playlist,” as recited in claim 1.

Accordingly, we sustain the Examiner's 35 U.S.C. § 103(a) rejection of claim 1, and claims 2, 3, 6–8, 12–14, 17–19, 23–26, and 28, which Appellants do not argue separately. *See* App. Br. 13.

Claims 5 and 16

In rejecting claim 5, the Examiner finds the Rogers' sorting of media files using data in Duration column 210 teaches or suggests *wherein the providing of the user interface further comprises arranging the plurality of playlist filters in ascending or descending order of widths of respective corresponding ranges of media content to be included in the play list*. Final Act. 6–7 (citing Rogers ¶ 116, Figs. 2, 3). The Examiner notes that “[t]he claim language does not define what an ‘order of widths’ must include [and therefore] interprets an ‘order of widths’ to be the width of a song duration.” Ans. 22.

Appellants contend the Examiner erred because “Rogers merely teaches that a list of media content may be sorted into columns representing information about each respective media file,” but “Rogers does not teach, mention, or suggest the width of anything.” App. Br. 16. However, we agree with the Examiner that a reasonable broad interpretation, in light of the Specification, of the limitation “width” encompasses media duration. Ans. 22.

Appellants further argue that the duration in “Rogers does not . . . correspond to ‘a plurality of playlist filters’ The ‘duration’ is simply information pertaining to the *content* within a playlist.” Reply Br. 8 (emphasis added). That is, Appellants’ argue that Rogers’ listing of songs, each having a duration, does not apply to a plurality of *playlist filters*. However, Appellants do not persuasively distinguish a plurality of playlist

filters from a listing of songs. In particular, the Specification illustrates an “arrangement of a number of playlist filters” that includes a single song as a playlist filter. *See* Spec. ¶ 25, Fig. 2 (“CURRENT SONG”). Thus, a single song falls within a reasonably broad interpretation, in light of the Specification, of a playlist filter. Thus, each of the songs in Rogers’ listing of songs represents a single-song playlist filter. Therefore, Heller, in combination with Rogers’ depiction of an arrangement of a plurality of songs (i.e., playlist filters) sortable based on the duration of each song, teaches or suggests “wherein the providing of the user interface further comprises arranging the plurality of playlist filters in ascending or descending order of widths of respective corresponding ranges of media content to be included in the play list,” as recited in claim 5.

Accordingly, we sustain the Examiner’s 35 U.S.C. § 103(a) rejection of claim 5, and claim 16, which Appellants do not argue separately.

DECISION

We affirm the Examiner’s decision rejecting claims 1–3, 5–8, 12–14, 16–19, 23–26, and 28.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 41.50(f).

AFFIRMED