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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SILENCEUX FRANCOIS

Appeal 2018-008173
Application 14/993,164
Technology Center 2100

Before MICHAEL J. STRAUSS, ADAM J. PYONIN, and
DAVID J. CUTITTA II, *Administrative Patent Judges*.

STRAUSS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE¹

Pursuant to 35 U.S.C. § 134(a), Appellant² appeals from the Examiner's decision to reject claims 1–20. Final Act. 1. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

¹ We refer to the Specification, filed January 12, 2016 as amended on May 30, 2017 (“Spec.”); Final Office Action, mailed October 5, 2017 (“Final Act.”); Appeal Brief, filed January 5, 2018 (“Br.”); and Examiner's Answer, mailed May 31, 2018 (“Ans.”).

² 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 the inventor, Silenceux Francois. Appeal Br. 1.

CLAIMED SUBJECT MATTER

The claims are directed to linking a video snippet to an individual instruction of a multi-step procedure of performing a cooking recipe. Spec., Title. Claim 1, reproduced below with a disputed limitation emphasized in *italics*, is illustrative of the claimed subject matter:

1. A method for video snippets within a multi-step procedure comprising:

identifying, via a computing device comprising hardware and circuitry, an instruction (314) of a multi-step procedure, wherein the instruction (314) is a directive for performing an action associated with the multi-step procedure, wherein the multi-step procedure is a cooking recipe comprising an ordered set of instruction (314) s, wherein the instruction (314) comprises text, providing words detailing the instruction (314) ;

presenting, via the computing device, within a graphical user interface (GUI) each separate one of the steps of the multi-step procedure by providing a text field showing a respective one of the text for the instruction (314) of the respective within the GUI, wherein the GUI provides a user selectable option to designate a video segment that corresponds to a selected one of the respect steps of the multi-step procedure;

receiving, via the computing device, a user selection of the selected one of the steps of the multi-step procedure;

responsive to the user selection, selecting, via the computing device, a user selected video segment via the GUI that is stored within a data store, wherein the user selected video segment is a discrete video file for the respective step that comprises of a start index and an end index unique to the video segment, *wherein the time difference between the start index and end index conforms to a previously established length threshold, wherein the length of the previously established length threshold is a duration of five seconds ensuring the video segment is five seconds or less;*

checking, via the computing device, a duration of the user selected video segment determine if the user selected video segment exceeds the previously established length threshold;

when the length threshold is exceeded per the checking, prompting, via the computing device, the user to select a shorter video segment until one having a duration less than or equal to the previously established length threshold is selected;

once the user selected video segment has been checked as not exceeding the previously established length threshold, linking, via the computing device, the discrete video file of the video segment to the respective step and to the respective text of the respective instruction (314) of the multi-step procedure, wherein the linking, by the computing device, comprises creating of a pointer to the discrete video file and storing the text of the respective step, wherein the pointer and the stored text is stored within a non-transitory computer readable medium indexed against the respective step of the multi-step procedure; and

repeating, via the computing device, the presenting, receiving, selecting, checking and linking steps for at an additional one of the steps of the multi-step procedure, wherein the method permits future accessing of the stored multi-step process to be presented in an accessing user's GUI by step, wherein for each step, the user's accessing GUI provides an option to playback the discrete video file if any stored for that respect step of the multi-step procedure.

REFERENCE

The prior art relied upon by the Examiner is:

Park US 2014/0272817 A1 Sept. 18, 2014

REJECTIONS

Claims 1–20 stand rejected under 35 U.S.C. § 112(a), as failing to comply with the written description requirement. Final Act. 2–3.

Claims 1–20 stand rejected under 35 U.S.C. § 102(a)(1) as being anticipated by Park. Final Act. 3–9.

ANALYSIS

We have reviewed the Examiner's rejections in light of Appellant's arguments the Examiner has erred. We agree with Appellant's conclusions as to the rejections of the claims.

35 U.S.C. § 112(a)

The Examiner finds Appellant's Specification fails to provide a sufficient written description of the limitation "wherein the length of the previously established threshold is a duration of five seconds ensuring the video segment is five seconds or less." Final Act. 2. Appellant incorporated the disputed limitation into independent claims 1, 10, and 20 by an Amendment filed May 30, 2017. According to the Examiner "there appear to be a plurality of time frames for the [video] snippet included within the Specification but Examiner can not find anything supporting establishing the threshold at that length and ensuring that **all** video segments would be that link or less." *Id.* at 3. The Examiner notes ensuring that all video segments are no longer than the five second threshold value as described at paragraph 23 of the Specification is "contradicted" by Appellant's disclosure of alternative maximum segment lengths of two and seven second. *Id.*

Appellant argues "it appears as though the Examiner is attempting to read limitations into the claims from the specification, which is improper." Br. 12. Appellant directs attention to both claim 2 and text appearing at paragraph 21 of the Specification³ as originally filed for disclosing the disputed threshold duration of five seconds. *Id.* at 15–16.

Appellant's argument is persuasive. Claim 2 as originally filed recited

³ Although Appellant cites to paragraph 18 (Br. 16), the quoted text appears in paragraph 21 of the Specification.

“[t]he method of claim 1, wherein the threshold is a duration of five seconds.” Similarly, paragraph 21 of the Specification as originally filed disclosed “permit[ing] users to . . . link a short video of less than five seconds to an instruction of the recipe.” Although the Examiner appears to base the rejection on a failure of the Specification to disclose limiting all video segments to the recited five-second threshold limit, we agree with Appellant the claims are not so limited. Instead, the independent claims only require checking the duration of user selected video segments to identify those exceeding a five-second threshold; the Examiner has not shown the claim requires all linked videos to be within this threshold. Thus, the claim does not exclude other activities that might link to video segments longer than the recited five-second threshold. Accordingly, we find the Specification including claim 2 as originally filed provides sufficient written description support for the disputed limitation of the independent claims. Therefore, we do not sustain the rejection of claims 1–20 under 35 U.S.C. § 112(a).

35 U.S.C. § 102(a)(1)

The Examiner finds Park anticipates independent claim 1. Final Act. 3–5. According to the Examiner, Park’s disclosure of selecting timed video segments discloses the disputed five-second segment length threshold. *Id.* at 4. Appellant contends Park’s videos correspond to real-time cooking activities and, as such, not only fail to disclose the claimed five-second threshold limit, but suggest video segments of longer duration. Br. 16. Appellant argues nowhere in the portions of Park cited by the Examiner can there be found an express or inherent teaching of the disputed limitation. *Id.* at 17. The Examiner responds, finding “Park allows a user to select a video

of any size to include within a recipe” so that “a user could indeed select a very short cooking recipe involving only one step, some type of preparation, etc[.] that would consist of a video five seconds or less in length.” Ans. 4–5. According to the Examiner “it is reasonable to believe that one of ordinary skill in the art would recognize that the length of videos could come in many lengths including those [of] five seconds or less.” *Id.* at 5.

We agree the Examiner erred in rejecting the claims as anticipated under 35 U.S.C. § 102(a)(1). In order to anticipate under 35 U.S.C. § 102, a prior art reference must disclose all elements of the claim within the four corners of the document (whether expressly or inherently) arranged as in the claim. *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548 (Fed. Cir. 1983). The Examiner fails to identify any express or inherent disclosure by Park of the disputed five-second threshold. Although it may be reasonable to limit video segments to the claimed five seconds (*cf.* Ans. 5), such analysis is insufficient to support a finding of anticipation, as the Examiner fails to identify any portion of Park disclosing the specific maximum segment length according to the claims. Thus, the Examiner has not provided sufficient evidence the prior art discloses the disputed limitation wherein the time difference between the start index and end index conforms to a previously established length threshold, wherein the length of the previously established length threshold is a duration of five seconds ensuring the video segment is five seconds or less.

Because we agree with at least one of the arguments advanced by Appellant, we need not reach the merits of Appellant’s other arguments. Accordingly, we do not sustain the rejection of independent claim 1 or, for the same reasons, the rejection of independent claims 10 and 20 under

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35 U.S.C. § 102(a)(1) as being anticipated by Park or the rejection of dependent claims 2–9 and 11–19 which stand with their respective base claims.

DECISION

We reverse the Examiner’s decision to reject claims 1–20 under 35 U.S.C. § 101.

We reverse the Examiner’s decision to reject claims 1–20 under 35 U.S.C. § 102(a)(1).

Claims Rejected	Basis	Affirmed	Reversed
1–20	35 U.S.C. § 112(a)		1–20
1–20	35 U.S.C. § 102(a)(1)		1–20
Overall Outcome			1–20

REVERSED