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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte GIEDRIUS ZIZYS, TZONG-JHY WANG,
VICTOR E. SANTODOMINGO, WILLIAM DAVID SPROULE, and
MIKE W. MORRISON

Appeal 2015-007855
Application 12/752,166
Technology Center 2400

Before ALLEN R. MacDONALD, DANIEL J. GALLIGAN and
AARON W. MOORE, *Administrative Patent Judges*.

MacDONALD, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE¹

Appellants appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 1–16 and 21–24. We have jurisdiction under 35 U.S.C. § 6(b).

Exemplary Claims

Exemplary claims 1 and 10 under appeal read as follows (truncated and emphasis added):

1. A method for opportunistic source file frame previewing, the method comprising:
receiving a first preview request;
in response to the first preview request, identifying a starting point of a first sampling segment that is to be transcoded . . . , wherein the first sampling segment includes a first subset of frames of a first source file . . . ;
receiving, after the first preview request, a second preview request;
in response to the second preview request, identifying a starting point of a second sampling segment that is to be transcoded . . . , wherein the second sampling segment includes a second subset of frames of the first source file . . . ;
transcoding at least a portion of the frames of the second subset;
and
in response to completion of the transcoding of at least the portion of the frames of the second subset, transcoding a first frame of the first subset that has not been transcoded.

¹ In the Specification filed on April 1, 2010, it appears that paragraphs 36, 41, 70, and 113 each mistakenly truncate at the bottom of a page and do not continue onto the next page. We reach this conclusion after comparing these paragraphs to the corresponding paragraphs in later filed child application PCT/US10/49004.

10. A method for enabling opportunistic frame caching, the method comprising:
transcoding a first portion of a source file in response to a first preview request, the first portion being associated with the first preview request . . . ;
receiving a second preview request, the second preview request being for a second portion of the source file, . . . ;
in response to receiving the second preview request:
pre-empting the transcoding of the first portion; and
transcoding the second portion of the source file; and
in response to a completion of the transcoding of the second portion, resuming the transcoding of the first portion.

Rejection on Appeal

The Examiner rejected claims 1–12, 14–16, and 21–24 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Weiss et al. (US 7,733,962 B2; June 8, 2010), Guedalia (WO 97/30551; pub. August 21, 1997), and Nicolaou et al. (US 2008/0244381 A1; pub. October 2, 2008).²

The Examiner rejected claim 13 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Weiss, Guedalia, Nicolaou, and Okada et al. (US 7,215,876 B2; May 8, 2007).³

² Claims 1 and 10 are argued separately. Separate patentability is not argued for claims 1–9, 11, 12, 14–16, and 21–24. Except for our ultimate decision, these claims are not discussed further herein.

³ Arguments are not presented for claim 13. Therefore, our decision as to claim 10 is determinative as to the rejection of claim 13. Except for our ultimate decision, claim 13 is not discussed further herein.

Appellants' Contentions⁴

1. Appellants contend that the Examiner erred in rejecting claim 1 under 35 U.S.C. § 103(a) because:

Nicolaou's paragraph [0036] refers to the features of the transcoded document (e.g., inclusion of a deemphasized version of the repetitive text) - not to the order in which portions of an electronic document are transcoded. In addition, Nicolaou's repetitive text also ***does not meet the recitation "has not been transcoded" at least because such text was already transcoded into the transcoded document***, albeit in a deemphasized manner.

App. Br. 12, emphasis added.

2. Appellants further contend that the Examiner erred in rejecting claim 10 under 35 U.S.C. § 103(a) because:

Nicolaou's paragraph [0036] refers to the features of the transcoded document - not to the order in which portions of an electronic document are transcoded. Accordingly, Nicolaou's paragraph [0036] ***does not teach or suggest at least the "preempting" and "resuming" elements*** of the above-quoted recitation.

App. Br. 12, emphasis added.

Issue on Appeal

Did the Examiner err in rejecting claims 1 and 10 as being obvious?

ANALYSIS

We have reviewed the Examiner's rejections in light of Appellants' arguments that the Examiner has erred.

⁴ These contentions are determinative as to the rejections on appeal. Therefore, Appellants' other contentions are not discussed herein.

As to Appellants' above contentions 1 and 2, in the Final Action at page 5, the Examiner cites to Nicolaou at paragraph 36 and as to claim 1 finds:

Nicolaou discloses in response to completion of the transcoding of at least the portion of the frames of the second subset, transcoding a first frame of the first subset that has not been transcoded (Nicolaou: para 0036, discloses the skipped repetitive content can be revisited in a later time, and such revisit can be automatic if the user desire to do so, as the device has the components to do so if desired, e.g. revisit-expanded the repetitive content).

Further, in the Final Action at page 6, the Examiner cites again to Nicolaou at paragraph 36 and as to claim 10 finds:

Nicolaou discloses pre-empting the transcoding of the first portion; and transcoding the second portion of the source file; and in response to a completion of the transcoding of the second portion, resuming the transcoding of the first portion. (Nicolaou: para 0036, discloses the skipped repetitive content can be revisited in a later time, and such revisit can be automatic if the user desire to do so, as the device has the components to do so if desired, e.g. revisit-expanded the repetitive content).

Appellants' above contentions 1 and 2 challenge these findings. In response to Appellants' challenges, the Examiner reiterates that Nicolaou describes skipping repetitive content, but the Examiner does not explain how Nicolaou's disclosure teaches that such skipped content "has not been transcoded," as recited in claim 1 and as argued by Appellants. *See* Ans. 19–20; App. Br. 12.

We are unable to find support in Nicolaou at paragraph 36 for the Examiner's findings. We conclude, consistent with Appellants' argument, there is insufficient articulated reasoning to support the Examiner's findings.

Therefore, we conclude that there is insufficient articulated reasoning to support the Examiner's final conclusions that claims 1 and 10 would have been obvious to one of ordinary skill in the art at the time of Appellants' invention.

CONCLUSIONS

(1) Appellants have established that the Examiner erred in rejecting claims 1–16 and 21–24 as being unpatentable under 35 U.S.C. § 103(a).

(2) On this record, claims 1–16 and 21–24 have not been shown to be unpatentable.

DECISION

The Examiner's rejections of claims 1–16 and 21–24 are reversed.

REVERSED