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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/019,375	01/16/2024	S. 8510768	AnonMedia-0001EPR	6870
198016	7590	10/30/2024	EXAMINER	
Cabello Hall Zinda, PLLC - Anonymous Media			REICHLE, KARIN M	
Attn: Keith Lutsch			ART UNIT	
801 Travis St, Suite 1610			PAPER NUMBER	
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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.



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***EX PARTE* REEXAMINATION COMMUNICATION TRANSMITTAL FORM**

REEXAMINATION CONTROL NO. 90/019,375 .

PATENT UNDER REEXAMINATION 8510768 .

ART UNIT 3992 .

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).

Notice of Intent to Issue Ex Parte Reexamination Certificate	Control No. 90/019,375	Patent Under Reexamination 8510768	
	Examiner Karin M Reichle	Art Unit 3992	AIA Status No

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

1. ☒ Prosecution on the merits is (or remains) closed in this *ex parte* reexamination proceeding. This proceeding is subject to reopening at the initiative of the Office or upon petition. *Cf.* 37 CFR 1.313(a). A Certificate will be issued in view of
 - (a) ☒ Patent owner's communication(s) filed: 9/11/24, 9/18/24.
 - (b) ☐ Patent owner's failure to file an appropriate timely response to the Office action mailed: ____.
 - (c) ☐ Patent owner's failure to timely file an Appeal Brief (37 CFR 41.31).
 - (d) ☐ The decision on appeal by the ☐ Board of Patent Appeals and Interferences ☐ Court dated ____
 - (e) ☐ Other: ____.
2. The Reexamination Certificate will indicate the following:
 - (a) Change in the Specification: ☐ Yes ☒ No
 - (b) Change in the Drawing(s): ☐ Yes ☒ No
 - (c) Status of the Claim(s):
 - (1) Patent claim(s) confirmed: 1-3,5-7,9-11 and 13-15.
 - (2) Patent claim(s) amended (including dependent on amended claim(s)): ____
 - (3) Patent claim(s) canceled: ____.
 - (4) Newly presented claim(s) patentable: ____.
 - (5) Newly presented canceled claims: ____.
 - (6) Patent claim(s) ☐ previously ☐ currently disclaimed: ____
 - (7) Patent claim(s) not subject to reexamination: 4,8 and 12.
3. ☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on ____.
4. ☒ Note the attached statement of reasons for patentability and/or confirmation. Any comments considered necessary by patent owner regarding reasons for patentability and/or confirmation must be submitted promptly to avoid processing delays. Such submission(s) should be labeled: "Comments On Statement of Reasons for Patentability and/or Confirmation."
5. ☐ Note attached NOTICE OF REFERENCES CITED (PTO-892).
6. ☒ Note attached LIST OF REFERENCES CITED (PTO/SB/08 or PTO/SB/08 substitute).
7. ☐ The drawing correction request filed on ____ is: ☐ approved ☐ disapproved.
8. ☐ Acknowledgment is made of the priority claim under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the certified copies have
 - ☐ been received.
 - ☐ not been received.
 - ☐ been filed in Application No. ____.
 - ☐ been filed in reexamination Control No. ____.
 - ☐ been received by the International Bureau in PCT Application No. ____.

* Certified copies not received: ____.
9. ☐ Note attached Examiner's Amendment.
10. ☐ Note attached Interview Summary (PTO-474).
11. ☐ Other: ____.

All correspondence relating to this reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of this Office action.

/Karin Reichle/ Primary Examiner, Art Unit 3992	/JALATEE WORJLOH/ Primary Examiner, Art Unit 3992
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cc: Requester (if third party requester)

Notice of Intent to Issue Reexamination Certificate

Reexamination was requested for claims 1-3, 5-7, 9-11 and 13-15 of United States Patent No. 8,510,768 (hereinafter also referred to as ‘768 or Steuer ‘768). The ‘768 patent was issued to Steuer et al on August 13, 2013.

References Asserted in Request

(1) U.S. Patent No. 5,581,658 to O’ Hagan et al. (hereinafter also referred to as O’ Hagan or ‘658 (Exhibit D)) filed December 14, 1993 and issued December 3, 1996.

(2) U.S. Patent No. 7,284,255 to Apel et al. (hereinafter also referred to as Apel or 255 (Exhibit E)) filed November 16, 1999 and issued October 16, 2007.

(3) U.S. Patent Application No. 2007/0168409 to Cheung (hereinafter also referred to as Cheung or ‘409 (Exhibit F)) filed February 16, 2005 and published July 19, 2007.

(4) U.S. Patent Application No. 2002/0083060 to Wang et al (hereinafter also referred to as Wang or ‘060 (Exhibit H)) filed April 20, 2001 and published June 27, 2002.

Other

The Declaration of David S Doermann Ph.D. (Exhibit C), executed January 15, 2024 and filed January 16, 2024.

September 11, 2024 Response-Arguments/Declarations/Exhibits

The September 11, 2024 response (i.e. arguments, W. Leo Hoarty declaration, Declaration of Jonathan S. Steuer and Christopher W. Otto with Exhibits A-1 to A-7, and Exhibits B-1 to B-353 and Declaration of Michael Mauriel with Exhibits A-O.) was considered in its’ entirety.

Concurrent Proceedings

See RXFILJKT accompanying this Notice. Note also TRAN.LET, **Notification of Prior and Concurrent Proceedings**, page 3 of the September 11, 2024 response.

Information Disclosure Statement

Various IDS were submitted by Patent Owner on September 18, 2024.

Prior art is evaluated in accordance with the policy of MPEP 2256, which states: “Where patents, publications, and other such items of information are submitted by a party (patent owner or requester) in compliance with the requirements of the rules, the requisite degree of consideration to be given to such information will be normally limited by the degree to which the party filing the information citation has explained the content and relevance of the information. The initials of the examiner placed adjacent to the citations on the form PTO/SB/08A and O8B or its equivalent, without an indication to the contrary in the record, do not signify that the information has been considered by the examiner any further than to the extent noted above.” It is noted that one submission listed on an IDS was not considered as a copy thereof was not provided, i.e. “Anonymous Media Research Holdings, LLC v. Roku, Inc., No. 1:23-cv-01143; 768 Invalidity Claim Chart Exhibit A-10 O'Hagan”.

Claim Interpretation

As set forth in MPEP 2240, in making the determination of whether to order reexamination, the Office will determine the proper meaning of the patent claims by giving the claims their broadest reasonable interpretation consistent with the specification (see *In re*

Yamamoto, 740 F.2d 1569 (Fed. Cir. 1984)), except in the case of an expired patent (in a reexamination involving claims of an expired patent, claim construction is pursuant to the principle set forth by the court in *Phillips v. AWH Corp.*, 415 F.3d 1303, 1316, 75 USPQ2d 1321, 1329 (Fed. Cir. 2005) (words of a claim "are generally given their ordinary and customary meaning" as understood by a person of ordinary skill in the art in question at the time of the invention, see *Ex parte Papst-Motoren*, 1 USPQ2d 1655 (Bd. Pat. App. & Inter. 1986)).

STATEMENT OF REASONS FOR PATENTABILITY AND/OR CONFIRMATION

Claims 1-3, 5-7, 9-11 and 13-15 are confirmed.

The following is an examiner's statement of reasons for patentability and/or confirmation of the claims found patentable in this reexamination proceeding:

Independent **Claim 1** is drawn to:

A media measurement method comprising:

- (a) receiving over a network, at one or more computers, data for a sequence of audio data samples, the audio data samples comprising representations of audio data captured at a media monitoring device, the plurality of audio data samples being submitted over the network;
- (b) using the one or more computers to query an electronic database of a plurality of audio data representations and corresponding content identifiers;
- (c) generating a raw play stream, the raw play stream comprising a sequence of content identification results corresponding to the sequence of audio data samples; wherein:

the sequence of content identification results is obtained by querying the electronic database to attempt to determine respective likely matches between respective audio data samples in the sequence of audio data samples and respective audio data representations in the electronic database;

a content identification result of the sequence of content identification results comprises either: (i) a content identifier associated in the electronic database with a respective audio data representation that is determined to be a respective likely match with a respective one of the audio data samples; or (ii) an indication of the absence of a respective likely match between a respective audio data sample and an audio data representation in the electronic database; and

the raw play stream includes either: at least two different content identifiers obtained from the electronic database; or at least one content identifier obtained from the electronic database and at least one indication of the absence of a respective likely match between a respective audio data sample and an audio data representation in the electronic database;

(d) scrubbing the raw play stream by analyzing sample sequence data of the raw play stream to determine whether to change a result of the sequence of content identification results in view of a pattern of the sample sequence data of the raw play stream compared to an expected pattern of sample sequence data; and

(e) generating a clean play stream from the raw play stream by making any changes to the raw play stream that are determined to be made by the scrubbing.

Independent **claim 9** sets forth:

A computer program product in a non-transitory computer readable medium comprising instructions executable by one or more processors of one or more computers, the one or more computers being coupled to a network to receive, over the network, data for a sequence of audio data samples, the audio data samples comprising representations of audio data captured at a media monitoring device, the plurality of audio data samples being submitted over the network, the instructions comprising instructions for:

(a) using the one or more computers to query an electronic database of a plurality of audio data representations and corresponding content identifiers;

(b) generating a raw play stream, the raw play stream comprising a sequence of content identification results corresponding to the sequence of audio data samples; wherein:

the sequence of content identification results is obtained by querying the electronic database to attempt to determine respective likely matches between respective audio data samples in the sequence of audio data samples and respective audio data representations in the electronic database;

a content identification result of the sequence of content identification results comprises either: (i) a content identifier associated in the electronic database with a respective audio data representation that is determined to be a respective likely match with a respective one of the audio data samples; or (ii) an indication of the absence of a respective likely match between a respective audio data sample and an audio data representation in the electronic database; and

the raw play stream includes either: at least two different content identifiers obtained from the electronic database; or at least one content identifier obtained from the electronic database and at least one indication of the absence of a respective likely match between a respective audio data sample and an audio data representation in the electronic database;

(c) scrubbing the raw play stream by analyzing sample sequence data of the raw play stream to determine whether to change a result of the sequence of content identification results in view of a pattern of the sample sequence data of the raw play stream compared to an expected pattern of sample sequence data; and

(d) generating a clean play stream from the raw play stream by making any changes to the raw play stream that are determined to be made by the scrubbing.

As an initial matter, the 9/11/2024 response addresses the availability of the Cheung reference as prior art. See pages 4-26 of the Remarks, pages 15-21 of the W. Leo Hoarty declaration, the Declaration of Jonathan S. Steuer and Christopher W. Otto and accompanying Exhibits A-1 to A-7 and Exhibits B-1 to B-353 and the Declaration of Michael Mauriel and accompanying Exhibits A-O. The affidavit filed on September 11, 2024 under 37 CFR 1.131(a), including the supporting affidavits and Exhibits, is sufficient to overcome the Cheung reference. Accordingly the rejection of claims 1-2, 5-6, 9-10 and 13-14 under pre-AIA 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,581,658 to O' Hagan et al. (hereinafter also referred to as O' Hagan or '658 (Exhibit D)) as evidenced by Merriam-Webster.com Dictionary/Thesaurus, in view of U.S. Patent Application No. 2007/0168409 to Cheung (hereinafter also referred to as Cheung or '409 (Exhibit F)) and the rejection of claims 7 and 15 under pre-AIA 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,581,658 to O' Hagan et al. (hereinafter also

referred to as O' Hagan or '658 (Exhibit D)) as evidenced by Merriam-Webster.com Dictionary/Thesaurus, in view of U.S. Patent Application No. 2007/0168409 to Cheung (hereinafter also referred to as Cheung or '409 (Exhibit F)) as applied to claims 1 and 9 above, and further in view of U.S. Patent Application No. 2002/0083060 to Wang et al (hereinafter also referred to as Wang or '060 (Exhibit H)) are withdrawn.

Continuing, see pages 26-37 of the Remarks and pages 4-15 of the W. Leo Hoarty declaration of the 9/11/2024 Response. See the discussion in the preceding paragraph. Accordingly, the arguments are deemed moot.

Turning to the remaining references, i.e. U.S. Patent No. 5,581,658 to O' Hagan et al., U.S. Patent No. 7,284,255 to Apel et al. and U.S. Patent Application No. 2002/0083060 to Wang et al, see, e.g., pages 28-31 and 57-59 of the Request. However, none of these references available as prior art alone or in combination teach at least “(d) scrubbing the raw play stream by analyzing sample sequence data of the raw play stream to determine whether to change a result of the sequence of content identification results in view of a pattern of the sample sequence data of the raw play stream compared to an expected pattern of sample sequence data; and (e) generating a clean play stream from the raw play stream by making any changes to the raw play stream that are determined to be made by the scrubbing” in combination with the other features as claimed in claim 1 nor at least “(c) scrubbing the raw play stream by analyzing sample sequence data of the raw play stream to determine whether to change a result of the sequence of content identification results in view of a pattern of the sample sequence data of the raw play stream compared to an expected pattern of sample sequence data; and (d) generating a clean play stream from the raw play stream by making any changes to the raw play stream that are determined to be made by the scrubbing” in combination with the other features as claimed in

claim 9. While O'Hagan generally discusses review and manual identification of non-recognized or unmatched signatures, it does not disclose the specifics thereof, i.e. does not disclose "...to determine whether to change a result of the sequence of content identification results in view of a pattern of the sample sequence data of the raw play stream compared to an expected pattern of sample sequence data". Furthermore, while Apel teaches a process of initial matching patterns in a large scale market where once a match is made using broadcast source features of a channel, broadcast features of the same channel are also used for matching subsequent samples until one such match fails, whereupon broadcast features of other channels are used for pattern recognition, it does not teach scrubbing initial pattern configuration results, i.e. scrubbing the raw play stream of matched results, i.e. "scrubbing the raw play stream by analyzing sample sequence data of the raw play stream to determine whether to change a result of the sequence of content identification results in view of a pattern of the sample sequence data of the raw play stream compared to an expected pattern of sample sequence data."

Claims 2-3 and 5-7 depend from claim 1. Claims 10-11 and 13-15 depend from claim 9.

Any comments considered necessary by PATENT OWNER regarding the above statement must be submitted promptly to avoid processing delays. Such submission by the patent owner should be labeled: "Comments on Statement of Reasons for Patentability and/or Confirmation" and will be placed in the reexamination file.

Conclusion

The patent owner is reminded of the continuing responsibility under 37 CFR 1.565(a) to apprise the Office of any litigation activity, or other prior or concurrent proceeding, involving Patent No. 8,510,768 throughout the course of this reexamination proceeding. The third party

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requester is also reminded of the ability to similarly apprise the Office of any such activity or proceeding throughout the course of this reexamination proceeding. See MPEP §§ 2207, 2282 and 2286.

Any document filed by the Patent Owner must be served on the third party requester (or requesters in a merged proceeding) in the reexamination proceeding in the manner provided by 37 C.E.R. § 1.248. See 37 C.F.R. § 1.550(f) and MPEP § 2266.03.

Correspondence

All correspondence relating to this *ex parte* reexamination proceeding should be directed:

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Any inquiry concerning this communication should be directed to the Central Reexamination Unit at telephone number 571-272-7705.

Other useful telephone numbers:

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