EXHIBIT 12

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
ESCALANTE, OVIDIO	

ART UNIT	PAPER NUMBER
3992	

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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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AUG 20 2010

CENTRAL REEXAMINATION UNIT

Transmittal of Communication to Third Party Requester
Inter Partes Reexamination

REEXAMINATION CONTROL NO. : 95001283
PATENT NO. : 7283172
TECHNOLOGY CENTER : 3999
ART UNIT : 3992

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified Reexamination proceeding. 37 CFR 1.903.

Prior to the filing of a Notice of Appeal, each time the patent owner responds to this communication, the third party requester of the inter partes reexamination may once file written comments within a period of 30 days from the date of service of the patent owner's response. This 30-day time period is statutory (35 U.S.C. 314(b)(2)), and, as such, it cannot be extended. See also 37 CFR 1.947.

If an ex parte reexamination has been merged with the inter partes reexamination, no responsive submission by any ex parte third party requester is permitted.

All correspondence relating to this inter partes reexamination proceeding should be directed to the Central Reexamination Unit at the mail, FAX, or hand-carry addresses given at the end of the communication enclosed with this transmittal.

ACTION CLOSING PROSECUTION (37 CFR 1.949)	Control No.	Patent Under Reexamination	
	95/001,283	7283172	
	Examiner	Art Unit	
	OVIDIO ESCALANTE	3992	

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

Responsive to the communication(s) filed by:
Patent Owner on 23 June 2010
Third Party(ies) on 20 July 2010

Patent owner may once file a submission under 37 CFR 1.951(a) within 1 month(s) from the mailing date of this Office action. Where a submission is filed, third party requester may file responsive comments under 37 CFR 1.951(b) within 30-days (not extendable- 35 U.S.C. § 314(b)(2)) from the date of service of the initial submission on the requester. **Appeal cannot be taken from this action.** Appeal can only be taken from a Right of Appeal Notice under 37 CFR 1.953.

All correspondence relating to this inter partes 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.

PART I. THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☐ Notice of References Cited by Examiner, PTO-892
2. ☒ Information Disclosure Citation, PTO/SB/08
3. ☐ _____

PART II. SUMMARY OF ACTION:

1a. ☒ Claims 1-19 are subject to reexamination.
1b. ☐ Claims _____ are not subject to reexamination.
2. ☐ Claims _____ have been canceled.
3. ☐ Claims _____ are confirmed. [Unamended patent claims]
4. ☐ Claims _____ are patentable. [Amended or new claims]
5. ☒ Claims 1-19 are rejected.
6. ☐ Claims _____ are objected to.
7. ☐ The drawings filed on _____ ☐ are acceptable ☐ are not acceptable.
8 ☐ The drawing correction request filed on _____ is: ☐ approved. ☐ disapproved.
9 ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119 (a)-(d). The certified copy has:
☐ been received. ☐ not been received. ☐ been filed in Application/Control No _____
10. ☐ Other _____

ACTION CLOSING PROSECUTION

1. This Office action addresses claims 1-19 of United States Patent No. 7,283,172 and is in response to the Patent Owner response field on June 23, 2010 and the Requester's response filed on July 20, 2010.

Status of the Claims

2. Original claims 1-19 are rejected.

Information Disclosure Statement

3. The Information Disclosure Statement filed on July 26, 2010 have been considered by the examiner. [Documents which fail to constitute patents or printed publications have been lined through on the submitted form so as to not be published on the reexamination certificate, but have been considered by the examiner to the extent noted below.]

Consideration by the examiner of the information submitted in an IDS means that the examiner will consider the documents in the same manner the party filing the information citation has explained the content and relevance of the information. Information which complies with information disclosure requirements of 37 C.F.R. § 1.98 but which is in a non-English language will be considered in view of the concise explanation submitted (see MPEP § 609.04(a), subsection, III.) and insofar as it is understood on its face, e.g., drawings, chemical formulas, in the same manner that non-English language information in Office search files is considered by examiners in conducting searches. The initials of the examiner placed adjacent to the citations on the submitted form, without an indication to the contrary in the record, mean that

the information has been considered by the examiner to the extent noted above. See MPEP §§ 609.05(b), 2256 and 2656.

Rejections Proposed by the Requester

4. The following 4 issues for rejection were proposed in the Request for *inter partes* reexamination (95/001,283):

Issue 1: Cleaner 5 User Manual is asserted as rendering claims 1-19 anticipated.

Issue 2: Cleaner 5 User Manual in view of Cleaner MPEG Charger is asserted as rendering claims 5, 6 and 8 obvious.

Issue 3: Avid Xpress in view of Avid Xpress DV and further in view of MPEG standard is asserted as rendering claims 1-3, 5, 7, 9 and 13-19 obvious.

Issue 4: Washino is asserted as rendering claims 1-12, 15 and 19 anticipated.

Claim Construction Arguments

Construction of the term "continuous pass conversion process free from one or more intermediary files"

On page 9 of the Patent Owner's response, the Patent Owner contends that "continuous pass conversion process free from one or more intermediary files" means a process that receives video information and outputs video and audio information in a presentation format as the final output format without writing any intermediary file to a storage during the process.

The Requester states the broadest reasonable interpretation would seem to require that a preamble not be considered limiting where there is any reasonable chance that the preamble does not "breath life in the claims.

The Examiner agrees with the Requester that the preamble in this case, does not breathe life into the claims. The Examiner first notes that the preamble recites "free from one or more intermediary files". The body of the claim does not further recite any limitation related to this aspect of the preamble. In fact, dependent claim 12 which recites "free from one or more intermediary files" is claimed as a limitation—thus, clearly showing that the "free from one or more intermediary files" is not a limitation in the preamble and thus is not required. This same reasoning holds true for "continuous pass conversion process". There is no further limitation making any requirement so for making a "continuous pass" for all the recited steps. .

The Examiner however, notes that the Request for *inter partes* Reexamination and the Examiner's rejection, considered the preamble and showed how the preamble read on the cited prior art references.

However, assuming *arguendo* that the preamble is a limitation that must be considered, the Examiner disagrees with the Patent Owner that the cited limitations means a process that receives video information and outputs video and audio format in a presentation format as the final output media. The Examiner agrees that "free from one or more intermediary files" is disclosed in the specification as relying upon files that are "often" not stored during the conversion process.

The Examiner notes that the Patent Owner's reliance on video and output media is recited in other claim limitations, thus the terms "continuous pass conversion process" alone does not

imply any video or output video and audio requirements. Those requirements are limitations from the specification that cannot be read into those terms and/or are not required by the "continuous pass conversion process" terms.

The Examiner agrees that the specification discloses a method for converting video information (e.g., captured, streaming, file) from an incoming format to an outgoing format using a single pass conversion process (e.g. continuous) free from one or more intermediary files.

Thus, "continuous pass conversion process free from one or more intermediary file" in this context is interpreted as a single pass conversion process which is free from one or more intermediary files.

The Examiner notes that the "free from one or more intermediary files" terms is best described in the patent in relation to a known prior art method. It is disclosed that the known method often uses intermediary files "which are often stored in memory". These method of the prior art outputs intermediary files after performing more than one process. The patent disclosure states that these files takes space and is less efficient. Thus, the Examiner interprets "free from one or more intermediary files" as not using files during the conversion process that have been stored during a previous step of the conversion process.

Construction of the term "output media format"

The Patent Owner contends that "output media format" means "a standard video format for optical disk media." The Patent Owner contends that the specification consistently uses the term "media format" when referring to commonly known stands/specification for writing (disk authoring) video to optical disk media.

The Requester contends that a requirement that "output media format" is limited to authoring on optical disk media, e.g. DVD, VCD, SVCD, is not recited by the claim and therefore should not be accorded any patentable weight. Furthermore, requiring that "output media format" is limited to authoring on optical disk media, is not the broadest reasonable interpretation of the term consistent with the specification. While the specification does disclose that a media format can be DVD, VCD, or Super VCD, it explicitly leaves open that a media format can be something else: "As can be seen, the media format can be DVD, VCD, or Super VCD, *among others*." The '172 patent at col. 8, lines 49-50 (emphasis added). Additionally, as the term "output media format" is used within the claims, the broadest reasonable interpretation of the claim only requires code to receive a selection of an output media format, which does not require that the program receive an actual selection of "DVD, VCD, or Super VCD, among others." The claim does not require that the program receive a selection of a menu item specifically enumerating DVD, VCD, Super VCD, or others. The claim only requires that the program receives a selection of an output media format

The Examiner agrees with the Requester and notes that the discussion of this term is based on how it is recited in claim 1. The Patent Owner requires disc authoring to be read into "output media format" however, claim 1 is not limited as such. This is clear since dependent

claim 7 requires the writing onto disc requirement. Thus, claim 1 or any other limitation of claim 1 cannot require disc authoring since it is not claimed or required.

In addition, with respect to "media format" the Patent Owner maintains that the media format must be "optical disk media". The Examiner agrees that media formats such as DVD, VCD and Super VCD are disclosed in the specification; however, media format is not defined in the specification to be exclusively optical disc formats.

Indeed with respect to TABLE 1 it is stated that "the media format can be DVD, VCD, or Super VCD, among others." (emphasis added). Thus, the '172 patent specification merely states that media format "can be" DVD, VCD or Super VCD" and thus specification discloses that it is not required to be those formats and further the Examiner notes that "amount other" formats can be used. There is no defined scope for the "among others" term.

The Patent Owner notes that the "final video processing step of independent claim 1 requires processing (multiplexing) the audio and video information into a format for writing to disk, called the "presentation format" in the claims. The specification identifies the use of "conventional tools such as disc authoring software to perform the multiplexing process."

The Examiner first notes that claim 1 does not recite any "multiplexing". This step is performed in dependent claim 9. Thus, the final video processing step in claim 1 cannot require multiplexing since claim 1 must be interpreted broader than claim 9. In addition, the Examiner notes that the Patent Owner admits that this process is "conventional" and that the claimed processing step is disclosed in the patent specification used prior art (conventional) disc authoring software.

The Examiner interprets "output media format" to include " DVD, VCD, Super VCD and other types of media formats that are not limited to DVD, VCD or SVCD). This interpretation is consistent with how the Examiner interpreted the term in the First Office action an it is also consistent with the '172 patent specification.

This is clear since the '172 patent specification discloses "Preferably, the video information can be in almost any format or any format. The output video information can also be in any desired format." Thus, the '172 patent specification discloses that "any desired format" can be selected.

Construction of the term "presentation format"

The Patent Owner contends that "presentation format" means "the specific format for writing video and audio information to an optical disk media" that is recognized by a player for the media format.

The Requester maintains the specification of the '172 patent refers to the presentation format in two different ways: (1) "to form video and audio information in a presentation format based upon the desired output media format and the desired TV standard" (the '172 patent at column 3, lines 19-22); and (2) "where an incoming video information is converted to an outgoing presentation format, which is different from the incoming video information" (the '172 patent at col. 6, lines 33-35). Neither of these descriptions requires that the presentation format is the specific format for writing audio and video information to an optical disk. Any broadest reasonable interpretation of presentation format would need to encompass the possibility that the

presentation format is simply different than the incoming video format and that the presentation format is based upon the desired output media format.

The Requester further maintains there is no disclosure that supports the Patent Owner's construction that the presentation format must be a specific format for writing the files onto an optical disk media. At best, the presentation format can be based upon the output media, which can be an optical disk, but the phrase "based upon" in no way requires or even suggests that the presentation format need to be specific for the output media that is recognized by a player for the media format.

The Examiner agrees with the Requester and maintains that claim 1's presentation format does not require the use of "optical" disc media—the specification imposes no such requirement.. Indeed it is only until dependent claim 5 is considered in that optical disc media is required. Thus, claim 1 cannot require any of the VCD, DVD or Super VCD that the Patent Owner alleges is required.

The Examiner notes that the Patent Owner makes various references to the specification's use of presentation format as it relates to DVD, VCD and SVCD, however, those statements are not limiting and do not define "presentation format".

In addition, the Patent Owner continues to sated that the final video process step of each independent claim requires processing (multiplexing) the audio and video information into the final format which is claimed as the presentation format.

This Examiner notes that this statement is confusing and raises new questions since this implies that the claim lacks an "essential element" that should have been claimed but was not.

The Examiner notes that the multiplexing step is not recited in claim 1 but instead was claimed in dependent claim 9. Claim 1 cannot require multiplexing since that would render claim 9 invalid.

The Examiner also notes that the Patent Owner (page 14 of their response) specifically states that in order to perform the multiplexing process "conventional tools such as disc authoring software" is used. This software is identified as a separate and distinct software than the software of the rest of patent disclosure. The Patent Owner's statement implies that the claimed invention relies on different types of software packages (including conventional software) to meet the claims.

The Patent Owner notes that MPEG-1 and MPEG-2 files created by filed conversion applications must be further processed by disk authoring applications to add additional information required by the DVD, VCD or SVCD standards before creating the final format for writing to disk media. MPEG-1 or MPEG-2 files simply written to a CD or DVD disk will NOT play in a standard optical disk playback device connected to a television, even if they are VCD, SVCD or DVD compliant MPEG files (or intermediary files).

The Examiner notes that the Patent Owner did not cite to a source for their statement with respect to showing that MPEG-1 or MPEG-2 simply written to a CD or DVD disk will not play in a standard optical disk playback device. The Examiner notes that it is known in the art that optical disk players can play MPEG-1 or MPEG-2 files written to disk. However, the Examiner notes that the position of the Patent Owner is based on a "standard" optical disk player. Nonetheless, the Patent Owner's comments regarding this issue does not further address

presentation format (in claim 1) since DVD compliant formats such as VOB is not recited in claim 1.

The Examiner, interprets "presentation format" to mean "a format that is based upon a desired output media format and the desired video presentation standard." This interpretation is consistent with how the Examiner interpreted the term in the First Office Action an it is also consistent with the '172 patent specification.

Construction of "directly processing the elementary video stream with audio information in the desired output media format and the desired video presentation standard to from video and audio information in a presentation format based upon the desired output media format and the desired video presentation standard"

The Patent Owner contends that ""directly processing the elementary video stream with audio information in the desired output media format and the desired video presentation standard to form video and audio information in a presentation format based upon the desired output media format and the desired video presentation standard" requires "authoring the "presentation format" in a continuous pass. The term "directly" makes it clear that the presentation formation is output in a continuous pass without saving an intermediary file to a storage or using another application.

The Requester contends the Patent Owner further attempts to read authoring onto an optical disk into the claims by providing a construction of "directly processing the elementary video stream with audio information in the desired output media format and the desired video presentation standard to form video and audio information in a presentation format based

upon the desired output media format and the desired video presentation standard." The Patent Owner argues that this phrase requires authoring the presentation format in a "continuous pass" because the term "directly" makes it clear that the presentation formation is output in a continuous pass without saving an intermediary file to a storage or using another application. The Patent Owner's construction should not be adopted as it not only reads limitations from the specifications into the claims, but it also does not represent the broadest reasonable interpretation consistent with the specification.

The Examiner agrees with the Requester that the claim do not require authoring or that the claimed steps must be continuous or in a single pass. The Patent Owner does not focus on any of the other claim term in this citations and thus the Patent Owner has not properly construed their own term.

Construction of "integrated computer software application"

The Patent Owner contends that "integrated computer software application" must be construed to mean "computer codes or instructions that are compatible and interoperate."

The Patent Owner insists that the phrase "integrated computer software application," which occurs in the preamble of claim 16, should be considered a meaningful limitation of the claim

The Examiner notes that the Patent Owner states "the claimed integrated computer software application" solves the incompatibility problem associated with the use of multiple applications to convert video to a format for writing to disk". The Examiner notes that this citation applies to a mix of dependent claims which are not directly linked to each other. For

example, claim 16 reads on "multiple applications" since it is only upon including the limitations of claim 18 is a single application employed.

The Patent Owner continues to mix dependent and independent claims together. The claimed "integrated computer software application" in claim 16 reads on multiple applications since it is only when claim 18 is considered is a single application a limitation. Thus, the Patent Owner's reasoning in not valid in view of the actual claim language of claim 16.

Nonetheless, the Examiner agrees that an integrated computer software can be interpreted as "computer codes or instructs that are compatible and interoperate". In addition, the Requester relies upon a definition in which integrated software is shown to be "A collection of computer programs designed to work together to handle an application, either by passing data from one to another or as components of a single system. A collection of computer programs that work as a unit with a unified command structure to handle several applications, such as word processing, spread sheets, data-base management, graphics, and data communications."

Construction of "free from one or more intermediary files"

The Patent Owner contends that the term "free from one or more intermediary files" means "without storing any intermediary files to a storage while processing the input video into the final output format, i.e. the presentation format."

The Requester states the specification does not require that a video in its final output format cannot be written to disk

The Examiner notes that the '172 patent specification discloses that the "intermediary files" are often stored in memory (see col. 5, line 19). Thus, the Examiner agrees that "free from one or more intermediary files" requires the process to not use any intermediary files, however, the specification only stresses that intermediary files are "often" stored and thus, specifically discloses that intermediary files may in some cases not be stored in conventional processes.

The Examiner disagrees that the patent specification requires intermediary files to be stored in memory since the patent specification states that they are "often" stored and not that they are always stored. The Examiner finds that "free from one or more intermediary files" is not clearly defined in the specification; since the Patent Owner states that intermediary files are required to be stored and the specification discloses that they do not have to be always stored using conventional methods.

The Examiner will interpret the term under the broadest reasonable interpretation consistent with the specification. In this case an intermediary file is a file that is stored in memory and hence "free from one ore more intermediary files" requires the process to output the file to the next process without opting to store the file in memory first.

Cleaner 5 Arguments

Preamble

The Patent Owner contends that the claim requires file conversion and disk authoring are performed in a single continuous process. The Patent Owner further contends that cleaner 5 only discloses file conversion and not disk authoring.

The Examiner first notes that the claim does not recite "disk authoring" and thus, the patent owner is arguing limitations which are not claimed. As noted in the rejection, Cleaner 5 discloses of a continuous process from file input to file output as a MPEG-1 VCD file. There is no disk authoring claimed nor is it implicit in the claims.

The Requester agrees with the Examiner and the Requester maintains that even if the claim recites disk authoring, Cleaner 5 discloses an option to make Video CDs as noted on page 209.

The Examiner notes that the Requester points to a Patent Owner definition of "integrated application" on page 13 of their response. The Examiner notes that the Requester did not cite where the Patent Owner made this statement and the Examiner is not able to locate this statement in the Patent Owner's response. Nonetheless, the Examiner agrees with the Requester's citation of integrated software which defines it as a collection of computer programs designed to work together to handle an application or a collection of computer programs that work as a unit with a unified command structure to handle several applications. The Examiner notes that this is an issue since Cleaner 5 discloses that a CD-mastering application can be used with Cleaner 5 in order to author Video CDs. The important point is that the Cleaner 5 reference clearly discloses the use of disk authoring software for making DVDs and VCDs—this teaching supports disk authoring and thus would meet any disk authoring limitation if it was claimed.

"inputting a desired output media format based upon a second input"

The Patent Owner contends the term "output media format" means standard format for optical disk media and the phrase "inputting a desired output media format based upon a second input" requires an input of a media format (e.g. DVD, VCD or SVCD) as the output.

The Examiner repeats that the Patent Owner is arguing limitations which are not claimed. There is no requirement that the output media format be an optical disk media much less being any of a DVD, VCD or SVCD in claim 1.

The Requester likewise maintains that the claims do not require using an optical disk and since Cleaner 5 discloses an output media format of MPEG-1 and MPEG-2 files as well as selecting Video CD as an output media format, Cleaner 5 still anticipates the claim. The Requester maintains that an MPEG filed is a format that is associated with VCD. Cleaner 5 states that the MPEG-1 file request "special Video CD formatting" which can be selected by "selecting the Video CD present" thus clearly 5 clearly allows a user to select a desired output media format.

The Examiner notes that the Patent Owner acknowledges that Cleaner 5 discloses that MPEG-1 can be used for Video CD projects by selected the Video CD present in the Advanced Settings window. In addition, it is noted that the current argued is that the Patent Owner notes that with Video CD or with DVD-Video the files are "compliant video file" not that the DVD is selected as an output media format.

The Patent Owner contends that "output media format" may be the broadest interpretation, but it certainly is not a reasonable interpretation. The Examiner notes that this

statement was made on the pretext that "media format" refers to video standard for optical disk. Since the claim does not require such a reading, the Patent Owner's argument is not persuasive.

The Examiner repeats that Cleaner 5 discloses VCD presets as an output selection and thus the output media format can be reasonably considered to be this output. In addition, since the claims do not require optical format then any other format such as MPEG-1 or MPEG-2 can be selected since the specification discloses that other formats can be used. Indeed, the specification discloses "[p]referably, the video information can be in almost any format or any format. The output video information can also be in any desired format, depending upon the embodiment."

The specification discloses that "any desired format" can be used. This statement is without limitation. References to DVD and VCD or only exemplary and are not required.

Directing resizing the raw video information in the uncompressed format into a size associated with the desired media format and the desired video presentation standard"

Arguments

The Examiner notes that the Patent Owner again relies upon the flawed reasoning that "optical disk media, e.g., DVD, Video CD or Super Video CD" is required with the limitation. For the reasons noted above, "since the claims plainly do not require such a reading, the Patent Owner's arguments are not persuasive.

The Requester maintains that the '172 patent teaches that the output media format can be formats other than VCD, Super-VCD and DVD. As noted above, the Examiner agrees and maintains claim 1 is not limited to using optical disk media.

Directing processing the elementary video stream with audio information in the desired output media format and the desired video presentation standard to form video and audio information in a presentation format based upon the desired output media format and the desired video presentation standard" Argument

The Patent Owner first contends that this limitation requires "authoring the video into the final format (presentation format) that must be the format written to disk media in dependent claim 7. The Patent Owner contends the final 'processing" into a "presentation format" further requires "multiplexing" in dependent claim 9. The Patent Owner points out that the final "multiplexing" process is performed by disk authoring software.

The Patent Owners' argument is again based on limitations that are not claimed. Claim 1 does not require "authoring the disk". In addition, the Patent Owner brings in limitations from other dependent claims such as dependent claim 9. The Patent Owner argues that presentation format "requires multiplexing" as disclosed in claim 9. The Examiner maintains that presentation format cannot require multiplexing in claim 1 and thus the final processing into a presentation format argument is not persuasive since the presentation format in claim 1 is not the final format since it does not include the limitations of the dependent claims. Claim 1 plainly does not present a "final presentation format", does not require disk authoring or selecting an optical disk. The

Patent owner's arguments are flawed since they argue against the prior art in view of limitations which are not present or inherently required in the claims.

The Requester maintains that the '172 patent never defines the presentation format as the format written to an optical disk such than an optical disk player would be able to play the video. Rather the presentation format is based on the output media format and the desired video presentation standard.

The Examiner agrees with the Requester that Cleaner 5 discloses an MPEG file can be output and the MPEG format can additionally be formatted according to a desired video presentation standard. The Examiner also agrees with the Requester that Cleaner 5 discloses that it can output an MPEG-1 file modified for Video CD. This file is the "presentation format" because in the instance of VCD, the modified MPEG file is written to the VCD and is recognized by a player.

In addition, the Examiner points out that the Patent Owner states that the presentation format cited in the claim is the final format that written to disk (of claim 7). However, this statement is not supported by the claims or specification. The presentation format of claim 1 cannot be the final format even when claim 7 is considered. This is clear since, as admitted by the Patent Owner, multiplexing is part of the claims. In addition, several other dependent claims would also be necessary before the format can be written to disk. Dependent claim 7 does not occur in conjunction with the other dependent claims but is separate. Thus, claim 7 considered with claim 1 do not require claim 9 since it does not dependent upon claim 9.

Thus, the Patent Owner's argument is flawed since claim 1 does not require "authoring the video into the final format (presentation format) that must be the format written to disk media in dependent claim 7".

Claim 5 Arguments

The Patent Owner contends claim 5 recites, "the desired output media format is selected from either DVD, VCD, and Super VCD." The Patent Owner notes the Examiner contends that Cleaner 5 discloses that a user may output media in VCD Format, (Cleaner 5 at p. 209). Specifically, that Cleaner 5 states that a user can select the "Video CD preset in the Advanced Settings window" in Cleaner to "easily produce MPEG-1 files for Video CD project," (Cleaner 5 at p. 209). However, the section of the manual referenced by the Examiner does not cover output in a media format (such as DVD, VCD, or SVCD) that can be written to disk media, but instead covers output in files or streams such as described in the MPEG specification. The same page of Cleaner 5 referenced by Examiner clearly states "To author Video CDs, you'll also need a CD-mastering application, such as Adaptec Toast or Easy-CD creator." (Cleaner 5 at p. 209). After a user selects MPEG-1 as the output, Cleaner 5 allows the user to tailor many parameters of the audio and video, however nowhere is there a description that these parameters are processed based on the input of the media format (DVD, VCD or SVCD) and the video presentation standard. Cleaner 5 requires the user to enter the parameters for the output video files or streams, instead of processing these parameters based on input of the media format (DVD, VCD or SVCD) and the video presentation standard (NTSC or PAL) as required by all the claims.

The Requester maintains that Cleaner 5 discloses that a user may output media in VCD format. The Requester further maintains that the claims do not recite authoring as a requirement.

The Examiner agrees with the Requester and also maintains that Cleaner 5 specifically discloses of output of VCD. As admitted by the Patent Owner a Video CD present in the advanced settings window can be selected.

In addition, the Patent Owner argues that "Cleanser 5 requires the user to enter the parameters for the output video files". The Examiner disagrees since Cleaner 5 does not "require" that a user enter parameters. Instead, a if a user desires they can change the parameters. Cleaner 5, by default, automatically selects the parameters based on the input and output media formats.

Cleaner 5, for example on page 205, notes that Cleaner's program has "default settings". The default parameters of Cleaner 5 selects the code that corresponding to the selected output media. Cleaner 5 does not state that a use must change the parameters only that the user can modify. Thus, the Patent Owner's argument that Cleaner 5 "requires" the user to enter the correct parameters is not persuasive and is contrary to the disclosure of Cleaner 5.

Claim 6 Arguments

The Patent Owner contends the only examples provided by the Examiner include a user selected data rate and frame rate, citing Cleaner 5 at pp. 59, 62, 64-65. The claims require adjusting the frame rate based on the desired video presentation standard (see claim 1). Therefore having the user adjust the frame rate as a quality setting to any frame rate is contrary to the

teaching of the specification where this parameter is automatically set to be consistent with the desired video presentation standard. The data rate discussed in Cleaner 5 is not a quality setting for the DVD media format.

The Requester maintains that the claim does not specify any automatic selection and Cleaner 5's disclosure of its capability of modifying the frame rate in response to a user selection meets the limitations of the claim as recited.

The Examiner agrees with the Requester and further notes that while the Patent Owner erred in concluding that Cleaner 5 requires the user to adjust the quality as opposed to having the parameters automatically set. The Examiner notes that Cleaner 5 provides default parameter settings with the option to have the use change the parameters. The default setting(or quality settings in this case) is sufficient to show that Cleaner 5 has code to process the input based on specific parameters.

The Examiner also notes that as pointed out by the Requester, the selection of MPEG-2 is related to DVD, and hence the selection of MPEG-2 is related to the media format of DVD. In addition, as will be further explained below the Examiner relies upon MPEG Charger which supplements Cleaner 5 to include addition DVD format selection.

As noted on page 206 of Cleaner 5, Cleaner 5 specifically discloses "[e] lementary streams are useful for certain DVD-Video authoring software applications..." In addition, on page 62 of Cleaner 5, Cleaner 5 discloses that MPEG-2 is the format used for DVD-Video. Cleaner 5 discloses that DVD-Video's data rate is 5/7 Mbits/sec and is used by Cleaner's default MPEG-2 setting. Thus, Cleaner's parameters for MPEG-2 are based on the DVD media format.

Claim 7 Arguments

The Patent Owner contends Examiner argues Cleaner 5 discloses writing the video and audio information in the presentation format onto a disk media such as CD-ROM or DVD-ROM citing Cleaner 5 at p. 144. However, the supported formats identified by Examiner are formats for writing data to a CD disk and DVD disk, not video according to the output media format (DVD, VCD or SVCD specification). Importantly, the Cleaner 5 does not disclose support for writing these data formats listed by Examiner. All the formats Cleaner 5 supports for writing video and audio are listed on page 141, and the list does not include DVD, VCD or SVCD. Further, the Cleaner 5 admits an additional application is required to prepare and write video to a VCD (or DVD). "To author Video CDs, you'll also need a CD-mastering application, such as Adaptec Toast or Easy- CD creator." (Cleaner 5, p. 209). Cleaner 5 alone can't write video in a presentation format onto disk media, instead Cleaner 5 admits additional processing by another application is required.

The Requester notes that while Cleaner 5 alone cannot create VCDs that are playable on a media player that reads VCD formatted optical disks, the reference very clearly discloses that Cleaner 5 can write the video and audio information to a disk media or Cleaner 5 can be used in conjunction with another program to write the information to an optical disk playable by a media player.

The Examiner notes that a prior art reference is prior art for everything that it teaches. As admitted by the Patent owner Cleaner 5 discloses that it was well known in the art to use CD-mastering applications for writing video onto a disc media. Thus, the Cleaner 5 reference

anticipates the claimed limitation since it clearly discloses of writing the information to a disc media. Cleaner 5 discloses of having the user select e.g., the VCD preset if the user desires to format the file for disc authoring.

Claim 8 Arguments

The Patent Owner contends dependent claim 8 requires VOB (Video Object for DVD) as the presentation format for DVD, not MPEG-2. MPEG-2 is an intermediary file and requires disk authoring step to convert it into a VOB which is the presentation format for DVD. Similarly, MPEG-1 that is made to be VCD compliant is not the presentation format for VCD nor is MPEG-2 made to be SVCD compliant the presentation format for SVCD. These MPEG-1 and MPEG-2 files need disk authoring to be converted into the presentation format for VCD and SVCD. The terms "VCD MPEG1" and "SVCD MPEG2" refer to the presentation formats for VCD and SVCD, which correspond to VOB for DVD video. The MPEG- 1 and MPEG-2 streams are not presentation formats as required by claim 8.

The Examiner maintains that as noted by the Requester, MPEG-1 files modified for Video CD, as disclosed in Cleaner 5 is the presentation format for VCD. Thus, Cleaner 5 meets the VCD MPEG1 limitations from the claimed group.

In addition, as noted by the Requester, the claim do not recite authoring as a requirement and thus the presentation format is not required to be in a format for an optical disc.

The Examiner notes that the Patent Owner states that VCD MPEG1 and SVCD MPEG2 refer to the presentation formats for VCD and SVCD <u>which correspond to VOB for DVD video.</u> The Examiner notes that VCD MPEG1 and SVCD MPEG2 <u>does not</u> correspond to VOB for

DVD video since the claim lists VOB, VCD MPEG 1 and SuperVCD MPEG2 as being distinct presentation formats.

As noted above, the Patent Owner states that MPEG-1 that is made to be VCD compliant is not the presentation format for VCD since these files need disk authoring to be converted into the presentation format for VCD. The Examiner, as noted above, maintains that "disk authoring" is not a claimed limitation. In addition, assuming *arguendo* that MPEG-1 that is made to be VCD compliant is not the presentation format for VCD, Cleaner 5 discloses using disk authoring software for the files. Thus, the Cleaner 5 reference discloses of at least VCD MPEG1 as the presentation format that is selected.

Claim 10 Arguments

The Patent Owner contends the Examiner argues Cleaner 5 discloses audio information is tuned to a desired frequency based upon the desired output media format because a user may use MP3 audio files and "the MP3 default sample rate is 44.1 kHz, which is also the sample rate of audio CDs," (Cleaner 5 at p. 212). However, MP3 is not an output media format as described and claimed in the '172 patent. Because Cleaner 5 does not have code for receiving an "output media format," it also does not have code for tuning to a frequency based on the output media format.

The Examiner notes that as stated by the Requester, Cleaner 5 specifies that the disclosure of audio optimization apply to all other media formats, (as noted on page 95). The Examiner focused on MP3 since it specifies a frequency of 44.1 kHz which is further described as a requirement in claim 11. The Examiner notes that the 44.1 kHz rate is the frequency is the CD quality rate. In relation to VCD, a VCD is a Video CD, hence the selection for a Video CD

would necessarily select a specific frequency for CD. In this case. the Examiner's citation to MP3 shows that a CD would have a frequency of 44.1 kHz.

The '172 patent specification discloses that this is the conventional frequency for VCD (see TABLE 2). Thus, by selecting VCD MPEG-1 as the output in Cleaner 5 the frequency associated with VCD is selected. As noted above, MP3 shows that Cleaner 5 considers "frequency" when selecting frequency

Claim 11 Arguments

The Patent owner contends the Examiner argues Cleaner 5 discloses various desired frequencies including 44.1 kHz for use with VCD, (Cleaner 5 at pp. 212-213,209). However, the pages cited by the examiner relate to MP3 audio, not VCD audio as quoted. MP3 is not an output media format and Cleaner 5 does not select a frequency based on receiving an input of VCD or any other output media format.

As noted above with respect to claim 10 Arguments, the Examiner notes that as stated by the Requester, Cleaner 5 specifies that the disclosure of audio optimization apply to all other media formats, (as noted on page 95). The Examiner notes that the 44.1 kHz rate is the frequency is the CD quality rate. In relation to VCD, a VCD is a Video CD, hence the selection for a Video CD would necessarily select a specific frequency for CD. In this case. the Examiner's citation to MP3 shows that a CD would have a frequency of 44.1 kHz.

The '172 patent specification discloses that this is the conventional frequency for VCD (see TABLE 2). Thus, by selecting VCD MPEG-1 as the output in Cleaner 5 the frequency

associated with VCD is selected. As noted above, MP3 shows that Cleaner 5 considers "frequency" when selecting frequency

Claim 16 Arguments

The Patent Owner contends as with the limitation "continuous pass conversion process free from one or more intermediary files" in claim 1, the preamble "an integrated computer software application" breathes life into the claim by providing the required language for a system that performs a continuous process to output a presentation format based upon a desired output media format and a desired video presentation standard. The Patent Owner contends Cleaner 5 does not disclose an integrated computer software application that performs the video file conversion and the disk authoring in a continuous process.

The Requester points out that Cleaner 5 discloses an integrated computer software application since an integrated software application can be a collection of computer programs that work as a unit. The Requester points out that Cleaner 5 in combination with Adaptec Toast or Easy CD-Creator clearly meets this definition because Cleaner 5 specifically identifies these CD-mastering programs as working together with Cleaner 5.

The Examiner agrees with the Requester and repeats that the Patent Owner is requiring "disk authoring in a continuous process" however, the claim makes no such requirement. The Patent Owner has not shown what Cleaner 5 lacks based on the claim language. Since neither "disk authoring" nor "continuous process" is cited in claim 16 the Examiner maintains his current position.

The Patent Owner also states that Cleaner 5 does not discloses "a code directed to processing the elementary video stream with audio information in the desired output media format and the desired video presentation standard to form video and audio information in a presentation format based upon the desired output media format and the desired video presentation format. The Examiner notes, that the Patent Owner has not explained why Cleaner 5 does not disclose the limitation in this section; however the Patent Owner did reference an above citation which apparently is in reference to claim 1. The Examiner maintains for the reasons noted with the limitation in claim 1, that he Patent Owner is arguing limitations which are not claimed.

Claim 19 Arguments

The Patent Owner contends claim 19 recites "a process free from one or more intermediary files" in the preamble, which is a limitation of claim 19. As explained above, Cleaner 5 discloses outputting MPEG-1 or MPEG-2 that are intermediary files. Cleaner 5 does not disclose a process free from generating one or more intermediary files.

The Examiner maintains that Cleaner 5 discloses that it can output an MPEG-1 file modified for Video CD. The modified MPEG file is also written to the VCD and is recognized by a player. The Examiner notes that Cleaner 5 does not disclose that files are stored during the conversion process and thus Cleaner 5 is "free from one or more intermediary files. The Examiner agrees that final output of the VCD MPEG-1 file onto a disc requires disc authoring software, however, this is not required by claim 19. The Examiner maintains that Cleaner 5

discloses this limitation since all steps are performed without relying upon stored files that are stored during the conversion process.

In addition, the Patent Owner does not explain, in this section, why they maintain that Cleaner 5 does not disclose "multiplexing the elementary video stream with audio information in the desired output media format and the desired video presentation standard to form video and audio information in a presentation format based upon the desired output media format and the desired video presentation standard. As noted in the rejection of the claims, Cleaner 5 anticipates these limitations. The Examiner acknowledges that the Patent Owner references "above" remarks; however those above remarks pertain to limitations which are not claimed.

Cleaner 5 in view of MPEG Charger

Claim 5

The Patent Owner contends the section of Cleaner 5 referenced by Examiner does not cover output in a media format (such as DVD, VCD, or SVCD) that can be written to disk media, but instead covers output in files described in the MPEG specification. The pages of Cleaner 5 and MPEG Charger referenced by Examiner clearly states "To author Video CDs, you'll also need a CD-mastering application, such as Adaptec Toast or Easy-CD creator." (Cleaner 5 at p. 209; MPEG Charger at p. 9). MPEG Charger does not remedy the deficiencies of Cleaner 5 since MPEG Charger also cannot accept the selection of DVD or VCD as the output

nor can MPEG Charger process video based upon the output media format received into a presentation format for writing to disk media, as required by the claims.

The Examiner notes that MPEG Charger specifically states that Cleaner 5 has an option that provides for Making Video CDs. MPEG Charger Specifically states that Video CD requires MPEG-1 video and special Video CD formatting. MPEG Charger explains that you can easily produce MPEG-1 files for your Video CD projects in Cleaner by selecting the Video CD preset in the Advanced Settings Window. Thus, Cleaner 5 along with MPEG Charger discloses of VCD MPEG1.

Thus, Cleaner 5 supports VCD as an output and by selecting the Video CD preset Cleaner 5 formats the files for presentation to the Video CD disc media.

Claim 6

The Patent Owner contends the only examples provided by the Examiner include the user selected data rate and frame rate, citing Cleaner 5 at pp. 59, 62, 64-65. The claims require code for adjusting the frame rate based on the desired video presentation standard (see claim 1). Therefore having the user adjust the frame rate as a quality setting to any flame rate is contrary to the teaching of the specification where this parameter is automatically set to be consistent with the desired video presentation standard. The data rate discussed in Cleaner 5 is not a quality setting for the DVD media format. Cleaner 5 cannot accept an input specifying DVD as the media format for output as discussed in section VII(2) above, therefore the user selected data rate cannot be a quality setting "when the desired output media format is DVD."

The Examiner first agrees with the Requester that the claims do not require a frame rate to be automatically selected. In addition, the Examiner notes that Cleaner 5 is disclosed to have default settings. Thus, the selection of a specific media format will automatically set the default quality settings for that specific media selection.

Claim 8

The Patent Owner contends dependent claim 8 requires VOB (Video Object for DVD) as the presentation format for DVD, not MPEG-2. MPEG-2 is an intermediary file and requires a disk authoring step to convert it into a VOB which is the presentation format for DVD. Similarly, MPEG-1 that is made to be VCD compliant is not the presentation format for VCD nor is MPEG-2 made to be SVCD compliant the presentation format for SVCD. These MPEG-1 and MPEG-2 files need disk authoring to be converted into the presentation format for VCD and SVCD. The terms "VCD MPEG1" and "SVCD MPEG2" refer to the presentation formats for VCD and SVCD, which correspond to VOB for DVD video. The MPEG- 1 and MPEG-2 streams are not presentation formats as required by claim 8.

The Examiner maintains that Cleaner 5 discloses writing the video and audio information in the presentation format to VCD. Specifically, Cleaner 5 states that one can "produce MPEG-1 files for your Video CD projects in Cleaner by selecting the Video CD preset in the Advance Settings Window," (Cleaner 5 at p. 209). In addition, as noted in the rejection MPEG Charger discloses that the user is allowed to create MPEG streams for DVD, Video CD and CD ROM (page 8). Thus, at least VCD MPEG1 is clearly supported and is part of the group as claimed.

Washino Arguments

The Patent Owner first contends that Washino does not raise a substantial new question of patentability because the previous Examiner considered this reference during the prosecution. The Examiner agrees that Washino was cited but maintains that Washino was not relied upon in a rejection of the claims of this instant patent. As noted in the order grated reexamination it was noted that Washino was not discussed on the record during the prosecution of the application which became the '172 patent. Indeed, as pointed out by the Patent Owner, the previous Examiner in the parent, previously rejected most of the claims under Washino. No arguments were provided by the Patent Owner/applicant regarding the patentability of the claims over Washino. While the Examiner considered and relied upon Washino in the parent patent case, the Examiner, as noted above, did not comment on Washino during the prosecution of the '172 patent.

Thus, for the reasons set forth in the Order granting reexamination, the Examiner maintains that Washino was properly relied upon for establishing a SNQ.

In addition, the Examiner notes the following:

> On November 2, 2002, Public Law 107-273 was enacted. Title III, Subtitle A, Section 13105, part (a) of the Act revised the reexamination statute by adding the following new last sentence to 35 U.S.C. 303(a) and 312(a):
>
> > "The existence of a substantial new question of patentability is not precluded by the fact that a patent or printed publication was previously cited by or to the Office or considered by the Office."
>
> For any reexamination ordered on or after November 2, 2002, the effective date of the statutory revision, reliance on previously cited/considered art, i.e., "old art," does not necessarily preclude the existence of a substantial new question of patentability (SNQ) that is based exclusively on that old art. Rather, determinations on whether a SNQ exists

in such an instance shall be based upon a fact-specific inquiry done on a case-by-case basis.

Preamble of Claim 1 Arguments

The Patent Owner contends the "continuous pass conversion process from one or intermediary files" requires the claimed method to prove an output, i.e., the video and audio information in a presentation format, in a continuous process without stopping once inputs are received at the start of the process. File conversion and disc authoring are performed in a single continuous process.

The Examiner disagrees and maintains that the claim make not requirement that file conversion and disc authoring are performed in a single continuous process for claim 1. Indeed, writing to disc is not even claimed until dependent claim 7. The "free from one or more intermediary files" is not even a claimed limitations until dependent claim 12.

The Patent Owner's arguments are flawed since their interpretation of the claims requires limitations which are not claimed.

The Requester likewise maintains that the claim does not recite disc authoring. In addition, the Requester shows that Washino discloses writing or recording the video and audio information onto a disk media, such as DVD (see col. 6, lines 48-60).

The Patent Owner also incorrectly noted that the Examiner allowed claims 1-12 and 15 over Washino having studied it while examining App. No. 10/201,999, the parent application of App. No. 11/342,260 (or the '172 patent). As noted during the prosecution of the '999 application, the Examiner rejected claims 1-12 and 15. The applicant (i.e. Patent Owner) then

canceled those claims. There has been no reason set forth during the prosecution which discusses the Washino reference thus it is unknown from the record why the claims were allowed after those claims were previously rejected in the '999 application.

Inputting a desired output media format based upon a second input" Argument

The Examiner again repeats that the Patent Owner's arguments are flawed since the term "output media format" requires a video format for optical disk media. As noted above, the claim simply makes no such requirement.

In addition, the Patent Owner admits that Washino describes writing a video file as data to a DVD-ROM. This explicitly reads on selecting a video format for optical disk media since DVD ROM is an output that can be selected.

The Requester likewise notes that optical disk is not required in the claims and further notes that specification includes other formats. In Washino selection of a NTSC/PAL or HDTV as an output format is disclosed. The Examiner notes that the output media format described in the specification includes other media types that are desired by the user. There is no limit on the media type that can be selected.

Directly resizing the raw video information in the uncompressed format into a size associated with the desired output media format and the desired video presentation standard.

The Patent Owner maintains that the term "output media format" is identified in both the claims and specification as a standard video format for optical disk media and that the intermediary file created by Washino cant' be the "output media format" of claim 1 because the

claim recites "a continuous pass conversion process free from one or more intermediary files" and all the steps relating to processing including the present step all recite "directly" to indicate these steps are performed continuously without creating an intermediary field in the middle of the process.

The Examiner again maintains that the claim does not recite media format for "optical disk". In addition claim 1 cannot require not using "one or more intermediary files" since this is not even claimed until claim 12; thus, the preamble has no weight since the cited "one or more intermediary files" is not required in claim 1 due to this term being claimed in claim 12.

In addition, the Examiner notes that the Requester maintains an NTSC/PAL or HDTV file falls within the broadest reasonable interpretation of the term output media format. Even under a narrower interpretation of output media wherein the output media must be an optical disk. The Requester maintains that NTSC/PA: or HDTV file is a format associated with VCD and DVD.

Directly processing the elementary video stream with audio information in the desired output media format and the desired video presentation standard to form video and audio information in a presentation based upon the desired output media format and the desired video presentation standard" Argument

The Patent Owner contends this limitation requires authoring the video into the final format (presentation format) that must be the format written to disk media in dependent claim 7.

The Examiner notes that the limitations makes no such requirement because as admitted by the patent owner "multiplexing" is required for presentation format and yet that limitation is not present in claim 1.

The Requester notes that Washino discloses that it can output an MPEG-1 file and such a modified MPEG file is the "presentation format" as interpreted by the Patent Owner because in the instance of VCD, the modified MPEG file is written to the VCD and is recognized by a player.

The Examiner agrees with the Requester and maintains that Washino discloses an MPEG file can be output and the MPEG format can additionally be formatted according to a desired video presentation standard.

Claim 5 Arguments:

The Patent Owner contends that Washino does not mention the formats of DVD, VCD and Super VCD.

The Examiner maintains that Washino states that "[i]mages are recorded by writing the digital data to storage devices employing internal or removable hard-disk drives, disk drives with removable media, optical or magneto-optical based drives, DVD-R or DVD-RAN type drives, tape-based drives, or semiconductor-based memory deices, preferably in compressed-data form." (Washino, Col. 6, lines 48-60).

Claim 6 Arguments

The Patent Owner contends that since Washino does not disclose an input specifying DVD as the media format for output then it does not disclose a quality setting.

The Examiner notes that as pointed out by the Requester, Washino discloses quality editing for multi-format video production, (col. 1, lines 14-21) and Washino specifically discloses that if DVD type storage is selected a higher data compression can be used to fit an entire program of 120 minutes onto the storage media, (col. 17, lines 52-62).

Claim 7 Arguments

The Patent Owner contends that Washino does not disclose writing video in a presentation format onto disk media; instead Washino only discloses writing a file to DVD-ROM as data.

The Examiner notes that Washino specifically disclose writing or recording the video and audio information onto a disk media such as DVD, (col. 6, lines 48-60).

Claim 8 Arguments

The Patent Owner contends that Washino does not disclose a VOB or any other presentation format for writing video to a DVD disk.

The Examiner notes that Washino specifically disclose wherein the digital file can be distributed in MPEG-2 format and recorded onto DVD, (Washino col. 5, lines 19-34). The Examiner also notes that VOB is not the only recited presentation format. The claim also recites

VCD MPEG1 and SuperVCD MPEG2. and noted in the above citation MPEG-2 is a presentation format that can be selected.

Claim 10 Arguments

The Patent Owner contends that Washino does not tune to a desired frequency based upon the desired output media.

The Examiner notes that Washino discloses adjusting the audio data in accordance with the video output, (col. 22, lines 43-67).

Claim 11 Arguments

The Patent Owner contends that Washino does not tune to a desired frequency based on receiving an input of DVD, VCD or any other output media format.

The Examiner notes that Washino discloses writing audio-video to DVD, thus inherently requires an audio frequency of at least 48 kHz, (col. 5, lines 19-34).

Claim 19 Arguments

The Patent Owner contends that Washino teaches using an intermediary storage format for converting an input video format to an output video format. The Examiner notes that part of the Patent Owner's argument is also based on Washino not disclose disk authoring; however, as noted above, this is not a claimed element. For the reasons noted above, the Patent Owner is arguing limitations which are not claimed.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Issue 1 (Adopted)

5. Claims 1-19 rejected under 35 U.S.C. 102(b) as being anticipated by Cleaner 5 User Manual.

Regarding claim 1:

A method for converting video information from an incoming format to an outgoing format using a continuous pass conversion process free from one or more intermediary files, the method comprising:

Cleaner 5 discloses a system for converting incoming DV to an outgoing MPEG-1 or MPEG-2 stream, (Cleaner 5 at pp. 141,206). Additionally, Cleaner 5 uses a continuous pass (e.g., single pass) conversion process to encode movies free from intermediary files into a single file, (Cleaner 5 at pp. 64, 206).

inputting video information in a first format;

Cleaner 5 discloses a capture code directed to receiving source material in DV format (i.e., video information in a first format) from a DV camera, (Cleaner 5 at pp. Capturing Video pg. 5; Capturing with MotoDV pg. 8 and 141).

directly converting the video information in the first format to raw video information in an uncompressed format;

Cleaner 5 decodes and converts the DV stream format video information to an uncompressed raw video format, such as YUV, (Cleaner 5 at p. 138).

inputting a desired output media format based upon a first input;

Cleaner 5 discloses allowing a user to select a different output media format based upon a first input. For example, the user "can easily produce MPEG-1 files for Video CD projects by selecting the Video CD preset in the Advanced Settings window," (Cleaner 5 at p. 209). Cleaner 5 also supports MPEG-2 files for the DVD output media format, (Cleaner 5 at p. 62).

inputting a desired video presentation standard based upon a second input;

Cleaner 5 discloses that a user may choose between NTSC or PAL (i.e., desired video presentation) based upon the preset (i.e., second input) the user selects, (Cleaner 5 at pp. 204 and 205). In addition, as stated on page 206, while pertaining to images, Cleaner clearly discloses that "You can choose whether you want to make an NTSC-compatible or a PAL-compatible stream". Thus, Cleaner 5 discloses that a user can be an input (second input) to select a destined TV standard.

directly resizing the raw video information in the uncompressed format into a size associated with the desired output media format and the desired video presentation standard;

Cleaner 5 discloses converting the uncompressed raw video information to the selected image size through a resizing operation, (Cleaner 5 at p. 204). In Cleaner 5, 720 x 480 pixels is the image size associated with an MPEG 2 output media format in an NTSC TV standard, (Cleaner 5 at p. 204). Additionally, 720 x 576 pixels is the image size associated with an MPEG 2 output media format in a PAL TV standard, (Cleaner 5 at p.

204). The Examiner notes that by selecting the desired output format the raw video information would be resized in accordance with the selected desired output format.

directly adjusting the uncompressed format in the size associated with the desired output media format and the desired video presentation standard to a frame rate associated with the desired video presentation standard;

Cleaner 5 discloses a flame rate of 29.97 frames per second is associated with MPEG 1 and MPEG 2 output media formats for the NTSC TV standard and a flame rate of 25 frames per second is associated with MPEG 1 and MPEG 2 output media formats for the PAL TV standard, (Cleaner 5 at p. 207).

directly processing the uncompressed format in the size and the frame rate into an elementary video stream; and

Cleaner 5 discloses that a user can select to process the video into an elementary video stream when outputting MPEG 1 and MPEG 2 files, (Cleaner 5 at p. 206 - Stream Type).

directly processing the elementary video stream with audio information in the desired output media format and the desired video presentation standard to form video and audio information in a presentation format based upon the desired output media format and the desired video presentation standard.

Cleaner 5 discloses that when an MPEG 1 system stream is selected, the elementary video stream is processed or multiplexed with the audio stream to form a single multiplexed stream of audio and video information in the desired NTSC or PAL TV standard based on the desired MPEG 1 or VCD output media format, (Cleaner 5 at p. 7, 206).

Regarding claim 2:

The method of claim 1 wherein the first format is selected from a digital file, a digital captured video stream, an analog captured video stream, and an internet video stream.

Cleaner 5 discloses reading an input format (i.e., first format) in a number of formats, including digital video (DV), AVI files, MPEG1 and MPEG2, (Cleaner 5 at p. 141). Page 141 lists the supported formats.

Regarding claim 3:

The method of claim 2 wherein the digital file is selected from an AVI format, an MPEG format, a DV format, a QuickTime format, Real Video format, Windows Media Player format.

Cleaner 5 discloses selecting from an AVI format, an MPEG format, a DV format, a QuickTime format, and other multimedia formats, (Cleaner 5 at p. 141).

Regarding claim 4:

The method of claim 1 wherein the uncompressed format is selected from RGB, and YUV.

Cleaner 5 decodes and converts the DV stream format video information to an uncompressed format, such as YUV, (Cleaner 5 at p. 138).

Regarding claim 5:

The method of claim 1 wherein the desired output media format is selected from either DVD, VCD, and Super VCD.

Cleaner 5 discloses that a user may output media in VCD format, (Cleaner 5 at p. 209). Specifically, Cleaner 5 states that a user can select the "Video CD preset in the Advanced

Settings window" in Cleaner to "easily produce MPEG-1 files for Video CD project,"(Cleaner 5 at p. 209).

Regarding claim 6:

The method of claim 5 further comprising inputting a quality setting based upon a third input when the desired output media format is DVD.

Cleaner 5 discloses that a user may select a third input for specifying quality settings based on a variety of parameters, (Cleaner 5 at p. 59). For example, Cleaner 5 discloses quality settings such as data rate, and frame rate, (Cleaner 5 at pp. 59, 62, 64-65). Furthermore, Cleaner 5 discloses that when the output format is DVD, a data rate acceptable to DVD formats are required and Cleaner 5 uses a data rate of 5.7 Mbits/sec which is used by Cleaner' s default MPEG-2 setting, (Cleaner 5 at p. 62).

Regarding claim 7:

The method of claim 1 further comprising writing the video and audio information in the presentation format onto a disk media.

Cleaner 5 discloses writing the video and audio information in the presentation format onto a disk media such as CD-ROM or DVD-ROM, (Cleaner 5 at p. 144).

Regarding claim 8:

The method of claim 1 wherein the presentation format is selected from VOB(Video Object for DVD), VCD MPEG1, and SuperVCD MPEG2.

Cleaner 5 discloses writing the video and audio information in the presentation format onto a disk media. For example an MPEG 1 system stream for VCD, (Cleaner 5 at p. 206). Specifically, Cleaner 5 allows the user to "choose between creating MPEG-1 or MPEG-2 streams" when MPEG 1 is used for VCD output, (Cleaner 5 at p. 206 and 209).

Regarding claim 9:

The method of claim 1 wherein the processing of the elementary video stream with audio information comprises a multiplexing process.

Cleaner 5 discloses a code directed to processing an elementary video stream with audio information, for example, Cleaner 5 lets the "[user] select between System or Elementary streams for MPEG-1 files and Program or Elementary streams for MPEG-2," (Cleaner 5 at p. 206). Additionally, the user will "output to System (MPEG-1) or Program (MPEG-2) streams, in which both the video and audio are muxed (multiplexed) into a single file," (Cleaner 5 at p. 206).

Regarding claim 10:

The method of claim 1 wherein the audio information is tuned to a desired frequency based upon the desired output media format.

Cleaner 5 discloses audio information is tuned to a desired frequency based upon the desired output media format, (Cleaner 5 at p. 212). In Cleaner 5, a user may use MP3 audio files and "the MP3 default sample rate is 44.1 kHz, which is also the sample rate of audio CDs," (Cleaner 5 at p. 212).

Regarding claim 11:

The method of claim 10 wherein the desired frequency is selected from 48 kHz for DVD, 44.1 kHz for VCD and SVCD.

Cleaner 5 discloses various desired frequencies including 44.1 kHz for use with VCD, (Cleaner 5 at pp. 212-213,209).

Regarding claim 12:

The method of claim 1 wherein the directing converting, directly resizing, and directly adjusting, and directly processing are performed free from one or more intermediary files.

Cleaner 5 discloses direct converting, direct adjusting and directly processing are performed free from one or more intermediary files, (Cleaner 5 at p. 206). Specifically, the user will "output to System (MPEG-1) or Program (MPEG-2) streams, in which both the video and audio are muxed (multiplexed) into a single file," (Cleaner 5 at p. 206).

Regarding claim 13:

The method of claim 1 further comprising processing the raw video information based upon video editing information based upon a fourth input.

Cleaner 5 is directed to processing raw video information based upon video editing information from a user, which is a fourth input. For example, Cleaner 5 is a software application for cropping or trimming video based on In/Out points selected by the user, (Cleaner 5 at p. 25). Moreover, cropping allows the user to specify the part of the image they want to keep and trimming allows the user to set in and out points, designating the points to start and end, (Cleaner 5 at p. 25).

Regarding claim 14:

The method of claim 1 further comprising processing the audio information based upon audio editing information based upon a fifth input.

Cleaner 5 can be directed to processing audio information based upon Noise Removal (i.e., audio editing information) after the user selects the clean-up filter, which constitutes a fifth input, (Cleaner 5 at p. 95). Specifically, "Cleaner offers professional- quality resampling, as well

as a range of clean-up filters, such as Noise Removal, Noise Gate and High/Low Pass, to optimize your audio," (Cleaner 5 at p. 95).

Regarding claim 15:

The method of claim 1 wherein the processing for converting into the elementary video stream is provided in an encoding process and the converting to the raw video information is provided in a decoding process.

Cleaner 5 is directed to converting raw video information to the elementary video stream is performed through encoding, (Cleaner 5 at p. 206). Additionally, Cleaner 5 discloses converting to YUV raw video information is performed through decoding, (Cleaner at p. 138). Specifically, "Cleaner 5 decodes files significantly faster by using a combination of native YUV processing and Digital Origin's DV codec. Cleaner also offers several decoding options through the Preferences dialog that allow you to choose between higher quality or faster decoding," (Cleaner 5 at p. 138).

Regarding claim 16:

A system for converting video information from an incoming format to an outgoing format using an integrated computer software application, the integrated computer software application being provided on one or more memories, the one or more memories including:

Cleaner 5 discloses a system for converting incoming DV (Digital Video) to an outgoing MPEG-1 or MPEG-2 stream, (Cleaner 5 at pp. 141,206). As shown on page 141, Cleaner 5 lists the supported formats that can be read and written. Page 206 discloses how one would select the outgoing format using a software based pop-up menu.

Cleaner 5 is an application that is run on a computer running Windows or Mac OS, which includes one or more memories, (Cleaner 5 at p. 2). Since programs running in a Windows or Mac OS environment are always run from one or more memories, Cleaner 5 too, is provided on one or more of those memories, (Cleaner 5 at p. 141).

a code directed to receiving video information in a first format;

Cleaner 5 discloses a capture code directed to receiving source material in DV format (i.e., video information in a first format) from a DV camera, (Cleaner 5 at pp. Capturing Video pg. 5; Capturing with MotoDV pg. 8 and 141).

a code directed to receiving a desired output media format based upon a first input;

Cleaner 5 discloses allowing a user to select a different output media format based upon a first input. For example, the user "can easily produce MPEG-1 files for Video CD projects by selecting the Video CD preset in the Advanced Settings window," (Cleaner 5 at p. 209).

a code directed to receiving a desired video presentation standard based upon a second input;

Cleaner 5 discloses that a user may choose between NTSC or PAL (i.e., desired video presentation) based upon the preset (i.e., second input) the user selects, (Cleaner 5 at pp. 204 and 205). In addition, as stated on page 206, while pertaining to images, Cleaner clearly discloses that "You can choose whether you want to make an NTSC-compatible or a PAL-compatible stream". Thus, Cleaner 5 discloses that a user can be an input (second input) to select a destined TV standard.

a code directed to converting the video information in the first format to raw video information [in] an uncompressed format using a decoding process;

Cleaner 5 decodes and converts the DV stream format video information to an uncompressed raw video format, such as YUV, (Cleaner 5 at p. 138).

a code directed to resizing the raw video information in the uncompressed format into a size associated with the desired output media format and the desired video presentation standard;

Cleaner 5 discloses converting the uncompressed raw video information to the selected image size through a resizing operation, (Cleaner 5 at p. 204). In Cleaner 5, 720 x 480 pixels is the image size associated with an MPEG 2 output media format in an NTSC TV standard, (Cleaner 5 at p. 204). Additionally, 720 x 576 pixels is the image size associated with an MPEG 2 output media format in a PAL TV standard, (Cleaner 5 at p. 204). The Examiner notes that by selecting the desired output format the raw video information would be resized in accordance with the selected desired output format.

a code directed to adjusting the uncompressed format in the size associated with the desired output media format and the desired video presentation standard to a frame rate associated with the desired video presentation standard;

Cleaner 5 discloses a flame rate of 29.97 frames per second is associated with MPEG 1 and MPEG 2 output media formats for the NTSC TV standard and a flame rate of 25 frames per second is associated with MPEG 1 and MPEG 2 output media formats for the PAL TV standard, (Cleaner 5 at p. 207).

a code directed to processing the uncompressed format in the size and the frame rate into an elementary video stream;

Cleaner 5 discloses that a user can select to process the video into an elementary video stream when outputting MPEG 1 and MPEG 2 files, (Cleaner 5 at p. 206 - Stream Type).

a code directed to processing the elementary video stream with audio information in the desired output media format and the desired video presentation standard to form video and audio information in a presentation format based upon the desired output media format and the desired video presentation standard; and

Cleaner 5 discloses that when an MPEG 1 system stream is selected, the elementary video stream is processed or multiplexed with the audio stream to form a single multiplexed stream of audio and video information in the desired NTSC or PAL TV standard based on the desired MPEG 1 output media format, (Cleaner 5 at p. 7, 206).

a code directed to receiving video editing information based upon a third input.

Cleaner 5 discloses that a user may select a third input for specifying quality settings based on a variety of parameters, (Cleaner 5 at p. 59). For example, Cleaner 5 discloses quality settings for video editing such as data rate, and frame rate, (Cleaner 5 at pp. 59, 62, 64-65).

Regarding claim 17:

The system of claim 16 further comprising a code directed to receiving audio editing information based upon a fourth input.

Cleaner 5 discloses receiving audio information that can be edited using a number of different filters (i.e., fourth input). Cleaner 5 at p. 95. For example, these filters include noise

removal filters, noise gate filters, high/low pass filters, dynamic range compression filters and reverb filters, (Cleaner 5 at p. 95).

Regarding claim 18:

The system of claim 16 wherein the integrated computer software application is a single integrated application.

Cleaner 5 is a single integrated computer software application which "offers a complete camera-to-web solution that makes it easy to put video and audio on your site," (Cleaner 5 at p. 1).

Regarding claim 19:

A method for converting video information from an incoming format to an outgoing format using a process free from one or more intermediary files, the method comprising:

Cleaner 5 discloses a software application for converting video information from an incoming format, such as a DV stream or QuickTime file to an outgoing format, such as MPEG 1 or MPEG 2, free from intermediary files, (Cleaner 5 at pp. 141,206).

receiving video information in a first format;

Cleaner 5 discloses receiving source material (i.e., video information in a first format) shot with a DV camera, (Cleaner 5 at p. 5).

receiving a desired output media format based upon a first input and a desired video presentation standard based upon a second input;

Cleaner 5 discloses allowing a user to select an output media format, such as MPEG-1, based upon an input, such as the Video CD preset, (Cleaner 5 at pp. 141,209). Specifically, a user "can easily produce MPEG-1 file for [their] Video CD projects.., by selecting the Video CD

preset in the Advanced Settings window," (Cleaner 5 at p. 209). Cleaner 5 also supports MPEG-2 files for the DVD output media format, (Cleaner 5 at p. 62).

decoding the video information in the first format to raw video information in an uncompressed format;

Cleaner 5 decodes and converts the DV stream format video information to an uncompressed format, such as YUV, (Cleaner 5 at p. 138).

directly resizing the raw video information in the uncompressed format into a size associated with the desired output media format and the desired video presentation standard and adjusting the uncompressed format in the size associated with the desired output media format and the desired video presentation standard to a frame rate associated with the desired video presentation standard;

Cleaner 5 discloses converting the uncompressed raw video information into a resolution size of 720x480 pixels which is associated with the DVD media format and the NTSC video presentation standard, (Cleaner 5 at p. 62, 204, 209). Moreover, Cleaner 5 discloses using the pop-up menu to adjust the frame rate of the uncompressed format to 29.97 frames per second (fps) which is associated with the NTSC video presentation standard, (Cleaner 5 at p. 207). Moreover, a user may "choose a frame rate between 23.967 - 60 frames per second,"(Cleaner 5 at p. 207).

encoding the uncompressed format in the size and the frame rate into an elementary video stream; and

Cleaner 5 discloses encoding the YUV uncompressed format, (Cleaner 5 at p. 138). Additionally, Cleaner 5 discloses "[t]he Stream Type pop-up menu lets you select between

System or Elementary streams for MPEG-1 files and Program or Elementary streams for MPEG-2," (Cleaner at p. 206). Thus, the YUV uncompressed format is encoded to a size and frame rate of an MPEG-1 elementary stream, (Cleaner 5 at pp. 138, 206).

multiplexing the elementary video stream with audio information in the desired output media format and the desired video presentation standard to form video and audio information in a presentation format based upon the desired output media format and the desired video presentation standard.

Cleaner 5 discloses that when an MPEG 1 system stream is selected, the elementary video stream is processed or multiplexed with the audio stream to form a single multiplexed stream of audio and video information in the desired NTSC or PAL TV standard based on the desired VCD output media format, (Cleaner 5 at p. 7 and p. 206).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 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 of this title, 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.

Issue 2 (Adopted)

7. Claims 5, 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cleaner 5 in view of MPEG Charger.

The Examiner notes that this rejection was proposed in addition to the rejection to claims 5, 6 and 8 to Cleaner 5 alone.

The Examiner acknowledges that as per MPEP 2660, III, "it is to be noted that the examiner is not to refuse to adopt a rejection properly proposed by the requester as being cumulative to other rejections applied. Rather, any such proposed rejection must be adopted to preserve parties' appeal rights as to such proposed rejections."

The Examiner maintains that Cleaner 5 anticipates the claims, however in addition, the Examiner acknowledges the below teachings with respect to MPEG Charger. As noted in the Request, MPEG Charger is a software application for converting a video file into a MPEG video file based on certain parameters, (MPEG Charger at pp. 9, 14). MPEG Charger is explicitly configured to work with Cleaner 5 in the process of converting video files for recording onto a disc. Specifically, MPEG Charger can produce MPEG-1 files for Video CD projects and MPEG-2 files for "producing high-data rate, full broadcast-quality files that require DVD, fast CD-ROM or hard drives for playback." MPEG Charger at p. 10. Importantly, MPEG Charger performs the method entirely using software run from a disc.

The Examiner notes MPEG Charger is a software application for explicit use with Cleaner 5 and provides additional functionality in MPEG-1 and MPEG-2 encoding. MPEG Charger at p. 9. Additionally, MPEG Charger explicitly discloses the ability to "turn all popular video, audio and animation file formats into MPEG streams for DVD, Video CD, CD-ROM, digital broadcasting and broadband webcasting." MPEG Charger at p. 9.

Regarding claim 5:

The method of claim 1 wherein the desired output media format is selected from either DVD, VCD, and Super VCD.

Cleaner 5 discloses that a user may output media in VCD format. Cleaner 5 at p. 209. Specifically, Cleaner 5 states that a user can select the "Video CD preset in the Advanced Settings window" in Cleaner to "easily produce MPEG-1 files for Video CD projects." Cleaner 5 at p. 209. Additionally, MPEG Charger discloses DVD output media formats. MPEG Charger at p. 9.

A person of ordinary skill in the art would have been motivated to combine Cleaner 5 with MPEG Charger in view of the explicit motivation found within the MPEG Charger Reference: "MPEG Charger is a software-only MPEG option for Cleaner 5 that gives you comprehensive control over both MPEG-1 and MPEG-2 encoding," and reference within Cleaner 5: "Cleaner MPEG Charger integrates seamlessly with Cleaner." MPEG Charger at p. 9; Cleaner 5 at p. 209.

Regarding claim 6:

The method of claim 5 further comprising inputting a quality setting based upon a third input when the desired output media format is DVD.

Cleaner 5 discloses that a user may select a third input for specifying quality settings based on a variety of parameters. Cleaner 5 at p. 59. For example, Cleaner 5 discloses quality settings such as data rate, and frame rate. Cleaner 5 at pp. 59, 62, 64-65. Furthermore, Cleaner 5 discloses that when the output format is DVD a data rate acceptable to DVD formats are required and Cleaner 5 uses a data rate of 5.7 Mbits/sec and is used by Cleaner's default MPEG-2 setting. Cleaner 5 at p. 62. Moreover, MPEG Charger discloses that the user is allowed "to turn all popular video, audio and animation file formats into MPEG streams for DVD, Video CD, CD-

ROM, digital broadcasting and broadband webcasting." MPEG Charger at p. 9. Thus, the user may input a higher data rate to create an MPEG stream suitable for a DVD.

Regarding claim 8:

The method of claim 1 wherein the presentation format is selected from VOB (Video Object for DVD), VCD MPEG1, and SuperVCD MPEG2.

Cleaner 5 discloses writing the video and audio information in the presentation format such as an MPEG 1 system stream for VCD, (Cleaner 5 at p. 206). Specifically, Cleaner 5 allows the user to "choose between creating MPEG-1 or MPEG-2 streams" for VCD output, (Cleaner 5 at p. 206, and 209). Furthermore, MPEG Charger discloses that the user is allowed "to turn all popular video, audio and animation file formats into MPEG streams for DVD, Video CD, CD-ROM, digital broadcasting and broadband webcasting, (MPEG Charger at p. 9).

Issue 3 (Not Adopted)

8. The rejection of claims 1-3, 5, 7, 9 and 13-19 as being rejected under 35 U.S.C. 103(a) as being unpatentable over AVID Xpress in view of AVID Xpress DV and further in view of MPEG standard is not adopted.

As stated on page 34 of the Request, **Avid Xpress** is an advertising document promoting a software application for converting and editing video and audio files based on user input

parameters, (Avid Xpress at p. 1). The Avid Xpress system can receive video in many different input formats including popular animation file formats on Windows, Macintosh and SGI, including QuickTime formats, (Avid Xpress at pp. 1, 3). The Avid Xpress software is designed to accept these file types (and more) for editing and output. Among Avid Xpress' output features are the ability to output to files into NTSC and PAL TV formats and further outputting video in compliance with the ITU R-601 standard for broadcast television, (Avid Xpress at p. 3).

In addition, as stated on page 35 of the Request; **Avid Xpress DV** discloses a software system that is related to Avid Xpress, which includes additional capabilities such as supporting MPEG output formats and writing outputs to DVD. Avid Xpress DV at 1.

The **Examiner** maintains that while Avid Xpress discloses of providing software for converting and editing video and audio files, Avid Xpress does not disclose in detail any of the method or code for performing at least the recited converting steps. Thus, neither Avid Xpress nor Avid Express DV either alone or in combination meet all of the claimed limitations.

The Examiner agrees that Avid Xpress is a software system for converting and editing video and multimedia content quickly, (Avid Xpress at p. 1). Additionally, as noted above, the Examiner agrees that Avid Xpress DV is a software product that is related to Avid Xpress that has a variety of exporting options including MPEG output abilities, (Avid Xpress DV Features at p. 1).

The Examiner agrees that both references disclose of code to receive video in many different formats and for outputting video into broadcast digital formats, (Avid Xpress at p. 1).

The Examiner notes that the Request fails to specifically point out where in the references does it show that the video information in the first format is digitally converted to "raw video information in an uncompressed format ".

The Request merely states:

> The Avid Xpress software includes code for converting video information into uncompressed video using its uncompressed video option. Avid Xpress at pp. 1-2.

There is no support for converting the video information to raw video information.

The Examiner acknowledges that the Request further points to the following in Avid Xpress:

"**Truest Online Image Quality** Avid Xpress supports ITU R-601 broadcast industry standards for the truest online image quality. For the first time in its category, uncompressed video is available as an option for Avid Xpress Deluxe and Elite systems for the best possible video quality. All Avid Xpress systems using Avid's state-of-the-art Meridien video subsystem deliver broadcast quality 2:1 image compression, as well as a range of other resolutions in either 4:3 or 16:9 wide screen. No other digital video system in its class combines unmatched speed and productivity features with the highest image standards." Avid Xpress at p. 1.

"**Single-Stream Uncompressed Video Option (Deluxe and Elite Bundle only)** A single stream of uncompressed video allows the best possible image quality for high-end projects." Avid Xpress at p. 2.

The Examiner acknowledges that Avid Xpress uses uncompressed video, however no relationship between this uncompressed video and the received video information has been made. The claim requires directly converting the video information in the first format to raw video information in an uncompressed format.

Another limitation pertains to directly resizing the raw video information (i.e. the raw video information that resulted from the previous converting step) into a size associated with the desired output media format and the desired video presentation standard;

The Request merely shows that Avid Xpress is able to output video with various sizes, however, the Request's statements are conclusory and are not specific as to how Avid Xpress resizes or converts the received data.

The claim also outlines specific step that recites code for resizing the raw information in the uncompressed format into a size associated with the desired output media format and the desire video presentation standard.

The Examiner agrees that Avid Xpress discloses of various video presentation standards (e.g. TV Standards) and different output media with various 'sizes', however, the Avid Xpress reference does not disclose what video is being output or whether what is being output was a result of a converting step which converted video information in a first format to raw video information in an uncompressed format.

The claims further recited limitations directed to directly processing the uncompressed format into "an elementary video stream". The Request discloses that since Avid Xpress DV

includes code directed to exporting files in the MPEG format, then Avid Xpress DV processes the uncompressed format into an elementary stream".

The Request relies upon MPEG Standard to support the processing of video into an elementary video stream; however, the Examiner first notes that the Request does not show how Avid Xpress discloses of creating the uncompressed video stream from the received video information and while elementary stream were known in the art, the Request did not point out how MPEG Standard contemplates the converting of video information to raw video information in an uncompressed format and the processing of that same video information in the raw uncompressed format into an elementary video stream.

The Examiner does not agree that Avid Xpress in view of Avid Xpress DV and MPEG standard renders obvious any of the claims under reexamination and thus the proposed rejection will not be adopted by the Examiner.

Issue 4 (Adopted)

9. Claims 1-12, 15 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Washino U.S. Patent 6,370,198.

Regarding claim 1:

A method for converting video information from an incoming format to an outgoing format using a continuous pass conversion process free from one or more intermediary files, the method comprising:

Washino discloses a multi-format digital video production system that enables a user to process an input video program to produce an output version of the program in a final format, (Abstract, lines 1-3).

inputting video information in a first format;

Washino discloses inputting video information in a first format, (col 11, lines 51-54), ("graphics processor 82...process the input video signals 84...").

directly converting the video information in the first format to raw video information in an uncompressed format;

Washino discloses converting the inputted video information in the first format to an uncompressed format, such as RGB or YUV, (Col 11, lines 54-63).

inputting a desired output media format based upon a first input;

Washino discloses that outputs can be configured to RGB format or other output media formats, (col 11, lines 51-54).

inputting a desired video presentation standard based upon a second input;

Washino discloses that the video data stream may undergo a number of modifications based on the desired output format such as NTSC/PAL or HDTV, (col. 21, line 56 to col. 22, line 11; col 11, lines 54-63).

directly resizing the raw video information in the uncompressed format into a size associated with the desired output media format and the desired video presentation standard;

Washino discloses that images are re-sized horizontally and vertically by pixel interpolation and frame rates are adapted by inter-frame interpolation, abstract; col. 18, lines 50-63).

directly adjusting the uncompressed format in the size associated with the desired output media format and the desired video presentation standard to a frame rate associated with the desired video presentation standard;

Washino discloses adjusting the frame rate of the uncompressed format to the desired frame rate of the video presentation standard, (Abstract; Col. 18, lines 53-63).

directly processing the uncompressed format in the size and the frame rate into an elementary video stream; and

Washino discloses processing the uncompressed format in any selected size and frame rate into an elementary video stream, (col. 18, lines 50-63; col. 20, lines 6-10).

directly processing the elementary video stream with audio information in the desired output media format and the desired video presentation standard to form video and audio information in a presentation format based upon the desired output media format and the desired video presentation standard.

Washino discloses processing the video format with audio information in the desired output media format. Specifically, Washino discloses adjusting the pitch of the audio based on the frame rate of the video which is related to the desired video standard, (col. 21, lines 45 to col. 22, lines 15; col. 22, lines 49-53).

Regarding claim 2:

The method of claim 1 wherein the first format is selected from a digital file, a digital captured video stream, an analog captured video stream, and an internet video stream.

Washino discloses the first format including a digital file, captured video stream, and analog captured video stream, (col. 15, lines 1-5). Specifically, Washino discloses that the input format can be either an analog signal, which will be processed into a digital file or a digital file, (col 11, lines 51-54; col. 15, lines 1-5).

Regarding claim 3:

The method of claim 2 wherein the digital file is selected from an AVI format, an MPEG format, a DV format, a QuickTime format, Real Video format, Windows Media Player format.

Washino discloses that the digital file can be in MPEG format, (col. 11, lines 63-65; col. 15, lines 1-5).

Regarding claim 4:

The method of claim 1 wherein the uncompressed format is selected from RGB, and YUV.

Washino discloses selecting an uncompressed format of RGB or YUV, (col 11, lines 54-63).

Regarding claim 5:

The method of claim 1 wherein the desired output media format is selected from either DVD, VCD, and Super VCD.

Washino discloses selecting a media format such as DVD. Washino, Col. 6, lines 48-60.

Regarding claim 6:

The method of claim 5 further comprising inputting a quality setting based upon a third input when the desired output media format is DVD.

Washino discloses quality editing for multi-format video production. Washino, Col. 1, lines 14-21. Specifically Washino disclose that if DVD type storage is selected a higher data compression can be used to fit an entire program of 120 minutes onto the storage media. Washino, Col. 17, lines 52-62.

Regarding claim 7:

The method of claim 1 further comprising writing the video and audio information in the presentation format onto a disk media.

Washino discloses writing or recording the video and audio information onto a disk media, such as DVD. Washino, Col. 6, lines 48-60.

Regarding claim 8:

The method of claim 1 wherein the presentation format is selected from VOB(Video Object for DVD), VCD MPEG1, and SuperVCD MPEG2.

Washino discloses wherein the digital file can be distributed in MPEG-2 format and recorded onto DVD, (col 5, lines 19-34).

Regarding claim 9:

The method of claim 1 wherein the processing of the elementary video stream with audio information comprises a multiplexing process.

Washino discloses that audio signals can be included within the digital stream and that the audio can be integrated by available methods such as AVI, (col. 12, lines 1-7).

Regarding claim 10:

The method of claim 1 wherein the audio information is tuned to a desired frequency based upon the desired output media format.

Washino discloses adjusting the audio data in accordance with the video output. Washino, Col. 22, lines 43-57.

Regarding claim 11:

The method of claim 10 wherein the desired frequency is selected from 48 kHz for DVD, 44.1 kHz for VCD and SVCD.

Washino discloses writing audio-video to DVD, which inherently requires an audio frequency of at least 48 kHz[1], (col 5, lines 19-34).

Regarding claim 12:

The method of claim 1 wherein the directing converting, directly resizing, and directly adjusting, and directly processing are performed free from one or more intermediary files.

Washino discloses that in some embodiments only one conversion step is required. Washino, (col. 18, lines 50-63).

Regarding claim 15:

The method of claim 1 wherein the processing for converting into the elementary video stream is provided in an encoding process and the converting to the raw video information is provided in a decoding process.

Washino discloses encoding the uncompressed format to preserve the full bandwidth of the high-resolution signal, (col. 7, lines 39-43).

Regarding claim 19:

A method for converting video information from an incoming format to an outgoing format using a process free from one or more intermediary files, the method comprising:

Washino discloses a multi-format digital video production system that enables a user to process an input video program to produce an output version of the program in a final format, (abstract).

receiving video information in a first format;

Washino discloses receiving video information in a first format, (col 11, lines 51-54).

receiving a desired output media format based upon a first input and a desired video presentation standard based upon a second input;

Washino discloses that outputs can be configured to RGB format or other output media formats, (col 11, lines 51-54). Further, Washino discloses that the video

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[1] See LaBarge, DVD Authoring, p. 41 (Audio written in DVD-Video format requires a frequency of at least 48kHz) filed March 23, 2010.

data stream may undergo a number of modifications based on the desired output format such as NTSC/PAL or HDTV, (col. 21, line 56 to col. 22, line 11; col 11, lines 54-63).

decoding the video information in the first format to raw video information in an uncompressed format;

Washino discloses converting the inputted video information in the first format to an uncompressed format, such as YUV, (col 11, lines 54-63).

directly resizing the raw video information in the uncompressed format into a size associated with the desired output media format and the desired video presentation standard and adjusting the uncompressed format in the size associated with the desired output media format and the desired video presentation standard to a frame rate associated with the desired video presentation standard;

Washino discloses that images are re-sized horizontally and vertically by pixel interpolation and frame rates are adapted by inter-frame interpolation, (abstract; Col. 18, lines 50-63). Additionally, Washino discloses adjusting the frame rate of the uncompressed format to the desired frame rate of the video presentation standard, (abstract; Col. 18, lines 50-63).

encoding the uncompressed format in the size and the frame rate into an elementary video stream; and

Washino discloses processing and encoding the uncompressed format in any selected size and frame rate into an elementary video stream, (col. 7, lines 39-43; col. 18, lines 50-63; col. 20, lines 6-10).

multiplexing the elementary video stream with audio information in the desired output media format and the desired video presentation standard to form video and

audio information in a presentation format based upon the desired output media format and the desired video presentation standard.

Washino discloses processing the video format with audio information in the desired output media format. Specifically, Washino discloses adjusting the pitch of the audio based on the frame rate of the video which is related to the desired video standard, (col. 21, lines 45-55; col. 22, lines 49-53).

Conclusion

This is an ACTION CLOSING PROSECUTION (ACP); see MPEP § 2671.02.

(1) Pursuant to 37 CFR 1.951(a), the patent owner may once file written comments limited to the issues raised in the reexamination proceeding and/or present a proposed amendment to the claims which amendment will be subject to the criteria of 37 CFR 1.116 as to whether it shall be entered and considered. Such comments and/or proposed amendments must be filed within a time period of 30 days or one month (whichever is longer) from the mailing date of this action. Where the patent owner files such comments and/or a proposed amendment, the third party requester may once file comments under 37 CFR 1.951(b) responding to the patent owner's submission within 30 days from the date of service of the patent owner's submission on the third party requester.

(2) If the patent owner does not timely file comments and/or a proposed amendment pursuant to 37 CFR 1.951(a), then the third party requester is precluded from filing comments under 37 CFR 1.951(b).

(3) Appeal **cannot** be taken from this action, since it is not a final Office action.

10. All correspondence relating to this *inter partes* reexamination proceeding should be directed:

By EFS: Registered users may submit via the electronic filing system EFS-Web, at https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html.

By Mail to: *Mail Stop Inter Partes* Reexam

Attn: Central Reexamination Unit
Commissioner for Patents
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

By FAX to: (571) 273-9900
Central Reexamination Unit

By hand: Customer Service Window
Attn: Central Reexamination Unit
Randolph Building, Lobby Level
401 Dulany Street
Alexandria, VA 22314

For EFS-Web transmissions, 37 CFR 1.8(a)(1)(i) (C) and (ii) states that correspondence (except for a request for reexamination and a corrected or replacement request for reexamination) will be considered timely filed if (a) it is transmitted via the Office's electronic filing system in accordance with 37 CFR 1.6(a)(4), and (b) includes a certificate of transmission for each piece of correspondence stating the data of transmission, which is prior to the expiration of the set period of time in the Office action.

Any inquiry concerning this communication or earlier communications from the examiner, or as to the status of this proceeding, should be directed to the Central Reexamination Unit at telephone number (571) 272-7705.

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