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15/687,249	08/25/2017	David Strober	TSTH.278581	4059

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EXAMINER
HOPE, DARRIN

ART UNIT	PAPER NUMBER
2173	

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

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

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

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Touchstream Tech., Inc | Ex. 2017
Comcast, et al. v. Touchstream Tech., Inc. IPR2024-00326

Office Action Summary	Application No. 15/687,249	Applicant(s) Strober, David	
	Examiner DARRIN HOPE	Art Unit 2173	AIA Status No

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

Period for Reply

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

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

Status

1)☑ Responsive to communication(s) filed on 25 August 2017.

☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

2a)☐ This action is **FINAL.** 2b) ☑ This action is non-final.

3)☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.

4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims*

5) ☑ Claim(s) 1-20 is/are pending in the application.

5a) Of the above claim(s) _____ is/are withdrawn from consideration.

6) ☐ Claim(s) _____ is/are allowed.

7) ☑ Claim(s) 1-20 is/are rejected.

8) ☐ Claim(s) _____ is/are objected to.

9) ☐ Claim(s) _____ are subject to restriction and/or election requirement

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

Application Papers

10)☐ The specification is objected to by the Examiner.

11)☑ The drawing(s) filed on 25 August 2017 is/are: a)☑ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

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

Certified copies:

a)☐ All b)☐ Some** c)☐ None of the:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

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

Attachment(s)

1) ☑ Notice of References Cited (PTO-892)

2) ☐ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b) Paper No(s)/Mail Date _____.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date _____.

4) ☐ Other: _____.

Notice of Pre-AIA or AIA Status

1. The present application is being examined under the pre-AIA first to invent provisions. This Office Action is responsive to the communications filed on 25 August 2017. Claims 1-20 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of pre-AIA 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 4-20 are rejected under pre-AIA 35 U.S.C. 102(b) as being anticipated by Morris (US 2012/0130971 A1).

4. Per claim 1, Morris discloses a non-transitory computer storage medium (paragraph [0013] storing computer-useable instructions that, when used by one or more computing devices, cause the one or more computing devices to perform operations for remotely presenting various types of content(Abstract), the operations comprising:

- initializing a connection with a remote server device to facilitate an association with a remote computing device(paragraphs [0027-0028]);
- receiving, from the remote server device, a first message that includes at least one command in a first format(e.g., Step 210 as shown in Fig. 2; paragraph [0044]), wherein the first message is received based at least in part on a second

message including at least one command in a second format having been sent from the associated remote computing device(e.g., Step 212 as shown in Fig. 2; paragraph [0045]);

- employing a first media player application operable to load a first piece of content referenced in the received first message(e.g., Step 214 as shown in Fig. 2; paragraph [0046]); and
- controlling a presentation of the first piece of content loaded in the employed first media player application based on a first command in the first format having been included in the received first message for recognition by the first media player application (e.g., Fig. 4; paragraph [0010]; paragraph [0016]; paragraph [0026]; paragraph [0033]).

5. **Per claim 4,** Morris discloses the non-transitory computer storage medium of claim 1, wherein the second message is sent to the remote server device (e.g., Step 214 as shown in Fig. 2; paragraph [0046], "*At 214, the message is sent from the portable computing device to an application server that provides media content to a set top box device. The application server sends information to the set top box device that causes the set top box device to automatically play the particular media content item in response to the message. The method ends at 216.*").

6. **Per claim 5**, Morris discloses the non-transitory computer storage medium of claim 1, wherein the at least one command in the second format is converted into the at least one command in the first format based at least in part on the second message including therein a reference to the first piece of content (paragraph [0033]).

7. **Per claim 6**, Morris discloses the non-transitory computer storage medium of claim 1, wherein the at least one command in the second format is converted into the at least one command in the first format based at least in part on a reference to the first media player application having been included in the second message(paragraph [0033]).

8. **Per claim 7**, Morris discloses the non-transitory computer storage medium of claim 1, wherein the first media player application is employed based at least in part on the received first message including therein a reference to the first media player application (paragraph [0039]).

9. **Per claim 8**, Morris discloses the non-transitory computer storage medium of claim 1, wherein controlling the presentation includes an execution of the first command (paragraph [0010], "... *The application server generates at least one command executable by the media device coupled to the external display device that enables the media device to access the media content and to send the media content to the external display device when a format of the media content is playable by the media device...* "; paragraphs [0012-0015]).

10. **Per claim 9**, Morris discloses the non-transitory computer storage medium of claim 1, the operations further comprising: obtaining the first media player application based on a determination that the first media player application is not already being employed (e.g., Step 306 as shown in Fig. 3; paragraph [0052]).

11. **Per claim 10**, Morris discloses the non-transitory computer storage medium of claim 9, wherein the first media player application is obtained from a content provider that corresponds to the referenced first piece of content (paragraph [0029]).

12. **Per claim 11**, Morris discloses the non-transitory computer storage medium of claim 1, wherein the connection with the remote server device is maintained, for at least a duration that the first media player application is being employed, to facilitate a change from the first media player application to a second media player application operable to load a second piece of content referenced in a second message received from the remote server device (paragraphs [0025-0026]). Morris teaches a throw application 132 wherein the connection with the remote server device is maintained, for at least a duration that the first media player application is being employed, to facilitate a change from the first media player application to a second media player application operable to load a second piece of content referenced in a second message received from the remote server device

13. **Per claim 12**, Morris discloses a computer-implemented method for remotely presenting various types of content (Abstract), comprising:

- initializing, by a content presentation device, a connection with a remote server device to facilitate an association between the content presentation device and a remote computing device(paragraphs [0027-0028]);
- receiving, by the content presentation device and from the remote server device, a first message that includes at least one command in a first format(e.g., Step 210 as shown in Fig. 2; paragraph [0044]), wherein the first message is received based at least in part on a second message including at least one command in a second format having been sent from the remote computing device associated with the content presentation device(e.g., Step 212 as shown in Fig. 2; paragraph [0045]);

- employing, while the connection with the remote server device is maintained, a first media player application operable to load a first piece of content based at least in part on the first piece of content being referenced in the received first message(e.g., Step 214 as shown in Fig. 2; paragraph [0046]); and
- controlling, by the content presentation device, a presentation of the first piece of content loaded in the employed first media player application based on a first command in the first format having been included in the received first message for recognition by the first media player application(e.g., Fig. 4; paragraph [0010]; paragraph [0016]; paragraph [0026]; paragraph [0033]).

14. **Per claim 13**, Morris disclose the computer-implemented method of claim 12, wherein the first media player application is employed based at least in part on the received first message including therein a reference to the first media player application(paragraph [0039]).

15. **Per claim 14**, Morris disclose the computer-implemented method of claim 12, the operations further obtaining the first media player application based on a determination that a second media player application is being employed(e.g., Step 306 as shown in Fig. 3; paragraph [0052]).

16. **Per claim 15**, Morris discloses the computer-implemented method of claim 12, wherein the first media player application obtained by retrieving the first media player application from a content provider associated with the referenced first piece of content (paragraphs [0025-0026]).

17. **Per claim 16**, Morris discloses the computer-implemented method of claim 12, wherein the presentation of the first piece of content loaded in the employed first media

player application is controlled based further on the first command in the first format having been converted, from the second command in the second format, for inclusion in the received first message for recognition by the first media player application (paragraph [0033]).

18. **Per claim 17**, Morris discloses a content presentation device (e.g., media device 108 as shown in Fig. 1; Abstract); comprising:

- a display (e.g., display device 104 as shown in Fig. 1);
- at least one processor(e.g., processor 154 as shown in Fig. 1); and
- at least one computer storage media (e.g., memory 162 as shown in Fig. 1) storing computer-usable instructions that, when used by the at least one processor, cause the at least one processor to:
- initialize a connection with a remote server device to facilitate an association between the content presentation device and a remote computing device, wherein the associated remote computing device is configured to send messages that include at least one command in a second format(paragraphs [0027-0028]);
- receive, from the remote server device, a first message that includes at least one command in a first format based on a second message in the second format sent from the associated remote computing device(e.g., Step 212 as shown in Fig. 2; paragraph [0045]);
- employ a first media player application operable to load a first piece of content referenced in the received first message(e.g., Step 214 as shown in Fig. 2; paragraph [0046]); and

- control a presentation of the first piece of content loaded in the employed first media player application based on a first command in the first format having been included in the received first message for recognition by the first media player application(e.g., Fig. 4; paragraph [0010]; paragraph [0016]; paragraph [0026]; paragraph [0033]).

19. **Per claim 18**, Morris discloses the content presentation device of claim 17, wherein a command in the first format is recognizable by the first media player application (paragraph [0034]).

20. **Per claim 19**, Morris discloses the content presentation device of claim 17, wherein the second message is sent to the remote server device(e.g., Step 214 as shown in Fig. 2; paragraph [0046], "*At 214, the message is sent from the portable computing device to an application server that provides media content to a set top box device. The application server sends information to the set top box device that causes the set top box device to automatically play the particular media content item in response to the message. The method ends at 216.*").

21. **Per claim 20**, Morris discloses the content presentation device of claim, wherein the first media player application is employed based at least in part on the received first message including therein a reference to the first media player application (paragraph [0033]).

Claim Rejections - 35 USC § 103

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

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

23. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under pre-AIA 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

24. Claims 2 and 3 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Morris (US 2012/0130971 A1) in view of Mahajan et al. (Hereinafter, Mahajan, US 2009/0248802 A1).

25. Per claim 2, Morris discloses the non-transitory computer storage medium of claim 1, but does not expressly disclose wherein a command in the second format is a universal command.

26. Mahajan discloses wherein a command in the second format is a universal command (paragraphs [0013-0014; paragraphs [0022], [0024], [0036], [0038], [0040], [0042]). Mahajan teaches translating a platform specific media playback command into a generic or universal media playback command for transmission to a client.

27. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use the Mahajan systems and methods for managing multimedia

operations in remote sessions in Morris' media content playing device to improve the device with reasonable expectation that this would result in a media content playing device that could allow playback of media on different platforms. This method for improving the media content playing device of Morris was within the ordinary ability of one of ordinary skill in the art based on the teachings of Mahajan.

28. Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of Morris and Mahajan to obtain the invention as specified in claim 2

29. **Per claim 3**, Morris and Mahajan disclose the non-transitory computer storage medium of claim 2, wherein the first format is different than the second format (Mahajan, paragraph [0061]).

Conclusion

30. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DARRIN HOPE whose telephone number is (571)270-5079. The examiner can normally be reached on Mon-Thr - 7-4:30, Fri - 7-3:30, Alt. Fri Off.

Examiner interviews are available via telephone, in-person, and video conferencing using a USPTO supplied web-based collaboration tool. To schedule an interview, applicant is encouraged to use the USPTO Automated Interview Request (AIR) at http://www.uspto.gov/interviewpractice.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kieu D Vu can be reached on (571)272-4057. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DARRIN HOPE
Examiner
Art Unit 2173

/TADESSE HAILU/
Primary Examiner, Art Unit 2173