



2010 WL 200346 (Bd.Pat.App. & Interf.)

Board of Patent Appeals and Interferences  
Patent and Trademark Office (P.T.O.)

\*1 Ex Parte Personalized Media Communications, LLC  
[FN1]

Appeal 2009-6825  
Reexamination Control Nos. 90/006,563 & 90/006,698 U.S. Patent 5,335,277  
[FN2]

Technology Center 3900

Decided: January 19, 2010

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Before [KENNETH W. HAIRSTON](#), [SCOTT R. BOALICK](#), and [KEVIN F. TURNER](#)

Administrative Patent Judges

[TURNER](#)

Administrative Patent Judge

DECISION ON APPEAL

Personalized Media Communications, LLC appeals under [35 U.S.C. §§ 134\(b\)](#) and [306](#) from a final rejection 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.<sup>[FN3]</sup> We have jurisdiction under [35 U.S.C. § 306](#).

An oral hearing was held on July 1, 2009. The record includes a written transcript of the oral hearing.

We AFFIRM-IN-PART.

## STATEMENT OF THE CASE

### *Reexamination proceeding*

A first request for reexamination of [U.S. Patent 5,335,277 \(the '277 patent\)](#), entitled “Signal Processing Apparatus and Methods,” was filed on March 14, 2003 by a first third party requester Thomson, Inc. (First Requester), Reexamination Control No. 90/006,563. The ['277 patent](#) issued August 2, 1994, to John C. Harvey and James W. Cuddihy, based on Application 08/056,501 (the ' 501 application), filed May 3, 1993. The real party in interest is the patent owner, Personalized Media Communications, LLC. The ['277 patent](#) is said to be a continuation of Application 07/849,226, filed March 10, 1992, now [U.S. Patent 5,233,654](#) (hereinafter referred to as the ['654 patent](#)), which is said to be a continuation of Application 07/588,126, filed September 25, 1990, now [U.S. Patent 5,109,414](#) (hereinafter referred to as the ['414 patent](#)), which is said to be a continuation of Application 07/096,096, filed September 11, 1987, now [U.S. Patent 4,965,825](#) (hereinafter referred to as the ['825 patent](#)), which is said to be a continuation in part (CIP) of Application 06/829,531, filed February 14, 1986, now [U.S. Patent 4,704,725 \(the '725 patent\)](#), which is said to be a continuation of Application 06/317,510, filed November 3, 1981, now [U.S. Patent 4,694,490](#) (hereinafter referred to as the ['490 patent](#)).

\*2 A second request for reexamination of the ['277 patent](#) was filed on July 7, 2003 by a second third party requester Scientific-Atlanta, Inc. (Second Requester), Reexamination Control No. 90/006,698. A Decision was made on December 3, 2004 to merge the reexamination proceedings (Paper #16) per [37 C.F.R. § 1.565\(c\)](#).

### *Related proceedings*

The Brief indicates that the ['277 patent](#) is part of a chain of patents that includes additional later issued patents and various pending patent applications (App. Br. 3). The Brief identifies six related patents that are each involved in reexamination proceedings (*id.*).

The Brief identifies a number of related U.S. Patent and Trademark Office (USPTO), International Trade Commission, and court proceedings. (App. Br. 3-5). The Brief indicates (App. Br. 5-6) that the ['277 patent](#) is asserted in *Pegasus Development Corp. v. DIRECTV Inc.*, No. CA 00-1020 (D. Del. filed Dec. 4, 2000), which has been stayed, and is also asserted in *Personalized Media Communications, LLC v. Scientific-Atlanta, Inc. et al.*, No. 1:02-CV-824 (CAP) (N.D. Ga. filed Mar. 28, 2002), which also has been stayed.

### *Appellant's invention*

The claimed invention relates to signal processing apparatus and methods to automate operations at an intermediate transmission station. (['277 patent](#), abstract).

The Specification teaches that various disclosed embodiments of signal processing apparatus “can be used to automate the operations of intermediate transmission stations that receive and retransmit programming.”(['277 patent](#), col. 181, ll. 58-60.) “The stations so automated may transmit any form of electronically transmitted programming, including television, radio, print, data, and combined medium programming and may range in scale of operation from wireless broadcast stations that transmit a single programming transmission to cable systems that cablecast many channels simultaneously.”(['277 patent](#), col. 181, ll. 60-66).

In particular, “FIG. 6 illustrates Signal Processing Apparatus and Methods at an intermediate transmission station that is a cable television system ‘head end’ and that cablecasts several channels of television programming.”(['277 patent](#), col.

181, l. 67 - col. 182, l. 2). “The station receives programming from many sources,” (['277 patent](#), col. 182, ll. 4-5) such as: (1) transmissions from a satellite received by satellite antenna 50, low noise amplifiers 51 and 52, and TV receivers 53, 54, 55, and 56; (2) microwave transmissions received by microwave antenna 57 and television video and audio receivers 58 and 59; (3) conventional TV broadcast transmissions received by antenna 60 and TV demodulator 61; and (4) other electronic programming transmissions received by other programming input means 62. (['277 patent](#), col. 182, ll. 5-13). After receiving the transmissions,

\*3 [e]ach receiver/modulator/input apparatus, **53** through **62**, transfers its received transmissions into the station by hard-wire to a conventional matrix switch, **75**, well known in the art, that outputs to one or more recorder/players, **76** and **78**, and/or to apparatus that outputs said transmissions over various channels to the cable system's field distribution system, **93**, which apparatus includes cable channel modulators, **83**, **87**, and **91**, and channel combining and multiplexing system, **92**. Programming can also be manually delivered to said station on prerecorded videotapes and videodiscs. When played on video recorders, **76** and **78**, or other similar equipment well known in the art, such prerecorded programming can be transmitted via switch **75** to field distribution system, **93**.

(['277 patent](#), col. 182, ll. 14-28).

According to the Specification, “[i]n the prior art, the identification of incoming programming, however received; the operation of video player and recorder equipment, **76** and **78**; and the maintenance of records of programming transmissions are all largely manual operations.”(['277 patent](#), col. 182, ll. 29-33). “FIG. 6 shows the introduction of signal processing apparatus and methods to automate these and other operations.”(['277 patent](#), col. 182, ll. 34-36).

A dedicated distribution amplifier 63, 64, 65, 66, 67, 68, 69, or 70 is “[i]n line between each of the aforementioned receiver/demodulator/input apparatus, **53**, **54**, **55**, **56**, **57**, **58**, **59**, **60**, **61**, or **62**, and matrix switch, **75**.”(['277 patent](#), col. 182, ll. 37-41). The distribution amplifier splits each incoming feed into two paths. (*Id.*) “One path is the conventional path whereby programming flows from each given receiver/demodulator/input apparatus, **53**, **54**, **55**, **56**, **57**, **58**, **59**, **60**, **61**, or **62**, to matrix switch, **75**.”(['277 patent](#), col. 182, ll. 41-44). “The other path inputs the transmission of said given receiver/demodulator/input apparatus, **53**, **54**, **55**, **56**, **57**, **58**, **59**, **60**, **61**, or **62** individually to signal processor system, **71**.”(['277 patent](#), col. 182, ll. 45-48) “In other words, distribution amplifier, **63**, continuously inputs the programming transmission of receiver, **53**, to matrix switch, **75**, and separately to signal processor system, **71**; distribution amplifier, **64**, inputs the programming transmission of receiver, **54**, to matrix switch, **75**, and separately to signal processor system, **71**; etc.”(['277 patent](#), col. 182, ll. 48-54).

\*4 At signal processor system, **71** ... the outputted transmission of each distribution amplifier, **63**, **64**, **65**, **66**, **67**, **68**, **69**, or **70**, is inputted into a dedicated decoder ... that processes continuously the inputted transmission of said distribution amplifier, **63**, **64**, **65**, **66**, **67**, **68**, **69**, or **70**; selects SPAM [Signal Processing Apparatus and Methods] messages in said transmission that are addresses to ITS [Intermediate Transmission Station] apparatus of said intermediate transmission station; automatically adds, in a predetermined fashion, source mark information that identifies said associated distribution amplifier, **63**, **64**, **65**, **66**, **67**, **68**, **69**, or **70**; and transfers said selected messages, with said source mark information, to code reader, **72**. Signal processor system, **71**, also has signal processor means to control signal processor system, **71**, to record meter-monitor information of said message information, and to transfer recorded information to external communications network, **97**.

(['277 patent](#), col. 182, l. 55 - col. 183, l. 4).

The code reader 72 “buffers and passes the received SPAM message information, with source mark information, to cable program controller and computer, **73**.”(['277 patent](#), col. 183, ll. 5-7). The cable program controller and computer 73 is described as “the central automatic control unit for the transmission station[.]” (['277 patent](#), col. 183, ll. 8-10) and performs various monitoring and control functions (*see, e.g.*, ['277 patent](#), col. 183, l. 14 to col. 187, l. 41).

*The claims*

Claims 2, 4, 6, 10, 19, and 56 are exemplary and reproduced below (with minor formatting added):

2. A method of processing control signals and controlling equipment at a remote site based on a broadcast transmission, including:

- (a) the step of receiving at a remote site a broadcast carrier transmission;
- (b) the step of demodulating said broadcast carrier transmission to detect an information transmission therein;
- (c) the step of detecting and identifying at said remote site control signals associated with said information transmission;
- (d) the step of passing at least a portion of control signals to a computer control means at said remote site;
- (e) the step of comparing a selected position of said control signals with a code inputted into said computer control means on the basis of information contained in said information transmission; and
- (f) the step of activating a printing means when the comparison step provides a match between the inputted code and the selected portion of the control signals.

4. A data receiver system comprising:

a switch operatively connected to a first input of a broadcast transmission and a second input of a cablecast transmission for selecting either said first input or said second input and transferring the selected transmission to a digital detector;

\*5 a controller operatively connected to said switch for causing said switch to select either said first input or said second input; and

a digital detector operatively connected to said switch for detecting digital data in said selected transmission and for relaying said data to a data processor.

6. A system for identifying a predetermined signal in a television program transmission in which a plurality of signal types are transmitted said signal being transmitted in a varying location or a varying timing pattern, said television program transmission being separately defined from standard analog video and audio television, said system comprising:

a digital detector for receiving said transmission and detecting said predetermined signal in said transmission based on either a specific location or a specific time; and

a controller operatively connected to said detector for causing said detector to detect said predetermined signal based on either a specific location or time, said controller being programmed with either the varying locations or the varying timing pattern of said signal.

10. A television receiver system comprising:

a receiver for receiving a selected portion of a television program transmission that is not a standard television signal;

a digital detector operatively connected to said receiver for receiving said selected portion and detecting a digital signal;

a storage device operatively connected to said digital detector for receiving detected digital information and assembling said detected information into message units;

a controller operatively connected to said receiver, said detector and said storage device, said controller controlling said receiver to pass selected information to said detector, said detector to pass detected information to said storage device, and said storage device to assemble detected information into message units.

19. A television subscriber station comprising:

a plurality of decryptors, each decryptor capable of decrypting a selected one of a plurality of portions of a television program transmission; and

a processor operatively connected to some of said decryptors for identifying and passing to a selected decryptor an

instruct-to-decrypt signal that instructs the selected decryptor to decrypt some of the video portion of said transmission, said instruct-to-decrypt signal comprising a code necessary for the decryption of said program transmission.

56. A computer station comprising:

a storage device for storing encrypted data;

a computer operatively connected to said storage device for controlling said storage device, locating a selected portion of said data, and transferring said selected portion to a decryptor or a processor;

a decryptor operatively connected to said storage device or said computer for decrypting encrypted data; and

a process for locating or identifying selected information associated with said selected portion and causing said decryptor to decrypt said selected portion on the basis of said selected information.

### *The references*

\*6 The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Stambler	3,786,420	Jan. 15, 1974	
Summers '082	3,848,082	Nov. 12, 1974	
Hetrich	3,866,123	Feb. 11, 1975	
Kosco	3,886,302	May 27, 1975	
Hartung '462	3,919,462	Nov. 11, 1975	
Yanagimachi	3,936,595	Feb. 3, 1976	
Haselwood	4,025,851	May 24, 1977	
Saylor	4,042,958	Aug. 16, 1977	
Hartung '814	4,045,814	Aug. 30, 1977	
Fletcher	4,054,911	Oct. 18, 1977	
Wintfeld	4,135,213	Jan. 16, 1979	
Freund	4,142,156	Feb. 27, 1979	
Block '254	4,163,254	Jul. 31, 1979	
Barrett	4,205,343	May 27, 1980	
Ciciora	4,233,628	Nov. 11, 1980	
Shutterly	4,295,223	Oct. 13, 1981	(filed Apr. 25, 1979)
Yarbrough '101	4,305,101	Dec. 8, 1981	(filed Apr. 16, 1979)
Summers '250	4,306,250	Dec. 15, 1981	(filed Aug. 18, 1980)
Tabata	4,317,215	Feb. 23, 1982	(filed Sep. 11, 1979)
Saeki	4,322,745	Mar. 30, 1982	(filed Mar. 21, 1980)
Guillou '921	4,323,921	Apr. 6, 1982	(filed Jan. 23, 1980)
den Toonder	4,323,922	Apr. 6, 1982	(filed Dec. 17, 1979)
Monteath	4,329,684	May 11, 1982	(filed Jan. 15, 1980)
Eskin	4,331,973	May 25, 1982	(filed Oct. 21, 1980)
Cogswell	4,331,974	May 25, 1982	(filed Oct. 21, 1980)
Guillou '483	4,337,483	Jun. 29, 1982	(filed Jan. 31, 1980)

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