

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COXCOM, LLC,
Petitioner,

v.

JOAO CONTROL & MONITORING SYSTEMS, LLC,
Patent Owner.

Case IPR2015-01765
Patent 7,277,010 B2

Before HOWARD B. BLANKENSHIP, STACEY G. WHITE, and
JASON J. CHUNG, *Administrative Patent Judges*.

CHUNG, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

Petitioner, Coxcom, LLC, filed a Petition to institute an *inter partes* review of claims 139, 157, 158, 169–171, 193, 194, 196–198, 201, 202, 211, 213, 215–217, 219, 222–225, 227, 228, and 234–236 (“the challenged

claims”) of U.S. Patent No. 7,277,010 B2 (“the ’010 patent”). Paper 1 (“Pet.”). Patent Owner, Joao Control & Monitoring Systems, LLC, filed a Preliminary Response pursuant to 35 U.S.C. § 313. Paper 7 (“Prelim. Resp.”).

We have authority to determine whether to institute an *inter partes* review. 35 U.S.C. § 314; 37 C.F.R. § 42.4(a). Upon consideration of the Petition and the Preliminary Response, and for the reasons explained below, we determine that the information presented does not show a reasonable likelihood that Petitioner would prevail with respect to at least one of the challenged claims. See 35 U.S.C. § 314(a). Accordingly, we decline to institute an *inter partes* review of these claims.

A. Related Matters

Petitioner and Patent Owner indicate that the ’010 patent or related patents may be implicated in numerous lawsuits pending in courts around the country. Pet. 2–3; Paper 5, 2–6.

B. The Asserted Grounds

Petitioner identifies the following as asserted grounds of unpatentability:

References	Basis	Challenged Claims
Paulos (Ex. 1006) ¹	§ 103(a) ²	139, 157, 158, 193, 198, 201, 202, 211, 213, 215, 216, 219, 222–225, 227, and 228
Paulos and Katz (Ex. 1008) ³	§ 103(a)	169–171, 194, 196, 197, 217, and 234–236

C. The '010 Patent

The '010 patent is directed to monitoring a premises using a processor. Ex. 1001, Abs. The processor is “associated with a web site and capable of providing audio and video, which receives audio information” from the premises. *Id.* Video information may be recorded. *Id.* at 124:40–47. The processor is at a remote location from the premises. *Id.* at Abs. The processor receives request from a device for audio or video information; the device is at a remote location from the processor and the premises. *Id.* Furthermore, the processing device determines if transmission of the audio or video to the device is authorized. *Id.* at 119:60–67, 124:52–61. The '010 patent further describes transmitting the audio or video information to the device over the World Wide Web and/or Internet in response to determining that transmission to the device is authorized. *Id.* at 119:60–120:3, 124:52–63.

¹ Eric Paulos & John Canny, *A World Wide Web Telerobotic Remote Environment Browser*, WORLD WIDE WEB J., Dec. 11–14, 1995, at 677.

² The relevant sections of the Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112–29, took effect on March 16, 2013. Because the application from which the '010 patent issued was filed before that date, our citations to Title 35 are to its pre-AIA version.

³ Randy H. Katz, *Adaption and Mobility in Wireless Information Systems*, 1 IEEE PERS. COMM., no. 1, 1994, at 6.

D. The Challenged Claims

Petitioner challenges claims 139, 157, 158, 169–171, 193, 194, 196–198, 201, 202, 211, 213, 215–217, 219, 222–225, 227, 228, and 234–236. Pet. 4. Claims 139, 193, and 198 are independent. Claim 139 is illustrative and reproduced below:

139. A monitoring apparatus, comprising:

a processing device, wherein the processing device is associated with a web site, and further wherein the processing device is capable of providing audio information and video information, wherein the processing device receives audio information recorded by at least one of an audio recording device, a microphone, and a tape recorder, wherein the at least one of an audio recording device, a microphone, and a tape recorder, is located at a premises, and wherein the processing device is located at a location remote from the premises,

wherein the processing device receives a signal transmitted from a communication device, wherein the communication device is located at a location remote from the processing device and remote from the premises, wherein the processing device determines whether a transmission of the audio information to the communication device is authorized, and further wherein the processing device transmits the audio information to the communication device in response to the signal if the processing device determines that the transmission of the audio information to the communication device is authorized, and further wherein the audio information is transmitted to the communication device on or over at least one of the Internet and the World Wide Web.

II. ANALYSIS

A. Claim Construction

At this juncture, we do not need to explicitly construe any term. *Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999)

(“[O]nly those terms need be construed that are in controversy, and only to the extent necessary to resolve the controversy.”).

B. Alleged Obviousness of Claims 139, 157, 158, 193, 198, 201, 202, 211, 213, 215, 216, 219, 222–225, 227, and 228 by Paulos and a Person Having Ordinary Skill in the Art

1. Paulos (Ex. 1006)

Paulos describes multiple users viewing a collection of physical museum exhibits. Ex. 1006, 11. Figure 1 is reproduced below.

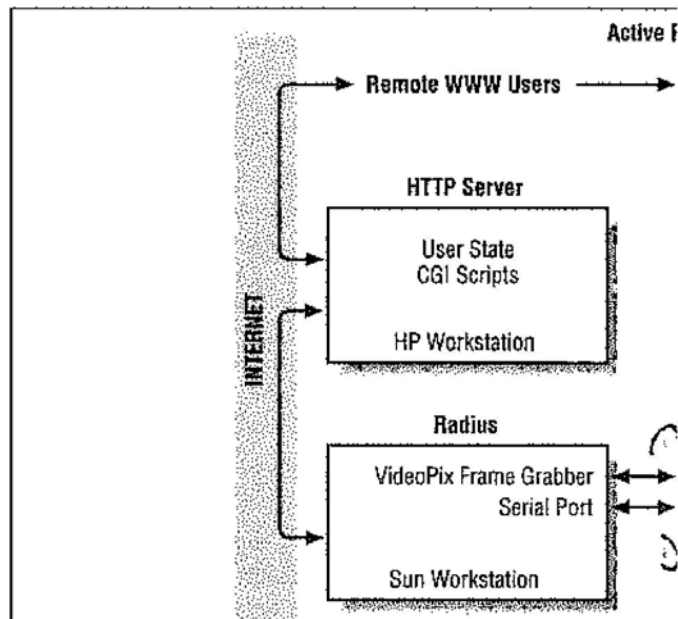


Figure 1: System architecture

Figure 1 illustrates a delivery process in which an HTTP server contains an interface for individual users to make requests and receive results. *Id.* at 15.

Paulos further describes the users viewing the museum exhibits using Radius, which is a telerobotic robot arm with an attached camera that captures real-time audio and video. *Id.* at 15–16. The users connect to an HTTP server via the World Wide Web. *Id.* The HTTP server connects to Radius via the Internet. *Id.* Paulos discusses that “Radius . . . check[ing] for

authentication” to prevent unauthorized control of robot hardware. *Id.* Paulos also describes “provid[ing] all WWW users unrestricted access to the browser” and providing registration for users who desire additional privileges. *Id.* at 19. Further, the registered users’ additional privileges include “roll and pitch control tools” and the ability to “leave comments about the various exhibits.” *Id.*

2. *The Parties’ Contentions for Claims 139, 157, 158, 193, 198, 201, 202, 211, 213, 215, 216, 219, 222–225, 227, and 228*

The parties’ contention focuses on whether Paulos’s user registration for additional privileges teaches the limitation “the processing device determines whether a transmission of the audio information to the communication device is authorized” as recited in claim 139 (and similarly recited in claims 193 and 198). We begin with Petitioner’s assertions regarding this limitation.

Petitioner asserts that Paulos’s disclosure of user registration with a password teaches the limitation “the processing device determines whether a transmission of the audio information to the communication device is authorized” as recited in claim 139 (and similarly recited in claims 193 and 198; claim 193 recites a “processing device or server computer”). Pet. 17–18, 38–42 (citing Ex. 1006, 19). Petitioner asserts

[t]o the extent it is argued that the HTTP server does not determine whether the transmission of such audio information to the remote WWW user is authorized, it would have been obvious to a person of ordinary skill in the art prior to July 1996 that the transmission of real-time audio from the HTTP Server to the remote WWW user can be determined

based on whether the remote WWW user is a Registered user.

Pet. 27, 38–42 (citing Ex. 1002 ¶ 48).

Patent Owner, in response, argues that Paulos’ system

restrict[s] only certain privileges to registered users, and the restricted privileges did not include access to audio and video, but rather the ability to control the robot and the ability to leave comments about the various exhibits. Paulos’ explicitly stated goal is to “provide [all WWW users] unrestricted access to the browser.

Prelim. Resp. 31 (quoting Ex. 1006, 19).

We have considered the evidence on this record and agree with Patent Owner that the cited portion of Paulos relied upon by Petitioner teaches providing *all* users access and user registration provides additional privileges that include “roll and pitch control tools” and the ability to “leave comments about various exhibits.” Ex. 1006, 19. In contrast, claim 139 prevents transmission of audio information to unauthorized users. Similarly, claims 193 and 198 prevent transmission of video information to unauthorized users. We are not persuaded, on this record, that Mr. Bennett’s testimony remedies Paulos’ shortcoming because Mr. Bennett’s testimony relies on a conclusory statement. *See* 37 C.F.R. § 42.65(a) (“Expert testimony that does not disclose the underlying facts or data on which the opinion is based is entitled to little or no weight.”); *Ashland Oil, Inc. v. Delta Resins & Refractories, Inc.*, 776 F.2d 281, 294 (Fed. Cir. 1985) (stating a lack of objective support for an expert opinion “may render the testimony of little probative value in [a patentability] determination”).

Paulos' disclosure of providing *all* users access and user registration provides additional privileges (Pet. 17–18 (citing Ex. 1006, 19)), thus, fails to teach the limitation “the processing device determines whether a transmission of the audio information to the communication device is authorized” as recited in claim 139 (and similarly recited in claims 193 and 198).

The parties' next contention focuses on whether Paulos's “Radius . . . check[ing] for authentication” to prevent unauthorized control of robot hardware (Ex. 1006, 15–16) teaches the limitation “the processing device determines whether a transmission of the audio information to the communication device is authorized” as recited in claim 139 (and similarly recited in claims 193 and 198). We begin with Petitioner's assertions regarding this limitation.

Petitioner contends Paulos's HTTP server teaches the limitation “a processing device” as recited in claim 139 (and similarly recited in claims 193 and 198). Pet. 20, 37, 41 (citing Ex. 1006, Fig. 1). Petitioner further contends that Paulos's disclosure of “Radius . . . check[ing] for authentication” to prevent unauthorized control of robot hardware teaches the limitation “the processing device determines whether a transmission of the audio information to the communication device is authorized” as recited in claim 139 (and similarly recited in claims 193 and 198). *Id.* at 17–18, 34–35, 41 (citing Ex. 1006, 15–16). In addition, Petitioner contends that “[i]t would have been obvious that the authentication check to determine whether a user can interact with the robot and the camera can be performed by the HTTP Server.” *Id.* at 27–28, 40, 42 (citing Ex. 1002 ¶¶ 49, 63).

We have considered the evidence on this record and find that Paulos’s disclosure of “Radius . . . check[ing] for authentication” to prevent unauthorized control of robot hardware fails to teach the claim 139 (and similarly recited in claims 193 and 198) limitation “the *processing device determines* whether a transmission of the audio information to the communication device is authorized” (emphasis added) because Paulos’s “Radius” determines authentication instead of Paulos’s “HTTP Server” (i.e., the alleged “processing device” according to Petitioner). Ex. 1006, 15–16. We are not persuaded that Mr. Bennett’s testimony remedies Paulos’s shortcoming because Mr. Bennett’s testimony relies on a conclusory statement. See 37 C.F.R. § 42.65(a) (“Expert testimony that does not disclose the underlying facts or data on which the opinion is based is entitled to little or no weight.”); *Ashland Oil, Inc. v. Delta Resins & Refractories, Inc.*, 776 F.2d 281, 294 (Fed. Cir. 1985) (stating a lack of objective support for an expert opinion “may render the testimony of little probative value in [a patentability] determination”).

Paulos’s disclosure of “Radius . . . check[ing] for authentication” to prevent unauthorized control of robot hardware (Pet. 17–18 (quoting Ex. 1006, 15–16)), thus, fails to teach the limitation “the *processing device determines* whether a transmission of the audio information to the communication device is authorized” (emphasis added) as recited in claim 139 (and similarly recited in claims 193 and 198).

Accordingly, we have reviewed the proposed ground challenging claims 139, 157, 158, 193, 198, 201, 202, 211, 213, 215, 216, 219, 222–225, 227, and 228 as obvious over Paulos and level of ordinary skill in the art and we are persuaded, on this record, that Petitioner has not established a

reasonable likelihood of prevailing in its challenge to claims 139, 157, 158, 193, 198, 201, 202, 211, 213, 215, 216, 219, 222–225, 227, and 228 on this ground.

C. Alleged Obviousness of Claims 169–171, 194, 196, 197, 217, and 234–236 in View of: Paulos, Katz, and Knowledge of the Ordinary Skilled Artisan

Claims 169–171, 194, 196, 197, 217, and 234–236 depend from one of claims 139, 193, and 198. Petitioner does not rely on Katz to teach the limitation “the processing device determines whether a transmission of the audio information to the communication device is authorized” as recited in claim 139 (and similarly recited in claims 193 and 198). Pet. 54–59. Claims 169–171, 194, 196, 197, 217, and 234–236, thus, overcome the applied prior art for at least the reasons stated *supra* in Part II.B.2.

Accordingly, we have reviewed the proposed ground challenging claims 169–171, 194, 196, 197, 217, and 234–236 as obvious over Paulos, Katz, and level of ordinary skill in the art and we are persuaded, on this record, that Petitioner has not established a reasonable likelihood of prevailing in its challenge to claims 169–171, 194, 196, 197, 217, and 234–236 on this ground.

III. CONCLUSION

For the foregoing reasons, based on the information presented in the Petition and the Preliminary Response, we are not persuaded that there is a reasonable likelihood that Petitioner would prevail in showing the unpatentability of claims 139, 157, 158, 169–171, 193, 194, 196–198, 201,

202, 211, 213, 215–217, 219, 222–225, 227, 228, and 234–236 of the '010 patent.

IV. ORDER

Accordingly, it is

ORDERED that the Petition is *denied* as to all challenged claims and no trial is instituted.

IPR2015-01765
Patent 7,277,010 B2

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