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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ADAM C. MORZOS

Appeal 2016-000283
Application 12/618,019¹
Technology Center 2400

Before ALLEN R. MacDONALD, MICHAEL M. BARRY, and
MICHAEL J. ENGLE, *Administrative Patent Judges*.

ENGLE, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from a final rejection of claims 1, 2, 7, 8, 11, 12, 14, 18, and 19, which are all of the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

Technology

The application relates to a television receiver that requests, receives, and displays content from other television receivers, such as an image of the program currently displayed by the other receivers or video from a camera connected to the other receivers. Spec. ¶ 5, Abstract.

¹ According to Appellant, the real party in interest is EchoStar Technologies L.L.C. App. Br. 2.

Representative Claim

Claim 1 is representative and reproduced below with the limitations at issue emphasized:

1. A method for generating an output for a television receiver, comprising:

 sending at least one command to tune to a first channel, utilizing a first television receiver, to at least one other television receiver of a plurality of two or more other television receivers via a local area network;

sending at least one request for content, utilizing the first television receiver, to the plurality of two or more other television receivers via the local area network, *the request for content including a request for a still image snapshot of programming content that the respective television receiver is currently outputting to an associated display device*;

 receiving content at the first television receiver from each of the plurality of two or more other television receivers via the local area network wherein the content received from each of the plurality of two or more other television receivers comprises a still image snapshot of programming content the respective television receiver is currently outputting to an associated display device and *when content is detected by a video camera connected to at least one of the plurality of two or more other television receivers, replacing the still image from the respective television receiver with a live video feed from the video camera connected to the respective television receiver*;

 generating an output mosaic having a plurality of portions, utilizing the first television receiver, the output mosaic including live video of programming content from a tuner associated with the first television receiver and the still image snapshot or the live video feed of content detected by the respective video camera received from each of the plurality of two or more other television receivers wherein a first portion of the mosaic corresponds to the live video of programming content from the tuner associated with the first television receiver and concurrently, each of the remaining plurality of portions of the mosaic corresponds to a respective one of the still image snapshots or the live video feed of content detected by the

respective video camera received from at least one of the plurality of two or more other television receivers;

periodically sending subsequent requests for content, utilizing the first television receiver, to the plurality of two or more other television receivers via the local area network, the subsequent requests for content including updated still image snapshots;

receiving at the first television receiver user input identifying a selected one of the still image snapshots; and

switching the tuner associated with the first television receiver to receive streaming programming content corresponding to the selected still image snapshot.

Rejections

Claims 1, 2, 7, 8, 11, 12, 14, 18, and 19 stand rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement. Final Act. 5.

Claims 1, 2, 7, 8, 11, 12, 14, 18, and 19 stand rejected under 35 U.S.C. § 103(a) as obvious over the combination of Woods et al. (US 2010/0262938 A1; Oct. 14, 2010), Issa et al. (US 8,307,395 B2; Nov. 6, 2012), and Grannan et al. (US 2008/0022322 A1; Jan. 24, 2008). Final Act. 6. The rejection further relies on five publications of applications that were incorporated by reference into Woods: Ellis et al. (US 2005/0251827 A1; Nov. 10, 2005) (“Ellis ’827” or “E827”), Ellis et al. (US 2005/0028208 A1; Feb. 3, 2005) (“Ellis ’208” or “E208”), DeWeese et al. (US 2005/0262542 A1; Nov. 24, 2005), McKissick et al. (US 2006/0190966 A1; Aug. 24, 2006), and Yates (US 2010/0153885 A1; June 17, 2010). Final Act. 6.

ISSUES

1. Did the Examiner err in finding the Specification failed to provide sufficient written description for “when content is detected by a video camera connected to at least one of the plurality of two or more other

receivers, replacing the still image from the respective television receiver with a live video feed from the video camera connected to the respective television receiver,” as recited in claim 1?

2. Did the Examiner err in finding the cited prior art references teach or suggest “sending at least one request for content . . . including a request for a still image snapshot of programming content that the respective television receiver is currently outputting to an associated display device,” as recited in claim 1?

ANALYSIS

Written Description

Claim 1 recites “when content is detected by a video camera connected to at least one of the plurality of two or more other receivers, replacing the still image from the respective television receiver with a live video feed from the video camera connected to the respective television receiver.” Independent claims 14 and 18 recite commensurate limitations.

The Examiner finds this limitation lacks adequate written description in the Specification. Final Act. 5. Appellant points to portions of the Specification that discuss a television receiver iteratively sending requests to other television receivers for either still images or live video feeds. App. Br. 14–18 (citing Spec. ¶ 32, FIG. 4); Reply Br. 3–4 (citing Spec. ¶ 38). However, even if we agreed with Appellant that this was sufficient for “replacing the still image . . . with a live video feed,” we agree with the Examiner that Appellant fails to identify sufficient support for providing video based on the conditional clause “when content is detected by a video camera” connected to a second receiver (as opposed to the second receiver providing video in response to a request from a first receiver). *See* Ans. 18–

20. Thus, Appellant’s argument does not sufficiently address the claim as presently written.

Accordingly, we sustain the Examiner’s written description rejection of claims 1, 14, and 18, as well as dependent claims 2, 7, 8, 11, 12, and 19.

Obviousness

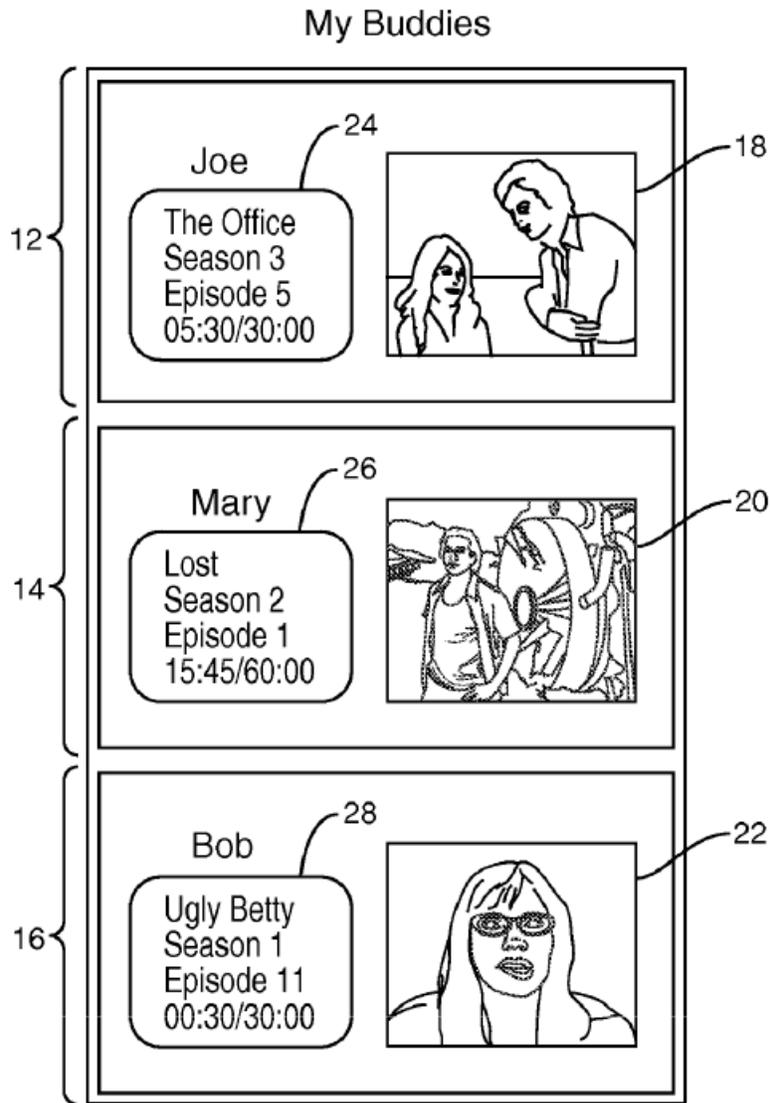
Claim 1 recites “sending at least one request for content . . . , the request for content including a request for a still image snapshot of programming content that the respective television receiver is currently outputting to an associated display device.” Within a single overall rejection, the Examiner sets forth a number of alternative findings for this limitation that rely on different prior art references.

We are persuaded by Appellant’s arguments against Woods, Yates, DeWeese, and Grannan. Specifically, Woods and Yates display a channel guide listing content available for display, not programming content that other television receivers are currently outputting. Woods ¶ 46, FIG. 2; Yates FIG. 6. DeWeese teaches a set-top box connected to a camera, but we agree with Appellant that the Examiner has not articulated sufficient explanation why a person of ordinary skill would turn the camera to point at the television. DeWeese FIGs. 11–12; Reply Br. 7. Grannan teaches displaying live video of multiple cameras in the house, but the Examiner has not sufficiently identified still images rather than video. Grannan FIG. 7.

However, we agree with the Examiner that Issa teaches or suggests the claimed limitation. Issa teaches “key frame information may include key frames of the video content item” and “[e]ach key frame is representative of a segment of the video content item.” Issa 1:30–36. Thus, a key frame can be displayed in place of a segment of video. One example Issa discusses is

displaying key frames for the videos that buddies in a buddy list are watching, such as shown in Figure 4.

Figure 4 of Issa is reproduced below.



“FIG. 4 illustrates an exemplary buddy list 10 including key frames of video content items being viewed by users included in the buddy list 10.”

Issa 6:65–67. In Figure 4,

key frames 18 through 22 are presented for each of the users in the buddy list 10. Thus, for example, the key frame 18 is a key frame corresponding to a segment of a video content item

currently being viewed by the user “Joe.” As the user “Joe” continues to view that video content item, the key frame 18 is updated with new key frames corresponding to the segment of the video content item currently being viewed by the user “Joe.”

Issa 7:5–12. Thus, we agree with the Examiner that Issa’s buddy list requests still image snapshots of the programming content that other buddies on the list are currently watching. Ans. 27.

Appellant summarizes the cited portions of Issa and asserts they fail to teach the claimed limitation, but fails to sufficiently explain why that limitation is missing and therefore is unpersuasive. *In re Lovin*, 652 F.3d 1349, 1357 (Fed. Cir. 2011) (“the Board reasonably interpreted Rule 41.37 to require more substantive arguments in an appeal brief than a mere recitation of the claim elements and a naked assertion that the corresponding elements were not found in the prior art”); 37 C.F.R. § 41.37(c)(1)(iv) (“A statement which merely points out what a claim recites will not be considered an argument for separate patentability of the claim.”).

Accordingly, we sustain the Examiner’s obviousness rejection of claim 1, and claims 2, 7, 8, 11, 12, 14, 18, and 19, which Appellant argues are patentable for similar reasons. *See* App. Br. 33, 20–21; 37 C.F.R. § 41.37(c)(1)(iv).

DECISION

For the reasons above, we affirm the Examiner’s decision rejecting claims 1, 2, 7, 8, 11, 12, 14, 18, and 19. No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 41.50(f).

AFFIRMED