

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ELLIOT N. LINZER

Appeal 2008-1237
Application 10/277,698
Technology Center 2600

Decided: July 22, 2008

Before MAHSHID D. SAADAT, ROBERT E. NAPPI,
and KEVIN F. TURNER, *Administrative Patent Judges*.

NAPPI, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 6(b) of the final rejection of claims 1 through 9 and 27 through 46.

We affirm in part the Examiner's rejections of these claims.

INVENTION

The invention is directed to a method of video compression and coding where data in the overscan region are absent from the encoded video. See pages 3 and 4 of Appellant's Specification. Claims 1 and 7 are representative of the invention and reproduced below:

1. A method for decoding a digital video bit-stream comprising the steps of:

(A) receiving said digital video bit-stream containing image information; and

(B) receiving one or more overscan parameters, wherein said one or more overscan parameters describe one or more dimensions of an overscan region absent from said digital video bit-stream.

7. A method for encoding a digital video bit-stream comprising the steps of:

(A) generating one or more overscan parameters describing dimensions of an overscan region in an image;

(B) generating said digital video bit-stream containing encoded image data for a picture region in said image, wherein image data for said overscan region is absent from said digital video bit-stream; and

(C) presenting said digital video bit-stream and said one or more overscan parameters.

REFERENCES

Katsumata	US 5,353,065	Oct. 4, 1994
McGraw	US 6,300,980 B1	Oct. 9, 2001
Buxton	US 2003/0228127 A1	Dec. 11, 2003 (filed Jun. 6, 2002)
Liang	US 2002/0196853 A1	Dec. 26, 2002 (filed Jun. 1, 1998)
Winger	US 2004/0150540 A1	Aug. 5, 2004 (filed Feb. 2, 2004)

Editors Proposed Draft Text Modifications for Joint Video Specification (ITU-T Rec. H.264/ISO/IEC 14496-10 AVC) Draft 7, October 2002, pp. 1-200.

REJECTIONS AT ISSUE

Claims 1 through 9, 29, 34 through 37, 40, 45, and 46 stand rejected under 35 U.S.C. § 102(e) as being anticipated over Buxton.

Claims 27, 28, 38, and 39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Buxton in view of Katsumata.

Claims 30, 32, 41, and 43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Buxton in view of Winger.

Claims 31 and 42 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Buxton in view of McGraw.

Claims 33 and 44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Buxton in view of Winger and Liang.

Throughout the opinion, we make reference to the Brief (received March 5, 2007), Reply Brief (received August 23, 2007) and the Answer (mailed June 27, 2007) for the respective details thereof.

ISSUES

Rejection of claims 1, 2, 4 through 6, 36, and 37 under 35 U.S.C. § 102(e).

Appellant argues on pages 6 through 13 of the Brief that the Examiner's rejection of claims 1, 2, 4 through 6, 36, and 37 is in error. Appellant asserts that Buxton does not disclose "**receiving one or more overscan parameters, where the one or more overscan parameters describe one or more dimensions of an overscan region absent from the digital video bit-stream.**" App. Br. 7. Further, on page 6 of the Reply

Brief, Appellant argues that in the embodiment of Buxton where frame data are copied into the overscan region, the encoder still encodes the overscan region, thus the overscan region is not absent from the bit stream.

Thus, Appellant's contentions with respect to the rejection of claims 1, 2, 4 through 6, 36, and 37, present us with the issue of whether the Examiner erred in finding that Buxton teaches receiving one or more overscan parameters, wherein said one or more overscan parameters describe one or more dimensions of an overscan region absent from said digital video bit-stream.

Rejection of claims 3, 29, 34, and 35 under 35 U.S.C. § 102(e).

On pages 13, 14, and 24 through 27 of the Brief, Appellant presents arguments directed to the rejection of claims 3, 29, 34, and 35. These claims all depend upon claim 1. As discussed *infra*, the issues raised with respect to claim 1 are dispositive of the rejection of these claims. Accordingly, we do not reach the additional issues raised by Appellant with respect to these claims.

Rejection of claims 7 and 8 under 35 U.S.C. § 102(e).

Appellant argues, on pages 15 through 21 of the Brief, that the Examiner's rejection of claims 7 and 8 is in error. Appellant asserts that Buxton does not disclose:

the steps of (A) generating one or more overscan parameters describing dimensions of an overscan region in an image, (B) generating the digital video bit-stream containing encoded image data for a picture region in the image, where image data for the overscan region is absent from the digital video bit-stream.

App. Br. 15.

Appellant's arguments on pages 15 through 21 of the Brief, are directed to the embodiments of Buxton where data in the overscan region are deleted. Further, on page 6 of the Reply Brief, Appellant argues that in the embodiment of Buxton where frame data are copied into the overscan region, the encoder still encodes the overscan region, thus the overscan region is not absent from the bit stream.

Thus, Appellant's contentions with respect to the rejection of claims 7 and 8, present us with the issue of whether the Examiner erred in finding that Buxton teaches generating one or more overscan parameters, which describe one or more dimensions of an overscan region of an image, and generating a video bit stream containing image data for a region in the image, wherein image data from the overscan region are absent from the image.

Rejection of claim 9 under 35 U.S.C. § 102(e).

Appellant argues, on pages 22 and 23 of the Brief, that the Examiner's rejection of claim 9 is in error. Appellant asserts that Buxton does not disclose an overscan flag and values representing a number of either rows or columns adjacent the picture region as claimed.

Thus, Appellant's contentions with respect to the rejection of claim 9 present us with the issue of whether the Examiner erred in finding that Buxton teaches that the generated overscan parameters include one of an overscan flag, and values representing number of rows and columns adjacent the image.

Rejection of claim 40 under 35 U.S.C. § 102(e).

Appellant argues, on page 24 of the Brief, that the Examiner's rejection of claim 40 is in error. Appellant asserts that Buxton does not disclose that the overscan parameters are presented separately from the digital bit stream as claimed.

Thus, Appellant's contentions with respect to the rejection of claim 9 present us with the issue of whether the Examiner erred in finding that Buxton teaches that the that the overscan parameters are presented separately from the digital bit stream.

Rejection of claims 45 and 46 under 35 U.S.C. § 102(e).

Appellant argues, on pages 27 and 28 of the Brief, that the Examiner's rejection of claim 45 is in error. Appellant asserts that Buxton does not disclose that the step of generating overscan parameters involves assigning a value representative of an offset from an outer edge of the overscan region as measured from a corresponding edge of the picture as claimed. Appellant presents similar arguments directed to claim 46 on pages 29 and 30 of the Brief.

Thus, Appellant's contentions with respect to the rejection of claim 45 present us with the issue of whether the Examiner erred in finding that Buxton teaches the step of generating the overscan parameters includes a value of the measure of the offset to an inner region of the offset as measured from the corresponding outer edge of the image. Appellant's arguments with respect to claim 46 present us with a similar issue.

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Rejection of claims 27, 28, 38, and 39 under 35 U.S.C. § 103(a).

Appellant argues, on pages 32 through 34 of the Brief, that the Examiner's rejection of claims 27, 28, 38, and 39 is in error. Appellant argues that neither Buxton nor Katsumata teach or suggest the desirability of multiplexing one or more overscan parameters into the video bit stream as claimed.

Thus, Appellant's contentions with respect to the rejection of claims 27, 28, 38, and 39 present us with the issue of whether the Examiner erred in finding that the combination of Buxton and Katsumata teach or suggest the desirability of multiplexing one or more overscan parameters into the video bit stream as claimed.

Rejection of claims 30 and 41 under 35 U.S.C. § 103(a).

Appellant argues, on pages 34 and 35 of the Brief, that the Examiner's rejection of claims 30 and 41 is in error. Appellant argues that the Examiner has not provided objective reasoning to support the desirability of combining the references. App. Br. 35.

Thus, Appellant's contentions with respect to the rejection of claims 30 and 41 present us with the issue of whether the Examiner erred in combining the teachings of Buxton and Winger.

Rejection of claims 31 and 42 under 35 U.S.C. § 103(a).

Appellant argues, on pages 36 and 37 of the Brief, that the Examiner's rejection of claims 31 and 42 is in error. Appellant argues that the Examiner has not provided objective reasoning why one of ordinary skill in the art

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would consider the geometry flags of McGraw to be the same as the claimed overscan flags which indicate whether or not to use default parameters.

App. Br. 36.

Thus, Appellant's contentions with respect to the rejection of claims 31 and 42 present us with the issue of whether the Examiner erred in finding that the combination of Buxton and McGraw teach overscan flags which indicate whether or not to use default parameters.

Rejection of claims 32 and 43 under 35 U.S.C. § 103(a).

Appellant argues, on pages 35 and 36 of the Brief, that the Examiner's rejection of claims 32 and 43 is in error. Appellant argues that the Examiner has not provided objective reasoning why one of ordinary skill in the art would consider the making the video bit stream H.264 standard compliant.

App. Br. 36.

Thus, Appellant's contentions with respect to the rejection of claims 32 and 43 present us with the issue of whether the Examiner erred combining the teachings of Buxton with Winger's teaching of making the video bit stream H.264 standard compliant.

Rejection of claims 33 and 44 under 35 U.S.C. § 103(a).

Appellant argues, on pages 37 and 38 of the Brief, that the Examiner's rejection of claims 33 and 44 is in error. Appellant argues that the Examiner has not provided objective reasoning why one of ordinary skill in the art would modify Buxton to send the overscan parameters in the pan-and-scan fields. App. Br. 38.

Thus, Appellant's contentions with respect to the rejection of claims 31 and 42 present us with the issue of whether the Examiner erred in finding that the combination of Buxton, Winger and Liang teach placing the overscan parameters in the pan-and-scan field.

PRINCIPLES OF LAW

On the issue of obviousness, the Supreme Court has recently stated that "[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1739 (2007).

When a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability. For the same reason, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill. . . . [A] court must ask whether the improvement is more than the predictable use of prior art elements according to their established functions.

Id. at 1740. "One of the ways in which a patent's subject matter can be proved obvious is by noting that there existed at the time of the invention a known problem for which there was an obvious solution encompassed by the patent's claims." *Id.* at 1742.

37 C.F.R. § 41.37 (c)(1)(vii) states:

For each ground of rejection applying to two or more claims, the claims may be argued separately or as a group. When multiple claims subject to the same ground of rejection are argued as a group by appellant, the Board may select a single claim from the group of

claims that are argued together to decide the appeal with respect to the group of claims as to the ground of rejection on the basis of the selected claim alone. Notwithstanding any other provision of this paragraph, the failure of appellant to separately argue claims which appellant has grouped together shall constitute a waiver of any argument that the Board must consider the patentability of any grouped claim separately.... A statement which merely points out what a claim recites will not be considered an argument for separate patentability of the claim.

FINDINGS OF FACT

1. Buxton teaches a personal video recorder where the recorder drops or modifies the overscan data from the video prior to compression and storage. Abstract.
2. Buxton teaches that the overscan area constitutes the outer region of the frame image. In most cases the image information in this area is not displayed. Para. 0019, 0020.
3. Information in the overscan area is transmitted, and may include noise, or a data channel. Para. 0022, 0024.
4. Buxton teaches that the image may be broken down into blocks of a given number of rows and columns of pixels. The blocks can be selected such that the overscan area can be defined by the border blocks. These overscan areas may be defined by whole blocks or partial blocks. See figure 4, and para. 0030-0032.
5. The blocks, or partial blocks represent a fixed number of rows and columns of pixels, thus one skilled in the art would recognize that they also represent a dimension of the block measured in units of pixels.

6. Buxton teaches several embodiments to reduce the data stored by the personal video recorder. In one embodiment, the overscan encoder may take data which are easily compressed, for example data from the image area, and write them into the overscan area of the image frame. In this embodiment, the video encoder makes a note that the block is repeated (or copied) in the overscan region. Para. 0037.
7. Appellant admits on page 24 of the Brief that Buxton teaches a single pathway from the encoder to the decoder. Thus, the image data and the notations discussed in fact 6 are together on the single pathway.

ANALYSIS

Rejection of claims 1 through 6, 29, and 34 through 37 under 35 U.S.C. § 102(e).

Appellant's arguments have persuaded us that the Examiner erred in finding that Buxton teaches receiving one or more overscan parameters, wherein said one or more overscan parameters describe one or more dimensions of an overscan region absent from said digital video bit-stream. Claim 1 recites that a video bit stream containing image information is received, and that one or more overscan parameters is received. The overscan parameters "describe one or more dimensions of an overscan region absent from said digital video bit-stream." Thus the scope of claim 1 includes two steps of receiving data where the second step receives data identifying a data region absent from the video stream.

The Examiner, in rejecting claim 1 relies upon the embodiment of Buxton where the data from the image blocks are copied to the overscan region. Ans. 5. The Examiner equates the notation, that the data portion in the overscan area is a copy of the data in the image area, with the received overscan parameters. Ans. 5, 6. We disagree with the Examiner's finding that this meets the claim. Though, in this embodiment of Buxton, the data stream is missing information contained in the overscan area of the original image (i.e., data stream to video decoder 40 does not have overscan information from input signal 10), this is not what is claimed. Rather, as discussed *supra*, the claim is limited to data identifying a data region absent from the video stream. The identifiers, relied upon by the Examiner as meeting the claimed overscan parameters, identify areas of the data stream that are duplicated, but the data regions to which the identifiers refer are in the data stream. Fact 6. Accordingly, we do not find that the Examiner has shown that Buxton meets all of the limitations of independent claim 1. As claims 2, 4 through 6, 29, and 34 through 37 depend upon claim 1 and are similarly rejected; we will not sustain the Examiner's rejection of claims 1, 2, 3, 4 through 6, 29, and 34 through 37.

Rejection of claims 7 and 8 under 35 U.S.C. § 102(e).

Appellant's arguments have not persuaded us that the Examiner erred in finding that Buxton teaches generating one or more overscan parameters, which describe one or more dimensions of an overscan region of an image, and generating a video bit stream containing image data for a region in the image, wherein image data from the overscan region are absent from the image. The scope of claim 7 is different from claim 1, in that claim 7 recites

two steps of generating data based upon an image. In the first step overscan data is generated describing dimensions of an overscan region. In the second step, video bit stream is generated containing data for a picture region of said image and where image data in the overscan region is absent from the video bit stream.

The Examiner, in rejecting claim 7 relies upon the embodiment of Buxton where the data from the image blocks are copied to the overscan region. Ans. 5. The Examiner equates the notation, that the data portion in the overscan area is a copy of the data in the image area, with the overscan parameters. Ans. 5, 6. We concur with the Examiner's findings. Buxton teaches that the notations identify image blocks or fractions of blocks. Fact 4. Further, we find that the blocks represent a dimension of an area. Fact 5. Thus, we concur with the Examiner's finding that Buxton's notation identifying a block in the overscan area is a duplicate of other image data (fact 6), does identify an overscan parameter describing dimensions of the overscan area.

Additionally, we find that Buxton teaches the second step of generating a bit stream. Claim 7 recites that the image data from the overscan region of the image is absent from the bit stream. We find that Buxton teaches this feature. In figure 1 of Buxton, the input signal to the system, represents the claimed image, and the output of the video encoder (item 20) represents the bit stream. Buxton teaches that there is information in the overscan area of the image. Fact 2. In the embodiment of the copy and replace data blocks, the data in the blocks of the overscan area of the image are overwritten with the copied data. Fact 6. Thus, the overscan data

in the original input signal are absent from the bit stream as it has been overwritten with the copied data.

For the aforementioned reasons, Appellant's arguments have not persuaded us of error in the Examiner's rejection of claims 7 and 8.

Rejection of claim 9 under 35 U.S.C. § 102(e).

Appellant's arguments have not persuaded us that the Examiner erred in finding that Buxton teaches that the generated overscan parameters include one of an overscan flag and values representing number of rows and columns adjacent the image. Claim 9 is dependent upon claim 7 and recites "wherein said one or more overscan parameters comprises at least one of" and recites several type of values. Thus, as claim 9 by recites "comprises at least one of," Buxton only needs to teach one of the data types. The Examiner, on pages 7 and 8 of the Answer, finds that Buxton's teaching of the embodiment where the data from the image blocks are copied to the over scan region, the use of blocks and partial blocks meets the dimensions of the overscan region. We concur with the Examiner findings, that the size of the blocks identified as copied is an identification of the block's dimension. Fact 5. Further, we consider the notation that the block is a copy to be the equivalent to the claimed overscan flag. Thus, Appellant's arguments have not persuaded us of error in the Examiner's rejection of claim 9 as we find ample evidence to support the Examiner's finding that Buxton teaches the overscan parameters as recited in claim 9. Accordingly, we sustain the Examiner's rejection of claim 9.

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Rejection of claim 40 under 35 U.S.C. § 102(e).

Appellant's arguments have not persuaded us that the Examiner erred in finding that Buxton teaches that the overscan parameters are presented separately from the digital bit stream. Claim 40 recites that the overscan parameters are provided separate from the video bit stream.

In support of the rejection, the Examiner states:

It is noted that since Buxton discloses implementing the central area block copying operation to the overscan region (Buxton: paragraph [0037], lines 10-14) using pre-processing (Buxton: paragraph [0037], lines 15-18), the ***overscan parameters would be sent in advance, and therefore, separately*** from the digital video bitstream. Furthermore, even this feature were not found to anticipated by the Board, the Examiner would note that such a feature is unpatentable under 35 U.S.C. 103(a) since it has long been held as an obvious modification to separate something that was once integral, *Nevin v. Erlichman*, 168 USPQ 177, 179, (USPTO Bd. Of Int. 1969).

Ans. 11.

We disagree with the Examiner's rationale. We note that the Examiner has rejected claim 40 under 35 U.S.C. § 102(e), and as such obviousness is not an issue. Further, we do not find that the Examiner has presented sufficient evidence that the pre-processing requires the notations that a block is a copy (the overscan parameters) needs to be provided separately as claimed. Thus, we will not sustain the Examiner's rejection of claim 40.

Rejection of claims 45 and 46 under 35 U.S.C. § 102(e).

Claim 45.

Appellant's arguments have not persuaded us that the Examiner erred in finding that Buxton teaches the step of generating the overscan parameters includes a value of the measure of the offset to an inner region of the offset

as measured from the corresponding outer edge of the image. On page 11 and 12 of the Answer, the Examiner equates Buxton's teaching of using partial blocks to identify the overscan area with the claimed assigning a value of the measure of the offset as claimed. We concur with the Examiner's finding. As discussed *supra*, the identification of the blocks and the number of rows and pixels that are in the block are a value indicative of a dimension. Fact 5. As these blocks are on the outer edge of the image, see figure 4, the value of rows or columns, in the block or partial block, represent a measure from the left (or top) outer edge of the image (which includes the overscan area) to the inner edge left (or upper) edge of the picture area. Accordingly, Appellant's arguments have not persuaded us of error in the Examiner's rejection of claim 45, and thus, we sustain the Examiner's rejection of claim 45.

Claim 46.

Claim 46, similar to claim 45, recites that the step of generating the overscan parameters comprises assigning a value. Claim 46 recites that the value represents an offset to the inner edge of the overscan region from the outer edge of the image. The difference between claim 45 and 46 is that claim 45 recites the measurement from the outside in and claim 46 as the measurement from the inside out. As discussed above with respect to claim 45 we find that Buxton's teaching of using blocks meets this limitation. As these blocks are on the outer edge of the image, see figure 4, the value of rows or columns, in the block or partial block, represent a measure from the inner edge right (or lower) edge of the overscan area to the right (or lower) outer edge of the image (which includes the overscan area).

Accordingly, Appellant's arguments have not persuaded us of error in the Examiner's rejection of claim 46, and thus, we sustain the Examiner's rejection of claim 46.

Rejection of claims 27, 28, 38, and 39 under 35 U.S.C. § 103(a).

Initially, we note that though the bulk of Appellant's arguments group claims 27, 28, 38, and 39 together. Appellant does argue on page 32 of the Brief that claims 27 and 28 are dependent upon claim 1 and are allowable for the reasons discussed with respect to claim 1.¹ Thus, Appellant's arguments have grouped the claims into two groups, the first group being claims 27 and 28; the second group being claims 38 and 39. We select claims 27 and 38 to be representative of each group respectively.

Claims 27 and 28.

Claims 27 and 28 are dependent upon claim 1. As discussed above with respect to the rejection of claim 1 we find error in the Examiner's rejection based upon Buxton. The Examiner has not found, nor do we find that the additional teachings of Katsumata, solve the problems in the rejection of claim 1 noted above. Accordingly, we reverse the Examiner's rejection of claims 27 and 28 for the reasons discussed with respect to claim 1.

¹ We note that on pages 12 and 13 of the Reply Brief, Appellant has presented separate arguments directed to claims 28 and 39. However, the grouping of the claims is established by the Brief and not the Reply Brief, thus arguments made directed to claims 28 and 39 in the Reply Brief have not been considered as they are directed to claims which Appellant already grouped with other claims. See 37 C.F.R. § 41.37 (c)(1)(vii).

Claims 38 and 39.

Appellant's arguments have not persuaded us that the Examiner erred in finding that the combination of Buxton and Katsumata teaches or suggests the desirability of multiplexing one or more overscan parameters into the video bit stream as claimed. Claim 38 is dependent upon claim 7 and recites that the overscan parameters are multiplexed into the video bit-stream. Multiplexing is a process whereby two or more signals are combined together. As discussed above with respect to claim 7, we find that Buxton teaches the claimed overscan parameters and video bit stream. Appellant has admitted that Buxton teaches only one signal path. Fact 7. Thus, the two signals are present on one stream, i.e. multiplexed. Accordingly, Appellant's arguments have not persuaded us of error in the Examiner's rejection of claim 38 and claim 39 which is grouped with claim 38 and we sustain the Examiner's rejection of these claims.

Rejection of claims 30 and 41 under 35 U.S.C. § 103(a).

Initially, we note that though the bulk of Appellant's arguments group claims 30 and 41 together. Appellant does argue on page 34 of the Brief that claim 30 is dependent upon claim 1 and is allowable for the reasons discussed with respect to claim 1. Thus, Appellant's arguments have grouped the claims into two groups, the first group being claim 30; the second group being claim 41.

Claim 30 is ultimately dependent upon claim 1. As discussed above with respect to the rejection of claim 1 we find error in the Examiner's rejection based upon Buxton. The Examiner has not found, nor do we find that the additional teachings of Winger, solve the problems in the rejection

of claim 1 noted above. Accordingly, we reverse the Examiner's rejection of claim 30 for the reasons discussed with respect to claim 1.

Claim 41 is dependent upon claim 7. Appellant's arguments have not persuaded us that the Examiner erred in combining the teachings of Buxton and Winger. Claim 41 depends upon claim 9 and recites that the values for the overscan parameters are "expressed as unsigned integer Exp-Golomb-coded elements." The Examiner finds that Buxton discloses use of MPEG as a coding method and that Winger teaches that it is desirable to use Exp-Golomb-coded syntax elements to MPEG encoded information. Ans. 14. The Examiner notes that this combination is "suggested to prevent video signal distortion." Ans. 14. We consider this explanation by the Examiner to provide an objective reasoning that one would combine the teachings. That "the combination of Buxton and Winger do not necessarily teach or suggest the desirability of using the unsigned integer Exp Golomb-coded syntax elements" as argued by Appellant on page 16 of the Reply Brief, is of no consequence. The Examiner has demonstrated that the combination of the Exp-Golomb-coded syntax elements to the system of Buxton represents nothing more than using existing techniques to solve known problems. Accordingly, Appellant has not persuaded us of error in the Examiner's rejection of claim 41 and we sustain the rejection of this claim.

Rejection of claims 31 and 42 under 35 U.S.C. § 103(a).

Claim 31 is ultimately dependent upon claim 1. As discussed above with respect to the rejection of claim 1 we find error in the Examiner's rejection based upon Buxton. The Examiner has not found, nor do we find that the additional teachings of McGraw, solve the problems in the rejection

of claim 1 noted above. Accordingly, we reverse the Examiner's rejection of claim 31 for the reasons discussed with respect to claim 1.

Claim 42 is ultimately dependent upon claim 7. Appellant's arguments have persuaded us that the Examiner erred in rejecting claim 42. Claim 42 is dependent upon claim 9 and recites "where in said overscan flag has a first state indicating that the default values for overscan parameters should be used and a second state indicating that the overscan parameters are being sent." Thus, the scope of claim 42 includes that there are two states for the overscan flag, the second indicating overscan parameters are being sent. On page 15 of the Answer, the Examiner responds to the Appellant's argument citing the geometry flags of McGraw in column 5, lines 1-10 as teaching this limitation. As Appellant identifies, on page 36 of the Brief, these flags merely identify whether a display overscans an image by 10% or not. However, we fail to see how the teaching of these flags would suggest that the overscan parameters of Buxton should be modified to indicate whether or not to use default parameters. Accordingly, we will not sustain the Examiner's rejection of claim 42.

Rejection of claims 32 and 43 under 35 U.S.C. § 103(a).

Claim 32 is dependent upon claim 1. As discussed above with respect to the rejection of claim 1 we find error in the Examiner's rejection based upon Buxton. The Examiner has not found, nor do we find that the additional teachings of Winger, solve the problems in the rejection of claim 1 noted above. Accordingly, we reverse the Examiner's rejection of claim 32 for the reasons discussed with respect to claim 1.

Claim 43 is dependent upon claim 7. Appellant's arguments have not persuaded us that the Examiner erred in combining the teachings of Buxton with Winger's teaching of making the video bit stream H.264 standard compliant. On page 8 of the Office action dated August 23, 2006, the Examiner finds that Winger teaches using the H.264 standard for MPEG video encoding (see also Winger para. 0021). In responding to Appellant's arguments, directed to the combination of Buxton and Winger, the Examiner provides the same rationale discussed above with respect to claim 41. As discussed *supra* with respect to claim 41, we consider the combination of Winger's teachings of using MPEG encoding techniques as applied to Buxton to represent nothing more than using existing techniques to solve known problems. Accordingly, Appellant has not persuaded us of error in the Examiner's rejection of claim 43 and we sustain the rejection of this claim.

Rejection of claims 33 and 44 under 35 U.S.C. § 103(a).

Claim 33 is ultimately dependent upon claim 1. As discussed above with respect to the rejection of claim 1 we find error in the Examiner's rejection based upon Buxton. The Examiner has not found, nor do we find that the additional teachings of Winger and Liang, solve the problems in the rejection of claim 1 noted above. Accordingly, we reverse the Examiner's rejection of claim 32 for the reasons discussed with respect to claim 1.

Claim 44 is dependent upon claim 43. Appellant's arguments have persuaded us that the Examiner erred in combining the teachings of Buxton with Winger and Liang. On page 9 of the Office action dated August 23, 2006, the Examiner, citing paragraph 0317, finds that Liang teaches the

existence of a pan-and-scan field in an MPEG packet stream. The Examiner states on page 17 of the Answer:

since Buxton discloses the use of MPEG (Buxton: paragraph [0016], lines 1-5), and since Liang discloses that the pan and scan fields are a part of the MPEG syntax bitstream, it would be obvious for one of ordinary skill in the art to place the overscan parameters as part of those fields in order to have the overscan decoder be able to pre-process for the overscan region at a higher syntax level of the signal.

We disagree with the Examiner's rationale. As argued by Appellant on page 17 of the Reply Brief, we find that the Examiner has not presented sufficient evidence that placing the overscan parameters in the pan-and-scan fields would allow pre-processing the overscan regions at a higher syntax level, (i.e., the Examiner has not shown that the knowledge of the scan and pan fields (a known method) is known to allow for processing at a higher syntax level (is a known solution to a problem)). Accordingly, we find that the Examiner erred in teachings of Buxton with Winger and Liang to reject claim 44.

CONCLUSION

For the foregoing reasons, we sustain the Examiner's rejections of claims 7, 8, 9, 45, and 46 under 35 U.S.C. § 102(e) and of claims 38, 39, 41, and 43 under 35 U.S.C. § 103(a). We do not sustain the Examiner's rejection of claims 1 through 6, 29, and 34 through 37, and 40 under 35 U.S.C. § 102(e) and of claims 27, 28, 30, 31, 32, 33, 42, and 44 under 35 U.S.C. § 103(a).

ORDER

The decision of the Examiner is affirmed-in-part.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

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