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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte HIDEKI TANIZOE, HIROKI IWATAKA,
MIYUKI TACHIBANA, YASUHIRO ARAKAWA,
KAZUAKI TAKAMOTO, and TAKASHI KATAGIRI

Appeal 2010-009231
Application 10/162,663
Technology Center 2100

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

COURTENAY, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1-8 and 10 (App. Br. 3). Claim 9 has been cancelled. We have jurisdiction under 35 U.S.C. § 6(b).

We Affirm.

STATEMENT OF THE CASE

Appellants' claimed invention "relates to a technique in which a host computer such as a personal computer remotely adjusts a display device or a display monitor connected to the host computer." (Spec. 1).

Independent claim 1, reproduced below, is representative of the subject matter on appeal.

1. An expanded method of adjusting a display device remotely from a computer according to a predetermined standard, said predetermined standard having a control item code group having a maximum number of control item codes, said method comprising the steps of:

expanding the maximum number of control item codes by defining superordinate codes, which are organized into pages of control item code groups, at least one page including said control item code group of said predetermined standard;

defining at least one command which allows the computer to request the display to send an indication of which of the superordinate codes has been set in the display;

(a) specifying at least one of said superordinate codes between said computer and said display device; and

(b) adjusting said display device remotely from said computer by using at least one control item code group associated with said at least one specified superordinate code.

(disputed limitation emphasized).

REJECTION

The Examiner rejected claims 1-8 and 10 under 35 U.S.C. § 102(b) as being clearly anticipated over ACCESS.bus (ACCESS.bus Monitor Device

Protocol Specification Version 3.0, ACCESS.bus Industry Group, Section 7, Pages 7-1-7-25, September 1995). (Ans. 3-7).

GROUPING OF CLAIMS

Based on Appellants' arguments, we decide the appeal of the rejection of claims 1-8 and 10 on the basis of representative claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv).

CONTENTIONS

Appellants contend the cited ACCESS.bus reference does not disclose "defining at least one command which allows the computer to request the display to send an indication of which of the superordinate codes has been set in the display," as recited in independent claim 1. (App. Br. 6-7). In particular, Appellants contend:

Although ACCESS.bus discloses a command for requesting information about a specific *VCP* [*Virtual Control Panel*] feature, e.g., the brightness setting, nowhere in ACCESS.bus is there any disclosure of a command which requests the display to send an indication of which of the *superordinate* codes or *pages* has been set as claimed. To the contrary, the Get VCP feature command, as discussed in the background of the Specification, merely requests the display monitor to send a current setting of a specified adjustment item (i.e., one of the control item codes) based on the VCP op code included in the call. Although the adjustment/control item may be defined within the page or superordinate code it is not equivalent to the page or superordinate code nor does it indicate which page or superordinate code has been set.

In response to Applicants' arguments, the Examiner asserts that "[t]he 'GE' command accesses the monitor to send a control feature or command back to the computer. The commands that are sent back to the computer include

superordinate codes therefore providing an indication of the superordinate codes." Applicants respectfully disagree.

As discussed above, the GET command only provides an indication of a particular feature setting, not the superordinate code (i.e., set of features) set in the monitor. One skilled in the art would readily appreciate that a particular feature could be including in multiple superordinate codes/pages given that a superordinate code/page defines a plurality of features. Therefore, providing a value setting for a particular feature does *not* inherently indicate which superordinate codes is in use. Accordingly, ACCESS.bus does not anticipate claim 1 because ACCESS.bus fails to disclose each and every claimed element.

(App. Br. 6).

The Examiner disagrees:

The Get VCP Feature includes the instruction which is described under "Device to Host". This includes "CP" and "02" which are VCP op codes. The command that is defined is sent from device to host includes an indication of the superordinate codes "CP" and "02". This indication allows for the host computer to recognize that the "CP" and "02" code has been set in the display device. Therefore, ACCESS.bus does disclose defining at least one command which allows the computer to request the display to send an indication of which of the superordinate codes have been set in the display. See page 7-9, section 7.5.1 and 7.5.2.

(Ans. 7).

Appellants further respond in the Reply Brief:

On page 7 of the Examiner's Answer, the Examiner asserts that the Get VCP Feature command defined in the ACCESS.bus reference is equivalent to a command that allows the computer to request the display to send an indication of which of the superordinate codes has been set in the display as claimed because the VCP feature reply is a device to host response that includes "CP" and "02" which the Examiner asserts are VCP op codes. The Examiner's finding is unfounded for the following reasons.

First, as discussed in Appellants' Appeal Brief, the Get VCP Feature is a command which instructs the monitor to send information about *a specified control feature*, not the superordinate code or pages which [have] been set as claimed. Merely disclosing a command for requesting information about a specific *VCP feature*, e.g., the brightness setting, is not equivalent to disclosing a command which requests the display to send an indication of which of *the superordinate codes or pages* has been set. Although the adjustment/control item may be defined within the page or superordinate code, it is not equivalent to the page or superordinate code nor does it indicate which page or superordinate code has been set.

Second, the VCP Feature response only provides an indication of a particular feature setting, not the superordinate code (i.e., set of features) set in the monitor. One skilled in the art would readily appreciate that a particular feature could be included in multiple superordinate codes/pages given that a superordinate code/page defines a plurality of features. Therefore, providing a value setting for a particular feature does *not* inherently indicate which superordinate codes is in use. Accordingly, the Examiner's findings regarding the teachings of ACCESS.bus are unfounded.

(Reply Br. 1-2).

Issue: Under §102, did the Examiner err in finding that ACCESS.bus discloses: “defining at least one command which allows the computer to request the display to send *an indication of which of the superordinate codes has been set in the display,*” within the meaning of independent claim 1 (emphasis added)?

ANALYSIS

This appeal turns upon claim construction. We focus our analysis on the scope of the disputed claim limitation “defining at least one command which allows the computer to request the display to send *an indication of*

which of the superordinate codes has been set in the display;” (independent claim 1, emphasis added). Our reviewing court guides that “[i]n the patentability context, claims are to be given their broadest reasonable interpretations . . . limitations are not to be read into the claims from the specification.” *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993) (citations omitted).

Here, Appellants urge that “[a]s discussed above, the GET command only provides an indication of a particular feature setting, not the superordinate code (i.e., *set of features*) set in the monitor.” (App. Br. 6) (emphasis added). In the Reply Brief, Appellants essentially restate the same argument regarding the *set of features*:

First, as discussed in Appellants' Appeal Brief, the Get VCP Feature is a command which instructs the monitor to send information about *a specified control feature*, not the superordinate code or pages which [have] been set as claimed. Merely disclosing a command for requesting information about a specific VCP feature, e.g., the brightness setting, is not equivalent to disclosing a command which requests the display to send an indication of which of the *superordinate* codes or *pages* has been set. Although the adjustment/control item may be defined within the page or superordinate code, it is not equivalent to the page or superordinate code nor does it indicate which page or superordinate code has been set.

Second, the VCP Feature response only provides an indication of a particular feature setting, not the superordinate code (i.e., *set of features*) set in the monitor.

(Reply Br. 1-2, emphasis added).

We observe that the *set of features* repeatedly argued by Appellants is not claimed. To the contrary, we conclude that “an indication of *which of the superordinate codes* has been set in the display” (claim 1) (emphasis added) also reads on a *single* current brightness setting that is requested and

returned, as disclosed by the ACCESS.bus reference (pp. 7-9, 7-10), and found by the Examiner (Ans. 3-4, 7).

Moreover, we observe that Appellants' superordinate codes defined in claim 1 are "organized into pages of control item code groups, *at least one page* including said control item code group of *said predetermined standard*" (claim 1) (emphasis added). Thus, according to the plain language of Appellants' claim 1, the defined superordinate codes "organized into pages of control item code groups" contain at least one page that pertains to a *predetermined standard*, which we conclude broadly reads on the ACCESS.bus standard described as background prior art in Appellants' Specification (p.3, 1.1), and, more particularly, on the cited portions of the ACCESS.bus reference relied on by the Examiner as prior art. (Ans. 3-4, 7). Accordingly, even assuming *arguendo* that the cited ACCESS.bus reference merely describes predetermined standard VCP features, we conclude the Examiner's broader reading is not precluded by the plain language of representative claim 1.

Therefore, on this record, we are not persuaded of error regarding the Examiner's finding of anticipation. We sustain the rejection of claim 1. Claims 2-8 and 10 (not argued separately) fall therewith. *See* 37 C.F.R. § 41.37(c)(1)(iv).

DECISION

We affirm the Examiner's rejection under §102 of claims 1-8 and 10.

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).

Appeal 2010-009231
Application 10/162,663

AFFIRMED

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