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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* MICHAEL S. WENGROVITZ

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Appeal 2015-006638  
Application 12/896,656  
Technology Center 2400

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Before JON M. JURGOVAN, ADAM J. PYONIN, and  
MICHAEL M. BARRY, *Administrative Patent Judges*.

PYONIN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1–20, which are all pending claims. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

STATEMENT OF THE CASE

*Introduction*

Appellant's disclosure is directed to a system and method for distributing digital video streams from remote video surveillance cameras to

display devices. Title. Claims 1, 12, and 17 are independent. Claim 1 is reproduced below for reference (with argued clauses emphasized and numbered<sup>1</sup>):

1. An apparatus for distributing digital video streams to display devices for rendering thereon, comprising:
  - an interface coupled to a packet-switched network to enable communication with the display devices and to enable communication with remote surveillance cameras capturing respective digital video streams;
  - a timer; and
  - a processor for determining a status of each of the display devices and each of the remote surveillance cameras to identify available ones of the display devices and streaming ones of the remote surveillance cameras and for pairing a first display device of the available ones of the display devices with a first remote surveillance camera of the streaming ones of the remote surveillance cameras generating a first digital video stream;
    - [i] *wherein the processor further initializes the timer upon requesting an agent associated with the first display device to accept receipt of the first digital video stream;*
    - [ii] *wherein the processor further instructs the first display device via the interface to establish a media session with the first remote surveillance camera to enable the first display device to receive the first digital video stream via a point-to-point connection between the first remote surveillance camera and the first display device when the agent accepts receipt of the first digital video stream prior to expiration of the timer; and*
    - [iii] *wherein the processor further automatically pairs a second display device of the available ones of the display devices to the first digital video stream when the agent does not accept receipt of the first digital video stream prior to expiration of the timer.*

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<sup>1</sup> Herein, the “Wherein Clauses.”

*References and Rejections*

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

Novak	US 2003/0041326 A1	Feb. 27, 2003
Chuang	US 2003/0112929 A1	June 19, 2003
Monroe	US 2004/0008253 A1	Jan. 15, 2004
Rensin	US 2007/0199076 A1	Aug. 23, 2007

Claims 1–6 and 11–19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rensin, Chuang, and Novak. Final Act. 2.

Claims 7–10 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rensin, Chuang, Novak, and Monroe. Final Act. 24.

ANALYSIS

We have reviewed the Examiner’s rejections in light of Appellant’s arguments. We adopt the Examiner’s findings and conclusions as our own. We add the following primarily for emphasis.

Appellant argues the Examiner erred with respect to each of Wherein Clauses [i], [ii], and [iii] recited by claim 1. *See, e.g.*, App. Br. 12. Below, we discuss each of the clauses in the order presented by Appellant.

*i. Wherein Clause [i]*

Appellant argues the Examiner erred in finding the prior art teaches or suggests the claim 1 recitation “wherein the processor further initializes the timer upon requesting an agent associated with the first display device to accept receipt of the first digital video stream”:

[in Chuang,] the buffering time is initialized after a determination is made that the phone call was not answered. The buffering time

is not initialized upon requesting an agent to answer (or accept receipt of) the call. Such a “request” to answer or accept receipt would have been inferred with the ringing of the call, which as described in paragraph [0015] of Chuang, occurs prior to the buffering time.

App. Br. 13–14.

We are not persuaded the Examiner erred. The Examiner finds Chuang teaches “[w]hen a video phone call is made and a request for the receiver is broadcast, the buffer timer is set. Once the buffer timer is exceeded, the video phone (processor) directs the phone to enter the message recording stage.” Final Act. 6 (emphasis removed). We agree with the Examiner that the recited timer encompasses Chuang’s buffer timer.

Chuang discloses “[w]hen an incoming call made by a caller is ringing, the system has to confirm whether the incoming call is answered or not.” Chuang ¶ 15. Later in the same paragraph, Chuang teaches or suggests using a timer in this process, by disclosing “[i]f the incoming call is not answered by the receiver, the video phone with the answering machine function enters a message recording stage after a buffering time.” *Id.* Thus, one of ordinary skill, in light of the teachings of Chuang, would set a “buffer” timer to determine that a call is not answered, so that the system can then perform appropriate steps (e.g., use of an answering machine). *See* Final Act. 6; Chuang Fig. 1; *see also KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007) (“[A] court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.”); *cf. In re Preda*, 401 F.2d 825, 826 (CCPA 1968) (“[I]n considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom.”).

Accordingly, we are not persuaded the Examiner erred in finding Chuang teaches or suggests Wherein Clause [i], as recited in claim 1.

*ii. Wherein Clause [ii]*

Appellant argues the Examiner erred in finding “Chuang ... teaches ... wherein the processor further instructs the first display device via the interface to establish a media session when the agent accepts receipt of the first digital video stream prior to expiration of the timer” as required by Wherein Clause [ii]. App. Br. 15 (quoting Final Act. 6). Particularly, Appellant contends that, in Chuang, “[t]here is no ‘buffering time’ or other timer that is initialized with the ringing of the call. Thus, there can be no teaching or suggestion in Chuang of a processor that ‘instructs’ a media session to be established when an agent accepts receipt of or answers a call ‘prior to expiration of the timer.’” *Id.*

Appellant’s argument relies upon the same timer initialization arguments presented for Wherein Clause [i], discussed above. Therefore, for the same reasons as discussed above, we are not persuaded the Examiner erred in finding the disputed limitation taught or suggested by the cited references. *See* Final Act. 6.

*iii. Wherein Clause [iii]*

Appellant argues “Novak does not teach or suggest ‘automatically pair[ing] a second display device ... to the first digital video stream when the agent does not accept receipt of the first digital video stream prior to expiration of the timer’” as recited by claim 1’s Wherein Clause [iii]. App. Br. 16. Particularly, Appellant contends Novak does not “pair” the video

stream to a second display device, nor does Novak perform any actions “when the agent does not accept receipt . . . prior to the expiration of a timer.” *Id.* at 16–17.

We are not persuaded the Examiner erred. First, we find Appellant has not shown the claimed step—of pairing a video stream to a second display—precludes Novak’s disclosure of establishing a video communication between a caller and the third party. *See* Final Act. 7 (citing Novak ¶¶ 101–102); *see also In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007) (Claim terms are given their ordinary and customary meaning, as would be understood by one of ordinary skill in the art in the context of the disclosure).

Second, Appellant’s arguments are not responsive to the Examiner’s rejection. The Examiner correctly finds one of ordinary skill would modify Rensin in view of Chuang’s teaching or suggestion of a timer for setting up a message recording when a video call is not answered by the recipient (*see* Final Act. 6) with Novak’s teaching of pairing a video call with a third party when the recipient does not answer the call (*see* Final Act. 7). Appellant has not persuasively shown why one skilled in the art would not use the timer of Rensin and Chuang with the call monitoring method of Novak, as found by the Examiner. Thus, Appellant does not persuade us the Examiner erred in finding the *combination* of references teaches or suggests the disputed limitations of claim 1. *See* Final Act. 7.

In the Reply Brief, Appellant presents new arguments regarding the Examiner’s combination: asserting “the Examiner’s Answer is using hindsight to piecemeal together the references from the teachings of this application’s specification and claims” because the Examiner’s combination

reasoning “is from the application’s specification.” Reply Br. 14–15 (emphasis removed). The Examiner finds, in both the Final Rejection and the Answer, that one of ordinary skill would combine the cited references in the manner claimed, “in order to provide the monitoring of video feeds.” Ans. 9; Final Act. 7. Appellant’s Reply Brief argument is waived because it was not presented in the opening brief and no showing of good cause was made to explain why the late argument should be considered by the Board. *Optivus Technology, Inc. v. Ion Beam Applications S.A.*, 469 F.3d 978, 989 (Fed. Cir. 2006) (argument raised for the first time in the Reply Brief that could have been raised in the opening brief is waived); *see also* 37 C.F.R. § 41.41(b)(2).

#### CONCLUSION

Accordingly, we sustain the Examiner’s rejection of independent claim 1, and for the same reasons independent claims 12 and 17. *See* App. Br. 12. Appellant advances no further argument the remaining dependent claims, therefore we sustain the rejection of these claims for the same reasons discussed above. *See* App. Br. 19–20.

#### DECISION

The Examiner’s rejections of claims 1–20 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