

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 16

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte EDWARD D. WILLIS, JOHN COYLE HENEGHAN, JAMES L. HOWSER,
HEINRICK SINNREICH, and MARTIN MICHAEL GARRITY

Appeal No. 2001-1626
Application No. 09/007,622

ON BRIEF

Before BARRETT, RUGGIERO, and BLANKENSHIP, Administrative Patent Judges.
BLANKENSHIP, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1 and 3-23, which are all the claims remaining in the application.

We reverse.

BACKGROUND

The invention is directed to a method and apparatus for managing delivery of data in a communications system having a number of content providers and content consumers. Representative claim 12 is reproduced below.

12. A method for managing delivery of content by a data processing system within a communications system, wherein a plurality of content providers and a plurality of content consumers are located within the communications system, the method comprising the data processing system implemented steps of:

receiving a request to accept delivery of content at the data processing system and to transmit the content to the plurality of content consumers at a selected time, wherein the request originates from a requesting content provider within the plurality of content providers;

determining when the content may be transmitted to the plurality of content consumers based on available resources at the data processing; and

accepting delivery of the content from the requesting content provider based on a determination of when the content may be transmitted.

The examiner relies on the following references:

Greenwood et al. (Greenwood)	5,568,181	Oct. 22, 1996
Miller et al. (Miller)	5,920,701	Jul. 6, 1999 (filed Aug. 28, 1996)
Teng et al. (Teng)	5,930,473	Jul. 27, 1999 (filed Mar. 8, 1996)

Claims 1, 3-8, 10-19, and 21-23 stand rejected under 35 U.S.C. § 103 as being unpatentable over Greenwood and Miller.

Claims 9 and 20 stand rejected under 35 U.S.C. § 103 as being unpatentable over Greenwood, Miller, and Teng.

We refer to the Final Rejection (Paper No. 8) and the Examiner's Answer (Paper No. 13) for a statement of the examiner's position and to the Brief (Paper No. 11) and the Reply Brief (Paper No. 14) for appellants' position with respect to the claims which stand rejected.

OPINION

The examiner offers as evidence of obviousness, with respect to independent claims 1, 12, and 19, and most of the claims depending therefrom, the references of Greenwood and Miller (Answer at 4-14).

We find that Greenwood describes operation of a video distribution management system (VDMS). As shown in Figure 1, and described in the detailed description portion of the patent, one or more centralized video libraries such as library 11 are connected to a wide area network (WAN) 13 via a wide area server 10. Server 10 delivers video files from library 11 to WAN 13 on demand, but at a rate not consistent with video playback. Local area network 16 is connected to WAN 13 by way of a local area server 14, linking the relatively high speed LAN with the relatively low speed WAN. Video files in local cache 15 can be delivered in real time to video display station 17 on LAN 16.

Figure 2 of Greenwood shows general operation of VDMS 12. VDMS 12 determines whether any video request has been received from a video display station (e.g., 17) and monitors local cache 15, maintaining cache statistics for tracking use of

video files. If a requested video in its entirety is present in local cache 15, VDMS 12 allows real time playback of the video file to the user station over LAN 16. If only an initial portion (or “preface”) of a video file is present in cache 15, then VDMS 12 allows playback of the preface of the video file to the user over LAN 16 while the remainder of the video file is transferred to local cache 15, effecting a “speed match” playback. Greenwood further describes, in column 5, lines 10 through 50, determining whether the bandwidth available for WAN 13 (and the storage capacity of the local cache) is sufficient to transmit a video file from library 11 to a local cache in sufficient time to meet a video playback schedule requested by a user.

Miller describes (Fig. 1) a network resource scheduler 10 that communicates with content sources 12, 14 over network 24 and schedules data transmission from the content sources to replicated servers 16, 18, 20. Data delivered to the replicated servers can be retransmitted to subscribers ($22_1, 22_2, 22_3, \dots, 22_N$) over further networks (26, 28). Network resource scheduler 10 determines whether data transmission from content sources to particular replicated servers can be completed by a delivery time requested by the content sources. Col. 4, ll. 34-58.

Although the rejection as set forth in the Answer points to various elements in the references which are deemed to correspond to features in the instant claims, we find ourselves, after careful consideration of the examiner’s position and extensive review of the references, substantially in agreement with appellants’ position set forth at pages 6 and 7 of the Reply Brief. In our view, Greenwood is directed to providing information

(video files) to users at the request of the “content consumers,” in the lexicon of instant claims 1 and 12. Miller is directed, on the other hand, to providing information to replicated servers at the behest of “content providers.”

In this regard, we note the rejection asserts (Answer at 6) that “substituting Miller’s scheduler with reception means, determination means and acceptance means for Greenwood’s scheduler in VDMS would have improved Greenwood’s VDMS ability to coordinate the transfer of data to the local caches for eventual viewing at the display stations.” However, the rejection relies on “reception means for receiving a request to accept delivery” in Miller “wherein the request originates from a requesting content provider...” (Id. at 5.) Greenwood’s VDMS manages content delivery to users at user request (e.g., col. 1, ll. 42-60; Fig. 2). We find it unclear, based on these references, how or why the artisan would have been led to modify Greenwood’s VDMS such that the VDMS manages video delivery based on the requests of a “content provider” (e.g., video library 11). Nor is it clear how or why the artisan would have combined these and the additional teachings of the references in such a way as to result in the instant claimed invention.

Instant claim 19 does not contain language specific to “content consumers,” but sets forth transmission of content to a “plurality of targets.” The rejection of the claim (set forth at pages 12 and 13 of the Answer) is found to be insufficient for reasons similar to those we find with respect to claims 1 and 12. The rejection of claim 19 proposes to modify Greenwood’s VDMS on the basis of Miller’s teachings with regard to

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“a first mode of operation,” deemed to correspond to scheduler 10 receiving signals from content providers. Thus, while all the features of claim 19 might be found in the prior art applied, suggestion for the proposed combination is not evident from the prior art.

The examiner can satisfy the burden of showing obviousness over a combination of references “only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references.” In re Fritch, 972 F.2d 1260, 1265, 23 USPQ2d 1780, 1783 (Fed. Cir. 1992). Particular findings must be made with respect to why the skilled artisan, with no knowledge of the claimed invention, would have selected components for combination in the manner claimed. In re Kotzab, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). In the instant case, we conclude that the record fails to establish prima facie obviousness for the subject matter of any of independent claims 1, 12, and 19.

The Teng reference, applied against dependent claims 9 and 20 (Answer at 14-15), does not remedy the deficiencies of Greenwood and Miller. We thus do not sustain the rejection of any of the claims on appeal.

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CONCLUSION

The rejection of claims 1 and 3-23 under 35 U.S.C. § 103 is reversed.

REVERSED

LEE E. BARRETT)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
JOSEPH F. RUGGIERO)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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