

## Appeal decision

Appeal No. 2015-14709

USA

Appellant ROVI GUIDES, INC.

Osaka, Japan

Patent Attorney YAMAMOTO, Shusaku

Osaka, Japan

Patent Attorney MORISHITA, Natsuki

Osaka, Japan

Patent Attorney IIDA, Takatoshi

Osaka, Japan

Patent Attorney ISHIKAWA, Daisuke

Osaka, Japan

Attorney YAMAMOTO, Kensaku

The case of appeal against the examiner's decision of refusal of Japanese Patent Application No. 2013-175258, entitled "SYSTEMS AND METHODS FOR MIRRORING AND TRANSCODING MEDIA CONTENT" (the application published on January 9, 2014, Japanese Unexamined Patent Application Publication No. 2014-3685, 13 Claims) has resulted in the following appeal decision.

### Conclusion

The examiner's decision is revoked.

The invention of the present application shall be granted a patent.

### Reason

No. 1 History

1 Procedures

The present application is a divisional application filed on August 27, 2013 from Patent Application No. 2010-516058 filed on July 9, 2008 as an international filing date (priority claim under the Paris Convention received by the foreign receiving office on July 11, 2007). The history of the procedures is as follows.

As of May 7, 2014:	notice of reasons for refusal
November 6, 2014:	submission of written opinion
November 6, 2014:	amendment
As of April 2, 2015:	decision of refusal
April 6, 2015:	delivery of copy of decision of refusal
August 6, 2015:	appeal against the examiner's decision of refusal
August 6, 2015:	amendment
October 14, 2015:	reconsideration report

## 2 Outline of reasons for refusal stated in the examiner's decision

The reasons for refusal stated in the examiner's decision are roughly as follows.

The invention relating to Claims 1-10, 12-16 could be easily made by a person skilled in the art by applying the technology described in the following Cited documents 6, 7 to the inventions described in the following Cited documents 2-4. The appellant should not be granted a patent for the invention in accordance with the provisions of Article 29-2 of the Patent Act.

According to the statement in the written opinion of November 6, 2014, a person skilled in the art could easily conceive of mirroring and transcoding media content of a type selected by a user, with reference to Cited document 2 that describes selecting one of multiple transcoders, on the basis of a source type of media content to be transcoded.

### Notes

2. U. S. Patent Publication No. 2004-0193648
3. Japanese Unexamined Patent Application Publication No. 2002-176610
4. National Publication of International Patent Application No. 2003-518832
6. U. S. Patent Publication No. 2007-0157234
7. Japanese Unexamined Patent Application Publication No. 2004-080083

## No. 2 Consideration on the amendment as of August 6, 2015

### 1 Details of Amendment

The amendment of August 6, 2015 (hereinafter referred to as "the Amendment") amends the invention described in Claim 1 before the amendment,

"[Claim 1]

a method for providing access to media content, the method being executed by a remote server, comprising:

determining whether the media content recorded on first user equipment is of a type selected by a user;

based on determining the media content recorded on the first user equipment is of the type selected, mirroring the media content recorded on the first user equipment on a remote server, coupled to the first user equipment over a network;

transcoding, on the remote server, the mirrored copy of the media content to the media content format that is appropriate for second user equipment; and

automatically pushing the mirrored, transcoded media content to the second user equipment"

to the invention described in Claim 1 of the written amendment relating to the Amendment,

"[Claim 1]

a method for providing access to media content, the method being executed by a remote server, comprising:

automatically determining whether the added or updated media content recorded on first user equipment is of a type selected by a user when the media content is added or updated on the first user equipment;

based on determining the added or updated media content recorded on the first user equipment is of the type selected, mirroring the added or updated media content recorded on the first user equipment on a remote server, coupled to the first user equipment over a network;

transcoding, on the remote server, the mirrored copy of the added or updated media content to the media content format that is appropriate for second user equipment; and

automatically pushing the mirrored, transcoded media content to the second user equipment"

(underlines are amendments presented by the appellant).

## 2 Consideration on new matters and purpose requirements of amendment

The Amendment limits the following points, within the scope of matters

described in the Description, Claims, or Drawings attached to the application, to restrict the scope of claims. The invention before amendment and the invention after amendment have the same field of industrial application and problems to be solved.

- "When the media content is added or updated on first user equipment", a "determination" is "automatically" made that "the media content" "is of the type selected by the user".
- The "mirrored" and "transcoded" "media content" is the "added and updated" media content.

Therefore, the Amendment falls under the provisions of Article 17-2(3) (new matter) and Article 17-2(5)(2) (purpose of amendment) of the Patent Act.

The Amendment does not violate the provisions of Article 17-2(4) (shift amendment) of the Patent Act.

### 3 Consideration on requirement for independent patentability

The Amendment is intended for limited restriction of the scope of claims. Whether the invention after amendment is independently patentable or not (whether it falls under the provisions of Article 126-7 of the Patent Act which is applied *mutatis mutandis* pursuant to Article 17-2(6) of the Patent Act) will be examined below.

#### (1) Invention after amendment 1

The invention relating to Claim 1 after amendment is recognized as the following invention (hereinafter referred to as "Invention after amendment 1"), which is specified on the basis of the matters described in Claim 1 of the scope of claims, according to the descriptions in the Description, Claims, and Drawings amended by the written amendment of August 6, 2015. As described below, symbols (A)-(F) are added for detailed description by the body. They are referred to as Constituent component A, Constituent component B, or the like.

(A) A method for providing access to media content,  
the method being executed by a remote server,

(F) and the method comprising:

(B) automatically determining whether the added or updated media content recorded on first user equipment is of a type selected by a user when the media content is added or updated on the first user equipment;

(C) based on determining the added or updated media content recorded on the first user equipment is of the type selected, mirroring the added or updated media content

recorded on the first user equipment on a remote server, coupled to the first user equipment over a network;

(D) transcoding, on the remote server, the mirrored copy of the added or updated media content to the media content format that is appropriate for second user equipment; and

(E) automatically pushing the mirrored, transcoded media content to the second user equipment.

## (2) Description in Cited document 1 and Cited invention 1

### (2-1) Description in Cited document 1

In the Description of U. S. Patent Publication No. 2007-0157266 (hereinafter referred to as "Cited document 1") cited as Cited document 5 in the original examination's reasons for refusal as of May 7, 2014, as "Interactive media guidance system having multiple devices", the following matters are described together with drawings.

A "[0057] An illustrative interactive media guidance system 100 in accordance with the present invention is shown in FIG. 1. System 100 is intended to illustrate a number of approaches by which media of various types, and guidance for such media, may be provided to (and accessed by) end-users. The present invention, however, may be applied in systems employing any one or a subset of these approaches, or in systems employing other approaches for delivering media and providing media guidance.

[0058] The first approach represents a typical television-centric system in which users may access television (and in some systems music) programming. This includes programming sources 102 and distribution facility 104. Media such as television programming and digital music is provided from programming sources 102 to distribution facility 104, using communications path 106. Communications path 106 may be a satellite path, a fiber-optic path, a cable path, or any other suitable wired or wireless communications path or combination of such paths. (Omitted)

[0061] Distribution facility 104 may be connected to various user equipment devices 108, 110, and 112. Such user equipment devices may be located, for example, in the homes of users. User equipment devices may include user television equipment 110, user computer equipment 112, or any other type of user equipment suitable for accessing media. User equipment 108 may be any type of user equipment (e.g., user television equipment, user computer equipment, cellular phones, handheld video players, gaming platforms, etc.) and, for simplicity, user equipment devices may be referred to generally as user equipment 108. (Omitted)

[0063] A second approach illustrated in FIG. 1 by which media and media guidance are provided to end users is a non-television-centric approach. In this approach media such as video (which may include television programming), audio, images, web pages, or a suitable combination thereof, are provided to equipment of a plurality of users (e.g., user equipment 108, user television equipment 110, and user computer equipment 112) by server 130 via communications network 126. This approach is non-television-centric because media (e.g., television programming) is provided by and delivered at least partially, and sometimes exclusively, via equipment that have not traditionally been primarily focused on the television viewing experience. Non-television-centric equipment is playing a larger role in the television viewing experience."

B "[0135] FIG. 12b shows an illustrative system diagram of a newly-created group 1216 in accordance with the present invention.

(Omitted) Server 1214 may be server 140 (FIG. 1) that is located at television distribution facility 104 (FIG. 1) or server 130 (FIG. 1) that is accessible over communications network 126 (FIG. 1). (The rest omitted)"

C "[0166] FIG. 13 shows illustrative display screen 1300 for setting a recording of a television program for a group of user equipment devices in accordance with the present invention. (Omitted)

[0169] The interactive media guidance application may allow the user to select program recording settings for the selected program. (Omitted)

[0170] The interactive media guidance application may allow the user to set group options for sharing with and backing up recordings on other user equipment devices in the group. In response to the user selecting group recording option 1308, the interactive media guidance application may allow other user equipment devices in the group to access and view the recorded program. In some embodiments, the interactive media guidance application may allow other user equipment devices in the group to access the recorded program during the recording. In some embodiments, the interactive media guidance application may allow other user equipment devices in the group to access the recorded program after the recording is complete. In some embodiments, the name of the group may be displayed. In some embodiments, if the user is part of multiple groups, group recording option 1308 may be set independently for each group.

[0171] If the user has selected group recording option 1308, the interactive media guidance application may determine the location where the selected program is to be recorded. In some embodiments, the selected program is recorded on the user

equipment device on from which the recording was set. In some embodiments, the selected program is recorded on a user equipment device in the group that has the most available resources or capacity. In some embodiments, the selected program is recorded on a server (e.g., server 1214 (FIG. 12q)). In some embodiments, the interactive media guidance application allows the user to select the location where the selected program is to be recorded."

D "[0179] In response to the user selecting backup option 1310 and selecting a number from the provided drop-down list, the interactive media guidance application may backup the selected number of copies of the recorded program on servers or other user equipment devices in the group. The interactive media guidance application may send a request to the servers or other user equipment devices to store a backup copy of the recorded program. (Omitted)

[0180] (Omitted) In some embodiments, the user equipment device on which the program is being recorded may be configured to transfer the recorded program to the servers and user equipment devices for backup."

E "[0224] FIG. 17 shows an illustrative flow diagram 1700 for accessing recorded content in accordance with the present invention.

[0225] At step 1702, an interactive media guidance application may receive a user selection of media from a menu of available content. (Omitted)

[0226] At step 1704, the interactive media guidance application may determine if the selected media is stored on the local user recording equipment (i.e., the recording device that is associated with the user equipment device on which the interactive media guidance application is implemented). Omitted)

[0229] At step 1708, if the interactive media guidance application determines that the selected media is not stored locally, the interactive media guidance application may play the selected media from remote recording equipment. (Omitted)

[0230] Once the interactive media guidance application determines the location where the selected media is stored, the interactive media guidance application may request the selected media from the remote recording equipment at the location where the selected media is stored. (Omitted)

[0231] After the remote recording equipment has authenticated the user equipment device as belonging to the group, the remote recording device may allow the user equipment device to play the selected content. (Omitted) In some cases, the remote recording equipment may be a server (e.g., server 1214 (FIG. 12q)). The interactive

media guidance application may access the selected media on the server. In some cases, the remote recording equipment may be located outside of the user's home or home network. The user equipment device may access the selected media through a server (e.g., server 1214) that is also connected to the remote recording equipment."

## (2-2) Cited invention

According to the summarized matters A-E in the above (2-1), related drawings, and technical common sense in this field, Cited document 1 discloses the following points a) to c).

a) In the interactive media guidance system 100, the server 130 provides a recorded program to multiple user equipment devices 108 in order to share the program with the user equipment devices 108 (A and C).

b) A program selected by a user on the user equipment device 108 is recorded on the user equipment device 108 and the server 130 (B to D). The server 130 can communicate with the user equipment device 108 over a communication network (A).

c) The server 130 provides the program, in response to a request from the other user equipment device 108 (C and E).

According to the above, Cited document 1 discloses the following invention (hereinafter referred to as "Cited invention). The symbols (a)-(c) are added by the body for detailed description. They are referred to as Constituent component a, Constituent component b, or the like.

## (Cited invention)

(a) A method for providing a recorded program to multiple user equipment devices in order to share the program with the user equipment devices, the method being executed by a server,

(b) and the method comprising

recording the program on the server and a first user equipment device, the server being configured to communicate with the first user equipment device over a communication network,

(c) the server providing the program to a second user equipment device, in response to a request from the second user equipment device.

## (3) Description in Cited document 2 and technical matters



### (3-1) Description in Cited document 2

In the Description of U. S. Patent Publication No. 2007-0157234 (hereinafter referred to as "Cited document 2") cited as Cited document 6 in the original examination's reasons for refusal as of May 7, 2014, as "Interactive media guidance system having multiple devices", the following matters are described together with drawings.

A "[0046] An illustrative interactive media guidance system 100 in accordance with the present invention is shown in FIG. 1. System 100 is intended to illustrate a number of approaches by which media of various types, and guidance for such media, may be provided to (and accessed by) end-users. The present invention, however, may be applied in systems employing any one or a subset of these approaches, or in systems employing other approaches for delivering media and providing media guidance.

[0047] The first approach represents a typical television-centric system in which users may access television (and in some systems music) programming. This includes programming sources 102 and distribution facility 104. Media such as television programming and digital music is provided from programming sources 102 to distribution facility 104, using communications path 106. Communications path 106 may be a satellite path, a fiber-optic path, a cable path, or any other suitable wired or wireless communications path or combination of such paths. (Omitted)

[0050] Distribution facility 104 may be connected to various user equipment devices 108, 110, and 112. Such user equipment devices may be located, for example, in the homes of users. User equipment devices may include user television equipment 110, user computer equipment 112, or any other type of user equipment suitable for accessing media. User equipment 108 may be any type of user equipment (e.g., user television equipment, user computer equipment, cellular phones, handheld video players, gaming platforms, mobile video devices, vehicle entertainment devices, etc.) and, for simplicity, user equipment devices may be referred to generally as user equipment 108. User equipment devices may be fixed in location or location free. For example, the user equipment device may be implemented on a vehicle (e.g., an automobile), which is location free. The user equipment device may connect to the home network when the vehicle is parked in the garage or at another location. When the user equipment device is connected to the home network, the user equipment device may retrieve content and associated data and applications from the home network. (Omitted)

[0052] A second approach illustrated in FIG. 1 by which media and media guidance are

provided to end users is a non-television-centric approach. In this approach media such as video (which may include television programming), audio, images, web pages, or a suitable combination thereof, are provided to equipment of a plurality of users (e.g., user equipment 108, user television equipment 110, and user computer equipment 112) by server 130 via communications network 126. This approach is non-television-centric because media (e.g., television programming) is provided by and delivered at least partially, and sometimes exclusively, via equipment that have not traditionally been primarily focused on the television viewing experience. Non-television-centric equipment is playing a larger role in the television viewing experience."

B "[0119] FIG. 8a shows an illustrative display screen 800 of an interactive media guidance application for allowing a user to record content and store associated data and applications on a home network for later delivery to user equipment devices in the home network in accordance with the present invention. For example, the interactive media guidance application may display screen 800 in response to the user selecting to record content from, for example, a program listings screen. In another example, the interactive media guidance application may display screen 800 in response to the user selecting to record content by selecting a related promotion or commercial. The promotion or commercial may be displayed in, for example, a program guide screen. Screen 800 may include program information area 802, recording options 804, format selection button 806, delivery options button 808, and set recording button 810. (Omitted)

[0124] The interactive media guidance application may allow the user to select any of program recording settings 804 for the selected program. (Omitted) Another one of program guide settings 804 may allow the user to select to share the recording of the selected program with the other user equipment devices in the home network. (The rest omitted)"

C "[0129] FIG. 8b shows an illustrative display screen 820 of an interactive media guidance application for allowing a user to select formats of a selected program to record in accordance with the present invention. (Omitted)

[0130] The interactive media guidance application may determine the available formats of the selected program and display an option (e.g., a checkbox) corresponding to each available format of the selected program on screen 820. The user may wish to select multiple formats to allow user equipment devices having different capabilities to display the selected program. (The rest omitted)"

D "[0140] FIGS. 8d-f show an illustrative screen 860 of an interactive media guidance application for allowing a user to select delivery options of a selected program and associated data and applications for various user equipment devices in a home network in accordance with the present invention. (Omitted)

[0144] Content delivery options area 862 may include checkboxes 866, 868, and 872 for allowing the user to select content listing options for the selected program. The user may select checkbox 866 if the user wishes to automatically deliver the most suitable format of the selected program to the user equipment device for which delivery options are being selected. The interactive media guidance application may compare the requirements of the formats of the selected program and the capabilities of the user equipment device for which delivery options are being selected to determine the most suitable format of the selected program for the user equipment device. For example, if the user selects to record a television program in high-definition and H.264, the television program may be delivered in high-definition format to a high-definition user equipment device in the home network and in H.264 format to a cellular phone in the home network. This approach is described in greater detail below in connection with FIG. 10a."

E "[0173] In some embodiments, the user may configure the interactive media guidance application to automatically transfer one or more of the selected versions of content to the corresponding user equipment devices or peripheral devices (e.g., the user does not have to request delivery of the content to a user equipment device). For example, the user may indicate that the selected content (e.g., an episode of "Desperate Housewives") should automatically be delivered to a handheld video player when the handheld video player is connected to a user equipment device in the home network (or otherwise enabled to access the episode of "Desperate Housewives"). In this example, the handheld video player (or any other user equipment device) may be implemented in, for example, a vehicle and selected content may be automatically transferred to the handheld video player when the vehicle enters, for example, a garage or another location from which the handheld video player may communicate with the home network.

[0174] In another example, the user may indicate that selected content (e.g., an episode of "Desperate Housewives") should automatically be delivered to the high-definition user equipment device when the high-definition version of "Desperate Housewives" becomes available. In this example, the high-definition version of "Desperate

Housewives" may be available after a recording of the high-definition version of "Desperate Housewives" is complete. Alternatively, the high-definition version of "Desperate Housewives" may be available after a recording of a standard-definition version of "Desperate Housewives" is complete and after the standard-definition has been translated into high-definition. Alternatively, the high-definition version of "Desperate Housewives" may be available after the high-definition version of "Desperate Housewives" has been uploaded to a server and is available for retrieval."

F "[0224] For the purpose of illustration and not limitation, the content will be described herein as being stored on a network server (e.g., server 130 or 140 (FIG. 1))."

G "[0230] The network server may contain any suitable combination of circuitry and software for translating the recorded content into different formats. For example, the network server may include a scaler for upconverting and downconverting the content into different resolutions. In another example, the network server may have the ability to transcode the content into different audio and video formats. In another example, the network server may have interlacing and deinterlacing capabilities for converting content from an interlaced format to a progressive format (and vice versa). In another example, the network server may be able decode streaming content and re-encode the streaming content at a higher or lower bit rate.

[0231] The network server may determine how to translate the content into a format that may be displayed by the user equipment device. For example, if the content is a recording of a high-definition program and the user equipment device is standard-definition user equipment, the network server may determine the best way to convert the high-definition program into a format suitable for display by the standard-definition user equipment.

[0232] In particular, the network server may determine if the user equipment device is capable of playing the media format of the content. If not, the network server may convert the media format of the content into one that may be displayed by the user equipment device. The network server may determine if the user equipment device is capable of displaying the resolution of the content. If the user equipment device has a different native resolution than the resolution of the content and the user equipment device does not include a suitable scaler for converting the resolution of the content, the network server may upconvert or downconvert the resolution of the content into a resolution that may be displayed by the user equipment device. The network server may determine whether the user equipment device has sufficient bandwidth to display

the content. If not, and if the content is intended to be streamed, the network server may decrease the bit rate at which the content is encoded. If not, and if the content is intended to be downloaded and played locally, the network server may reduce the storage space required by the content (e.g., by compressing the content, decreasing the resolution of the content, etc.).

[0233] At step 1019, the network server may deliver the recorded content in the identified format to the user equipment device. The network server may stream or transfer the translation of the recorded content to the user equipment device."

#### (3-2) Technical matters described in Cited document 2

According to the summarized matters A-G in the above (3-1), related drawings, and technical common sense in this field, Cited document 2 discloses the following technical matters for sharing the recorded program with a plurality of user equipment devices.

"The program selected by a user is recorded on a server. The server transcodes the program into a format appropriate for the user equipment device, and automatically delivers the transcoded program to the user equipment device. The user may select a format of the program when selecting the program."

#### (4) Description in Cited document 3 and technical matters

##### (4-1) Description in Cited document 3

In the Description of U. S. Patent Publication No. 2004-0193648 (hereinafter referred to as "Cited document 3") cited as Cited document 2 in the original examination's reasons for refusal of May 7, 2014, as "Distributed on-demand media transcoding system and method", the following matters are described together with drawings.

A "[0061]

A system and method in accordance with preferred embodiments includes systems and method for the on-demand transcoding of media information from a variety of source types into a variety of destination types. According to a preferred embodiment, in a system comprising a plurality of transcoders for transcoding from a plurality of source types to a plurality of destination types, a method is provided for transcoding media content from a source type to a destination type. The method includes receiving a transcoding request for the media content, fetching the media content, and sending the

media content to a selected one of the plurality of transcoders. The transcoder is selected based on the source type and the destination type. The transcoder transcodes the media content from the source type to the destination type, thereby generating transcoded media content. The transcoded media content is then transmitted.

[0062]

A media transcoding system in accordance with a preferred embodiment transcodes media content from a source type to a destination type. (The rest omitted)"

B "[0087] The viewer client 102 is used by a user, or viewer, to request and receive media content via the network 108, and to play received media content. (Omitted)

[0088] The viewer client 102 is capable of receiving and playing various types of media content. For example, the viewer client may receive and play media content in various well-known encoded formats including, but not limited to, MPEG, AVI, MP3, REAL, WINDOWS MEDIA, QUICK TIME, H.263 video coding, and PALM-compatible formats."

C "[0091] The media transcoding engine 106 acts as an intermediate between the content provider client 104 and the viewer client 102. As will be described in more detail below, the media transcoding engine 106 receives requests for media content from the viewer client 102 and obtains the requested media content from the content provider client 104. The media transcoding engine 106 then transcodes the media content received from the content provider client 104 from a source type to a destination type that can be accommodated by the viewer client 102 and delivers the transcoded media content to the viewer client 102. (The rest omitted)"

D "[0119] The master archive 214 is an archive within the media transcoding engine 106 that stores the original media content published by the content provider and received by the content provider Web server interface 204 from the content provider client 104. (Omitted)

[0120] The transcoded cache 212 is a cache within media transcoding engine 106. The transcoded cache 212 is used by the media transcoding engine 106 to store a copy of requested media content after it has been transcoded. (The rest omitted)"

E "[0125] FIG. 3 depicts a flowchart 300 of a method by which media content is published according to embodiments of the present invention wherein the media content is an encoded media file. (Omitted)

[0126] In step 302, the content provider sends a request to publish content from the content provider client 104 to the content provider Web server interface 204. (Omitted)

[0128] As shown in step 306, where the content provider wishes to store the encoded media file in an archive within the media transcoding engine 106, the content provider delivers the media file to the content provider Web server interface 204 via the content provider client 104. At step 308, after the content provider Web server interface 204 receives the encoded media file, it transmits the file to the master archive 214 for archival within the media transcoding engine 106. (The rest omitted)"

#### (4-2) Technical matters described in Cited document 3

According to the summarized matters A-E in the above (4-1), related drawings, and technical common sense in this field, Cited document 3 discloses the following technical matters.

"The transcoding engine transcodes media content from a source type to a destination type, in delivering the media content to a viewer client."

#### (5) Comparison

Invention after amendment 1 is compared with Cited invention.

A It is obvious that the "program", "server", "first user equipment device", "communication network", and "second user equipment device" in Cited invention correspond to the "media content", "remote server", "first user equipment", "network", and "second user equipment" in Invention after amendment 1, respectively.

#### B Comparison between Constituent component A and Constituent component a

The description in Cited invention, "providing a recorded program to multiple user equipment devices in order to share the program with the user equipment devices" corresponds to providing multiple user equipments with access to the program.

In light of the above A, Constituent component a in Cited invention corresponds to Constituent component A in Invention after amendment 1, accordingly.

#### C Comparison between Constituent components B, C and Constituent component b

The description in Cited invention, "recording the program on the server and a first user equipment device" indicates recording the program recorded in the first user equipment device on the server, and corresponds to mirroring the program. The fact

that the server and the device can "communicate" with each other "over a communication network" indicates that they are connected to each other over the communication network.

Therefore, in light of the above A, Constituent component b in Cited invention and Constituent components B, C in Invention after amendment 1 are common in the point, "mirroring the added or updated media content recorded on the first user equipment on the remote server, coupled to the first user equipment over a network".

However, regarding the mirroring, Invention after amendment describes, "automatically determining whether the added or updated media content recorded on the first user equipment is of a type selected by a user when the media content is added or updated on the first user equipment", and "based on determining the added or updated media content recorded on the first user equipment is of the type selected", mirroring "the added or updated media content recorded on the first user equipment on a remote server", while Cited invention does not specify that the determination is made or that the mirroring is executed on the basis of the determination. Thus, they are different from each other.

#### D Consideration on Constituent component D

As described in the above C, Cited invention is configured to mirroring the program recorded in the first user equipment device on the server. It is obvious that the program mirrored on the server is a "copy" of the program recorded on the first user equipment device.

However, Cited invention is not configured to transcode a program on a server, and does not include Constituent component D of Invention after amendment 1, excluding the point of "copying" the media content on the remoter server. Thus, the inventions are different from each other in the above point.

#### E Comparison between Constituent component E and Constituent component c

The description in Cited invention, "providing" "in response to a request", and the description in Invention after amendment 1, "automatically pushing", are common in the point of "providing".

In light of the above A and C, Constituent component c in Cited invention and Constituent component E in Invention after amendment 1 are common in the point of "providing" "the mirrored media content to the second user equipment".

However, the inventions are different from each other, as with the above D, in the point that the media content provided by the second user equipment is "transcoded"



in Invention after amendment 1, while not being transcoded in Cited invention.

The media content is provided by "automatically pushing" in Invention after amendment 1, while being provided in response to a request from the second user equipment device, in Cited invention. They are different from each other in terms of automatic pushing.

#### F Summary

The corresponding features and different features between Invention after amendment 1 and Cited invention are summarized, on the basis of the result of comparison described in A-E, as follows.

##### (Corresponding features)

"A method for providing access to media content, the method being executed by a remote server,

and the method comprising:

mirroring the added or updated media content recorded on first user equipment on a remote server, coupled to the first user equipment over a network; and

providing the mirrored media content to second user equipment."

##### (Different feature 1)

Invention after amendment 1 describes, "automatically determining whether the added or updated media content recorded on the first user equipment is of a type selected by a user when the media content is added or updated on the first user equipment", and "based on determining the added or updated media content recorded on the first user equipment is of the type selected", media content is mirrored on the server, while Cited invention does not specify that the determination is made or that the mirroring is executed on the basis of the determination.

##### (Different feature 2)

Invention after amendment 1 describes "transcoding" a copy of the media content mirrored on the remoter server and provided by the second user equipment "to the media content format that is appropriate for the second user equipment", while Cited invention is not configured to transcode the media content.

##### (Different feature 3)

Invention after amendment 1 provides the media content to the second user

equipment by "automatically pushing", while Cited invention does not include automatic pushing.

(6) Judgment by the body

A Consideration on (Different feature 1)

(A) According to the summarized matters in (2-1) C and FIG. 13, Cited document 1 describes that Cited invention records the program, on the basis of the settings of a user.

However, Cited document 1 discloses that the user selects a program in the setting, while including no description of spirit that the "user" "selects" the "type" of the program.

Therefore, Cited document 1 does not disclose a configuration of "automatically determining whether the added or updated media content recorded on the first user equipment is of a type selected by a user when the media content is added or updated on the first user equipment" in Invention after amendment 1.

(B) Cited document 2 describes that a user can select a format of a program, as indicated in (3-2), or that the "user" "selects" the "type", which is a format, of the program.

However, according to the summarized matters in (3-1) B, C and FIG. 8, the above selection is made "to allow user equipment device having different capabilities to display the selected program", and is only for a user to set a format without allowing a server to automatically select the format in advance. Therefore, the selection is not for automatically determining whether the program is of a type selected by the user when the program is added or updated on the first user equipment.

Therefore, Cited document 2 also does not describe a configuration of "automatically determining whether the added or updated media content recorded on first user equipment is of a type selected by a user when the media content is added or updated on the first user equipment".

(C) Cited document 3, which is cited as a main cited document (Cited document 2) in the examiner's decision, describes, as indicated in (4-2), that the transcoding engine transcodes media content from a source type to a destination type, in delivering the media content from a content provider client to a viewer client.

However, the above description indicates only that media contents of supplying selected by the content provider client may include various source types of media contents of supplying as a result of the selection, and does not disclose the spirit that the

"user" "selects" the "type" relating to the source type.

Therefore, Cited document 3 also does not describe a configuration of "automatically determining whether the added or updated media content recorded on first user equipment is of a type selected by a user when the media content is added or updated on the first user equipment".

(D) As described above, Cited documents 2, 3, as well as Cited document 1, do not disclose a configuration of "automatically determining whether the added or updated media content recorded on first user equipment is of a type selected by a user when the media content is added or updated on the first user equipment". In addition, Cited documents 1-3 do not disclose a configuration, which is based on the above configuration, that media content is mirrored "based on determining the added or updated media content recorded on the first user equipment is of the type selected by the user".

The configuration about a determination on the mirroring could not be a design matter properly selected by a person skilled in the art.

Therefore, the configuration concerning (Different feature 1) could not be easily achieved by a person skilled in the art using Cited invention, on the basis of the technology described in Cited documents 2, 3.

The same is true when the technology described in Cited document 2 is used as a main cited invention for examination, or when the technology described in Cited document 3 is used as a main cited invention for examination.

(E) All of the documents, other than Cited documents 1-3, cited in reasons for refusal as of May 7, 2014, do not disclose information beyond that disclosed in Cited documents 1-3. The conclusion is the same even with the above documents.

#### B Consideration on (Different feature 2) and (Different feature 3)

Cited document 2 describes, as indicated in (3-2), the technology of the server transcodes the recorded program into a format appropriate for the user equipment device, and automatically delivering the transcoded program to the user equipment device, for sharing the recorded program with a plurality of user equipment devices.

Cited invention and the technology described in Cited document 2 are common in the point that the server records the program and provides the program to the user equipment devices in order to share the recorded program with a plurality of user

equipment devices. A person skilled in the art could easily conceive of applying the technology described in Cited document 2 to Cited invention, (i) allowing the server to transcode the program recorded on the server to a format that is appropriate for the user equipment device, and providing the program (Different feature 2), and (ii) providing the program by automatically pushing (Different feature 3).

### C Conclusion

As described above, it cannot be said that a person skilled in the art could easily conceive of the configuration relating to (Different feature 1) of (Different feature 1) and (Different feature 3). It cannot be said that a person skilled in the art could easily invent Invention after amendment 1.

The inventions relating to Claims 2-13 citing Claim 1 also have the configuration relating to (Different feature 1). As with Invention after amendment 1 having the above configuration, it cannot be said that a person skilled in the art could easily invent them, on the basis of Cited invention.

There are no other reasons why the appellant should not be granted a patent independently.

### 4 Closing

The amendment falls under the provisions of Article 126-7 or the Patent Act which is applied mutatis mutandis pursuant to the provisions of Article 17-2(6).

### No. 3 The invention

As described above, the Amendment falls under the provisions of Article 17-2(3)-(6). The inventions relating to Claims 1-13 of the application are as specified by the matters described in Claims 1-13 of the scope of claims amended by the Amendment.

It cannot be decided that the application shall be rejected based on the original examination's reasons for refusal.

There are no other reasons for rejecting the application.

Therefore, the appeal decision shall be made as described in the conclusion.

May 25, 2016

Chief administrative judge: WATANABE, Satoshi

Administrative judge: BEKKI, Kazuo

Administrative judge: KOIKE, Masahiko