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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ERIC ROBERT SHEPHERD,
PAUL ROBERTS, and JOHN KLEEMAN

Appeal 2010-012135
Application 10/791,019¹
Technology Center 2100

Before CARLA M. KRIVAK, CAROLYN D. THOMAS, and
CARL W. WHITEHEAD, JR., *Administrative Patent Judges*.

THOMAS, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ The real party in interest is Question Mark Computing Limited.

STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 of the Examiner's final decision rejecting claims 1-21, which are all the claims pending in the application. We have jurisdiction over the appeal under 35 U.S.C. § 6(b). The Oral Hearing was waived.

We AFFIRM.

The present invention relates generally to a secure user interface. *See* Spec., Abstract.

Claim 1 is illustrative:

1. A secure user interface method, for interacting with a user through a browser, comprising:

controlling the browser to request a document from a cooperative server, the browser providing data export support functionality;

receiving data with the browser in response to the request;

automatically determining, based on a received data encoding type, whether a secure browser or a normal browser is to be employed, the secure browser having a set of functionality restricted with respect to the normal browser, to enhance security of a received document against data export;

receiving the secure content for presentation in the secure browser; and

communicating an input from the user, through the secure browser, to a cooperative server.

Appellants appeal the following rejections:

R1. Claims 1-21 are rejected under 35 U.S.C. § 112, first paragraph for allegedly failing to comply with the written description requirement;

R2. Claims 1-4 and 6-20 are rejected under 35 U.S.C. § 102(e) as being anticipated by Winneg (US 7,069,589 B1, June 27, 2006); and

R3. Claims 5 and 21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Winneg and Chang (US Patent Pub. 2002/0097416 A1, July 25, 2002).

Claim Groupings

Based on Appellants' arguments in the Appeal Brief, we will decide the appeal on the basis of the claims as set forth below. *See* 37 C.F.R. 41.37(c)(1)(vii).

ANALYSIS

Rejection of claims 1-21 under § 112, first paragraph

Issue 1: Did the Examiner err in finding that the claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, has possession of the claimed invention?

Appellants contend that “Figs. 1 and 2 also clearly show the process for invocation of a secure browser, and the ‘data encoding type’ or ‘data type encoding’ as a basis for selecting the secure browser, as opposed to the alternate, a normal browser (per clam 1) or an insecure browser (per claim 9)” (App. Br. 7). We agree with Appellants.

In order to satisfy the written description requirement, “the [original] specification must describe an invention understandable to that skilled artisan and show that invention actually invented the invention claimed.”

Ariad Pharms., Inc. v. Eli Lilly & Co., 598 F.3d 1336, 1351 (Fed. Cir. 2010)(en banc). “[T]he test for sufficiency is whether the disclosure of the application relied upon reasonably conveys to those skilled in the art that the inventor had possession of the claimed subject matter as of the filing date.” *Id.* (citations omitted). One shows possession “by such descriptive means as words, structures, figures, diagrams, formulas, etc. that fully set forth the claimed invention.” *Lockwood v. American Airlines, Inc.*, 107 F.3d 1565, 1572 (Fed. Cir. 1997). Here, we find that at least Appellants’ Fig. 2 sufficiently describes the use of a “normal” browser prior to transitioning to a secure browser and then returning control back to the original browser (i.e., the normal browser).

Thus, we conclude the Examiner’s finding that “[t]here is no mention in the original specification of employing a normal browser” (*see* Ans. 3) is unavailing given the description in at least Appellants’ Fig. 2.

Based on the record before us, we find error in the Examiner’s rejection under 35 U.S.C. § 112, first paragraph, essentially for the reasons given by Appellants.

Therefore, we reverse the rejection of claims 1-21 under 35 U.S.C. § 112, first paragraph.

Rejection of claims 1-4 and 6-20 under § 102(e)

Issue 2: Did the Examiner err in finding that Winneg discloses “based on a received data encoding type,” as set forth in claim 1?

Appellants contend “that a ‘user type’ is clearly distinct and non-overlapping with a ‘data encoding type’. . . the determination of whether a

secure ‘environment’ is required is not based on any ‘received data encoding type’ . . . there is no teaching . . . that these restrictions are . . . provided as part of the document requested” (App. Br. 15).

We find Appellants’ contentions unavailing and, in any event, not commensurate with the scope of the claim. While Appellants contend that Winneg’s login procedure is not “encoded in, or provided as part of the document requested” (*id.*), we point out that claim 1, for example, does not require that any “data encoding type” be encoded in or provided as part of the document requested. Instead, claim 1 merely requires “a received data encoding type” (*see* claim 1), received by any form. Furthermore, what this “data encoding type” is and how precisely this “data encoding type” is received is not defined in the claims.

Appellants’ Specification states that “the user would encounter a reference to the secure content within ordinary content, and would choose or be directed to run it. The secure content is identified, for example, by a MIME type (or other type that browsers can recognize) . . . which causes the initiation of . . . a secure browser” (Spec. 4, ll. 21-25). In other words, in the present invention a “reference” to the secure content is encountered which allows the user to run it and the secure content is identified by any type of data recognizable by the browser, even a passcode.

Consistent with Appellants’ description of encountering a secure document, the Examiner found that “Winneg discloses matching a correct type of password code data with the password code data that is associated/encoded with the secure content provided/created by a content provider” (Ans. 12). Specifically, Winneg discloses that “[t]he application being securely executed may be any of a variety of types of applications, for

example, a browser application” (*see* Abstract). Winneg further discloses “a GUI that may be displayed to a user to determine which application to initiate for an exam. . . . After the user has entered the class name and the professor . . . and clicked on the OK button, the exam-taking application may use this information to determine a first application to be executed” (Winneg, col. 9, ll. 45-54). In addition, Winneg discloses that “a user may be prompted to enter a password” (col. 10, ll. 5-6). In other words, Winneg encounters a secure document via manipulating a GUI by entering specified data type, i.e., a password code. In Winneg, if the password is not valid, the secure browser/application is not initiated.

We find that the recited “data encoding type” and its use is strikingly similar (at least conceptually) to Winneg’s secure browser triggered via a password noted *supra*, and the Examiner’s reliance on this functionality is therefore persuasive.

Appellants’ arguments notwithstanding, we sustain the Examiner’s anticipation rejection of independent claims 1 and 9 for essentially the same reasons argued by the Examiner. (Ans. 12-14). Claims 2-4, 6-8, and 10-20 fall with their respective independent claim.

Rejection of claims 5 and 21 under § 103(a)

Issue 3: Did the Examiner err in finding that the combination of Winneg and Chang teaches and/or suggests rendering text information as graphic objects, as claimed in claim 5?

Appellants contend that “it is not believed that Chang et al. disclose an application-level rasterizer, but rather a rasterizer that services all applications on a device” (App. Br. 30).

The Examiner found that “Chang discloses render[ing] text information as graphic objects” (Ans. 9). We agree with the Examiner.

Appellants actually agree that Chang discloses rendering text information as graphics objects, but instead argue that such a rasterizer is not at application-level (*see* App. Br. 30). However, the Examiner has shown above that Winneg discloses a browser capable of initiating a secure environment and further found that the combination of Winneg and Chang would have suggested a browser performing text conversion. Thus, Appellants’ arguments do not take into account what the collective teachings of the prior art would have suggested to one of ordinary skill in the art and are therefore ineffective to rebut the Examiner’s prima facie case of obviousness. *See In re Keller*, 642 F.2d 413, 425 (CCPA 1981)(“*The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art.*”) (citations omitted, emphasis added). This reasoning is applicable here and Appellants have failed to rebut the collective teachings.

For these reasons, and for the reasons previously discussed regarding claim 1, we sustain the Examiner’s § 103 rejection of claims 5 and 21.

Appeal 2010-012135
Application 10/791,019

DECISION

We affirm the Examiner's § 102 and § 103 rejections.

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

AFFIRMED

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