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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte HENRY GREGG MARTCH¹

Appeal 2018-002248
Application 13/292,028
Technology Center 2400

Before BRADLEY W. BAUMEISTER, JOSEPH P. LENTIVECH, and
AMBER L. HAGY, *Administrative Patent Judges*.

BAUMEISTER, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 7, 8, 10–13, and 15–20, which constitute all the claims pending in this application. App. Br. 4.² We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

¹ Appellant lists EchoStar Technologies L.L.C. as the real party in interest. Appeal Brief filed September 20, 2017 (“App. Br.”) 2.

² Rather than repeat the Examiner's positions and Appellant's arguments in their entirety, we refer to the above mentioned Appeal Brief, as well as the following documents for their respective details: the Final Action mailed November 2, 2016 (“Final Act.”); the Examiner's Answer mailed November 9, 2017 (“Ans.”); and the Reply Brief filed December 21, 2017 (“Reply Br.”).

STATEMENT OF THE CASE

Appellant describes the present invention as follows:

A control device transmits a first type of signal and a second type of signal as part of transmitting an instruction. An electronic device receives the first signal and determines the control device is paired with another device. The electronic device displays a notification indicating such as well as a prompt requesting confirmation to pair the control device. Upon receiving an affirmative response, the electronic device notifies the other device, which transmits unpairing information to the control device. The control device then unpairs from the other device. The other device also transmits pairing information to the control device via the electronic device[,] and the control device utilizes the information to pair with the electronic device. In some implementations, the other device may receive a request to locate the control device. In response, the other device displays that the control device has been paired with the electronic device.

Abstract.

Independent claim 7, reproduced below with disputed language emphasized, illustrates the appealed claims:

7. A method for reconfiguring remote control devices for different electronic devices in a network, the method comprising:

receiving a first signal of a first type at a first electronic device of a network of a plurality of electronic devices wherein the first signal is transmitted by a remote control device as part of transmitting a first plurality of signals, including the first signal and a second signal of a second type that are transmitted, to the first electronic device of the network of the plurality of electronic devices that is paired with the remote control device, the first plurality of signals instructs the first electronic device to perform at least one operation;

receiving a notification at the first electronic device from a second electronic device of the network of the plurality of electronic device that the remote control device will be paired

with the second electronic device wherein the second electronic device received the second signal of the second type and identified the first electronic device by looking up at least one identifier included in the second signal of the second type in at least one database shared by the first electronic device and the second electronic device, the second electronic device having received a confirmation in response to a prompt to pair the remote control device with the second electronic device;

in response to the notification, transmitting at least one message from the first electronic device to the remote control device instructing the remote control device to unpair from the first electronic device;

transmitting information to pair the remote control device with the second electronic device from the first electronic device to the remote control device;

receiving a request at the first electronic device to locate the remote control device;

determining that the first electronic device last communicated regarding the remote control device when transmitting the information to pair the remote control device with the second electronic device; and

in response to determining that the first electronic device last communicated regarding the remote control device when transmitting the information to pair the remote control device with the second electronic device, transmitting at least one message from the first electronic device to at least one display device indicating that the remote control device was paired with the second electronic device.

Claims 7, 8, 10–13, and 15–20 stand rejected under 35 U.S.C.

§ 103(a) as unpatentable over Du Breuil et al. (US 2008/0157993 A1; published July 3, 2008), McMahon et al. (US 2011/0273625 A1; published Nov. 10, 2011), Haines (US 2006/0109112 A1; published May 25, 2006), and Kumar et al. (US 2009/0146779 A1; published June 11, 2009). Final Act. 3–36.

Claims 21–22 previously were rejected under 35 U.S.C. § 112(a) (pre-AIA § 112, ¶ 1) (Final Act. 2–3), but Appellant subsequently canceled those claims rendering the rejection moot. App. Br. 4.

We review the appealed rejections for error based upon the issues identified by Appellant, and in light of the arguments and evidence produced thereon. *Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential).

FINDINGS AND CONTENTIONS

Of relevance to this appeal, the Examiner finds that the final three limitations of independent claim 7 reasonably may be interpreted more broadly than intended by Appellant. The Examiner takes the position that the final two limitations of the claim—the last-communication-determination and pairing-indication-transmission limitations—need not be tied to the preceding step of “receiving a request at the first electronic device to locate the remote control device.” Ans. 34–35 (“The recited limitation for locating the remote control only requires ‘**receiving a request** at the first electronic device’ (i.e. a television) and no more. There is no requirement as to the techniques used to locate the remote control”). The Examiner then proceeds to explain that Haines was used for only the first of the last three limitations—receiving a request to locate the remote control—and that Kumar was relied upon for teaching the last-communication-determination and pairing-indication-transmission limitations. *Id.*

The Examiner then explains how the term “pairing” is being interpreted in relying upon Kumar:

[P]airing the remote control with the second electronic device (e.g. the television in the bedroom), involves transferring the viewer’s channel preferences and remote control settings from

the first electronic device (e.g. the television in the living room the viewer was watching before moving to the bedroom) to the second electronic device, so as to provide the viewer uninterrupted viewing experience in the bedroom.

Id. (citing Kumar ¶¶ 20, 24, 31, 33; Fig. 2).

The Examiner also explains how Kumar’s disclosure is being interpreted:

[P]aragraph 0020 of Kumar et al. teaches that “when the system has identified (i.e. determined) that a user who was watching a particular sports channel in the living room 23 TV has moved to the bedroom 21, the system may automatically switch the bedroom TV/STB to that particular sports channel in response to the user’s presence being established in the bedroom”. Since the details of the sports channel were previously set at the first electronic device, it is obvious that the first electronic device (living room TV/STB) transferred the user’s channel preferences (as well as other parameters such as volume control, language selection, subtitles, etc.) to the second electronic device (bedroom TV/STB). *Paragraph 0020 additionally teaches that the user’s mappings of keypad shortcuts may be automatically set on the television remote control in the bedroom.*

Ans. 35–36 (citing Kumar ¶ 20) (emphasis added).

Appellant first argues that the last-communication-determination and pairing-indication-transmission limitations are directed to steps for locating a remote control. Reply Br. 2. Appellant next argues that regardless of whether this is so, Kumar still does not teach the last-communication determination step. *Id.* at 2–4.

In relation to this latter argument, Appellant asserts that Kumar teaches living-room and bedroom televisions that have their own remote controls. *Id.* at 3.

Switching a bedroom television to a sport channel after the user has moved from the living room to the bedroom per Kumar

(¶[0020]) involves porting over or transferring information between devices in the living room and the bedroom. Further, transferring remote control shortcuts settings per Kumar (Figure 2; Figure 5, blocks 64 and 65) from the living room remote to the bedroom remote involves porting over or transferring information between the remotes. The information transfer does not involve determining that a first device last communicated regarding the remote control when transmitting the information to pair the remote control with a second device[, as required by independent claim 7].

Reply Br. 3.

Appellant then argues that transferring or porting information from one remote to another remote is different from pairing a single remote to multiple televisions and that porting does not satisfy the last-communication determination step:

Pairing is a term of art that means joining, coupling or matching devices such as a remote control and a device as used in claim 7 to enable to them to communicate and interoperate with each other and only with each other. Transferring the user's keypad shortcut settings from one remote control to another amounts to *copying* settings from one remote control to another. The transfer of settings to a remote control device or "reconfiguring the remote control device" as interpreted by the Examiner is not a pairing action because it does not allow two devices to interoperate and communicate with each other and only each other. Rather, it amounts to a copying of remote control configurations such that the two devices may similarly respond to the same user-specific inputs. Thus, Kumar does not disclose or suggest "determining that the first electronic device last communicated regarding the remote control device when transmitting the information to pair the remote control device with the second electronic device."

Id. at 4 (emphasis added).

ANALYSIS

We agree with Appellant that Kumar teaches transferring configuration data from one remote control to another—not pairing a single remote control with multiple televisions:

[T]he user’s mappings of keypad shortcuts may be automatically set on the television remote control device associated with the bedroom TV/STB. These channel preferences and key mappings may be retained on the remote and/or the STB until someone else picks up and operates that remote depending on policy/preferences.

In the embodiment of FIG. 1, remote control **10** is also shown including a presence/authentication switch or button **12**. Before a user is logged into the home entertainment system through remote control device **10**, the remote control operates as an ordinary or generic device. When a user wants to log into the system and/or establish his presence in the room where the remote is located, he presses button **12**, which activates or enables the fingerprint authentication system. Immediately after pressing button **12**, the user sweeps his index finger across sensor **11**, which then captures an image of the user’s fingerprint. Tactile or other sensors (e.g., pressure, proximity, etc.) embedded within remote control **10**, may also be utilized to activate inputting the fingerprint image of the person holding the remote. Although the system of FIG. 1 is shown with button **12**, it should be understood that this hardware button may be a software-driven menu option, or alternatively comprise a virtual button. For example, in certain embodiments the automatic detection of a known fingerprint may function as an implicit pressing of a virtual presence/authentication button (i.e., a request to establish presence in a room).

Kumar ¶¶ 20–21.

For the foregoing reasons, the Examiner has not established that the relied-upon reference, Kumar, teaches or suggests the disputed limitation of “determining that the first electronic device last communicated regarding the

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remote control device when transmitting the information to the remote control device with the second electronic device,” as recited in claim 7 and similarly recited in independent claims 10 and 18. Accordingly, we do not sustain the obviousness rejection of those claims or of claims 8, 11–13, 15–17, 19, and 20, which respectively depend from claims 7, 10, and 18.

DECISION

The Examiner’s decision rejecting claims 7, 8, 10–13, and 15–20 is reversed.

REVERSED