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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
12/627,278 11/30/2009 Kenneth Tracton P3626US00 3745

11764 7590 11/02/2016
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Table with 1 column: EXAMINER

LI, CE LI

Table with 2 columns: ART UNIT, PAPER NUMBER

3661

Table with 2 columns: NOTIFICATION DATE, DELIVERY MODE

11/02/2016

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte KENNETH TRACTON, QUINN JACOBSON, CYNTHIA KUO,
ANDRIY SHNYR, and CIPRIAN CUDALBU

Appeal 2014-007469
Application 12/627,278
Technology Center 3600

Before CHARLES N. GREENHUT, ERIC C. JESCHKE, and
PAUL J. KORNICZKY, *Administrative Patent Judges*.

JESCHKE, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Kenneth Tracton et al. (Appellants) seek review, under 35 U.S.C. § 134(a), of the Examiner’s decision, as set forth in the Final Office Action dated October 11, 2013 (“Final Act.”), rejecting claims 1–20.¹ We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ Appellants identify Nokia Corporation as the real party in interest. Appeal Br. 1.

BACKGROUND

The disclosed subject matter is a method and apparatus for presenting contextually appropriate navigation instructions. *See Spec.*, Title. Claims 1, 8, and 16 are independent. Claim 1 is reproduced below:

1. A method comprising:

receiving a request, from a device, for guidance information to a destination, wherein the guidance information includes, at least in part, instructions for following a route to the destination;

determining a plurality of candidate reference points associated with the route;

selecting one or more of the plurality of candidate reference points to include in the instructions based on saliency of the plurality of candidate reference points with respect to one or more of comprehension parameters associated with a user; and

generating the instructions based on the one or more selected reference points,

wherein the comprehension parameters represent an ability of the user to comprehend the guidance information based on characteristics of the one or more of the plurality of candidate reference points.

REJECTIONS

1. Claims 1–3, 8–10, and 16–18 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Bouget (US 2006/0111834 A1, published May 25, 2006) and Cioffi (US 2010/0241350 A1, published Sept. 23, 2010).

2. Claims 5, 6, 12, 13, 15, and 20 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Bouget, Cioffi, and Kortge (US 2006/0247852 A1, published Nov. 2, 2006).

3. Claims 7 and 14 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Bouget, Cioffi, Kortge, and Raab (US 2009/0228196 A1, published Sept. 10, 2009).

4. Claims 4, 11, and 19 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Bouget, Cioffi, and Ettinger (US 2008/0262717 A1, published Oct. 23, 2008).

DISCUSSION

*Rejection 1 – The rejection of claims 1–3, 8–10,
and 16–18 under 35 U.S.C. § 103(a)*

A. Independent Claims 1, 8, and 16

Appellants argue claim 1, stating that claims 8 and 16 stand or fall together with claim 1. Appeal Br. 6. The Examiner relied on paragraphs 5 through 9 of Bouget for various aspects of claim 1, but stated that “Bouget does not explicitly disclose wherein the comprehension parameters relate to the ability of the user to recognize the selected one or more reference points.” Final Act. 3. The Examiner stated, however, that Cioffi teaches “comprehension parameters [that] represent an ability of the user to comprehend the guidance information based on characteristics of the one or more of the plurality of candidate reference points (Abstract, paragraphs

0007, 0034–0035, 0042, 0050–0072, Blind users).” *Id.*² The Examiner stated that

given the teaching of Cioffi, it would have been obvious to a person of ordinary skill in the art at the time of the invention to have readily recognized the desirability and advantages of modifying the method/apparatus of Bouget by employing the well-known or conventional features selecting landmark for blind user[s], to enable the blind users to navigate to the destination safely.

Id.

Appellants contend that the Examiner relied on “*Cioffi*’s vision status field . . . to provide the missing teachings” regarding the comprehension parameters. Appeal Br. 7.³ Appellants state that the “provisional application 61/161,356 of *Cioffi* was filed on March 18, 2009 which was before the priority date of the present application, November 30, 2009” and argue that “the provision[al] application neither mentions ‘sighted’, nor discloses any vision status field, which designates the user as sighted or blind, and enables the system to filter out or leave in blind portions of narrative map data” and thus “does not disclose any ‘vision status field’ that was relied upon by the Examiner to teach “the comprehension parameter[.]” limitation. Appeal Br. 7, 8.⁴ According to Appellants, because “*Cioffi* was filed on March 18, 2010, subsequent to the priority date of the present

² We will refer to this limitation (at the end of claim 1) as the “comprehension parameters” limitation.

³ Paragraph 34 of *Cioffi* provides, in relevant part: “Field **1231F** includes a vision status field, which designates the user as sighted or blind, and enables the system to filter out or leave in blind portions of narrative map data.”

⁴ We will refer to U.S. Provision Application 61/161,356 as the “*Cioffi* Provisional.”

application, November 30, 2009,” “*Cioffi* does not constitute prior art with respect to the claimed inventions.” Appeal Br. 8.

In response, the Examiner states to have “**not use[d] ‘vision status field’** in the actual office action.” Ans. 2. Instead, the Examiner relies on “‘blindness’” to address the comprehension parameters limitation. *Id.* The Examiner also states that the *Cioffi* Provisional

teaches selecting one or more of the plurality of candidate reference points to include in the instructions based on saliency of the one or more candidate reference points with respect to blindness of a user (pages 17–18 of provisional application, **blindness wayfinding** is choosing specific landmarks [reference points] that are qualified for blind travelers, which means filtering out those landmarks that are not qualified for blind traveler, blindness is the comprehension parameters for selecting landmarks [reference points] and represent an ability of the user to comprehend the guidance information). Therefore, the provisional application of *Cioffi* **does** constitute prior art with respect to the claimed inventions.

Ans. 2–3.

In reply, Appellants contend that “‘blindness’ (alleged comprehension parameters) does not represent an ability of the user to comprehend the textual or audible way-finding instructions/information (alleged guidance information).” Reply Br. 2. According to Appellants, “[b]lindness’ represents, at best, an ability of the user to see visual information, but does not represent an ability of the user to comprehend the way-finding instructions because there is no correlation between the ability to see and the ability to comprehend.” *Id.* at 3; *see also id.* (stating that “‘blindness’ does not represent an ability of the blind user to comprehend/understand the guidance information”).

We first address the status of Cioffi as prior art as of the filing date of the Cioffi Provisional. Appellants' argument that the Cioffi Provisional "does not disclose any 'vision status field'" (Appeal Br. 8) does not demonstrate error in the Examiner's position because the Examiner does not rely on the "vision status field" disclosed in Cioffi (*see* ¶ 34) to address the "comprehension parameters" limitation.⁵ *See* Ans. 2. Because Appellants do not raise additional arguments regarding the status of Cioffi as prior art as of the filing date of the Cioffi Provisional (Appeal Br, 7–8; Reply Br. 2–4), we are not apprised of error here.

We turn now to the argument regarding the "comprehension parameters" limitation. *See* Reply Br. 2–3. Here, we agree with the Examiner that "blindness does represent an ability of the user to comprehend guidance information" because, "[i]f the user is blind, the user does not have the ability to see anything including reference points and to comprehend guidance information like a regular person without blindness." Ans. 3. The fact that *other factors* might *also* impact the ability of a user to "comprehend" guidance information does not undermine the finding that "blindness" satisfies the "comprehension parameters" limitation. *See* Reply Br. 3 ("For example, a blind user may not be able to understand the way-finding instructions due to language difference, intellectual disability, hearing impairment, etc."). Moreover, we note that paragraph 65 of the Specification provides that "the comprehension parameters may include a

⁵ For this same reason, we are not apprised of error based on Appellants' argument that, "[e]ven assuming, *arguendo*, Cioffi constituted prior art with respect to the claimed inventions, Cioffi's vision status field (alleged comprehension parameters) does not" satisfy the "comprehension parameters" limitation. Appeal Br. 8.

literacy parameter, a *visual impairment parameter*, a language parameter, a combination thereof, etc.” (emphasis added).

We turn now to an additional argument raised in the Reply Brief, in which Appellants contend that “one skilled in the art would not be motivated to add the asserted comprehension parameter in *Cioffi*, i.e., ‘**blindness**’ into *Bouget*, since *Bouget*’s visual guiding system serves only **sighted** users.” Reply Br. 3 (discussing Final Act. 3, ll. 15–20). According to Appellants, “the asserted motivation actually discourages any such combining attempt, since *Bouget*’s visual signs (such as colour of a sign, paragraph [0066]) cannot help *Cioffi*’s blind users.” *Id.* Appellants state that “[a]lthough *Bouget* may render the **visual** guiding instructions **vocally** in real time whilst the user is approaching a POI (paragraphs [0070], [0019]), *Bouget*’s **visual** guiding instructions (such as ‘turn right at a Nokia store’) cannot help *Cioffi*’s blind users.” *Id.* at 4.

We are not apprised of error based on the various differences in the relied-upon prior art because Appellants have not shown that the differences identified undermine the factual findings or reasoning relied on to support the conclusion of obviousness. *See* Final Act. 2–3; Ans. 2–4; *see also* *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 420 (2007) (“[F]amiliar items may have obvious uses beyond their primary purposes, and in many cases a person of ordinary skill will be able to fit the teachings of multiple patents together like pieces of a puzzle.”). Here, the Examiner relies on certain teachings of *Cioffi* to modify “the method/apparatus of *Bouget* by employing the well-known or conventional features selecting landmark for blind user, *to enable the blind users to navigate to the destination safely.*” Final Act. 3 (emphasis added). Thus, that *Bouget* may not disclose

providing guidance to blind users does not show error. *See In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986) (“Non-obviousness cannot be established by attacking references individually where the rejection is based upon the teachings of a combination of references.”).

For the reasons set forth above, we sustain the rejection of independent claim 1 as unpatentable over the combined teachings relied upon by the Examiner. Claims 8 and 16 fall with claim 1.

B. Dependent Claims 2, 9, and 17

Appellants argue dependent claims 2, 9, and 17 as a group. Appeal Br. 6, 9. We select claim 2 as representative, with the remaining claims standing or falling with claim 2. *See* 37 C.F.R. § 41.37(c)(1)(iv).

Appellants contend that, in addressing claim 2, the Examiner “implicitly acknowledged that *Bouget* does not disclose” the limitation “wherein the selection is based, at least in part, on the weighting.” Appeal Br. 9. Appellants argue that the Examiner “asserted that *Cioffi* disclose[s]” that limitation but that “*Cioffi* merely discloses selecting the starting landmark and the ending landmark based on a user input” and that “nowhere does *Cioffi* disclose selecting reference points **between** the starting landmark and the ending landmark based on any weighting, especially weighting of the reference points.” *Id.* Appellants also argue that “the alleged comprehension parameters (the vision status field) do not disclose the weighting” and that “[w]hether the user is sighted or blind is not being weighted in the vision status field.” *Id.* Appellants conclude, “[t]hus, *Cioffi* does not disclose selecting reference points based on the weighting or the comprehension parameters.” *Id.*

We are not apprised of error here. In the Office Action, the Examiner set forth the language of claim 2 and cited paragraphs 12 and 50 through 69 of Bouget. *See* Final Act. 4. The Examiner also stated that “Cioffi teaches selecting reference points based on comprehension parameters (blind[] users).” *Id.* In the Answer, the Examiner discusses paragraphs 12 and 50 through 69 of Bouget and certain specific disclosures on pages 17 and 18 of the Cioffi Provisional. *See* Ans. 4. As to the argument regarding the “vision status field,” as noted above, the Examiner does not rely on that aspect of Cioffi in the Rejection. *See* Ans. 2. As to the argument that Cioffi does not disclose selecting reference points between the starting landmark and the ending landmark based on weighting, Appellants do not apprise us of error in the Examiner’s findings regarding the Cioffi Provisional and “reference points”:

Cioffi teaches weighting and selecting reference points based on blindness [comprehension parameter] of the user and contextual characteristics of the reference point (pages 17–18 of provisional application of Cioffi, the landmarks are weighted on the constant and permanent of auditory, olfactory, proprioceptive, tactile quality, to qualify as a useful orientation aid for a blind traveler, blindness wayfinding weights and selects landmarks to help blind users to accomplish navigation safely and independently). Therefore, the combination of Bouget and Cioffi does teach selecting reference points based on the weighting or the comprehension parameters.

Ans. 4.⁶ Here, Appellants have not apprised us of error in the findings (Final Act. 4; Ans. 4) that the combination of Bouget and Cioffi satisfy the limitation at issue.

⁶ Although the Examiner discusses pages 17 and 18 of the Cioffi Provisional, we note that the teachings of the “Exemplary definitions” section on those pages can be found in paragraphs 15 through 22 of Cioffi.

For the reasons set forth above, we sustain the rejection of claim 2 as unpatentable over the combined teachings relied upon by the Examiner. Claims 9 and 17 fall with claim 2.

C. Dependent Claims 3, 10, and 18

Because Appellants do not separately argue claims 3, 10, and 18 (Appeal Br. 6–9), which depend from claims discussed above, we sustain the rejection of claims 3, 10, and 18.

Rejections 2 through 4 – The rejections of claims 4–7, 11–15, 19, and 20 under 35 U.S.C. § 103(a)

Appellants do not separately argue claims 4–7, 11–15, 19, and 20 (Appeal Br. 10–11), which depend from claims discussed above. Thus, for the reasons discussed above, we sustain the rejection of these claims.

DECISION

We AFFIRM the decision to reject claims 1–20 under 35 U.S.C. § 103(a).

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