

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JAE KYUNG LEE

Appeal 2008-4849
Application 09/841,007
Technology Center 2400

Decided: December 31, 2008

Before MAHSHID D. SAADAT, ROBERT E. NAPPI, and
CARLA M. KRIVAK, *Administrative Patent Judges*.

KRIVAK, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134 from a final rejection of claims 1, 2, 4-19, 23, and 31-33.¹ We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

¹ Claims 3 and 20 were cancelled by the Amendment filed April 24, 2006, claims 21 and 22 were cancelled by the Amendment filed February 7, 2007, and claims 24-30 were cancelled by the Amendment filed September 30, 2005.

STATEMENT OF THE CASE

Appellant's claimed invention is a TV having a language selection function and control method capable of displaying character information on a screen that is included in a broadcast signal (Spec. 1:7-10).

Independent claim 1, reproduced below, is representative of the subject matter on appeal.

1. A television (TV) having a language selection function, comprising:

a control unit configured to receive closed caption character information in a first language, to send the closed caption character information to a translation site through a network interface based on contact information associated with a plurality of translation sites stored in a storing unit if it is determined that the first language does not correspond to a selected language, and to receive the translated closed caption character information corresponding to the selected language; and

a video processing unit configured to receive the translated closed caption character information and to display the translated closed caption character information on a screen substantially in synch with corresponding audio information.

REFERENCES

Mighdoll	US 5,918,013	Jun. 29, 1999
Schein	US 6,002,394	Dec. 14, 1999
Gibbon	US 6,098,082	Aug. 1, 2000
Gibbon	US 6,473,778 B1	Oct. 29, 2002 (filed Feb. 1, 1999)
Berstis	US 6,901,367 B1	May 31, 2005 (filed Jan. 28, 1999)

The Examiner rejected claims 1, 2, 4, 11-14, 18, 23, and 31-33 under 35 U.S.C. § 103(a) based upon the teachings of Schein, Gibbon '778 (hereinafter "Gibbon"), and Berstis.

The Examiner rejected claims 5-10, 15-17, and 19 under 35 U.S.C. § 103(a) based upon the teachings of Schein, Gibbon, Berstis, and Mighdoll.

Appellant contends Schein's ordering a transcript of a video program is not commensurate with obtaining closed caption character information and is not in synch with corresponding audio information (Br. 10-11). Appellant further contends Gibbon aligns text in the same language it was received and does not display translated closed captioned text (Br. 11). Finally, Appellant contends Berstis merely translates email correspondence, not closed caption character information displayed substantially in synch with corresponding audio information (Br. 13).

ISSUE

Did the Examiner present a prima facie case of obviousness under 35 U.S.C § 103(a) in finding the linking of Schein for ordering transcripts of video programs can be combined with the hypermedia parallel text alignment of Gibbon and the email translation of Berstis to obtain the present invention?

FINDINGS OF FACT

1. Appellant's invention is an apparatus and method for providing a language selection function for a TV. Appellant teaches translating closed caption character information and displaying the translated closed caption

character information on a screen substantially in sync with corresponding audio information (Fig. 2; Spec. 8-10).

2. Schein teaches a system and method for linking TV viewers with advertisers and broadcasters (Abstract). Items and services are contextually linked to a particular program in a program guide (col. 23, l. 66-col. 24 l. 3). A viewer can order/purchase tape/transcripts of the program that is currently being shown on the guide (col. 24, ll. 14-17).

3. Gibbon teaches creating hypermedia documents from conventional transcriptions of TV programs. It does this by using parallel text alignment techniques to derive the temporal information for the closed caption signal to convert a transcription into a synchronized text stream. The text stream creates links between the transcription and the image and audio media streams (col. 2, ll. 45-53).

4. Berstis teaches front end translation for received communications (Abstract). Particularly, the front end translation mechanism intercepts incoming email communications transmitted in a different language. The incoming communications include, in addition to email, files transmitted via file transfer protocol (FTP), internet/web pages, chat or newsgroup communications, and terminal emulation (col. 4, ll. 24-35). The translation may be completed within an internet environment by sending the communication to a web site (col. 4, ll. 61-67).

PRINCIPLES OF LAW

The Examiner bears the initial burden of presenting a prima facie case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). If that

burden is met, then the burden shifts to the Appellants to overcome the prima facie case with argument and/or evidence. *See Id.*

The Examiner's articulated reasoning in the rejection must possess a rational underpinning to support the legal conclusion of obviousness. *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006).

ANALYSIS

The Examiner rejected claims 1, 2, 4, 11-14, 18, 23, and 31-33 under 35 U.S.C. § 103(a) over the combination of Schein, Gibbon, and Berstis. The Examiner finds Schein teaches the ability of a user to order a transcript of a video program (Ans. 4). The Examiner then states ordering a transcript of a video program is "commonly understood in the art" to correspond to "closed caption character information" (*id.*). However, Schein is silent as to the particular creation and delivery method of the transcript but Gibbon provides means to "produce and deliver high quality video enhanced transcripts in an automated fashion (*id.*). The Examiner then contends the combination of Schein and Gibbon is silent as to the "particular usage of the Schein et al. 'network interface' [72] to receive a translated version of the closed caption character information associated with the received hypermedia or web-page transcript" (Ans. 5) and thus applies Berstis. Berstis is cited as disclosing a device having a language selection function allowing incoming email messages to be translated into a language selected by the user and displayed on the user's monitor along with the original language text (*id.*; Figs. 3 & 4; steps 316 and 425 of Berstis). Finally, the Examiner contends the combination of these references provides an internet TV having a language selection function capable of ordering an enhanced

hypermedia or web-page based transcript of a video program including synchronous closed captioning and audio along with translation of textual information or closed captioning if needed (Ans. 6), as claimed by Appellant.

Appellant asserts Schein merely discloses a TV system that can use electronic programming guides (EPGs) to link sites related to a particular broadcast (Br. 13). Thus, there is no motivation to combine Schein with Gibbon and Berstis. Further, even if these references were combined none teach or suggest displaying a translated closed caption text in synch with corresponding audio information (Br. 14).

The Examiner has provided no evidence that ordering a transcript as taught by Schein is “commonly understood in the art” (Ans. 4) to correspond to closed caption character information to be translated. Schein merely teaches placing an order for a transcript; not determining if the language of the closed caption character information corresponds to a selected language. While Berstis does teach translating email within an internet site (FF 4), the Examiner’s position is dubious at best that this teaching, when combined with the other references, somehow teaches or suggests displaying translated closed caption character information in synch with audio information. Further, there is nothing in the record before us that reasonably suggests how one skilled in the art would combine a system for linking TV viewers with advertisers and broadcasters with a method for generating hypermedia documents from transcriptions of TV programs using parallel text alignment and a mechanism for translating a received communication. The Examiner’s combination of the various teachings from the cited references to arrive at Appellant’s invention is speculative at best. Accordingly, the Examiner has

Appeal 2008-4849
Application 09/841,007

not provided a prima facie case of obviousness with respect to claims 1, 2, 4, 11-14, 18, 23, and 31-33.

The Examiner also rejected claims 5-10, 15-17, and 19 under 35 U.S.C. § 103(a) based upon the teachings of Schein, Gibbon, Berstis, and Mighdoll. The Examiner has not identified any teachings in Mighdoll to overcome the deficiencies of Schein, Gibbon, and Berstis. Thus, the Examiner has not provided a prima facie case of obviousness in rejecting these claims over the cited combination of prior art references.

CONCLUSION

The Examiner did not provide a prima facie case of obviousness and thus erred in rejecting claims 1, 2, 4-19, 23, and 31-33 under 35 U.S.C. § 103(a).

DECISION

The Examiner's decision rejecting claims 1, 2, 4-19, 23, and 31-33 is reversed.

Appeal 2008-4849
Application 09/841,007

REVERSED

Eld

KED & ASSOCIATES, LLP
P.O. BOX 221200
CHANTILLY, VA 20153-1200