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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ARJUN CHOLKAR, ANTHONY JONES,
IBRAHIM DOGRU, and DON GILCHRIST

Appeal 2019-000689
Application 14/486,485
Technology Center 2100

Before ELENi MANTIS MERCADER, NORMAN H. BEAMER,
and GARTH D. BAER, *Administrative Patent Judges*.

BEAMER, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant¹ appeals under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1–3, 5–13, 15–19, 21, 24, and 25. We have jurisdiction over the pending rejected claims under 35 U.S.C. § 6(b).

We REVERSE.

¹ We use the word “Appellant” to refer to “applicant” as defined in C.F.R. § 1.42. Appellant identifies the real party in interest as GENBAND US LLC. (Appeal Br. 3.) 37

THE INVENTION

Appellant's disclosed and claimed invention is directed to a conversation manager used to manage multimedia conversations between different devices associated with different users. (Spec. ¶ 26.)

Independent claim 1, reproduced below, is illustrative of the subject matter on appeal:

1. A method performed by a client computing system in a communications network, the method comprising:

within a Graphical User Interface (GUI), displaying a contact list and a conversation container to a user, the contact list including a plurality of contact objects, the conversation container being an active object used to represent an ongoing conversation;

receiving input from a user through the GUI, the input instructing the client computing system to move a first contact object from the plurality of contact objects over the conversation container and drop the first contact object into the conversation container;

in response to dropping the first contact object into the conversation container, instructing a server to open a first communication session between the client system and a first device associated with the one of the contact objects, the first communication session being of a voice-only media type;

engaging in communication through the first communication session with the first device; and

receiving input from a user indicating a request to add a second communication session of a video media type, the video media type using a different communication protocol than the voice-only media type.

REJECTIONS

The Examiner rejected claims 1–3, 5, 7, 8, 12, 13, 17–19, 21, 24, and 25 under 35 U.S.C. § 103 as being unpatentable over Yoakum et al. (US 2013/0066974 A1, pub. Mar. 14, 2013) (hereinafter “Yoakum”) and Yin et al. (US 8,681,203 B1, iss. Mar. 25, 2014) (hereinafter “Yin”). (Final Act. 4.²)

The Examiner rejected claim 6 under 35 U.S.C. § 103 as being unpatentable over Yoakum, Yin, and Sue Waters, *The Complete Educator’s Guide to Using Skype effectively in the classroom*, Edublogs, 2–10 (April 2011) (hereinafter ‘Waters’). (Final Act. 8.)

The Examiner rejected claims 9–11, 15, and 16 under 35 U.S.C. § 103 as being unpatentable over Yoakum, Yin, and Apple, *iPhone User Guide For iOS 4.2 and 4.3 Software*, 2–273 (March 2011) (hereinafter “Apple”). (Final Act. 9.)

ISSUE ON APPEAL

Appellant’s arguments in the Appeal Brief present the following issue:³

² The heading of the rejection incorrectly lists claims 4, 14, 20, 22, and 23 as rejected, whereas these claims were canceled in Amendments filed on Feb. 2, 2017 and June 30, 2017. *See* Final Act. 4.

³ Rather than reiterate the arguments of Appellant and the positions of the Examiner, we refer to the Appeal Brief (filed June, 1, 2018, hereinafter “Appeal Br.”); the Reply Brief (filed Nov. 5, 2018, hereinafter “Reply Br.”); the Final Office Action (mailed Dec. 1, 2017, hereinafter “Final Act.”); and the Examiner’s Answer (mailed Sept. 5, 2018, hereinafter “Ans.”) for the respective details.

Whether the Examiner erred in finding the combination of Yoakum and Yin teaches or suggests

receiving input from a user indicating a request to add a second communication session of a video media type, the video media type using a different communication protocol than the voice-only media type,

as recited in independent claim 1, and the commensurate limitations recited in independent claims 12 and 18. (Appeal Br. 8–13; *see also* Reply Br. 2–7.)

ANALYSIS

In finding that the combination of Yoakum and Yin teaches or suggests the independent claim 1 limitation at issue, the Examiner relies on Yoakum’s disclosure of user interface allowing a first participant to select a second participant identifier from a contact list to initiate a conference with the second participant. Yoakum illustrates the disclosure in the context of a telephone conference using audio media streams, and additionally discloses the media streams may include any combination of audio, video, text chat, or other media. (Final Act. 4–5; Yoakum Fig. 2A, ¶¶ 67, 44.)

The Examiner further relies on Yin’s disclosure of (1) a video conference user interface that controls audio and video streams and includes a video control button 126 that enables a user to manually block the video input from the user’s computing device, and (2) a web application that may be configured for the H.264 video standard and the G.711 audio standard. (Final Act. 5; Ans. 3–8; Yin Fig. 4, 24:23–24, 26:34–52.)

Appellant first argues that the “Examiner’s claim interpretation is inconsistent with the specification.” (Reply Br. 3.) Appellant contends that

Appellant’s specification gives some examples of communication protocols. “Specifically, the conversation manager may use VoIP, Real-time Transfer Protocol (RTP), Session Initiation Protocol (SIP), Short Message Service (SMS), Hypertext Transfer Protocol (HTTP), and other communication protocols.”

(Reply Br. 3, quoting Spec. para 25.) Appellant additionally contends that the disclosure also describes communication protocols as “transmission protocols such RTP, SIP, and HTTP.” (Reply Br. 4, quoting para 31.)

According to Appellant,

construing “communication protocols” to mean codecs, which are used to encode data rather than transmit data, is inconsistent with the term “communication protocol” as used in the specification.

(Reply Br. 4.)

We agree with Appellant. The Examiner finds that

[a] computer network consists of seven layers and different protocols are used in different layers. For example, protocol RTP runs at transport layer, protocol G.711 or H.264 runs at presentation layer to compress the data

(Ans. 5–6, emphasis in original), and that

one of the core function[s] of [the] “presentation layer” is to do the **data compression** and protocol[s] G.711 and H.264 [are protocols] that compress the data and run[] at [the] presentation layer.

(Ans. 6, emphasis in original.)

We do not agree with the Examiner that the G.711 (audio) and H.264 (video) are encompassed by the claimed “communication protocols.” Both the G.711 and H.264 standards (or protocols) are used to compress and encode data. While data compression protocols may be included in the

layers of the Open Systems Interconnection (network) model, the G.711 and H.264 protocols are also used to encode data not necessarily intended for transmission over a network, such as audio or video intended for physical storage on a hard drive, solid-state drive, or digital disc. Appellant's examples of "communication" or "transmission" protocols, while not strictly limiting, establishes the claimed "communication protocols" are used for the transmission of data after any encoding has occurred.

Appellant also argues that "Yin does not teach that button 126 adds a second communication session using a different protocol as asserted by the Action" (Reply Br. 6), and that

the Action merely assumes without support that if the button blocks video, it unblocks video. Regardless of whether the Examiner is correct, Yin would still not teach adding a second communication because "unblocking" video teaches nothing about adding a second communication session.

(Reply Br. 7, citing Yin 24:23–25.)

We also agree Appellant. The Examiner finds that

Yin teaches by clicking on element 126 (camcorder icon), user is able to add video [equivalent to un-block] to the existing communication and also remove video [equivalent to block] from the existing communication.

(Ans. 5.) We cannot find support in Yin for the Examiner's finding as the portions of Yin that describe control button 126 do not refer to an un-blocking operation. (*See* Yin Fig. 4, 24:15–28.)

While one skilled in the art would consider a second press of control button 126 as a logical choice (from a user-interface perspective) to un-block video blocked by the first press of control button 126, Yin appears silent as any operations performed as a result of a second press of control button 126.

If a second press of the control button were to actually un-block video, Yin is additionally silent regarding whether a new communication session would be added. None of the remaining references appear to cure this deficiency.

Accordingly, we are constrained by the record to reverse the Examiner's rejections of independent claim 1, as well as independent claims 12 and 18 commensurate in scope, and all dependent claims.

CONCLUSION

For the reasons stated above, we affirm the obviousness rejections of claims 1–3, 5–13, 15–19, 21, 24, and 25.

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1–3, 5, 7, 8, 12, 13, 17–19, 21, 24, 25	103	Yoakum, Yin		1–3, 5, 7, 8, 12, 13, 17–19, 21, 24, 25
6	103	Yoakum, Yin, Waters		6
9–11, 15, 16	103	Yoakum, Yin, Apple		9–11, 15, 16
Overall Outcome				1–3, 5–13, 15–19, 21, 24, 25

REVERSED