

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS, LLC,
Petitioner,

v.

VL COLLECTIVE IP LLC,
Patent Owner.

IPR2022-01086
Patent 8,605,794 B2

Before KARL D. EASTHOM, JEFFREY S. SMITH, and
DAVID C. McKONE, *Administrative Patent Judges*.

SMITH, *Administrative Patent Judge*.

DECISION
Denying Request for Rehearing
37 C.F.R. 42.71

I. INTRODUCTION

On January 17, 2024, Petitioner filed a Request for Rehearing (Paper 38, “Req.”) of our Final Written Decision (Paper 37, “Dec.”), which held that claims 1, 3, 5, 9, 12, 13, and 15 of U.S. Patent No. 8,605,794 B1 (Ex. 1001, the “’794 patent”) are unpatentable, and that claims 20 and 21 are not unpatentable. Petitioner contends that (a) we misunderstood the meaning of timestamp as recited in claims 20 and 21, (b) we overlooked evidence showing that the control information of Sonohara (Ex. 1003) is not based on a timestamp, and (c) we misapprehended or overlooked teachings in Abbott (Ex. 1004) showing that Abbott assigns and synchronizes each of the second data segments to one of the first data segments within the scope of claims 1 and 9.

For the reasons that follow, Petitioner’s request for rehearing is denied.

II. ANALYSIS

A. Legal Standard

The applicable standard for a request for rehearing is set forth in 37 C.F.R. § 42.71(d), which provides in relevant part:

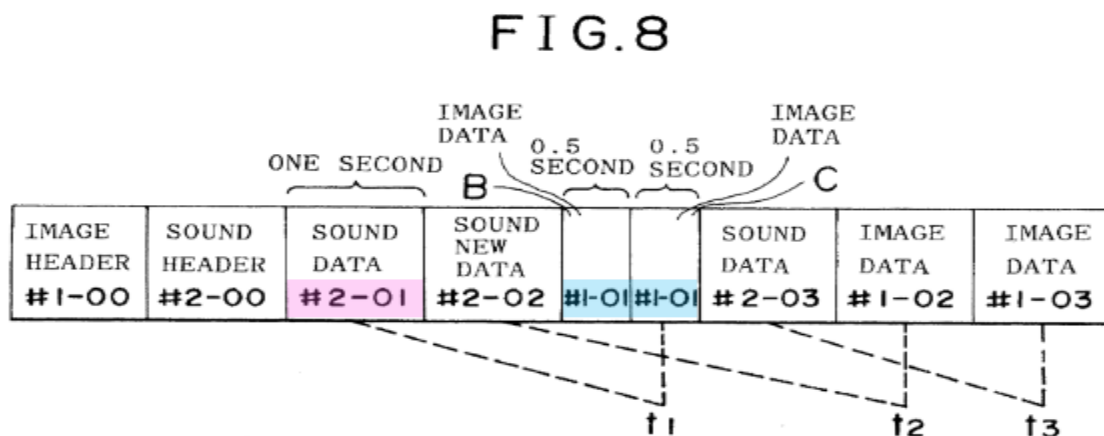
A party dissatisfied with a decision may file a single request for rehearing without prior authorization from the Board. The burden of showing a decision should be modified lies with the party challenging the decision. The request must specifically identify all matters the party believes the Board misapprehended or overlooked, and the place where each matter was previously addressed in a motion, an opposition, a reply, or a sur-reply.

A rehearing request is not an opportunity for the requesting party to present new arguments or merely to express disagreement with the Decision and reargue its case, which is all Petitioner has done in this instance.

B. Alleged Misapprehension of the Meaning of “Timestamp”

Dependent claim 20, which depends from claim 1, recites “the assignment rule is not based on a timestamp.” Claim 21, which depends from claim 9, recites a similar limitation. In our Decision, we found that the Petition did not show that claims 20 and 21 were anticipated by or unpatentable over Sonohara. Dec. 47. Petitioner contends that we misapprehended the understanding of the claimed “timestamp.” Req. 2.

In particular, Petitioner contends that the parties agreed that a “timestamp” “would be understood to be an absolute time or time range, e.g., 0:00.00–0:01.00,” as Dr. Freedman, Petitioner’s expert, testified. Req. 3 (citing Ex.1005, ¶ 167; Dec. 45; Ex. 2007, ¶ 92 (Dr. Goodrich applying Dr. Freedman’s understanding of a “timestamp”); Decision, 46 (citing Ex. 2007, ¶ 92). Petitioner, citing Figure 8 of Sonohara, contends that Sonohara’s control information is neither an absolute time nor a time range. Req. 4. Figure 8 of Sonohara as annotated in the Request for Rehearing is reproduced below.



EX1003, Fig. 8 (annotated)

Figure 8 above shows a diagram of a file-compiled file format produced by the motion picture reproducing apparatus of Sonohara, with “#2-01”

highlighted in pink and instances of “#1-01” highlighted in blue. Ex. 1003, 3:40.

According to Petitioner,

[a]s shown in Figure 8 above, the control information in Sonohara’s header includes data and track identifiers (e.g., “sound data #2-01” and “image data #1-01”) to output and synchronize image and audio data segments. EX1003, Abstract, Fig. 8; Pet., 54–55; Reply, 27; EX1005, ¶¶ 166–169. The data and track identifiers (e.g., “sound data #2-01”) do not include either (1) an absolute time or (2) a time range, the parties’ agreed-upon meaning of a “timestamp.” Though Dr. Goodrich characterized Sonohara’s Figure 8 as disclosing that the data segments include “number and duration header information” (e.g., “the new image data #1-01 for 0.5 seconds”), even this combination of data is not an absolute time nor time range. EX2007, ¶ 92. Therefore, the Decision misapprehended or overlooked Sonohara’s disclosure that the control information in Sonohara’s header, i.e., the data and track identifiers such as “sound data #2-01” and “image data #1-01” in Figure 8, do not include and are therefore not “based on” either (1) an absolute time or (2) a time range, the parties’ agreed-upon meaning of a “timestamp.”

Req. 4-5.

In our Decision, we wrote that

[i]n evaluating the parties’ respective arguments, we find Dr. Goodrich’s testimony particularly helpful. *See* Ex. 2007 ¶¶ 92–94 (cited by PO Resp. 65). For example, he directs our attention to Sonohara’s discussion of Figure 8, in which Sonohara explains that, “at the time t1, the sound data #2-01 for one second and the new image data #1-01 for 0.5 seconds and the image data #1-01 for 0.5 seconds are read in synchronization.” *Id.* ¶ 92; Ex. 1003, 7:33–36. This and other examples provided by Sonohara support Dr. Goodrich’s opinion that a person of ordinary skill in the art “would understand that the number and duration header information disclosed in

Sonohara [] correspond to a timestamp.” *See* Ex. 2007 ¶ 92 (citing Ex. 1003, 5:57–65, 6:53–67, 7:33–65).
Dec. 45-46.

We reiterate that Petitioner’s expert, Dr. Freedman, testified that “a *timestamp* or ‘time code’ . . . would be understood to be . . . [a] time range, e.g., 0:00.00–0:01.00. *Sonohara* does not use absolute times or time ranges, but instead uses the data identifying numbers, which are not limited to alignment with time units.” Ex. 1005 ¶ 167. We agreed with Dr. Freedman that a time range is a timestamp, and concluded that the data segments of *Sonohara*, which have a time range of 1 second, disclose timestamps.
Dec. 45–47. We recognize that Dr. Freedman further testified that the data identifying numbers of *Sonohara* are not limited to alignment with time units, but we find Dr. Freedman’s testimony on this point inconsistent with the disclosure of *Sonohara*, which describes data segments that have a predetermined, constant time duration. *See* Ex. 1003, 5:57–65, 6:53–67, 7:33–65. Further, Dr. Freedman did not explain his basis for testifying that the data identifying numbers of *Sonohara* are not limited to alignment with time units.

Thus, our Decision correctly found that the data and track identifiers of *Sonohara*, which have a predetermined and constant time duration, or time range, are timestamps consistent with the understanding of Dr. Freedman. Petitioner has not shown that we misapprehended or overlooked the meaning of the claimed “timestamp.”

C. Alleged Misapprehension of the Teachings of Sonohara

Petitioner contends that the Decision misapprehended and/or overlooked evidence of record showing that the control information in *Sonohara*’s header (the claimed “assignment rule”) is not based on a

timestamp, as claims 20 and 21 recite. Req. 2. Specifically, Petitioner contends that

[i]nstead of focusing on the data and track identifiers, i.e., the information in Sonohara’s control information, the Board shifted focus to whether Dr. Goodrich’s **combination** of the data and track identifiers and duration information (which is **not** in Sonohara’s control information) qualified as a “timestamp.” The data and track identifiers in Sonohara’s header do not include “unit items” or have “constant time duration[s] . . . at specific, pre-set times,” as Patent Owner incorrectly argued, and as the Decision adopted. Thus, the Decision misapprehended and/or overlooked how the data and track identifiers in Sonohara’s header—rather than the “unit times” in Sonohara’s Figure 8—correspond to the claimed “assignment rule,” and how the data and track identifiers in Sonohara’s header are not based on a timestamp. Decision, 46. The Petition showed that each portion of data for a unit of time corresponds to a claimed “segment,” not the assignment rule. Pet., 38 (citing EX1005, ¶ 128); Reply, 21. Thus, the Board misapprehended or overlooked that the “unit times” in Sonohara’s Figure 8 correspond to the claimed “data segments,” not the “assignment rule.”

Req. 7–8.

In our Decision, we stated that

Dr. Goodrich’s testimony . . . adequately supports Patent Owner’s contention that, “[a]pplying [Dr. Freedman’s] understanding of a timestamp, which Petitioner adopts (Pet., 55 n.2), the alleged ‘assignment rule’ is based on two different timestamps.” See PO Resp. 64. Specifically, Patent Owner notes that “Sonohara discloses outputting corresponding unit times . . . that have a predetermined, constant time duration . . . at specific, pre-set times . . . to assign the alleged content-related data segments to one another,” such that “[t]he unit times correspond to a time range, which is a timestamp,” and “the pre-set times correspond to absolute times, and so are also time stamps.” *Id.*

Dec. 46.

Thus, we found that, although the data and track identifiers of the data segments described by Sonohara do not explicitly show duration information, Sonohara discloses that the data segments have a predetermined and constant duration, or time range, which is a “timestamp” within the scope of claims 20 and 21. Dec. 46 (citing PO Resp. 64; Ex. 1003, 7:29–51).

We also found that Sonohara uses a second “timestamp” as defined by Dr. Freeman in disclosing that the unit times are output at specific, pre-set times to assign the segments to each other. Dec. 46. Dr. Freedman testified that “a *timestamp* . . . would be understood to be an absolute time.” Ex. 1005 ¶ 167. In our Decision, we found that the times *t1* and *t2* disclosed by Sonohara are pre-set, absolute times or “timestamps” as understood by Dr. Freedman. Dec. 46. Our finding is consistent with Sonohara, which discloses:

At the time when the data identifying number of the image data is identified with the data identifying number of the sound data, the image data and sound data are read in synchronism from the region 42. For example, in the example shown in FIG. 8, *at the time t1*, the sound data #2-01 for one second and the new image data #1-01 for 0.5 seconds and the image data #1-01 for 0.5 seconds are read in synchronism.

....

Further, in the example shown in FIG. 8, *at time t2*, the sound data #2-02 for one second and the image data #1-02 for one second are read in synchronism.

Ex. 1003, 7:29-51 (emphases added).

Thus, our Decision correctly found that by applying Dr. Freedman’s understanding of a timestamp, the assignment rule of Sonohara is based on two different timestamps, the unit times of a predetermined, constant

duration, as well as the pre-set, absolute times for outputting corresponding unit times. Dec. 46–47. Petitioner has not shown that we misapprehended or overlooked evidence of record showing that the control information in Sonohara’s header (the claimed “assignment rule”) is not based on a timestamp.

D. Alleged Misapprehension of the Teachings of Abbott

Claim 1 recites “each of the content-related second data segments is output together with an associated one of the content-related first data segments on the basis of an assignment rule.” Claim 9 recites a similar limitation. In our Decision, we found that Abbott does not meet this limitation “because Abbott discloses synchronizing only a single audio frame with a single video GOP on the basis of Abbott’s index files.” Dec. 35. Petitioner contends that, in doing so, “the Decision misapprehended and/or overlooked express teachings in Abbott, as cited in the Petition and Petitioner’s Reply, showing that Abbott assigns and synchronizes each of the *multiple* audio segments (corresponding to the claimed ‘second data segments’) to one of the Groups of Pictures (GOPs) (corresponding to the claimed ‘first data segments’).” Req. 9; *see id.* at 10-12 (citing Ex. 1004, Fig. 9, 18:66-19:17).

In our Decision, we addressed this argument, stating that

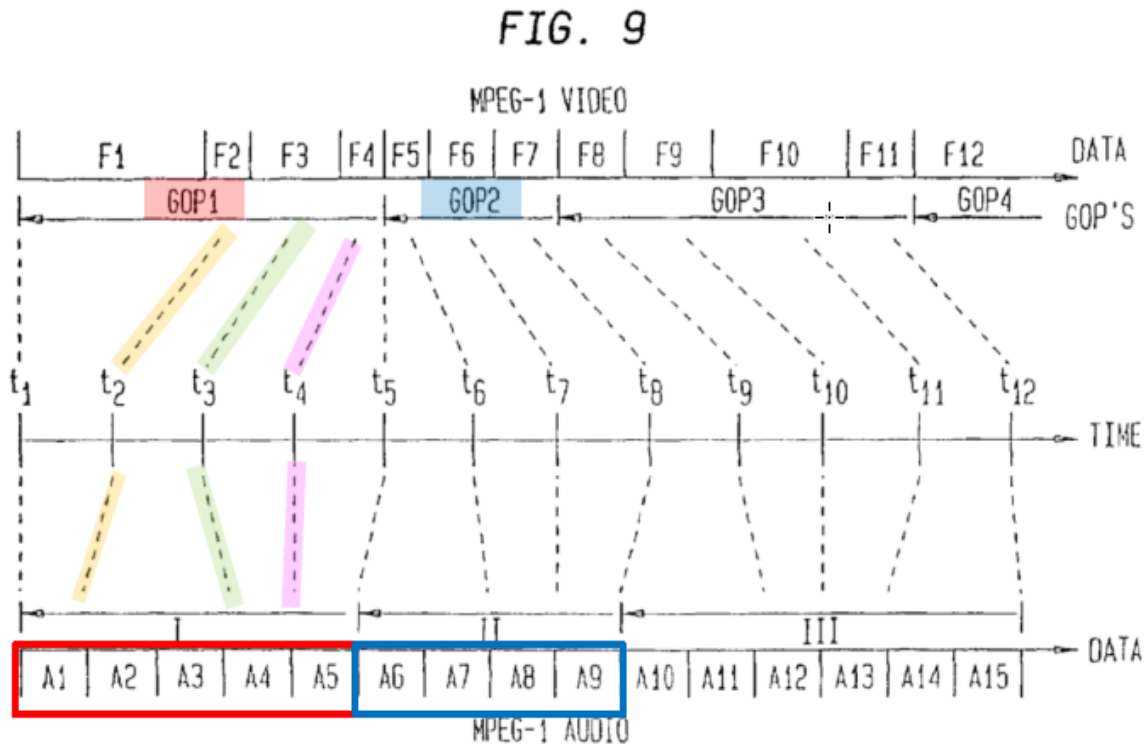
Petitioner reasons that the limitation is met because Abbott’s index correlates multiple audio segments to a single GOP such that there is “assignment” of each of the recited “second data segments” with the associated one of the “first data segments.” Pet. 24–25; Reply 32. The deficiency in Petitioner’s reasoning lies in its position that such assignment is “all that the claim requires.” *See* Tr. 32:5; *see also* Reply 32 (“Claim[] 1 *only* require[s] assignment of each second data segment . . . to one of the first data segments.”).

Dec. 33. In our Decision, we further stated that:

[W]e determine that Petitioner makes an insufficient showing because, as Patent Owner correctly asserts, “Abbott at most discloses creating indexes (the alleged assignment rule) that correlate groups of audio frames with video GOPs, using the correlations to synchronize a *single* audio frame with a *single* video GOP when a user jumps to a different point in the media.” PO Resp. 41.

Dec. 34. Thus, we did not overlook Petitioner’s contention.

Further, Petitioner has not shown that we misapprehended or overlooked the express teachings of Abbott. In particular, columns 18 and 19 of Abbott, cited by Petitioner in its Request for Rehearing, describe that after synchronizing a single audio frame with a single GOP, standard playback resumes, and subsequent synchronization is performed by a decoder rather than by using the index that correlates a group of audio files with a video GOP. Ex. 1004, 18:48–19:54; *see* Pet. 29 (After skipping to an arbitrary point in time, “the content at that point in time would be output and presented *sequentially*, in time order.”); Ex. 1005 ¶ 96, Freedman Decl. (citing Ex. 1004, 15:55–57). Figure 9 of Abbott as reproduced in Petitioner’s Request for Rehearing is reproduced below.



EX1004, Fig. 9 (annotated); Reply, 29

Annotated Figure 9 above shows the relationship between audio frames and groups of pictures (GOP) in encoded video data, and shows an example of the indexing and synchronization method of the '794 patent. Ex. 1004, 4:30–34). Abbot discloses that “[w]hen jumping to various points in an item of program material, the indexing method of the present invention ensures that a jump is made *to the beginning* of a GOP.” Ex. 1004, 18:66–19:1. Abbott does so by assigning unique index numbers to audio frames A1 through A5 as shown in Figure 9 with GOP1, so that each of these index numbers points to the same . . . position that is *the beginning* of audio frame A1. Ex. 1004, 18–26. Abbott discloses that, when using this synchronization method, the out of sync time between audio and video is generally held to be within one frame duration, which is tolerable, “because

a decoder,” not the indexing method, “is typically capable of resynchronizing such an offset.” Ex. 1004, 19:40–46.

Contrary to Petitioner’s contention, after the single audio frame A1 of Abbott is synchronized and output with the single video GOP, the subsequent audio frames are output sequentially in time order, not “on the basis of an assignment rule” as claimed. Petitioner has not shown that we misapprehended or overlooked the express teachings of Abbott.

III. CONCLUSION

Petitioner has not carried its burden of demonstrating that our Decision misapprehended or overlooked any matters. 37 C.F.R. § 42.71(d).

IV. ORDER

For the foregoing reasons, Petitioner’s Request for Rehearing is *denied*.

FOR PETITIONER:

Raghav Bajaj
David McCombs
Jonathan Bowser
HAYNES & BOONE LLP
raghav.bajaj.ipr@haynesboone.com
david.mccombs.ipr@haynesboone.com
jon.bowser.ipr@haynesboone.com

Roshan Mansinghani
Jung Hahm
Jessica L. A. Marks
UNIFIED PATENTS, LLC
roshan@unifiedpatents.com
jung@unifiedpatents.com
jessica@unifiedpatents.com

FOR PATENT OWNER:

Christine Lehman
Michael Flanigan
Jaime Cardenas-Navia
REICHMAN JORGENSEN LEHMAN & FELDBERG LLP
clehman@reichmanjorgensen.com
mflanigan@reichmanjorgensen.com
jcardenas-navia@reichmanjorgensen.com