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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ANANTAKRISHNA VARANASI

Appeal 2012-001521
Application 11/890,794¹
Technology Center 2600

Before THU A. DANG, JAMES R. HUGHES, and
GREGORY J. GONSALVES, *Administrative Patent Judges*.

HUGHES, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's non-final rejection of claims 1-3, 5-16, 19, and 21-24. Claims 4, 17, 18, and 20 were canceled during prosecution. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ Application filed Aug. 7, 2007. The real party in interest is Hewlett Packard Development Company L.P. (App. Br. 3.)

Invention

Appellant's invention is directed to displaying geographic elements on a display of a computing device. (Spec. 2, ¶ [0010]²)

Representative Claim

Independent claim 1, reproduced below with the key disputed limitations emphasized, further illustrates the invention:

1. A mobile computing device comprising:
a housing configured to be carried by a user while in use;
a camera;
a display:

a memory configured to store geographic element data representing a plurality of geographic elements; and

a processing circuit configured to receive the geographic element data for the plurality of geographic elements, to determine a camera orientation, and to concurrently display image data from the camera and geographic element data for the plurality of geographic elements on the display, wherein the processing circuit is further configured to use optical character recognition to extract data from image data from the camera and to store the extracted data in the memory;

wherein the processing circuit is configured to determine the camera orientation at least in part via an image processing algorithm.

Rejection on Appeal

The Examiner rejects claims 1-3, 5-16, 19, and 21-24 under 35 U.S.C. § 102(e) as being anticipated by Hamynen (US Pat. Pub. 2007/0162942 A1 published Jul. 12, 2007).

² We refer to Appellant's Specification ("Spec."), Reply Brief ("Reply Br.") filed Oct. 24, 2011, and Appeal Brief ("App. Br.") filed June 30, 2011. We also refer to the Examiner's Answer ("Ans.") mailed Aug. 24, 2011.

Grouping of Claims

Based on Appellant's arguments in the Briefs, we will decide the appeal on the basis of representative claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv).

ISSUES

1. Under § 102, did the Examiner err in finding that Hamynen discloses “*wherein the processing circuit is configured to determine the camera orientation at least in part via an image processing algorithm*” (claim 1 (emphasis added)), within the meaning of independent claim 1 and the commensurate language of claim 15?

2. Under § 102, did the Examiner err in finding that Hamynen discloses “*a memory configured to store geographic element data representing a plurality of geographic elements*” (claim 1 (emphasis added)), within the meaning of independent claim 1, and the commensurate language of claims 10 and 15?

ANALYSIS

Camera Orientation

Appellant contends that there is no support in Hamynen suggesting or disclosing that optical character recognition (OCR) would be used to determine camera orientation. (App. Br. 6; Reply Br. 4-5.) Appellant contends that orientation of the computing device is determined by using various location sensing hardware. (*Id.*) We observe that claim 1 is an apparatus (mobile computing device) claim. We construe the “wherein” clause at issue as implementing an algorithm that facilitates *future*

determination of the camera's orientation – the camera's orientation is not positively recited as being *determined* in claim 1.

We find that the limitations at issue consist of non-functional descriptive material, i.e., data (camera orientation) and a statement of intended use (configured to determine the camera orientation). We do not ascribe these features any patentable weight. “An[]intended use or purpose usually will not limit the scope of the claim because such statements usually do no more than define a context in which the invention operates.”

Boehringer Ingelheim Vetmedica, Inc. v. Schering-Plough Corp., 320 F.3d 1339, 1345 (Fed. Cir. 2003). Although “[s]uch statements often . . . appear in the claim's preamble,” *In re Stencel*, 828 F.2d 751, 754 (Fed.Cir. 1987), a statement of intended use or purpose can appear elsewhere in a claim. *Id.* The determined orientation of the camera at some point in the future based in part on an algorithm also does not further limit the claim either functionally or structurally. *See Ex parte Nehls*, 88 USPQ2d 1883, 1889 (BPAI 2008) (precedential).

Even if we, *arguendo*, were to ascribe some weight to the disputed claim limitations, we find Appellant's arguments unavailing. We initially note that the claim language does not require that OCR (optical character recognition) would be used to determine camera orientation. According to the claim language, OCR is used to extract data from the image data. The extracted data is not used to determine camera orientation.

Further, the Examiner found that Hamynen discloses a processing circuit. (Ans. 5.) We agree with and adopt the Examiner's findings with respect to claim 1. (Ans. 4-5.)

Hamynen teaches that the compass heading, tilt and rotation (positioning data) are taken relative to the lens of the camera device and fix the orientation of the volume. (Hamynen, ¶ [0043].) According to Hamynen, *algorithms* and positioning data are used to calculate the bounding volume 304. (*Id.*) The bounding volume 304 defines a theoretical space that would be viewable from the mobile device (including orientation information). (*Id.* at ¶ [0042].) Therefore, we find that according to Hamynen the camera orientation is determined *at least in part* via an image processing algorithm – i.e., the algorithms used to calculate the bounding volume. Although Appellant argues that the icons or text in Hamynen are not used to orient a mobile device (Reply Br. 6), we will not read this limitation into the claim language. The claim language recites that the camera’s orientation is determined *in part* by an image processing algorithm.

We conclude that the Appellant has not shown the Examiner erred in finding that Hamynen discloses a processing circuit configured to determine the camera orientation at least in part via an image processing algorithm, as recited in independent claims 1 and 15.

Memory Configured to Store Geographic Element Data

Appellant contends that Hamynen fails to disclose storing geographic element data in a memory of the mobile computing device. Instead, according to Appellant, Hamynen teaches that any such geographic element data is stored remotely. (App. Br. 7.) We observe that the Examiner found that Hamynen discloses a memory. (Ans. 5.) The Examiner’s finding was not disputed by Appellant. We agree with and adopt the Examiner’s findings.

As with the camera orientation discussed *supra* (the pertinent parts of which will not be repeated here), it is our view that the geographic element data is merely non-functional descriptive matter (data) that does not alter the structure or function of the mobile computing device. While the geographic element data is eventually displayed, the geographic element data does not alter the structure or function of the memory or processing circuit and will not be given any patentable weight.

Even if we, *arguendo*, were to ascribe some weight to the disputed claim limitations, we find Appellant's arguments unavailing. We agree with Examiner that Hamynen discloses memory that stores geographic elements. We find that Hamynen discloses a digital imaging module 760 (within the Storage/Memory 704) that accesses *locally stored* maps 762. (Hamynen, ¶ [0084], Fig. 7.) Thus, we find that Hamynen discloses a memory within the computing device that stores geographic element data (maps).

We conclude that Appellant has not shown the Examiner erred in finding that Hamynen discloses a memory configured to store geographic element data, as recited in independent claims 1, 10, and 15.

Based on this record, we conclude that the Examiner did not err in rejecting independent claims 1, 10, and 15. Accordingly, we affirm the Examiners' rejection of claims 1, 10, and 15 for the reasons discussed *supra*.

Regarding dependent claims 2, 3, 5-9, 11-14, 16, 19, and 21-24, Appellant did not separately argue with particularity the patentability of these claims. (App. Br. 8.) Accordingly, we affirm the Examiner's rejection of claims 2, 3, 5-9, 11-14, 16, 19, and 21-24 for the same reasons discussed *supra*.

CONCLUSIONS OF LAW

Appellant has not shown that the Examiner erred in rejecting claims 1-3, 5-16, 19, and 21-24 under 35 U.S.C. § 102(e).

DECISION

We affirm the Examiner's rejection of claims 1-3, 5-16, 19, and 21-24 under 35 U.S.C. § 102(e)

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