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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JOHN PRINCE

Appeal 2010-008621
Application 11/054,701
Technology Center 2100

Before ST. JOHN COURTENAY III, THU A. DANG,
JAMES R. HUGHES, *Administrative Patent Judges.*

COURTENAY, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

The Patent Examiner finally rejected claims 23-41. Claims 1-22 were canceled. (App. Br. 3). Appellant appeals therefrom under 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

INVENTION

This invention relates to relates to computer related information search and retrieval with multimedia and streaming media metadata databases. (Spec. 1). Claim 23, reproduced below, is illustrative of the claimed subject matter:

23. A computer-implemented method performed by a computer system to assess the quality of metadata associated with a media stream on a communications network, the method comprising:

- [a] extracting metadata associated with the media stream;
- [b] parsing the extracted metadata into at least one metadata field, the extracted metadata in the metadata field comprising a set of keywords, the set of keywords comprising at least one keyword;
- [c] providing a *valid database comprising authoritative* metadata represented as a plurality of database records, each of the database records comprising a plurality of record fields, each of the record fields comprising a set of keywords, the set of keywords comprising at least one keyword;
- [d] comparing the contents of the at least one metadata field to the contents of each of the record fields to identify a matching record field that contains all of the keywords contained in the at least one metadata field; and
- [e] *determining a similarity score based on the degree of similarity between the metadata field and the matching record*

field, wherein the similarity score is indicative of the quality of the extracted metadata,

[f] wherein code implementing the method is stored in memory of the computer system for execution by a processor of the computer system.

(Disputed limitations emphasized).

REJECTIONS

R1. Claims 23-24, 26-31, 33-35, and 41 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Eyal (U.S. Patent No. 6,484,199 B2) and Vaithilingam (U.S. Patent No. 6,411,724 B1).

R2. Claims 25, 32, and 38 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Eyal, Vaithilingam, and Nashed (U.S. Patent No. 6,654,749 B1).

R3. Claims 36, 37 39, and 40 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Eyal, Vaithilingam, and Williams (U.S. Patent App. Publication No. 2002-0002541 A1).

PRIOR DECISION

Ex parte Abajian, Appeal No. 2009-004233, (Application No. 10/886,946). BPAI Decision mailed Oct. 15, 2009. (Examiner Reversed).

ANALYSIS

We disagree with Appellant's contentions regarding the Examiner's obviousness rejections of the claims. We adopt as our own: (1) the findings and reasons set forth by the Examiner in the action from which this appeal is

taken, and (2), the reasons set forth by the Examiner in the Answer in response to arguments made in Appellant's Appeal Brief. (Ans. 12-15). We highlight and address specific findings and arguments below.

R1.

A.

Issue: Under § 103, did the Examiner err in finding that the cited references, either alone or in combination, would have taught or suggested "determining a similarity score based on the degree of similarity between the metadata field and the matching record field, wherein the similarity score is indicative of the quality of the extracted metadata," within the meaning of claim 23 and the commensurate language of claim 30?

Appellant contends:

Vaithilingam's system extracts descriptors from the query image and compares them with descriptors of the other images in the repository to determine the matches. *Vaithilingam*, col. 4, lines 13-20. The matching images are ranked for similarity with the query image. *Vaithilingam*, col. 9, lines 24-26. . . . *Vaithilingam* does not rank, or otherwise evaluate, the query image (alleged "extracted metadata"). Instead, *Vaithilingam* only ranks the matched images, which indicates nothing about the descriptors of the query image.

(Reply Br. 2).

Vaithilingam teaches:

A comparison (step 135) is then made between the query descriptor and the descriptor for the repository multimedia information item. . . . The comparison is repeated for all clusters in the database (step 136-NO), and the set of closest

matches [between query descriptor and the descriptor for the repository multimedia information item] from each cluster is appropriately ranked, with suitable means being well known in the art, and displayed to the user (step 137).

(Vaithilingam col. 9, ll. 19-27)

Appellant's contentions are not persuasive. Specifically, we are not persuaded by Appellant's contention that "Vaithilingam only ranks the match images, which indicates nothing about the descriptors of the query image," because Appellant misinterprets Vaithilingam. (Reply Br. 2). Vaithilingam teaches determining the closest matches of the extracted descriptors from the query image to the descriptors of the other images in the repository. (Col. 9, ll. 19-22, 24-27; *see* Fig 2). In particular, Vaithilingam teaches that "the set of closest matches [between query descriptor and the descriptor for the repository multimedia information item] from each cluster is appropriately ranked." (Vaithilingam col 9, ll. 26-27; *see* Fig. 2, 135; Abstract). (*See* Ans. 13). Therefore, we find Vaithilingam would have taught or suggested ranking (scoring) the descriptors (metadata) of the multi-media. (*Id.*).

Furthermore, contrary to Appellant's contentions (App. Br. 11), we agree with the Examiner that Vaithilingam's "determining the similarity of the metadata-descriptor[s] and ranking the closest matches" would have taught or suggested the broadest reasonable interpretation of the limitation of "determining a similarity score indicative of the quality of the extracted metadata" (Ans. 13), because the higher the Vaithilingam's similarity, the more accurate the extracted query descriptor ("extracted metadata"). For example, if the extracted query descriptor is gibberish (low quality), the similarity score/ranking would be low.

For these reasons, we are not persuaded of Examiner error.

B.

Issue: Under § 103, did the Examiner err in combining the cited references relied upon in the rejection of claims 23 and 30?

Appellant contends that "Eyal discredits user-based searching systems like Vaithilingam's retrieval system. According to Eyal, such systems provide, at best, a 'stop-and-go experience.' (Eyal 8:61-9:4)." (App. Br. 12-13).

Appellant's contentions are not persuasive because Appellant does not present evidence that Vaithilingam teaches any of the "stop-go-experience" described in the quoted section of Eyal (App. Br. 12-13). Moreover, the test is whether the reference(s) teach away from *Appellant's claimed invention*. See *In re Fulton*, 391 F.3d 1195, 1201 (Fed. Cir. 2004) (emphasis added). Therefore, on this record, we are not persuaded that Eyal (or Vaithilingam) teaches away from *Appellant's claimed invention*.

Appellant also contends that there is "no reason to combine Eyal and Vaithilingam." (App. Br. 11-12; 16-17).

Notwithstanding Appellant's arguments, the Supreme Court guides that "when a patent 'simply arranges old elements with each performing the same function it had been known to perform' and yields no more than one would expect from such an arrangement, the combination is obvious." *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398, 417 (2007) (quoting *Sakraida v. Ag Pro, Inc.*, 425 U.S. 273, 282 (1976)).

Here, Eyal (col. 6, ll. 1-10; col. 12, ll. 33-63; col. 14, l. 61 - col. 5, l. 16; col. 22, ll. 8-58; Fig. 3) teaches or suggests extracting and parsing metadata from a media stream on a computer (corresponding to claim 23 steps [a], [b], [f]), and Vaithilingam (Fig. 2; col. 7, ll. 38-56; Fig. 2 elements

135, 137; col. 2, l. 62 - col. 3, l. 4) teaches or suggests: providing a valid database (corresponding to claim 23, step [c]), comparing metadata fields (claim 23, step [d]), and determining a similarity score ((claim 23, step [e])). We are of the view that these are known elements, with each performing the same function it had been known to perform, and thus yields no more than one would expect from such an arrangement. (*See KSR* at 417; Ans. 3-5). For these reasons, we are not persuaded of Examiner error.

C.

Issue: Under § 103, did the Examiner err in finding that the cited references, either alone or in combination, would have taught or suggested "[c] providing a valid database comprising authoritative metadata . . . ," within the meaning of claim 23 and the commensurate language of claim 30?

Appellant contends:

The Examiner appears to suggest that Vaithilingam's reference to "any type of database" implies that Vaithilingam's database may be a valid database. Appellant disagrees and submits that the type of database does not determine whether the database is a valid database. A valid database is a "database [that] comprises valid or authoritative metadata" *such that* "metadata, which may be inaccurate or noisy, can be replaced with accurate metadata obtained from a valid (ground truth) database" (see, e.g., Appellant's Published Application No. 2005-0193014 , ¶¶ [0042], [0045]-[0046]).

(App. Br. 9; emphasis added).

Appellant's contentions are not persuasive because Appellant fails to cite definitions of "valid database," and "authoritative metadata" in the

Specification.¹ Appellant's quoted section above does not cite to definitions of a valid database," and "authoritative metadata" because the quoted section describes actions on "metadata" and does not recite any definition of "authoritative metadata." (App. Br. 9).²

For these reasons, we are not persuaded of Examiner error. Therefore, we sustain the Examiner's rejection R1 of claim 23 and of claim 30, which has commensurate limitations.

We also sustain the Examiner's rejection R1 of remaining claims 23-24, 26-31, 33-35, and 41, which Appellant merely argues are patentable by virtue of their dependence from their patent claims. (App. Br. 13, 18).

R2 AND R3.

We sustain the Examiner's rejection R2 of claims 25, 32, and 38, and rejection R3 of claims 36-37 and 39-40, which Appellant contends are patentable by virtue of their dependence from their patent claims and for

¹ Any special meaning assigned to a term "must be sufficiently clear in the specification that any departure from common usage would be so understood by a person of experience in the field of the invention." *Multiform Desiccants Inc. v. Medzam Ltd.*, 133 F.3d 1473, 1477 (Fed. Cir. 1998); *see also Helmsderfer v. Bobrick Washroom Equip., Inc.*, 527 F.3d 1379, 1381 (Fed. Cir. 2008) ("A patentee may act as its own lexicographer and assign to a term a unique definition that is different from its ordinary and customary meaning; however, a patentee must clearly express that intent in the written description.").

² "During prosecution . . . the PTO gives claims their 'broadest reasonable interpretation.'" *In re Bigio*, 381 F.3d 1320, 1324 (Fed. Cir. 2004) (quoting *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000)). A basic canon of claim construction is that one may not read a limitation into a claim from the written description. *Renishaw PLC v. Marposs Societa' per Azioni*, 158 F.3d 1243, 1248 (Fed. Cir. 1998).

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which Appellant does not make contentions that rebut the Examiner's rejection of the claims and their parent claims 23 and 30. (App. Br. 19).

DECISION

We affirm the Examiner's rejections R1-R3 of claims 23-41 under § 103.

No time for taking any action connected with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

Vsh