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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* ARSHAM HATAMBEIKI and PAUL D. ARLING

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Appeal 2016-000206  
Application 13/758,307  
Technology Center 2400

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Before CARLA M. KRIVAK, ADAM J. PYONIN, and  
AARON W. MOORE, *Administrative Patent Judges*.

MOORE, *Administrative Patent Judge*.

DECISION ON APPEAL

## STATEMENT OF THE CASE

Appellants<sup>1</sup> appeal under 35 U.S.C. § 134(a) from a Non-Final Rejection of claims 1, 4, 5, 7–9, and 22–28, which are all of the pending claims.<sup>2</sup> We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

## THE INVENTION

The application is directed to “[s]ensing interfaces associated with a home entertainment system . . . used to automate a system response to events which occur in a viewing area associated with the home entertainment system.” (Abstract.) Claim 1, reproduced below, is exemplary:

1. A method for controlling at least one component device in a home entertainment system comprised of a plurality of component devices, comprising:

receiving first event data via at least one of an image sensing interface and a sound sensing interface;

determining if the received first event data is indicative of a preparatory event; and

when the received first event data is determined to be indicative of a preparatory event causing an anticipatory action to be executed by at least one of the plurality of component devices in the home entertainment system to transition the at least one of the plurality of component devices in the home entertainment system from a first state to a second state in which the at least

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<sup>1</sup> Appellants identify Universal Electronics Inc. as the real party in interest. (*See* App. Br. 2.)

<sup>2</sup> Claim 10 is allowed, claim 11 is objected to because it was not cancelled or included in the latest set of claims, and the Section 103(a) rejection of claim 3 has been withdrawn. (*See* Ans. 11.)

one of the plurality of component devices in the home entertainment system is readied to respond to an anticipated event wherein the anticipated event for which the at least one of the plurality of component devices in the home entertainment system is readied is an anticipated change in a number of viewers in a viewing area associated with the home entertainment system.

#### THE REFERENCES AND THE REJECTIONS

1. Claims 1, 4, 5, 7, 9, and 22–28 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Chai et al. (US 2012/0060176 A1; published Mar. 8, 2012) and Gilson et al. (US 2013/0219417 A1; published Aug. 22, 2013). (*See Non-Final Act.* 3–10.)

2. Claim 8 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Chai, Gilson, and Thomas et al. (US 2002/0059621 A1; published May 16, 2002). (*See Non-Final Act.* 10–11.)

#### ANALYSIS

##### *Claim 1*

Regarding claim 1, Appellants argue that

Gilson does not evidence that a component of the system of Gilson is caused to execute an anticipated action wherein the component of the system is readied to respond to an anticipated change in a number of viewers in a viewing area associated with the system, i.e., to ready the component of the system for a probable, expected, or predicted and yet to occur change in a number of viewers in a viewing area associated with the home entertainment system, as claimed.

(App. Br. 6–7 (emphases omitted).) Appellants additionally argue that “it would not be rational to conclude that one of skill in the art would use this element from Gilson . . . to present content prior to user selection and

thereby arrive at the invention claimed” because “the relied upon disclosure in Gilson – namely when the user falls asleep the system goes into a hibernate mode to conserve energy – would function to turn off the presentation of content.” (App. Br. 7 (emphases omitted).)

The Examiner responds that “Gilson (paragraphs 74-75) discloses the system detects when a person leaves a viewing area for a predetermined threshold of time, and anticipates going into a rest state if the person[’]s leave time exceeds a predetermined threshold,” in that “[w]hen a person leaves a viewing area and is the only person detected in the viewing area, a timer begins to countdown to the threshold time before changing the device state . . . from a present state to a not present state or rest state.” (Ans. 12.)

Appellants reply that

this disclosure from Gilson merely evidences a system *that responds to the actual occurrence of a change in a number of viewers* in a viewing area, i.e., “when a person leaves a viewing area . . .” (Ex. Ans., pg. 12), and a system that *readies itself for the number of viewers to remain changed*, e.g., to turn off the system if the viewer detected as leaving does not return, as opposed to evidencing a system that responds to an event *by readying ready itself for a future, expected change in a number of viewers* as claimed.

(Reply Br. 4.)

We agree with the Examiner. The claim requires that “when the received first event data is determined to be indicative of a preparatory event[,] causing an anticipatory action to be executed by [a component device] . . . to transition [the component device] . . . from a first state to a second state in which [the component device] . . . is readied to respond to . . . an anticipated change in a number of viewers in a viewing area associated with the home entertainment system.” Paragraphs 74 and 75 of Gilson

describe how “when the user leaves the room for a predetermined or user specific period of time, the display device 121 and/or user device 124 can be caused to enter an ‘off’ state or ‘hibernate’ state, conserving energy.”

Gilson thus teaches receiving event data indicative of a preparatory event (data showing the user leaving the room) and transitions a device from a first state (normal viewing) to a second state (preparing to hibernate or shut down) in which the device is readied to respond to an anticipated change in a number of viewers (from one to zero) by turning off. We find Appellants’ argument unpersuasive because Gilson teaches that the one viewer initially leaving the room may not be indicative of a change (because the user might quickly return), but that the system readies itself for the viewer to not return, and, if the user does not return within the predetermined period of time, the number of viewers has then changed to zero.

Appellants also challenge the Examiner’s stated motivation to combine—to produce “a predictable result wherein presented content is controlled by detection of the user prior to receiving user selection” (Ans. 4)—on the grounds that Gilson’s hibernate mode “would function to turn off the presentation of content” and “it would not be rational to conclude that one of skill in the art would use this element from Gilson if one . . . wanted to present content prior to user selection.” (App. Br. 7 (emphases omitted).) We find this argument unpersuasive because a system can be a system for presenting content even though it has a hibernate mode.

For these reasons, we sustain the rejection of claim 1.

#### *Claim 4*

Regarding claim 4, the Examiner found that “Gilson (paragraph 75) discloses that when the system detects a person leaving a viewing area a

countdown begins before transitioning to a hibernate state to conserve energy from an active mode to an inactive mode[,] [b]ut if a person doesn't leave the viewing area for the predetermined threshold of time, the system continues normal operation until the next time when viewers are not detected in the viewing area.” (Ans. 13.) Appellants reply that “this disclosure, at best, evidences a system that readies itself for a previously detected change in a number of viewers to remain unchanged.” (Reply Br. 5 (emphasis omitted).)

We agree with the Examiner that Gilson teaches the system being “no longer readied to respond to the anticipated event” if the user returns (i.e., the countdown is aborted) and, therefore, sustain the rejection of claim 4.

#### *Claim 5*

Appellants argue that “it cannot . . . be concluded that Chai discloses or suggests a system determining if an anticipatory event has occurred as recited in claim 5.” (App. Br. 11.) Appellants further argue that

the rejection of the claim fails to present any reasoning as to how or why someone of skill in the art would further modify the relied upon combined elements of Chai and Gilson – wherein the relied upon element of Gilson is a preparatory event of a user falling asleep and the anticipated event is a user waking up and the relied upon disclosure in Chai is directed to pausing content or present a menu – to arrive at the invention recited in claim 5 which is directed to transitioning a device to state in which it is no longer readied to respond to that anticipated event (which it is again noted in the rejection of claim 1 was a user “waking up”).

(*Id.* (emphasis omitted).)

The Examiner responds with reference to Chai's Figures 3–5 and paragraphs 41, 42, and 67–72, said to show that “the system detects viewer change [and] either pauses the content from a play state, or presents the

identified user with an appropriate menu of selectable content items.” (*See* Ans. 5 (emphasis omitted); *see id.* at 13–14.) We fail to see, however, how the cited description of pausing the system or presenting a list of content might teach or suggest “determining if the anticipated event [the viewer not returning] occurs and when the anticipated event is determined to have occurred . . . transition[ing] from the second state into either the first state or a third state in both of which the at least one of the plurality of component devices of the home entertainment system is no longer readied to respond to the anticipated event.”

For this reason, we do not sustain the Section 103(a) rejection of claim 5, or the Section 103(a) rejections of claims 7 and 8, which depend from and include all of the limitations of claim 5.

*Claim 22*

Regarding independent claim 22, the Examiner cites Figures 2–5 and 7 and paragraphs 74 and 75 of Gilson as teaching or suggesting that “when the received event data is determined to be indicative of a preparatory event causing a first anticipatory action to be executed by a controlling device . . . to transition the controlling device from a first state to a second state in which [it] is readied to respond to . . . an anticipated user interaction with controlling device,” explaining that Gilson “detects the status of the user viewing the device, wherein when the user falls asleep the system goes into an hibernate mode to conserve energy, and exits this state when the user is detected awake.” (Ans. 7 (emphasis omitted).)

Appellants argue that

causing a display device 121 and/or media rendering device 124 to go into a hibernate mode when it is detected that a user has fallen asleep . . . and causing the display device 121 and/or media

rendering device 124 to exit the hibernate mode when that same user is detected to later awaken . . . does not evidence that a controlling device of the system of Gilson is caused to transition to a state in which the controlling device of the system is readied to respond to an anticipated user interaction with the controlling device upon the occurrence of the preparatory event as claimed.

(App. Br. 12 (emphases omitted).) Appellants further argue that

the relied upon disclosure in Gilson – namely when the user falls asleep the system goes into a hibernate mode to conserve energy – would function to turn off the presentation of content and has nothing to do with placing a remote control into a readied state, it is submitted that it would not be rational to conclude that one of skill in the art would use this element from Gilson if one of skill in the art wanted to ready a controlling device for activity – which obviously requires energy – prior to user selection as asserted.

(App. Br. 13 (emphases omitted).)

We agree with the Examiner that Gilson does teach or suggest determining if the received event data is indicative of a preparatory event and, if so, readying a controlling device to respond to the user interaction. In particular, the teaching that “when a sleeping user awakens, the display device 121 and/or user device 124 can be caused to exit a sleep state” (Gilson ¶ 75) would be understood by one of skill in the art to mean that the system monitors the sleeping user to see if he or she is waking (thus, receiving event data indicative of a preparatory event) and, if so, causing the device to exit the sleep state (thereby readying a controlling device to respond user interaction). Appellants’ arguments are not persuasive because they focus on the user falling asleep and do not address the Examiner’s findings about the user awakening.

For these reasons, we sustain the rejection of claim 22.

*Claim 23*

Claim 23 depends from claim 22 and adds that “the first state from which the controlling device is transitioned is a quiescent operating state of the controlling device.” The Examiner finds that Chai teaches changing a device “[from] an inactive mode to an active mode in anticipation of user selection of content.” (Ans. 15.)

Appellants argue that “as it has been acknowledged that Chai does not disclose causing a system to be readied for an anticipatory event by performing an anticipatory action in response to a detected preparatory event, it cannot now be concluded that Chai discloses or suggests a remote control being exited from a quiescent operating state in response to a detection of a preparatory event to thereby place the remote control into a state in which it is readied for an anticipatory event as is recited in claim 23.” (App. Br. 14.)

We agree with the Examiner that the cited portion of Chai is sufficient to teach or suggest transitioning from a quiescent operating state, particularly given that “quiescent” is not defined in the Specification and ordinarily means “marked by inactivity or repose,”<sup>3</sup> which is essentially the same as Chai’s “inactive” mode and Gilson’s “sleep state.”

We accordingly sustain the rejection of claim 23.

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<sup>3</sup> See, e.g., <http://www.merriam-webster.com/dictionary/quiescent> (visited Nov. 28, 2016).

*Claim 25*

Claim 25 is similar to claim 4, adding to claim 22 the step of “determining if the anticipated event occurs and, when the anticipated event is determined to have not occurred within a predetermined period of time causing a restorative action to be executed . . . whereupon the controlling device is transitioned from the second state into the first state in which the controlling device is no longer readied to respond to the anticipated event.”

In the Examiner’s analysis of claim 22, the anticipated event is the viewer waking up. Unlike the situation in which a user leaves the room, however, Gilson’s description of a user waking does not include a restorative action, such as aborting a hibernation countdown, and we fail to see how or why one would be used, as there is nothing to abort once the person wakes and the controlling device exits the sleep state. We therefore decline to sustain the rejection of claim 25.

DECISION

The rejections of claims 1, 3, 4, 9, 22–24, and 26–28 are affirmed.<sup>4</sup>

The rejections of claims 5, 7, 8, and 25 are reversed.

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-IN-PART

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<sup>4</sup> As Appellants offer no separate argument for claim 9, our decision on claim 1 is determinative as to the rejection of that claim. As Appellants offer no separate arguments for claims 24, 26, 27, and 28, our decision on claim 22 is determinative as to the rejection of those claims.