



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.
12/784,942	05/21/2010	Marc Rashba	200902899.02	9837
51518	7590	12/27/2019	EXAMINER	
MAYER & WILLIAMS PC 55 Madison Avenue Suite 400 Morristown, NJ 07960			HASAN, SYED Y	
			ART UNIT	PAPER NUMBER
			2484	
			NOTIFICATION DATE	DELIVERY MODE
			12/27/2019	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):

docket@mwpatentlaw.com
kwilliams@mwpatentlaw.com
mwolf@mwpatentlaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MARC RASHBA

Appeal 2018-004511
Application 12/784,942
Technology Center 2400

Before HUNG H. BUI, IRVIN E. BRANCH and
NABEEL U. KHAN, *Administrative Patent Judges*.

KHAN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the
Examiner's decision to reject claims 1–6, 8–11, 13, 14, 16–24, and 28–30.

We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM-IN-PART.

¹ We use the word Appellant to refer to “applicant” as defined in 37 C.F.R. § 1.42(a). Appellant identifies the real party in interest as SONY CORPORATION and SONY PICTURES ENTERTAINMENT INC. Appeal Br. 2.

CLAIMED SUBJECT MATTER

Appellant describes the invention as relating to:

a technique for an interactive video system that allows a user to place supplemental items such as images on a main image being displayed. In one implementation, a user causes images of flying food to be displayed on top of a playing movie. Supplemental item data may be provided on the same media as is the main item data, e.g., on an optical disc, and control information may be provided on the media to control how supplemental item data is applied and presented.

Abstract.

Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A system for enhancing a main item of video data with a supplemental item, comprising:
 - a. a processor having a capability for executing programming to implement playback of items of video data;
 - b. means for receiving video data for display;
 - d. storage means for storing data retrieved from a non-transitory computer-readable medium or data received from a network, or a combination of both types of data;
 - e. memory in communication with the video data receiving means bearing computer readable instructions capable of causing the video data receiving means to render and playback a main item of video data, the main item of video data including a series of images of video and to direct a signal corresponding to the rendered played back video data to an output jack; and
 - f. memory bearing computer-readable instructions capable of causing a rendering of a supplemental item superposed with the main item of video data during the playback of the main item of video data, the supplemental item including a series of images constituting an animation, the rendering of the supplemental item in response to viewer input

during playback, the viewer input choosing a location within the main item of video data and a type of supplemental item to be rendered, the type of supplemental item selected from a list or a menu, and wherein the memory bearing computer readable instructions capable of causing a rendering of a supplemental item renders the supplemental item in two phases, a first phase being an initial transitory animation, followed by a second phase being a persistent or stationary image, and further comprising memory in communication with the video data receiving means bearing computer readable instructions capable of causing the rendering of a removal of the supplemental item and the directing of a signal corresponding to the rendering of the removal to the output jack.

REFERENCES

The prior art relied upon by the Examiner is:

Name	Reference	Date
Schneider	US 2003/0192049 A1	Oct. 9, 2003
McIntire	US 2007/0250901 A1	Oct. 25, 2007
Thomas	US 2009/0210790 A1	Aug. 20, 2009
Maracic	US 7,920,208 B2	Apr. 5, 2011

REJECTIONS²

1. Claims 1, 2, 5, 6, 8–11, 13, 14, 16, 18–20, 22, 24, and 28–30 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Schneider and McIntire. Final Act. 5–17.

2. Claims 3, 17, and 21 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Schneider, McIntire, and Thomas. Final Act. 17–18.

² We note there is a dispute as to whether this application benefits from an earlier priority date (February 4, 2004) of a previously filed application. Final Act. 5–6. We do not address this dispute because it does not affect the merits of the rejections at hand, as all the relied upon references are dated well before the claimed earlier priority date.

3. Claims 4 and 23 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Schneider, McIntire, and Maracic. Final Act. 18–19.

OPINION

Claim 1

Claim 1 recites, *inter alia*:

“wherein the memory bearing computer readable instructions capable of causing a rendering of a supplemental item renders the supplemental item in two phases, a first phase being an initial transitory animation, followed by a second phase being a persistent or stationary image.”

The Examiner finds Figure 39 illustrates a first area that displays a media stream and a second area displays supplemental content, which, according to Examiner “points to a first phase and a second phase.” Ans. 23. The Examiner further finds that McIntire’s disclosure of depicting the filmography of an actress in response to a signal and also depicting an image of a sweater that the actress is wearing teaches depicting an animation in the first phase and a stationary image in the second phase. Ans. 25 (citing McIntire ¶ 350).

Appellant argues³ “nowhere does McIntire show or suggest that the ‘advertisement’ of FIG. 39 follows the ‘entire animation’ referred to in paragraph 156. That is, nothing in McIntire shows or suggests that the supplemental information has two phases that are rendered in a particular

³ Appellant additionally argues that McIntire does not teach the “superposed” limitation of claim 1. Appeal Br. 8. However, because the identified argument is dispositive of the appeal, we do not reach the merits of this additional argument.

sequence. Rather, paragraph 156 simply makes a general statement that the supplemental information may be an ‘entire animation’ and, in an entirely unconnected and unrelated passage, McIntire shows one particular example of supplemental information in the form of an advertisement.” Appeal Br. 8.

We are persuaded of Examiner error. We do not discern from the disclosures of Figure 39 of McIntire and from its discussion of displaying supplemental information in the form of an actress’ filmography and an image of the sweater being worn that McIntire renders supplemental item in two phases, where the first phase is transitory animation and the second is a persistent or stationary image. In particular, we do not find sufficient evidence that the actress’s filmography or the image of the sweater is a transitory animation followed by a stationary image, nor has the Examiner sufficiently explained how McIntire’s disclosure in this respect teaches how the filmography and/or the image of the sweater teaches a transitory image followed by a stationary image.

Accordingly, we do not sustain the Examiner’s rejection of independent claim 1, or of independent claims 11 and 19, which contain similar limitations and which were rejected on a similar basis. Final Act. 7, 11 and 14. For the same reason, we do not sustain the Examiner’s rejection of claims 2–6, 8–10, 13, 14, 16–18, and 20–24 which depend from one of claims 1, 11 or 19.

Claims 28, 29 and 30

Claims 28, 29 and 30 do not include either the “superposed” limitation or the limitation requiring rendering of a supplemental item in “two phases,” a first phase being an initial transitory animation, followed by a second phase being a persistent or stationary image. *See* Appeal Br. 14–16 (Claims

App.) Appellant's arguments therefore do not apply to these claims. We, therefore, summarily affirm the Examiner's rejections of these claims.

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1, 2, 5, 6, 8–11, 13, 14, 16, 18–20, 22, 24	103(a)	Schneider, McIntire		1, 2, 5, 6, 8–11, 13, 14, 16, 18–20, 22, 24
28–30	103(a)	Schneider, McIntire	28–30	
3, 17, 21	103(a)	Schneider, McIntire, Thomas		3, 17, 21
4, 23	103(a)	Schneider, McIntire, Maracic		4, 23
Overall Outcome			28–30	1–6, 8–11, 13, 14, 16–24

TIME PERIOD FOR RESPONSE

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. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART