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Core Wireless Licensing Ltd 5601 Granite Parkway Suite 1300 Plano, TX 75024			LU, HUA	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte LES BOTHWELL, NICK FILLER, STAVROS KYRIS,
DANIEL O'CONNELL, and MIKKO TAMMINEN

Appeal 2015-002991
Application 12/238,979¹
Technology Center 2100

Before MAHSHID D. SAADAT, JOHN A. EVANS, and
STEVEN M. AMUNDSON, *Administrative Patent Judges*.

SAADAT, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Final Rejection of claims 1–27, which are all the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ According to Appellants, the real party in interest is Core Wireless Licensing S.a.r.l. (App. Br. 2).

STATEMENT OF THE CASE

Introduction

Exemplary claim 1 under appeal reads as follows:

1. A method comprising:

analyzing a connected device to determine one or more capabilities of the device, the one or more capabilities comprising at least one of computing resources of the device, hardware components embodied in the device, and the operability thereof;

suggesting one or more applications that the device is capable of implementing based at least in part upon the determined capabilities and computing capabilities requirements of the one or more applications; and

programming at least one suggested application into a memory of the device such that an original intended primary use of the device is replaced by a new intended primary use of the device.

The Examiner's Rejections

Claims 1, 2, 4, 5, 9, 11–16, 18, 19, 23, and 25–27 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Salomon (US 2003/0041125 A1; Feb. 27, 2003), Butler (US 2008/0177638 A1; July 24, 2008), and Steeb (US 2004/0268340 A1; Dec. 30, 2004) (*see* Final Act. 6–23).

Claims 3, 7, 8, 17, 21, and 22 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Salomon, Butler, Steeb, and Wu (US 7,836,337 B1; Nov. 16, 2010) (*see* Final Act. 23–28).

Claims 6 and 20 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Salomon, Butler, Steeb, and Ritter (US 2006/0069588 A1; Mar. 30, 2006) (*see* Final Act. 28–29).

Claims 10 and 24 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Salomon, Butler, Steeb, and Stewart-Baxter (US 2005/0255874 A1; Nov. 17, 2005) (*see* Final Act. 29–31).

ANALYSIS

We have reviewed the Examiner’s rejections in light of Appellants’ arguments that the Examiner has erred. We are not persuaded by Appellants’ contentions. We adopt as our own the findings and reasons set forth by the Examiner in the action from which this appeal is taken and the reasons set forth by the Examiner in the Examiner’s Answer in response to Appellants’ Appeal Brief. (Ans. 2–8.) However, we highlight and address specific findings and arguments for emphasis as follows.

In rejecting claim 1, the Examiner relies on Butler as disclosing a method for re-purposing or generating new menus for the user by updating the mobile device interface (Ans. 5). The Examiner finds paragraph 37 of Butler further discloses enabling a mobile device user to use the mobile device for performing the user’s intended functions, which meets the claimed limitation of replacing the original use of the device with a new intended use (*id.*).

We are not persuaded by Appellants’ argument that Butler’s re-purposing the mobile device to enable the user to conduct the desired transactions and functions is different from the disputed claim limitation (*see* App. Br. 9–11, Reply Br. 2–4). As explained by the Examiner (Ans. 6), the broadest reasonable interpretation of the claim terms “an original intended primary use of the device” and “a new intended primary use of the device” encompass any two specific uses of the computing device. Therefore, Butler’s re-purposing the mobile device includes replacing a certain primary

use of the device with a new intended primary use, as determined by the user.

Similarly, we are not persuaded by Appellants' argument that the Examiner erred because Butler's thin client application modifies the user interface rather than replacing an original primary use of the device (Reply Br. 2–4). Appellants' contentions focus on the references separately, whereas the proposed rejection is based on the Examiner's combination of the teachings of Salomon, Butler, and Steeb. *See In re Keller*, 642 F.2d 413, 425 (CCPA 1981); *In re Merck & Co. Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). As found by the Examiner (Ans. 3–6), Salomon discloses storing information concerning configuration of a wireless device and Butler discloses replacing the primary use of the device with a new use, which would have suggested re-configuring the device of Salomon with a new function that provides a new intended use for the device. This modification is further supported by the teachings of Steeb which allows re-purposing the device in order to change the functionality of the device (*see* Ans. 3–6 (citing Butler ¶¶ 13, 37; Steeb ¶ 71)).

Regarding the combination of the references, we are similarly not persuaded by Appellants' argument that the Examiner has failed to provide a rational basis for combining the references (App. Br. 13–14). Here, the Examiner has articulated reasoning with a rational underpinning for why a person of ordinary skill in the art at the time of the invention would have combined Baum and Kim. (Final Act. 6–10; Ans. 7–8.) *See KSR Int'l Co., v. Teleflex, Inc.*, 550 U.S. 398, 415, 418 (2007).

For the above-stated reasons, we are not persuaded by Appellants' argument that the Examiner erred in finding the combination of Butler and Steeb with Salomon teaches or suggests the disputed features of claim 1.

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Therefore, we sustain the 35 U.S.C. § 103(a) rejection of claim 1, independent claims 13, 15, and 27, as well as dependent claims 2–12, 14, and 16–26, which are not argued separately (*see* App. Br. 15).

DECISION

We affirm the decision of the Examiner to reject claims 1–27.

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