

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS INC.,
Petitioner,

v.

SYNCHVIEW TECHNOLOGIES, LLC,
Patent Owner.

Case IPR2019-00470
Patent 6,788,882 B1

Before JENNIFER S. BISK, MONICA S. ULLAGADDI, and
JULIA HEANEY, *Administrative Patent Judges*.

ULLAGADDI, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

Unified Patents, Inc. (“Petitioner”) requests *inter partes* review of claims 1–3, 5–10, 12, 13, 16–25, 27, 28, and 31–33 of U.S. Patent No. 6,788,882 B1 (“the ’882 patent,” Ex. 1001) pursuant to 35 U.S.C. §§ 311 *et seq.* Paper 1 (“Pet.”). Synchview Technologies, LLC (“Patent Owner”) filed a preliminary response. Paper 8 (“Prelim. Resp.”).

Under 35 U.S.C. § 314(a), an *inter partes* review may not be instituted “unless . . . the information presented in the petition . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” A decision to institute under 35 U.S.C. § 314 may not institute on fewer than all claims challenged in the petition. *SAS Inst., Inc. v. Iancu*, 138 S. Ct. 1348 (2018). The decision to institute is “a binary choice—either institute review or don’t.” *Id.* at 1355.

For the reasons that follow, we do not institute an *inter partes* review of the ’882 patent.

II. BACKGROUND

A. *Related Proceedings*

In its Mandatory Notices, Patent Owner indicates co-pending district court cases that may be affected by a decision rendered in the present proceeding. Paper 8, 2–3. Petitioner does not identify any related proceedings. *See generally* Pet.

B. *The ’882 Patent*

The ’882 patent is titled “Systems and Methods for Storing a Plurality of Video Streams on a Re-Writeable Random-Access Media and Time- And Channel-Based Retrieval Thereof.” Ex. 1001, [54]. The ’882 patent discloses a digital video recorder (DVR) that “remedies the shortcomings of

traditional video recording methods . . . by combining an essentially limitless (only limited by the cost of the equipment) capability [to] concurrently . . . record a number of channels on a random-access medium while being able concurrently to play back any of these channels for viewing.” *Id.* at 2:9–16. The ’882 patent further discloses “stor[ing] [a] plurality of channels together with time information to allow the plurality of channels to be synchronized with respect to one another,” which “allows a user to surf synchronized, prerecorded channels in a way that imitates . . . real-time channel surfing[.]” *Id.* at 2:64–3:3. The ’882 patent describes “temporal[l]y stor[ing] . . . more than one video channel (e.g., television or cable channels)” to support channel surfing and time surfing. *Id.* at 5:23–25.

With respect to channel surfing, the ’882 patent discloses that “a user, using the currently available technology in televisions and cable converters (‘boxes’) can, in rapid succession (but only in real-time, as time progresses) switch from one channel to another by either entering a channel number or hitting a channel ‘up’ (or ‘down’) button.” *Id.* at 5:38–43. With respect to time surfing, the ’882 patent discloses that “[t]he user can freely time surf in either time direction” and “[t]he only time-boundaries are that one cannot surf past now into the future (on the higher time side), and the current time minus the total recorded time (on the lower time side).” *Id.* at 5:52–56. As an inventive aspect, the ’882 patent discloses that, “[b]y broadening the concept of the channel/time block concept, the user can use the same search paradigm for recorded as well as regular real time programming.” *Id.* at 9:4–7.

C. Illustrative Claims

As noted above, Petitioner challenges claims 1–3, 5–10, 12, 13, 16–25, 27, 28, and 31–33 of the '882 patent, of which claims 1 and 19 are independent. Independent claims 1 and 19 are illustrative and recite:

1. A digital video recorder (DVR) for recording a plurality of television broadcast programs, comprising:

a mass data storage unit that concurrently and continuously receives and digitally stores a plurality of television broadcast programs together with time information to allow said plurality of stored television broadcast programs to be synchronized with respect to one another; and

a channel viewer, coupled to said mass storage unit, that retrieves a portion of one of said plurality of stored television broadcast programs from said mass data storage unit based on a received command and presents said portion on a video display device.

Ex. 1001, 18:5–17.

19. A method of operating a digital video recorder, comprising the steps of:

receiving a plurality of television broadcasts, each television broadcast including a video signal; and

concurrently and continuously digitally storing said plurality of television broadcasts on a mass data storage unit and storing said plurality of television broadcasts together with time information to allow said plurality of stored television broadcasts to be synchronized with respect to one another upon replay of said stored television broadcasts.

Id. at 19:7–17.

D. Level of Ordinary Skill in the Art

Petitioner contends

A person having ordinary skill in the art (“PHOSITA”) would have been a person having, as of April 17, 1998: (1) at least an undergraduate degree in computer science, computer engineering, electrical engineering or a similar technical field; and (2) two or more years of experience in analysis, design, or development related to video storage and playback systems, particularly in the context of television broadcast systems.

Pet. 5–6 (citing Ex. 1003 ¶¶ 25–27). ”For purposes of its Preliminary Response, Patent Owner accepts Petitioner’s asserted level of ordinary skill in the art[.]” Prelim. Resp. 7–8.

Based on our review of the ’882 patent, the types of problems and solutions described in the ’882 patent and cited prior art, and the testimony of Petitioner’s declarant, we adopt and apply Petitioner’s definition of a person of ordinary skill in the art at the time of the claimed invention.

E. Asserted Grounds of Unpatentability

Petitioner asserts that claims 1–3, 5–10, 12, 13, 16–25, 27, 28, 31–33 of the ’882 patent are unpatentable over the following challenges.

Claims 1–3, 5–9, 12, 13, 16, 19–24, 27, 28, and 31 are asserted to be unpatentable under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 5,751,282 to Girard et al. (Ex. 1003, “Girard”) and U.S. Patent No. 6,901,209 B1 to Cooper et al. (Ex. 1004, “Cooper”).

Claims 10, 12, 25, and 27 are asserted to be unpatentable under 35 U.S.C. § 103(a) as obvious over Girard, Cooper, and U.S. Patent No. 6,226,447 B1 to Sasaki et al. (Ex. 1005, “Sasaki”).

Claims 17, 18, 32, and 33 are asserted to be unpatentable under

35 U.S.C. § 103(a) as obvious over Girard, Cooper, and U.S. Patent No. 5,371,551 to Logan et al. (Ex. 1006, “Logan”).

Petitioner also relies on the Declaration of Dr. Gary Tjaden (Ex. 1007) in support of its arguments.

Patent Owner supports its Preliminary Response with the Declaration of Mr. David B. Lett (Ex. 2002).

III. DISCUSSION

A. *Claim Construction*

For *inter partes* reviews filed on or after November 13, 2018, we apply the same claim construction standard used by Article III federal courts and the ITC, both of which follow *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc), and its progeny. 83 Fed. Reg. 51340 (Oct. 11, 2018). Because the instant Petition was filed on December 30, 2018, we apply that standard here. Accordingly, we construe each challenged claim of the ’882 patent to generally have “the ordinary and customary meaning of such claim as understood by one of ordinary skill in the art and the prosecution history pertaining to the patent.” 37 C.F.R. § 42.100(b).

1. *Preamble of Independent Claims 1 and 19*

With respect to the preamble of independent claim 1 (“A digital video recorder (DVR) for recording a plurality of television broadcast programs”), Petitioner contends that the “’882 Patent does not limit the ‘mass data storage unit’ to any specific logical or physical structure” based on the disclosure that “[t]hose skilled in the art will understand that the logical or physical structure of the underlying disk storage does not limit the scope of the present invention.” Pet. 22 (quoting Ex. 1001, 4:1–9); *see id.* at 43 (citing the discussion of claim 1 with respect to the challenge to claim 19).

Based on the quoted portion of the '882 patent, Petitioner argues that the DVR recited in the preamble is not limiting. *See id.*

Patent Owner contends that the claim language, the specification, and the prosecution history make clear that the DVR recited in independent claims 1 and 19 constitutes a structural feature, and as such, the preambles should be construed to be limiting. Prelim. Resp. 8–9 (citing Ex. 2002 ¶¶24–26; Ex. 1002, 115, 200–201). Patent Owner’s declarant testifies that “[t]he Examiner required the applicants to amend the claims during prosecution to specify that the phrase ‘DVR’ in the preambles of certain dependent claims referred to a ‘digital video recorder,’” and that the Examiner would not have required an amendment to address the supposed ambiguity of the acronym DVR by itself had the preamble been construed to be non-limiting. Ex. 2002 ¶ 24. Patent Owner further points to statements made during prosecution in support of its argument that the preambles of claims 1 and 19 are limiting. *See* Prelim. Resp. 9 (quoting Ex. 1002, 200–201) (“claim 5 [issued claim 1] is fully patentable over Hite. Hite fails to teach or suggest a digital video recorder that ‘concurrently receives and digitally stores a plurality of channels.’ . . . The above reasoning applies to claim 24 [issued claim 19] as well”).

The preamble may be construed as limiting “if it recites essential structure or steps, or if it is ‘necessary to give life, meaning, and vitality’ to the claim.” *Catalina Mktg. Int’l, Inc. v. Coolsavings.com, Inc.*, 289 F.3d 801, 808 (Fed. Cir. 2002) (quoting *Pitney Bowes, Inc. v. Hewlett–Packard Co.*, 182 F.3d 1298, 1305 (Fed. Cir. 1999)). “A preamble is not regarded as limiting, however, ‘when the claim body describes a structurally complete invention such that deletion of the preamble phrase does not affect the

structure or steps of the claimed invention.” *American Medical Sys., Inc. v. Biolitec, Inc.*, 618 F.3d 1354, 1358–59 (Fed. Cir. 2010) (quoting *Catalina*, 289 F.3d at 809). The Federal Circuit has “held that the preamble has no separate limiting effect if, for example, ‘the preamble merely gives a descriptive name to the set of limitations in the body of the claim that completely set forth the invention.’” *Id.* at 1359 (quoting *IMS Tech., Inc. v. Haas Automation, Inc.*, 206 F.3d 1422, 1434–35 (Fed. Cir. 2000)).

In *Poly-America, L.P. v. GSE Lining Technology, Inc.*, 383 F.3d 1303, 1310 (Fed. Cir. 2004), the Court construed “blown-film” preamble language to be limiting because the “specification is replete with references to the invention as a ‘blown-film’ liner,” “[t]he phrase is used repeatedly to describe the preferred embodiments, and the entire preamble ‘blown-film textured liner’ is restated in each of the patent’s seven claims.” The Court found that

[T]he inventor considered that the “blown-film” preamble language represented an important characteristic of the claimed invention. We therefore agree with the district court’s conclusion that a “[r]eview of the entirety of the ’047 patent reveals that the preamble language relating to ‘blown-film’ does not state a purpose or an intended use of the invention, but rather discloses a fundamental characteristic of the claimed invention that is properly construed as a limitation of the claim itself.”

Id.

Unlike in *American Medical*, the term “DVR” is not merely descriptive of the structure and steps recited respectively in independent claims 1 and 19. Like in *Poly-America*, the specification discloses aspects in which a DVR must, not can, be part of the invention in every embodiment of

the '882 patent. *See Watts v. XL Sys., Inc.*, 232 F.3d 877, 882–83 (Fed. Cir. 2000) (construing “misaligned taper angles” to be limiting, in part, because the specification “d[id] not explicitly discuss an embodiment without misaligned taper angles,” and the because specification “actually limits the invention to embodiments with misaligned taper angles”). In particular, the '882 patent discloses that “[t]he digital video recorder of the present invention remedies the shortcomings of traditional video recording methods . . . by combining an essentially limitless (only limited by the cost of the equipment) capability concurrently to record a number of channels on a random-access medium while being able concurrently to play back any of these channels for viewing.” *Id.* at 2:9–16 (emphasis added); *see also id.* at 17:57–58 (“the present invention provides a DVR and a method of operating the same”).

We are not persuaded by Petitioner’s argument that the preamble is not limiting based on Petitioner’s premise that the '882 patent does not limit the claimed mass storage data unit (*see* Pet. 22, 43) because the portion of the disclosure quoted by Petitioner relates to the whether there is a single or multiple disk volumes for storing a plurality of channels *within* the mass data storage unit (*see* Ex. 1001, 4:1–9). It does not specify that the mass data storage unit need not to be part of a DVR. Nothing in the cited portion of the '882 patent indicates that the inventors intended to redefine DVR such that the mass data storage unit and the channel viewer are not components thereof, or that these components are physically distributed from each other, as discussed in further detail below. *See* Ex. 1001, 4:1–9.

Upon review of the '882 patent, we determine that the preamble recites essential structure of the invention—it does not merely highlight the

primary intended use of the invention. *See Toro Co. v. White Consol. Indus.*, 199 F.3d 1295, 1300–1301 (Fed. Cir. 1999) (construing claim to require a particular configuration where the specification “describe[d] the advantages of [the configuration] as important to the invention” and did not disclose other configurations); *Microsoft Corp. v. Multi-Tech Sys., Inc.*, 357 F.3d 1340, 1351–52 (Fed. Cir. 2004) (construing claim to require limitation that was “central to the functioning of the claimed invention[]”); *Alloc, Inc. v. Int’l Trade Comm’n*, 342 F.3d 1361, 1369–70 (Fed. Cir. 2003) (construing claim to include limitation because “very character of the invention” required that the limitation be part of every embodiment).

Because we determine the preamble is limiting, we address the construction of the term DVR.

According to Patent Owner, “the Microsoft Computer Dictionary and Dictionary of Video and Television Technology both define ‘DVR’ in the context of *a user-controlled device* rather than a centralized on-demand server.” Prelim. Resp. 15 (emphasis added). The Microsoft Computer Dictionary defines DVR as

Technology allowing broadcast television programming to be digitized and played back immediately. Television signals are routed through a hard drive, converted to a digital format and displayed in real-time or, at the viewer’s option, on a delayed basis. DVR technology can be used like a VCR to record favorite programs in advance, with the user picking the programs to be recorded from an online programming guide. DVR capabilities can also be added to products that have related digital technologies and components, such as set-top boxes and digital TV converters.

Ex. 2004, 303. The Dictionary of Video and Television Technology defines DVR as follows:

DVRs can be thought of [as] a digital version of the VCR, with several enhancements. Instead of a tape, the DVR uses an internal hard disk to store compressed audio/video, and has the ability to record and playback at the same time. The main advantage that DVRs have over VCRs is their ability to time shift viewing the program as it is being recorded. This is accomplished by continuing to record the incoming live program, while retrieving the earlier part of the program that was just recorded. The DVR also offers pause, rewind, slow motion, and fast forward control, just as with a VCR.

Ex. 2005, 87.

The '882 patent does not define the claim term DVR. As such, we consider the extrinsic evidence offered by Patent Owner. Both dictionary definitions define a DVR as concurrently digitizing broadcast programming and providing VCR-like functionality with respect to earlier-recorded, digitized content.

According to Petitioner, to the extent the preamble *is* construed to be limiting, the applied references disclose a DVR. Pet. 15–16. We understand Petitioner's arguments with respect to Girard to implicitly construe DVR as a system having physically distributed components (*see infra* § III.B) because “[c]laim 1 does not require that time information be stored on the same physical disk or structure as the program data to satisfy the requirement that the time information be stored ‘with’ the broadcast programs.” *See* Pet. 22; *see also id.* at 27 (“Claim 1 does not specify whether the channel viewer must be locally coupled to the mass storage unit or whether it can be remotely distributed from the mass data storage unit; therefore it should not be construed to be limited to local or remote coupling.”).

To the extent Petitioner’s argument constitutes a construction for the claim term DVR, we are not persuaded to adopt Petitioner’s proposed construction because Petitioner does not cite sufficient evidence in support of its position.

The portion of the ’882 patent cited by Petitioner in support of its arguments does not indicate that the disk volume storage of the mass data storage unit is located separately from the claimed channel viewer. *See* Ex. 1001, 4:1–9. Indeed, the cited portion only refers to “the logical or physical structure of the underlying disk storage” of the mass data storage unit, but does not mention its location relative to the channel viewer. *Id.* Petitioner’s declarant testifies that the ordinarily skilled artisan “would have recognized by 1998 the various trade-offs between having a remote video-on-demand system (e.g., allowing a user’s set top box to access a remote storage unit to access recorded programs) and a local video on-demand system (storing recorded programs locally).” Ex. 1007 ¶ 35. Dr. Tjaden does not testify that either a remote video-on-demand system or the local video on-demand system would have been understood by the ordinarily skilled artisan to teach or suggest a DVR. *See id.* Thus, Dr. Tjaden’s testimony does not support Petitioner’s position that DVR encompasses an interactive television system, such as Girard’s, with physically distributed components. *See* Pet. 15–16 (citing Ex. 1007 ¶¶ 42–44).

For the foregoing reasons, we determine that Patent Owner has the better position. Irrespective of which of the dictionary definitions proposed by Patent Owner we adopt, Petitioner has failed to demonstrate that Girard, either alone or in combination with Cooper (or any other secondary reference), discloses a DVR because none of challenges demonstrate that the

references teach or suggest concurrently digitizing broadcast programming and providing VCR-like functionality with respect to earlier-recorded, digitized content, as required by both dictionary definitions. For clarity, we adopt the latter definition, the definition from *The Dictionary of Video and Television Technology* (Ex. 2005).

2. *Other Terms*

Patent Owner and Petitioner each propose constructions for the limitation “concurrently and continuously receives and digitally stores,” as recited in claim 1 and “concurrently and continuously digitally storing,” as recited in claim 19. Pet. 8–9; Prelim. Resp. 9–10. Patent Owner also proposes to construe “[t]o allow said plurality of stored television broadcast programs to be synchronized with respect to one another,” as recited in claim 1 and “to allow said plurality of stored television broadcasts to be synchronized with respect to one another,” as recited in claim 19. Prelim. Resp. 10–12. It is not necessary to construe these claim limitations to resolve the controversy before us. *See, e.g., Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017) (“[W]e need only construe terms ‘that are in controversy, and only to the extent necessary to resolve the controversy.’” (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999))).

B. *Challenged Independent Claims 1 and 19*

Independent claim 1 recites “[a] digital video recorder (DVR) for recording a plurality of television broadcast programs,” and independent claim 19 recites “[a] method of operating a digital video recorder.” Petitioner asserts that [t]o the extent the preamble is limiting, Girard teaches, or at least renders obvious, the preamble,” because it “discloses an

“interactive television system,” which Petitioner identifies as a DVR. Pet. 15–16. According to Petitioner, Girard’s interactive television system “includes a head end server coupled to one or more *remote* set top boxes for recording and replaying a plurality of television broadcast programs[.]” *Id.* at 16 (emphasis added). As reproduced below, Girard depicts in Figure 1 centralized head end server 22 that provides multiple different channels of programs to the set-top box and EPG within each home. See Ex. 1003, Fig. 1.

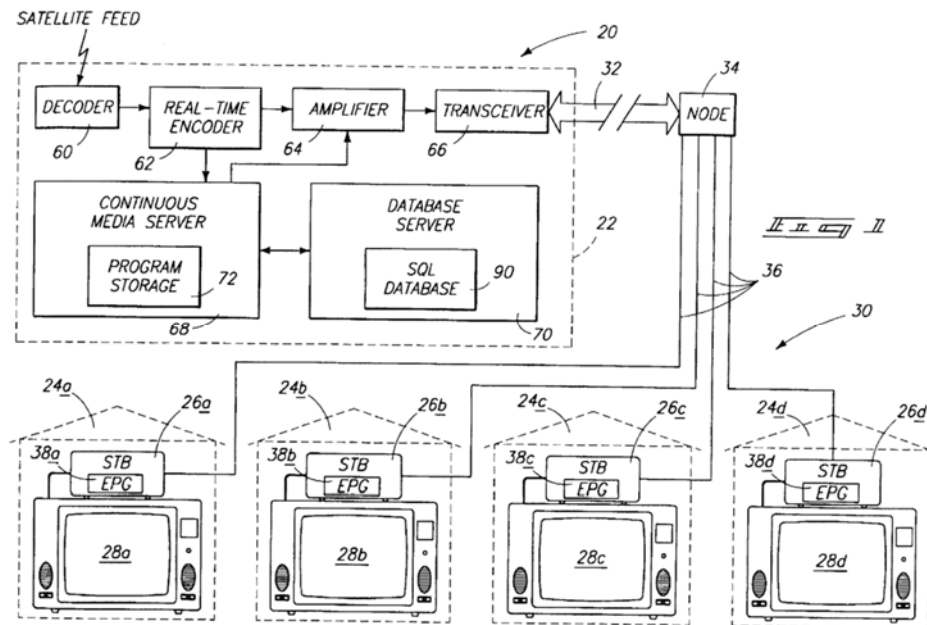


Figure 1 depicts a block diagram of Girard’s interactive television system.

Patent Owner contends “Girard does not disclose a DVR at all,” but “[i]nstead . . . discloses a video on-demand system in which programs are stored on a centralized server accessible to hundreds of thousands of users.” Prelim. Resp. 2. More particularly, Patent Owner argues “[w]hile the electronic program guide runs on a set-top box connected to an end user’s television, Girard does not disclose (and Petitioner does not suggest it

discloses) that the set-top box constitutes a DVR; there is no indication that Girard's set-top box stores or allows the recording of television broadcast.” *Id.* at 13 (citing Ex. 2002 ¶ 39).

Girard's centralized head end server 22 includes continuous media server 68, which in turn includes program storage 72 that stores the video data streams provided to the end users. *See* Ex. 1003, 4:48–53. Girard's “[c]ontinuous media server 68 is operatively coupled to real-time encoder 62 to record and store the video data streams” in program storage 72. *Id.* Girard also discloses an “EPG [that] is used to scroll to current, past, or future programs,” and that “[t]he user selects the desired program title from the depicted program grid.” *Id.* at 5:60–63. Girard further discloses that

If the selected program title corresponds to a current program, the real-time video data stream transmitted from head end server is displayed on the television. If the program title from the EPG grid corresponds to a past program, the set-top box requests a previously played program. The head end server retrieves the video data stream of the past program from program store 72 and transmits it to the requesting set-top box for display. If the selected program title corresponds to a future program, the head end server retrieves a video preview clip of the upcoming future program from program store 72 and transmits it to the viewer's set-top box.

Id. at 5:63–6:7.

1. *Concurrency of Recording and Playback of Programs*

Although Girard discloses playing a requested program in real-time for a requesting (end) user, Girard's disclosure makes clear that the playback of the program is concurrent or simultaneous with the user's *selection* of the program, not with the *recording* of the program at the continuous media server/head end server. *See* Ex. 1003, 5:63–6:7. We are persuaded by

Patent Owner's contention that "[i]n Girard, the user of a set-top box has no control over what (or whether) programs are recorded," and that instead, "programs are stored on the on-demand system's head end server (Girard (Ex. 1003) at 4:34-65) and the user has no control over what is recorded or deleted." Prelim. Resp. 14 (citing Ex. 2002 ¶ 42).

As discussed above in Section III.A.1, the definition from the Dictionary of Video and Television Technology requires the DVR to use "an internal hard disk to store compressed audio/video, and has the ability to *record and playback at the same time.*" Ex. 2005, 87 (emphasis added). Furthermore, DVRs have the "ability to time shift viewing the program *as it is being recorded,*" which is "accomplished by *continuing to record the incoming live program, while retrieving* the earlier part of the program that was just recorded." *Id.* (emphases added). Petitioner does not persuade us, nor does the evidence of record support the finding that recording the program in Girard would have occurred either simultaneously, or even concurrently, with playback of the program.

2. *Location of Data Storage Unit*

Petitioner contends that "[c]laim 1 does not specify whether the channel viewer must be locally coupled to the mass storage unit or whether it can be remotely distributed from the mass data storage unit; therefore it should not be construed to be limited to local or remote coupling." Pet. 27. Petitioner further contends that, "to the extent it is argued that claim 1 requires that the channel viewer be coupled to a local mass storage unit, this limitation is nonetheless obvious over the combination of *Girard* and *Cooper,*" because "*Cooper* describes a system in which multiple previously-

played television programs are stored as they are received on a storage unit (‘Program Data Storage’) that is local to the user display device and watched at a time and speed convenient to the user.” *Id.*

As the rationale for combining the references, Petitioner contends that Cooper’s teaching of

[L]ocal digital storage of multiple television programs simultaneously, in addition to the remote digital storage of multiple television programs simultaneously, as taught by Girard, [would] allow a user to immediately access stored programs without having to stream from the head end server. *See* Tjaden Decl. (Ex. 1007) at ¶ 53 . . . Further, local storage would allow a user to immediately access recorded programs, including when “offline.” *Id.* . . . [T]he specific architecture setup of a digital video recording system, such as Girard’s interactive television system, would have been a matter of routine design preference based on two available and predictable applications—local or remote storage.

Id. at 27–28 (citing Ex. 1007 ¶¶ 34, 35, 53).

Even assuming we were to find Petitioner’s rationale for combining Girard and Cooper persuasive, the cited portions of Cooper merely disclose local storage—Petitioner does not contend that Cooper discloses concurrent recording and playback, as required by the construction for DVR set forth above in § III.A.1. *See id.* At most, Petitioner contends “*Cooper* describes a system in which multiple previously-played television programs are stored as they are received on a storage unit (‘Program Data Storage’) that is local to the user display device and watched at a time and speed convenient to the user.” *Id.* at 27 (citing Ex. 1004, [57]; 5:66–6:13; 37:52–60 (claim 1)). Although Petitioner contends “*Cooper* teaches that multiple television programs are simultaneously retrieved and digitally stored in Cooper’s Program Data Storage,” none of the cited portions of Cooper support the

finding that recording the television program is concurrent with playback of the television program. *See id.* (citing Ex. 1004, 5:66–6:13; 43:48–49 (claim 40)).

For the foregoing reasons, Petitioner does not demonstrate persuasively that any of the cited combinations teach or suggest a DVR as recited in independent claims 1 and 19. Thus, Petitioner further fails to establish a reasonable likelihood of prevailing in demonstrating that independent claims 1 and 19 are unpatentable.

C. Challenged Dependent Claims 2, 3, 5–10, 12, 13, 16–18, 20–25, 27, 28, and 31–33

Insofar as Petitioner fails to establish a reasonable likelihood of prevailing in demonstrating that independent claims 1 and 19 are unpatentable, Petitioner also fails to establish a reasonable likelihood of prevailing in demonstrating that dependent claims 2, 3, 5–10, 12, 13, 16–18, 20–25, 27, 28, and 31–33 are unpatentable.

IV. ORDER

In consideration of the foregoing, it is ORDERED that the petition for *inter partes* review is *denied* and no trial is instituted.

IPR2019-00470
Patent 6,788,882 B1

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