EXHIBIT 13

United States Patent and Trademark Office

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
95/001,283	03/23/2010	7283172	169AA-000300US	1757

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AMPACC Law Group, PLLC
6100 219th Street SW, Suite 580
Mountlake Terrace, WA 98043

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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(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

NOVAK, DRUCE, & QUIGG, LLP
(NDQ REEXAMINATION GROUP)
1000 LOUISIANA AVE., 53RD FLOOR
HOUSTON, TX 77002

Transmittal of Communication to Third Party Requester
Inter Partes Reexamination

REEXAMINATION CONTROL NUMBER *95/001,283*.

PATENT NUMBER *7,283,172*.

TECHNOLOGY CENTER *3900*.

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 <u>cannot</u> 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.

Right of Appeal Notice **(37 CFR 1.953)**	Control No. 95/001,283	Patent Under Reexamination 7283172
	Examiner OVIDIO ESCALANTE	Art Unit 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 <u>20 September 2010</u>
Third Party(ies) on <u>20 October 2010</u>

Patent owner and/or third party requester(s) may file a notice of appeal with respect to any adverse decision with payment of the fee set forth in 37 CFR 41.20(b)(1) within **one-month or thirty-days (whichever is longer)**. See MPEP 2671. In addition, a party may file a notice of **cross** appeal and pay the 37 CFR 41.20(b)(1) fee **within fourteen days of service** of an opposing party's timely filed notice of appeal. See MPEP 2672.

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.

If no party timely files a notice of appeal, prosecution on the merits of this reexamination proceeding will be concluded, and the Director of the USPTO will proceed to issue and publish a certificate under 37 CFR 1.997 in accordance with this Office action.

The proposed amendment filed <u>20 September 2010</u> ☒ will be entered   ☐ will not be entered*

*Reasons for non-entry are given in the body of this notice.

1a. ☒ Claims <u>1-19</u> are subject to reexamination.
1b. ☐ Claims _____ are not subject to reexamination.
2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are confirmed. [Unamended patent claims].
4. ☐ Claims _____ are patentable. [Amended or new claims].
5. ☒ Claims <u>1-19</u> 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) or (f). The certified copy has:
    ☐ been received.   ☐ not been received.   ☐ been filed in Application/Control No. _____.
10. ☐ Other _____

<u>**Attachments**</u>

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

RIGHT OF APPEAL NOTICE

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 September 20, 2010 and the Requester's response

filed on October 20, 2010.

Status of the Claims

2.   Original claims 1-15 and 19 are rejected.

Original claims 16-18 are canceled by the Patent Owner's Amendment.

Information Disclosure Statement

3.   The Information Disclosure Statement filed on August 30, 2010 and December 10, 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.

Response to Amendment

4.   The amendment submitted on September 20, 2010 is entered.

Response to Arguments

Construction of the '172 Patent Claims Argument

The Patent Owner contends their construction is based on the "broadest reasonable

interpretation" standard according to their ordinary meaning and their usage in the claims and the

specification. The Patent Owner further contends that the Requester ignores the manner in

which the term (e.g. "output media format" and "presentation format") are used in the

specification and simply reduce both terms to "any format" under the pretext of given them their

broadest reasonable construction.

The Examiner maintains that as cited in MPEP § 2258 (I.) (G.) (During reexamination,

claims are given the broadest reasonable interpretation consistent with the specification and

limitations in the specification are not read into the claims (*In re Yamamoto*, 740 F.2d 1569, 222

USPQ 934 (Fed. Cir. 1984)).

As will be further described below, the Examiner maintains that the '172 patent

repeatedly states "desired" or "any" output media format <u>without any requirement that it be a</u>

<u>specific type of format.</u> For example, the '172 specification discloses "Preferably, the video

information can be in almost any format or any format. The output video information <u>can also be</u>

in any desired format," (col. 6, lines 18-20). This citation does not specify that it must be an

optical disc format but instead that the output video information can also be "in any desired

format".

In addition, the '172 specification, when referencing CD or DVD, states that these

formats are "examples" and never discloses that output media format must or is required to be an

optical disc format.

In re Suitco Surface

The Patent Owner cites to *In re Suitco Surface* for support of the "broadest reasonable

interpretation" standard. The Examiner disagrees with the Patent Owner's citation to *In re Suitco

Surface* since the merits of the current proceeding do not relate to the merits of *In re Suitco

Surface.*

In the court proceeding, the Examiner notes that the claim specifically recited "material

for finishing the top surface of the floor". The issue was not whether "clear plastic material be

the uppermost top layer but rather that the claimed material must be the finishing layer. The

Examiner agrees with the analysis with the Federal Circuit, however, the Examiner notes that the

Patent Owner has not explained how this relates to the claims at issue since the Examiner has

treated the claim language exactly how it is claimed.

Indeed, as correctly noted by the Requester, *In re Suitco Surface, Inc.* merely restates a

well-accepted standard already recited by the MPEP. Furthermore, the Court in *In re Suitco

Surface, Inc.* does not contradict the requirement that limitations in the specifications should not

be read into the claims, (page 3 of Requester's response).

As will be further noted below the claims and the specification do not require "output media format" to be a specific type of media rather it merely cites examples.

In addition, as will be further discussed, the Examiner has cited prior art which reads on the specific examples cited in the specification. In this case, the Cleaner 5 prior art specifically teaches of using VCD as one of the output formats that can be selected by the user.

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

As noted by the Patent Owner the Examiner maintained that the preamble (with respect to continuous pass conversion process free from one or more intermediary files) is not limiting since the body of the claims does not further recite any limitation related to this aspect of the preamble.

The Patent Owner maintains that the body of the claim mirrors the preamble and recites, "directly converting...; directly resizing...; directly adjusting...; directly processing the uncompressed format; and directly processing the elementary video stream..." The Patent Owner asserts the term "directly" is used in front of the verbs "converting," "resizing," "adjusting," and "processing" to emphasize that these steps are performed as part of "a continuous pass conversion process free from one or more intermediary files," recited in the preamble.

The Examiner first notes that for purposes of prior art rejection, the Examiner has considered the preamble of the claim and has shown how the preamble reads on the prior art, as noted in the rejection. That is, as shown by at least Cleaner 5, Cleaner 5 discloses a process

which continues non-stop to output of a presentation format without writing to disc. The

Examiner notes that Cleaner 5 discloses that a user makes various selections including data rate,

frame rates, frame size and display size among other selections. The Examiner maintains that

Cleaner 5 at least continues non-stop from video input to video output (e.g. MPEG encoded

output format) since Cleaner 5 discloses for example in pages 75-76 that a user has the option to

"preview" the movie during the encoding process. This option can be deselected and thus will

allow the encoding to occur in a continuous manner without user intervention and until it is

completed. The continuous non-stop method of Cleaner 5 is also explained in the Architectures

and Formats MPEG section (pages 203-214 of Cleaner 5). This section discusses that a user

selects the MPEG output setting and can modify various tabs which will control how the video

would be encoded. These include, choosing the output format of MPEG-1 or MPEG-2, Stream

type, Image type (e.g. NTSC or PAL), display ratio, encoding speed, data rate and other types of

inputs that a user can select. Once a user selects their options, then they can select to start

encoding their video and the method of Cleaner 5 continues non-stop until an encoded MPEG-1

or MPEG-2 file is created with the user's desired selections which were made on the output tab.

This same section in Cleaner 5 also states that using the same Advanced Setting Window

(that is the same Window that the user inputs all of their specifications for encoding the video

file), the user has the further option to select the Video CD present (page 209) in the Output tab.

Thus, in this case assuming *arguendo* that an optical CD format is required, Cleaner 5 clearly

discloses of continuing non-stop from an input of video to an output format.

As noted above, the Patent Owner maintains that the encoded MPEG file in Cleaner is an

intermediary file. The Examiner notes that MPEG as set forth in Cleaner can be a format of VCD

(MPEG1) or a format for DVD (MPEG2). Thus, the encoded MPEG format of Cleaner 5 is an

output media format because it is the same file that is used to write to disc. The Examiner notes

that the user has a further option to specify for example, that they want to have a VCD MPEG1

file.

With respect to whether the preamble is limiting, the Examiner notes that the Patent

Owner now contends that the claim requires "a process that continues non-stop to output of a

presentation format without writing video to disk while processing the input video into the

presentation format." (The previous construction (in their response to the Non-Final rejection)

interpreted the term as "a process that continues non-stop to output a presentation format without

writing any intermediary file to storage during the process")

The issue pertains to whether the term "directly" requires a reading of being a continuous

pass which continues non-stop to output of a presentation format.

The Examiner notes that the '172 patent discloses "the invention provides 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," (see col. 2, lines 63-67).

With respect to "free from one or more intermediary files", the Examiner notes that the

'172 patent describes that with respect to "conventional" methods the steps requires the use of

intermediary files which are often stored in memory. ("As shown, the method begins with start,

step 101, which carries out more than one process often requiring the use of intermediary files,

which are often stored in memory") The specification discloses that intermediary files are

"often" used and are "often" stored in memory thus clearly setting forth that intermediary files

are not always used and not always stored in memory using the conventional process. As noted

in the specification intermediary files are output and are often stored. In addition, if the files are

not stored (as when it is other than "often") then there appears to not be any intermediary files to

store or use.

In light of the teachings of the specification and when the "often" is considered, if it is

considered that intermediary files are stored then the conventional process will "often" store files

during the steps of the method.

Thus, it is considered that "free from one or more intermediary files" describes a process

in which a stored intermediary file is not used during the conversion process.

In accordance with the claim language and the patent specification "a continuous pass

conversion process free from one or more intermediary files" only requires a single pass

conversion process which moves from one step to the next without using any stored intermediary

files.

With respect to "directly" the Examiner finds that the term does not entail or exempt the

use of intermediary files as claimed. Based on this reason, the Examiner finds that the body of

the claim does not necessarily require a conversion process which moves from one step to

another "non-stop" as argued by the Patent Owner.

Nonetheless, as shown above and as will be further shown below each of the prior art

references disclose a process that continues non-stop to output of a presentation format without

writing video to disc while processing the input video into the presentation format. The

Examiner considered the output format to read on for example MPEG-1 or MPEG-2 and in

addition, as set forth in for example Cleaner 5, MPEG-1 can be formatted specifically for VCD.

This step is selected by the user in the Advanced Settings Window when the user is controlling

how their video is to be encoded.

Construction of the term "output media format"

The Patent Owner contends their construction requires that an output media format is a

standard video format for optical disk. The Patent Owner maintains that their construction does

not incorporate limitations from the claims but instead is the broadest reasonable construction

that includes other optical disk formats.

The Examiner maintains that the Patent Owner reads limitations from the specification

into the claims. The specification never defines output media format as being an optical disc

format. As can be seen from the below citations from the patent specification each recitation of

DVD, VCD or SuperVCD was only cited as being exemplary.

The Examiner's interpretation of "output media format" is not limited to optical disc

formats because the patent specification imposes no such limit.

As noted in the patent specification:

> Many different types of video outputs also exist. Such video output types include DVD,
> VCD, SuperVCD, and others. (col. 2, lines 24-38).

> In other embodiments, the invention allows a user to take any video information in any
> format and convert such video information into an outgoing format for writing onto a
> disk media, **e.g.,** CD, DVD. (emphasis added), (col. 4, lines 14-18).

Preferably, the video information can be in almost any format or any format. The output video information <u>can also be in any desired format, depending upon the embodiment.</u> (col. 6, lines 18-20)

The encoding process **can** form a desired output **such as** DVD, VCD, and others. (emphasis added) (col. 6, lines 59-60).

As can be seen, the media format **can be** DVD, VCD, or Super VCD, among others. (col. 8, lines 49-50).

The Examiner notes that the specification uses terms such as "among others", "desired",

such as, and for example when used in conjunction with DVD, VCD or Super VCD. The

specification, contrary to the Patent Owner's assertion does not define nor show that output

media format must be narrowly constructed to only include optical disc formats unless such a

requirement is specifically claimed.

These statements clearly show that the optical disc formats are <u>exemplary only</u> and are

not limited. In addition, the specification and claims broadly recite "desired" output media

format. Nonetheless, as noted in the rejection of the claims, the Examiner has shown that the

prior art supports both VCD and DVD formats.

Construction of the term "presentation format" argument

The Patent Owner contends "presentation format" is "the playback format for

video and audio information for the desired standard video format for optical disk using the

desired video presentation standard.

The Patent Owner contends the construction of the term "presentation format" includes

the ordinary meaning of the term, which is known to those skilled in the art. Microsoft's

definition of the term "presentation format" in the prior art is simple: "A presentation format is a

format in which the data can be easily displayed on an output device...Data stored according to a

presentation format is sometimes referred to as presentation data."

The DVD standard was designed for display on a television as the output device. The

requirement to identify the desired TV standard (or video presentation standard) in the

specification and every claim is consistent with output to a television. A presentation format

based upon a desired TV standard/video presentation standard is one for display or presentation

of the video and audio on a TV using that desired standard, and not some other standard. A

presentation format based upon a desired output media format is a presentation format for

playback on a player for the desired media format

As noted by the Requester on page 9 of their response, 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 playback format for video and

audio information for the desired standard video format for optical disc using the desired

video presentation standard.

The Examiner agrees with the presentation format as used in the specification, however, the Examiner disagrees that a video format "for optical disk" is required for the claimed presentation format.

Nonetheless, as noted in the rejection of the claims, the Examiner relied upon at least the VCD optical disc format as the presentation format.

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" Argument

The Patent Owner contends the term "directly" makes it clear that the presentation format is output in a continuous pass without saving an intermediary file to disk or using another application. Accordingly, when read in the context of the claims, the specification and the file history, one of ordinary skill in the art would understand the phrase "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" to require authoring the "presentation format" in a continuous pass free from one or more intermediary files.

The Examiner notes that the Patent Owner maintains that this limitations requires *inter alia* "authoring" the presentation format, however, the independent claim does not require authoring. Thus, the Patent Owner is reading limitations into the claim which are not recited. As noted above, the term "directly" does not in itself require a reading of a continuous pass free from one or more intermediary files.

In addition, with respect to the Patent Owner's argument that "the term "directly" makes it clear that the presentation format is output in a continuous pass without saving an intermediary file to disk or using another application", the Examiner points out that the Patent Owner is referencing the issue that Cleaner 5 uses a separate CD-mastering application to author VCDs. While the Examiner agrees with the Patent Owner as to the citations in Cleaner 5, the Examiner maintains that this separate application is used <u>after</u> the file is encoded for VCD. That is, the Examiner maintains that in light of the specification and the Patent Owner's argument, the continuous non-stop method <u>ends before the data is written.</u> Thus, even if Cleaner 5 uses a second application for writing to disc, <u>this step occurs after the continuous non-stop method has finished.</u> Furthermore, claim 7 which actually recites writing the information to disk is not part of the claimed continuous process since the Patent Owner has explicitly maintained that data is not written to disc during the continuous process and thus a CD-mastering application such as in Cleaner 5 can be a separate application and still adhere to the claimed requirements.

Construction of the phrase "free from one or more intermediary files" Argument

The Patent Owner contends that the proper construction of "free from one or more intermediary files" is "without writing video to disk while processing the input video into the presentation format"

As noted above, the Examiner noted that the '172 patent discloses "the invention provides 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," (see col. 2, lines 63-67).

With respect to "free from one or more intermediary files", the Examiner notes that the '172 patent describes that with respect to "conventional" methods the steps requires the use of intermediary files which are often stored in memory. The specification discloses that intermediary files are "often" stored in memory thus clearly setting forth that intermediary files are not always stored in memory using conventional methods. As noted in the specification intermediary files are output and are often stored.

In light of the teachings of the specification, if it is considered that intermediary files are stored then the conventional process will store files after each step of the method.

Thus, it is considered that "free from one or more intermediary files" describes a process in which an intermediary file, which is stored, is not used during the encoding process. This step however, ends after encoding has been completed and does not include the actual writing of this file to disk.

Rejections Proposed by the Requester

5.   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 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)

6.   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 disc 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 disc 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

7.   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)

8.   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)

9.   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 <u>converting</u> 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 <u>directly converting the video information in the first format to raw</u>

<u>video information in an uncompressed format.</u>

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

10.   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 disc 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;

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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.

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

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).

Response to Arguments

Preamble Arguments (Pages 21-22 of the Patent Owner's Response)

The Patent Owner maintains their argument that the preamble is a limitation set forth in

the claim.

The Examiner notes that the current claim rejection addresses the preamble of the claim

despite the fact that the body of the claim does not necessarily require the use of the preamble.

In considering the Patent Owner's construction, the Patent Owner maintains that "Cleaner

5 does not disclose a method for converting audio and video information to form a presentation

format."

As noted on page 22, of the Patent Owner's response, the Patent Owner acknowledges

that Cleaner 5 discloses "a method for converting a video file"; however, the Patent Owner notes

that Cleaner 5 does not "disclose a method that integrates all the steps recited in the claim. The

Examiner notes that the claim <u>does not require a method that "integrates" all of the steps in the</u>

<u>claim</u> and thus the Patent Owner is arguing limitations which are not claimed. Indeed original

claims 16-18 make it clear that the broadest reasonable interpretation requires a reading that the

claims do not require any "integration" unless it is specifically claimed.

The Examiner notes that the Patent Owner acknowledges that Cleaner 5 discloses of a

CD mastering application. This CD mastering application is used by Cleaner 5 to write the

presentation format to disc. This is not required by the Patent Owner's construction since the

Patent Owner construction specifically states "without writing video to disk". Since Cleaner 5 is

at least able to provide a single pass and continues non-stop to at least the step prior to writing to

disc, then Cleaner 5 anticipates the claims. The Patent Owner's argument falls because the

Patent Owner states that Cleaner 5 does not meet the claim because a "CD-mastering application

is a separate application"; and yet the CD mastering application is used for writing the

presentation format of Cleaner 5 do a VCD disc. This step is not required in the claim since the

Patent Owner maintained that the claimed pass conversion process does not write to disk.

In addition, as pointed out by the Requester, Cleaner 5 discloses a process that continues

non-stop to output a presentation format without writing video to disc while processing the input

video into the presentation format. The Requester points to pages 64 and 209 of Cleaner 5.

In addition, the Examiner notes Cleaner 5 discloses that a user makes various selections

including data rate, frame rates, frame size and display size among other selections. The

Examiner maintains that Cleaner 5 at least continues non-stop from video input to video output

(e.g. MPEG encoded output format for VCD) since Cleaner 5 discloses for example in pages 75-

76 that a user has the option to "preview" the movie during the encoding process. This option

can be deselected and thus will allow the encoding to occur in a continuous manner without user

intervention and until it is completed. The continuous non-stop method of Cleaner 5 is also

explained in the Architectures and Formats MPEG section (pages 203-214 of Cleaner 5). This

section discusses that a user selects the MPEG output setting and can modify various tabs which

will control how the video would be encoded. These include, choosing the output format of

MPEG-1 or MPEG-2, Stream type, Image type (e.g. NTSC or PAL), display ratio, encoding

speed, data rate and other types of inputs that a user can select. Once a user selects their options,

then they can select to start encoding their video <u>and the method of Cleaner 5 continues non-stop</u>

<u>until an encoded MPEG-1 or MPEG-2 file is created with the user's desired specifications. The</u>

<u>encoded MPEG-1 file in this case is a VCD MPEG-1 file.</u>

This section also states that using the same Advanced Setting Window (that is the same

Window that the user inputs all of their specifications for encoding the video file), the user has

the further option to select the Video CD present (page 209). Thus, in this case assuming

arguendo that an optical CD format is required, Cleaner 5 clearly discloses of continuing non-

stop from an input of video to an output format.

The Requester further maintains that even if the claim were to require authoring to an

optical disc, Cleaner 5 discloses that a Video CD can be authored using a CD-mastering

application. The Requester points out that the mastering application can be integrated with

Cleaner 5 and that a reference is prior art for all that it teaches thus Cleaner 5 teaches the

authoring of a file to an optical disc since Cleaner 5 specifically discloses of how the system

would accept an input from the user to create a VCD MPEG-1 file for writing to a VCD optical

disc.

***Inputting a Desired Output Media Format Based Upon a First Input Argument (Pg. 22
of PO's Response)***

The Patent Owner notes that the Examiner states that Cleaner 5 discloses a user "can

easily produce MPEG-1 file for Video CD projects by selecting the Video CD present in the

Advanced Settings window." In addition, the Patent Owner notes that the Examiner noted that

Cleaner 5 also supports MPEG-2 files for the DVD output media format.

The Patent Owner maintains that Cleaner 5 can only input one output media format at

best, which can't be a "desired" output media format since it is required as the only available

output media format Cleaner 5 could possible input.

The Examiner first notes that the term "desired" does not require more than one choice

since a user's desire may be limited to only one choice.

The Patent Owner further contends that an MPEG-1 or MPEG-2 file is not a "desired

output media format".

The Examiner notes that this argument is based on the fact that the Patent Owner is

improperly reading limitation into the claim which is not claimed. Specifically the Patent Owner

does not agree that MPEG-1 or MPEG-2 is not an output media format because it is not an

optical disc format. However, this is not required by the claim language.

Nonetheless, as noted by Cleaner, a user "can easily produce <u>MPEG-1 files for Video CD</u>

projects by selecting the Video CD preset in the Advanced Settings window." In addition,

Cleaner 5 also discloses that <u>MPEG-2 files are for the DVD</u> output media format.

Cleaner 5 discloses that a user can select at least the VCD option. The VCD format is an

optical disc format as acknowledged by the Patent Owner.

The Requester in their response likewise noted that Cleaner 5 discloses the user can select

"the Video CD preset", thus, Cleaner 5 discloses of selecting an optical disc format for the output

media format.

The Examiner notes that assuming *arguendo* that an optical disk format must be selected,

the Examiner has shown that Cleaner 5 allows a user to select MPEG-1 for VCD. In addition, as

disclosed by Cleaner MPEG-2 is for DVD format. Thus, selecting MPEG-1 or MPEG-2 reads on

the Patent Owner construction of output media format.

Directly resizing the raw video information in the uncompressed format into a size

associated with the desired output media format and the desired video presentations standard

Arguments (Page 23 of the Patent Owner's response)

The Patent Owner's argument is based on their argument that MPEG-2 is not a "desired

output media format" since the construction of "output media format" requires a standard video

format for optical disk.

The Examiner disagrees and notes that the claim simply does not require an output format for optical disc. Nonetheless, the Examiner points out that MPEG-1 as disclosed by Cleaner 5 is directly related to a VCD format (since a user can select MPEG-1 file for Video CD - page 209 of Cleaner 5) and MPEG -2 is the format for DVD.

As noted by the Requester the '172 patent teaches that the output media format can be formats other than VCD, Super-VCD, and DVD. See the '172 patent at col. 8, lines 49-50 ("As can be seen, the media format can be DVD, VCD, or Super VCD, among others". This is consistent with the rest of the specification and the claims, which allow the file to be converted into its presentation format without being written onto an optical disk. Notably, the system illustrated in Figure 8 for carrying out the method does not include an optical disk drive. Additionally, none of the claims require authoring the file onto an optical disk. At best claim 7 requires that the video and audio information is written onto a disk media, but there is no requirement that the disk media be an optical disk.

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 argument (Page 23 of Patent Owner's response)

The Patent Owner contends "a presentation format is a format for displaying (presenting) video and audio based on the output media format and video presentation standard. The Patent Owner contends that MPEG-1 streams or files are not in a "presentation format" because they

were not in the format written to disk media as required by claim 7 nor are they in the format displayed.

The Examiner first notes that the Patent Owner is contradicting their claims. MPEG1 is a presentation format since dependent claim 8 specifically relies on VCD MPEG-1 as one of the possible presentation formats that can be selected. In addition, Cleaner 5 likewise uses VCD MPEG-1 as a presentation format that a user can select for the eventual writing of the files to disc. Cleaner 5 specifically discloses that a CD-mastering application will use the MPEG-1 VCD formatted file for writing onto disc.

The Patent Owner further contends that a presentation format based on a desired video presentation standard is in a format for display on a television using the desired video presentation standard.

The Examiner again notes that Cleaner 5 specifically discloses that a user can select MPEG-1 for VCD. The Patent Owner has not explained which this is not a format for display on a television. The Examiner additionally notes that "television" is not recited in the claims and thus the Patent Owner's arguments are again directed to limitations which are not claimed.

In addition, the Examiner notes that on page 205 of Cleaner 5, it is discloses of playing a DVD title based on the MPEG-2 format. In addition, Cleaner 5 discloses several options in which a user can select—including options for a CD or DVD (see pages 207-208).

In addition, the Examiner notes that as set forth on page 62 of Cleaner 5, it is discloses that "Cleaner 5 now encodes MPEG-2, which is the format used for DVD-Video. The discs can be played back on standard set-top and portable DVD players or on computers with DVD-ROM

drivers. Thus, Cleaner 5 fully discloses that its MPEG-2 format for DVD is playable on DVD

players which are a format that playable on a television.

As further noted on page 209 of Cleaner, the Video CD format is a standard that plays in

most DVD players. "It requires MPEG-1 video and special Video CD formatting." Indeed, claim

8 specifically recites that the presentation format can be VCD MPEG1 and SuperVCD MPEG2.

Thus, the presentations format of the '172 patent is based on the MPEG1 or MPEG2

format standards.

As noted by the Requester the '172 patent never defines.the presentation format as the

format written to an optical disk such that 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. Cleaner 5 discloses an MPEG file can be output and the MPEG format

can additionally be formatted according to a desired video presentation standard. Such an

MPEG file is in a presentation format.

The Patent Owner argues that selecting an MPEG file as the output media format

means that an MPEG file cannot also be the presentation format. However, the output

media format, in the context of the claims, is a format that is selected by the user. The

presentation format is based upon the output media format and it is further formatted

according to a desired video presentation standard. Such a conclusion is not-illogical as

the Patent Owner argues, but rather the conclusion follows logically from the claim

language.

Claim 5 Arguments:

The Patent Owner contends that VCD is the only alleged preset, and therefore cannot be a "desired output media format" since "desired" requires a plurality of media formats.

The Examiner disagrees and notes that Cleaner 5 disclose of by VCD and DVD formats. While DVD is not described with respect to the preset option, the DVD option would be supported since Cleaner 5 specifically discloses that a user can have DVD projects.

Likewise, the Requester notes that "desired" does not require a plurality. The Requester maintained is defined as either 1) yearned or wished for; coveted or 2) deemed correct or proper; selected; required.

Nonetheless, even considering only the VCD preset option, the Examiner maintains that "desired" does not entail a plurality of media formats since a user may have only one desire. There is no requirement for multiple desires in the independent claim.

The Examiner maintains that Cleaner 5 discloses at least DVD and VCD output media formats that may be pre-selected. . In addition, the Examiner, as noted below and in the rejection, as provided an alternative rejection in which including additional output media was known in the art.

Claim 6 Arguments

The Patent Owner contends the Examiner has not pointed out a DVD output media format. The Examiner disagrees.

Cleaner 5 specifically discloses that a user can create DVD projects. For example, on page 205, Cleaner 5 discloses of using the MPEG-2 format for DVD for playing a movie. In

addition, as further disclosed on page 205 of Cleaner, a user can choose an MPEG setting and

can specifically use the Output tab which allows a user to select between MPEG-1 and MPEG-2

streams.

In addition, as noted by the Requester, the claims do not specify that the program must

accept a selection of a menu item specifically reciting "DVD." Rather the claim language will

allow for selection of an MPEG-2 output, which is related to DVD, and accordingly the output

media format could be DVD.

Claim 7 Arguments:

The Patent Owner contends the Examiner does not point to any disclosure showing

Cleaner 5 can write the format for VCD or any other format for presenting video and audio based

on a desired output media format or video presentation standard.

The Examiner notes that the Patent Owner contradicts themselves since the Patent Owner

acknowledges that Cleaner 5 discloses a CD-mastering application (page 22 of the Patent

Owner's response).

The Examiner further maintains that the Cleaner 5 reference specifically discloses of

writing the MPEG-1 for VCD format to disc and specifically disclosed on page 209 of Cleaner 5.

Cleaner 5 discloses that the MPEG-1 for VCD files can be authored (i.e. written) onto disc using

the Easy-CD Creator or Adaptec Toast application.

In addition, as noted by the Requester, Cleaner 5 discloses writing the video and audio

information in the presentation format onto a disc media such as CD-ROM or DVD-ROM,

(Cleaner 5 at p. 144). Additionally, the Cleaner 5 manual 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). While Cleaner 5 (the software application) alone cannot create VCDs that are playable on a media player that reads VCD formatted optical discs, Cleaner 5 (the reference) very clearly discloses that Cleaner 5 can write the video and audio information to a disc media or Cleaner 5 can be used in conjunction with another program to write the information to an optical disc playable by a media player.

Claim 8 Arguments:

The Examiner notes that construing presentation format to include MPEG-1 files is unreasonable and contrary to the ordinary meaning of the term since MPEG-1 file cannot be played on a TV.

The Examiner first notes that files being played on a TV is not a requirement in the claims. Thus, the Patent Owner is arguing limitations which are not claimed. In addition, claim 8 specifically recites that the presentation format can be VCD MPEG-1, thus, the Patent Owner's argument are contrary to their patent disclosure.

In addition, the Examiner notes that as set forth on page 62 of Cleaner 5, it is discloses that "Cleaner 5 now encodes MPEG-2, which is the format used for DVD-Video. The discs can be played back on standard set-top and portable DVD players or on computers with DVD-ROM drivers. Thus, Cleaner 5 fully discloses that its MPEG-2 format for DVD is playable on DVD players which are a format that playable on a television. As is known, DVD players as a standard set-top box are connected to television sets.

In addition, as noted by the Requester the claims do not recite authoring as a requirement and thus the presentation format is not required to be in a format for an optical disk. Further, also discussed above, MPEG-1 files modified for Video CD, as disclosed in Cleaner 5 are the presentation format for VCD and accordingly Cleaner 5 meets even this improper construction of the claim.

The Patent Owner argues that the presentation format for writing audio and video presentation data to a VCD is described as a ".dat" file that contains MPEG-1 audio and video. The Examiner notes that the claim does not recite any requirement of a ".dat" file. Nonetheless, assuming *arguendo* that ".dat" files, ".vob" files and ".mpg" files are the formats for VCD, DVD and SVCD respectively, the Examiner notes that since this is the known standard then since Cleaner 5 discloses of at least VCD and DVD standards and the using a CD-mastering application to at least write VCDs to disc, then Cleaner 5 supports ".dat" files for VCD since this would have been required as noted by the Patent Owner.

Claim 10 Arguments:

The Patent Owner has not provided any substantive arguments other than to state that Cleaner 5 does not disclose receiving a desired output media format.

For the reasons noted above, Cleaner 5 fully discloses of receiving a desired output media format of at least MPEG-1 for VCD.

Claim 19 Arguments:

The Patent Owner contends that Cleaner 5 discloses outputting MPEG-1 or MPEG-2 as intermediary files.

The Examiner disagrees since the point in which MPEG-1 or MPEG-2 is output right before the files are ready to be written onto disc using a CD mastering application. The Patent Owner has not shown that Cleaner 5 uses intermediary files during the process from input of video to output of video without writing onto disk. As noted above, the presentation format as claimed includes at least MPEG-1 for VCD (claim 8 of the '172 patent). Thus, if Cleaner 5 uses intermediary files, then the '172 patent likewise uses intermediary files since the '172 shows that the presentation format could be VCD MPEG1.

The Patent Owner further argues the multiplexing limitations, however the Patent Owner ahs not explained why they do not believe this limitations is not taught by the prior art.

Nonetheless, the Examiner notes that under the broadest reasonable interpretation of the claim and as shown in the rejection of the claim, Cleaner 5 fully anticipates the multiplexing limitations as well as showing a selection of a desired output media format and desired video presentation standard as claimed.

Issue 2 Arguments

Claim 5 Arguments

The Patent Owner contends MPEG Charger does not disclose a DVD output media format. The Patent Owner notes that the only preset cited by Examiner is for VCD and MPEG Charger does not disclose what Cleaner 5 is missing.

The Examiner first notes that MPEG Charger (like Cleaner 5) specifically discloses of

DVD as an output. As noted under the MPEG Charger section (under Overview), MPEG

Charger "gives you comprehensive control over both MPEG-1 and MPEG-2 encoding. Because

it integrates seamlessly with Cleaner 5, you can easily customize your MPEG settings".

In addition, the Examiner acknowledges that Cleaner 5 only specifically discloses a

preset for VCD; however, as explained above, Cleaner 5 also discloses that a user can create

DVD movies that are playable on a player, thus, Cleaner 5 supports a preset for DVD. MPEG

Charger supplements Cleaner 5 since MPEG Charger provides further support for DVD. IN

addition, as noted by MPEG Charger, Cleaner 5 allows a user to select the VCD format and the

conversion process would provided "special Video CD formatting" so that the MPEG file can be

written to disk (page 12 of MPEG Charger).

As noted by the Requester, MPEG Charger is a companion application specifically for

use with Cleaner 5. MPEG Charger discloses the ability to create MPEG-2 files, which is the

format used for DVD playback and accordingly, selecting MPEG-2 output meets the claim

limitations related to DVD. See MPEG Charger at p. 10.

MPEG-2 produces high-data rate, full broadcast-quality files that require DVD, fast CD-ROM or
hard drives for playback. MPEG-2 playback also requires a fast computer and video card or a
hardware accelerator card. MPEG-2 is used for commercial DVDs (DVD-Video) and many
home satellite dish systems. Standard MPEG-2 is full frame rate (24-30 fps) and full-screen
resolution (720x480, NTSC).

In addition, it was noted that MPEG Charger discloses a variety of quality settings for

DVD.

MPEG Charger offers feature enhancements not included in Cleaner 5, including support for:
- Both 1-pass and 2-pass variable bitrate encoding for both MPEG-1 and MPEG-2.
- Custom video buffer verifier sizes.
- Custom Group of Pictures (GOP) sizes.
- Open or closed GOPs.
- All standard MPEG frame sizes and frame rates
- Both 4:2:2 and 4:2:0 chromas for MPEG-2 streams

Claim 6 Arguments

The Patent Owner repeats that MPEG Charger does not provide DVD as a desired output

media format.

The Examiner disagrees and notes, as stated by the Requester, that the claims do not

specify that the program must accept a selection of a menu item specifically reciting "DVD."

Rather the claim language will allow for selection of an MPEG-2 output, which is related to

DVD, and accordingly the output media format could be DVD.

Additionally, the Cleaner 5 reference specifically states that MPEG Charger can

be combined with Cleaner 5, rendering this claim obvious. MPEG Charger is a companion

application specifically for use with Cleaner 5. MPEG Charger discloses the ability to create

MPEG-2 files, which is the format used for DVD playback and accordingly, selecting MPEG-2

output meets the claim limitations related to DVD. See MPEG Charger at p. 10.

Claim 8 Arguments

The Patent Owner contends that Cleaner 5 with MPEG Charger still can't process video

and audio information to form video and audio information in a presentation format. and that

MPEG Charger does not disclose preparing a .vob files, .dat files or .mpg file as specified by the

DVD, VCD and SVCD standards.

The Examiner disagrees and notes that MPEG Charger is a companion application

specifically for use with Cleaner 5. MPEG Charger provides additional disclosure regarding the

use of the Adaptec Toast Application, which is used to author video CDs:

Making Video CDs

The Video CD format is a standard that plays in most DVD players. It requires MPEG-1 video
and special Video CD formatting. 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. To author
Video CDs, you'll also need a CD-mastering application, such as Adaptec Toast or Easy-CD
Creator.

Adaptec Toast support for Video CD (Mac OS only)

In order for MPEG streams to be accepted by Adaptec Toast
to create a Video CD, certain non-standard information
must be added to the MPEG file. To make files intended for
inclusion on a Video CD being authored with Toast, check
the Video CD compatible option in the Output tab of the
Advanced Settings window and choose Toast in the pop-up
menu. See the Toast documentation for authoring instructions.
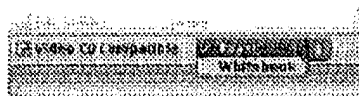
Making MPEG streams for use
with Adaptec Toast.

In addition, under the <u>MPEG Charger Options</u> section of MPEG Charger, it is disclosed

that MPEG files usually use a file suffix of ".mpg". thus, Cleaner 5 along with MPEG Charger

meet the claim language. As noted above, The Examiner notes that assuming *arguendo* that

".dat" files, ".vob" files and ".mpg" files are the formats for VCD, DVD and SVCD respectively,

the Examiner notes that since this is the known standard then since Cleaner 5 discloses of at least

VCD and DVD standards and the using a CD-mastering application to at least write VCDs to

disk, then Cleaner 5 supports ".dat" files for VCD since this would have been required as noted

by the Patent Owner.

Issue 4

The Patent Owner contends Washino teaches using an intermediary storage format for converting an input video format to an output video format and that Washino does not disclose disk authoring of the converted video file and outputting of a presentation format.

The Examiner disagrees and maintains that Washino does not use an intermediary file since the file that is argued by the Patent Owner and stored is the file that when through the conversion process. As noted by the Patent Owner "free from one or more intermediary files" is a file that is output after the continuous pass conversion process without writing onto disk. The Patent Owner has not explained how Washino uses an intermediary file during the conversion process since even if the file is stored, the stored file is after the conversion process but before writing the file to disk.

As noted in the Rejection, Washino is directed to enabling a user to edit and manipulate an input video program and produce an output version of the program in a final format which may have different frame rate, pixel dimensions etc. The converted file (i.e. output format file) is recorded onto either storage devices or disk drives such as DVD-R or DVD RAN type drives, (col. 6, lines 48-50).

The Examiner notes that the Patent Owner argues that Washino fails to disclose CD-ROM media at all and further does not disclose Video CD or Super Video CD output media formats for writing video to a CD optical disk. The Examiner notes that the claims that recite this requirement are claims 5, and 8. These claims require a "selection" of a format from a group which includes DVD, VCD and Super VCD. The Examiner agrees that this group includes both

DVD and CD based formats; however the claim merely requires a selection of one of the three

listed elements. The claim does not require that all three be selected. .

The Patent Owner contends that Washino does not disclose disk authoring of the

converted video file and outputting of a presentation format.

The Examiner disagrees, and notes that Washino specifically discloses, "Images 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 devices, preferably

in compressed-data form." (col. 6, lines 54-60).

In addition, the Patent Owner contends Washino fails to disclose any output media

formats (DVD, VCD and SVCD) for writing to an optical disk based on a standard.

As noted above, the Examiner maintains that Washino discloses at least outputting based

on the DVD standard.. The Patent Owner does not disclose which claim they are specifically

referencing with this argument.

Conclusion

This is a **RIGHT OF APPEAL NOTICE (RAN)**; see MPEP § 2673.02 and § 2674. The decision in this Office action as to the patentability or unpatentability of any original patent claim, any proposed amended claim and any new claim in this proceeding is a FINAL DECISION.

No amendment can be made in response to the Right of Appeal Notice in an *inter partes* reexamination. 37 CFR 1.953(c). Further, no affidavit or other evidence can be submitted in an *inter partes* reexamination proceeding after the right of appeal notice, except as provided in 37 CFR 1.981 or as permitted by 37 CFR 41.77(b)(1). 37 CFR 1.116(f).

Each party has a **thirty-day or one-month time period, whichever is longer,** to file a notice of appeal. The patent owner may appeal to the Board of Patent Appeals and Interferences with respect to any decision adverse to the patentability of any original or proposed amended or new claim of the patent by filing a notice of appeal and paying the fee set forth in 37 CFR 41.20(b)(1). The third party requester may appeal to the Board of Patent Appeals and Interferences with respect to any decision favorable to the patentability of any original or proposed amended or new claim of the patent by filing a notice of appeal and paying the fee set forth in 37 CFR 41.20(b)(1).

In addition, a patent owner who has not filed a notice of appeal may file a notice of cross appeal within **fourteen days of service** of a third party requester's timely filed notice of appeal and pay the fee set forth in 37 CFR 41.20(b)(1). A third party requester who has not filed a notice of appeal may file **a notice of cross appeal within fourteen days of service** of a patent owner's timely filed notice of appeal and pay the fee set forth in 37 CFR 41.20(b)(1).

Any appeal in this proceeding must identify the claim(s) appealed, and must be signed by

the patent owner (for a patent owner appeal) or the third party requester (for a third party

requester appeal), or their duly authorized attorney or agent.

Any party that does not file a timely notice of appeal or a timely notice of cross appeal

will lose the right to appeal from any decision adverse to that party, but will not lose the right to

file a respondent brief and fee where it is appropriate for that party to do so. If no party files a

timely appeal, the reexamination prosecution will be terminated, and the Director will proceed to

issue and publish a certificate under 37 CFR 1.997 in accordance with this Office action.

11.   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.

/Ovidio Escalante/
Ovidio Escalante
Primary Examiner
Central Reexamination Unit - Art Unit 3992
(571) 272-7537

Conferee: ESK   Conferee: R.C.F.