

Google LLC v. Wildseed Mobile LLC

IPR2023-00244 and IPR2023-00246

U.S. Patent Nos. 10,251,021 and 9,141,960

Patent Owner's Demonstratives

Wildseed EX2020
Google v. Wildseed
IPR2023-00244

Instituted Grounds

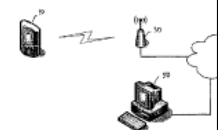
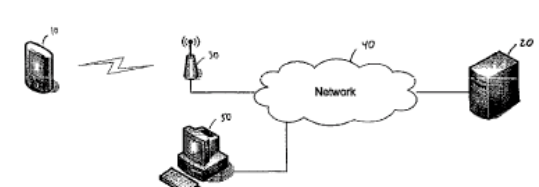
IPR2023-00244 ('021 Patent)		
Claims Challenged	Basis	Applied References
1-2, 4, 7-10, 12-13, 15-16	35 U.S.C. § 103	Sasaki, Ellis, Jacobi
5-6, 14, 18-19	35 U.S.C. § 103	Sasaki, Ellis, Jacobi, Havinis
3, 11, 17	35 U.S.C. § 103	Sasaki, Ellis, Jacobi, Teicher

IPR2023-00246 ('960 Patent)		
Claims Challenged	Basis	Applied References
1, 5-6, 8-11, 15-16, 20-21, 25	35 U.S.C. § 103	Sasaki, Ellis, Jacobi
2-4, 12-14, 17-19, 22-23	35 U.S.C. § 103	Sasaki, Ellis, Jacobi, Teicher
7, 24	35 U.S.C. § 103	Sasaki, Ellis, Jacobi, Havinis

Agenda

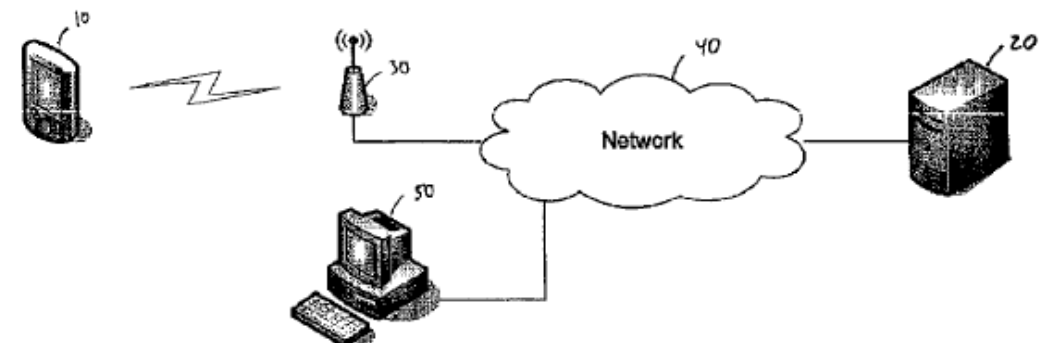
- ▶ **The '021 and '960 Patents**
- ▶ The Applied Art does not Render Obvious the “inferring” Limitations
- ▶ The Applied Art does not Render Obvious the “current location” Limitations
- ▶ '021 Patent Dependent Claims 2 and 9

The '021 and '960 Patents

(12) United States Patent Feldman et al. (54) VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE (71) Applicant: VARIA HOLDINGS LLC, Brooklyn, NY (US) (72) Inventors: Evan Feldman, Woodinville, WA (US); Jonathan Nelson, Seattle, WA (US) (73) Assignee: VARIA HOLDINGS LLC, Brooklyn, NY (US) (*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 146 days. This patent is subject to a terminal disclaimer. (21) Appl. No.: 14/860,339 (22) Filed: Sep. 21, 2015 (65) Prior Publication Data US 2016/0088437 A1 Mar. 24, 2016 Related U.S. Application Data (63) Continuation of application No. 12/144,532, filed on Jun. 23, 2008, now Pat. No. 9,141,960, (Continued) (51) Int. Cl. G06F 21/00 (2013.01) H04W 4/021 (2018.01) (Continued) (52) U.S. CL. CPC H04W 4/021 (2013.01); G06F 17/30867 (2013.01); G06Q 30/02 (2013.01); H04W 4/029 (2018.02) 	(10) Patent No.: US 10,251,021 B2 (45) Date of Patent: *Apr. 2, 2019
(12) United States Patent Feldman et al. (54) VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE (75) Inventors: Evan Feldman, Woodinville, WA (US); Jonathan Nelson, Seattle, WA (US) (73) Assignee: Varia Holdings LLC, Brooklyn, NY (US) (*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 1281 days. (21) Appl. No.: 12/144,532 (22) Filed: Jun. 23, 2008 (65) Prior Publication Data US 2008/0320078 A1 Dec. 25, 2008 Related U.S. Application Data (60) Provisional application No. 60/945,677, filed on Jun. 22, 2007. (51) Int. Cl. G06F 15/16 (2006.01) G06Q 30/02 (2012.01) G06F 17/30 (2006.01) (52) U.S. CL. CPC G06Q 30/02 (2013.01); G06F 17/30867 (2013.01) 25 Claims, 4 Drawing Sheets (58) Field of Classification Search USPC 709/231, 205-209 See application file for complete search history. (56) References Cited U.S. PATENT DOCUMENTS 2004/0023666 A1* 2/2004 Moon et al. 455/456.1 2007/0155307 A1* 7/2007 Ng et al. 455/3.01 * cited by examiner Primary Examiner — Evans Desrosiers (74) <i>Attorney, Agent, or Firm</i> — Schwabe, Williamson & Wyatt, P.C. (57) ABSTRACT A method and system for generating by a server, a recommendation for a venue or an event of interest proximally located to an inferred current location of a user of a portable media player device. In an embodiment, a server may determine one or more media preferences for a user based at least in part on media stored on or accessed using the portable media player device of the user. The server may generate information related to the current location or a recommendation for a venue or an event of interest to the user based at least in part on the one or more media preferences and the inferred current location of the user. Once generated, the server then may communicate the recommendation (or the information) to the user, e.g. the portable media player device. Other embodiments may also be described and claimed. 	(10) Patent No.: US 9,141,960 B2 (45) Date of Patent: Sep. 22, 2015

A method and system for generating by a server, a recommendation for a venue or an event of interest proximally located to an inferred current location of a user of a portable media player device. In an embodiment, a server may determine one or more media preferences for a user based at least in part on media stored on or accessed using the portable media player device of the user. The server may generate information related to the current location or a recommendation for a venue or an event of interest to the user based at least in part on the one or more media preferences and the inferred current location of the user. Once generated, the server then may communicate the recommendation (or the information) to the user, e.g. the portable media player device. Other embodiments may also be described and claimed.

EX1001, Abstract.



'021 Patent Exemplary Claims

1. One or more non-transitory computer-readable media (NTPCRM) comprising instructions written thereon, wherein execution of the instructions by one or more processors of a computer server is to cause the computer server to:

control receipt of media or information about the media, the media being stored on a portable media player device or accessed using the portable media player device;

infer one or more entertainment preferences of a user of the portable media player device based at least in part on the retrieved media, the retrieved information about the media, and a plurality of media content types of the media stored on or accessed by the portable media player device, wherein the plurality of media content types comprises textual media, image media, audio media, and video media;

access one or more sources of information about venues or events proximal to a current location of the user;

identify at least one of said venues or events as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user;

generate a recommendation indicating the identified venue or event as a venue or event of interest to the user; and

control communication of the recommendation to the user.

IPR2023-00244, EX1001, Claim 1

10. One or more non-transitory computer-readable media (NTPCRM) comprising instructions that, when executed by one or more processors of a portable media player device, cause the portable media player device to:

operate a media player application to access media from a local storage of the portable media player device or a remote storage;

establish a network connection with a server, the server to provide location and preference based venue or event recommendations;

control transmission, to the server, of location information associated with the portable media player device to facilitate the server in inferring a current location of a user of the portable media player device; and

control receipt, from the server, of a recommendation indicating an event or venue of interest that is proximate to the inferred current location of the user, and wherein:

the recommendation is based on one or more inferred preferences of the user and the location information, the inferred preferences are based at least in part on the accessed media, media content types of the accessed media from among a plurality of media content types, and information about the accessed media, wherein the plurality of media content types comprises textual media, image media, audio media, and video media, and

the event or venue of interest is selected from one or more sources of information about a plurality of venues or events proximate to the current location of the user.

IPR2023-00244, EX1001, Claim 10

'960 Patent Exemplary Claims

1. A method comprising:
retrieving, by a server, a plurality of media stored on or accessed using a portable media player device, or information about said plurality of media;
inferring, by the server, based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media, one or more entertainment preferences of a user of the portable media player device;
accessing, by the server, one or more sources of information about venues or events proximal to a current location of the user;
identifying, by the server, at least one of said venues or events as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user;
generating, by the server, a recommendation indicating the identified venue or event as a venue or event of interest to the user; and
communicating, by the server, the recommendation to the user.

IPR2023-00246, EX1001, Claim 1

11. A method comprising:
providing to a server, by a portable media player device, a current location of the portable media player device to facilitate the server in inferring a current location of a user of the portable media player device; and
receiving by the portable media player device, from the server, a recommendation indicating an event or venue of interest located proximal to the inferred current location of the user as being of interest to the user;
wherein the recommendation is generated by the server based at least in part on the inferred current location, data accessed by the server from one or more sources of information about venues or events proximal to the current location of the user, and one or more entertainment preferences of the user, the event or venue of interest being one of said venues or events; and
wherein the one or more entertainment preferences are inferred by the server based at least in part on an analysis, by the server, of a plurality of media stored on or accessed using the portable media player device or information about said plurality of media.

IPR2023-00246, EX1001, Claim 11

Agenda

- ▶ The '021 and '960 Patents
- ▶ **The Applied Art does not Render Obvious the “inferring” Limitations**
- ▶ The Applied Art does not Render Obvious the “current location” Limitations
- ▶ '021 Patent Dependent Claims 2 and 9

The '021 Patent Independent Claims Recite Four Media Content Types

The server infers entertainment preferences based on a plurality of media content types

'021 Patent

1. One or more non-transitory computer-readable media (NTRM) comprising instructions written thereon, wherein execution of the instructions by one or more processors of a computer server is to cause the computer server to:

- control receipt of media or information about the media, the media being stored on a portable media player device or accessed using the portable media player device;
- infer one or more entertainment preferences of a user of the portable media player device based at least in part on the retrieved media, the retrieved information about the media, and a plurality of media content types of the media stored on or accessed by the portable media player device, wherein the plurality of media content types comprises textual media, image media, audio media, and video media;

IPR2023-00244, EX1001, Claim 1; see also Claims 10, 16

The file history requires each of the recited media content types: textual, image, audio, and video media

Dependent claim 22 was amended to enumerate the plurality of media types

22. (Currently Amended) The one or more NTCRM~~non-transitory computer-readable media~~ of claim 21, wherein the plurality of media types comprises textual media, image media, music media, podcast media, and video media~~generate a recommendation comprises generate a recommendation based at least in part on a genre of music played at the venue or event of interest and on a music genre preference of the user inferred by the computer server based at least in part on music media stored in, or accessed using, the media player device.~~

IPR2023-00244, EX1002, 164

The file history requires each of the recited media content types: textual, image, audio, and video media

The Examiner rejected claim 22 over Spiegelman and Martin. The Examiner interpreted claim 22 as requiring each of the recited media types.

The Examiner stated that Spiegelman disclosed music, podcast, and video media.

The Examiner acknowledged that Spiegelman did not disclose textual and image media.

The Examiner relied on Martin for textual and image media.

Regarding claim 22:

Spiegelman further discloses:

wherein the plurality of media types comprises music media (§0056), podcast media (§0029), and video media (§0056).

Spiegelman does not disclose:

textual media and image media.

However, Martin further discloses:

textual media (§0043: “e-book”) and image media (§0043: “picture”).

IPR2023-00244, EX1002, 150-151

The file history requires each of the recited media content types: textual, image, audio, and video media

Claim 21 was amended to require a plurality of media content types

21. (Currently Amended) One or more non-transitory computer-readable media (NCRM) comprising instructions written thereon that, in response to execution by one or more processors of a computer server, cause the computer server to:

control receipt of media or information about the media, the media being stored on a portable media player device or accessed using the portable media player device;

infer one or more entertainment preferences of a user of the portable media player device; based at least in part on the retrieved media, the retrieved information about the media, and one or more a plurality of media content types of the media stored on or accessed by the portable media player device, ~~one or more entertainment preferences of a user of the portable media player device;~~

IPR2023-00244, EX1002, 93

The Applicant argued that Martin did not render claim 21 obvious because it utilized only a single type of media, namely audio

There is no focused and specific examples within *Martin* that utilize a plurality of media content types stored or accessed by a user for recommending mediasets to the user or group of users. Instead, the mediaset recommendations provided by *Martin's* system are based on stored playlists and playcounts for a single type of media content, namely audio.

Accordingly, *Martin* cannot render amended claim 21 obvious because *Martin* fails to teach or suggest “infer one or more entertainment preferences of a user of the portable media player device based at least in part on the retrieved media, the retrieved information about the media, and a plurality of media content types of the media stored on or accessed by the portable media player device.”

IPR2023-00244, EX1002, 101

The file history requires each of the recited media content types: textual, image, audio, and video media

The Examiner rejected claim 22 over the combination of Spiegelman, Baudino, and Martin, again requiring each of the recited media types.

The Examiner stated that Spiegelman and Baudino disclosed music, podcast, and video media

The Examiner acknowledged that Spiegelman and Baudino did not disclose textual and image media

The Examiner relied on Martin for textual and image media

Regarding claim 22:

The combination Spiegelman and Baudino further discloses:

wherein the plurality of media types comprises music media (¶0056), podcast media (¶0029), and video media (¶0056).

The combination Spiegelman and Baudino does not disclose:

textual media and image media.

However, Martin further discloses:

textual media (¶0043: “e-book”) and image media (¶0043: “picture”).

The file history requires each of the recited media content types: textual, image, audio, and video media

The Applicant amended claim 21 to incorporate claim 22's language, replacing music and podcast media with "audio media"

21. (Currently Amended) One or more non-transitory computer-readable media (NTRM) comprising instructions written thereon that, ~~in response to~~wherein execution of the instructions by one or more processors of a computer server, ~~is to~~ cause the computer server to:

control receipt of media or information about the media, the media being stored on a portable media player device or accessed using the portable media player device;

infer one or more entertainment preferences of a user of the portable media player device based at least in part on the retrieved media, the retrieved information about the media, and a plurality of media content types of the media stored on or accessed by the portable media player device, wherein the plurality of media content types comprises textual media, image media, audio media, and video media.

IPR2023-00244, EX1002, 51

The Applicant argued that it was improper to combine *Martin* with *Spiegelman* and *Baudino*

The amendments to claim 21 are based in part on the subject matter previously recited by claim 22. The Office Action at page 10 concedes that *Spiegelman* and *Baudino* fail to disclose "textual media and image media" previously recited by claim 22. However, the Office Action at page 10 asserts that *Martin* at paragraph [0043] discloses "e-book" and "picture."

It is improper to combine the *Martin* reference with the *Spiegelman* and *Baudino* references because the *Martin* reference is not considered as a whole and does not suggest the desirability of making the combination.

IPR2023-00244, EX1002, 58-59

The file history requires each of the recited media content types: textual, image, audio, and video media

The Examiner allowed pending claim 21, agreeing that it was improper to combine Martin with Spiegelman and Baudino

Spiegelman was relied upon for teaching how a computer based system can access media content such as songs or videos of a user and then determine if an event associated with the detected media can be found in the vicinity of the user. What Spiegelman did not disclose was using a portable media player to store the media and make that determination. For that limitation the examiner relied upon Baudino. The combination Spiegelman and Baudino did not disclose that the Media could comprise textual media and image media. For this the examiner relied upon Martin.

In the remarks received 08/31/2018 the applicant argued improper hindsight in combining these references. The examiner was persuaded by applicant's remarks for the following reasons:

IPR2023-00244, EX1002, 37

Petitioner's Position

Petitioner argued that a POSITA would have combined Sasaki's plurality of media content types with Ellis's capabilities of determining user preferences based on audio media consumption

Petition

Thus, Sasaki's server that receives user preference information about different media content types, such as music, still pictures, video, and text in view of Ellis teachings of automatically determining a user's preferences about songs, commercials, shows, genres, groupings and other content, by monitoring and tracking a user's usage information retrieved from a portable media player device, where the usage information is about media on or accessed by a portable media player device, render obvious this limitation. Ex.1003, ¶¶87-95.

IPR2023-00244, Pet., 36

Petitioner's Dr. Houh

95. Thus, Sasaki's server the receives user preference information about different media content types, such as music, still pictures, video, and text in view of Ellis teachings automatically determining a user's preferences about songs, commercials, shows, genres, groupings and other content, by monitoring and tracking a user's usage information retrieved from a portable media player device, where the usage information is about media on or accessed by a portable media player device, render obvious "infer one or more entertainment preferences of a user of the portable media player device based at least in part on the retrieved media, the retrieved information about the media, and a plurality of media content types of the media stored on or accessed by the portable media player device, wherein the plurality of media content types comprises textual media, image media, audio media, and video media."

IPR2023-00244, EX1003, ¶¶95

Petitioner's proposed combination does not disclose or suggest inferring a user's preferences based on each of the claimed plurality of media content types

Ellis discloses a radio system that infers user preferences based only on audio data

An enhanced radio system is disclosed that provides for the capture and playback of one or more radio stations. The user may tune to a station, or scan through stations, rewind to hear what was missed (even while the system is turned off), and fast-forward through undesired content. The system allows a user to rate content, and to be notified when that content is being played on any station. The system may

IPR2023-00244, EX1005, Abstract

for or against the song. In an embodiment with a personal computer, the system may present a screen such as screen 2000 of FIG. 20, discussed below, to enable the user to specify content preferences. User preferences may be loaded using communications device 155. The system may also determine user preferences automatically by monitoring what content the user listens to.

IPR2023-00244, EX1005, ¶185

optional, and may be performed in any suitable order. In step 2210, the user may be allowed to enter user information. For example, a screen such as screen 2000 of FIG. 20 may be used by the user to specify likes and dislikes. In step 2220, the system may determine user information automatically by monitoring the content the user listens to. For example, the system may add points to a specific song, artist, genre, or other type of item or grouping, based on the user listening to an entire item. The system may assign additional points if

IPR2023-00244, EX1005, ¶221

programmer, or advertiser, based on a number of criteria. In step 1820, a user may be allowed to rate a group. The user may specify a like or dislike, or a level of like or dislike, for a specific group of content. The system may also monitor the content listened to by the user, and automatically determine the groups liked and disliked by the user. In step 1830, the system may automatically recognize an item in the group when it has been broadcast. For example, the system may

IPR2023-00244, EX1005, ¶212

Petitioner's proposed combination does not disclose or suggest inferring a user's preferences based on each of the claimed plurality of media content types

Sasaki teaches that user preferences are entered by the user, not inferred

[0073] As shown in FIG. 3C, by entering, in the preference information area of the HDD 4, preference information including content types and preference keywords of the user of the terminal device, and using the preference information to selectively use pieces of content recommendation information, only a piece of content recommendation information that matches user's preferences can be obtained. Therefore, only necessary pieces of content recommendation information can be collected, thus making it possible to change or extend a utilization range of the terminal device.

IPR2023-00244, EX1004, ¶73

[0128] Updating of the preference information recorded in the server can be performed, for example, by using a personal computer at a home to access a service site through a network such as the Internet. Accordingly, an embodiment of the present invention can be applied to even a terminal device such as a cellular phone in which character entering is inconvenient and which has a limited amount of storage.

IPR2023-00244, EX1004, ¶128

FIG. 3C

CONTENT TYPE	PREFERENCE KEY WORDS
MUSIC	MIKE XXXXX; ROCK; BEATLES; LOVE
PHOTOGRAPH	MOUNT FUJI; NIGHT VIEW; LANDSCAPE; PROSPECT; MOUNTAINS, SEA, SKY; DUSK; SUNSET

IPR2023-00244, EX1004, Fig. 3C

Petitioner's proposed combination does not disclose or suggest inferring a user's preferences based on each of the claimed plurality of media content types

Neither Sasaki nor Ellis disclose inferring a user's entertainment preferences based on a plurality of media types -- let alone based on textual, image, audio, and video media.

Patent Owner's Mr. Stillerman

161. Dr. Houh's declaration fails to adequately explain why he reached this conclusion. Dr. Houh simply recites various teachings from Sasaki and Ellis and then states in conclusory fashion that Sasaki and Ellis render this limitation obvious. Dr. Houh does not even acknowledge that the combination of Sasaki and Ellis does not disclose a server that infers a user's preferences based at least in part on image media, video media, and textual media. In my opinion, because Dr. Houh's declaration and the Petition do not even address this lack of disclosure in the combination of Sasaki and Ellis, the Petition fails to meet the burden of showing that the combination of Sasaki and Ellis (and Jacobi) renders this limitation obvious.

IPR2023-00244, EX2007, ¶161

The '960 Patent Independent Claims Require a Plurality of Media

'960 Patent

1. A method comprising:
retrieving, by a server, a plurality of media stored on or accessed using a portable media player device, or information about said plurality of media;
inferring, by the server, based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media, one or more entertainment preferences of a user of the portable media player device;

IPR2023-00246, EX1001, Claim 1; see also Claims 11, 16, 21

Petitioner's Position

Petitioner argued that a POSITA would have combined Sasaki's plurality of media with Ellis's capabilities of determining user preferences based on audio media consumption

Petition

Thus, Sasaki's server that stores user preferences about multiple types of content accessed by a user of a portable media player device in view of Ellis's technique of automatically determining a user's preferences about types of content, songs, commercials, shows, and other content, where the automatic determination is based on monitoring a portable media player device user's usage information renders obvious this limitation. Ex.1003, ¶¶84-90.

IPR2023-00246, Pet., 33

Petitioner's Dr. Houh

90. Thus, Sasaki's server that stores user preferences about multiple types of content accessed by a user of a portable media player device in view of Ellis's technique of automatically determining a user's preferences about types of content, songs, commercials, shows, and other content, where the automatic determination is based on monitoring a portable media player device user's usage information renders obvious "*inferring, by the server, based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media, one or more entertainment preferences of a user of the portable media player device.*"

IPR2023-00246, EX1003, ¶90

Petitioner's proposed combination does not disclose or suggest inferring a user's preferences based on a plurality of media

Ellis discloses a radio system that infers user preferences based only on audio data

An enhanced radio system is disclosed that provides for the capture and playback of one or more radio stations. The user may tune to a station, or scan through stations, rewind to hear what was missed (even while the system is turned off), and fast-forward through undesired content. The system allows a user to rate content, and to be notified when that content is being played on any station. The system may

IPR2023-00246, EX1005, Abstract

for or against the song. In an embodiment with a personal computer, the system may present a screen such as screen 2000 of FIG. 20, discussed below, to enable the user to specify content preferences. User preferences may be loaded using communications device 155. The system may also determine user preferences automatically by monitoring what content the user listens to.

IPR2023-00246, EX1005, ¶185

optional, and may be performed in any suitable order. In step 2210, the user may be allowed to enter user information. For example, a screen such as screen 2000 of FIG. 20 may be used by the user to specify likes and dislikes. In step 2220, the system may determine user information automatically by monitoring the content the user listens to. For example, the system may add points to a specific song, artist, genre, or other type of item or grouping, based on the user listening to an entire item. The system may assign additional points if

IPR2023-00246, EX1005, ¶221

programmer, or advertiser, based on a number of criteria. In step 1820, a user may be allowed to rate a group. The user may specify a like or dislike, or a level of like or dislike, for a specific group of content. The system may also monitor the content listened to by the user, and automatically determine the groups liked and disliked by the user. In step 1830, the system may automatically recognize an item in the group when it has been broadcast. For example, the system may

IPR2023-00246, EX1005, ¶212

Petitioner’s proposed combination does not disclose or suggest inferring a user’s preferences based on a plurality of media

Sasaki teaches that user preferences are entered by the user, not inferred

[0073] As shown in FIG. 3C, by entering, in the preference information area of the HDD 4, preference information including content types and preference keywords of the user of the terminal device, and using the preference information to selectively use pieces of content recommendation information, only a piece of content recommendation information that matches user’s preferences can be obtained. Therefore, only necessary pieces of content recommendation information can be collected, thus making it possible to change or extend a utilization range of the terminal device.

IPR2023-00246, EX1004, ¶73

[0128] Updating of the preference information recorded in the server can be performed, for example, by using a personal computer at a home to access a service site through a network such as the Internet. Accordingly, an embodiment of the present invention can be applied to even a terminal device such as a cellular phone in which character entering is inconvenient and which has a limited amount of storage.

IPR2023-00246, EX1004, ¶128

FIG. 3C

CONTENT TYPE	PREFERENCE KEY WORDS
MUSIC	MIKE XXXXX; ROCK; BEATLES; LOVE
PHOTOGRAPH	MOUNT FUJI; NIGHT VIEW; LANDSCAPE; PROSPECT; MOUNTAINS, SEA, SKY; DUSK; SUNSET

IPR2023-00246, EX1004, Fig. 3C (annotated)

Petitioner's proposed combination does not disclose or suggest inferring a user's preferences based on a plurality of media

Neither Sasaki nor Ellis disclose inferring a user's entertainment preferences based on a plurality of media

Patent Owner's Mr. Stillerman

145. Dr. Houh's declaration and the Petition fail to adequately explain why he reached this conclusion. Dr. Houh simply recites various teachings from Sasaki and Ellis and then states in conclusory fashion that Sasaki and Ellis render this limitation obvious. Dr. Houh does not even acknowledge that the combination of Sasaki and Ellis does not disclose a server that infers a user's preferences based at least in part on any media other than audio. In my opinion, because Dr. Houh's declaration and the Petition do not even address this lack of disclosure in the combination of Sasaki and Ellis, the Petition fails to meet the burden of showing that the combination of Sasaki and Ellis renders this limitation obvious.

IPR2023-00246, EX2007, ¶145

Agenda

- ▶ The '021 and '960 Patents
- ▶ The Applied Art does not Render Obvious the “inferring” Limitations
- ▶ **The Applied Art does not Render Obvious the “current location” Limitations**
 - ▶ **Overview of Sasaki’s Two Distinct, Alternative Embodiments**
 - ▶ The Applied Art does not Render Obvious Transmitting Location Information to a Server
 - ▶ The Applied Art does not Render Obvious a server accessing event/venue information proximal to a location of the user
 - ▶ The Applied Art does not Render Obvious a server inferring the location of the user
- ▶ '021 Patent Dependent Claims 2 and 9

Sasaki's terminal-to-terminal embodiment

Sasaki's terminal-to-terminal embodiment teaches portable devices that communicate directly with each other

1. First Embodiment (Transmission and Reception of Content Recommendation Information by Two Terminal Devices)

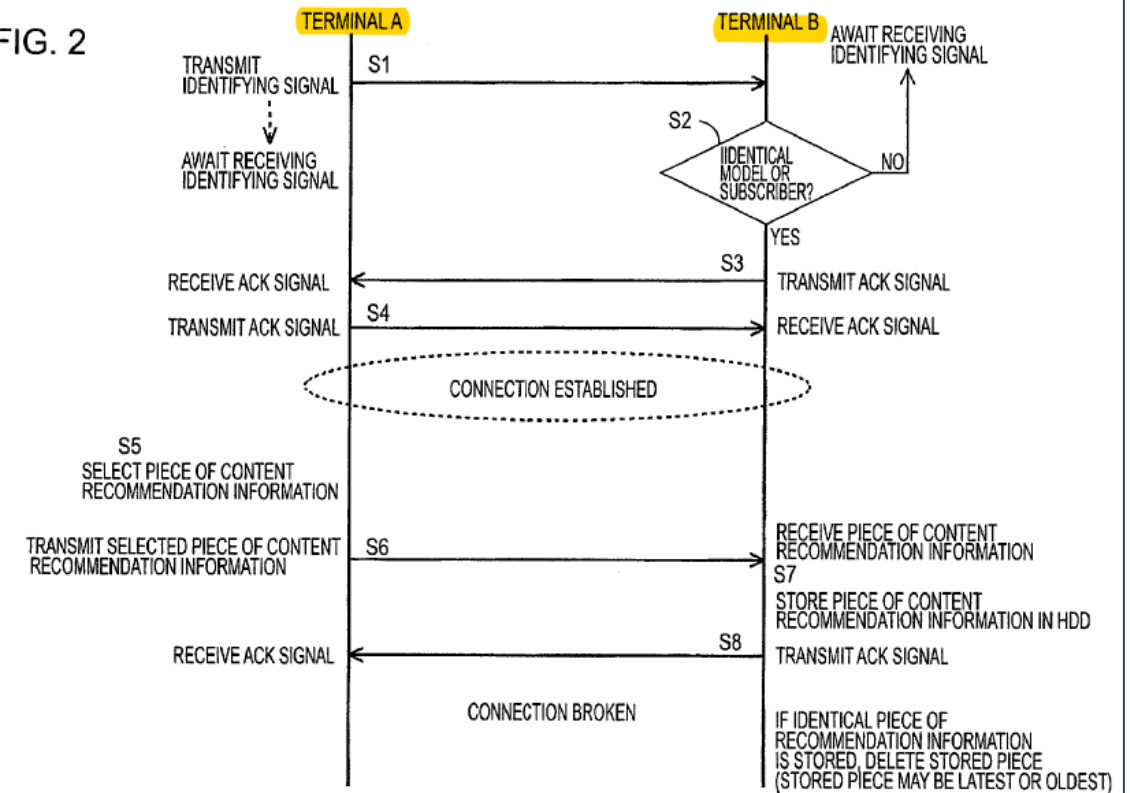
1-1. Configuration of Portable Terminal Device

[0029] FIG. 1 is a block diagram illustrating a portable terminal device according to a first embodiment of the present invention. As shown in FIG. 1, the terminal device

[0024] FIG. 2 is a timing chart of a communication process performed in communication between terminal devices A and B each having the configuration shown in FIG. 1 when an identifying signal from terminal device A is received by terminal device B;

IPR2023-00244, EX1004, ¶¶24, 29; IPR2023-00246, EX1004, ¶¶24, 29

FIG. 2



IPR2023-00244, EX1004, Fig. 2; IPR2023-00246, EX1004, Fig. 2

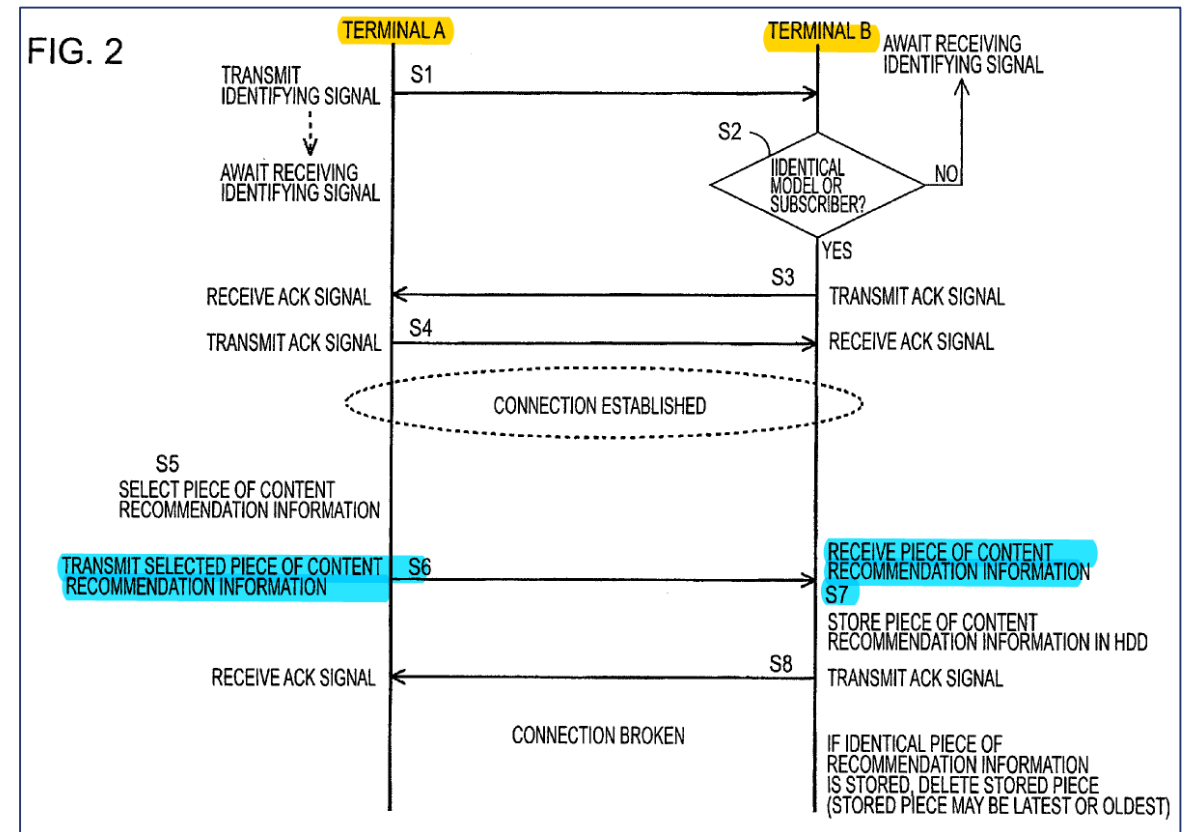
Sasaki's terminal-to-terminal embodiment

Portable terminal device A transmits content recommendation information to portable terminal device B

[0059] In step S5, after the connection is established, from pieces of content recommendation information stored in a transmitting area of the HDD 4 of terminal device A, terminal device A selects a piece of content recommendation information to be transmitted. In step S6, terminal device A transmits the selected piece of content recommendation information. In this case, information transmitted from ter-

[0060] In step S7, terminal device B receives the piece of content recommendation information from terminal device A, and temporarily stores the received piece of content recommendation information (set of content recommendation information) in a receiving area of the HDD 4 in terminal device B. The temporarily stored piece of content recommendation information is, as described above, one set

IPR2023-00244, EX1004, ¶¶59, 60; IPR2023-00246, EX1004, ¶¶59, 60



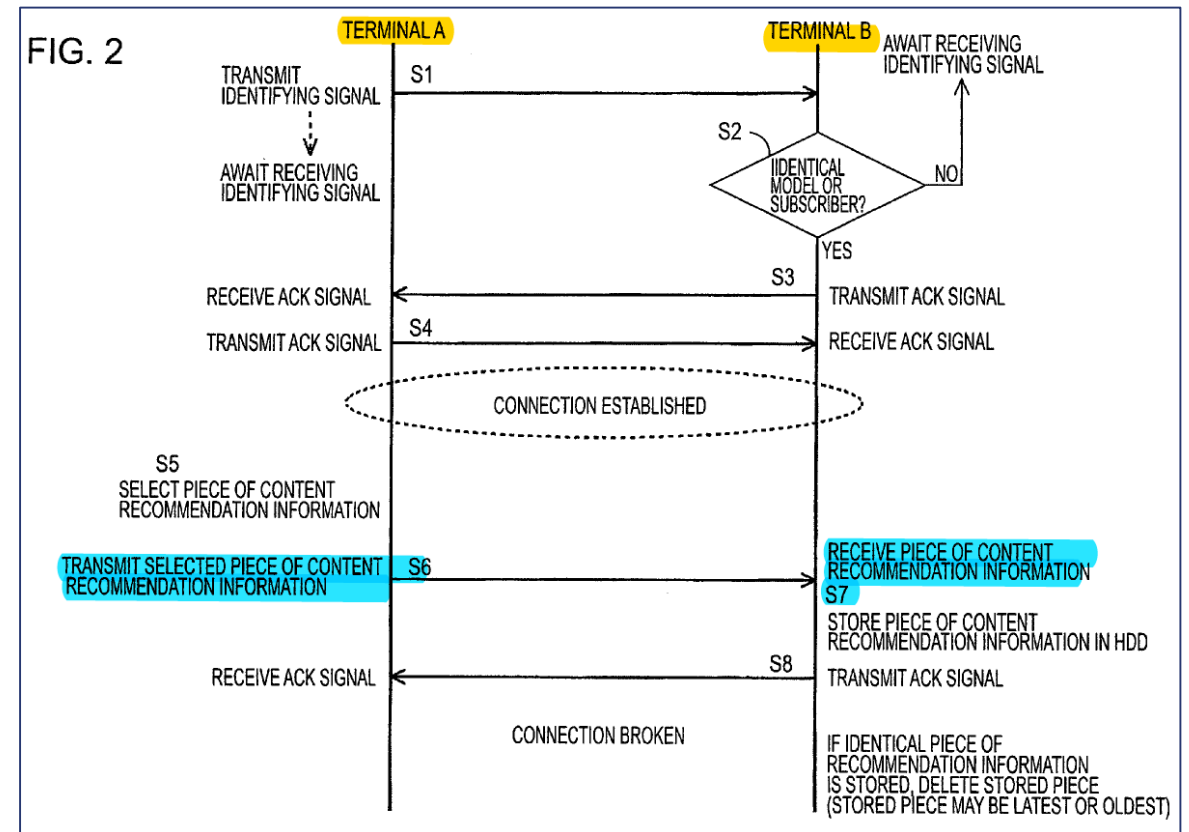
IPR2023-00244, EX1004, Fig. 2; IPR2023-00246, EX1004, Fig. 2

Sasaki's terminal-to-terminal embodiment

Location information (“place of transmission”) is sent as part of the content recommendation information from one portable terminal device to the other

[0068] If sample data is attached, a file name, or the like, of the sample data is used as the information representing a sample-data storage location. If the sample data is stored in a server on the Internet, its access URL is used. As described above, the content recommendation information to be transmitted does not contain only the information shown in FIG. 3A. Necessary information, such as an owner of a transmitting terminal device, a date and time of transmission, and a place of transmission, is added to the content recommendation information, whereby a set of content recommendation information is transmitted.

IPR2023-00244, EX1004, ¶68; IPR2023-00246, EX1004, ¶68



IPR2023-00244, EX1004, Fig. 2; IPR2023-00246, EX1004, Fig. 2

Sasaki's server-to-terminal embodiment

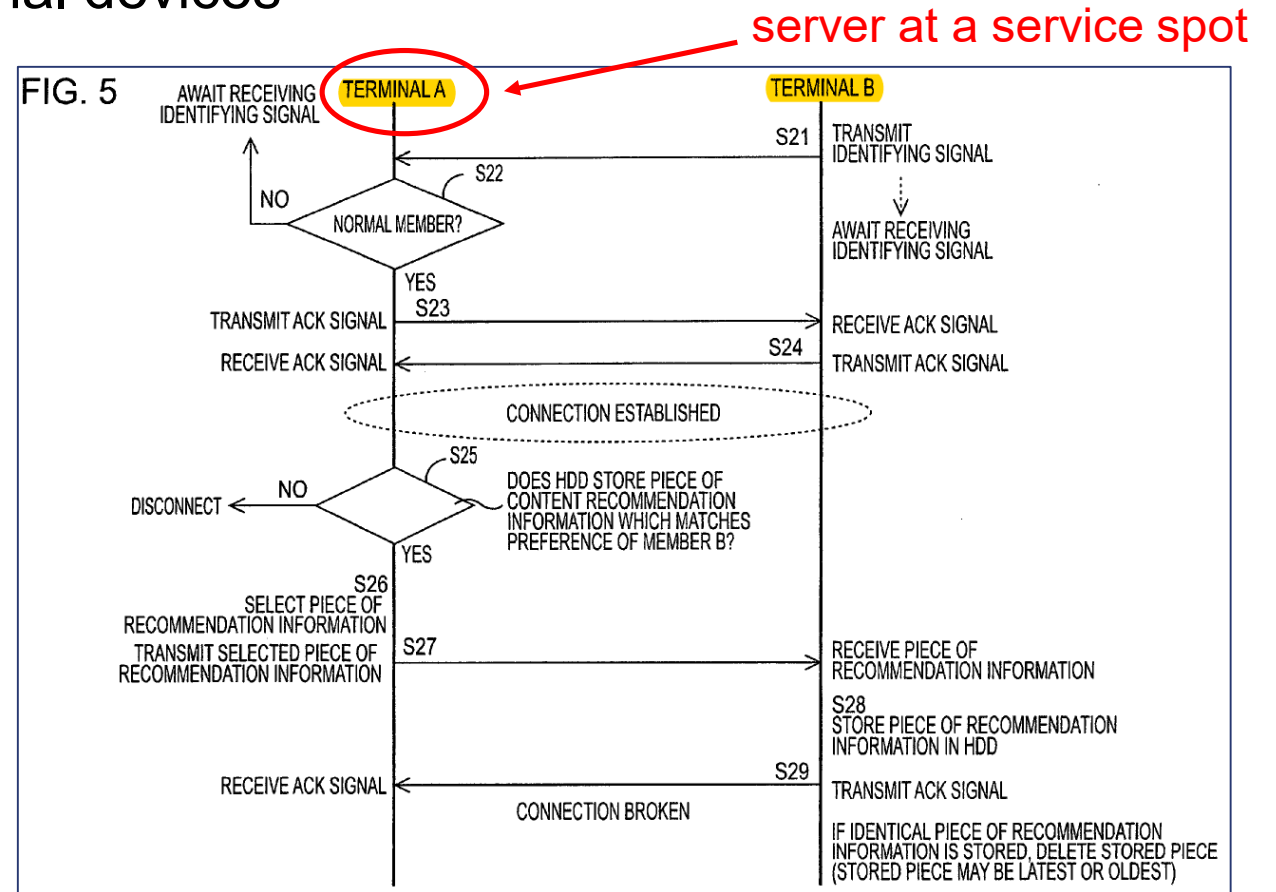
Sasaki's server-to-terminal embodiment teaches a server that communicates with portable terminal devices

2. Second Embodiment (Reception of Content Recommendation Information from a Service Spot)

[0112] Differently from the above-described first embodiment in which content recommendation information is transmitted and received between terminal devices to which an embodiment of the present invention is applied, in a second embodiment of the present invention, content recommendation information is transmitted and received between a server at a service spot and a terminal device. In the second embodiment, a system and method according to embodiments of the present invention are applied.

[0113] Specifically, the second embodiment is realized such that, in the above-described first embodiment, one terminal device (e.g., terminal device A) is replaced by a server at a service spot, and communication is performed between the server and terminal device B. Since, in this case,

IPR2023-00244, EX1004, ¶¶ 112, 113; IPR2023-00246, EX1004, ¶¶ 112, 113



IPR2023-00244, EX1004, Fig. 5; IPR2023-00246, EX1004, Fig. 5

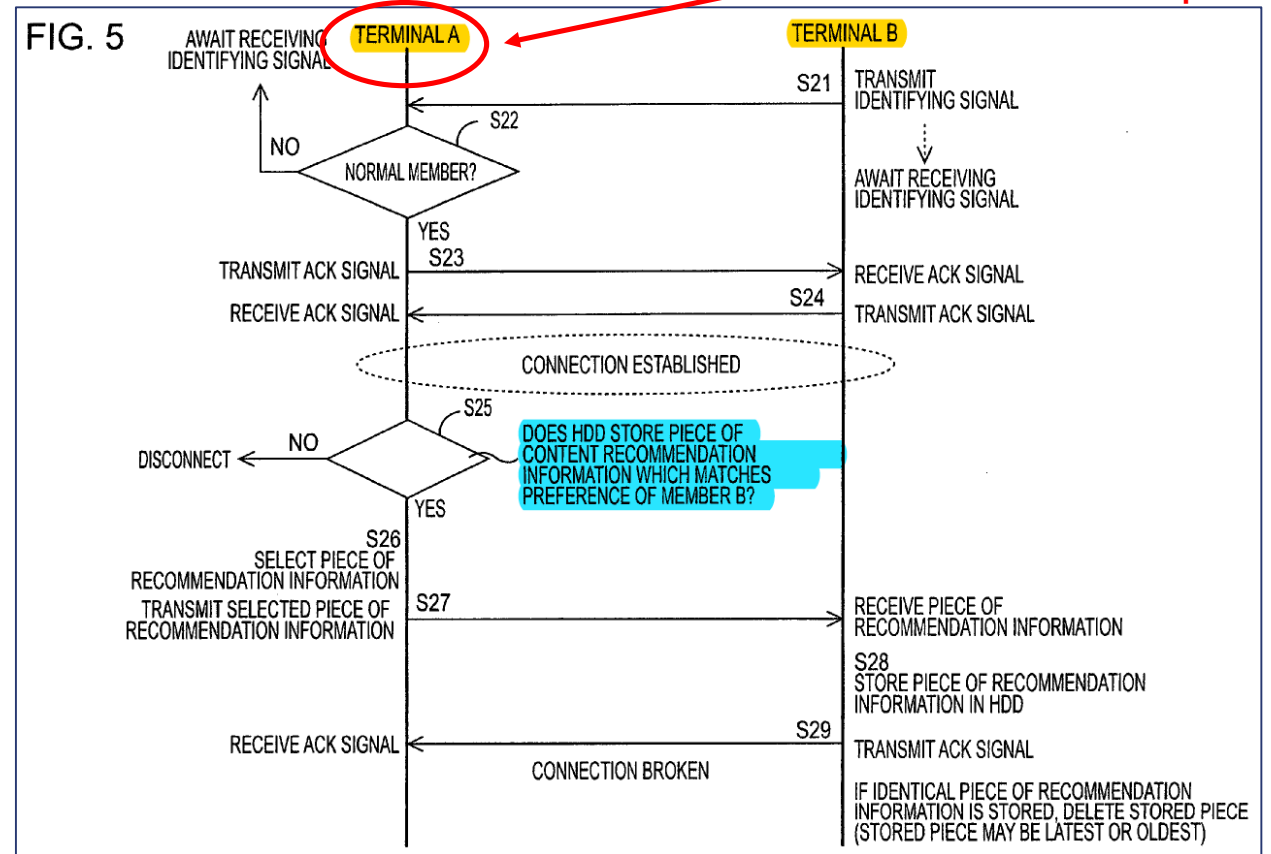
Sasaki's server-to-terminal embodiment

Upon establishing a connection with a portable terminal device, the server checks its member database to determine whether it has content recommendation information for the user

server at a service spot

[0126] As described above with reference to FIG. 5, in the member database formed in the HDD 4 of the server at the service spot, identifying signals such as terminal IDs and personal IDs of members, and preference information of the members are stored beforehand, whereby, only by transmitting an identifying signal from each terminal device to the server, pieces of content recommendation information can be provided in response to the preference of the user of the terminal device.

[0119] After establishing the connection, in step S25, the CPU 1 of the server determines whether or not the HDD 4 of the server stores a piece of content recommendation information which matches a preference of the member of terminal device B. In the determination of step S25, the CPU 1 of the server performs processing based on preference information of the member of the terminal device B which is stored in the HDD 4 of the server.



IPR2023-00244, EX1004, ¶¶ 119, 126; IPR2023-00246, EX1004, ¶¶ 119, 126

IPR2023-00244, EX1004, Fig. 5; IPR2023-00246, EX1004, Fig. 5

Sasaki's server-to-terminal embodiment

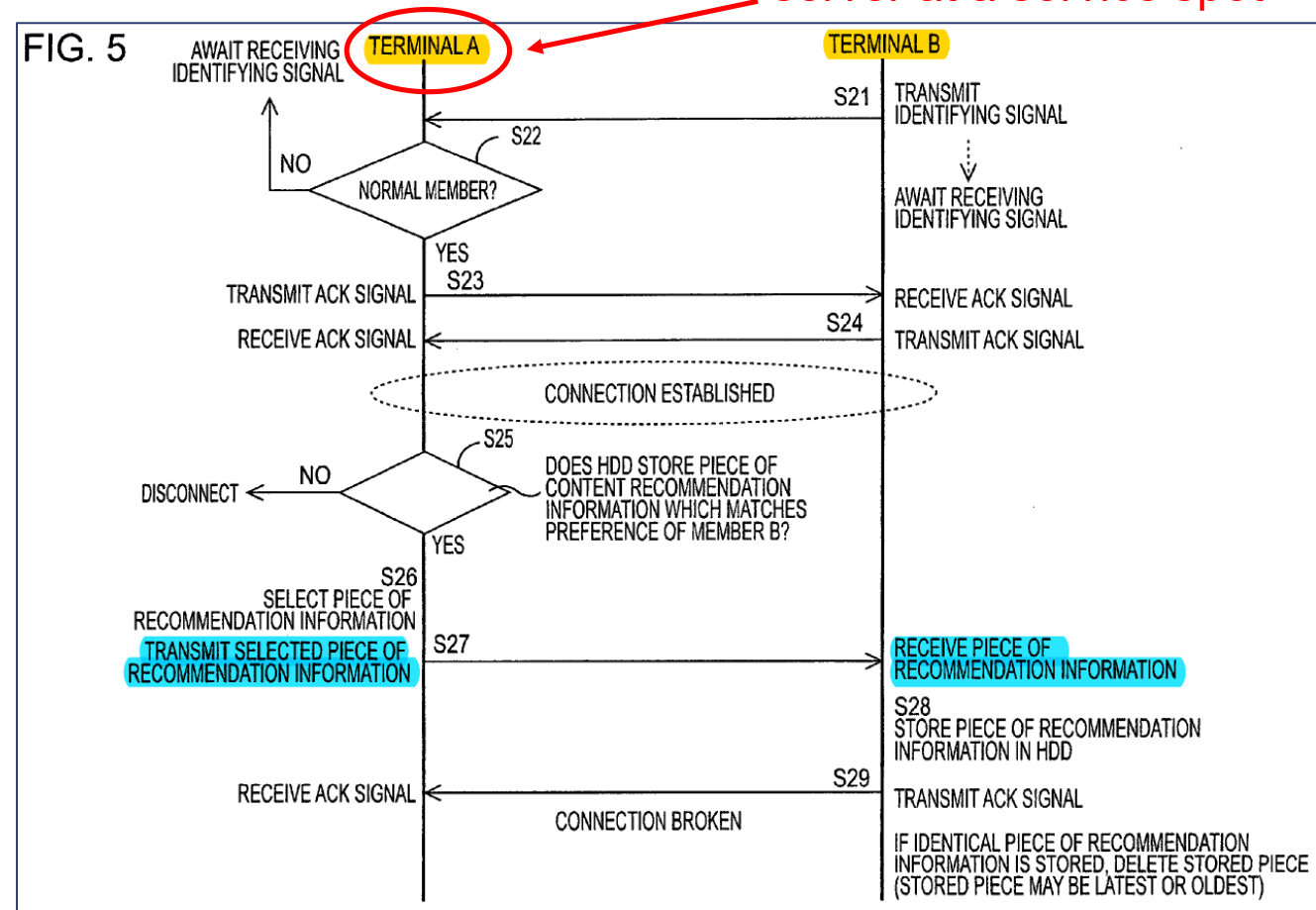
If the server has a recommendation that matches the user's preferences, the server transmits the recommendation information to the portable terminal device

server at a service spot

[0116] FIG. 5 is a timing chart illustrating a communication process performed in the second embodiment between the server and terminal device B. A communication process between the server, which is installed at the service spot, and

mation stored in the transmitting area of the HDD 4 of the server, the CPU 1 of the server selects the piece of content recommendation information that matches the preference of the member of the terminal device B, and, in step S27, transmits the selected piece of content recommendation information. In step S28, the transmitted piece of content recommendation information is received and stored in the HDD 4 of terminal device B.

IPR2023-00244, EX1004, ¶¶116, 120; IPR2023-00246, EX1004, ¶¶116, 120

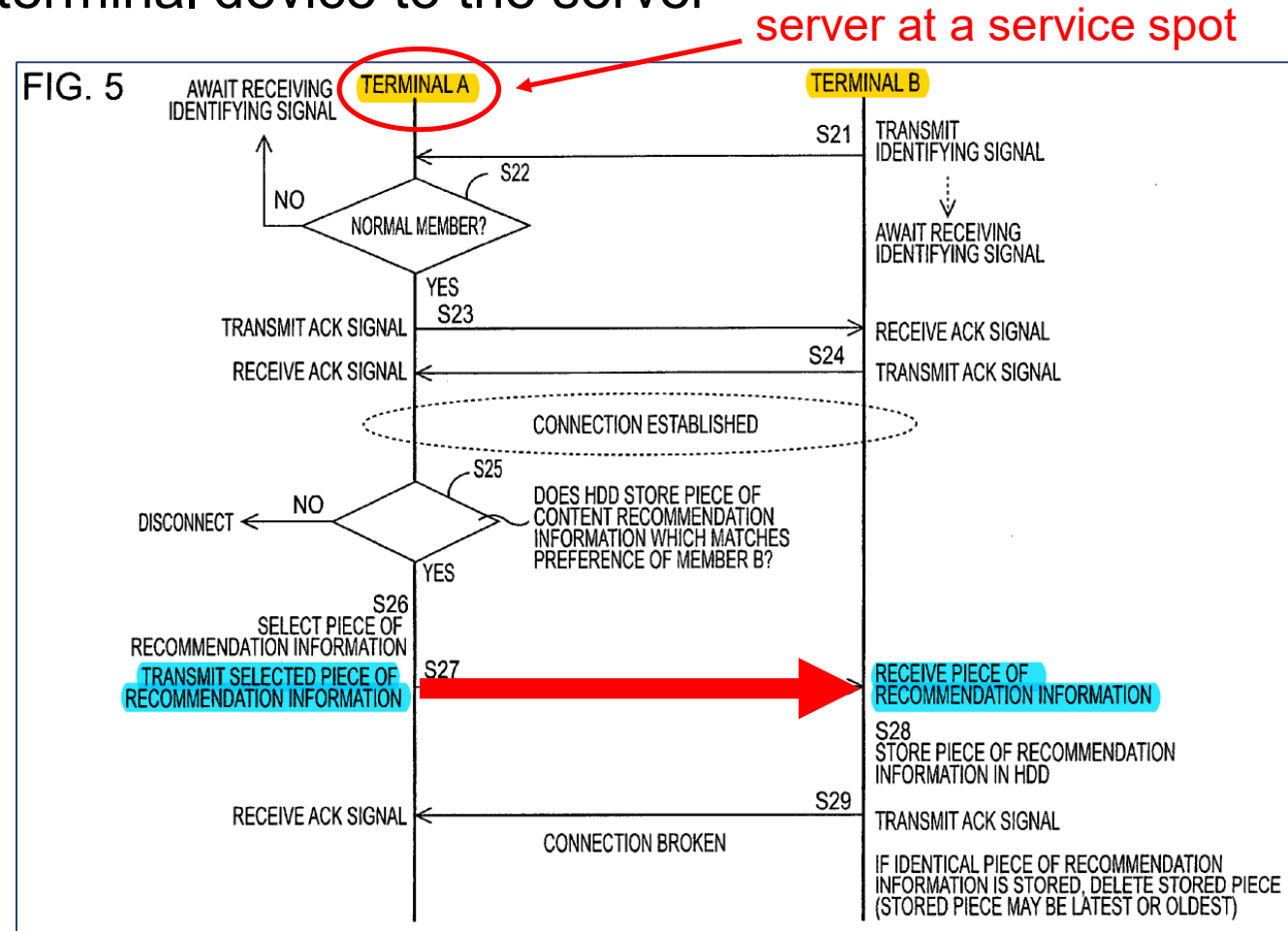


IPR2023-00244, EX1004, Fig. 5 (annotated); see also IPR2023-00246, EX1004, Fig. 5

Sasaki's server-to-terminal embodiment

In the server-to-terminal embodiment, no content recommendation or location information is sent by the portable terminal device to the server

Recommendation information is sent only by the server to the portable terminal device



Petitioner's New Arguments in Reply are Incorrect and Should be Disregarded

'021 Patent - Reply

Although determining and transmitting the location of the terminal to another device is described in relation to the embodiment in which both devices are terminals (terminal-to-terminal embodiment) (see Ex.1004, heading above [0029]), the same teachings are applied to the embodiment in which one device is a terminal and the other is a server (server-to-terminal embodiment) (see Ex.1004, heading above [0112]). Sasaki explains:

[I]n a second embodiment of the present invention, content recommendation information is transmitted and received between a server at a service spot and a terminal device....

Specifically, the second embodiment is realized such that, in the above-described first embodiment, one terminal device (e.g., terminal device A) is replaced by a server at a service spot, and communication is performed between the server and terminal device B. Since, in this case, the server does not need to have audio and video playback systems, the server has a configuration without the audio output processor 8, speaker 9, LCD driver 10, and LCD 11 of the terminal device shown in FIG. 1. **Terminal device B used in the second embodiment is similar in configuration to the terminal device whose configuration is shown in FIG. 1, and has similar functions.**

IPR2023-00244, Paper 24 (Reply), 13

Petitioner presents a new argument in its Reply that “Sasaki’s server-to-terminal embodiment *is* the terminal-to-terminal embodiment”

Ex.1004, [0112]-[0113]. These statements indicate that the server-to-terminal embodiment *is* the terminal-to-terminal embodiment. Notably, the terminal retains the GPS and other location technology in the server-to-terminal embodiment.

IPR2023-00244, Paper 24 (Reply), 13

Petitioner's New Arguments in Reply are Incorrect and Should be Disregarded

The terminal-to-terminal and server-to-terminal embodiments are distinct

1. First Embodiment (Transmission and Reception of Content Recommendation Information by Two Terminal Devices)

1-1. Configuration of Portable Terminal Device

[0029] FIG. 1 is a block diagram illustrating a portable terminal device according to a first embodiment of the present invention. As shown in FIG. 1, the terminal device

IPR2023-00244, EX1004, ¶29; IPR2023-00246, EX1004, ¶29

2. Second Embodiment (Reception of Content Recommendation Information from a Service Spot)

[0112] Differently from the above-described first embodiment in which content recommendation information is transmitted and received between terminal devices to which an embodiment of the present invention is applied, in a second embodiment of the present invention, content recommendation information is transmitted and received between a server at a service spot and a terminal device. In the second embodiment, a system and method according to embodiments of the present invention are applied.

IPR2023-00244, EX1004, ¶112; IPR2023-00246, EX1004, ¶112

Agenda

- ▶ The '021 and '960 Patents
- ▶ The Applied Art does not Render Obvious the “inferring” Limitations
- ▶ **The Applied Art does not Render Obvious the “current location” Limitations**
 - ▶ Overview of Sasaki’s Two Distinct, Alternative Embodiments
 - ▶ **The Applied Art does not Render Obvious Transmitting Location Information to a Server**
 - ▶ The Applied Art does not Render Obvious a server accessing event/venue information proximal to a location of the user
 - ▶ The Applied Art does not Render Obvious a server inferring the location of the user
- ▶ '021 Patent Dependent Claims 2 and 9

Claims require the portable media player device to provide location information to the server

'021 Patent Claim 10 and '960 Patent Claims 6, 11, and 16 require the portable media player device to provide location information to the server

'021 Patent, Claim 10

10. One or more non-transitory computer-readable media (NCRM) comprising instructions that, when executed by one or more processors of a portable media player device, cause the portable media player device to:

- operate a media player application to access media from a local storage of the portable media player device or a remote storage;

- establish a network connection with a server, the server to provide location and preference based venue or event recommendations;

- control transmission, to the server, of location information associated with the portable media player device to facilitate the server in inferring a current location of a user of the portable media player device; and

- control receipt, from the server, of a recommendation indicating an event or venue of interest that is proximate to the inferred current location of the user, and

IPR2023-00244, EX1001, Claim 10

'960 Patent, Claim 11

11. A method comprising:

- providing to a server, by a portable media player device, a current location of the portable media player device to facilitate the server in inferring a current location of a user of the portable media player device; and

- receiving by the portable media player device, from the server, a recommendation indicating an event or venue of interest located proximal to the inferred current location of the user as being of interest to the user;

IPR2023-00246, EX1001, Claim 11

Petitioner's Position

Petitioner relies on Sasaki's terminal-to-terminal embodiment ('021) and Sasaki's terminal-to-terminal embodiment in combination with Ellis ('960)

'021 Patent Petition

Second, Sasaki teaches that the portable media player device associated with the user directly transmits location information to the server (either GPS or radio wave positional information). Ex.1004, [0069], [0081].

IPR2023-00244, Pet., 51

Third, Sasaki teaches that the server uses the information representing the location to infer a location of the user of the mobile device. Specifically, Sasaki teaches that the location information can be “converted into map information ... or a building name or the like.” Ex.1004, [0080].

IPR2023-00244, Pet., 51

'960 Patent Petition

As discussed in [1.1], Sasaki teaches a *server* in communication with a *portable media player device*. As discussed in [1.3], Sasaki teaches that the server infers the location of the user by having the portable media player device associated with the user directly transmit location information (either GPS or radio wave positional information). Ex.1004, [0069], [0081]. Further, Sasaki teaches

IPR2023-00246, Pet., 41 (claim 6); see also Pet., 45 (claim 11); Pet., 54-55 (claim 16)

Ellis also teaches multiple methods to infer the user's location: (1) “us[ing] global positioning system monitor 160 to determine the user's location;” (2) “allowing a user to enter it;” and by (3) “monitoring the radio stations that may be received and comparing them against the geographical region field in the radio station database.” Ex.1005, [0225].

IPR2023-00246, Pet., 41 (claim 6); see also Pet., 45 (claim 11); Pet., 54-55 (claim 16)

Petitioner's Position

Petitioner relies on Sasaki's server-to-terminal embodiment's disclosure for other claim elements

'021 Patent Petition

Sasaki discloses an embodiment with a “server and terminal device B.” The *server* “has a configuration without the audio processor 8, speaker 9, LCD driver 10 and LCD 11 of the terminal device shown in Fig. 1.” Ex.1004, [0113].

IPR2023-00244, Pet., 30

Second, Sasaki discloses that the server communicates with a “terminal device.” Ex.1004, [0113]. The “terminal device” is a *portable media player device* because it is “portable” and is for playing “various types of content, such as music and images.” Ex.1004, [0021]; *see* Ex.1001, 1:33-35 (“includes only a handheld

IPR2023-00244, Pet., 32

See also IPR2023-00244, Pet., 51-52

'960 Patent Petition

[1.1] *retrieving, by a server, a plurality of media stored on or accessed using a portable media player device, or information about said plurality of media*

First, Sasaki discloses “communication is performed between the server and terminal device B.” The *server* “has a configuration without the audio processor 8, speaker 9, LCD driver 10 and LCD 11 of the terminal device shown in Fig. 1.”

Ex.1004, [0113].

IPR2023-00246, Pet., 29-30 (claim 1); *see also* Pet., 45-46 (claim 11), 54-55 (claim 16)

Sasaki's Terminal-to-terminal Embodiment does not teach sending location information to the server

The Petition's cited passages from Sasaki each relate to the terminal-to-terminal embodiment

1. First Embodiment (Transmission and Reception of Content Recommendation Information by Two Terminal Devices)

1-1. Configuration of Portable Terminal Device

[0029] FIG. 1 is a block diagram illustrating a portable terminal device according to a first embodiment of the present invention. As shown in FIG. 1, the terminal device

IPR2023-00244, EX1004, ¶29; see also IPR2023-00246, EX1004, ¶29

[0069] In this case, as the date and time of transmission, the present time that is acquired from a clock circuit of a terminal device that transmits the content recommendation information may be used. Regarding the place of transmission, for example, if the terminal has a built-in GPS (global positioning system), the GPS information may be used to specify the place of transmission, and the specifying information may be used. Alternatively, information representing

IPR2023-00244, EX1004, ¶69; see also IPR2023-00246, EX1004, ¶69

[0080] When terminal devices A and B have GPS receiving functions as described above, by recording positional information at a transmitting or receiving time in a memory of either terminal device, convenience is obtained when referring to a receiving list. However, since direct use of

IPR2023-00244, EX1004, ¶80; see also IPR2023-00246, EX1004, ¶80

[0081] Regarding positional information such as a place of transmission, for example, by using radio waves from a plurality of base stations for cellular telephone and specifying an approximate range around a transmitting position, the approximate range can be used. In other words, regarding the positional information such as a place of transmission, various methods can be used.

IPR2023-00244, EX1004, ¶81; see also IPR2023-00246, EX1004, ¶81

Petitioner Misrepresents Sasaki's Terminal-to-terminal Embodiment

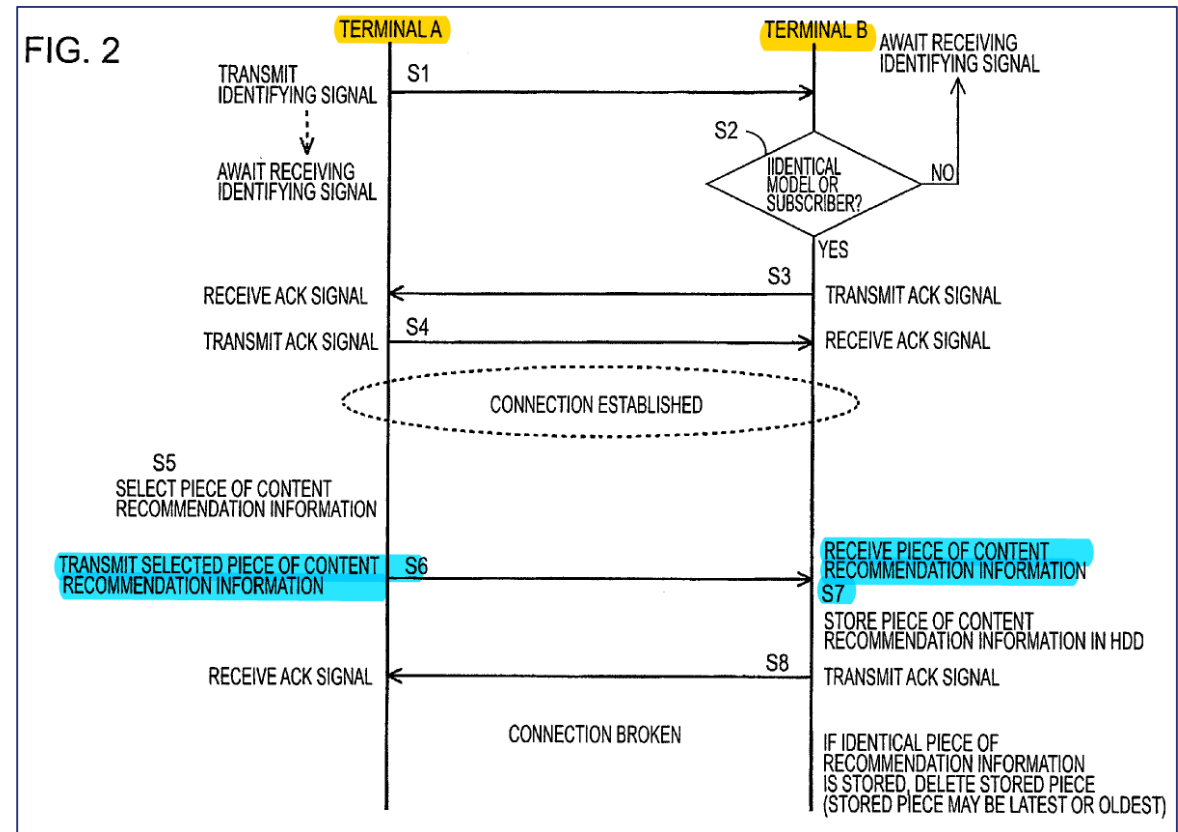
In Sasaki's terminal-to-terminal embodiment, location information is transmitted together with content recommendation information from one portable terminal device to another

[0059] In step S5, after the connection is established, from pieces of content recommendation information stored in a transmitting area of the HDD 4 of terminal device A, terminal device A selects a piece of content recommendation information to be transmitted. In step S6, terminal device A transmits the selected piece of content recommendation information. In this case, information transmitted from ter-

IPR2023-00244, EX1004, ¶¶59; IPR2023-00246, EX1004, ¶¶59

3A. Necessary information, such as an owner of a transmitting terminal device, a date and time of transmission, and a place of transmission, is added to the content recommendation information, whereby a set of content recommendation information is transmitted.

IPR2023-00244, EX1004, ¶¶68; see also IPR2023-00246, EX1004, ¶¶68



IPR2023-00244, EX1004, Fig. 2 (annotated); see also IPR2023-00246, EX1004, Fig. 2

Petitioner Failed to Provide a Rationale to Combine Sasaki's Two Embodiments

Petitioner does not explain why a POSITA would combine Sasaki's two embodiments

Abiomed, Inc. v. Maquet Cardiovascular, LLC, IPR2017-01204, -01205, Paper 9 (IPR2017-01204), Paper 8 (IPR2017-01205), 9-11 (P.T.A.B. Oct. 23, 2017)

- “Petitioner has failed to establish sufficiently that the features of [] different embodiments [of the asserted reference] are interchangeable or provide sufficient rationale to combine the teachings of those different embodiments”

In re Stepan Co., 868 F.3d 1342, 1346 n.1 (Fed. Cir. 2017)

- “Whether a rejection is based on combining disclosures from multiple references, *combining multiple embodiments from a single reference*, or selecting from large lists of elements in a single reference, *there must be a motivation to make the combination* and a reasonable expectation that such a combination would be successful, otherwise a skilled artisan would not arrive at the claimed combination”

Ellis does not disclose or suggest providing location information to the server

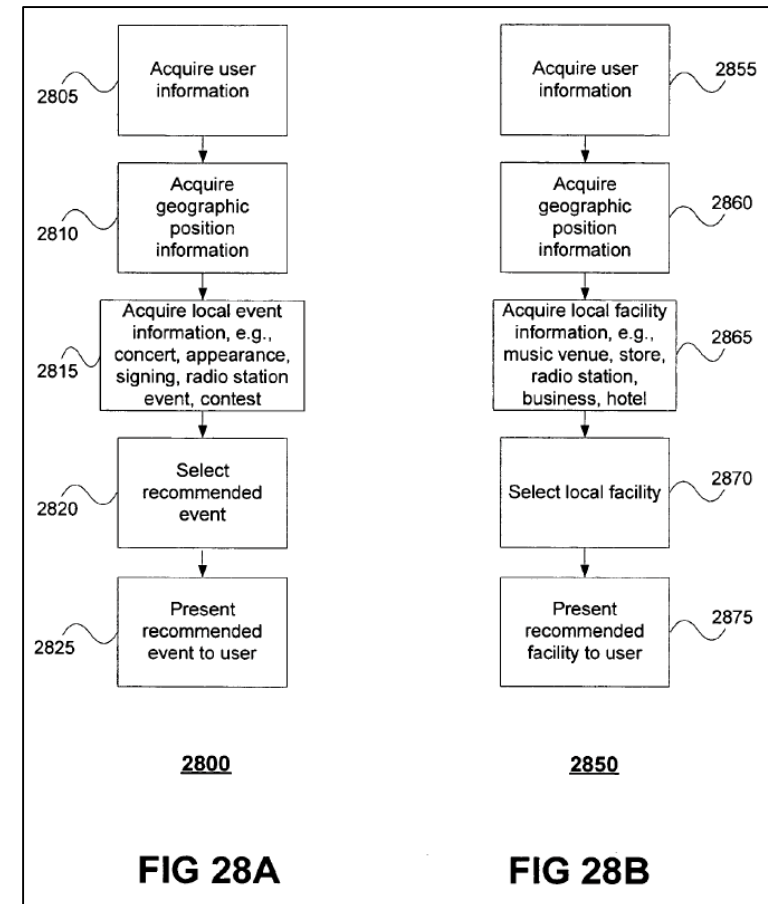
Ellis teaches that the portable Enhanced Radio System determines *its own location* to access information about local events

[0059] **FIG. 1** is an illustrative block diagram of one embodiment of an enhanced radio system (ERS) in accordance with the present invention;

IPR2023-00244, EX1005, ¶159; see also IPR2023-00246, EX1005, ¶159

[0234] **FIG. 28B** shows illustrative process 2850 for recommending local facilities to a user, and is illustratively discussed in conjunction with **FIG. 1**. The steps of this process may be performed in any suitable order, and any steps may be omitted if desired. In step 2855, the system may acquire user information, such as user preferences. Flowchart 2110 of **FIG. 22**, discussed above, shows an illustrative process for acquiring user preferences. In step 2860, the system may acquire geographic position information, for example using global positioning system monitor 160, or by monitoring which radio stations are available and comparing them with a database of radio stations and geographical regions served by them. In step 2865, the system may acquire information about local facilities.

IPR2023-00244, EX1005, ¶234; see also IPR2023-00246, EX1005, ¶234



IPR2023-00244, EX1005, Fig. 28A, 28B; see also IPR2023-00246, EX1005, Fig. 28A, 28B

Agenda

- ▶ The '021 and '960 Patents
- ▶ The Applied Art does not Render Obvious the “inferring” Limitations
- ▶ **The Applied Art does not Render Obvious the “current location” Limitations**
 - ▶ Overview of Sasaki’s Two Distinct, Alternative Embodiments
 - ▶ The Applied Art does not Render Obvious Transmitting Location Information to a Server
 - ▶ **The Applied Art does not Render Obvious a server accessing event/venue information proximal to a location of the user**
 - ▶ The Applied Art does not Render Obvious a server inferring the location of the user
- ▶ '021 Patent Dependent Claims 2 and 9

Claims require the server to access information about venues/events proximal to the location of the user

'021 Patent Claim 1 and '960 Patent Claims 1 and 21 require the server to “access ... sources of information about venues or events proximal to a current location of the user ”

'021 Patent, Claim 1

What is claimed is:

1. One or more non-transitory computer-readable media (NTPCRM) comprising instructions written thereon, wherein execution of the instructions by one or more processors of a computer server is to cause the computer server to:

control receipt of media or information about the media, the media being stored on a portable media player device or accessed using the portable media player device;

infer one or more entertainment preferences of a user of the portable media player device based at least in part on the retrieved media, the retrieved information about the media, and a plurality of media content types of the media stored on or accessed by the portable media player device, wherein the plurality of media content types comprises textual media, image media, audio media, and video media;

access one or more sources of information about venues or events proximal to a current location of the user;

IPR2023-00244, EX1001, Claim 1

'960 Patent, Claim 1

1. A method comprising:

retrieving, by a server, a plurality of media stored on or accessed using a portable media player device, or information about said plurality of media;

inferring, by the server, based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media, one or more entertainment preferences of a user of the portable media player device;

accessing, by the server, one or more sources of information about venues or events proximal to a current location of the user;

identifying, by the server, at least one of said venues or events as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user;

IPR2023-00246, EX1001, Claim 1; see also EX1001, Claim 21

Petitioner's Position

Petitioner relied on the combination of Sasaki's terminal-to-terminal embodiment and Ellis

'021 Patent Petition

[1.1.3] *access one or more sources of information about venues or events proximal to a current location of the user;*

As discussed in [1.1.1], Sasaki teaches a *server* in communication with a *portable media player device*. Sasaki teaches that its portable media player device can directly transmit location information (either GPS or radio wave positional information). Ex.1004, [0069], [0081]. Further, Sasaki teaches that the location information can be “converted into map information ... or a building name or the like.” Ex.1004, [0080].

IPR2023-00244, Pet., 36

Thus, Sasaki's server in communication with a portable media player device that directly transmits information representing location information in view of Ellis's technique of using the user's geographic location to access information about events and facilities that are local to the user render obvious this limitation.

IPR2023-00244, Pet., 37

Petitioner's Dr. Houh

96. As discussed in [1.1.1], Sasaki teaches a *server* in communication with a *portable media player device*. Sasaki teaches that its portable media player device can directly transmit information representing the “latitude and longitude (detected by the GPS)” of its current position. Sasaki, [0069], [0081].

IPR2023-00244, EX1003, ¶96

101. Thus, Sasaki's server in communication with a portable media player device that directly transmits information representing location information in view of Ellis's technique of using the user's geographic location to access information about events and facilities that are local to the user render obvious “*access one or more sources of information about venues or events proximal to a current location of the user.*”

IPR2023-00244, EX1003, ¶101

Petitioner's Position

Petitioner relied on the combination of Sasaki's terminal-to-terminal embodiment and Ellis

'960 Patent Petition

As discussed in [1.1], Sasaki teaches a *server* in communication with a *portable media player device*. Sasaki teaches that its portable media player device can directly transmit location information (either GPS or radio wave positional information). Ex.1004, [0069], [0081]. Sasaki also discloses that the radio wave location information is “from a plurality of base stations.” Ex.1004, [0081].

IPR2023-00246, Pet., 34; see also Pet., 59 (claim 21)

Ellis teaches a technique that uses “geographic position information” to “acquire information about local events.” Ex.1005, [0233]-[0234]; see also Ex.1005, [0225] (“use global positioning system monitor 160 to determine the user's location”). Ellis further teaches that it “download[s] information about local events and facilities” from a “web site”. Ex.1005, [0236].

IPR2023-00246, Pet., 34; see also Pet., 59 (claim 21)

Petitioner's Dr. Houh

91. As discussed in [1.1], Sasaki teaches a *server* in communication with a *portable media player device*. Sasaki teaches that its portable media player device can directly transmit information representing “latitude and longitude (detected by the GPS)” of its current position. Sasaki, [0069].

IPR2023-00246, EX1003, ¶91; see also EX1003, ¶171 (claim 21)

95. Ellis teaches a technique that uses the determined geographic position information to “acquire information about local events.” Ellis, [0233]-[0234]; see also Ellis, [0225]:

IPR2023-00246, EX1003, ¶95; see also EX1003, ¶171 (claim 21)

Petitioner's Position

Petitioner relies on Sasaki's server-to-terminal embodiment's disclosure for other claim elements

'021 Patent Petition

Sasaki discloses an embodiment with a “server and terminal device B.” The *server* “has a configuration without the audio processor 8, speaker 9, LCD driver 10 and LCD 11 of the terminal device shown in Fig. 1.” Ex.1004, [0113].

IPR2023-00244, Pet., 30

Second, Sasaki discloses that the server communicates with a “terminal device.” Ex.1004, [0113]. The “terminal device” is a *portable media player device* because it is “portable” and is for playing “various types of content, such as music and images.” Ex.1004, [0021]; *see* Ex.1001, 1:33-35 (“includes only a handheld

IPR2023-00244, Pet., 32

'960 Patent Petition

[1.1] *retrieving, by a server, a plurality of media stored on or accessed using a portable media player device, or information about said plurality of media*

First, Sasaki discloses “communication is performed between the server and terminal device B.” The *server* “has a configuration without the audio processor 8, speaker 9, LCD driver 10 and LCD 11 of the terminal device shown in Fig. 1.” Ex.1004, [0113].

IPR2023-00246, Pet., 29-30 (claim 1)

[21.0] *A server comprising:*

Sasaki discloses an embodiment in which “communication is performed between the server and terminal device B.” The *server* “has a configuration without the audio processor 8, speaker 9, LCD driver 10 and LCD 11 of the terminal device shown in Fig. 1.” Ex.1004, [0113].

IPR2023-00246, Pet., 56 (claim 21)

Petitioner's Position

Petitioner asserts that Ellis teaches downloading information about local events

'021 Patent Petition

Ellis teaches a technique that uses “geographic position information” to “acquire information about local events.” Ex.1005, [0233]-[0234]; *see also* Ex.1005, [0225] (“use global positioning system monitor 160 to determine the user’s location”). Ellis further teaches that it “download[s] information about local events and facilities” from a “web site.” Ex.1005, [0236].

IPR2023-00244, Pet., 37; *see also* IPR2023-00246, Pet., 34

Petitioner's Dr. Houh

99. Ellis teaches a technique that uses the geographic position information to “acquire information about local events”:

In step 2810, the system may acquire geographic position information, for example using global positioning system monitor 160 ... In step 2815, the system may acquire information about local events. Events may include concerts, celebrity appearances, signings,

IPR2023-00244, EX1003, ¶199; *see also* IPR2023-00246, EX1003, ¶195

100. Ellis further teaches downloading information about local events and facilities from a web site (*one or more sources of information*):

In step 3020, the system may access an enhanced radio web site to perform functions such as retrieve data, upload data, or present a web page to the user. In step 3025, the system may download information about local events and local facilities.

IPR2023-00244, EX1003, ¶100; *see also* IPR2023-00246, EX1003, ¶196

Sasaki's Terminal-to-terminal Embodiment does not teach sending location information to the server

The Petition's cited passages from Sasaki each relate to the terminal-to-terminal embodiment

1. First Embodiment (Transmission and Reception of Content Recommendation Information by Two Terminal Devices)

1-1. Configuration of Portable Terminal Device

[0029] FIG. 1 is a block diagram illustrating a portable terminal device according to a first embodiment of the present invention. As shown in FIG. 1, the terminal device

IPR2023-00244, EX1004, ¶29; see also IPR2023-00246, EX1004, ¶29

[0069] In this case, as the date and time of transmission, the present time that is acquired from a clock circuit of a terminal device that transmits the content recommendation information may be used. Regarding the place of transmission, for example, if the terminal has a built-in GPS (global positioning system), the GPS information may be used to specify the place of transmission, and the specifying information may be used. Alternatively, information representing

IPR2023-00244, EX1004, ¶69; see also IPR2023-00246, EX1004, ¶69

[0080] When terminal devices A and B have GPS receiving functions as described above, by recording positional information at a transmitting or receiving time in a memory of either terminal device, convenience is obtained when referring to a receiving list. However, since direct use of

IPR2023-00244, EX1004, ¶80; see also IPR2023-00246, EX1004, ¶80

[0081] Regarding positional information such as a place of transmission, for example, by using radio waves from a plurality of base stations for cellular telephone and specifying an approximate range around a transmitting position, the approximate range can be used. In other words, regarding the positional information such as a place of transmission, various methods can be used.

IPR2023-00244, EX1004, ¶81; see also IPR2023-00244, EX1004, ¶81

Petitioner Misrepresents Sasaki's Terminal-to-terminal Embodiment

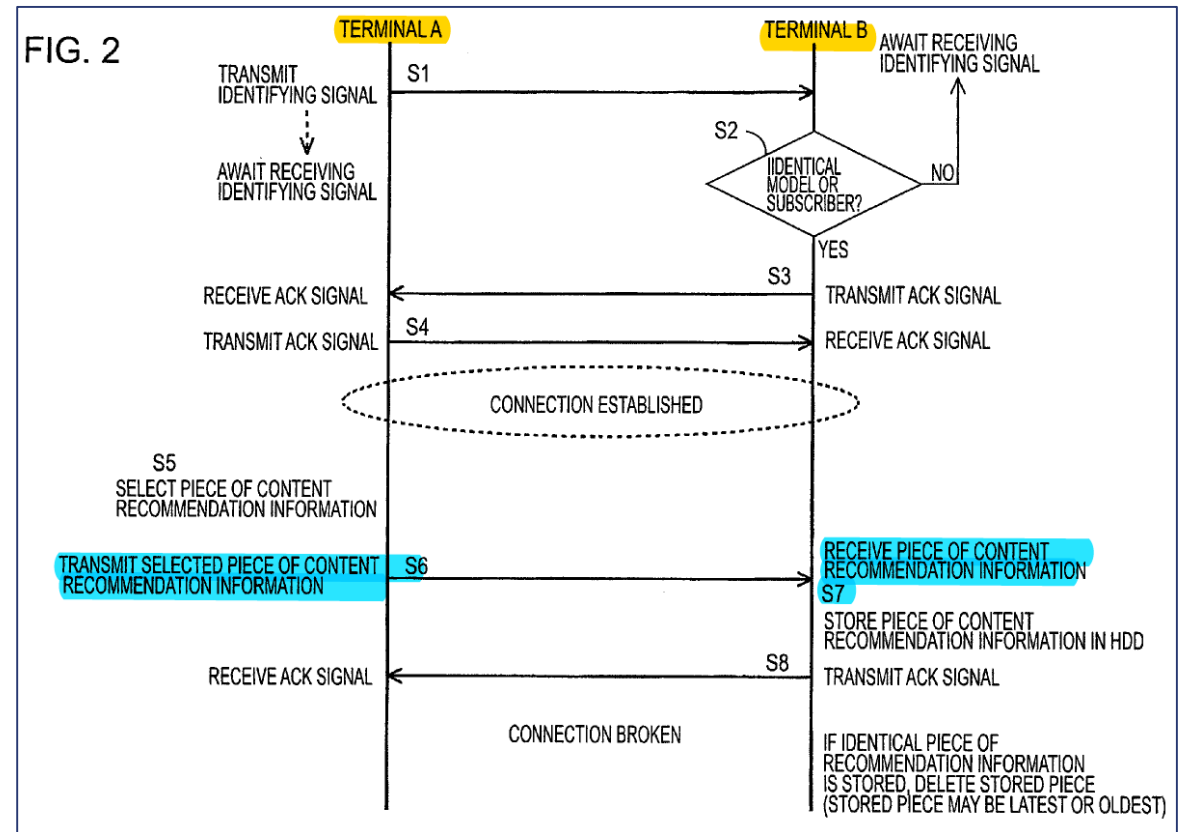
In Sasaki's terminal-to-terminal embodiment, location information is transmitted together with content recommendation information from one portable terminal device to another

[0059] In step S5, after the connection is established, from pieces of content recommendation information stored in a transmitting area of the HDD 4 of terminal device A, terminal device A selects a piece of content recommendation information to be transmitted. In step S6, terminal device A transmits the selected piece of content recommendation information. In this case, information transmitted from ter-

IPR2023-00244, EX1004, ¶¶59; IPR2023-00246, EX1004, ¶¶59

3A. Necessary information, such as an owner of a transmitting terminal device, a date and time of transmission, and a place of transmission, is added to the content recommendation information, whereby a set of content recommendation information is transmitted.

IPR2023-00244, EX1004, ¶¶68; see also IPR2023-00246, EX1004, ¶¶68



IPR2023-00244, EX1004, Fig. 2 (annotated); see also IPR2023-00246, EX1004, Fig. 2

Petitioner Failed to Provide a Rationale to Combine Sasaki's Two Embodiments

Petitioner does not explain why a POSITA would combine Sasaki's two embodiments

Abiomed, Inc. v. Maquet Cardiovascular, LLC, IPR2017-01204, -01205, Paper 9 (IPR2017-01204), Paper 8 (IPR2017-01205), 9-11 (P.T.A.B. Oct. 23, 2017)

- “Petitioner has failed to establish sufficiently that the features of [] different embodiments [of the asserted reference] are interchangeable or provide sufficient rationale to combine the teachings of those different embodiments”

In re Stepan Co., 868 F.3d 1342, 1346 n.1 (Fed. Cir. 2017)

- “Whether a rejection is based on combining disclosures from multiple references, *combining multiple embodiments from a single reference*, or selecting from large lists of elements in a single reference, *there must be a motivation to make the combination* and a reasonable expectation that such a combination would be successful, otherwise a skilled artisan would not arrive at the claimed combination”

Ellis teaches that the enhanced radio system determines its own location

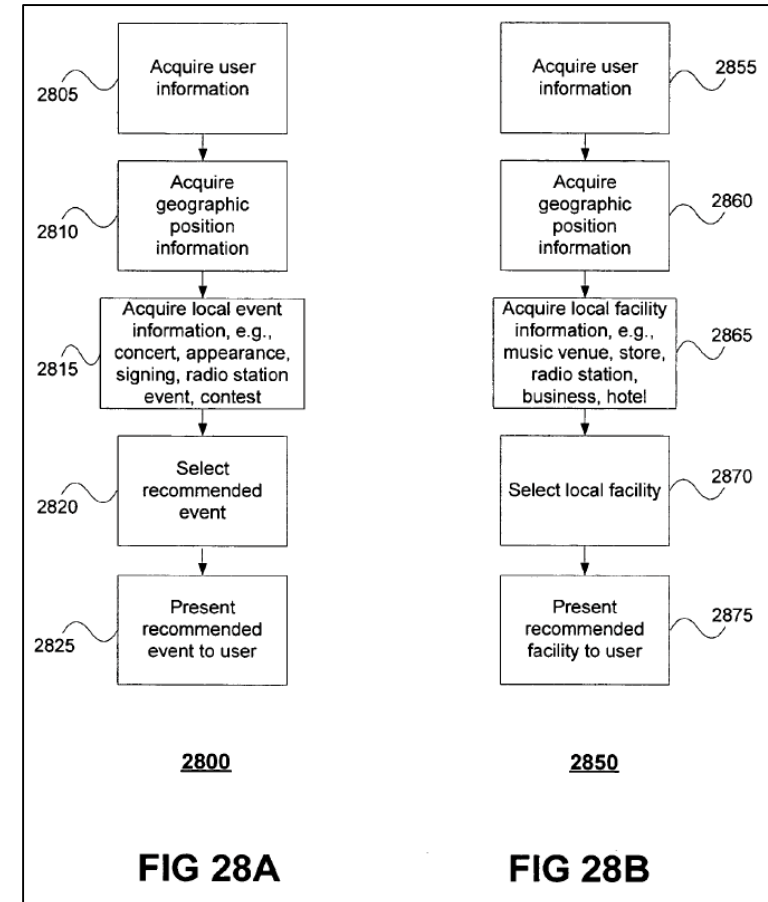
Ellis teaches that the portable Enhanced Radio System determines *its own location* to access information about local events

[0059] **FIG. 1** is an illustrative block diagram of one embodiment of an enhanced radio system (ERS) in accordance with the present invention;

IPR2023-00244, EX1005, ¶59; see also IPR2023-00246, EX1005, ¶59.

[0234] **FIG. 28B** shows illustrative process 2850 for recommending local facilities to a user, and is illustratively discussed in conjunction with **FIG. 1**. The steps of this process may be performed in any suitable order, and any steps may be omitted if desired. In step 2855, the system may acquire user information, such as user preferences. Flowchart 2110 of **FIG. 22**, discussed above, shows an illustrative process for acquiring user preferences. In step 2860, the system may acquire geographic position information, for example using global positioning system monitor 160, or by monitoring which radio stations are available and comparing them with a database of radio stations and geographical regions served by them. In step 2865, the system may acquire information about local facilities.

IPR2023-00244, EX1005, ¶234; see also IPR2023-00246, EX1005, ¶234



IPR2023-00244, EX1005, Fig. 28A, 28B; see also IPR2023-00246, EX1005, Fig. 28A, 28B

Agenda

- ▶ The '021 and '960 Patents
- ▶ The Applied Art does not Render Obvious the “inferring” Limitations
- ▶ **The Applied Art does not Render Obvious the “current location” Limitations**
 - ▶ Overview of Sasaki’s Two Distinct, Alternative Embodiments
 - ▶ The Applied Art does not Render Obvious Transmitting Location Information to a Server
 - ▶ The Applied Art does not Render Obvious a server accessing event/venue information proximal to a location of the user
 - ▶ **The Applied Art does not Render Obvious a server inferring the location of the user**
- ▶ '021 Patent Dependent Claims 2 and 9

Claims require the server to infer the user's location based on obtained location information

'021 Patent Claims 4 and 16 recite a server that infers the current location of the user based on obtained location information of the portable media player device

'021 Patent, Claim 4

4. The one or more NTCRM of claim 1, wherein execution of the instructions is to cause the computer server to infer the current location of the user of the media player device based on obtained location information associated with the portable media player device.

IPR2023-00244, EX1001, Claim 4

'021 Patent, Claim 16

infer one or more preferences of a user of the portable media player device based at least in part on the received media or the information about the media, and media content types of the media accessed by the portable media player device from among a plurality of media content types, wherein the plurality of media content types comprises textual media, image media, audio media, and video media;
infer a current location of the user of the portable media player device based on obtained location information associated with the portable media player device;

IPR2023-00244, EX1001, Claim 16

Petitioner's Position

Petitioner relied on the combination of Sasaki's terminal-to-terminal embodiment and Ellis

'021 Patent Petition

As discussed in [1.0], Sasaki teaches programs in ROM to control a server.

As discussed in [1.1.3], Sasaki teaches that the portable media player device associated with the user directly transmits location information (either GPS or radio wave positional information) to the server. Ex.1004, [0069], [0081]. Further, Sasaki teaches that the location information can be “converted into map information ... or a building name or the like.” Ex.1004, [0080].

IPR2023-00244, Pet., 42; see also Pet., 59

Ellis also teaches receiving location information of portable media player device: “us[ing] global positioning system monitor 160 to determine the user's

IPR2023-00244, Pet., 42; see also Pet., 59

Petitioner's Dr. Houh

118. Further, Sasaki teaches that the location information can be “converted into map information ... or a building name or the like.” Sasaki,

IPR2023-00244, EX1003, ¶118; see also EX1003, ¶181

119. Ellis also teaches multiple methods to infer the user's location by receiving location information of portable media device. For example, Ellis teaches: (1) “us[ing] global positioning system monitor 160 to determine the user's location.” Ellis, [0225]; (2) “allowing a user to enter it,” Ellis, [0225]; and by (3) “monitoring the radio stations that may be received and comparing them against the geographical region field in the radio station database.” Ellis, [0225].

IPR2023-00244, EX1003, ¶119; see also EX1003, ¶181

Petitioner's Position

Petitioner relies on Sasaki's server-to-terminal embodiment's disclosure for other claim elements

'021 Patent Petition

Sasaki discloses an embodiment with a “server and terminal device B.” The *server* “has a configuration without the audio processor 8, speaker 9, LCD driver 10 and LCD 11 of the terminal device shown in Fig. 1.” Ex.1004, [0113].

IPR2023-00244, Pet., 30; see also Pet., 56

Second, Sasaki discloses that the server communicates with a “terminal device.” Ex.1004, [0113]. The “terminal device” is a *portable media player device* because it is “portable” and is for playing “various types of content, such as music and images.” Ex.1004, [0021]; see Ex.1001, 1:33-35 (“includes only a handheld

IPR2023-00244, Pet., 32; see also Pet., 57

Petitioner's Dr. Houh

69. Sasaki discloses an embodiment in which “communication is performed between the server and terminal device B.” The *server* “has a configuration without the audio processor 8, speaker 9, LCD driver 10 and LCD 11 of the terminal device shown in Fig. 1.” Sasaki, [0113].

IPR2023-00244, EX1003, ¶¶69 (claim 1); see also EX1003, ¶174

75. The “communication interface 12 performs processing such as converting received data into data having a format capable of being processed by the terminal device, and converting data to be transmitted from the terminal device into data having a format for transmission.” Sasaki, [0040]. Sasaki discloses an embodiment in which “communication is performed between the server and terminal device B.” Sasaki, [0113].

IPR2023-00244, EX1003, ¶¶75; see also EX1003, ¶¶175-176

Sasaki's Terminal-to-terminal Embodiment does not teach sending location information to the server

The Petition's cited passages from Sasaki each relate to the terminal-to-terminal embodiment

1. First Embodiment (Transmission and Reception of Content Recommendation Information by Two Terminal Devices)

1-1. Configuration of Portable Terminal Device

[0029] FIG. 1 is a block diagram illustrating a portable terminal device according to a first embodiment of the present invention. As shown in FIG. 1, the terminal device

IPR2023-00244, EX1004, ¶29; see also IPR2023-00246, EX1004, ¶29

[0069] In this case, as the date and time of transmission, the present time that is acquired from a clock circuit of a terminal device that transmits the content recommendation information may be used. Regarding the place of transmission, for example, if the terminal has a built-in GPS (global positioning system), the GPS information may be used to specify the place of transmission, and the specifying information may be used. Alternatively, information representing

IPR2023-00244, EX1004, ¶69; see also IPR2023-00246, EX1004, ¶69

[0080] When terminal devices A and B have GPS receiving functions as described above, by recording positional information at a transmitting or receiving time in a memory of either terminal device, convenience is obtained when referring to a receiving list. However, since direct use of

IPR2023-00244, EX1004, ¶80; see also IPR2023-00246, EX1004, ¶80

[0081] Regarding positional information such as a place of transmission, for example, by using radio waves from a plurality of base stations for cellular telephone and specifying an approximate range around a transmitting position, the approximate range can be used. In other words, regarding the positional information such as a place of transmission, various methods can be used.

IPR2023-00244, EX1004, ¶81; see also IPR2023-00246, EX1004, ¶81

Petitioner Misrepresents Sasaki's Terminal-to-terminal Embodiment

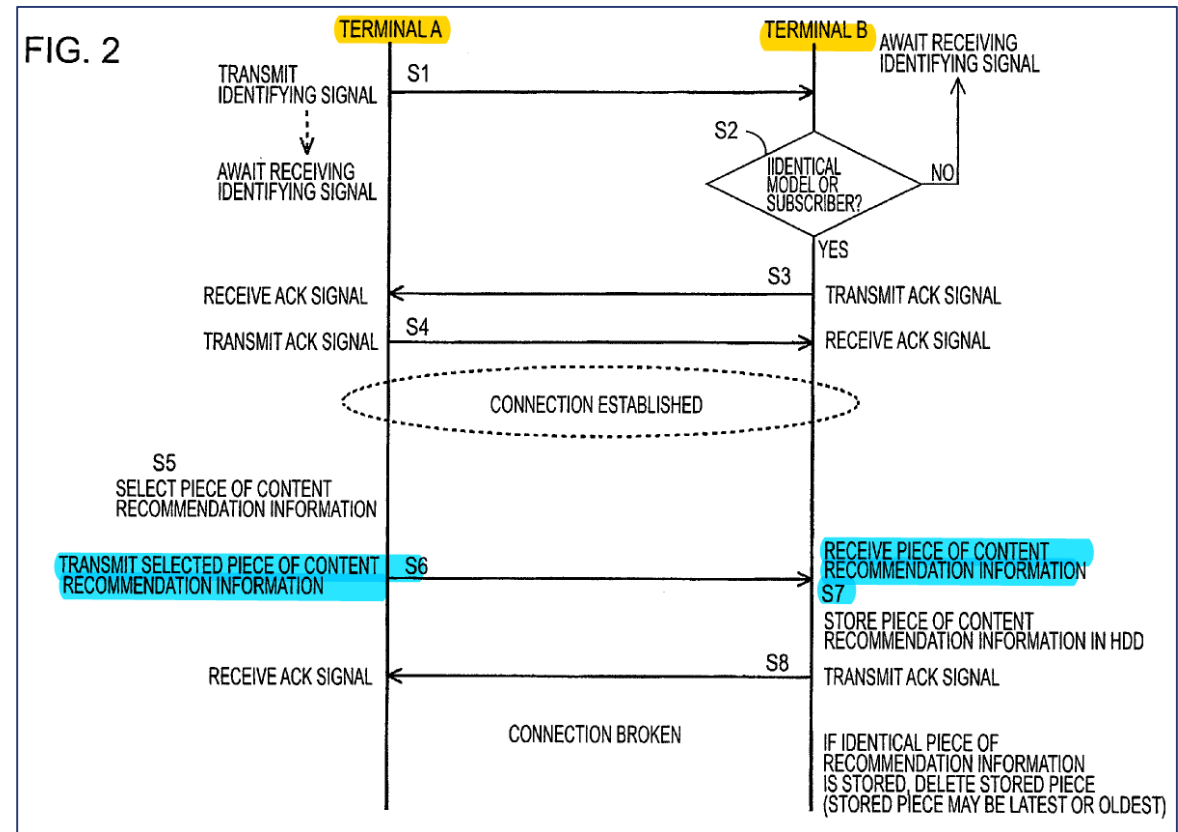
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IPR2023-00244, EX1004, ¶¶68; see also IPR2023-00246, EX1004, ¶¶68



IPR2023-00244, EX1004, Fig. 2 (annotated); see also IPR2023-00246, EX1004, Fig. 2

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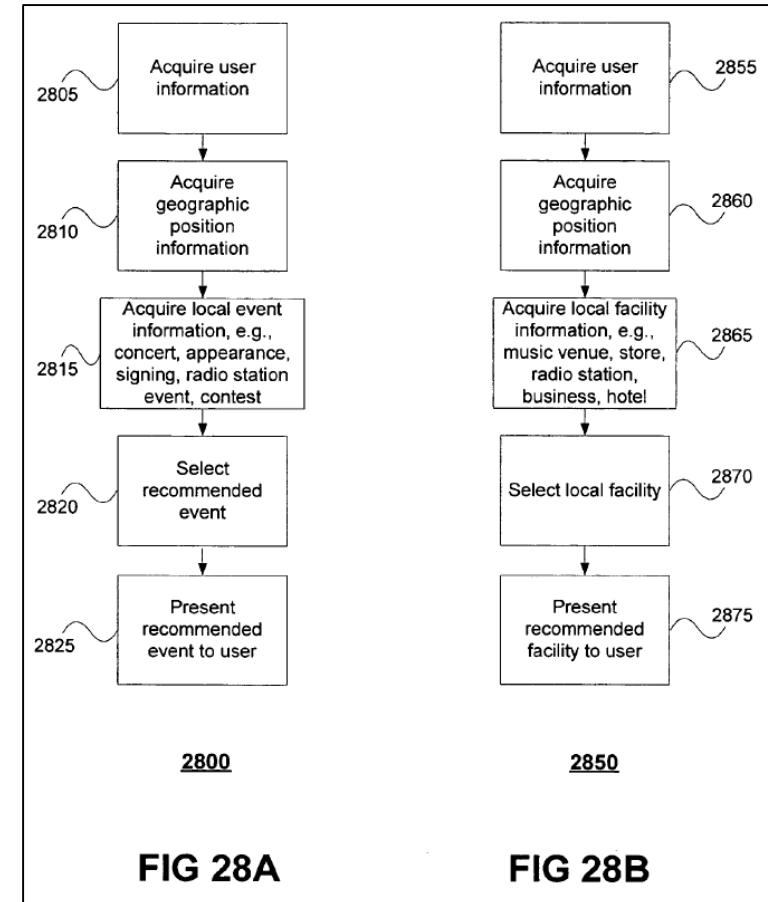
Ellis teaches that the portable Enhanced Radio System determines *its own location* to access information about local events

[0059] FIG. 1 is an illustrative block diagram of one embodiment of an enhanced radio system (ERS) in accordance with the present invention;

IPR2023-00244, EX1005, ¶59; see also IPR2023-00246, EX1005, ¶59.

[0234] FIG. 28B shows illustrative process 2850 for recommending local facilities to a user, and is illustratively discussed in conjunction with FIG. 1. The steps of this process may be performed in any suitable order, and any steps may be omitted if desired. In step 2855, the system may acquire user information, such as user preferences. Flowchart 2110 of FIG. 22, discussed above, shows an illustrative process for acquiring user preferences. In step 2860, the system may acquire geographic position information, for example using global positioning system monitor 160, or by monitoring which radio stations are available and comparing them with a database of radio stations and geographical regions served by them. In step 2865, the system may acquire information about local facilities.

IPR2023-00244, EX1005, ¶234; see also IPR2023-00246, EX1005, ¶234



IPR2023-00244, EX1005, Fig. 28A, 28B; see also IPR2023-00246, EX1005, Fig. 28A, 28B

Agenda

- ▶ The '021 and '960 Patents
- ▶ The Applied Art does not Render Obvious the “inferring” Limitations
- ▶ The Applied Art does not Render Obvious the “current location” Limitations
- ▶ **'021 Patent Dependent Claims 2 and 9**
 - ▶ **'021 Patent Claim 2**
 - ▶ '021 Patent Claim 9

'021 Patent Claim 2 requires the audio media content type to comprise podcast media

Claim 2 recites that the audio media content type comprises podcast media

2. The one or more NTCRM of claim 1, wherein the audio media comprises music media and podcast media.

IPR2023-00244, EX1001, Claim 2

Petitioner's Position

Petitioner asserts that Ellis discloses a radio show broadcast via the Internet

'021 Patent Petition

Moreover, the user's media usage information includes the user's liked groups and "a group may be based on a specific radio show." Ex.1005, [0214]. A POSITA would recognize that a radio show broadcast via the internet, as disclosed in Ellis, corresponds to a podcast media. Ex.1003, ¶115; see Ex.1010, [0002] ("A podcast is a digital recording of a radio broadcast or similar programme, made available on the Internet in a number of separate files for downloading to a personal audio player."); Ex.1009, [0035].

IPR2023-00244, Pet., 41-42

Petitioner's Dr. Houh

115. Moreover, the user's media usage information includes the user's liked groups and "a group may be based on a specific radio show." Ellis, [0214]. A POSITA would recognize that a radio show broadcast via the internet, as disclosed in Ellis, corresponds to a podcast media. See Jellison, [0035] ("It may be desired to publish a portion of the radio program as a podcast."); Lim, [0002] ("A podcast is a digital recording of a radio broadcast or similar programme, made available on the Internet in a number of separate files for downloading to a personal audio player.")

IPR2023-00244, EX1003, ¶115

Petitioner's Position

Petitioner applies the definition of “podcast” from Lim:

“A podcast is a digital recording of a radio broadcast or similar programme, made available on the Internet in a number of separate files for downloading to a personal audio player”

'021 Patent Petition

Moreover, the user's media usage information includes the user's liked groups and “a group may be based on a specific radio show.” Ex.1005, [0214]. A POSITA would recognize that a radio show broadcast via the internet, as disclosed in Ellis, corresponds to a podcast media. Ex.1003, ¶115; see Ex.1010, [0002] (“A podcast is a digital recording of a radio broadcast or similar programme, made available on the Internet in a number of separate files for downloading to a personal audio player.”); Ex.1009, [0035].

IPR2023-00244, Pet., 41-42

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IPR2023-00244, EX1003, ¶115

Ellis does not disclose a radio show broadcast *via the Internet*

Contrary to Petitioner's assertions, Ellis does not disclose a radio show broadcast *via the Internet*

[0214] In step 1910, a group may be based on type of content, such as grouping all commercials, all songs, etc. In step 1915, a group may be based on a category of content, such as bluegrass music, alternative rock, or other music genre. In step 1920, a group may be based on a specific performing artist, and may contain all songs performed by that artist. In step 1925, a group may be based a particular radio station, and may contain all content broadcast by that station. In step 1930, a group may be based on a specific radio show, and may contain all content broadcast in that show. In step 1935, a group may be based on a particular parental advisory level.

IPR2023-00244, EX1005, ¶214

A radio show broadcast via the Internet is not a podcast

A radio show broadcast via the Internet is not a podcast because it is streamed, not downloaded

Patent Owner's Mr. Stillerman

two reasons. First, Ellis at ¶214 does not teach that the disclosed radio show is broadcast *via the Internet*. Ellis at ¶214. Second, even assuming the radio show of Ellis is broadcast via the Internet as Dr. Houh states, an Internet radio broadcast is streamed rather than downloaded. As I discussed in the technology background in Section VI.C, downloading involves storing a media file and saving it in storage. In contrast, streaming does not involve storing the file. Therefore, the radio show broadcast disclosure of Ellis relied upon by Dr. Houh does not meet the definition of a podcast because it is not downloaded to the portable media player device.

IPR2023-00244, EX2007, ¶178

Agenda

- ▶ The '021 and '960 Patents
- ▶ The Applied Art does not Render Obvious the “inferring” Limitations
- ▶ **The Applied Art does not Render Obvious the “current location” Limitations**
- ▶ **'021 Patent Dependent Claims 2 and 9**
 - ▶ '021 Patent Claim 2
 - ▶ **'021 Patent Claim 9**

Claim 9 relates to the “media” or “information about the media” of Claim 1

Claim 9’s “media” or “information about the media” is the media the entertainment preference inference of Claim 1 is based on

1. One or more non-transitory computer-readable media (NTPCRM) comprising instructions written thereon, wherein execution of the instructions by one or more processors of a computer server is to cause the computer server to:

- control receipt of media or information about the media, the media being stored on a portable media player device or accessed using the portable media player device;
- infer one or more entertainment preferences of a user of the portable media player device based at least in part on the retrieved media, the retrieved information about the media, and a plurality of media content types of the media stored on or accessed by the portable media player device, wherein the plurality of media content types comprises textual media, image media, audio media, and video media;

IPR2023-00244, EX1001, Claim 1

9. The one or more NTPCRM of claim 1, wherein execution of the instructions is to cause the computer server to: obtain the media or the information about the media from a storage within the computer server; or control receipt of the media or the information about the media from a remote storage device.

IPR2023-00244, EX1001, Claim 9

Petitioner's Position

Petitioner asserts user preference information stored on Sasaki's server is "information about the media from a storage within the computer server"

'021 Patent Petition

As discussed in [1.0], Sasaki teaches programs in ROM to control a server.

Sasaki further discloses that the server obtains *information about the media from a storage within the computer server* by teaching that the "server performs processing based on preference information ... which is stored in the HDD 4 of the server." Ex.1004, [0119].

As shown in Fig. 1, the HDD 4 is storage within the server. Ex.1004, [0117].

IPR2023-00244, Pet., 45

Petitioner's Dr. Houh

131. Sasaki further teaches that the server can also retrieve the user preference information from a hard drive. Sasaki, [0126].

IPR2023-00244, EX1003, ¶131

135. Thus, Sasaki's server that obtains user preference information (e.g., information about media) from a hard drive in the server for subsequent processing renders obvious "wherein execution of the instructions is to cause the computer server to: obtain the media or the information about the media from a storage within the computer server; or control receipt of the media or the information about the media from a remote storage device."

IPR2023-00244, EX1003, ¶135

The user preference information stored in Sasaki's server is not used for inferring entertainment preferences

The user preference information stored in Sasaki's server is not used to infer the user's entertainment preferences

Sasaki's user preference information is explicitly provided; the server does not infer it

[0130] In other words, the communication sequence in the above-described second embodiment is an example. Accordingly, in accordance with a communication method and communication protocol in use, a communication environment, or the like, the connection sequence of the communication channel may have various forms. In addition, it is also possible to perform updating information in a server by transmitting user's latest preference information from a terminal device to the server, and providing content recommendation information corresponding to the latest preference information.

IPR2023-00244, EX1004, ¶130

Petitioner's Dr. Houh Admits that user preference information is distinct from "information about the media"

Dr. Houh Deposition Transcript

Q Are the entertainment preferences of a user distinct from the information about the media?

A I mean, I think the claim is pretty clear with respect to those words, which is you -- the computer server has to be caused to infer one or more entertainment preferences of a user. And that would be what the user actually prefers. But it's based in part on the retrieved media, the retrieved information about the media, and a plurality of media content types of the media stored, and it goes on.

What that's saying is that the computer server must be -- must infer this, infer the entertainment preferences of a user based on the information about the media.

IPR2023-00244, EX2009, 58:13-59:6

Thank You