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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DONALD F. GORDON, MARKUS K. CREMER, and PETER
DUNKER

Appeal 2019-004501
Application 15/406,887
Technology Center 2400

Before ALLEN R. MacDONALD, JEREMY J. CURCURI, and
PHILLIP A. BENNETT, *Administrative Patent Judges*.

BENNETT, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision to reject claims 1–20. An oral hearing took place on June 10, 2020. A copy of the transcript will be placed in the record in due course. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

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 Gracenote, Inc. Appeal Br. 1.

CLAIMED SUBJECT MATTER

The claims are directed to an authorizing devices based on identifying content distributor. Claim 1, reproduced below with the disputed limitation in italics, is illustrative of the claimed subject matter:

1. A method, comprising:

accessing multiple video streams, each video stream being distributed by a different content distribution system among multiple content distribution systems, each video stream including same video content provided by a single content source to the multiple content distribution systems and including different distributor-specific content that is unique to the corresponding content distribution system that distributes the video stream, a video stream of the multiple video streams being available from a content distribution system of the multiple content distribution systems to a client device;

for each of the multiple video streams:

generating a set of reference fingerprints of the distributor-specific content included within the video stream accessed from the corresponding content distribution system; and

associating the set of reference fingerprints with the corresponding content distribution system that distributes the video stream;

accessing a set of query fingerprints received from the client device, the set of query fingerprints being calculated from at least a portion of the distributor-specific content playing at the client device;

querying a reference database that includes the sets of reference fingerprints to identify a set of reference fingerprints that corresponds to the set of query fingerprints;

identifying the content distribution system among the multiple content distribution systems and associated with the set of reference fingerprints that corresponds to

the set of query fingerprints thereby to identify the content distribution system providing the video stream to the client device;

accessing information that identifies a location of the client device; and

performing at least one action that is dependent upon the content distribution system identified among the multiple content distribution systems, wherein the at least one action includes a location-based action that is dependent upon the identified content distribution system and that is further based upon the identified location of the client device.

Appeal Br. 16–17 (Claims Appendix).

REFERENCES

The prior art relied upon by the Examiner is:

Name	Reference	Date
Sinha	US 2013/0205330 A1	Aug. 8, 2013
Shurm, Jr. (“Shrum”)	US 2015/0106839 A1	Apr. 16, 2015

REJECTIONS

Claims 1–20 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Sinha and Shrum. Final Act. 6.

ISSUE

Has the Examiner erred in finding Sinha and Shrum teach or suggest “performing at least one action that is dependent upon the content distribution system identified among the multiple content distribution

systems, wherein the at least one action includes a location-based action that is dependent upon the identified content distribution system and that is further based upon the identified location of the client device,” as recited in claim 1?

ANALYSIS

The Examiner rejects claim 1 as obvious over Sinha and Shrum.

Relevant to this issue, the Examiner finds:

[Sinha teaches] performing at least one action that is dependent upon the content distribution system identified among the multiple content distribution systems (e.g. providers 104/503, such as cable 1-5, satellite 5-6, etc.; figures 1 and 5), wherein the at least one action includes a location-based action that is dependent upon the identified content distribution system (Paragraphs [0039] [0050] [0136] [0144] figures 4, 5 and 9; authenticating user device for presenting a TV everywhere service associated with the identified service provider. Wherein the service provider is determined based on both a zip code obtained from an IP address of the ACR-enabled connected TV device and a channel lineup information identified by the ACR system, e.g. fingerprint, paragraphs [0039] [0137]).

Final Act. 9 (citing Sinha ¶¶ 39, 50, 136, 144; Figs. 1, 4, 5, and 9). The Examiner acknowledges that “Sinha is silent to explicitly disclose that the at least one action includes a location-based action that is further based upon the identified location of the client device.” Final Act. 9. The Examiner addresses this deficiency with the teachings of Shrum, finding that:

Nevertheless, in a similar field of endeavor Shrum discloses that the at least one action (e.g. authentication for access rights) includes a location-based action that is further based upon the identified location of the client device (Paragraphs [0004] [0069] [0071] [0101] figure 1; determine whether the customer device 105a is located within a subscription area for the customer 126, and based on that determination the content management server

110 may allow the customer device 105a access rights to the desired content).

Final Act. 9. The Examiner reasons and concludes as follows:

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sinha by specifically providing the elements mentioned above, as taught by Shrum, for the predictable result of allowing customers to use a wide variety of different device types, e.g. tables, mobiles, etc., to access content from the distribution system within a household, thereby enhancing the customer experience and improving customer satisfaction (Shrum - paragraph [0003]).

Final Act. 10.

Appellant argues the Examiner has erred with respect to this limitation. In particular, Appellant argues that determining the service provider for a client device based on a zip code, as taught by Sinha, cannot teach the limitation because it would, in effect, “amount to determining the service provider based on the service provider.” Appeal Br. 7. Appellant further argues “contrary to the Examiner’s assertion, Sinha does not seem to disclose authenticating the TV device based on the determining of the service provider.” Appeal Br. 8. Appellant further argues Sinha is deficient because authentication of a user device, as taught by Sinha, cannot be an action “based on the determining of the service provider.” Appeal Br. 8. Specifically, Appellant asserts that Sinha’s account information is not used to authenticate to the service provider, but instead is used to inform a network provider that authentication has already occurred. Appeal Br. 8. Appellant further contends that the combined teachings of Sinha and Shrum are deficient because “even if it is known to conduct authentication action based on location, what would still be missing is the authentication action being done based on the identified content distribution system (service

provider).” Appeal Br. 10–11. According to Appellant, Shurm teaches that “*access control* can be location-based and/or can be authentication based,” but that Shurm does not disclose “that the *authentication* can be location-based.” Appeal Br. 11 (emphasis added); *see also* Appeal Br. 14. We disagree with Appellant’s arguments. We do not see any error in the contested Examiner’s findings and reasons, and we concur with the Examiner’s conclusion of obviousness.

The standard for determining whether a claim is obvious is “an expansive and flexible approach.” *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398, 415 (2007). Here, Sinha teaches identifying the service provider using information including a logo on the screen or a channel lineup (i.e., based on a signature). Sinha ¶¶ 39. Sinha also teaches identifying the service provider based on the location of the accessing device (i.e., based on location). *Id.* Based on the identification of the service provider, Sinha permits access to service provider content via a TV everywhere service. Sinha ¶ 140 (“In step 703, the ACR module 142 may be operable to perform an authentication for presenting content through a TV everywhere (TYE) service associated with the identified network based on information identified by the ACR system 100.”) Shrum teaches allowing access to content based on the location of the device seeking to access, and specifically based on the device being in a service area. Shrum ¶ 4.

The disputed limitation calls for performing an action based on identity of the content distribution system and the location of the device. Here, as we explained above, Shrum and Sinha both teach allowing access to content (i.e. performing an action) based on certain conditions. Sinha teaches permitting access to content through the TV everywhere service

based on the identity of the service provider (a content distribution system); Shrum grants access to content based on the location of the device. As the Examiner correctly explains in the Answer, the rejection is based on the combined teachings of Sinha and Shrum. Ans. 12. Thus, taken together, we agree with the Examiner that Sinha and Shrum collectively teach the disputed limitation.

Appellant’s arguments focus on the location aspect of the disputed limitation being absent from Sinha. However, as we note above, the Examiner relies on Shrum, and not Sinha, as teaching the recited “location-based action.” Moreover, to the extent Appellant challenges the Examiner’s findings with respect Shrum, we agree with the explanation provided by the Examiner that “Shrum clearly discloses that ‘the content management module 168 may determine access rights based at least in part upon a location determination associated with the requesting customer device.’” Ans. 17 (quoting Shrum ¶ 46).

Appellant also draws a distinction between authentication as taught by Sinha and access control as taught by Shrum. We do not find this distinction compelling because it overlooks that both references more generally teach conditional access to content—based on the identity of the service provider in the case of Sinha and on the location of the client device in the case of Shrum. As noted by the Examiner in the Final Office Action, Sinha teaches “authenticating a user device *for presenting a TV everywhere service* associated with the identified service provider.” Final Act. 9. Thus, the Examiner’s findings with respect to Sinha correctly observe that the identified service provider is used as the basis for allowing access to the TV everywhere service.

Remaining Claims

Appellant does not present separate arguments for patentability of any other claim. As such, the remaining claims fall together with claim 1.

CONCLUSION

We affirm the Examiner's rejection.

DECISION SUMMARY

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1-20	103(a)	Sinha, Shurm	1-20	

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