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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* BRANT CANDELORE

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Appeal 2018-005797<sup>1</sup>  
Application 14/609,675  
Technology Center 2400

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Before JEAN R. HOMERE, ADAM J. PYONIN, and  
DAVID J. CUTITTA II, *Administrative Patent Judges*.

PYONIN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal pursuant to 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

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<sup>1</sup> Sony Corp. is listed as the real party in interest. App. Br. 2.

## STATEMENT OF THE CASE

### *Introduction*

The Application is directed to a “network that provides content which can be reactive to viewers” by “determining the age/sex of the viewers and evaluating their emotional involvement with the content, and then adapting content to what is being sensed about the viewers.” Spec. ¶ 1. Claims 1–7 and 17–29 are pending, of which claims 1, 20, and 22 are independent. *See* Final Act. 8–12. Claim 1 is reproduced below for reference (formatting and emphasis added):

1. A device comprising:
  - at least one computer readable storage medium having instructions executable by a processor;
  - at least one processor configured for accessing the computer readable storage medium to execute the instructions to configure the processor for:
    - receiving an image of a person viewing a display on which content is being presented;
    - executing image recognition on the image to establish at least first and second parameters of the person;
    - the first parameter including a demographic parameter correlated with a less graphic degree of content, the second parameter including a facial expression indicating the person likes the video content,
      - the first parameter taking precedence over the second parameter;*
      - responsive to the first and second parameters, presenting the less graphic degree of content regardless of the facial expression indicating that the person likes the video content.*

### *References and Rejections*

The following is the prior art relied upon by the Examiner in rejecting the claims on appeal:

Stevens	US 2009/0024925 A1	Jan. 22, 2009
Kandekar	US 2009/0288131 A1	Nov. 19, 2009
Capio	US 2010/0048300 A1	Feb. 25, 2010
Aronsson	US 2013/0283162 A1	Oct. 24, 2013
Oliver	US 2015/0067717 A1	Mar. 5, 2015

Claims 1–6, 20, and 22–24 stand rejected under 35 U.S.C. § 102(a)(1) as being anticipated by Aronsson. Final Act. 4.

Claim 7 stands rejected under 35 U.S.C. § 103 as being unpatentable over Aronsson and Stevens. Final Act. 9.

Claims 17–19 and 21 stand rejected under 35 U.S.C. § 103 as being unpatentable over Aronsson and Kandekar. Final Act. 9.

Claims 25–28 stand rejected under 35 U.S.C. § 103 as being unpatentable over Aronsson, Oliver, and Kandekar. Final Act. 10.

Claim 29 stands rejected under 35 U.S.C. § 103 as being unpatentable over Aronsson and Capio. Final Act. 12.

### ANALYSIS

We have reviewed the Examiner’s rejections in light of Appellant’s arguments, considering only those arguments Appellant actually raised in the Briefs. We adopt the Examiner’s findings and conclusions as our own, and we add the following primarily for emphasis.

Appellant argues the Examiner errs in finding Aronsson anticipates the independent claim 1 requirement that, “responsive to the first and second parameters, a less graphic degree of video content is presented regardless of the facial expression indicating that the person likes the video content.” App. Br. 4. Particularly, Appellant argues the cited portions of Aronsson “do not discuss resolving a conflict between contradictory parameters,”

rather “the goal of Aronsson, [] is to provide what the user likes regardless of whether the user may be in a demographic that should not be presented with content that may not be appropriate for the demographic.” App. Br. 4, 5–6 (citing Aronsson ¶ 75). Appellant further contends that, although Aronsson discloses “prohibitions typically are entered into young peoples’ profiles, they are manually entered nonetheless and thus empirically determined by the user who enters them, not by the computer using the claimed algorithm” as claimed. Reply Br. 2.

We are not persuaded the Examiner errs. Aronsson anticipates the second parameter, as claimed, because Aronsson discloses a sensor module “detects various sensor measurements from a user than can be indicative of a user emotional state in reaction to viewed content, which can include a variety of physical parameters such as facial expressions.” Aronsson ¶ 42. Aronsson anticipates the claimed first parameter, because Aronsson discloses the “sensor module also may include face recognition features, which in addition to emotional state determination, can be employed to determine a user identity (and thus such user features as age and gender).” *Id.*

Aronsson, furthermore, describes resolving a conflict between the first and second parameters, as claimed. *See* Ans. 2–3. Aronsson provides an example where a scene is extended if a user is excited, but “[i]f *however*, a prediction is made that a scene would be inappropriate to a user (such as based on the user age), the metadata may include an associated modification entry to delete the scene.” Aronsson ¶ 44 (emphasis added). The “however” indicates that the user age (first parameter) takes precedence over the detected user excitement (second parameter), regardless of the user’s facial

expression indicating that the person likes the video content. *See* Ans. 3. Any other reading of Aronsson would render the age-based parameters meaningless.

Additionally, Aronsson explains the user profile can include both the user's age and an image "from which a user can be identified by the face detection camera," and age-inappropriate content can be restricted by "outright prohibition" and set by parental controls. Aronsson ¶¶ 69, 72; Ans. 3. An ordinarily skilled artisan would, thus, understand that Aronsson establishes a demographic parameter (e.g., the user's age) based on image recognition (*see* Aronsson ¶¶ 42, 69) in order to apply the relevant controls, regardless of the user's facial expressions (*see* Aronsson ¶¶ 44, 72). *See* Ans. 2–3; *see also In re Preda*, 401 F.2d 825, 826 (CCPA 1968) ("[I]n considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom.") (citation omitted).

We find unpersuasive Appellant's contention that Aronsson's paragraph 75 "resolve[s] the conflict of receiving a favorable facial expression for a scene that is inappropriate for the viewer's demographics." Reply Br. 3. This paragraph provides an example wherein "a user model may have a preference for high action while romance is not preferred," but "a user may have a strong favorable emotional reaction to a romance scene within an action movie," so the system will "determin[e] that the weight of the emotional reaction supersedes the negative preference in the user profile." Aronsson ¶ 75. Contrary to Appellant's arguments, this example has nothing to do with the user's demographics such as age. *See* App. Br. 6.

Instead, this paragraph teaches balancing the user's historical and current facial expressions (i.e., the second parameter). *See* Aronsson ¶¶ 74–76; Ans. 4. Thus, we agree with the Examiner that Aronsson, read as a whole, discloses the first parameter taking precedence over the second parameter.

Accordingly, we are not persuaded the Examiner errs in finding Aronsson discloses the limitations of independent claim 1. Appellant does not provide additional separate arguments for the remaining claims. *See* App. Br. 4, 7. Thus, we sustain the Examiner's rejection of independent claim 1, and claims 2–7 and 17–29 for the same reasons.

#### DECISION

The Examiner's decision rejecting claims 1–7 and 17–29 is affirmed.

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).

AFFIRMED