The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board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. 26

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte PETER J. SPRAGUE

Appeal No. 2003-0593
Application 08/329,345

ON BRIEF

Before THOMAS, KRASS, and GROSS, Administrative Patent Judges.

THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

Appellant has appealed to the Board from the examiner's alleged final rejection of claims 33-64. Only claims 33-35, 38-41, 43-46, 49-51, 54-57, 59-62 and 64 are finally rejected.

Representative claim 33 is reproduced below:

33. In a television transmitter, a method comprising:

generating a composite video signal, including a video signal and an audio signal, wherein said audio signal corresponds to the audio portion of said composite video signal, said composite video signal containing a plurality of news items, a

given news item of said plurality of news items being defined by a respective beginning and ending of said given news item; generating a time advanced text data stream in digital form substantially corresponding to the spoken words of said audio portion of said composite video signal, said time advanced text data stream being advanced in time so that substantially all of said time advanced test data stream in digital form corresponding to said given news item is generated before the beginning of said given news items; and

combining said generated composite video signal and said time advanced text data stream.

The following references are relied on by the examiner:

Baer	4,310,854	Jan. 12, 1992
Young	4,706,121	Nov. 10, 1987
Kim	5,526,130	June 11, 1996
		(filing date Sep. 7, 1993)

All above-noted claims finally rejected stand rejected under 35 U.S.C. § 103. As evidence of obviousness as to claims 33-35, 38-41, 43-46, 49-51, 54-57, 59-62 and 64, the examiner relies upon Kim in view of Baer. As to claims 33-35, 38, 49-51 and 54, the examiner also relies upon Young in view of Baer.

Rather than repeat the positions of the appellant and the examiner, reference is made to the brief and answer for the respective details thereof.

OPINION

Generally, for the reasons set forth by appellant in the brief, we reverse the rejection of all claims on appeal.

At the outset, we note that independent method claim 33 has a corresponding apparatus claim 49. Both of these claims relate to the transmitter portion of the disclosed invention. On the other hand, method independent claim 39 has a corresponding apparatus version in claim 55. Both of these claims relate to the receiver portion of the disclosed invention. Method independent claim 44 has a corresponding apparatus independent claim 60 which recite both the transmitter and receiver portions, substantially identical to the respective subject matter of independent claims 33, 39 or 49, 55, respectively.

In this manner each independent claim requires essentially the same corresponding subject matter as set forth in the transmitter independent claims 33, 49. The lengthy preambular portion of receiver independent claims 39, 55 recites the subject matter of independent claims 33 and 49 relating to the transmitter portion of appellant's disclosed invention.

If we assume for the sake of argument that Kim is properly combinable with Baer and that Young is properly combined with Baer within 35 U.S.C. 103, we agree with appellant's analysis that the combination does not meet the generating a time advanced

text data stream clause of the claims on appeal as best stated at pages 8 and 9 of the brief. The program titles of Kim and/or the program schedule information of Young may be properly considered as "news items" to the extent recited in the claims on appeal. There is no dispute that program scheduling information of this nature is advanced in time before the beginning of given news items as recited in the claims on appeal. However, these references do not teach the additional requirements that the claimed time advanced text data stream of the so-called "news items" "substantially correspond to the spoken words of the audio portion of the composite video signal stream" as set forth in each independent claim on appeal.

Baer, on the other hand, teaches a captioning system that does in fact substantially correspond to the spoken words of an audio portion of a composite video signal stream. If we consider that all audio information in a composite audio plus video data stream in Baer comprises news items of the type claimed, Baer's captioning system does not generate advanced in time information "before the beginning of the given news item" as required by each independent claim on appeal. Significantly, the captioning information is contemporaneous at best or slightly behind in

time to the beginning of the actual news item. Therefore, the combination of Kim and Baer as well as the separate combination of Young and Baer does not meet the subject matter of each independent claim on appeal.

It also appears to us that the artisan would not have combined the subject matter of the respective paired references within 35 U.S.C. § 103. The examiner has provided us no persuasive line of reasoning to extend the closed captioning teachings of Baer to Kim's/Young's advanced in time program information since this advanced in time program information has no audio component associated with it.

In this regard, we do not agree with the examiner's views best expressed in the paragraph bridging pages 9 and 10 of the answer:

> It is submitted that both Kim and Young teach the use of text data in advance and which is prepared by broadcast station including channel, title and time information of news items to be broadcasted. Since the title or channel of text data <u>may</u> later be read by a reporter for a give (sic) news item The (sic) combination of Kim and Baer or Young and Bear (sic) teach the limitation of using key word corresponding to spoken word to program a VTR to record a given news item. (emphasis added)

This presents for our review an improper analysis of the combinability of the respective references relied upon within

35 U.S.C. § 103. The examiner has thus not advanced a line of reasoning to us that it would have been obvious for the artisan to have combined the respective teachings of Kim and Baer and Young and Baer. Instead, the examiner has presented us with a speculative line of reasoning which is not the standard of combinability within 35 U.S.C. § 103.

In view of the foregoing, the decision of the examiner rejecting each independent claim on appeal and its respective dependent claims is therefore reversed. Accordingly, the decision of the examiner is reversed.

REVERSED

James D. Thomas Administrative Patent Judge	)	
Errol A. Krass Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
Anita Pellman Gross Administrative Patent Judge	)	

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