

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 22

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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***Ex parte*** BRANDON A. GROOTERS

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Appeal No. 2002-0822  
Application No. 09/021,362

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ON BRIEF

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Before THOMAS, FLEMING, and BLANKENSHIP, ***Administrative Patent Judges***.

FLEMING, ***Administrative Patent Judge***.

***DECISION ON APPEAL***

This is a decision on appeal from the final rejection of claims 1-26, 28-46 and 48-66. Claims 27 and 47 have been canceled.

***Invention***

The invention relates to a method and system for retrieving, caching and delivering information based upon an information request in a computer-based information handling system. See page 2 of Appellant's specification. Figure 4 is an illustration of a typical electronic program guide in accordance with

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Appellant's invention. Figure 6 is a flow diagram of the method of Appellant's invention. See page 5 of Appellant's specification. Referring to the flow diagram shown in figure 6, the viewer provides the initial request for the electronic program guide 612. The request information is uploaded from the viewer's computer to a remote server for processing of the program guide request in step 614. Upon receiving the program guide request, the server performs a database search in step 616. See page 13 of Appellant's specification. A determination is made whether it is the correct time at which to send the results of the database search in step 624. If it is not the appropriate time to send the results of the database search, then the database search results are stored in a cache storage medium in step 626. Upon reaching the appropriate time, the database results are sent to the viewer in step 628. See page 14 of Appellant's specification.

Appellants's claim 1 is representative of Appellant's claimed invention and is reproduced as follows:

1. A method for delivering data base search results in conjunction with an information request, the method comprising:  
receiving a request for information from a remote device, the information containing predetermined content;

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performing a search of a database based upon the predetermined content of the information whereby a database search result is obtained; and

determining whether a time period has been reached, wherein if the time period is not reached, storing the database search result, and if the time is reached, delivering the database search result and the information to the remote device.

### ***References***

The references relied on by the Examiner are as follows:

Dunn et al.	5,861,906	Jan. 19, 1999 (filed May 5, 1995)
Vaughan et al.	5,926,207	Jul. 20, 1999 (filed Mar. 31, 1997)
Legall et al.	6,005,565	Dec. 21, 1999 (filed Mar. 25, 1997)

### ***Rejections at Issue***

Claims 1-15, 18-26, 28-35, 38-46, 48-55 and 58-64 stand rejected under 35 U.S.C. § 102 as anticipated by Dunn.

Claims 16, 36, 56 and 65 stand rejected under 35 U.S.C. § 103 as being unpatentable over Dunn in view of Legall.

Claims 17, 37, 57 and 66 stand rejected under 35 U.S.C. § 103 as being unpatentable over Dunn in view of Vaughan.

Throughout our opinion, we make reference to the briefs<sup>1</sup> and the answer for the respective details thereof.

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<sup>1</sup> Appellant filed an appeal brief on October 5, 2001. Appellant filed a reply brief on February 12, 2002. The Examiner mailed out an Office communication on February 21, 2002, stating that the reply brief has been entered.

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**OPINION**

With full consideration being given to the subject matter on appeal, the Examiner's rejections and the arguments of Appellant and the Examiner, for the reasons stated *infra*, we reverse the Examiner's rejection of claims 1-15, 18-26, 28-35, 38-46, 48-55 and 58-64 under 35 U.S.C. § 102 and we reverse the Examiner's rejection of claims 16, 17, 36, 37, 56, 57, 65 and 66 under 35 U.S.C. § 103.

We first will address the rejection of claims 1-15, 18-26, 28-35, 38-46, 48-55 and 58-64 under 35 U.S.C. § 102.

It is axiomatic that anticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim. *See In re King*, 801 F.2d 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1986) and *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.3d 1452, 1458, 221 USPQ 481, 485 (Fed. Cir. 1984).

Appellant argues that the Examiner has failed to establish a *prima facie* case of anticipation with respect to independent claims 1, 21, 41 and 61. Appellant argues that Dunn fails to teach determining whether a time period was reached. Appellant further argues that Dunn fails to teach that if the time period

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is not reached, storing the database search result and if the time period is reached, delivering the database search result and information to remote device. See pages 4 and 5 of the brief and the reply brief.

We note that independent claim 1 recites "performing a search of a database upon the predetermined content of the information whereby a database search result is obtained; and determining whether a time period has been reached, wherein if the time period is not reached, storing the database search result, and if the time is reached, delivering the database search result and the information to the remote device." We note that independent claims 21, 41 and 61 recite similar language.

We find that Dunn teaches a video-on-demand (VOD) application. The VOD application enables the user to order one or more video content programs. See Dunn, column 3, lines 3-16. Dunn teaches that the program information database contains a rental period associated with the ordered video content program. The rental period is typically longer in duration than the run-time length of the associated video content program. The headend transmits the ordered video content program as many times as the viewer requests during the rental period, but refuses to transmit the ordered content program upon expiration of the rental period.

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See Dunn, column 3, lines 28-35. Referring to Figure 3, Dunn teaches the order button 76 enables the user to order a video content program. See Dunn, column 6, lines 56-57. Dunn further teaches that Figure 8 shows an example data packet 120 transmitted from the headend to the STB. Data packet 120 contains program titles, runtime length of the programs, program IDs, program monikers, trailer IDs, trailer monikers, and rental periods. See Dunn, column 9, lines 20-26. Dunn further teaches that the headend will transmit the rented video content program any time the viewer requests it, so long as the rental period associated with that movie has not lapsed. The rental period is longer in duration than the runtime length of the associated video program. For instance, the rental for program "title 2" has a 48 hour rental period, as indicated by the associated rental period in the program table 110 shown in Figures 6 and 10. The viewer may wish to watch the program many different times within the 48 hour period. This aspect is akin to renting a physical VCR cassette from the video store. See Dunn, column 11, lines 37-53. Dunn teaches that a single rental period is assigned to each program. See column 12, lines 1-2.

Thus, Dunn teaches that upon a user selecting the order button, a rental period begins. The rental period is preset by

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the system operators. During the rental period, the program is available to the viewer. Upon expiration of the rental period, the selected program is no longer accessible by the viewer. Therefore, Dunn does not teach determining whether a time period has been reached, wherein if the time period is not reached, storing the database search result, and if the time period is reached, delivering the database search result and the information to the remote device as recited in Appellant's claims. Therefore, we will not sustain the Examiner's rejection of claims 1-15, 18-26, 28-35, 38-46, 48-55 and 58-64 under 35 U.S.C. § 102 as being anticipated by Dunn.

For the rejections of claims 16, 17, 36, 37, 56, 57, 65 and 66 under 35 U.S.C. § 103, we note that the Examiner relies on Dunn for teaching the above claim limitations. Furthermore, upon our review of Legall and Vaughan, we fail to find that these references provide the missing pieces. Therefore, for the reasons above, we will not sustain these rejections as well.

In view of the foregoing, we have not sustained the Examiner's rejection of claims 1-15, 18-26, 28-35, 38-46, 48-55 and 58-64 under 35 U.S.C. § 102 and we have not sustained the Examiner's rejections of claims 16, 17, 36, 37, 56, 57, 65 and 66 under 35 U.S.C. § 103.

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**REVERSED**

JAMES D. THOMAS	)	
Administrative Patent Judge	)	
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	)	BOARD OF PATENT
MICHAEL R. FLEMING	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
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	)	
HOWARD B. BLANKENSHIP	)	
Administrative Patent Judge	)	

MRF/lbg

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