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THE DIRECTV GROUP, INC.
PATENT DOCKET ADMINISTRATION
CA / LA1 / A109
2230 E. IMPERIAL HIGHWAY
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EXAMINER
MARANDI, JAMES R

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte XAVIER D. RILEY, SONAM N. PARIKH, and KSATRIA G. WILLIAMS[1]

Appeal 2015-002997
Application 11/828,292
Technology Center 2400

Before BRUCE R. WINSOR, HUNG H. BUI, and AMBER L. HAGY, *Administrative Patent Judges*.

HAGY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–32, which constitute all the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

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[1] According to Appellants, the real party in interest is The DIRECTV Group, Inc. (App. Br. 2.)

Introduction

According to Appellants, their disclosure "relates to a content processing and delivery system and, more specifically, to a system for managing the lifecycle of content within the system." (Spec. ¶ 1.)

Illustrative Claim

Claims 1 and 17 are independent. Claim 1, reproduced below with disputed limitations italicized, is illustrative of the claimed subject matter:

1. A method comprising:

electronically transferring content in an electronic data file from a content repository to a content delivery network based on and prior to a publication start time and electronically storing the content therein, said content having the publication start time and a purge time associated therewith;

electronically publishing the content from the content delivery network to a user device through a communication network in response to the publication start time; and

purging the content from the content delivery network at the purge time.

REFERENCES

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

Chernock et al.	US 6,772,209 B1	Aug. 3, 2004

REJECTIONS

Claims 1–10, 12, 13, 15–26, 28, 29, 31, 32 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Chernock. (Final Act. 5–14.)

Claims 11, 14, 27, 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chernock. (Final Act. 14–16.)

ISSUES

(1) Whether the Examiner erred in finding Chernock discloses "electronically transferring content in an electronic data file from a content repository to a content delivery network *based on and prior to a publication start time*," as recited in independent claim 1 (emphasis added), and commensurately recited in independent claim

(2) Whether the Examiner erred in finding Chernock discloses "publishing the content *from the content delivery network* to a user device through a communication network in response to the publication start time," as recited in independent claim 1 (emphasis added), and commensurately recited in independent claim 17.

ANALYSIS

We have reviewed the Examiner's rejections in light of Appellants' arguments the Examiner has erred. We disagree with Appellants' conclusions and we adopt as our own: (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken (Final Act. 3–16) and (2) the reasons set forth by the Examiner in the Examiner's Answer in response to Appellants' Appeal Brief. (Ans. 16–21.) We concur with the findings and conclusions reached by the Examiner, and we highlight the following for emphasis.[2]

[2] Only those arguments made by Appellants have been considered in this decision. Arguments Appellants did not make in the briefs have not been

A. *". . . based on and prior to a publication start time . . ."*

Appellants argue the Examiner's findings are in error because "Chernock is silent as to the source node transferring content in any way **based on a publication start time**. Moreover, none of the parameters described in Chernock could be reasonably construed as a publication start time." (App. Br. 6.) We disagree. As the Examiner finds, and we agree, Chernock discloses:

> [C]ontent is transferred/ distributed [from] central sites (source node/ content repository) 10, 15 (Fig. 1) to a delivery network comprising intermediate nodes 11, 16, 17 and Head Ends 12, 18, and 19 and destination 13 (Col. 4, lines 8, through Col. 6, line 31); Chernock discloses content delivery network comprising of nodes/ storage devices as in Figs. 1, 2, and 3, including storage at STB at 13 which is connected to and is <u>part of the content delivery network</u> (Col. 6, line 32 through Col. 8, line 6). It is the network which manages/ transfers content to user's device storage, where a decision is made by the Display APP (Fig. 4, 46), in the recipient node (such as an STB; Col. 12, line 58 through Col. 13, line 42), to transfer said content in accordance with the Display Time (45), and **<u>prior to publication/display time</u>**, to the user display).

(Ans. 17.)

With regard to the "publication start time" in particular, the Examiner further finds Chernock discloses "content control parameters such as 'start validity time' and 'display time . . . .'" (Ans. 18; *see also* Chernock 5:48–57; 6:8–12.) We note, for emphasis, the Examiner's findings are also supported by additional portions of Chernock's disclosure, which discloses a source node distributing content to an intermediate node along with control/disposition information, wherein the intermediate node directs the

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considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(iv).

content to a recipient node "based on" control/disposition information that includes a "schedule for handling said content at said recipient node." (Chernock, 14:11–65 (claims 1, 5, 8, 9).)

Appellants argue the Examiner's interpretation of the term "publication start time" is "overbroad and unreasonable" because, according to Appellants, their Specification "provides an explicit definition for the term 'publication start time,' which the Examiner has ignored." (Reply Br. 4.) In particular, Appellants assert the Specification defines "publication start time" as "the time that the content is available for download by one of the user devices from the content delivery network . . . ." (*Id.* (citing Spec. ¶ 65).)

We are not persuaded of error in the Examiner's interpretation of "publication start time." It is well settled that, during prosecution, the terms of a claim must be given the broadest reasonable interpretation, consistent with Appellants' Specification, as they would be interpreted by one of ordinary skill in this art. *In re Morris,* 127 F.3d 1048, 1054–55 (Fed. Cir. 1997); *In re Zletz,* 893 F.2d 319, 321–22 (Fed. Cir. 1989). We agree the Examiner's reading of "publication start time" as encompassing Chernock's control parameters of "start validity time" and "display time" is reasonable in light of the Specification. And as the Examiner finds, and we agree, Chernock discloses distribution of content to a content delivery network "based on and prior to" a start validity time and display time. (*E.g.,* Ans. 16–19.)

B. *". . . publishing the content from the content delivery network to a user device . . ."*

Appellants also argue the Examiner's findings are in error because "a set-top box launching the display application on the connected display, as in

Chernock, is not the same as electronically publishing content from the content delivery network to a user device through a communication network in response to the publication start time." (App. Br. 8.) In other words, Appellants argue the Examiner errs in finding Chernock's set-top box is part of a "content delivery network" because, according to Appellants, "the set-top box, personal computer, pager, and palmtop computer of Chernock are not a content delivery **network**." (*See id.*)

We are not persuaded of error. As the Examiner finds, and we agree, "[a] set-top box connected with a display device comprises a network of two devices communicating over a network." (Ans. 21.) In addition, the set-top box in Chernock is a "recipient node" in a broader network that also comprises, *inter alia*, a source node and an intermediate node. (Chernock Fig. 1; 4:8–15, 14:11–65; *see also* Final Act. 6–7, Ans. 5–6.)

For the foregoing reasons, we are not persuaded of error in the Examiner's 35 U.S.C. § 102(b) rejection of claim 1.

Appellants collectively argue the rejection of all claims with regard to the Examiner's rejection of claim 1. (App. Br. 9–10.) Separate patentability is not argued for independent claim 17 or any of the dependent claims. Therefore, based on Appellants' arguments, we decide the appeal of claims 1–32 based on claim 1 alone. *See* 37 C.F.R. § 41.37(c)(1)(iv). Accordingly, we are also not persuaded of error in the Examiner's 35 U.S.C. § 102(b) rejection of claims 9–10, 12, 13, 15–26, 28, 29, 31, or 32, or in the Examiner's 35 U.S.C. § 103(a) rejection of claims 11, 14, 27, or 30, not separately argued.

DECISION

For the above reasons, the Examiner's rejections of claims 1–32 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