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Brian J Dorini InterDigital CE Patent Holdings 4 Research Way 3rd Floor Princeton, NJ 08543			CHU, WUTCHUNG	
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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* JEAN-BAPTISTE HENRY

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Appeal 2018-008076  
Application 11/918,546  
Technology Center 2400

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Before JENNIFER S. BISK, LARRY J. HUME, and  
JULIET MITCHELL DIRBA, *Administrative Patent Judges*.

BISK, *Administrative Patent Judge*.

DECISION ON APPEAL<sup>1</sup>

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<sup>1</sup> Throughout this Decision we have considered the Specification filed October 15, 2007 (“Spec.”), the Final Rejection mailed October 18, 2017 (“Final Act.”), the Appeal Brief filed April 17, 2018 (“Appeal Br.”), and the Examiner’s Answer mailed May 30, 2018 (“Ans.”). Appellant did not file a Reply Brief.

## STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant<sup>2</sup> appeals from the Examiner's decision to reject claims 1–5, 7, 8, 10, 12–14, 16, 18–21, and 23–26. Claims 6, 9, 11, 15, 17, and 22 have been canceled. Appeal Br. 17–30 (Claims App.). We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

## BACKGROUND

Appellant's disclosed embodiments and claimed invention relate to an apparatus and method for distribution of digital television within a house. Spec. 1:5–6. Claim 1, reproduced below, is illustrative of the subject matter on appeal:

1. A method of requesting a redistribution of digital broadcast multimedia streams by a client device among client devices connected to a local area network, wherein said local area network comprises a broadcast streams redistribution device, said broadcast streams redistribution device being configured to receive, from at least one digital data stream reception module, said digital broadcast multimedia streams and being further configured to redistribute the received digital broadcast multimedia streams to said client devices on the local area network, the method being implemented by said client device, said method comprising:

receiving a list of digital broadcast multimedia streams accessible to the client device from the broadcast streams redistribution device;

sending a query, requesting a redistribution via a stream player in said redistribution device, to said client device

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<sup>2</sup> 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 THOMSON LICENSING. Appeal Br. 3.

of a digital broadcast multimedia stream by said broadcast streams distribution device and selected by said client device from said list received, wherein the query comprises a level of priority associated with the query, said broadcast streams redistribution device using said level of priority to settle conflicts when choosing a query to be privileged when said at least one digital data stream reception module cannot receive all digital broadcast multimedia streams requested by the client devices of the local area network.

Appeal Br. 26 (Claims App.).

#### REFERENCES AND REJECTIONS

Claims 1–5, 7, 8, 10, 12–14, 16, 18–21, and 23–26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of US 2006/0074810 A1, published April 6, 2006 (“Verberkt”), WO 03/096699 A1, published Nov. 20, 2003 (“Bachet”), and US 2005/0213502 A1, published Sept. 29, 2005 (“Convertino”). Final Act. 3–13.

#### ANALYSIS

We review the appealed rejections for error based upon the issues identified by Appellant, and in light of the arguments and evidence produced thereon. *Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential). To the extent Appellant has not advanced separate, substantive arguments for particular claims, or other issues, such arguments are waived. 37 C.F.R. § 41.37(c)(1)(iv).

We have considered all of Appellant’s arguments and any evidence presented. We highlight and address specific findings and arguments for emphasis in our analysis below.

*Rejection of Claims under 35 U.S.C. § 103*

The Examiner finds that claim 1 would have been obvious over the combination of Verberkt, Convertino, and Bachet. Final Act. 3–6. Specifically, the Examiner cites to Vreberkt as teaching the bulk of the limitations, but relies on Bachet as teaching or suggesting “at least one digital data stream reception module cannot receive all digital broadcast multimedia streams requested by the client devices of the local area network,” and on Convertino for teaching “a redistribution, via stream player in said redistribution device.” *Id.* at 5–6 (citing Bachet 58:20–59:2; Convertino Fig. 2, ¶¶ 29–30, 77).

Appellant argues that “Convertino does not disclose a redistribution of digital broadcast multimedia stream to client devices in a local network,” but “merely teaches streaming extracted and reduced information.” Appeal Br. 14. In addition, Appellant argues that the Examiner’s reliance on Verberkt as disclosing redistributing content in the original format “is based on inadmissible hindsight” because Verberkt “merely describes” that the network may use any communication protocol. Appeal Br. 14–15 (citing Verberkt ¶ 35).

These arguments do not persuade us of reversible error in the Examiner’s rejection. First, we note that claim 1 does not require redistribution to be “in the original format.” In fact, the Specification uses the term “redistribution” only once and does not explicitly define the term. Spec. 1:13–15 (“The architecture presently under consideration calls upon a broadcasting gateway enabling the reception of broadcast multimedia services and their redistribution with the household via a domestic network.”). Moreover, the term “distribution,” used throughout the

Specification, is defined broadly as “distribution of services on an IP network.” *Id.* 5:9–12 (“In this document . . . the term distribution will be reserved to distribution of services on an IP network.”). Appellant does not point to any language in the claim or the Specification that limits the term “redistribution” to content in the original format or excludes distributing extracted and reduced information. Second, the Examiner points to the *combination* of Verberkt and Convertino for teaching redistribution of content. Final Act. 3 (citing Verberkt ¶¶ 34–36, 38–40), 6 (citing Convertino Fig. 2, ¶¶ 29–30, 77); Ans. 3–4. Thus, Appellant’s arguments do not address the rejection as articulated by the Examiner.

Appellant also argues that “the alleged obviousness of the claimed subject-matter through a combined teaching of Verberkt and Convertino would be illogical since Verberkt’s alleged teaching of ‘in original format’ conflicts with Convertino’s loss of information.” Appeal Br. 15. This argument does not persuade us of reversible error in the Examiner’s rejection. Appellant does not explain further or point to any evidence supporting the conclusion that a person of ordinary skill in the art would find the combination of Verberkt and Convertino to be illogical. Appellant also does not address the Examiner’s reliance on Convertino, itself, as supporting the combination of the two references. Final Act. 6 (citing Convertino ¶ 77); Ans. 4.

Finally, Appellant argues that Verberkt does not teach or suggest a level of priority associated with a query for a broadcast stream. Appeal Br. 15. Instead, Appellant argues that Verberkt teaches only that priorities are used to restrict consumers from requesting content. *Id.* (citing Verberkt ¶ 42).

The Examiner responds that Verberkt teaches that requests of consumers are associated with priorities and therefore teaches the recited limitation. Ans. 5. We agree with the Examiner that Verberkt at least suggests that the query requesting redistribution includes a priority level that can be used to settle conflicts between consumers because it discloses that content is only restricted if a conflict between consumers occurs “[w]hen a content request is received.” Verberkt ¶ 42. Thus, we agree with the Examiner that Verberkt teaches or suggests “wherein the query comprises a level of priority associated with the query, said broadcast streams redistribution device using said level of priority to settle conflicts when choosing a query to be privileged when said at least one digital data stream reception module cannot receive all digital broadcast multimedia streams requested by the client devices of the local area network.”

Accordingly, Appellant’s arguments do not persuade us of reversible error in the Examiner’s rejection of claim 1.

Appellant’s brief has a separate section arguing the patentability of independent claim 10. Appeal Br. 17–21. This section, however, makes the same arguments as those made for the patentability of claim 1. *Compare id.* at 13–16 *with id.* at 17–21. Appellant relies on these same arguments as well for independent claims 12, 16, and 26. *Id.* at 21–23. For the same reasons discussed above, these arguments do not persuade us of reversible error in the Examiner’s rejection of independent claims 10, 12, 16, and 26. Appellant does not make any additional arguments for the dependent claims. *See id.* at 16–17, 21, and 22. Thus, we also are not persuaded of reversible error in the Examiner’s rejection of dependent claims 2–5, 7, 8, 13, 14, 18–21, and 23–25.

CONCLUSION

We affirm the Examiner's rejection of claims 1–5, 7, 8, 10, 12–14, 16, 18–21, and 23–26 under 35 U.S.C. § 103.

DECISION SUMMARY

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>References/Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1–5, 7, 8, 10, 12–14, 16, 18–21, 23–26	103	Verberkt, Bachet, Convertino	1–5, 7, 8, 10, 12–14, 16, 18–21, 23–26	

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). *See* 37 C.F.R. § 41.50(f).

AFFIRMED