



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/117,891	02/27/2014	Hisayuki Kunigita	SCED25468(100809-00655)	2452
26304	7590	01/18/2019	EXAMINER	
KATTEN MUCHIN ROSENMAN LLP			LIU, DAVID V	
575 MADISON AVENUE			ART UNIT	
NEW YORK, NY 10022-2585			PAPER NUMBER	
			2171	
			NOTIFICATION DATE	
			DELIVERY MODE	
			01/18/2019	
			ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

nycuspto@kattenlaw.com
samson.helfgott@kattenlaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte HISAYUKI KUNIGITA, SEUNG-HYUN LEE,
JAE-HYUN PARK, and JU-YEONG JI

Appeal 2018-003317
Application 14/117,891
Technology Center 2100

Before JOHNNY A. KUMAR, CARL L. SILVERMAN, and
STEVEN M. AMUNDSON, *Administrative Patent Judges*.

AMUNDSON, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants¹ seek our review under 35 U.S.C. § 134(a) from a final rejection of claims 1–8, i.e., all pending claims. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ Appellants identify the real party in interest as Sony Computer Entertainment Inc. App. Br. 2.

STATEMENT OF THE CASE

The Invention

According to the Specification, the “invention relates to a content player for a user to view a variety of content, a content viewing management system, content player control method and information storage medium.” Spec. ¶ 1.² The Specification explains that (1) a “content player acquires viewing history information about content viewed by a related user related to the user with a content player different from the content player”; (2) the “content player presents, to the user, the acquired viewing history information”; and (3) the “content player performs, if the user selects the presented viewing history information, a playing process of content indicated by the selected viewing history information.” *Id.* Abstract; *see id.* ¶¶ 6–12.

Exemplary Claim

Independent claim 1 exemplifies the claims at issue and reads as follows:

1. A content player configured to perform a content playing process in response to an instruction by a user, the content player comprising:

viewing history information acquisition means of acquiring viewing history information about content viewed by a related user related to the user with a content player different from the content player;

² This decision uses the following abbreviations: “Spec.” for the Specification, filed February 27, 2014; “Final Act.” for the Final Office Action, mailed February 22, 2017; “Adv. Act.” for the Advisory Action, mailed May 15, 2017; “App. Br.” for the Appeal Brief, filed August 17, 2017; “Ans.” for the Examiner’s Answer, mailed December 4, 2017; and “Reply Br.” for the Reply Brief, filed January 26, 2018.

viewing history information presentation means of presenting, to the user, the viewing history information about content viewed by the related user acquired by the viewing history information acquisition means; and

content playing means of performing, if the user selects the viewing history information presented by the viewing history information presentation means, a playing process of content indicated by the selected viewing history information.

App. Br. 11 (Claims App.).

The Prior Art Supporting the Rejections on Appeal

As evidence of unpatentability under 35 U.S.C. § 103(a), the Examiner relies on the following prior art:

Rokosz et al. (“Rokosz”)	US 2006/0168529 A1	July 27, 2006
Kakumu et al. (“Kakumu”)	US 2008/0118232 A1	May 22, 2008
Siegel et al. (“Siegel”)	US 2008/0168073 A1	July 10, 2008
Sakai et al. (“Sakai”)	US 2009/0133071 A1	May 21, 2009
Ashutosh et al. (“Ashutosh”)	US 2009/0300520 A1	Dec. 3, 2009
Roberts et al. (“Roberts”)	US 2012/0174162 A1	July 5, 2012

The Rejections on Appeal

Claims 1 and 5–7 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Sakai and Roberts. Final Act. 5–10; Ans. 3.

Claim 2 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Sakai, Roberts, and Kakumu. Final Act. 10–11; Ans. 3.

Claim 3 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Sakai, Roberts, and Rokosz. Final Act. 11–12; Ans. 3.

Claim 4 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Sakai, Roberts, Rokosz, and Ashutosh. Final Act. 12–13; Ans. 3.

Claim 8 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Sakai, Roberts, and Siegel. Final Act. 13–14; Ans. 4.

ANALYSIS

We have reviewed the § 103(a) rejections in light of Appellants’ arguments that the Examiner erred. For the reasons explained below, we concur with the Examiner’s conclusions concerning unpatentability under § 103(a). We adopt the Examiner’s findings and reasoning for the § 103(a) rejections in the Final Office Action (Final Act. 5–16) and Answer (Ans. 3–8). We add the following to address and emphasize specific findings and arguments.

The § 103(a) Rejection of Claims 1 and 5–7

INDEPENDENT CLAIM 1

Appellants argue that the Examiner erred in rejecting claim 1 because Roberts does not teach or suggest the following limitation in claim 1: “content playing means of performing, if the user selects the viewing history information presented by the viewing history information presentation means, a playing process of content indicated by the selected viewing history information.” *See* App. Br. 6–8; Reply Br. 2. Specifically, Appellants assert that the disputed limitation in claim 1 requires performing “a playing process of content” when “a user selects the viewing history information.” App. Br. 6, 8; *see* Reply Br. 2. Appellants then contend that “Roberts does not meet the plain language of the claim” because (1) Roberts only “gives the user **the eventual ability** to play” a program selected for future recording and (2) “there is no guarantee that the user will watch the recorded program.” App. Br. 7. According to Appellants, “the prior art cited by the Examiner at most teaches that if the selection is made by a user,

a recording screen is presented to the user, not a playing process.” Reply Br. 2.

Appellants’ arguments do not persuade us of Examiner error because the Examiner correctly finds that Roberts and Sakai each disclose “displaying a viewing history of other users related to the user and accessing/playing content viewed by the other users.” Ans. 7. In particular, Roberts describes a system that provides a user with an interactive program guide displaying viewing-history information for “friends” or related users. Roberts ¶¶ 40–43, Fig. 4; *see id.* ¶¶ 11–12, 17–19, 30; *see also* Final Act. 7. Roberts’ Figure 4 (reproduced below) depicts an interactive program guide:

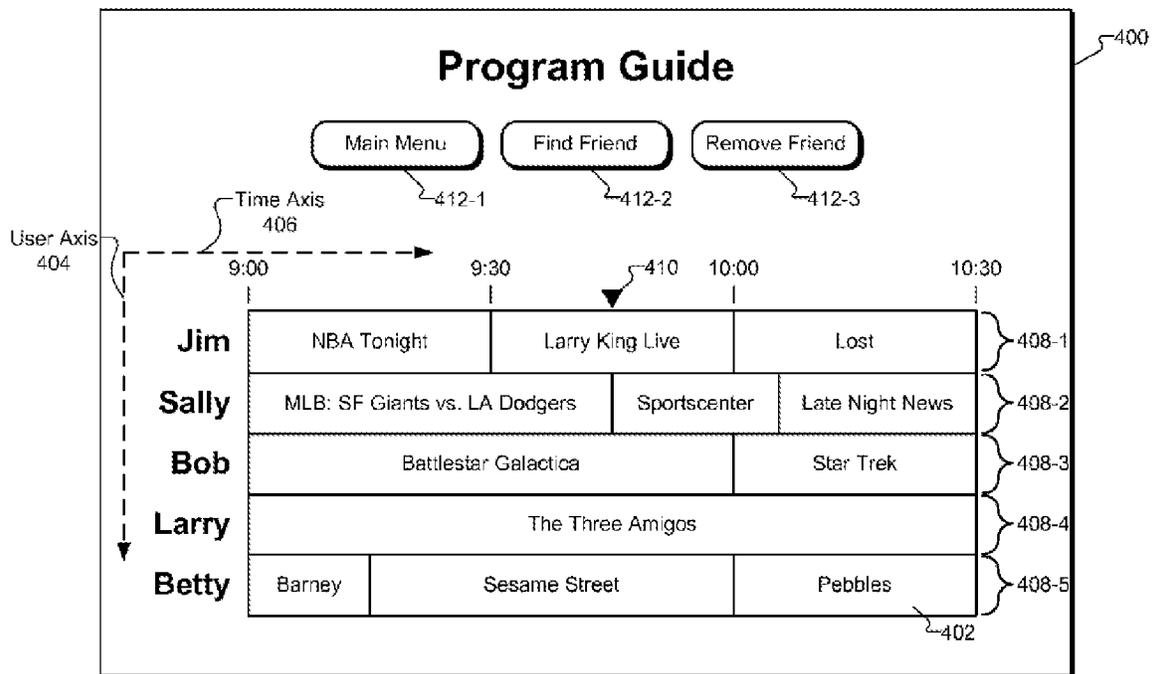


Fig. 4

Figure 4 (reproduced above) “shows an exemplary program guide view 400” with “a matrix of cells (e.g., cell 402) arranged relative to a navigable user axis 404 and a time axis 406.” Roberts ¶ 37.

Roberts explains that “program guide view 400 may include a current time indicator 410 configured to graphically indicate a current time.”

Roberts ¶ 41. Roberts also explains that a user “may access program guide view 400 to readily determine what” related users “are currently accessing (e.g., watching and/or recording)” and “may also readily determine which media content instance(s) each of the [related] users accessed prior to the current time indicated by current time indicator 410.” *Id.* Moreover, a user may “access additional information or content associated with a particular media content instance included in the program guide” by “select[ing] a cell corresponding to the particular media content instance.” *Id.* ¶ 42. The “additional information or content” selected by a user may include a synopsis or review of the selected content. *Id.* ¶ 43.

Providing a synopsis or review of the selected content satisfies claim 1’s requirement for performing “a playing process of content” when “a user selects the viewing history information.” “[D]uring examination proceedings, claims are given their broadest reasonable interpretation consistent with the specification.” *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000). As the Examiner correctly observes, claim 1 does not require “a playing process of the content.” *See* Final Act. 15–16.

In addition, Sakai teaches or suggests the disputed limitation in claim 1. *See* Adv. Act. 2; Ans. 4. Like Roberts, Sakai describes a system that provides a user with an interactive program guide displaying viewing-history information for “friends” or related users. Sakai ¶¶ 16, 59, 185, 187, 197–198, 212–215, Figs. 27–33; *see* Final Act. 6–7, 12–13. With Sakai’s program guide, a user “can easily know viewing information of other [related] users about present, past, and future content by looking at a

program guide to which such viewing information of other users is added so that the user can easily and aptly select content the user himself (herself) desires to view.” Sakai ¶¶ 185, 215. Further, “if other users who are friends of the user A are viewing content of a channel different from that of the user A, an opportunity is given to the user A to switch the channel to view the same content as” a friend. *Id.* ¶ 198.

Switching the channel to view the same content as a friend satisfies claim 1’s requirement for performing “a playing process of content” when “a user selects the viewing history information.” *See* Adv. Act. 2; Ans. 4. Appellants’ arguments make no attempt to distinguish claim 1 from Sakai because the arguments address only Roberts. *See* App. Br. 6–8; Reply Br. 2.

For the reasons discussed above, Sakai and Roberts individually and collectively teach or suggest the disputed limitation in claim 1. *See* Final Act. 6–7; Adv. Act. 2; Ans. 4–6; Sakai ¶¶ 16, 59, 185, 187, 197–198, 212–215, Figs. 27–33; Roberts ¶¶ 30, 40–43, Figs. 4–5. Appellants’ arguments have not persuaded us that the Examiner erred in rejecting claim 1 under § 103(a). Thus, we sustain the § 103(a) rejection of claim 1.

INDEPENDENT CLAIMS 5–7

Appellants do not argue patentability separately for independent claims 5–7. App. Br. 6–10; Reply Br. 2–4. Thus, we sustain the § 103(a) rejection of these independent claims for the same reasons as claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv).

The § 103(a) Rejection of Claim 2

Claim 2 depends from claim 1 and reads as follows:

2. The content player of claim 1, wherein

the viewing history information includes interruption state information indicating a content playing state at the time of interruption if the playing of content by the different content player is interrupted, and

the content playing means starts the playing of the content from a state determined in accordance with the interruption state information included in the selected viewing history information.

App. Br. 11 (Claims App.).

Appellants argue that the Examiner erred in rejecting claim 2 because the Examiner’s rationale for combining Kakumu’s teachings with the teachings of Sakai and Roberts rests on hindsight. *See* App. Br. 8–9; Reply Br. 3. Specifically, Appellants assert that “the Examiner has used the exact rationale explained in Appellants’ specification to combine the references.” App. Br. 8. Appellants also assert that “[t]he prior art provides no rationale or basis, at all, for the combination.” *Id.*

Appellants’ arguments do not persuade us of Examiner error because Kakumu discloses that some DVD players “stor[e] the point where reproduction of picture contents is stopped, so that the play of the contents, when reproduced the next time, is resumed from that previous point” to avoid “inconvenient for users to have to search for the play point reached previously.” Kakumu ¶ 3; *see* Final Act. 11 (citing Kakumu ¶ 3). Avoiding “inconvenient for users” constitutes a reason that would have prompted an ordinarily skilled artisan to combine Kakumu’s teachings with the teachings of Sakai and Roberts. “[T]he law does not require that the references be

combined for the reasons contemplated by the inventor.” *In re Beattie*, 974 F.2d 1309, 1312 (Fed. Cir. 1992); *see Outdry Techs. Corp. v. Geox S.p.A.*, 859 F.3d 1364, 1371 (Fed. Cir. 2017). “[A]ny need or problem known in the field of endeavor at the time of invention and addressed by the patent can provide a reason for combining” references. *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 420 (2007).

Appellants contend that Kakumu stores pause points for a user but does not store pause points for related users. App. Br. 8–9; *see* Reply Br. 3. That contention attacks Kakumu individually. The Examiner relies on the combined disclosures in Sakai, Roberts, and Kakumu to reject claim 2. *See* Final Act. 5–8, 10–11; Ans. 4–7. Where a rejection rests on the combined disclosures in the references, an appellant cannot establish nonobviousness by attacking the references individually. *See In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986).

As discussed above, the Examiner correctly finds that Roberts and Sakai each disclose “displaying a viewing history of other users related to the user and accessing/playing content viewed by the other users.” Ans. 7. Further, the Examiner correctly finds that Kakumu discloses “playing content at a point determined by interruption state information of a user.” *Id.* Thus, the combined disclosures in Sakai, Roberts, and Kakumu teach or suggest claim 2’s subject matter.

Additionally, in the Answer, the Examiner identifies U.S. Patent Application Publication US 2005/0166258 A1 to Vasilevsky et al. (“Vasilevsky”) as disclosing stored video bookmarks (pause points) for not only a user but also for related users. Ans. 7; *see* Vasilevsky ¶¶ 52, 58,

Fig. 7. In the Reply Brief, Appellants do not address Vasilevsky. *See* Reply Br. 2–4.

Hence, Appellants’ arguments have not persuaded us that the Examiner erred in rejecting claim 2 under § 103(a). Thus, we sustain the § 103(a) rejection of claim 2.

The § 103(a) Rejection of Claim 4

Claim 4 depends from claim 3. Claims 3 and 4 read as follows:

3. The content player of claim 1, wherein

the viewing history information includes information about a joint viewing user who, together with the related user using the different content player, viewed content played by the different content player, and

the viewing history information presentation means presents, to the user, information included in the viewing history information and indicating the joint viewing user who viewed the content together with the related user.

4. The content player of claim 3, wherein

the viewing history information further includes viewing type information indicating in which mode the joint viewing user viewed the content together with the related user,

wherein the mode is selected from an offline type joint viewing mode and an online type joint viewing mode, and

the viewing history information presentation means presents, to the user, in which mode the joint viewing user viewed the content together with the related user, in accordance with the viewing type information.

App. Br. 11–12 (Claims App.).

Appellants argue that the Examiner erred in rejecting claim 4 because (1) “the Examiner considers in-person attendees to a meeting as being in an offline mode and remote users as being in an online mode” and (2) “[t]his is the exact **opposite** meaning of the modes as defined in the specification.”

App. Br. 9. Appellants assert that “the specification provides a definition as to what is meant by offline mode and online mode and the citation provided by the Examiner utilizes the exact opposite definitions.” *Id.*

Appellants’ arguments do not persuade us of Examiner error because the Examiner’s analysis of an offline mode and an online mode comports with the Specification. *See* Final Act. 12–13; Ans. 7–8. The Specification explains the difference between an offline mode and an online mode as follows:

The present embodiment assumes that a joint viewing user views content together with the authenticated user in one of two modes. In the first mode, the joint viewing user visits, for example, his or her friend’s house so that the authenticated user and joint viewing user view the content using the single content player 10 owned by the authenticated user at the same place together. In the description given below, joint viewing in this mode will be referred to as offline type joint viewing. In the second mode, on the other hand, the content delivery server 30 delivers content simultaneously in real time to each of the plurality of content players 10 as described above . . . so that the authenticated user and joint viewing user view the content simultaneously with their own content players 10. In the description given below, joint viewing in this mode will be referred to as online type joint viewing.

Spec. ¶ 48.

Consistent with the Specification, the Examiner “interprets ‘offline type joint viewing mode’ as a meeting that comprises people meeting face-to-face or in-person while ‘online type joint viewing mode’ is a meeting that is conducted purely using computers remotely communicating with each other.” Ans. 7; *see* Final Act. 13. Further, the Examiner correctly finds that Ashutosh discloses a display showing participant-presence information and identifying participants who attended a meeting in person (“offline type joint

viewing mode”) as well as participants who attended remotely using computers (“online type joint viewing mode”). Ans. 8; *see* Final Act. 13; Ashutosh ¶¶ 3, 14, 33, 68, 71, 73, Fig. 3. For example, Ashutosh describes a “multimedia conference event,” such as a “web conferenc[e] or live meeting,” with some participants “present in the conference room,” and participant-presence information displayed for the “presenters or other attendees of the online meeting.” Ashutosh ¶¶ 33, 71. Ashutosh explains that the participant-presence information “for different presenters and attendees of the multimedia conference event” may “change as the status of the various entities change (e.g., online, away, busy, office, home, etc.).” *Id.* ¶ 73. Appellants do not address Ashutosh’s disclosure. *See* App. Br. 8–9; Reply Br. 2–4.

Hence, Appellants’ arguments have not persuaded us that the Examiner erred in rejecting claim 4 under § 103(a). Thus, we sustain the § 103(a) rejection of claim 4.

The § 103(a) Rejections of Claims 3 and 8

Claims 3 and 8 depend from claim 1. Appellants do not argue patentability separately for these dependent claims. App. Br. 6–10; Reply Br. 2–4. Thus, we sustain the § 103(a) rejections of these dependent claims for the same reasons as claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv).

DECISION

We affirm the Examiner’s decision to reject claims 1–8.

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). *See* 37 C.F.R. § 41.50(f).

Appeal 2018-003317
Application 14/117,891

AFFIRMED