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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* PETER AMON, NORBERT OERTEL,  
and BERNHARD AGTHE

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Appeal 2018-007740  
Application 15/416,402  
Technology Center 2400

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Before JAMES R. HUGHES, STEVEN M. AMUNDSON, and  
MICHAEL T. CYGAN, *Administrative Patent Judges*.

CYGAN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant<sup>1</sup> appeals from the Examiner's decision to reject claims 11–30. Appeal Br. 2. We have jurisdiction under 35 U.S.C. § 6(b). On February 25, 2020, Appellant's counsel presented arguments at an oral hearing.

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 Unify GmbH & Co. KG. Appeal Br. 1.

### CLAIMED SUBJECT MATTER

The claimed invention generally relates to a method for mixing at least two video streams. Appeal Br. 2. Each video stream is encoded by an encoder at an “end point,” and the encoded signal is sent to a mixing device. *Id.* The mixing device then creates a synchronization signal that is sent to one of the end points. *Id.* Independent claim 11 is illustrative:

11. A conference system comprising:

- a first end point;
- a second end point; and
- a mixing device;

the first end point configured to generate a first video stream comprising a first temporal sequence of frames, the first end point configured to send the first temporal sequence of frames to the mixing device;

the second end point configured to generate a second video stream comprising a second temporal sequence of frames, the second end point configured to send the second temporal sequence of frames to the mixing device; and

the mixing device configured to derive a synchronization signal from at least one of: the first temporal sequence of frames, the second temporal sequence of frames, and a timing signal, the mixing device configured to send the synchronization signal to at least one of the first end point and the second end point so that subsequent frames of the first temporal sequence and subsequent frames of the second temporal sequence sent to the mixing device are synchronized with each other via synchronized encoding of the first and second subsequent frames by the first and second end points.

Appeal Br. 39 (Claims App.).

Independent claim 17 recites an apparatus, and claim 23 a method, similar in scope to claim 11. Appeal Br. 41, 43 (Claims App.) Dependent

claims 12–16, 18–22, and 24–30 each incorporate the limitations of their respective independent claims. *Id.* at 39–45.

#### REFERENCES

Name	Reference	Date
Shiojiri et al. (Shiojiri)	US 5,550,589	Aug. 27, 1996
Cooper	US 2006/0018379 A1	Jan. 26, 2006
Michener et al. (Michener)	US 2006/0248559 A1	Nov. 2, 2006
Labrozzi et al. (Labrozzi)	US 2011/0235703 A1	Sept. 29, 2011
Amon et al. (Amon I)	WO 2009/049974 A2	Apr. 23, 2009

#### REJECTIONS

Claims 11–13, 15–17, 20–25, 27, 29, and 30 are rejected under pre-AIA 35 U.S.C. § 103(a) as being obvious over the combined teachings and suggestions of Cooper and Michener.

Claim 26 is rejected under pre-AIA 35 U.S.C. § 103(a) as being obvious over the combined teachings and suggestions of Cooper, Michener, and Labrozzi.

Claims 14, 18, 19, and 28 are rejected under pre-AIA 35 U.S.C. § 103(a) as being obvious over the combined teachings and suggestions of Cooper, Michener, and Amon I.

Claims 11–13, 15–17, 20–25, 27, 29, and 30 are rejected under pre-AIA 35 U.S.C. § 103(a) as being obvious over the combined teachings and suggestions of Cooper and Shiojiri.

Claim 26 is rejected under pre-AIA 35 U.S.C. § 103(a) as being obvious over the combined teachings and suggestions of Cooper, Shiojiri, and Labrozzi.

Claims 14, 18, 19, and 28 are rejected under pre-AIA 35 U.S.C. § 103(a) as being obvious over the combined teachings and suggestions of Cooper, Shiojiri, and Amon I.

#### OPINION

Appellant first argues that the Examiner's reliance on Cooper is inconsistent with a prior Board decision in Appeal No. 2014-009123 (the '9123 appeal). In that '9123 appeal, on related patent application number 13/143,628, the Board addressed a rejection made over Cooper and Amon I. As highlighted by Appellant, the Board stated that Cooper did not teach or suggest a mixing device that sends a synchronization signal to an end point. '9123 appeal 4-5; Appeal Br. 18. However, the Examiner in this case does not rely on Cooper for any such teaching. Ans. 35-36. Consequently, the Board's finding with respect to Cooper in the '9123 appeal is undisturbed by the rejections under appeal, and Appellant does not show error with respect to Cooper in those rejections.

Furthermore, the ultimate conclusion of obviousness in the '9123 appeal, was determined over the combinations of Cooper and Amon I, or Cooper, Amon I, and Labrozzi. In the instant appeal, each obviousness rejection relies in part on references, such as Michener or Shiojiri, which were not at issue in the '9123 appeal. The Board's prior decision in the '9123 appeal presents a conclusion of obviousness that does not directly speak to the different claims and combinations of art applied in the instant

appeal. Accordingly, we are not persuaded of error based upon the prior decision in the '9123 appeal.

Appellant further argues, *inter alia*, that no combination of references teaches synchronizing frames “with each other.” Appeal Br. 23–24. Appellant provides dictionary definitions of “synchronization” to support a meaning of “to cause to indicate the same time or period,” “to cause to agree in time of occurrence,” “to cause to occur or operate at the same time as something else,” and “cause to remain identical in more than one location.” *Id.* at 23.

We find this argument persuasive. The Examiner states that Cooper teaches synchronization of reset signals for the video encoders 709, such that the video frames are staggered by a certain amount of time such that they correspond with each other in a time-offset manner. Ans. 45, 64. However, the claims require that the frames, not the reset signals for the encoders, be synchronized “with each other.” Appellant’s proffered dictionary definitions of “synchronization” are in accord with the usage of the term in the Specification. The Specification explains that a non-synchronized process causes frames to be “shifted in time with respect to each other,” but that the synchronized process “can calculate the time offset of the input data streams [and] eliminate the calculated offset by means of the synchronization.” Spec. 6, 10. Accordingly, we do not agree with the Examiner that Cooper’s time-staggered video frames teach or suggest video frames that are synchronized with each other.

Furthermore, the Examiner does not explain how any of Michener, Labrozzi, Amon I, or Shiojiri provides the missing teaching of “subsequent frames of the first temporal sequence and subsequent frames of the second

temporal sequence sent to the mixing device are synchronized with each other.” Consequently, we reverse the Examiner’s rejection of independent claims 11, 17, and 23, reciting that limitation, and claims 12–16, 18–22, and 24–30 depending therefrom.

**CONCLUSION**

For the above-described reasons, we reverse the Examiner’s rejections of claims 11–30 as being obvious under pre-AIA 35 U.S.C. § 103(a).

**DECISION SUMMARY**

In summary:

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>References/Grounds</b>	<b>Affirmed</b>	<b>Reversed</b>
11–13, 15–17, 20–25, 27, 29, 30	103(a)	Cooper, Michener		11–13, 15–17, 20–25, 27, 29, 30
26	103(a)	Cooper, Michener, Labrozzi		26
14, 18, 19, 28	103(a)	Cooper, Michener, Amon I		14, 18, 19, 28
11–13, 15–17, 20–25, 27, 29, 30	103(a)	Cooper, Shiojiri		11–13, 15–17, 20–25, 27, 29, 30
26	103(a)	Cooper, Shiojiri, Labrozzi		26
14, 18, 19, 28	103(a)	Cooper, Shiojiri, Amon I		14, 18, 19, 28
<b>Overall Outcome</b>				11–30

REVERSED