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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* ROBB FUJIOKA, DOUGLAS QUON WOO, and  
CHIYU HE

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Appeal 2018-003417  
Application 14/829,393  
Technology Center 2400

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Before JENNIFER S. BISK, JUSTIN BUSCH, and CATHERINE SHIANG,  
*Administrative Patent Judges.*

BUSCH, *Administrative Patent Judge.*

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant<sup>1</sup> appeals from the Examiner's decision to reject claims 1–13, 15–18, and 21–27, which constitute all the claims pending in this application. We have jurisdiction over the pending claims under 35 U.S.C. § 6(b).

We reverse.

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<sup>1</sup> We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as Mattel, Inc. Appeal Br. 3.

CLAIMED SUBJECT MATTER

Appellant's disclosure generally relates "to a system and method for providing curated content items to users." Spec. ¶ 2; *see* Spec. ¶¶ 6, 30. The claimed invention relates to providing a first user account (e.g., a parent) content items and an interface via a first portal displayed on a device through which the first user can provide a "curation instruction"; the curation instruction then is used to select a subset of the content items that are provided to a second user account (e.g., a child), which is in the same subscriber account as the first account, via a second portal displayed on the device. Spec. ¶ 39. Claims 1 and 13 are independent claims. Claim 1 is reproduced below:

1. A method, comprising:
  - selecting a first set of content items from a plurality of available content items provided by a plurality of content provider servers;
  - providing the first set of content items to a second user account included in a subscriber account, wherein the subscriber account includes a first user account and the second user account;
  - providing a curation interface to the second user account on a second user portal that displays on a user device, wherein the curation interface displays information on the first set of content items;
  - receiving a curation instruction that is configured by the second user account via the curation interface;
  - selecting a second set of content items from the first set of content items based upon the curation instruction; and
  - providing the second set of content items to the first user account on a first user portal that displays on the user device.

## REJECTIONS

Claims 1–3, 11, 13, 15, 23, and 25–27 stand rejected under 35 U.S.C. § 102 as anticipated by Martin (US 2014/0075583 A1; Mar. 13, 2014). Final Act. 6–12.

Claims 4–8 and 16–18 stand rejected under 35 U.S.C. § 103 as obvious in view of Martin and Szeto (US 2005/0262204 A1; Nov. 24, 2005). Final Act. 12–14.

Claims 9, 10, 12, 21, 22, and 24 stand rejected under 35 U.S.C. § 103 as obvious in view of Martin, Szeto, and Maharajh (US 2011/0225417 A1; Sept. 15, 2011). Final Act. 14–16.

## ANALYSIS

### THE 35 U.S.C. § 102 REJECTION

The Examiner finds Martin discloses every limitation recited in independent claims 1 and 13. Final Act. 6–10; Ans. 14–17. Of particular relevance to the dispositive issue with respect to this Appeal, the Examiner finds Martin discloses providing a first set of content items to a *second user account included in a subscriber account*; receiving a curation instruction from the second user account via an interface on a second user portal displayed on a device; and providing a second set of content items, which are selected from the first set of content items based on the curation instruction, to a *first user account, which is also included in the subscriber account*, on a first second user portal displayed on the device. Final Act. 6–8 (citing Martin ¶¶ 40, 43, 46–50, 53–54, 60, Figs. 1, 3, 5); Ans. 14–17 (additionally citing Martin ¶¶ 59, 83).

Martin relates to managing media items and, more specifically to making policy decisions regarding syncing and “addressing the need for

solutions relating to how to share media items between overlapping user accounts.” Martin Abstract. Martin describes the iTunes® store as an exemplary media distribution system and the iTunes® client as an exemplary media player that can manage and play media items, establish and manage user accounts, and coordinate media item transfers between devices associated with the user accounts, including coordinating transferring media items to other user devices and cloud-based servers. Martin ¶¶ 32, 38–40, 43, Fig. 1.

Media may be subject to digital rights management (DRM) policies, which control or limit access to digital media, such as preventing media from being re-downloaded but allowing transfer to other devices. Martin ¶ 34, 41–43. Certain aspects of Martin, which are less relevant to the present invention, relate to making policy decisions regarding syncing (i.e., which content needs to be transferred to another device and which content may simply be re-downloaded) based on DRM policies. Martin ¶¶ 45–52, Figs. 2–4. Martin also describes manually transferring media to a device. Martin ¶¶ 52–53, Figs. 5–6.

Martin describes an exemplary interface used to transfer media items from a computer to a second device. Martin ¶ 50. The interface includes a Library frame that presents media items stored in the computer’s media library “associated with one or more user accounts” and media items stored in a cloud that are associated with a user’s account. Martin ¶ 50. The interface also includes a Devices frame that shows devices connected to the computer and the media items stored on those devices. Martin ¶ 50.

Martin discloses media distribution systems, such as the iTunes® store, can maintain user accounts and associate those accounts with computing devices, optionally limiting each user account to a certain number

of authorized devices. Martin ¶ 54. Martin describes embodiments in which each user may designate an authorized device as a “home” device, which effectively is treated as a user’s primary device, whereas other devices associated with that account are considered “non-home” devices. Martin ¶¶ 54–55. Each computer or device may include media items/libraries associated with multiple accounts. *See* Martin ¶ 57.

When a user connects an external device (e.g., an iPod® or an iPad®) associated with a user account to a non-home device, the user may be asked whether the user wishes to designate that computer the user account’s “home device,” erase existing media on the external device, and sync the external device to the newly-designated home device. Martin ¶ 55. A typical configuration “does not allow transferring of media items from a non-home computer to a device.” Martin ¶ 55. However, in some embodiments, media items may be transferred from a non-home computer to a device already associated with a home computer in certain circumstances. Martin ¶ 56. For example, if both the non-home computer and the home computer contain at least one media library associated with the same user account, Martin allows transferring media items from the non-home computer to a device associated with the home computer. Martin ¶ 56; *see also* Martin ¶¶ 57–59 (describing Figure 8 and explaining that files can be transferred from a first non-home computer to an iPad® associated with a home computer having media items associated with multiple user accounts (i.e., a library having folders of media items for multiple users) because the first non-home computer and the home computer have media items associated with a common user account, but a second non-home computer cannot transfer media items to the iPad® because the second non-home computer and the home computer do not have media items associated with a common user account).

Notably, however, Martin discloses certain embodiments permit transferring media items associated with a user account on the non-home computer even if the home computer does not have media items associated with that same user account, with certain limitations that restrict distribution of those media items. Martin ¶ 59. For example, Martin may limit the number “of times a media item from a different user’s media library is transferred to another device,” prompt the user to purchase the item the first time it is accessed, or only transfer versions of the items with reduced features (e.g., demos or free versions). Martin ¶ 59. Martin further explains that this applies to user accounts as well. Specifically, Martin discloses connecting a first device associated with a first user account to a second device associated with a second user account and allowing transfer of media items from the second device associated with the second account to the first device (associated with the first account) if the system determines “the *user account* associated with the first device has received an authorization to add any media items in the library associated with the second user account.” Martin ¶ 61 (emphasis added). Thus, these portions of Martin disclose, or at least suggest, transferring media items from one user account to another user account, at least in certain circumstances.

Appellant acknowledges Martin discloses copying content from one device to another, copied content may be associated with multiple user accounts, and each device may store content for multiple accounts. Appeal Br. 21–23; Reply Br. 3–4. Appellant argues Martin fails to disclose every limitation recited in claim 1, however, because Martin does not disclose transferring content *between* user accounts such that content accessible in one user account is accessible to another user account. Appeal Br. 23–24; Reply Br. 4. Appellant contends that, simply because content from two

different user accounts can be transferred from one computer to another does not make content from one user account accessible to another user account. Reply Br. 3–4. Appellant also argues Martin does not disclose a first user portal and second portal displayed on the same device, where the first and second user portals provide access to first and second user accounts, respectively. Finally, Appellant argues Martin’s description of selecting which personal information to share with others does not disclose the ability to transfer content from one user account to another. Reply Br. 4.

We note Appellant’s arguments are imprecise because Appellant asserts Martin fails to disclose transferring content from a first user account to a second user account, but claim 1 does not recite transferring content from one account to another account. Nevertheless, we understand Appellant’s argument to assert Martin’s disclosure of transferring content from one device to another device while maintaining an association between the content and a user account does not disclose the claimed steps involving providing content to a second user account then selecting and providing to a first (different) account a subset of the content based on a curation instruction configured by the second user account, wherein both user accounts are included in the same subscriber account.

The Examiner finds Martin discloses a computer having a client application (e.g., iTunes®) associated with multiple user accounts such that a user accesses her account using the client application. Final Act. 3 (citing Martin ¶¶ 12, 28, 32, 40, 54, 57). The Examiner further finds Martin discloses that a single device may be associated with and maintain multiple user accounts through the client application, and a single account may be associated with the client application running on multiple devices. Final Act. 3 (citing Martin Fig. 8). The Examiner states “the very focus of

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Martin's disclosure is regarding "how to share media items between overlapping user accounts." Final Act. 4 (citing Martin ¶ 32, Abstract).

Given at least Martin's disclosure of circumstances in which media items may be transferred from a second device associated with a second user account to a first device associated with a first user account, upon determining the first *user account* is authorized to add media items from the second user account's library, *e.g.*, Martin ¶ 61, we disagree with Appellant's characterization that Martin fails to disclose, or at least suggest, transferring media items from one user account to another user account. Nevertheless, we review the Examiner's rejection of the recited claim limitations in light of the issues Appellant raised, and we find the Examiner's rejection problematic, at least with respect to the Examiner's mapping of Martin's disclosures to the recited "subscriber account," which "includes a first user account and the second user account."

The Examiner explicitly maps Martin's client application to the recited interface and the client application "when tied to one's account" to the recited second user portal. Final Act. 5. In other words, the Examiner finds each of Martin's user accounts displayed in the client application discloses a different recited portal and, therefore, Martin's client application discloses multiple portals. Final Act. 5. In other words, if user A is viewing their media library on a computer in Martin's Library Frame, *see* Martin Fig. 3 (item 302), Martin's Library Frame discloses the second user portal. If user A connects a device associated with user B's account to the computer while viewing their media library in the Library Frame, Martin's Devices Frame (or portion thereof), *see* Martin Fig. 3 (item 304), discloses the recited first user portal. However, this finding seems to contradict the Examiner's statements that Martin's paragraphs 49 and 50 as well as Figures 3 and 5

show “an interface, where the computer reads on a second user portal/account” and Martin’s second device, which is used for accessing and playing back content, discloses the recited “first user portal.” Final Act. 7–8. However, because a *device* does not disclose the recited first and second *user portals* under any reasonable interpretation, we understand the rejection to be based on a finding that the client application provides multiple portals, one portal for each valid user account that can access content on a particular device.

The Examiner’s findings regarding which of Martin’s elements disclose the user accounts and subscriber accounts are not clear. The Examiner finds Martin’s “first and second user device . . . read on a first and second user account.” Final Act. 7 (citing Martin ¶¶ 54, 60). Therefore, the Examiner apparently finds Martin’s devices disclose the recited user accounts. This statement and the statement referenced above that Martin’s “computer reads on second user portal/account” appear to find a first user device (e.g., a computer) discloses the recited second user account and a second user device discloses the first user account. Notably, neither of the recited *user accounts* are *devices* under any reasonable interpretation.

The Examiner also finds Martin’s “first and second user device, which read on [the recited] first and second user account, are included in a user account, which reads on [the recited] subscriber account.” Final Act. 7 (citing Martin ¶¶ 54, 60). This statement does not clearly indicate which of Martin’s elements the Examiner finds disclose the subscriber account, but our best understanding is that the Examiner finds Martin’s devices (e.g., a computer and iPad®, *see* Martin Fig. 8 (804, 806)) disclose the recited first and second user accounts, and both of Martin’s devices can be associated with a particular one of Martin’s user accounts (e.g., Joe’s account, *see*

Martin Fig. 8 (804, 806, 816)). Thus, the Examiner apparently finds Martin's user account is associated with and accessible on both Martin's first and second devices and, therefore, discloses the recited "subscriber account" that "includes a first user account and the second user account."

It is this lack of clarity regarding the Examiner's mapping of Martin's elements to the first and second user account and the subscriber account that is problematic. As mentioned above, we agree with the Examiner that Martin discloses, or at least suggests, transferring media items from one of Martin's user accounts to another of Martin's user accounts, and Martin's user accounts seem to disclose the recited "first user account" and "second user account." However, as noted, the Examiner appears to find devices disclose the recited user accounts, which is problematic because that finding requires an unreasonable interpretation of a "user account."

To the extent the Examiner's rejection can be interpreted as finding Martin's user accounts teach the recited user accounts, it is unclear which of Martin's elements disclose the recited "subscriber account." Claim 1 recites the "subscriber account includes a first user account and the second user account." We see nothing in the Examiner's findings and explanations that sufficiently describes an element in Martin that includes Martin's user accounts under any reasonable interpretation of "subscriber account." To be sure, Martin's various user accounts may have some association with each other, and individual *computers or devices* may have media libraries that include media items associated with multiple accounts. However, without further explanation, the Examiner's findings are insufficient to establish that any of Martin's elements disclose a "subscriber *account*" that includes multiple user accounts.

On this record, for the reasons discussed above, we are constrained to reverse the Examiner's rejection under 35 U.S.C. § 102 of representative claim 1; independent claim 13, which recites commensurate limitations; and dependent claims 2, 3, 11, 15, 23, and 25–27, which ultimately depend from one of claims 1 and 13.

#### THE 35 U.S.C. § 103 REJECTIONS

The Examiner does not find the additionally recited references in the rejections of claims 4–10, 12, 16–18, 21, 22, and 24 (i.e., Szeto and Maharajh) or additional portions of Martin teach or suggest the disputed limitation above. Therefore, for the same reasons discussed above, we are also persuaded the Examiner erred in rejecting these claims, which ultimately depend from either claim 1 or claim 13.

#### CONCLUSION

In summary:

<b>Claims Rejected</b>	<b>Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1–3, 11, 13, 15, 23, 25–27	§ 102 Martin		1–3, 11, 13, 15, 23, 25–27
4–8, 16–18	§ 103 Martin, Szeto		4–8, 16–18
9, 10, 12, 21, 22, 24	§ 103 Morrison, Szeto, Maharajh		9, 10, 12, 21, 22, 24
<b>Overall Outcome</b>			1–13, 15–18, 21–27

REVERSED