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katelyn.mulroy@philips.com
marianne.fox@philips.com
patti.demichele@Philips.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte WILHELMUS HENDRIJUS ALFONSUS BRULS
and ARNAUD PIERRE HERVE BOURGE

Appeal 2019-001580
Application 14/476,230
Technology Center 2400

Before BRYAN F. MOORE, NORMAN H. BEAMER, and JASON M.
REPKO, *Administrative Patent Judges*.

MOORE, *Administrative Patent Judge*.

DECISION ON APPEAL¹

Pursuant to 35 U.S.C. § 134(a), Appellant² appeals from the
Examiner's decision to reject claims 1–13. Claims 1–22 are pending.

¹ Throughout this Decision we have considered the Specification filed September 3, 2014 (“Spec.”), the Final Rejection mailed February 8, 2018 (“Final Act.”), the Appeal Brief filed July 9, 2018 (“Appeal Br.”), the Examiner’s Answer mailed October 22, 2018 (“Ans.”), and the Reply Brief filed December 10, 2018 (“Reply Br.”).

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 Koninklijke Philips N.V. Appeal Br. 2.

Appeal Br. 8. Claims 14–22 have been withdrawn. *Id.* We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

BACKGROUND

Appellant’s disclosed embodiments and claimed invention relate to field of video encoding and decoding. Spec., 1:7–10. Claim 1, reproduced below, is illustrative of the subject matter on appeal (*emphasis* added to contested prior-art limitation):

1. A method of encoding a video data signal including a first signal and a second signal the method comprising act of:
interleaving frames of the first signal with frames of the second signal to form a combined signal;
encoding by an encoder the combined signal to form an encoded combined signal wherein the encoding act encodes the first signal in a self-contained manner without using information from the second signal and encodes that second signal using information from the first signal;
splitting the encoded signal into separate primary bitstreams including a first bitstream including data for the first signal and a second bitstream including data for the second signal; and,
providing the bitstream with a first code to form a first coded bitstream; and
providing the second bitstream with a second code to form a second coded bitstream, wherein the second code is different from the first code.

Appeal Br. 16(Claims App.).

REJECTIONS

Claims 1–3, 5–9, and 11–13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of US 2002/0009137 A1, published Jan 24, 2002 (“Nelson”), and in view of US 2007/0071093 A1, published Mar. 29, 2007 (“Shi”). Final Act. 2–10.

Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Nelson, and in view of Shi, in further view of US 6,925,250 B1, issued Aug. 2, 2005 (“Oshima”). Final Act. 10–11.

Claim 10 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Nelson, and in view of Shi, in further view of US 5,233,302, issued Aug. 3, 1993 (“Xiang”). Final Act. 11–12.

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 1–3, 5–9, and 11–13 under 35 U.S.C. § 103(a)

The Examiner finds that claims 1–3, 5–9, and 11–13 would have been obvious over the combination of Nelson and Shi. Final Act. 2–10.

Specifically, the Examiner cites to Nelson as teaching the bulk of the limitations, but, because Nelson recites compressed streams rather than encoded streams, the Examiner relies on “Shi to clearly identify that the combined single of Nelson is an *encoded* combined signal.” Ans. 8 (citing Shi ¶ 27, 29, 31, 41) (emphasis added).

Appellant argues “[i]nterleaving frames of the first signal with frames of the second signal to form a combined signal, then encoding a combined signal to form an encoded combined signal, and then splitting the encoded combined signal are nowhere disclosed or suggested Nelson and Shi, alone or in combination.” Appeal Br. 13. Specifically, Appellant argues that Nelson and Shi, alone or in combination does not disclose “splitting the encoded signal into separate bitstreams including a first bitstream including data for the first signal and a second bitstream including data for the second signal” (the “splitting” limitation). *Id.* at 9–13. First, Appellant argues that, “Nelson merely discloses to combine the three separate compressed streams 368, 370, 372 without splitting them before or after being combined” (Reply Br. 4). Second, Appellant states “appears that the Examiner is equating a demultiplexer to a splitter.” Reply Br. 6. In response to this Examiner argument, Appellant argues

it should be noted that a demultiplexer is different from, and not analogous to, a splitter as a demultiplexer ‘extracts,’ as correctly noted on page 6, line 6 of the Examiner’s Answer. By contrast, a splitter splits, such as splitting one stream into two. Similarly, a multiplexer is also different from, and not analogous to, a splitter as a multiplexer combines and does not split one stream into two streams.

Id. at 6.

Appellant’s arguments do not persuade us of reversible error in the Examiner’s rejection. First, although the cited portions of Nelson do not explicitly use the words “splitting,” it is clear that Nelson discloses streams that are combined by means of a multiplexer (*see* Ans. 9 (citing Nelson ¶¶ 44, 85)) and subsequently split back into separate streams by a demultiplexer. *See* Ans. 5–6 (citing Nelson ¶¶ 8, 9). Appellant has not explained sufficiently why multiplexing and demultiplexing the streams in Nelson should not be found to be combining and splitting the signal, as recited in claim 1, in the broadest reasonable interpretation of “splitting.” We, therefore, agree with the Examiner that Nelson teaches “splitting the encoded signal into separate bitstreams including a first bitstream including data for the first signal and a second bitstream including data for the second signal.” Ans. 5–6.

We, therefore, are not persuaded by Appellant’s arguments that the Examiner’s rejection is in error with respect to the splitting limitation.

Accordingly, we sustain the Examiner’s rejection of claim 1 as obvious over the combination of Nelson and Shi. We also sustain the rejection of claims 2, 3, 5–9, and 11–13, which are not argued separately (*see* Appeal Br. 8–9), as obvious over the combination of Nelson and Shi.

Rejection of Claim 4 under 35 U.S.C. § 103(a)

The Examiner finds that claim 4 would have been obvious over the combination of Nelson, Shi, and Oshima. Final Act. 12–14. Appellant does not separately address these claims. *See* Appeal Br. 10–11. Accordingly, we sustain the Examiner’s rejection of claim 4 as obvious over the combination of Nelson, Shi, and Oshima.

Rejection of Claim 10 under 35 U.S.C. § 103(a)

The Examiner finds that claim 10 would have been obvious over the combination of Nelson, Shi, and Xiang. Final Act. 11–12. Appellant does not separately address these claims. *See* Appeal Br. 8–9. Accordingly, we sustain the Examiner’s rejection of claim 10 as obvious over the combination of Nelson, Shi, and Xiang.

CONCLUSION

We affirm the Examiner’s rejection of claims 1–13 under 35 U.S.C. § 103(a).

DECISION SUMMARY

Claims Rejected	35 U.S.C. §	References/Basis	Affirmed	Reversed
1–3, 5–9, 11–13	103(a)	Nelson and Shi	1–3, 5–9, 11–13	
4	103(a)	Nelson, Shi, and Oshima	4	
10	103(a)	Nelson, Shi, and Xiang	10	
Overall Outcome			1–13	

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