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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* YOSHIO HORIUCHI, MASABUMI KOINUMA, MARI  
(KUROKI) ONISHI, and MASAKI SAITOH

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Appeal 2010-012549  
Application 11/293,477  
Technology Center 2100

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Before CARL W. WHITEHEAD, JR., ERIC S. FRAHM, and  
ANDREW J. DILLON, *Administrative Patent Judges*.

DILLON, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's rejections of claims 1-6, 8-14, and 16-18. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

## STATEMENT OF THE CASE

Appellants describe their invention as follows:

The present invention improves application of a style to a view object ... for a Web page to be edited .... First, a view object is detected from a managed document. Then, a direct style directly described in the managed document and an indirect style identified only by referring to an external document are collected. A browser-type edit screen is generated in which the direct and indirect styles are applied to each view object. The content of the managed document is synchronized with the edited content on the browser-type edit screen based on the editing operations on the browser-type edit screen.

Abstract.

Independent claim 1 is illustrative:

1. A Web page authoring apparatus comprising:

a memory device;

a processor;

descriptive content management means for managing descriptive content of documents for a Web page to be edited, the documents being treated as managed target documents;

means for generating tree structure information related to nodes of a managed document based on a description of the managed document;

view object detecting means for detecting, from the description of the managed document, an object to be displayed on a browser screen as a view object, the object being related to the managed document, wherein the view object detecting means detects the view object of the managed document based on information in a body section of the tree structure information;

direct style detecting means for detecting a direct style based on the description of the managed document, said direct style being a style whose existence is directly described in the managed document among styles to be applied to the view object, wherein the direct style detecting means detects, as a direct style, a style directly specified in the tree structure information;

indirect style detecting means for detecting an indirect style from the description of an external document, said indirect style being a style whose existence is not directly described in the managed document and can be found by referring to the external document specified by the description of the managed document, wherein the indirect style detecting means searches for the external document specified by information in a head section of the tree section of the tree structure information to detect, as an indirect style, a style described in the external document;

edit screen data generating means for generating edit screen data based on an association between the view object and the direct and indirect styles to generate an edit screen on which the tag content of the managed document are converted to visual representation, wherein said edit screen data includes at least a portion of said tree structure information, said portion comprising Document Object Model (DOM) information that represents the view object as a view object tree;

edit screen generating means for generating the edit screen based on the edit screen data;

synchronization means for synchronizing the content of the managed document with the edited content on the edit screen based on editing operations on the edit screen, wherein in response to specified edited content resulting from a specified editing operation, said synchronization means performs a first task of updating said DOM information in corresponding relationship with said specified edited content, and then performs a second task of updating said view object

tree in corresponding relationship with said updated DOM information; and

an output device receiving said updated view object tree for providing a viewable image of the view object as modified by said specified content.

The Examiner relies on the following references as evidence of unpatentability:

Popp	US 2002/0133637 A1	Sep. 19, 2002
Oshima	US 2009/0217153 A1	Aug. 27, 2009

Macromedia, Inc., DREAMWEAVERMX 2004 – Getting Started with Dreamweaver 1-54 (Sep. 2003) (herein “Dreamweaver”).

Gutman et al., Inside Dreamweaver MX (New Riders Publishing 1<sup>st</sup> ed. 2002) (herein “Dreamweaver II”).

## REJECTIONS

The Examiner rejected claims 1-6, 8, and 17 under 35 U.S.C. § 103 as unpatentable over Dreamweaver, Popp, Dreamweaver II, and Oshima. Ans., pp. 4-19.<sup>1</sup>

The Examiner rejected claims 9-14, 16, and 18 under § 103 as unpatentable over Dreamweaver and Popp. *Id.* at pp. 19-39.

## ANALYSIS

Claim 1 is directed to a “Web page authoring apparatus” comprising memory, a processor, output device, and numerous means-plus-function

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<sup>1</sup> Throughout this opinion, we refer to the Appeal Brief filed March 25, 2010 (“App. Br.”) and the Examiner’s Answer mailed June 23, 2010 (“Ans.”).

structures.<sup>2</sup> Claim 1 stands rejected as obvious over Dreamweaver, Popp, Dreamweaver II, and Oshima. The Examiner and Appellants' primarily dispute whether the recited functions of the means-plus-function features distinguish over the cited prior art teachings. We sequentially address, below, the Examiner's determinations and Appellants' arguments for each of the means-plus-function features set forth below. For the reasons presented, Appellants' arguments are unpersuasive.

(A) view object detecting means for detecting, from the description of the managed document, an object to be displayed on a browser screen as a view object, the object being related to the managed document, *wherein the view object detecting means detects the view object of the managed document based on information in a body section of the tree structure information*

(Claim 1, emphasis added).

(1) The un-emphasized subject matter of claim 1.

The Examiner determined that Dreamweaver's split-screen (see Dreamweaver, p. 40) satisfies the un-emphasized subject matter of the view object detecting means of claim 1. Ans., p. 42 (citing Dreamweaver, pp. 40 and 53). In doing so, the Examiner found that the split-screen displays editable HTML code (top screen) and a corresponding "design view" of a web page (bottom screen). *Id.* And the Examiner determined the elements

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<sup>2</sup> Claims 1, 9, and 18 appear to lack a written description under 35 U.S.C. § 112, ¶ 1, particularly insofar that the Appeal Brief's claim summary does not cite any algorithms of the claims' means/step-plus-function features. *See Noah Systems, Inc. v. Intuit, Inc.*, 675 F.3d 1302, 1312 (Fed. Cir. 2012) ("In cases ... involving a special purpose computer-implemented means-plus-function limitation, ... [w]e require that the specification disclose an algorithm for performing the claimed function." (citations and quotations omitted)).

of the HTML code constitute, as claimed, “objects” of a “managed document” that are detected as part of rendering the design view. *Id.*

Appellants’ several arguments as to these findings and determinations are not commensurate with the claim scope, namely by alleging advantages of the claimed invention that are neither recited nor have been shown to be inherent. Specifically, Appellants argue that the claimed view object detecting means “ensures that an object which is displayed on a browser screen is in fact the object which is intended for display, that is, the object that was detected from the description of the managed document.” App. Br., p. 21. And Appellants argue “Dreamweaver states explicitly that a Web page created by means of its Design view cannot be displayed on a browser screen with any reliability. *Id.* at p. 22. Even assuming we could quantify what Appellants mean by an “ensured” and “reliable” display of objects, the claimed view object detecting means simply does not require any degree of such assurance or reliability.

We find that although Dreamweaver’s split screen provides only “a rough idea of what your page will look like in a browser,” that is only because “[e]ach version of each browser has its own quirks.” Dreamweaver, p. 53. Thus, if the intended browser were predetermined, the split screen’s design view would apparently provide an accurate display of the HTML elements.

(2) The emphasized subject matter of claim 1.

The Examiner determined that Dreamweaver’s split-screen, as modified in view of Popp, satisfies the emphasized subject matter of the claimed view object detecting means. Ans., pp. 42-43 (citing Popp, ¶¶ 27, 69, and 97). In doing so, the Examiner found that Popp converts an HTML

document to an object tree, which is then rendered into a web page. Ans., p. 42. And the Examiner determined that it would have been obvious for Dreamweaver's split screen to likewise first convert the HTML code to an object tree when rendering the design view; in which case, some of the HTML elements would be located and thus detected within the object tree's body section. *Id.*

Appellants argue that the proposed modification of Dreamweaver's split screen does not establish a detection of objects, for two reasons. First, "Dreamweaver discloses elements such as an Insert bar, at page 15, for inserting various types of objects such as images, tables, and layers, into a document.... [S]ince Dreamweaver is concerned with designing or rendering Web pages or like documents, Dreamweaver has no need ... to detect changes or edits." App. Br., pp. 21-22. Second, "the term 'render', as used in computer science in regard to a Web page or other document, means to convert information in a file form or the like into a viewable form. Thus, ... Popp is merely teaching conversion of information from one form to another." *Id.* at p. 22.

These arguments fail to address the Examiner's interpretation of "detecting," which the Examiner reasonably views as encompassing a mere recognition of an object's existence. Ans., p. 42; *cf.*, *Random House Webster's Unabridged Dictionary* 541(2d ed. 2001) (defining "detect" as encompassing "to discover the existence of: *to detect the odor of gas*" (original emphasis)). Appellants have not shown that this plain meaning of "detect," i.e., recognition of existence, is either excluded by the term's meaning within the art or that such a detection is unperformed by Popp's conversion of an object tree to a displayed web page.

(B) direct style detecting means for detecting a direct style based on the description of the managed document, said direct style being a style whose existence is directly described in the managed document among styles to be applied to the view object, wherein the direct style detecting means detects, as a direct style, a style directly specified in the tree structure information; [and]

indirect style detecting means for detecting an indirect style from the description of an external document, said indirect style being a style whose existence is not directly described in the managed document and can be found by referring to the external document specified by the description of the managed document, wherein the indirect style detecting means searches for the external document specified by information in a head section of the tree section of the tree structure information to detect, as an indirect style, a style described in the external document

(Claim 1)

The Examiner determined that Dreamweaver's split screen, as modified in view of Popp (*see supra*, section (A)(2)), satisfies the claimed direct and indirect style means. *Ans.*, pp. 8 and 43-45. Specifically, the Examiner found that the split screen's HTML code can reference indirect styles defined by an external Cascading Style Sheet ("CSS"). *Id.* at p. 8 (citing Dreamweaver, pp. 16, 33, and 53). And the Examiner determined that direct styles defined by the HTML code and indirect styles referenced by a CSS would be detected when rendering Dreamweaver's HTML elements (forming an object tree in view of Popp) into the design view. *Id.* at pp. 43-45.

Appellants argue:

Dreamweaver provides a tool that enables a user to design, render or create a Web document. Thus, in the arrangement of

Dreamweaver, a particular CSS style either would or would not be associated with the document, according to whether the user either did or did not select the particular style, respectively. Accordingly, Dreamweaver has no need for the indirect style detecting means ....

App. Br., p. 23. Appellants are contending that, because style formatting is added by a webpage designer, there is no need for the designer's tools to "detect" the styles specified by a corresponding HTML document.

Appellants have failed to show why this is true, e.g., have failed to present an art-recognized aspect of "detecting" direct or indirect styles (much less evidence thereof) and a reason why a designer's tools would lack such detection. Given the plain meaning of "detect," which encompasses a mere recognition of existence (*see supra*, section (A)(2)), we find no error in the Examiner's above-described determination that Dreamweaver's system implicitly "detects" style attributes of HTML elements when rendering the design view in accord with those attributes.

Appellants also argue:

Popp ... does not disclose either direct or indirect styles, or any means for detecting such styles .... [N]or does Dreamweaver provide any teaching in regard to object trees for HTML templates or the like, with which Popp is concerned. Accordingly, even if Popp and Dreamweaver could be combined ..., the prior art as exemplified by Popp and Dreamweaver would still provide no motivation or guidance for making such combination.

App. Br., p. 23-24. This argument merely asserts that skilled artisans would not have recognized some of the combined prior art teachings – namely for Dreamweaver's style information and Popp's object trees – as indeed being combinable. Given the lack of any supporting explanation or evidence, the

argument is not persuasive. *See Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential) (“An appellant may attempt to overcome an examiner’s obviousness rejection on appeal to the Board by submitting arguments and/or evidence to show that the examiner made an error in either (1) an underlying finding of fact upon which the final conclusion of obviousness was based, or (2) the reasoning used to reach the legal conclusion of obviousness.”).

(C) edit screen data generating means for generating edit screen data based on an association between the view object and the direct and indirect styles to generate an edit screen on which the tag content of the managed document are converted to visual representation, wherein said edit screen data includes at least a portion of said tree structure information, *said portion comprising Document Object Model (DOM) information that represents the view object as a view object tree*

(Claim 1, emphasis added)

The Examiner determined that Dreamweaver’s split screen, as modified in view of Popp, satisfies the un-emphasized subject matter of the claimed edit screen data generating means. *Ans.*, pp. 46-47. In doing so, the Examiner found that the split screen renders HTML code into the editable design view and therefore must generate “edit screen data,” as claimed. *Id.* at p. 46. As to the emphasized claim subject matter, the Examiner found that Dreamweaver II’s tag inspector panel (*see Dreamweaver II*, Figure 1.9) has a top screen that displays the tree structure and attributes of a document’s HTML tags. *Ans.*, pp. 46-47 (citing *Dreamweaver II*, pp. 7-8; Figs. 1.9 and 36.12). Thus, the Examiner proposes to add Dreamweaver II’s tag inspector information to the split screen so as to likewise represent the HTML tags and their contents.

In any event, Appellants do not contest the Examiner's findings and determinations. *See Frye*, 94 USPQ2d at 1075 (“[T]he Board may treat arguments appellant failed to make for a given ground of rejection as waived.” (citation omitted)). Rather, Appellants present arguments that are not commensurate with the claim scope, again alleging advantages of the claimed invention that are neither recited nor shown to be inherent. Specifically, Appellants argue that “[b]y reciting a means that generates edit screen data based on an association between the view object and the direct and indirect styles, [the edit screen data generating means] seeks to ensure that the resulting edit screen data will be highly accurate and complete.” App. Br., p. 24. And Appellants again argue that Dreamweaver's split screen “provides only a rough idea of what the page will look like in a browser.” *Id.* at p. 25. Even assuming we could quantify what Appellants mean by “highly accurate and complete” edit screen data (App. Br., p. 24), the claimed edit screen data generating means simply does not appear to require any degree of such accuracy and completeness.

Further, Appellants present arguments that are immaterial. Appellants particularly argue that, because Dreamweaver's split screen provides only a rough idea of how the web page will appear in a browser, “those of skill in the art would not be motivated by Dreamweaver to seek to improve completeness and accuracy, such as by generating edit screen data based on an association between the view object and direct and indirect styles.” *Id.* at p. 25. Even assuming we had reasoning or evidence before us that confirms Appellants' argument is correct, the argument would nevertheless be unpersuasive.

The issue at hand is not whether a skilled artisan would view Dreamweaver's split screen as worthy of use and improvement. Rather, the issue is whether the proposed modification of the split screen would have been obvious over the cited teachings of the prior art, e.g., whether the modification merely substitutes and/or adds prior art features in a predictable manner and so as to achieve only expected results. *See KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007) (“[W]hen a patent claims a structure already known in the prior art that is altered by the mere substitution of one element for another known in the field, the combination must do more than yield a predictable result.” (citation omitted)); *see also id.* at 417 (“[W]hen 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.” (citation and quotations omitted)). Appellants have not shown that the at-issue modification of the split screen would have been performed in unexpected manner or achieved unexpected results.

(D) synchronization means for synchronizing the content of the managed document with the edited content on the edit screen based on editing operations on the edit screen, wherein in response to specified edited content resulting from a specified editing operation, *said synchronization means performs a first task of updating said DOM information in corresponding relationship with said specified edited content, and then performs a second task of updating said view object tree in corresponding relationship with said updated DOM information*

(Claim 1, emphasis added).

The Examiner determined that the design view and HTML code of Dreamweaver's split screen incorporate changes to one another when refreshed and, accordingly, are synchronized with each other. Ans., p. 48. As to the emphasized claim subject matter, the Examiner further determined that the process of such synchronization could include an updating of the HTML elements forming an object tree in view of Popp. Ans., pp. 48-49 (citing Oshima, ¶ 245); see also *id.* at p. 13. The Examiner makes the later determination in view of Oshima, which the Examiner found to update a web page display by first receiving editing commands, then modifying a corresponding DOM in view of the commands, and then using the new DOM to render the web page display. *Id.* at pp. 48-49.

In any event, Appellants do not contest the Examiner's findings and determinations. Rather, Appellants argue that "the prior art as exemplified by Oshima teaches away from [the] combination. For example, Oshima is directed to XML documents, whereas the other cited references pertain to HTML." App. Br., p. 26. Appellants have not presented reasoning, much less evidence, as to why differences between XML and HTML would discourage investigation into the proposed synchronization of Dreamweaver's HTML elements (forming an object tree in view of Popp) and design view as taught by Oshima.<sup>3</sup> We therefore view Oshima's use of

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<sup>3</sup> Such a difference seems unlikely if, as stated by Wikipedia, a DOM is a "cross-platform and language-independent convention for representing and interacting with objects in HTML, XHTML and XML documents." See Wikipedia, "Document Object Model," [http://en.wikipedia.org/wiki/Document\\_Object\\_Model](http://en.wikipedia.org/wiki/Document_Object_Model) (last visited Feb. 19, 2013). As support for the above statement, Wikipedia cites (footnote 1) a World Wide Web Consortium (W3C) document and quotes its statement that "[t]he Document Object Model is a platform- and language-neutral

XML (and Dreamweaver's use of HTML) to constitute an immaterial preference. *See DePuy Spine, Inc. v. Medtronic Sofarnor Danek, Inc.*, 567 F.3d 1314, 1327 (Fed. Cir. 2009) (“A reference does not teach away ... if it merely expresses a general preference for an alternative invention but does not ‘criticize, discredit, or otherwise discourage’ investigation into the invention claimed.”).

(E) Cited References Should not be Combined

In addition to addressing the means-plus-function structures of claim 1, Appellants argue that the Dreamweaver teaches away from the claimed invention as a whole because:

Dreamweaver also teaches at page 53 that in order to preview a page in a browser, the page must first be published. Thus, Dreamweaver requires two additional steps, in order to furnish a user with an acceptable view of the Dreamweaver end product. Appellants' Claim 1, however, does not need these two additional steps of Dreamweaver. Accordingly, because it would require these two additional steps, Dreamweaver teaches those of skill in the art away from relying on Dreamweaver, in combination with other references such as Popp, Dreamweaver 2, and Oshima, in order to realize Claim 1.

App. Br., pp. 26-27. Appellants essentially contend that Dreamweaver's steps are omitted without a corresponding loss of function and, thus, the omission patentably distinguishes the invention over the prior art. *Cf.*,

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interface that will allow programs and scripts to dynamically access and update the content, structure and style of documents. *See World Wide Web Consortium (W3C)*, “Document Object Model (DOM),” <http://www.w3.org/DOM/> (last visited Feb. 19, 2013). The W3C document is dated January 19, 2005, which is prior to the present application's filing date.

*Application of Edge*, 359 F.2d 896, 899 (CCPA 1966) (“While ... mere omission of an element together with its function does not produce a patentable invention, it *may* also be unobvious to omit an element while retaining its function.” (emphasis added)). Though an omission of prior art features can patentably distinguish a claimed invention over the prior art, claim 1 simply does not preclude the noted steps of Dreamweaver.

Furthermore, even assuming claim 1 precludes the steps, Appellants have not shown that their omission would have been an unobvious improvement over the prior art, e.g., as opposed to a predictable improvement of Dreamweaver’s split screen by way of newer technology. *See KSR*, 550 U.S. at 417 (“If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability.”); *Leapfrog Enters., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007) (Holding the claimed invention unpatentable because, in part, the “combination is ... the adaptation of an old idea or invention ... using newer technology that is commonly available and understood in the art.”).

(F) Conclusion

For the foregoing reasons, Appellants have not shown a reversible error in the rejection of claim 1. Appellants do not present separate bases of patentability for the remaining claims, but rather rely on arguments presented for claim 1. App. Br., p. 27. Accordingly, we do not sustain: the obviousness rejection of claims 1-6, 8, and 17 over Dreamweaver, Popp, Dreamweaver II, and Oshima or the obviousness rejection of claims 9-14, 16, and 18 over Dreamweaver and Popp.

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ORDER

The Examiner's decision rejecting claims 1-6, 8-14, and 16-18 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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