UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/864,531	09/28/2007	Bruce Gordon Fuller	07AB157	3640

70640   7590   06/01/2015
ROCKWELL AUTOMATION, INC / SR
14694 Orchard Parkway
Building A, Suite 200
Westminster, CO 80023

EXAMINER
WANG, JIN CHENG

ART UNIT	PAPER NUMBER
2618	

NOTIFICATION DATE	DELIVERY MODE
06/01/2015	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sarah@setterroche.com
lhkasulk@ra.rockwell.com

UNITED STATES PATENT AND TRADEMARK OFFICE

_____

BEFORE THE PATENT TRIAL AND APPEAL BOARD

_____

Ex parte BRUCE GORDON FULLER,
BRIAN ALEXANDER WALL,
KEVIN GEORGE GORDON,
MARK DAVID HOBBS, and
MOHAMED SALEHMOHAMED

_____

Appeal 2013-000762
Application 11/864,531
Technology Center 2600

_____

Before JOHNNY A. KUMAR, WILLIAM M. FINK, and
KEVIN C. TROCK, *Administrative Patent Judges*.

KUMAR, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the final rejection of
claims 1–21. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Exemplary Claim

1.   A method of associating a first variable and an event on a display, the method comprising:

displaying the first variable relative to a time period on the display, resulting in a graph of the first variable;

receiving first user input from a graphical indicator device, wherein the first user input comprises an instruction to position an indicator over a portion of a data curve of the graph corresponding to a time period of interest to the user;

in a processor, determining if the event occurred during the time period of interest; and

displaying the event on the display nearby the portion of the graph if the event occurred during the time period of interest.

Rejections

Claims 1–21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Street (US 2004/0004617 A1, Jan. 8, 2004) in view of Havekost (US 7,023,440 B1, Apr. 4, 2006). Ans. 3–12; Final Act. 6–14.

Claims 1–12 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Final Act. 4–6.

ANALYSIS

Rejection of claims 1–21 under § 103

Appellants have presented several arguments as to why the combination of the Street and Havekost references does not teach or suggest the features recited in independent claims 1–21 (App. Br. 7–10). The Examiner has rebutted in the Answer each and every one of those arguments supported by sufficient evidence. Ans. 12–23. 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 reasons set forth by the Examiner in the Examiner's Answer in response to Appellant's Appeal Brief.

In the Reply Brief, Appellants contend, "Street fails to teach *an instruction to position an indicator over a portion of a data curve of the graph corresponding to a time period of interest to the user*, as recited by claim 1" (hereinafter "disputed feature"). Reply Br. 2–3 (bolding omitted).

The Examiner relied upon Havekost, rather than Street, for the disputed feature. *See* Ans. 7 (citing Havekost, Figs. 2 and 9, col. 3, ll. 15–30 ("The user may select one of the events on the trend chart, such as by positioning a cursor on the event marker of interest . . . .")). We have reviewed this response and concur with the Examiner's findings and conclusions. Accordingly, we find the Examiner did not err in rejecting claims 1–21 under § 103.

Rejection of claims 1–12 under § 101

Appellants contend claim 1 recites physical elements that "allow a user to view a graph and an event occurring during a time period of interest on the display if the processor determines that an event occurred" and "these elements provide sufficient structure to prevent the method steps from being interpreted as too abstract." App. Br. 10. In addition, Appellants contend, "Paragraph 0020 of the specification describes each of these elements as physical computer component." *Id.*

We find Appellants' contentions persuasive. We also observe the Examiner in the "Response to Arguments" section of the Answer, does not

address Appellants' arguments. Accordingly, we do not sustain the rejection of claims 1–12 under § 101.

DECISION

We affirm the rejection of claims 1–21 under § 103 and reverse the rejection of claims 1–12 under § 101.

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).

<u>AFFIRMED</u>

msc