

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board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. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LAUREN LEE POST, MICHAEL JOSEPH KOVAL
AND DARRYL RAY POLK

Appeal No. 2002-0769
Application No. 08/822,319

ON BRIEF

Before HAIRSTON, FLEMING and RUGGIERO, Administrative Patent Judges.

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 5, 12, 13, 17 through 19, 22 through 24, 27, 28, 35, 36 and 40 through 53. Claims 6 through 11, 14 through 16, 29 through 34 and 37 through 39 have been allowed.

The disclosed invention relates to the synchronization of audio data and video data in a data stream.

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appellants (brief, pages 5 through 14; reply brief, pages 3 through 7), the system disclosed by Ware does not take into account frame types or number of frames dropped during the process of identifying a synchronizing speed/process for the audio and video data processed by the audio decoder and the video decoder as required by claims 1 through 5, 12, 13, 17 through 19, 22 through 24, 27, 28, 35, 36 and 40 through 43. We agree with appellants' argument. Thus, the anticipation rejection of claims 1 through 5, 12, 13, 17 through 19, 22 through 24, 27, 28, 35, 36 and 40 through 43 is reversed because Ware does not disclose every limitation found in these claims. Glaxo Inc. v. Novopharm Ltd., 52 F.3d 1043, 1047, 34 USPQ2d 1565, 1567 (Fed. Cir.), cert. denied, 516 U.S. 3378 (1995).

The remainder of the claims on appeal (i.e., claims 44 through 53) are silent as to frame information. Instead, these claims rely on speed at which the video data is processed to select a synchronization process. Ware discloses video speed control, and the use of the video decoder clock as the master time clock for synchronization purposes (column 5, lines 16 through 32; column 9, lines 18 through 27). The examiner referenced the same columns in Ware, and noted that they discussed speed in connection with the determination of a synchronization process (answer, pages 5 and 6). To date, appellants have not presented any patentability arguments for these claims. Accordingly, the anticipation rejection of claims 44 through 53 is sustained.

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DECISION

The decision of the examiner rejecting claims 1 through 5, 12, 13, 17 through 19, 22 through 24, 27, 28, 35, 36 and 40 through 53 under 35 U.S.C. § 102(e) is affirmed as to claims 44 through 53, and is reversed as to claims 1 through 5, 12, 13, 17 through 19, 22 through 24, 27, 28, 35, 36 and 40 through 43.

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. § 136(a).

AFFIRMED-IN-PART

KENNETH W. HAIRSTON)	
Administrative Patent Judge)	
)	
)	
MICHAEL R. FLEMING)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
JOSEPH F. RUGGIERO)	
Administrative Patent Judge)	

KWH/dpv

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