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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO. Includes details for application 11/561,314 filed 11/17/2006 by Charles R. Weirauch, attorney docket no. 82230212, confirmation no. 7286. Also includes examiner name DILLON, SAMUEL A, art unit 2185, and notification date 02/01/2013 via ELECTRONIC mode.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte CHARLES R. WEIRAUCH

Appeal 2010-008824
Application 11/561,314
Technology Center 2100

Before MAHSHID D. SAADAT, JOHN A. EVANS, and HUNG H. BUI,
Administrative Patent Judges.

SAADAT, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from the Final Rejection of claims 1-30, which are all the claims pending in this application as claims 31-37 have been canceled. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

STATEMENT OF THE CASE

Introduction

Appellant's invention relates to techniques for writing data to a removable optical disk (*see* Spec. ¶¶ [0015] – [0021]).

Exemplary Claim

Independent claim 1 is exemplary of the claims under appeal and reads as follows:

1. An optical disk system including a computer-readable medium containing code for controlling writing by the disk system to a removable optical disk, the optical disk system comprising:

an optical pickup unit for reading data from the optical disk and writing data to the optical disk;

a spindle motor for rotating the optical disk during the reading and writing; an optical disk controller that processes the data read from and written to the disk; and

a processor that executes the code, thereby causing the optical disk system to write user data to an addressable unit of the removable optical disk, to write an identifying value and a corresponding second value to at least one predetermined area of the removable optical disk, the identifying value indicative of the optical disk system and the second value indicative of which addressable unit was written with the user data by the optical disk system indicated by the identifying value.

The Examiner's Rejections

Claims 1-5, 9-21, and 24-30 stand rejected under 35 U.S.C. § 102(b) as anticipated by Weirauch (US 6,625,732 B1). (See Ans. 3-10).

Claims 6-8, 22, and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Weirauch and Wikipedia (*Universal Serial Bus*, June 24, 2004 version, retrieved May 11, 2009 at http://en.wikipedia.org/wiki/Universal_Serial_Bus). (See Ans. 11).

Appellant's Contentions

With respect to independent claim 1, Appellant contends that the Examiner erred in rejecting the claim as anticipated by Weirauch because the reference “does not disclose the ‘second value’ as required by amended claim 1” (App. Br. 12). Appellant specifically asserts that Weirauch’s use of an Access Audit Table merely allows writing a value to a table to specify writing by a drive, rather than “where on the disk the data was written” (*id.*). Appellant points out that the reserved value in Weirauch relates to identifying the end of the buffer in a circular buffer and “is not indicative of which addressable unit was written with the user data by an optical disk system indicated by the identifying value” (*id.*).

Regarding claims 4 and 20, Appellant contends that Weirauch includes “no teaching that data being written to the addressable units actually is downloadable data” (App. Br. 13).

Appellant relies on similar arguments discussed above for claim 1 in support of the patentability of claims 6-8, 22, and 23 (*id.*), allowing these claims to fall with claim 1.

ISSUE

Based on Appellant's arguments in the briefs, the principal and dispositive issue presented in this appeal is as follows:

Has the Examiner erred in rejecting the claims as being anticipated by Weirauch because the reference does not teach all the recited features of claims 1 and 4?

ANALYSIS

We have reviewed the Examiner's rejections in light of Appellant's arguments that the Examiner has erred. We disagree with Appellant's conclusion. 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 rebuttals to arguments expressed by the Examiner in the Examiner's Answer in response to Appellant's Appeal Brief (*see* Ans. 12-15).

We specifically agree with the Examiner (Ans. 12), that the claimed "*second value indicative of which addressable unit was written with the user data by the optical disk system indicated by the identifying value*" merely requires "the second value provide an indication that is related to the addressable unit that was written." As such, we are not persuaded by Appellant's contention that the Examiner erred in broadly, but reasonably, interpreting the disputed claim term whereas according to Appellant (Reply Br. 2), the second value is described in the Specification *to identify* the specific addressable units.

As properly interpreted by the Examiner and discussed above, the PTO gives a disputed claim term its broadest reasonable interpretation during patent prosecution. *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir.

2000). The “broadest reasonable interpretation” rule recognizes that “before a patent is granted the claims are readily amended as part of the examination process.” *Burlington Indus. v. Quigg*, 822 F.2d 1581, 1583 (Fed. Cir. 1987). Thus, a patent applicant has the opportunity and responsibility to remove any ambiguity in claim term meaning by amending the application. *In re Prater*, 415 F.2d 1393, 1404-05 (CCPA 1969). Additionally, the broadest reasonable interpretation rule “serves the public interest by reducing the possibility that claims, finally allowed, will be given broader scope than is justified.” *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004) (quoting *In re Yamamoto*, 740 F.2d 1569, 1571-72 (Fed. Cir. 1984)). Therefore, we also disagree with Appellant’s argument that the use of a pointer as the reserved value in Weirauch is not the same as the claimed second value (*id.*) because a pointer meets the claimed “second value indicative of which addressable unit was written with the user data.”

We also agree with the Examiner’s analysis with respect to the rejection of claims 4 and 20 (*see* Ans. 13-14). We further observe that the type of data, such as downloaded content or data provided otherwise, does not distinguish the claimed subject matter over the prior art system for storing data.

CONCLUSIONS

On the record before us, we conclude that, because Weirauch teaches all the claim limitations, the Examiner has not erred in rejecting claims 1 and 4 as being anticipated by Weirauch. Therefore, we sustain the 35 U.S.C. § 102 rejection of claims 1 and 4 and of claims 2, 3, 5, 9-21, and 24-30

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falling therewith. We also sustain the 35 U.S.C. § 103 rejection of claims 6-8, 22, and 23 not separately argued.

DECISION

The Examiner's decision rejecting claims 1-30 is affirmed.

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

AFFIRMED

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