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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/680,452	02/28/2007	Chuck Jennings	081009-406855 (DIV2)	5285
27148	7590	01/10/2020	EXAMINER	
POL SINELLI PC 900 WEST 48TH PLACE SUITE 900 KANSAS CITY, MO 64112-1895			BLAIR, DOUGLAS B	
			ART UNIT	PAPER NUMBER
			2442	
			NOTIFICATION DATE	DELIVERY MODE
			01/10/2020	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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## Office Action Summary

**Application No.**

11/680,452

**Applicant(s)**

Jennings et al.

**Examiner**

DOUGLAS B BLAIR

**Art Unit**

2442

**AIA (FITF) Status**

No

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 12/20/2019.  
 A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on \_\_\_\_.
- 2a)  This action is **FINAL**. 2b)  This action is non-final.
- 3)  An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims\***

- 5)  Claim(s) 6-35 and 41-132 is/are pending in the application.  
5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6)  Claim(s) \_\_\_\_ is/are allowed.
- 7)  Claim(s) 6-35 and 41-132 is/are rejected.
- 8)  Claim(s) \_\_\_\_ is/are objected to.
- 9)  Claim(s) \_\_\_\_ are subject to restriction and/or election requirement

\* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see [http://www.uspto.gov/patents/init\\_events/pph/index.jsp](http://www.uspto.gov/patents/init_events/pph/index.jsp) or send an inquiry to [PPHfeedback@uspto.gov](mailto:PPHfeedback@uspto.gov).

**Application Papers**

- 10)  The specification is objected to by the Examiner.
- 11)  The drawing(s) filed on \_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

**Certified copies:**

- a)  All    b)  Some\*\*    c)  None of the:
- Certified copies of the priority documents have been received.
  - Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b)  
Paper No(s)/Mail Date \_\_\_\_\_
- 3)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4)  Other: \_\_\_\_\_

## DETAILED ACTION

### *Notice of Pre-AIA or AIA Status*

The present application is being examined under the pre-AIA first to invent provisions.

### *Continued Examination Under 37 CFR 1.114*

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/20/2019 has been entered.

### *Response to Arguments*

Applicant's arguments, see Remarks, filed 12/20/2019, with respect to the rejection(s) of claim(s) 6, 17-19, 22, 24-27, 41, 52-55, 59-62, 79-88, 93-102, 107-116, 122-124, and 129-132 under 35 USC section 103 by the Eyal-Duso-Shear combination have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of 35 USC section 103 by the Eyal, Duso, Shear, and Wisser references. After reviewing the previously applied Wisser reference (used previously to reject claims 23, 28-35, 58, 63-78, 89-92, and 103-106), the Examiner found the amended subject matter to be obvious in view of the Wisser reference. A revised rejection is made in this office action.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of pre-AIA 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 6, 17-19, 22-35, 41, 52-55, 58-116, 122-124, and 129-132 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,389,467 to Eyal in view of U.S. Patent Number 5,987,621 to Duso et al. and U.S. Patent Number 6,938,021 to Shear et al. and U.S. Patent Number 6,385,596 to Wiser.

As to claim 6, Eyal teaches a method comprising: receiving, by a management system via a communication network and from a communication device, a request associated with a user of the communication device to have media content streamed to the communication device, the requested media content comprising a plurality of media content segments (**col. 19, line 48-col. 20, line 14**), and wherein the management system comprises a combination of hardware and software (**Figure 4, search request 203 and col. 19, lines 30-35 and 41-44**); and for each one of the plurality of media content segments, (i) determining, by the management system, a plurality of resources (**Figure 19, the media sites are resources**) available to obtain the media content segment from one or more media storage devices (**the “one or more media storage devices” is broad enough to cover any computer memory in any context**) and facilitate streaming the media content segment to the communication device (**col. 14, lines 50-60 describes a process of determining whether the media sites corresponding to the URL are “available to facilitate streaming”**); and (ii) transmitting, from the management system to the communication device, an indication of the media content segment (**col. 19, lines 38-40**) and information instructing the communication device identifying how to communicate with each of the plurality of resources to cause the media content segment to be streamed to the communication device (**col. 20, lines 39-45**); however Eyal does not explicitly teach upon occurrence of an error while the media content segment is streamed from the first one of the plurality of resources to the

communication device, causing the media content segment to be streamed by a second one of the plurality of resources, different from the first one of the plurality of resources, Eyal does not explicitly teach that the segments are stored at multiple media storage devices in accordance with storage rules includes within an order associated with the requested media, and Eyal does not explicitly teach limiting the amount of time for the requested media content to be completely viewed at the communication device and preventing the streaming of one or more of the media content segments to the communication device after the amount of time has passed.

Duso teaches upon occurrence of an error while streaming of the media content segment from the first one of the plurality of resources to the communication device, causing the media content segment to be streamed by a second one of the plurality of resources, different from the first one of the plurality of resources (**see Figure 42 and col. 55, lines 3-21**).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Eyal regarding error detection while streaming a segment with the teachings of Duso regarding causing a segment that was being streamed during an error to be restreamed because the teachings of Duso would allow for the user in Eyal not to miss the segment with the error. Eyal skips the segment where an error occurs during the streaming (see col. 27, line 66-col. 28, line 11 of Eyal) so implementing Duso's failover technique would be an improvement to user experience.

Shear teaches a method of controlling the distribution of segments wherein the segments are stored at multiple media storage devices in accordance with storage rules includes within an order associated with requested media (col. 24, lines 37-43 and 64-67, col. 25, lines 5-7, and col. 26, line 63-col. 27, line 13).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Eyal regarding providing media clips with the teachings of Shear regarding

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