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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/333,185	12/21/2011	Aurélien Longet	PF100123	5552
15630	7590	11/01/2016	EXAMINER	
Thomson Licensing, LLC P.O. Box 691927 Houston, TX 77269-1927			LANGHNOJA, KUNAL N	
			ART UNIT	PAPER NUMBER
			2427	
			NOTIFICATION DATE	DELIVERY MODE
			11/01/2016	ELECTRONIC

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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* AURÉLIEN LONGET, FRÉDÉRIC BABON,  
TRISTAN LANGLOIS, and PATRICK GALLARDO

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Appeal 2015-007867  
Application 13/333,185  
Technology Center 2400

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Before ERIC S. FRAHM, JENNIFER L. McKEOWN, and  
JOHN P. PINKERTON, *Administrative Patent Judges*.

FRAHM, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

*Introduction*

Appellants appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 1–4 and 7–10. Claims 5 and 6 have been canceled (Br. 2). We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

*Appellants' Disclosed Invention*

The disclosed invention is a method and receiver for receiving audio/video data and displaying an electronic program guide (EPG) by

resizing the time slots allotted in the displayed EPG (Title; Spec. 1:5–3; claims 1 and 7; Abs.; Figs. 3 and 4).

*Exemplary Claim*

Exemplary claim 7 under appeal, with emphases and lettered bracketing added to disputed portions of the claim, reads as follows:

7. A receiver for receiving audio/video data, the receiver comprising:

a processor executing an audio/video decoding logic that creates audio-visual signals to be sent to a display device;

a circuit configured to generate a program guide to be displayed on the display device, the program guide comprising a list of programs and channels and a time scale showing a first time period, wherein the programs are displayed corresponding to the time scale and to the channels on which the programs are received; and

an interface configured to receive a user input;

wherein the circuit configured to:

check if a program is selected in response to a user input;

[A] *check if the selected program has some portion occurring at a time outside of the displayed first time period shown by the time scale, by checking if the start time and the end time of the selected program are within the first time period;*

if at least one of the start time and the end time of the selected program is not within the first time period shown by the time scale, [B] *adapting the time scale to show a second time period such that the start time and the end time of the selected program are both within the second time period shown by the time scale; and*

display the program guide using the adapted time scale.

*The Examiner's Rejection*

The Examiner rejected claims 1–4 and 7–10 as being unpatentable under 35 U.S.C. § 103(a) over Choi (US 2009/0133066 A1; published May 21, 2009) and Allport (US 2004/0055007 A1; issued Mar. 18, 2004). Final Act. 5–8.<sup>1</sup>

*Reply Brief*

No Reply Brief has been presented. Therefore, Appellants have not disputed the Examiner's articulated reasoning and findings found at pages 3–9 of the Answer, including the Examiner's cogent and reasonable explanation of the motivation for combining the applied references (*see* Ans. 4–5 citing Allport, Abs.).

*Principal Issue on Appeal*

Based on Appellants' arguments in the Appeal Brief (Br. 5–10), the following principal issue is presented on appeal:

Did the Examiner err in rejecting claims 1–4 and 7–10 as being unpatentable over the combination of Choi and Allport because the combination fails to teach or suggest the disputed limitations [A] and/or [B] of representative independent claim 7?

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<sup>1</sup> Appellants present arguments generally as to independent claims 1 and 7, alleging that Choi and Allport, taken individually or in combination, fail to disclose the checking and adapting limitations recited in claims 1 and 7 (Br. 7–9). Because both claims 1 and 7 contain similar features (namely the disputed features of checking and adapting), and Appellants' arguments presented from pages 7–9 of the Brief are not directed to a specific independent claim, but to claims 1 and 7 in general, we select claim 7 as representative of the group of claims rejected as being obvious over the combination of Choi and Allport. Claims 1–4 and 8–10 will stand/fall with the outcome of representative claim 7.

## ANALYSIS

We have reviewed the Examiner’s rejections (Final Act. 5–8) in light of Appellants’ arguments in the Appeal Brief (Br. 5–10) that the Examiner has erred, as well as the Examiner’s response to Appellants’ arguments (Ans. 3–9). We disagree with Appellants’ conclusion that claims 1–4 and 7–10 are nonobvious. With regard to representative independent claim 7, 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. 7–8), and (2) the reasons set forth by the Examiner in the Examiner’s Answer (Ans. 4–8) in response to Appellants’ Appeal Brief. We concur with the conclusions reached by the Examiner, and we provide the following for emphasis.

Choi describes checking times of a selected program for inclusion in a certain time period (Final Act. 5 citing Choi Fig. 2; ¶¶ 37, 42, 45, and 48; *see also* Ans. 5 citing Choi Figs. 2–4; ¶¶ 37, 52, 45, 47, and 48), which is equivalent to limitation [A] recited in claim 7. We agree with the Examiner (Final Act. 5–6 citing Choi Figs. 3–8 and 11; ¶¶ 45, 47, 48, 50, and 72–74) that Choi teaches or suggests adapting a time scale and the combination of Choi and Allport teaches or suggests informing program durations to users by “adapting the time scale to show a second time period such that the start time and the end time of the selected program are both within the second time period shown by the time scale,” as recited in limitation [B] of claim 7.<sup>2</sup>

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<sup>2</sup> Notably, independent claim 7 is an apparatus claim that simply recites “[a] receiver” including “a processor,” “a circuit configured to generate a program guide to be displayed,” and “an interface configured to receive a user input” (claim 7). And, Choi discloses (Fig. 2) a receiving device 200, an image processor 208, a display unit 210, a control unit 216 that generates a program guide (*see* Figs. 1 and 3–9 showing program guides), and an

Appellants' arguments directed to each individual reference (*see* Br. 5–10), or the combination of references (*see* Br. 7–9 discussing Choi and Allport), are not persuasive inasmuch as the Examiner relies on a well reasoned *combination* of Choi and Allport to support the conclusion of obviousness of the subject matter of independent claims 1 and 7. Appellants have not rebutted or otherwise shown the Examiner's explanation of the *combination* of the collective teachings and suggestions of the applied references (*see* Ans. 3–9) in response to Appellants' arguments in the Brief (regarding the references individually or combined) to be in error.

In addition, we note Appellants' arguments are all premised on the assertion that the references, whether taken individually or in combination, fail to *disclose* the recited invention, and not that the references *taken with the knowledge of a person having ordinary skill in the art* would not have *taught or suggested* the recited invention. As a result, Appellants have not shown that the combination of Choi and Allport would not have taught or suggested the recited invention.

In view of the foregoing, we sustain the obviousness rejection of independent claims 1 and 7, as well as claims 2–4 and 8–10 depending respectively therefrom.

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interface for receiving user input (e.g., user control information input unit 202, remote control receiving unit 218; *see also* ¶¶ 37–46). Appellants have not effectively shown that the combination of Choi and Allport fails to meet the basic structural limitations recited in claim 7.

CONCLUSION

The Examiner did not err in rejecting claims 1–4 and 7–10 as being unpatentable under 35 U.S.C. § 103(a) over the combination of Choi and Allport.

DECISION

The Examiner’s rejection of claims 1–4 and 7–10 is 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