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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO. Includes application details for 12/200,905 and 141451 7590, inventor Alistair E. Jeffs, attorney DTV208041, examiner ADESANYA, OLUJIMI A, art unit 2658, and notification date 07/01/2020.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ALISTAIR E. JEFFS

Appeal 2018-006677
Application 12/200,905
Technology Center 2600

Before JON M. JURGOVAN, AARON W. MOORE, and
SCOTT E. BAIN, *Administrative Patent Judges*.

MOORE, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant¹ appeals under 35 U.S.C. § 134(a) from a Final Rejection of claims 1, 2, 4–11, 16, 18–23, 29, and 30, which are all of the pending claims. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

THE INVENTION

The application is directed to “a content processing and delivery system and, more specifically, to a system for ordering content using a voice menu system.” (Spec. ¶ 1.) Claim 1, reproduced below, exemplifies the subject matter on appeal:

1. A method of initiating a recording at a user device comprising:
 - communicating between a voice device and a voice menu system using a phone signal through a voice network, wherein said voice menu system is separate from the user device;
 - determining a phone number associated with the voice device from the phone signal;
 - when the phone number is not recognized, generating prompts for inputting an identifying number associated with an account;
 - in response to recognizing the phone number or the identifying number at the voice menu system, generating a first audible voice menu prompt for recording a content selection from the voice menu system;

¹ We caption the case by inventor name according to our convention. “Appellant” refers to the “applicant” defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as The DIRECTV Group, Inc. (*See* Appeal Br. 2.)

selecting a recording content option using a voice command or button push input communicated from the voice device;

generating audible voice menu prompts from the voice menu system for initiating searching content titles by genre from channels that the user device is subscribed to and hiding content titles from channels that the user device is not subscribed to by using a billing system so that a plurality of searchable content titles are obtained;

initiating searching of the searchable content titles by genre by providing an audible voice search command corresponding to a first genre from the voice device to the voice menu system;

audibly presenting a plurality of content titles within the first genre that the user device is subscribed to with a voice signal to the voice device from the voice menu system;

selecting a content title of the plurality of searched content titles by communicating a voice selection signal from the voice device to the voice menu system;

communicating, from a content processing system, a control word having a content location for obtaining the content to the user device for initiating recording content corresponding to the content title;

tuning the user device in response to the control word using the content location from the control word;

receiving the content at the user device from the content location;

storing the content corresponding to the content title in the user device;

after storing, selecting the content to display at the user device; displaying the content at the user device; and

in response to selecting the content to be displayed, billing the user for the content.

THE REFERENCES

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

| | | |
|------------------|--------------------|---------------|
| Levin | US 2003/0061039 A1 | Mar. 27, 2003 |
| Fraser | US 2004/0047453 A1 | Mar. 11, 2004 |
| Cao | US 6,782,550 B1 | Aug. 24, 2004 |
| Kummer et al. | US 2005/0097607 A1 | May 5, 2005 |
| Hendricks et al. | US 7,134,131 B1 | Nov. 7, 2006 |
| Chang | US 2007/0061149 A1 | Mar. 15, 2007 |
| Chen et al. | US 2007/0118857 A1 | May 24, 2007 |

THE REJECTIONS

1. Claims 29 and 30 stand rejected “under 35 U.S.C. [§] 112(a) or 35 U.S.C. [§] 112 (pre-AIA), first paragraph, as failing to comply with the written description requirement.” (Final Act. 9–10.)

2. Claims 1, 5–8, 16, 19, 20, 22, 23, 29, and 30 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Chen, Hendricks, Cao, Fraser, and Chang. (*See* Final Act. 11–31.)

3. Claims 4, 9, 10, and 18 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Chen, Hendricks, Cao, Fraser, Chang, and Kummer. (*See* Final Act. 31–34.)

4. Claims 2, 11, and 21 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Chen, Hendricks, Cao, Fraser, Chang, and Levin. (*See* Final Act. 34–36.)

ANALYSIS

Section 112

The Examiner finds that claims 29 and 30 “recite ‘audibly present[ing] a predetermined number of content titles and, and upon receiving a voice prompt for more content titles, presenting a second plurality of content titles having an amount corresponding to the predetermined number,’” but that “[t]here is no disclosure of this language in applicant’s original disclosure.” (Final Act. 10.) Specifically, the Examiner finds that “[t]here is no disclosure of providing a second plurality of content titles having an amount corresponding to the predetermined number’ i.e. same amount of content as the originally provided number of content.” *Id.* (emphasis omitted).

Appellant argues “it is clear that ‘X’ refers to an amount in the context set forth in claim 29” and that “[c]laim 30 performs a second request for a second amount of content,” which “corresponds to the ‘more titles’ portion of paragraph [0247] of the present disclosure.” (Appeal Br. 8.)

The Examiner responds that “[t]here is no disclosure of the more titles provided (as a result of the selection) being the same number of titles as the originally provided X titles” because “[a]lthough the initial request gives ‘X’ titles like applicant argues, it is not clear that the second/another request for ‘more titles’ gives the same amount of ‘X’ titles as the specification describes providing more titles than the original ‘X’ titles upon request for ‘more titles.’” (Ans. 30–31.) The Examiner finds “no support that all the requests for titles would provide the same amount of ‘X’ titles.” (*Id.* at 31.)

Appellant replies that “the second request is also a voice prompt and therefore may correspond to the statement ‘a number of titles “X” by way of

voice,’ as stated in the first sentence of paragraph [0247]” and that “it is extremely reasonable to consider the ‘second plurality of content titles’ to have an amount corresponding to the predetermined number, e.g., ‘X,’ as set forth in line 1 of paragraph [0247].” (Reply Br. 2.)

We agree with the Examiner, as Appellant does not identify support in the disclosure for the second plurality to have the same amount of titles, and we find it insufficient that it might be “extremely reasonable” for the amounts to be the same. *See Ariad Pharm., Inc. v. Eli Lilly and Co.*, 598 F.3d 1336, 1351 (Fed. Cir. 2010) (explaining that “the specification must . . . show that the inventor actually invented the invention claimed”). The rejection of claims 29 and 30 under Section 112 is, accordingly, sustained.

Section 103

Claim 1

Claim 1 requires, among other things, “audibly presenting a plurality of content titles within the first genre that the user device is subscribed to with a voice signal to the voice device from the voice menu system.” For this feature, the Final Office Action relied on Chang, citing paragraphs 32, 33, 35, 46, 51, 56–58. (*See* Final Act. 7 (“Chang’s system utilizes a voice menu system (para. [0018]) that provides results, and wherein the results are provided at the same time with audio/audible prompts (para. [0033]; para. [0035]) i.e. audio output upon receiving a user voice command.”), 17–19 (“[I]t would have been obvious . . . to incorporate the teachings of Chang . . . in arriving at . . . audibly presenting a plurality of content titles within the first genre.”)).

Appellant argues that Chang “describe[s] a screen display that is generated and thus there is no audible presentation of the plurality of content titles.” (Appeal Br. 13.)

The Examiner responds that “Chang’s system utilizes a voice menu system (para. [0018]) that provides results, and wherein the results are provided at the same time with audio/audible prompts (para. [0033]; para. [0035]).” Ans. 41.

We agree with Appellant. Chang describes a system in which a user may browse a multi-media library. (*See* Chang ¶ 5.) In some embodiments, the user may use voice commands to control the browsing (*see, e.g., id.* ¶¶ 18–23), but Chang does not describe any embodiments in which the *results* of the browsing are presented by a voice signal. Instead, the system operates by updating a list of categories or movies on a screen. In paragraphs 33 and 35 cited by the Examiner, Chang describes how the system may “display[] a search screen and at the same time play[] an audio prompt” and that the “multimedia page can . . . optionally . . . trigger an audio event such as playing an audible system prompt,” but this does not teach or suggest “audibly presenting a plurality of content titles within the first genre that the user device is subscribed to with a voice signal to the voice device from the voice menu system.” The Examiner does not adequately explain how Chang’s “audible prompt” might correspond to “a plurality of content titles” or a “voice signal.”

For this reason, we do not sustain the Section 103 rejection of claim 1 or the same rejection of independent claim 16, which analogously recites that the “voice menu system communicat[es] . . . a plurality of content titles within the first genre the user is subscribed to with a voice signal.” Because

the combination does not render the independent claims obvious, it cannot render their dependent claims obvious either, and the Section 103 rejections of claims 2, 4–11, 18–23, 29, and 30 are also not sustained. We need not, and therefore do not, reach Appellant’s other arguments.

CONCLUSION

The Section 112 rejection of claims 29 and 30 is affirmed. The Section 103 rejection of claims 1, 2, 4–11, 16, 18–23, 29, and 30 is reversed.

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-IN-PART

DECISION SUMMARY

| Claims Rejected | 35 U.S.C. § | Reference(s)/Basis | Affirmed | Reversed |
|------------------------------------|--------------------|---|-----------------|------------------------------------|
| 29, 30 | 112 | Written Description | 29, 30 | |
| 1, 5–8, 16, 19, 20, 22, 23, 29, 30 | 103 | Chen, Hendricks, Cao, Fraser, Chang | | 1, 5–8, 16, 19, 20, 22, 23, 29, 30 |
| 4, 9, 10, 18 | 103 | Chen Hendricks, Cao, Fraser, Chang, Kummer | | 4, 9, 10, 18 |
| 2, 11, 21 | 103 | Chen Hendricks Cao, Fraser, Chang, Levin | | 2, 11, 21 |
| Overall Outcome | | | 29, 30 | 1, 2, 4–11, 16, 18–23, 29, 30 |