

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 39

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID A.G. WILSON

Appeal No. 2001-2307
Application No. 08/791,266

ON BRIEF

Before THOMAS, HAIRSTON, and BLANKENSHIP, Administrative Patent Judges.
BLANKENSHIP, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1, 3, 5, 9, 10, and 13-22, which are all the claims remaining in the application.

We affirm-in-part.

BACKGROUND

The disclosed invention relates to a computer workstation running video conferencing applications. The workstation includes support modules for capturing, sending, and receiving video signals in different formats. Claim 1 is reproduced below.

1. A first computer workstation for providing direct peer to peer communications with a second computer workstation or terminal over a digital communication link without requiring intervention of a central control facility, said first workstation comprising:

means for receiving a video signal generated by associated means for generating a video signal, wherein said video signal may have bandwidth greater than the bandwidth of the communication link connecting said first computer workstation and said second workstation;

a first video subsystem comprising means for converting the generated video signal into a first predetermined data format, said processing including compressing the generated video signal, such that it must be decompressed before it can be subsequently displayed;

a second video subsystem comprising means for converting the generated video signal into a second predetermined data format for transmission; and

automatic means for selecting either the video signal in the first or the second predetermined data format for transmission; and

means for transmitting the video signal in the selected data format to said second computer workstation or terminal on said digital communications link.

The examiner relies on the following references:

Eppley et al. (Eppley)	4,941,845	Jul. 17, 1990
Press et al. (Press)	5,127,048	Jun. 30, 1992 (filed Jul. 16, 1990)

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Duvent	5,467,126	Nov. 14, 1995 (filed Oct. 21, 1985)
Fandrianto et al. (Fandrianto)	5,790,712	Aug. 4, 1998 (effectively filed Feb. 19, 1992)
Larson	5,821,987	Oct. 13, 1998 (effectively filed Jun. 23, 1992)

Claims 5, 9, 17, 19, and 22 stand rejected under 35 U.S.C. § 102 as being anticipated by Fandrianto.

Claims 10, 15, 16, and 18 stand rejected under 35 U.S.C. § 103 as being unpatentable over Fandrianto and Duvent.

Claim 20 stands rejected under 35 U.S.C. § 103 as being unpatentable over Fandrianto and Eppley.

Claims 1, 3, 13, 14, and 21 stand rejected under 35 U.S.C. § 103 as being unpatentable over Press and Larson.

We refer to the Final Rejection (Paper No. 35) and the Examiner's Answer (Paper No. 38) for a statement of the examiner's position and to the Brief (Paper No. 37) for appellant's position with respect to the claims which stand rejected.

OPINION

Instant claim 5 requires, inter alia, means for determining the format of an incoming video signal, in addition to separate video subsystems for converting received video signals that are in different predetermined formats. The rejection (Answer at 2-3)

principally relies on material in columns 4 and 5 of Fandrianto in support of the 35 U.S.C. § 102 rejection of the claim, as does the examiner's arguments in response to the Brief (id. at 7-8).

Fandrianto recognized the need for programmable systems for video processing, due to the variety of available compression algorithms. Col. 2, ll. 6-33. The disclosed solution, described in columns 4 and 5 of the reference, includes programmable vision processor 100 (Fig. 4), depicted as vision processor 10 in the environment of Figure 1, for encoding or decoding previously compressed pictures. The "encoding and encoding [sic; encoding and decoding] are done using a suitable standard, such as the MCPIC standard" [described at col. 1, l. 58 - col. 2, l. 5]. Col. 4, ll. 20-23.

In a decoding operation, the host computer 4 receives a compressed YUV signal and furnishes the signal to controller 12. Vision processor 10 converts the compressed data into uncompressed data. Col. 4, ll. 48-59. In an encoding operation, the uncompressed video data is furnished to controller 12, which converts the data to a common YUV standard. Col. 5, ll. 1-7. Some encoding applications may require additional preprocessing to render a format suitable for use by controller 12, such as preprocessing that may be required for using the MCPIC compression algorithm. Vision processor 10 ultimately converts the uncompressed data into compressed data. Col. 5, ll. 8-39.

While Fandrianto teaches programmable processors for managing different video signal formats, in our reading of the reference there is no disclosure of a

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determination of the format of an incoming video signal, and processing the signal in accordance with the determined format. The reference teaches (e.g., col. 4, ll. 49-53) receiving signals that are in a known, presumably predetermined, format. That the processors are programmable for different formats does not require that different formats be sensed during normal operation, and we find no disclosure of such in the four corners of the reference.

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 1458, 221 USPQ 481, 485 (Fed. Cir. 1984). We are in substantial agreement with appellant that Fandrianto fails to disclose each and every element set forth in instant claim 5. Method claim 9 requires automatically determining whether a received video signal is in a first or second data format, forwarding, and processing the received signal accordingly. In view of our understanding of the teachings of Fandrianto, we cannot sustain the section 102 rejection of either of claim 5 or claim 9.

Method claim 17 is drawn to capturing a video signal for transmission, selecting whether to process the captured video signal into a first or a second predetermined format, and converting the signal accordingly. Fandrianto discloses (e.g., col. 5, ll. 1-39) capturing a video signal and encoding it for transmission using a single, predetermined algorithm (e.g., the MCPIC algorithm), but not the process required by

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claim 17. We thus cannot sustain the rejection of the claim under the principles of anticipation required by 35 U.S.C. § 102.

The rejections against the claims depending from independent claims 5, 9, and 17 do not remedy the basic deficiencies in the rejection applied against the base claims. We therefore do not sustain the rejection of claims 5, 9, 17, 19, and 22 under 35 U.S.C. § 102. Further, since Duvent and Eppley as applied in combination with Fandrianto fail to remedy the deficiencies of Fandrianto, we do not sustain the 35 U.S.C. § 103 rejections of claims 10, 15, 16, 18, or 20.

We turn to the rejection of claims 1, 3, 13, 14, and 21 under 35 U.S.C. § 103 as being unpatentable over Press and Larson. At the outset, we note that, contrary to appellant's indication at pages 19 and 20 of the Brief, the Fandrianto reference is not applied in any standing rejection against claims 1, 3, 13, 14, and 21.

As set forth in the rejection of claim 1 (Answer at 4-5), the examiner finds that Press discloses all that is claimed except for the "digital communication link." The examiner relies on Larson for suggestion of modification of the Press apparatus.

Appellant contests the rejection by pointing out perceived deficiencies in the Press disclosure. First, appellant asserts that the "scanning or reading" described by Press is "not analogous" to the video signal processing of the claimed invention. (Brief at 21.) Appellant does not, however, offer any reasoning or evidence in support of the assertion. We are unconvinced that the scanning or reading described by the reference

is “not analogous.” More important, we find nothing in claim 1 to distinguish the “video signal processing” from the video signal processing described by Press.

Appellant next asserts (id.) that the CPU in Press attempts to read the file in various ways until one way works, rather than on a “definitive determination.” Again, however, appellant does not point to anything in the claims setting forth the allegedly distinguishing feature. Claims not at issue in the instant rejection (e.g., claim 5) recite “means for determining the format” of a video signal. Instant claim 1, however, recites “means for receiving a video signal” and “converting” the signal into one format or another. We thus consider the argument to be not material to the invention as claimed.

Appellant further submits (id. at 21-22) that Press does not disclose directing the signal to one of two alternative video processing subsystems. According to appellant, “the CPU itself” of Press does the reading or scanning, and thus performs operations using, in effect, a single subsystem.

The examiner relies, in the statement of the rejection and in the responsive arguments in the Answer, on the description at column 9, line 54 through column 10, line 10 of Press as teaching a first and second video subsystem as claimed. The section describes, inter alia, compression of a graphic image. The data transfer device may have compression/uncompression software in ROM memory. If the receiving device is determined to be a FAX, the data transfer device may choose from three different compression techniques for sending the data.

The conversion in Press, using alternative formats, is thus not merely by “the CPU itself,” but conversion is performed using an appropriate -- and alternative -- combination of hardware and software. We thus find appellant’s argument with respect to Press disclosing but one “subsystem” to be unconvincing.

Appellant also suggests that claim 1 requires providing two different data formats, “only one of which includes compressing the video signal....” (Brief at 22.) We note, however, consistent with the instant disclosure (e.g., ¶¶ bridging pages 6 and 7 of the specification), claim 1 does not require that “only one” of the processed signals be compressed.

Finally, appellant avers that Press does not teach means for generating the video signal at the first computer workstation, “as is explicitly recited in independent Claim 1.” (Brief at 22.) We disagree with the premise of the argument, in that claim 1 does not set forth in the combination, and the broadest reasonable interpretation of the claim does not require, a means for generating a video signal, much less a means for generating a video signal “at the first computer workstation.”

We thus find appellant’s arguments with respect to error in the rejection of claim 1 to be unpersuasive. We regard the arguments, in the main, as not being commensurate in scope with the claims as presented. Having not persuaded us of error in the rejection of any of the claims rejected over the combined teachings of Press and Larson, we sustain the rejection of claims 1, 3, 13, 14, and 21 under 35 U.S.C. § 103.

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We have considered all of appellant's arguments in making our determinations. Arguments not relied upon are deemed waived. See 37 CFR § 1.192(a) ("Any arguments or authorities not included in the brief will be refused consideration by the Board of Patent Appeals and Interferences, unless good cause is shown.") and § 1.192(c)(8)(iv) (the brief must point out the errors in the rejection).

CONCLUSION

We affirm the rejection of claims 1, 3, 13, 14, and 21 under 35 U.S.C. § 103 as being unpatentable over Press and Larson. We reverse the 35 U.S.C. §§ 102 and 103 rejections of the remaining claims.

The examiner's decision in rejecting claims 1, 3, 5, 9, 10, and 13-22 is thus 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 CFR § 1.136(a).

AFFIRMED-IN-PART

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Administrative Patent Judge)	
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)	BOARD OF PATENT
KENNETH W. HAIRSTON)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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