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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte RAYMOND HORNBACK, JR., JAMES S. JOHNSTON, MARK S. KRESSIN, MATTHEW A. LEVY, ANDREW M. ORTWEIN, WILLIAM M. QUINN, and KEVIN SOLIE

Appeal 2010-008470
Application 10/745,091
Technology Center 2400

Before JOSEPH F. RUGGIERO, MARC S. HOFF, and CAROLYN D. THOMAS, *Administrative Patent Judges*.

HOFF, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 6-10. Claims 1-5 and 11-15 have been cancelled. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

STATEMENT OF THE CASE

Appellants' invention concerns the distribution of application imagery during an application sharing session. A pull-based subscription model is

implemented in an image cache server hosting an image cache, the cache being disposed between an application sharing host and a plurality of application sharing viewers. An image frame update is cached for a shared application. Registered ones of a plurality of application sharing viewers are notified of the image frame update, which is served to those viewers who request it (Spec. 4-5).

Independent claim 6 is reproduced below:

6. A method for flexibly distributing imagery for a shared application in an application sharing session, the method comprising the steps of:

generating an image frame update of a screen for a shared application being commonly viewed by multiple different application sharing viewers;

caching the image frame update for the screen for the shared application;

notifying registered ones of the application sharing viewers of said image frame update for the screen for the shared application; and,

serving said cached image frame update for the screen for the shared application to requesting ones of said application sharing viewers that had been notified.

REFERENCES

Yang	US 2002/0055891 A1	May 9, 2002
Salesky	US 2004/0080504 A1	Apr. 29, 2004

REJECTION

Claims 6-10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Salesky in view of Yang.

ISSUE

Appellants contend, *inter alia*, that neither Salesky nor Yang teaches "notifying registered ones of the application sharing viewers of said image

frame update for the screen for the shared application," as recited in independent claim 6 (App. Br. 9).

Appellants' assertions present us with the following issue:

Does the combination of Salesky and Yang teach or fairly suggest notifying registered ones of the application sharing viewers of the image frame update for the screen for the shared application?

PRINCIPLES OF LAW

> Section 103(a) forbids issuance of a patent when "the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains."

KSR Int'l Co. v. Teleflex Inc., 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, (3) the level of skill in the art, and (4) where in evidence, so-called secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966). *See also KSR*, 550 U.S. at 407 ("While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls.").

ANALYSIS

The Examiner cites Salesky paragraphs [0010], [0060], and [0070] in support of his finding that Salesky teaches "notifying registered ones of the

application sharing viewers of said image frame update for the screen for the shared application," as recited in sole independent claim 6 (Ans. 10-11).

We do not agree that the disclosure of Salesky supports the Examiner's finding. Paragraph [0010] discloses determining the capabilities of the client device to see what computing tasks might be assigned to the client. Paragraphs [0057]-[0060] describe taking snap-shots of the application screen image and breaking it into rectangular blocks. A block that has changed is passed to conference server 14 (¶ [0057]). Changed blocks "are held on the conference server until they have been sent to all attendee client computers 18, or it has been determined by flow contol [sic, control] that there is no longer a need to hold them" (¶ [0059]). "Flow control between presenter client 12 and server 14 and between server 14 and attendee client 18 determines how often the attendee client receives information updating the image" (*id.*). "Attendee client 18 can also send a command to conference server 14 to obtain the latest image change information" (*id.*). Salesky paragraph [0070] discloses that the server periodically requests a "checkpoint" of a full image of a block, using the full image as a replacement for all accumulated image deltas (i.e., changes).

We find that Salesky's flow control thus "pushes" updated images to clients at some interval. There is no disclosure that flow control waits for a client to request an update before sending it. We further find that Salesky does not teach that registered viewers are notified of image frame updates. Salesky's "pushing" is contrary to the claimed invention, in which application sharing viewers must *request* cached image frame updates subsequent to being *notified* that such updates are available. We further

agree with Appellants that Yang also does not teach the claimed notifying (App. Br. 9).

We find that neither Salesky nor Yang teaches the claimed notifying. Thus, we further find that the Examiner has not established the prima facie obviousness of claim 6, or of claims 7-10 dependent therefrom. We will not sustain the Examiner's § 103 rejection.

CONCLUSION

The combination of Salesky and Yang does not teach or fairly suggest notifying registered ones of the application sharing viewers of the image frame update for the screen for the shared application.

DECISION

The Examiner's decision rejecting claims 6-10 is reversed.

REVERSED

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