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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/387,213	02/03/2015	Wim Mooij	14-30222-US	3970
128144	7590	10/01/2019	EXAMINER	
Rimon PC One Embarcadero Center Suite 400 San Francisco, CA 94111			JONES, WILLIAM B	
			ART UNIT	PAPER NUMBER
			2491	
			NOTIFICATION DATE	DELIVERY MODE
			10/01/2019	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte WIM MOOIJ and ANDREW AUGUSTINE WAJS

Appeal 2018-005976
Application 14/387,213¹
Technology Center 2400

Before ELENI MANTIS MERCADER, JASON J. CHUNG, and
SCOTT E. BAIN, *Administrative Patent Judges*.

BAIN, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–14, which constitute all claims pending in the application. Claims 15–18 have been canceled. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

¹ Appellants identify Irdeto B.V. as the real party in interest. App. Br. 2.

BACKGROUND

The Claimed Invention

Appellants' claimed invention relates to digital rights management, and specifically, to controlling access to streamed content. Spec. 1. Claims 1, 13, and 14 are independent. Claim 1 is representative of the invention and the subject matter of the appeal, and reads as follows (with disputed limitations emphasized):

1. A method, implemented by a system of one or more processors, of controlling access to streaming content by a plurality of receivers that are external to the system, the streaming content including a sequence of portions, the method comprising:

for each receiver in the plurality of receivers, providing that receiver with access to first control information for that receiver, *wherein the first control information enables that receiver to access a first portion of the streaming content*, each receiver being provided an individually identifiable version of the first portion of the streaming content;

receiving information identifying one of the plurality of receivers as an identified receiver which is no longer authorized to access the streaming content;

updating the first control information so as to provide updated control information for each receiver, the updated control information being associated with a second portion of the streaming content, wherein the second portion of the streaming content is subsequent to the first portion of streaming content in the sequence of portions of the streaming content;
and

allowing *each receiver to fetch the updated control information* for that receiver;

wherein the updated control information provided for the identified receiver is invalid such that the identified receiver is unable to fully *access* the second portion of the content.

App. Br. 20 (Claims App.) (emphases added).

The Rejections on Appeal

Claims 1–3, 7–11, 13, and 14 stand rejected under pre-AIA 35 U.S.C. § 102(b) as anticipated by Kiayias et al. (US 2010/0043081 A1; published Feb. 18, 2010) (“Kiayias”). Final Act. 6–11.

Claims 4–6 and 12 stand rejected under pre-AIA 35 U.S.C. § 103(a) as unpatentable over Kiayias and Bi et al. (US 2004/0024688 A1; published Feb. 5, 2004) (“Bi”). Final Act. 11–14.

DISCUSSION

We have reviewed the Examiner’s rejections in light of the arguments raised in the Briefs. On the record before us, we cannot sustain the Examiner’s rejections.

Rejection Under pre-AIA 35 U.S.C. § 102(b)

Appellants argue the Examiner erred in finding Kiayias discloses “updated control information” that makes a receiver “unable to fully *access* the second portion of [streamed] content,” as recited in claim 1.² App. Br. 7–12 (emphasis added); Reply Br. 5. Specifically, Appellants argue that although Kiayias discloses a key revocation system whereby a receiver cannot redistribute content associated with the revoked key, such a key revocation system would not (and does not) prevent *access to* a portion of

² Appellants argue all of the claims under this rejection as a group, and we choose claim 1 as representative of the group. 37 C.F.R. § 41.37(c)(1)(iv); App. Br. 7–18.

content, as required by the claim. App. Br. 7–12. Thus, according to Appellants, the keys disclosed in Kiayias cannot be the claimed “control information,” nor can the content itself be “control information” because the Examiner separately mapped the content stream in Kiayias to the “content” in claim 1. Reply Br. 5. We are persuaded by Appellants’ arguments.

The Examiner finds that Kiayias discloses “rebroadcast of embedded (marked) data,” which is “part of the control information supplied in the rebroadcast,” i.e., “*updated* control information.” Ans. 8 (emphasis added); Kiayias ¶¶ 19, 32, 75. The Examiner further finds that, as a result of this “updated” control information, a “next portion” of the content stream would “not be available to the pirate [identified by an iterative marking process] to rebroadcast since the keys could not decrypt that second portion.” Ans. 8; Kiayias ¶¶ 81, 85, Fig. 5. Claim 1, however, does not recite the prevention of *rebroadcasting* content or prevention of *decrypting* keys. Claim 1 recites that the identified receiver is “unable to fully *access*” the second portion of the content. App. Br. 20 (emphasis added). The portions of Kiayias cited by the Examiner describe an iterative method of preventing certain users from rebroadcasting content, App. Br. 11, but not preventing *access* to any portion of the content stream.

For example, Kiayias discloses that “[w]hen a subset [of stream recipients] can no longer be split, this implies that the recipient included in that subset is, with high probability, the recipient corresponding to the unauthorized *distributor*.” Kiayias ¶ 84 (emphasis added). Kiayias then describes that keys are revoked as to that recipient, in order to prevent retransmission (of the content stream already received), *id.* ¶¶ 85–87, but the Examiner does not identify any portion of Kiayias disclosing that the

recipient (i.e., the identified receiver) cannot access the second portion of content. Indeed, the cited portion of Kiayias implies that the broadcast stream is continued, unabated, but as a result of key revocation, a particular receiver no longer will have retransmission ability. *Id.* ¶¶ 81–82.

Disclosing retransmission control (or playback control, or copy control), however, is not the same as disclosing access control as recited in claim 1.

Accordingly, we do not sustain the Examiner’s rejection of claim 1 as anticipated by Kiayias. For the same reasons, we also do not sustain the anticipation rejection of the remaining claims.

Rejection Under pre-AIA 35 U.S.C. § 103(a)

For the reasons discussed above, we do not sustain the obviousness rejection of dependent claims 4–6 and 12, which relies on the same error regarding Kiayias as discussed above.

DECISION

We reverse the Examiner’s decision rejecting claims 1–14.

REVERSED