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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/590,943	11/01/2006	Sean Michael Imler	12729/189 (Y01512US01)	7194
56020	7590	02/27/2013	EXAMINER	
BRINKS HOFER GILSON & LIONE / YAHOO! OVERTURE			LE, THU NGUYET T	
P.O. BOX 10395			ART UNIT	PAPER NUMBER
CHICAGO, IL 60610			2162	
			MAIL DATE	DELIVERY MODE
			02/27/2013	PAPER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SEAN MICHAEL IMLER and KEVIN CHENG

Appeal 2010-008331
Application 11/590,943
Technology Center 2100

Before KALYAN K. DESHPANDE, JASON V. MORGAN, and
MICHAEL J. STRAUSS, *Administrative Patent Judges*.

DESHPANDE, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE¹

The Appellants seek review under 35 U.S.C. § 134(a) of a final rejection of claims 1-13 and 15-26, the only claims pending in the application on appeal. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b).

We REVERSE.

The Appellants invented a system and method for dynamically retrieving data specific to a region of a layer or a map. Specification 0001.

An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below [bracketed matter and some paragraphing added]:

1. A computer implemented method for retrieving data from a data source by querying the data source with data points of a layer, the data points being encompassed within a determined region of the layer, comprising:
 - [1] determining, by a processor, the region of the layer, the region being displayed in accordance with a first scale and the layer being displayed in accordance with a second scale, wherein the second scale of the layer remains fixed when the first scale of the region changes and the first scale of the region changes proportionally to a change in the second scale of the layer;
 - [2] dynamically querying the data source, by the processor, with one or more data points of the layer encompassed within the region upon determining the region; and
 - [3] receiving, by the processor, the data from the data source.

¹ Our decision will make reference to the Appellants' Appeal Brief ("App. Br.," filed Nov. 23, 2009) and Reply Brief ("Reply Br.," filed Apr. 16, 2010), and the Examiner's Answer ("Ans.," mailed Feb. 19, 2010), and Final Rejection ("Final Rej.," mailed May 12, 2009).

REFERENCES

The Examiner relies on the following prior art:

Rasmussen	US 2005/0270311 A1	Dec. 8, 2005
Shoemaker	US 2007/0064018 A1	Mar. 22, 2007

REJECTIONS²

Claims 1-13 and 15-26 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Shoemaker and Rasmussen.

ISSUES

The issue of whether the Examiner erred in rejecting claims 1-13 and 15-26 under 35 U.S.C. § 103(a) as unpatentable over Shoemaker and Rasmussen turns on whether the combination of Shoemaker and Rasmussen teaches or suggests “the second scale of the layer remains fixed when the first scale of the region changes and the first scale of the region changes proportionally to a change in the second scale of the layer.”

ANALYSIS

The Appellants contend that the combination of Shoemaker and Rasmussen fails to teach or suggest “the second scale of the layer remains fixed when the first scale of the region changes and the first scale of the region changes proportionally to a change in the second scale of the layer,” as recited in independent claim 1 and as similarly recited in independent claims 16 and 23. App. Br. 4-7 and Reply Br. 2-3.

² The Examiner’s previously submitted rejections of 2 and 17 under 35 U.S.C. § 112, first paragraph, as failing to comply with written description requirement and 23-26 under 35 U.S.C. § 101 as being directed towards non-statutory subject matter have been withdrawn. Ans. 3.

We agree with the Appellants. We agree with the Examiner that Shoemaker describes a map or layer that includes a lens/magnifying glass to view a region and the area within the selected region can be changed according to a first scale. Ans. 10-11 (citing Shoemaker Figs. 4-5 and ¶¶ 0052 and 0075). We also agree with the Examiner that Rasmussen describes a layer or map that can be changed according to a second scale. Ans. 11 (citing Rasmussen ¶ 0059). However, we disagree with the Examiner that Shoemaker suggests a combination of a layer with a second scale and a region with a first scale of Shoemaker with the changes in the second scale of the layer in Rasmussen such that “the second scale of the layer remains fixed when the first scale of the region changes and the first scale of the region changes proportionally to a change in the second scale of the layer.” We find no evidence in Shoemaker or Rasmussen, or in the combination thereof, that suggests the first scale of the region changes proportionally to a change in the second scale of the layer.

Accordingly, we do not sustain the Examiner’s rejection of claims 1-13 and 15-26. Since this issue is dispositive as to the rejection of these claims, we need not reach the remaining arguments presented by the Appellants.

CONCLUSIONS

The Examiner erred in rejecting claims 1-13 and 15-26 under 35 U.S.C. § 103(a) as unpatentable over Shoemaker and Rasmussen.

Appeal 2010-008331
Application 11/590,943

DECISION

To summarize, our decision is as follows.

- The rejection of claims 1-13 and 15-26 under 35 U.S.C. § 103(a) as unpatentable over Shoemaker and Rasmussen is not sustained.

REVERSED

ELD