

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte TOMIHISA KAMADA, TAKESHI MOTOHASHI, and EIJI KUWANA

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Appeal No. 2005-1760  
Application 09/319,649

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ON BRIEF

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Before HAIRSTON, LEVY, and BLANKENSHIP, Administrative Patent Judges.

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 25.

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The disclosed invention relates to a method and apparatus for obtaining via the Internet audience data on TV programs watched by a viewer.

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

1. A method for obtaining audience data on TV programs, in an audience data obtaining device which uses a computer, the method comprising the steps of:

obtaining, from outside, TV program table data for an area where a viewer resides, said TV program table data including channel information and time information for each of TV programs planned to be broadcast in that area;

detecting a channel that is being viewed by the viewer;

detecting times at which a viewing of the channel is started and ended;

identifying a program ID of a currently viewed program from said TV program table data by comparing said detected channel and a current time with the channel and time information of said TV program table data;

obtaining audience data which include at least the program ID and viewed time information of the viewed program based on said TV program table data and results of the detecting of times, said viewed time information including at least one of (1) a view start time of each viewed program, (2) a view end time of each viewed program, and (3) a difference between the view start time and the view end time; and

transferring, via the Internet to a collection center, the obtained audience data along with ID data of the viewer.

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The references relied on by the examiner are:

Welsh	5,374,951	Dec. 20, 1994
Rothmuller	5,635,989	June 3, 1997
Herz et al. (Herz)	5,758,257	May 26, 1998 (filed Nov. 29, 1994)
Williams et al. (Williams)	5,977,964	Nov. 2, 1999 <sup>1</sup>

Claims 1 through 3, 5 through 8 and 10 through 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Herz in view of Welsh and Williams.

Claims 4 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Herz in view of Welsh, Williams and Rothmuller.

Reference is made to the briefs and the answer for the respective positions of the appellants and the examiner.

#### OPINION

For all of the reasons expressed by the appellants, and for the additional reasons set forth infra, we will reverse the obviousness rejections of claims 1 through 25.

Appellants argue inter alia (brief, pages 7 through 9) that the applied references do not use the Internet to transmit viewer data to a collection center.

Herz uses customer profile data to customize video programming for the customer (Abstract; column 1, lines 8 through

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<sup>1</sup>The January 5, 1998 filing date of this patent is after the December 12, 1997 PCT filing date of the subject application.

20). The profile data and viewing habit data are collected at a customer site by a set top terminal 412, and the profile data and viewing habit data are transmitted via a two-way communications path to a data collection memory 508 at head end 502 (Figure 5; column 41, line 57 through column 42, line 11). The two-way communications path is not the Internet. In Herz, the only use of the Internet is to download data to the customer's site.

Welsh discloses "[a] system for monitoring and recording . . . television program viewing habits utilizing a plurality of remote program monitor units in panelists households and automatically periodically reporting such data to a central computer via a conventional telephone network"<sup>2</sup> (Abstract). Welsh is silent concerning the use of the Internet to transmit the collected data to a collection center.

In Williams, a user profile is created based in part on the monitored viewing habits of the user (column 2, lines 11 through 21). The user profile includes a behavior log that identifies the time period that a program was watched by the viewer (column 15, line 44 through column 16, line 10). The data collected by system controller 104, 704 (e.g., a set top box) is transmitted to a remote server/collection center via the Internet connection

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<sup>2</sup>This type of data collection and transmission is described in appellants' admitted prior art (specification, pages 1 and 2).

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to telephone/computer network interface 128 (column 5, lines 32 through 35; column 14, lines 36 through 41; column 16, lines 19 through 26). The data transmitted to the collection center does not, however, contain a program ID obtained by comparing a detected channel and current time with channel and time information stored in a TV program table as set forth in the claims on appeal (brief, pages 9 and 10).

In summary, the obviousness rejection of claims 1 through 3, 5 through 8 and 10 through 25 is reversed.

The obviousness rejection of claims 4 and 9 is reversed because the teachings of Rothmuller fail to cure the noted shortcomings in the teachings of Herz, Welsh and Williams.

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DECISION

The decision of the examiner rejecting claims 1 through 25  
under 35 U.S.C. § 103(a) is reversed.

REVERSED

KENNETH W. HAIRSTON	)	
Administrative Patent Judge	)	
	)	
	)	
	)	BOARD OF PATENT
STUART S. LEVY	)	APPEALS AND
Administrative Patent Judge	)	INTERFERENCES
	)	
	)	
HOWARD B. BLANKENSHIP	)	
Administrative Patent Judge	)	

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