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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte FANG LIU and PEIYING HUO

Appeal 2019-000977
Application 14/726,110
Technology Center 2400

Before ALLEN R. MacDONALD, DEBRA K. STEPHENS, and
DAVID J. CUTITTA II, *Administrative Patent Judges*.

CUTITTA, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision to reject claims 1–25, all the pending claims in the present application. We have jurisdiction over the pending claims under 35 U.S.C. § 6(b).

We AFFIRM.

STATEMENT OF THE CASE

Invention

¹ 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 ADOBE SYSTEMS INCORPORATED. Appeal Br. 3.

Appellant’s invention relates to “providing video scrubbing based on a thumbnail video player feature.” Spec. ¶ 3.² According to Appellant, “[a] thumbnail video player refers to a video player that is generated to facilitate video scrubbing.” Spec. ¶ 14. “In particular, the thumbnail video player plays back continuous and uninterrupted thumbnail video based on a video player platform. Advantageously, the thumbnail video can be played back adjacent to a timeline as a user traverses the timeline to locate a portion of video content.” *Id.*

Exemplary Claims

Claims 1, 8, and 17 are independent claims. Claims 1 and 4 are exemplary and are reproduced below with limitations at issue italicized.

1. One or more computer storage media having computer-executable instructions embodied thereon that, when executed, by one or more processors, causes the one or more processors to perform a method for providing video scrubbing using thumbnail players, the method comprising:

accessing a video player package, the video player package comprising *a play list having variants, wherein a video content variant of the variants is accessible by a first video player for a video player feature, and wherein a thumbnail video variant of the variants is accessible by a second video player for a thumbnail video player feature;*

generating the first video player as a video player for accessing video content using the video content variant, based on the playlist having the video content variant, wherein the

² This Decision refers to: (1) Appellant’s Specification (“Spec.”) filed May 29, 2015; (2) the Non-Final Office Action (“Non-Final Act.”) mailed October 18, 2017; (3) the Appeal Brief (“Appeal Br.”) filed August 1, 2018; and (4) the Examiner’s Answer (“Ans.”) mailed September 27, 2018; and (5) the Reply Brief (“Reply Br.”) filed November 15, 2018.

video player is configured to access the video content variant and the thumbnail video variant;

receiving an indication to review the video content; and

generating the second video player as a thumbnail video player, different from the video player, for accessing thumbnail video using the thumbnail video variant, based on the playlist having the thumbnail video variant, wherein the thumbnail video player is configured to access the video content variant and the thumbnail video variant.

4. The media of claim 1, *wherein the thumbnail video player is implemented with an adaptive bit rate (ABR) policy that instructs the thumbnail video player to exclusively access thumbnail video variants in the playlist.*

Appeal Br. 15, 16 (Claims Appendix).

REJECTIONS AND REFERENCES

The Examiner rejects claims 1–22, 24, and 25 under 35 U.S.C. § 103 as obvious over Yamada et al. (US 2008/0292267 A1, published Nov. 27, 2008) (“Yamada”) and Chauvier et al. (US 2013/0071095 A1, published Mar. 21, 2013) (“Chauvier”). Non-Final Act. 2–10.

The Examiner rejects claim 23 under 35 U.S.C. § 103 as obvious over Yamada and Chauvier in view of Yun et al. (US 2007/0189717 A1, published Aug. 16, 2007) (“Yun”). *Id.* at 11.

ANALYSIS

We review the appealed rejections for error based upon the issues identified by Appellant and in light of Appellant’s arguments and evidence.

Ex parte Frye, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential).

Arguments not made are waived. *See* 37 C.F.R. § 41.37(c)(1)(iv) (2017).

Claim 1

We are not persuaded the Examiner’s rejection of claim 1 is in error. We adopt the Examiner’s findings and conclusions as our own, and we add the following primarily for emphasis.

Issue 1: Does the Examiner err in finding the cited combination of Yamada and Chauvier teaches or suggests “generating the second video player as a thumbnail video player, different from the video player, for accessing thumbnail video using the thumbnail video variant,” as recited in independent claim 1?

The Examiner finds the combination of Yamada and Chauvier teaches the limitation at issue. Non-Final Act. 3–4; Ans. 3–4 (citing Yamada ¶¶ 242–244, 247, 267–270, Fig. 22, and Chauvier ¶¶ 92, 94). Specifically, the Examiner finds Yamada teaches “a thumbnail video variant of the variants is accessible by the first video player for a thumbnail video player feature,” as claimed, and Yamada’s “thumbnail display [is] overlaid on the display that is used to display the video content.” Ans. 3 (citing Yamada’s thumbnail display 232 of Fig. 22, ¶¶ 267–269). The Examiner also finds “Chauvier clearly teaches ‘*a trick mode displaying application*’ that is used to display the thumbnails” and “[s]uch a trick mode displaying application . . . is not used for displaying the video content in the plain playback mode” and so “[t]his video player is different from a first video player, which is used to display the video content in normal viewing mode” and therefore Chauvier teaches a second video player, different from the video player, as claimed. Non-Final Act. 3–4 (citing Chauvier ¶¶ 92, 94).

Appellant argues “Chauvier has a single presentation engine that uses a single video display for playing the multiplicity of video frames of a thumbnail source video file or full screen video” and “[a] video display used to play either thumbnails from the thumbnail video file or the full screen video, as in Chauvier, is not the same as two operational and independent video players of the present invention.” Appeal Br. 8–9 (citing Chauvier Fig. 2, 340).

In response, the Examiner finds that, according to Appellant’s Specification, “the recited second video player is (i) only a thumbnail display overlaid on the display that is used to display the video content . . . and (ii) implemented as software component of a video player platform” and therefore Yamada’s thumbnail 232, displayed in a partial area of screen 231, teaches “generating a second video player as a thumbnail video player,” as recited in claim 1. Ans. 3 (citing Spec. ¶ 34, Fig. 3, Yamada ¶ 267, Fig. 22) (emphasis omitted). The Examiner additionally finds Chauvier’s “trick mode displaying application and any part of the presentation engine that is used for displaying the thumbnails are collectively interpreted as ‘a second video player.’” Ans. 3–4 (citing Chauvier ¶¶ 92, 94).

We find Appellant’s arguments unpersuasive. We agree with the Examiner’s findings that both Appellant’s Specification and Yamada disclose a thumbnail display and a full-sized display that are implemented as software and share the same display hardware. Ans. 3–4. Although Appellant responds to the Examiner by reasserting that “the thumbnail video player of the present invention is a secondary and different video player used for playing thumbnail videos” (Reply Br. 3 (citing Spec. ¶ 14)), Appellant does not address the Examiner’s findings that Appellant’s Figure 3 and

corresponding text disclose “only a thumbnail display overlaid on the display that is used to display the video content” and “implemented as software” (Ans. 3 (citing Spec. ¶ 34 and Fig. 3)). Moreover, Appellant’s additional argument that “Yamada’s thumbnail that is a partial area of a moving image is not the same as *a second video player for a thumbnail video*” (Reply Br. 2–3) does not persuasively explain why Yamada’s thumbnail player does not teach or suggest “a thumbnail video player, different from the video player,” as claimed, in view of Yamada’s similarity to the disclosed invention, i.e., Yamada’s disclosure of a thumbnail display and a full-sized display that are implemented as software and share the same display hardware. Ans. 3 (citing Spec. ¶ 34).

Issue 2: Does the Examiner err in finding the cited combination of Yamada and Chauvier teaches or suggests “a play list having variants, wherein a video content variant of the variants is accessible by a first video player for a video player feature, and wherein a thumbnail video variant of the variants is accessible by a second video player,” as recited in independent claim 1?

The Examiner finds the combination of Yamada and Chauvier teaches the limitation at issue. Non-Final Act. 3–4; Ans. 4–6. Specifically, the Examiner finds in Yamada’s Playlist File, “the video player package compris[es] video content variant and a thumbnail video variant” and “both are accessible by a video player to be displayed on a screen.” Non-Final Act. 3 (citing Yamada ¶¶ 135–138, 242, 267–270, Figs. 7, 22) (emphasis omitted). The Examiner finds Chauvier “teaches a thumbnail video player is

implemented as a software component of a video playback platform.”

Ans. 3 (citing Chauvier ¶¶ 92, 94); Non-Final Act. 4.

Appellant argues

Although Yamada discusses a Play list File that includes thumbnail data, the thumbnail data is not a thumbnail video variant, as in the present invention. Instead, the thumbnail data in Yamada is a representative frame from a Group of Pictures of the MPEG2 system stream. In contrast, as described in the Specification, variants are “alternate streams containing the same material *encoded at a variety of data rates (e.g., bitrates) and sizes* (e.g., width and height), and/or served from different server locations.”

Appeal Br. 10 (citing Spec. ¶ 18) (emphases added).

In response, the Examiner finds “the thumbnail data in Yamada are extracted from the video content frames at GOP [(Group of Pictures)] positions, which are then reduced with number of pixels As such, the thumbnail data are the same content that are encoded into [(1)] reduced sizes and [(2)] at lower temporal resolution.” Ans. 5–6 (citing Yamada ¶¶ 135–138).

We find Appellant’s argument unpersuasive. Yamada teaches generating thumbnail data by extracting a succession of video content frames (a stream) with each frame representing a GOP. Yamada ¶¶ 135–138. Yamada’s thumbnail images are encoded at a lesser data rate and because the images are thumbnails they are a different size than Yamada’s full screen images. *Id.* ¶ 218. As such, even assuming Appellant’s narrower proposed interpretation of “variant,” we agree with the Examiner’s finding that Yamada teaches the disputed limitation. Ans. 6. Appellant’s additional argument that “nothing in Yamada mentions a first variant of video content and second type of variant of thumbnail content, **accessible by a first and**

second video player respectively, as in the present invention,” is unpersuasive because Appellant fails to establish that the cited combination does not teach first and second video players, as discussed above in Issue 1. Reply Br. 5.

For these reasons, we sustain the Examiner’s 35 U.S.C. § 103 rejection of claim 1, and of independent claims 8 and 17, which are argued with claim 1. Appeal Br. 7. Dependent claims 2, 3, 5–7, 9–16, and 18–25 are not argued separately and so we also sustain the Examiner’s 35 U.S.C. § 103 rejection of these claims. Appeal Br. 12–16.

Claim 4

Issue: Does the Examiner err in finding Yamada teaches or suggests “wherein the thumbnail video player is implemented with an adaptive bit rate (ABR) policy that instructs the thumbnail video player to exclusively access thumbnail video variants in the playlist,” as recited in dependent claim 4?

We are not persuaded the Examiner’s rejection of claim 4 is in error. We adopt the Examiner’s findings and conclusions as our own, and we add the following primarily for emphasis.

The Examiner finds Yamada teaches or suggests the limitation at issue in claim 4. Non-Final Act. 5 (citing Yamada ¶¶ 389, 390). Specifically, the Examiner finds Yamada “teaches the playback of thumbnail data, which is performed by the thumbnail video player, [and] is implemented to adapt the variable rate playback of the thumbnail data by limiting the thumbnail video player to access only thumbnail data, which are encoded to a limited amount of data.” Ans. 8.

Appellant argues “data amount restrictions on a bit stream, as in Yamada, are not the same as a policy-based access restriction on a thumbnail video player” because claim 1’s “video player restricts the thumbnail video player’s access only to designated thumbnail video variants in a playlist of variants” and so “[t]he restriction policy on the [claimed] thumbnail video player is an access restriction and not a data amount restriction,” as in Yamada. Reply Br. 6.

We find Appellant’s arguments unpersuasive because Appellant fails to specifically address the Examiner’s finding that Yamada’s thumbnail player 232 is constrained to play *only* thumbnails. Non-Final Act. 5 (citing Yamada ¶ 389) (“A VBV [(Video Buffering Verifier)] for performing variable-rate playback of thumbnails”). For example, Appellant does not provide evidence from Yamada indicating thumbnail player 232 plays any content other than thumbnails. Moreover, although Appellant argues claim 1’s “restriction policy . . . is an access restriction and not a data amount restriction,” (Appeal Br. 6) as in Yamada, this argument fails to address the substance of the Examiner’s finding that “[b]y limiting the data amount of all thumbnails equal to or below the maximum permissible amount of code fb,” where fb “is the amount of data allowed for a thumbnail per frame” Yamada’s thumbnail player is effectively restricting access to playing only thumbnail video variants. Non-Final Act. 5 (citing Yamada ¶¶ 389, 390); *see also* Yamada ¶ 381 (defining “fb”).

Appellant, therefore, fails to persuasively explain why Yamada’s disclosure of playing only thumbnail video variants on the thumbnail video player, by way of restricting thumbnail data to a threshold, fails to teach the

limitation at issue. For these reasons, we sustain the Examiner's 35 U.S.C. § 103 rejection of claim 4.

CONCLUSION

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1-22, 24, 25	103	Yamada, Chauvier	1-22, 24, 25	
23	103	Yamada, Chauvier, Yun	23	
Overall Outcome			1-25	

TIME PERIOD FOR RESPONSE

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED