



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/801,307	03/13/2013	Robert P. Lilleness	81230.71US11	9233
34018	7590	12/14/2017	EXAMINER	
Greenberg Traurig, LLP 77 W. Wacker Drive Suite 3100 CHICAGO, IL 60601-1732			PITARO, RYAN F	
			ART UNIT	PAPER NUMBER
			2171	
			NOTIFICATION DATE	DELIVERY MODE
			12/14/2017	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):

chiipmail@gtlaw.com  
escobedot@gtlaw.com  
jarosikg@gtlaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

*Ex parte* ROBERT P. LILLENES, HAN-SHENG YUH,  
WEIDONG WILLIAM WANG, and WAYNE SCOTT

---

Appeal 2017-005945  
Application 13/801,307  
Technology Center 2100

---

Before JOHN A. JEFFERY, ST. JOHN COURTENAY III, and  
SCOTT B. HOWARD, *Administrative Patent Judges*.

JEFFERY, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's decision to reject claims 1–17. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

STATEMENT OF THE CASE

Appellants' invention includes a "platform," such as a Web tablet, PDA, personal computer, or remote control, that initiates (1) playing media content, and (2) retrieving related information from an information source responsive to activating a platform command key. *See generally* Abstract; Spec. 1–3, 10; Figs. 13–14. Claim 1 is illustrative:

1. A method for providing access to information about media content of a media content provider, comprising:

displaying in a display of the platform a user interface element representative of a media content provider;

in response to a sensed interaction with the user interface element displayed in the display of the platform, causing the platform to both transmit a command to cause the appliance to perform an operation to thereby provide access via the appliance to a first media content available from the media content provider and a command to cause a retrieval of information related to a second media content available from the media content provider from an address wherein the address is uniquely associate with the media content provider and a mapping between the address and the user interface element is stored in a memory of the platform prior to the sensed interaction with the user interface element; and

causing the retrieved information related to the second media content available from the media content provider to be displayed in the display of the platform.

#### THE REJECTIONS

The Examiner provisionally rejected claims 1–17 on the ground of nonstatutory double patenting as unpatentable over claims 1–5 and 7–15 of copending Application No. 13/801,157. Final Act. 3–4.<sup>1</sup>

---

<sup>1</sup> Throughout this opinion, we refer to (1) the Final Rejection mailed April 5, 2016 (“Final Act.”); (2) the Appeal Brief filed September 27, 2016 (“App. Br.”); (3) the Examiner’s Answer mailed January 3, 2017 (“Ans.”); and (4) the Reply Brief filed February 24, 2017 (“Reply Br.”).

The Examiner rejected claims 1–11 and 14–17 under 35 U.S.C. § 103(a) as unpatentable over Mitchell (US 2002/0162120 A1; Oct. 31, 2002), Maa (US 2004/0068750 A1; Apr. 8, 2004), and Goulden (US 5,956,025; Sept. 21, 1999). Final Act. 4–11.

The Examiner rejected claims 12 and 13 under 35 U.S.C. § 103(a) as unpatentable over Mitchell, Maa, Goulden, and Oku (US 2001/0051997 A1; Dec. 13, 2001). Final Act. 11–12.

#### RELATED APPEALS

On pages 2 and 3 of the Appeal Brief and page 10 of the Reply Brief, Appellants inform us of ten related appeals where the Board rendered decisions. *See Ex parte Dresti*, No. 2009-004828 (BPAI May 17, 2010); *Ex parte Lilleness*, No. 2011-007127 (PTAB Oct. 28, 2013) (“*Lilleness I*”); *Ex parte Lilleness*, No. 2015-005536 (PTAB Nov. 18, 2016) (“*Lilleness II*”); *Ex parte Chambers*, No. 2011-011493 (PTAB Nov. 25, 2013); *Ex parte Arling*, No. 2012-012188 (PTAB Sept. 1, 2015); *Ex parte Dresti*, No. 2011-007406 (PTAB Sept. 24, 2013); *Ex parte Huang*, No. 2012-009621 (PTAB Feb. 3, 2015); *Ex parte Arling*, No. 2011-005834 (PTAB Nov. 7, 2013); *Ex parte Thompson*, No. 2013-003049 (PTAB July 28, 2015); *Ex parte Huang*, No. 2014-001814 (PTAB Apr. 4, 2016).

On page 3 of the Appeal Brief, Appellants also inform us of four then-pending appeals, three of which have been decided. *See Ex parte Huang*, No. 2015-006186 (PTAB Nov. 2, 2016); *Ex parte Chambers*, No. 2015-004737 (PTAB Jan. 18, 2017); *Ex parte Lilleness*, No. 2017-002558 (PTAB June 26, 2017) (“*Lilleness III*”).

One of these appeals, namely *Lilleness III*, involves the same prior art references at issue here. Another appeal, *Lilleness II*, involves the Mitchell reference which is also at issue here.

#### THE PROVISIONAL DOUBLE PATENTING REJECTION

Because the provisional double patenting rejections (Final Act. 2–5) are not ripe for decision, we decline to reach them. *See Ex parte Moncla*, 95 USPQ2d 1884, 1885 (BPAI 2010) (precedential); *see also Ex parte Jerg*, No. 2011-000044, 2012 WL 1375142, at \*3 (BPAI 2012) (expanded panel) (informative) (“Panels have the flexibility to reach or not reach provisional obviousness-type double-patenting rejections.”).

Notably, claims 1–5 and 7–15 from copending Application No. 13/801,157 on which the provisional rejection was based (Final Act. 3) were cancelled. Although the Examiner refers to a different set of claims from that copending application on pages 3 to 7 of the Answer in connection with the provisional double patenting rejection, namely claims 16–29, claim 16 was nonetheless amended after the Board’s decision in that case. *See* 13/801,157, Amd’t filed Aug. 21, 2017.

Under these circumstances, the provisional double patenting rejection is not ripe for decision. Therefore, we decline to reach the provisional rejection.

#### THE REJECTION OVER MITCHELL, MAA, AND GOULDEN

The Examiner finds that Mitchell discloses every recited element of claim 16 except for displaying a user interface element representing a media content provider, but cites Goulden for teaching this feature in concluding

that the claim would have been obvious. Final Act. 4–7. Although the Examiner finds that Mitchell inherently (1) transmits a command to cause the appliance to provide media content, and (2) retrieves information from a specified address responsive to sensed platform interaction, the Examiner nonetheless cites Maa for teaching these features “in the event that the Applicant disagrees with the inherency.” Final Act. 5–7.

Appellants argue that Mitchell does not inherently disclose the claimed invention because, among other things, the set top box (STB) determines the address from which information is received after (1) the appliance accesses content, and (2) a user interface element is activated on a remote control device. App. Br. 6–8. Although Appellants acknowledge that Mitchell preloads Uniform Resource Locators (URLs), they are not viewed until later in the television program (i.e., not until the program is viewed). App. Br. 6–7. According to Appellants, the television must already be tuned to a television program before the URLs are displayed for activation. App. Br. 7. Although Appellants also acknowledge that a web browser can automatically navigate to a website using pre-loaded URLs, this automatic navigation is independent of user action and occurs only when triggered by the STB via a trigger extracted from television signal that was previously tuned to. App. Br. 7–8; Reply Br. 2–3. As such, Appellants contend, Mitchell does not teach or suggest transmitting the two recited commands responsive to sensed interaction with the user interface element as claimed. *Id.*

Appellants add that Maa is likewise deficient in this regard because Maa’s system would not map a URL to channel tuning interface element

before activating the interface element such that the platform responds to activating the interface element as claimed. App. Br. 9–11; Reply Br. 4–5.

### ISSUE

Under § 103, has the Examiner erred in rejecting claim 1 by finding that Mitchell, Maa, and Goulden collectively would have taught or suggested, responsive to a sensed interaction with a displayed user interface element, causing a platform to transmit (1) a command to cause an appliance to perform an operation to provide access to first media content via the appliance, and (2) a command to cause retrieval of information related to second media content from an address, where a mapping between the address and the user interface element is stored in the platform's memory before the sensed interaction?

### ANALYSIS

As noted above, the Examiner relies principally on Mitchell for teaching the above-noted disputed clause of independent claim 1, including the mapping limitation. *See* Final Act. 5–6. The Examiner, however, also cites Maa for teaching claim 1's disputed clause except for the mapping limitation. *See* Final Act. 6–7. Therefore, Maa is essentially cumulative to the teachings of Mitchell, at least with respect to the common elements of claim 1's disputed clause for which the references were cited.

On this record, we see no error in the Examiner's reliance on Mitchell for teaching the command transmissions recited in claim 1. When a user in Mitchell interacts to change a channel via channel up or down commands, entering specific channel numbers, or via an electronic program guide

(EPG), a corresponding web site or other supplemental content is automatically rendered. *See* Final Act. 5 (noting that Mitchell’s system monitors the television channel to which the STB is tuned, correlates an associated URL address, and automatically navigates to the associated web site).

In Mitchell, after STB 102 receives URL addresses embedded in a television signal, namely in its vertical blanking interval (VBI), the STB then sends those URLs to a remote device 204 where they are processed to enable accessing supplemental content via the Internet and displaying it on remote display 220. Mitchell, Abstract; ¶¶ 23, 58, 77; Fig. 2. As shown in step 502 of Mitchell’s Figure 5, this process is triggered by the user activating the remote device by, for example, pressing a designated button 232, 234 to place the remote device in a receive mode to receive the URL addresses from the STB. Mitchell ¶ 75. Notably, control buttons 234 can also include *channel selection*, thus at least suggesting that a channel selection control button can also be used to activate the remote device. *See* Mitchell ¶ 39 (“One of the control buttons 234 may *also* be used to set the remote device 204 to the receive mode.”) (emphasis added).

Notably, Mitchell’s paragraph 61 adds that, *responsive to user action*, such as a “click” or activation of a dedicated button (or other interface), the user can navigate to supplementary content when an icon or prompt is presented to the user on the remote display 220 to announce the supplemental content’s availability. For instance, one or more display buttons 232 can be used to “accept” a displayed URL address upon receipt by the remote device 204, *resulting in navigation to that address*. Mitchell ¶ 61.



Based on this functionality, Mitchell at least suggests that interacting with a user interface element would not only cause the remote device to request media associated with a particular channel, namely a television program, but also information related to that program. In this scenario, the STB would (1) receive a particular channel's television signal with the embedded URL; (2) transmit that television signal to the television; and (3) transmit the URL to the remote device. *See Mitchell, Abstract.* Once the remote device receives the URL, it will display supplemental content related to the particular channel's television program. *See Mitchell ¶ 77; Fig. 5 (steps 512, 514).* As noted above, this display can be responsive to the user accepting displayed URL addresses via user interface interaction to navigate to those addresses. *See Mitchell ¶ 61.*

This functionality, then, at least suggests that the recited commands are transmitted from the platform responsive to sensed interaction with a user interface element, not only by changing channels to provide access to first media content (i.e., a television program), but also by accepting an associated displayed URL address to retrieve information related to second, web-based media content. As noted above, this interaction not only triggers the extraction and transmission of that URL to the remote device so that associated supplemental content is displayed at that device, but also transmission of the associated command and address from the platform to access that content. *See Mitchell ¶¶ 61, 77; Fig. 5 (steps 512, 514).* Therefore, we find Mitchell at least suggests transmitting the recited commands from a platform responsive to sensed interaction with a user interface element, where the user interface element can be displayed and

represent a media content provider as suggested by Goulden. *See* Final Act. 6–7 (citing Goulden Fig. 6).

In addition, URLs and associated content can be pre-loaded in Mitchell such that the browser first checks the local cache for supplemental content in lieu of retrieving the content from the Internet. Mitchell ¶ 68. In view of this caching, Mitchell at least suggests a mapping between the URL address and the user interface element that is stored in the platform before the sensed interaction with the user interface element that selects these URLs to display the cached content. *See* Mitchell ¶¶ 61, 68.

Appellants’ contention that Mitchell’s pre-loaded URLs are not viewed until later in the television program (App. Br. 6–8) is unavailing. Notably, this argument pertains to a particular *optional* feature of Mitchell’s caching technique in light of Mitchell’s permissive language in this regard. *See* Mitchell ¶ 71 (“The URL address provided up front *can be* accompanied by instructions . . . not to display the URL address . . . until later in the television program.”) (emphasis added). In any event, Mitchell’s pre-loaded URLs and associated cached content at least suggests the recited stored mapping as noted previously.

Therefore, because Mitchell and Goulden collectively at least suggest all limitations of claim 1, we see no error in the Examiner’s rejection based on those references. Although the Examiner’s reliance on Maa is technically cumulative to Mitchell’s teachings with respect to claim 1’s disputed clause as noted previously, we nonetheless see no harmful error in the Examiner’s reliance on Maa for the limited purpose for which it was cited in the rejection. *See* Final Act. 6–7.

Therefore, we are not persuaded that the Examiner erred in rejecting claim 1, and claims 2–11 and 14–17 not argued separately with particularity.<sup>2</sup>

#### THE OTHER OBVIOUSNESS REJECTION

We also sustain the Examiner’s obviousness rejection of claims 12 and 13. Final Act. 11–12. Because this rejection is not argued separately with particularity, we are not persuaded of error in this rejection for the reasons previously discussed.

#### CONCLUSION

The Examiner did not err in rejecting claims 1–17 under § 103.

We do not reach the Examiner’s provisional double patenting rejections.

#### DECISION

We affirm the Examiner’s decision to reject claims 1–17.

---

<sup>2</sup> Despite claim 1 lacking antecedent basis for “the platform” and “the appliance,” we leave to the Examiner to consider whether these inconsistencies render the claim indefinite under § 112, second paragraph after this opinion. Although the Board is authorized to reject claims under 37 C.F.R. § 41.50(b), no inference should be drawn when the Board elects not to do so. *See* MPEP § 1213.02.

Appeal 2017-005945  
Application 13/801,307

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED