

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

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MATHIEU C. HANS and GARY D. SASAKI

Appeal No. 2006-0799
Application No. 09/795,990

ON BRIEF

Before OWENS, GROSS, and LEVY, *Administrative Patent Judges*.
OWENS, *Administrative Patent Judge*.

DECISION ON APPEAL

This appeal is from a rejection of claims 1-29, which are all of the pending claims.

THE INVENTION

The appellants claim a system and method for managing access to digital content licensed by a user. Claims 1 and 15 are illustrative:

1. A system for managing access to digital content, comprising:
a rights manager residing on a server computer and configured to maintain for a user residing at a network node remote from the server computer a user profile containing selected user information, including a user license index identifying digital content licensed by the user.

15. A method of managing access to digital content, comprising:

maintaining on a server computer a user profile for a user residing at a network node remote from the server computer, the user profile containing selected user information, including a user license index identifying digital content licensed by the user.

THE REFERENCES

Krishnan et al. (Krishnan)	6,073,124	Jun. 6, 2000
Cook et al. (Cook)	6,338,044	Jan. 8, 2002
		(filed Mar. 17, 1999)

THE REJECTIONS

The claims stand rejected as follows: claims 1-11, 15-17, 21-23 and 25-29 under 35 U.S.C. § 102(e) as anticipated by Cook, and claims 12-14, 18-20 and 24 under 35 U.S.C. § 103 as obvious over Cook in view of Krishnan.

OPINION

The rejections are affirmed as to claims 1, 5-10, 12, 15, 18-22 and 24-28, and reversed as to claims 2-4, 11, 13, 14, 16, 17, 23 and 29.

Rejection of claims 1-11, 15-17, 21-23 and 25-29 under 35 U.S.C. § 102(e) over Cook

Cook discloses a system for distributing, across a communications network, digital entertainment customized according to consumers' stated preferences (col. 1, lines 5-10). Digital content is provided through a master digital library (2) on a central host computer (46) and in end user digital libraries (120) on consumers' personal computers (86). "The end user digital libraries (**120**) include indexes of the personal

digital content for each end user and characteristics for each element of the personal digital content" (col. 3, lines 15-18).

The appellants argue that only Cook's entertainment programming service provider, not the users, is required to obtain a license from copyright owners (brief, page 6).

The servers of both the appellants and Cook maintain an index of digital content. The digital content in the appellants' index is licensed tracks, whereas the digital content in Cook's index is tracks generally. Human minds are aware that the tracks in the appellants' index are licensed, but that awareness does not distinguish the index of those tracks from an index of the same tracks, or other tracks, that are not licensed. Consequently, the claim requirement that the digital content is licensed does not patentably distinguish the appellants' system or method over those of Cook.

Thus, we are not convinced of reversible error in the rejection of independent claims 1 and 15 and dependent claims 5-10, 21, 22 and 25-28 which, the appellants state (brief, page 11), stand or fall therewith. Accordingly, we affirm the rejection of those claims.

Regarding claims 2 and 16, the appellants argue that Cook does not indicate that a user is able to register a license for digital content previously purchased by the user (brief, page 12). The examiner argues that this claim requirement is disclosed in Cook's figure 1 and associated text (answer, page 4). The examiner, however, does not point

out how those portions of Cook indicate that Cook's system or method enables a user to register a license for digital content. Consequently, we reverse the rejection of claims 2 and 16 and their dependent claims 3, 4, 17 and 23.

The appellants argue that Cook does not disclose enabling transmission of digital content to a network node address different from the user network node in accordance with a destination node address received from the user as required by claims 11 and 29 (brief, page 13). The examiner argues that Cook discloses that claim requirement at column 6, lines 40-50 (answer, pages 5-6). That portion of Cook discloses that Cook's player can be implemented not only on a personal computer, but on any Internet enabled appliance. It does not disclose what is required by the appellants' claims 11 and 29. Hence, we reverse the rejection of those claims.

*Rejection of claims 12-14, 18-20 and 24 under
35 U.S.C. § 103 over Cook in view of Krishnan*

The portion of Krishnan relied upon by the examiner discloses a system for digital commerce comprising payment processing functions (309) used by a licensing and purchasing broker (307) to charge a customer and to credit the appropriate supplier when the customer requests a purchase (col. 9, lines 11-16).

With respect to claims 12, 18, 20 and 24, the appellants argue that Krishnan does not remedy the deficiency in Cook as to claims 1 and 15 (brief, page 14). As discussed above regarding the rejection of claims 1 and 15, Cook is not deficient as to those claims. Consequently, we affirm the rejection of claims 12, 18, 20 and 24.

The appellants argue that Krishnan does not disclose a royalty payment manager configured to authorize payment in response to a digital content registration confirmation as required by claim 13, or authorizing payment upon registration of digital content as required by claim 19 (brief, pages 13-14). The term “registration of digital content” is sufficiently broad to encompass Cook’s indexing of digital content. Krishnan’s disclosure of payment upon purchase (col. 9, lines 12-16) would have fairly suggested, to one of ordinary skill in the art, authorizing payment when digital content is added to Cook’s index. Hence, we affirm the rejection of claim 19. However, the examiner’s argument that “Krishnan discloses a comprehensive license verification mechanism that confirms the various parameters of a valid licenses prior to authorizing access and thereafter making a corresponding payment to the licensing broker (figures 4, 11, 12 and associated text)” (answer, page 11) does not explain how Cook or Krishnan discloses payment in response to a digital content registration confirmation. Consequently, we reverse the rejection of claim 13 and its dependent claim 14.

DECISION

The rejection of claims 1-11, 15-17, 21-23 and 25-29 under 35 U.S.C. § 102(e) over Cook is affirmed as to claims 1, 5-10, 15, 21, 22 and 25-28, and reversed as to claims 2-4, 11, 16, 17, 23 and 29. The rejection of claims 12-14, 18-20 and 24 under

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35 U.S.C. § 103 over Cook in view of Krishnan is affirmed as to claims 12, 18-20 and 24, and reversed as to claims 13 and 14.

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No time period for taking any subsequent action in connection with this appeal
may be extended under 37 CFR § 1.136(a).

AFFIRMED-IN-PART

TERRY J. OWENS)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
ANITA PELLMAN GROSS)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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)	
STUART S. LEVY)	
Administrative Patent Judge)	

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

Comment [jvn1]: Type or Paste Address

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