

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reexamination Application of:
John C. Harvey et al.

Patent No. 5,335,277

Control Nos.: 90/006,563
90/006,698

Filed: March 14, 2003
July 7, 2003

For: SIGNAL PROCESSING APPARATUS AND
METHODS

Confirmation No.: 7085

Art Unit: 3992

Examiner: Ovidio Escalante

REPLY BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

As permitted under § 41.41, this brief is filed within two months of the date of the Examiner's Answer mailed September 24, 2008. Appellant noticed this appeal over two years ago on June 16, 2006. An Appeal Brief was filed August 16, 2006. An Examiner's Answer was not received until October 2, 2007. A Reply Brief was filed December 3, 2007. The Reply Brief was acknowledged and jurisdiction was transferred to the Board on December 19, 2007. Over seven months later, on July 30, 2008, the Board issued an Order Returning Undocketed Appeal which returned jurisdiction to the Examiner. The Examiner issued a new Examiner's Answer on September 24, 2008. Due to the extraordinarily long pendency of this appeal, Appellant filed a Supplemental Appeal Brief on September 30, 2008, to provide the Board with a update status of the related appeals cited in the previously filed briefs.

The Order Returning Undocketed Appeal identified several inconsistencies in the grounds of rejection as stated in the Final Office Action, the Appeal Brief and the original Examiner's Answer. These inconsistencies were addressed and corrected in the new Examiner's

Answer mailed September 24, 2008. However, even with these corrections, the status of claim 34 was not consistently addressed in or clear from the Final Office Action, the Advisory Action or the new Examiner's Answer. Appellant's representative brought this matter to the attention of the Examiner in a telephone interview on October 24, 2008. The Examiner mailed a communication clarifying the status of claim 34 on October 31, 2008. Appellant summarizes the substance of the interview in the arguments with respect to claim 34 below. This Reply Brief responds to the Examiner's Answer mailed September 24, 2008, and the supplemental communication mailed October 31, 2008. This Reply Brief, along with the Supplemental Appeal Brief filed September 30, 2008, supplements the Appeal Brief.

1. RELATED APPEALS, INTERFERENCES, AND JUDICIAL PROCEEDINGS

Since the Supplemental Brief was filed September 30, 2008, the following actions have occurred in the related appeals listed in the Appeal Brief:

In reexamination Control No. 90/006,838, regarding related U.S. Patent 5,109,414, Appeal No. 2008-4864, an Oral Hearing has been set for November 19, 2008.

In reexamination Control No. 90/006,688, regarding related U.S. Patent 5,887,243, Appeal No. 2008-4816, an Oral Hearing has been set for November 19, 2008.

2. STATUS OF CLAIMS

U.S. Patent 5,335,277 issued with claims 1-56. These claims are subject to reexamination. The Examiner confirmed claims 1, 5, 8, 9, 16, 21, 24-26, 29, 31, 36, 37, 39, 40, 43, 53 and 54 in the final Office action mailed March 16, 2006 (Final Office Action). The Examiner rejected claims 2-4, 6, 7, 10-15, 17-20, 22, 23, 27, 28, 30, 32, 33-35, 38, 41, 42, 44-52, 55 and 56 in the Final Office Action. In the Advisory Action mailed July 21, 2006, the Examiner withdrew the rejection of and confirmed claim 3. Appellant appeals the final rejections of claims 2, 4, 6, 7, 10-15, 17-20, 22, 23, 27, 28, 30, 32, 33 - 35, 38, 41, 42, 44-52, 55 and 56.

3. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Appellant finds error in each of the outstanding rejections in the Final Office Action maintained in the Examiner's Answer. Appellant requests that the each of the following rejections presented in the Final Office Action and maintained in the Examiner's Answer be reviewed.

1. Claim 2 stands rejected:
 - under 35 U.S.C. §103(a) as being unpatentable over GB #1,556,366 to Betts in view of JP #56-8975 to Okada et al. (Appeal Brief, at p. 51; Answer, at p. 157; Reply Brief, at p. 21); and
 - under 35 U.S.C. §102(b) as being anticipated by each of the following:
 - “A Television Facsimile System” by Soejima (Appeal Brief, at p. 51; Answer, at p. 32; Reply Brief, at p. 22),
 - U.S. Patent No. 4,042,958 to Saylor et al. (Appeal Brief, at p. 51; Answer, at p. 33; Reply Brief, at p. 22), and
 - U.S. Patent No. 4,135,213 to Wintfeld et al. (Appeal Brief, at p. 51; Answer, at p. 157; Reply Brief, at p. 22).
2. Claim 4 stands rejected under §103(a) as being unpatentable over U.S. Patent No. 4,306,250 to Summers et al. in view of JP #51-138317 to Ikeda et al. (Appeal Brief, at p. 53; Answer, at p. 173; Reply Brief, at p. 24).
3. Claim 6 stands rejected:
 - under §102(b) as being anticipated by U.S. Patent No. 3,848,082 to Summers (Appeal Brief, at p. 54; Answer, at p. 40; Reply Brief, at p. 25), and
 - under §102(b) or (e) as being anticipated by U.S. Patent No. 4,295,223 to Shutterly (Appeal Brief, at p. 54; Answer, at p. 37; Reply Brief, at p. 27).
4. Claim 7 stands rejected:
 - under §103(a) as being unpatentable over Summers (Appeal Brief, at p. 56; Answer, at p. 190; Reply Brief, at p. 30) and “Broadcast Text Information in France” by Marti (Appeal Brief, at p. 56; Answer, at p. 166; Reply Brief, at p. 30);
 - under §102(b) or (e) as being anticipated by Shutterly (Appeal Brief, at p. 56;

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