

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 30

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LYNN ROWE,
JOHN A. HEINEN,
PETER A. ERNST
and
GARY H. OLSON

Appeal No. 2003-0664
Application 09/314,716

HEARD: October 9, 2003

Before HAIRSTON, DIXON, and SADAAT, Administrative Patent Judges.
HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 12.

The disclosed invention relates to an information distribution system that delivers digital program information in the form of digital streaming media over a large geographic area.

Claim 1 is illustrative of the claimed invention, and it reads as follows:

1. An information distribution system delivering digital program information over a large geographic area wherein the digital program information provides different broadcast quality television programming to a plurality of remote locations within the large geographic area, the system comprising:

a network operation center creating a national program feed and information components that are multiplexed to create a digital streaming media;

a broadcast quality multi-window screen display at the remote location, the multi-window display comprising a plurality of different programming in each of the multi-window screens, wherein at least a portion of the different programming is carried by the digital streaming media from the network operation center and comprises at least a national program feed;

a graphical user interface accessing a software control process at the network operation center for controlling through the digital streaming media the assembly of the multi-window screen display;

a distribution system transmitting the digital streaming media to a plurality of remote locations; and

a plurality of remote nodes receiving the digital streaming media wherein the plurality of remote locations have at least one remote node and wherein the digital streaming media is used to produce the multi-window display at the remote node.

Appeal No. 2003-0664
Application No. 09/314,716

The references relied on by the examiner are:

Lai	5,351,129	Sep. 27, 1994
Birch et al. (Birch)	5,583,562	Dec. 10, 1996
Kostreski et al. (Kostreski)	5,734,589	Mar. 31, 1998
Kohiyama	5,867,219	Feb. 2, 1999
Gotwald	5,987,518	Nov. 16, 1999 (filed Oct. 28, 1996)
Qureshi et al. (Qureshi)	6,084,582	July 4, 2000 (filed July 2, 1997)

Claim 1 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Birch in view Kohiyama and Lai.

Claims 2 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Birch in view of Kohiyama, Lai and Kostreski.

Claims 3 through 6 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Birch in view of Kohiyama, Lai and Gotwald.

Claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Birch in view of Kohiyama, Lai and Qureshi.

Claims 9 through 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Birch in view of Kohiyama, Lai, Kostreski and Qureshi.

Reference is made to the briefs (paper numbers 23 and 25) and the answer (paper number 24) for the respective positions of the appellants and the examiner.

OPINION

We have carefully considered the entire record before us, and we will reverse the obviousness rejection of claims 1 through 12.

Birch discloses (Figure 1) a multiplexer 110 that receives digital data from sources 101-1 through 101-m and 105-1 through 105-n at different data rates, and multiplexes the digital data before transmitting it via satellite 160 to receiver site 150.

The examiner acknowledges (answer, page 4) that "Birch does not specifically disclose a broadcast quality multi-window screen display at the remote location, the multi-window display comprising a plurality of different programming in each of [the] multi-window screens." The examiner turns to Kohiyama for a teaching of a multi-window display. According to the examiner (answer, page 4), "Kohiyama discloses an image-processing device that displays a plurality of programs on [a] TV screen in [the] form of multi-windows (Col. 1, lines 10-26)." The examiner concludes (answer, pages 4 and 5) that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Birch by including a broadcast quality multi-windows screen display at the remote location as taught by Kohiyama (Col. 4, lines 6-18), in order to provide to

users a chance to take a look at aired programs simultaneously as suggested by Kohiyama (Col. 1, lines 17-20)."

The examiner additionally acknowledges (answer, page 5) that neither Birch nor Kohiyama discloses "a GUI [graphical user interface] accessing a software control process at the network operating center for controlling through the digital streaming media the assembly of the multi-window screen display." The examiner states (answer, page 5) that Kohiyama does, however, disclose that "the variable-length decoding unit 11 received a mode signal (digital streaming media) from the sender (Network Operating center), which indicates whether pictures are displayed in a normal display mode, or reduced in size to be displayed in a multi-windows display mode (Col. 7, lines 19-28)."

With respect to the noted GUI missing from the teachings of both Birch and Kohiyama, the examiner cites Lai for a teaching (Figure 1) of a GUI (i.e., the user interface 109) controlling a multiplexor 102 and a video encoder 106 to produce a video output signal 126. In view of the teachings of Lai, the examiner is of the opinion (answer, page 6) that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Birch and Kohiyama by integrating GUI (user interface) software control at the network operating center, as

Appeal No. 2003-0664
Application No. 09/314,716

taught by Lai, in order to present simultaneously multiple video images in a pre-selected pattern of multiple video windows as suggested by Lai (Col. 1, lines 59-65)."

Appellants argue (reply brief, pages 2 and 3) that the examiner has used improper hindsight to pick and choose teachings from the references to arrive at the claimed invention, and that "[t]he prior art does not disclose the claimed combination of a: (1) 'network operation center creating a national program feed and information components,' to generate (2) 'broadcast quality multi-window screen display' created by (3) 'a graphical user interface . . . at the network operation center' for (4) 'controlling through the digital streaming media the assembly of the multi-window screen display.'"

With the exception of argument (1), we agree with all of the appellants' arguments. We find that the transmitter 100 in Birch is "a network operation center creating a national program feed and information components." Appellants correctly argue (reply brief, pages 3 through 5) that the applied references lack a GUI at the network operation center (i.e., the transmitter) to create a digital streaming media, and then to control how that digital streaming media is assembled in a multi-window screen display at the receiving remote node. As indicated supra, the examiner

Appeal No. 2003-0664
Application No. 09/314,716

acknowledged that neither Birch nor Kohiyama discloses a GUI at the network operation center. With respect to the mode signal alluded to by the examiner (answer, page 5), we find that Kohiyama does not state that the mode signal originates at "the sender (Network Operating center)." Kohiyama merely states (column 9, lines 5 through 7) that "an MPU (not shown) or the like creates this mode signal." We will not condone the examiner's use of improper speculation to attribute unfounded teachings to Kohiyama. Lai discloses a GUI, but it is located at the receiver. Thus, we agree with the appellants' argument (reply brief, pages 4 and 5) that Lai does not teach a GUI at the network operation center.

In view of the foregoing deficiencies in the teachings and suggestions of the applied references, the obviousness rejection of claim 1 is reversed. The obviousness rejections of claims 2 through 12 are reversed because the teachings of Kostreski, Gotwald and Qureshi do not cure the noted shortcomings in the teachings of Birch, Kohiyama and Lai.

Appeal No. 2003-0664
Application No. 09/314,716

DECISION

The decision of the examiner rejecting claims 1 through 12
under 35 U.S.C. § 103(a) is reversed.

REVERSED

KENNETH W. HAIRSTON)	
Administrative Patent Judge)	
)	
)	
)	
JOSEPH L. DIXON)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
MAHSHID D. SAADAT)	
Administrative Patent Judge)	

KWH:svt

Appeal No. 2003-0664
Application No. 09/314,716

McDonnell Boehnen Hulbert & Berghoff
300 South Wacker Drive
Suite 3200
Chicago, IL 60606