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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte LLEWELLYN WALL[1]

Appeal 2015-003745
Application 11/255,078
Technology Center 2100

Before DANIEL N. FISHMAN, JOHN F. HORVATH, and AMBER L. HAGY, *Administrative Patent Judges*.

HAGY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1 and 3–15, which are all of the pending claims. We have jurisdiction over these claims under 35 U.S.C. § 6(b).

We affirm.

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[1] Appellant identifies Semantics Labs, LLC, as the real party in interest. (Br. 1.)

Introduction

According to Appellant, "[t]he present invention relates generally to data processing systems. More particularly, it relates to managing, formatting, and distributing content material or documents electronically over a computer network." (Spec. 1:14–16.)

Exemplary Claim

Claims 1 and 4, reproduced below with the disputed limitations italicized, are exemplary of the claimed subject matter:

> 1. A system for assembling an electronically rendered document from a plurality of components, wherein each of the plurality of components is called by an associated name, said system comprising:
>
> a component database for persistent storage of components of said document;
>
> a request director capable of determining the nature of an incoming request and directing the request responsive to said determination;
>
> a storage unit capable of storing a pointer to a component stored in said component database;
>
> *a clickstream database to capture and store an abbreviated summary of actual content of web pages located at HTTP web addresses accessed by a user during browsing of Internet content* wherein said abbreviated summary includes an assigned property according to context information that defines properties of a viewable resource as an aid in tracking user interaction behavior;
>
> a metadata database responsive to an Internet server for obtaining and storing product or service affinity information related to the abbreviated summary of information contained at HTTP web addresses of said web addresses accessed by said user;

an i/o processor in communication with said clickstream database, metadata database and request director to modify or download information from said metadata database according to said affinity information or the abbreviated summary; and

a component assembly engine responsive to said component database, request director, storage unit, clickstream database, metadata database and i/o processor to generate and assemble said electronically rendered document.

4. A method for assembling a web page for rendering on a display device, said method comprising:

a) loading from memory a root component of said web page, wherein the root component is called by an associated name;

b) loading from memory a plurality of descendant components of said root component wherein said descendent components are selected according to an affinity between respective information elements obtained from an abbreviated summary of actual information content located at web addresses identified by a clickstream history and a respective product or service wherein said clickstream history comprises a series of

HTTP web addresses generated by sequential or random clicks of a user during Internet browsing; and

c) *processing the plurality of loaded components in reverse hierarchical order in order to build the web page from said root and descendant components*.

REFERENCES

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Brown et al.	US 5,887,133	Mar. 23, 1999
King et al.	US 5,956,737	Sept. 21, 1999
Jaye	US 7,941,505 B2	May 10, 2011 (application pub. Dec. 26, 2002)

REJECTION

Claims 1 and 3–15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over King, Brown, and Jaye. (Final Act. 2–15.)

ISSUES

(1) Whether the Examiner erred in finding the combination of King, Brown, and Jaye teaches or suggests "a clickstream database to capture and store an abbreviated summary of actual content of web pages located at HTTP web addresses accessed by a user during browsing of Internet content," as recited in independent claim 1.

(2) Whether the Examiner erred in finding the combination of King, Brown, and Jaye teaches or suggests "processing the plurality of loaded components in reverse hierarchical order in order to build the web page from said root and descendant components," as recited in independent claim 4.

(3) Whether the Examiner erred in finding the combination of King, Brown, and Jaye teaches or suggests "wherein at least one descendant component is a shadow component," as recited in dependent claim 6.

ANALYSIS

We have reviewed the Examiner's rejection in light of Appellant's arguments the Examiner has erred. We disagree with Appellant's conclusions and we adopt as our own: (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken (Final Act. 2–15) and (2) the reasons set forth by the Examiner in the Examiner's Answer in response to Appellant's Appeal Brief. (Ans. 2–22.) We concur with the

conclusions reached by the Examiner, and we highlight the following for emphasis.[2]

A. Claims 1, 3, and 7–15[3] *(Issue 1)*

Appellant argues the Examiner's findings regarding claim 1 are in error because the Examiner confused the "clickstream history" limitation of claim 1 with "click-through" methods described in the prior art. (Br. 4–8.) In particular, Appellant argues Brown teaches only "click-through." (Br. 6–8.)

Even if we assume *arguendo* (without deciding) that Brown describes only "click-through" and not "clickstream" (as proffered by Appellant), we highlight that the Examiner also cites *Jaye* to teach or suggest a "clickstream database" and, thus, relies on the *combination* of King, Brown, *and Jaye* as teaching or suggesting the disputed limitation of claim 1. (*See* Final Act. 5–6; *see also* Ans. 17–18.)

Thus, Appellant's argument does not take into account what the collective teachings of the prior art would have suggested to one of ordinary skill in the art and is, therefore, ineffective to rebut the Examiner's prima facie case of obviousness. *See In re Keller*, 642 F.2d 413, 425 (CCPA 1981):

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[2] Only those arguments made by Appellant have been considered in this decision. Arguments Appellant did not make in the briefs have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(iv).

[3] Separate patentability is not argued for claims 3 and 7–15. (Br. 4–9.) Except for our ultimate decision, the Examiner's rejection of these claims is not discussed further herein.

> The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art.

(citations omitted). This reasoning is applicable here.

For example, we note Jaye explicitly teaches "analyzing the *click stream* generated by the user as the user looks at the content displayed on the web page or pages," and further teaches the session record "is *stored in a database*." (Jaye 9:19–25 (emphases added) and Fig. 5.) Thus, as the Examiner finds, and we agree:

> Jaye teaches a clickstream database (whereas data is saved/stored in order to track a user's online activity as explained in column 9, lines 19-53 and shown in Fig 5 (which shows the user's activity/browsing session and a list of webpages that were browsed by the user being tracked/stored). Additionally, Jaye teaches summary data comprising interest category property data of the content of the web pages (column 9, lines 37-41: whereas category data is a type of property data to provide contextual interest category data of the web page viewed by the user) as well as date/time stamp property data and duration property data being saved (column 9, lines 41-53: whereas the duration of time viewed for a page is considered time-property data in response/context to the user's action of requesting the page to be viewed).

(Ans. 17.) Appellant does not address Jaye or the Examiner's findings regarding Jaye in combination with King and Brown.

For the foregoing reasons, we are not persuaded of error in the Examiner's 35 U.S.C. § 103(a) rejection of claim 1, and we, therefore,

sustain the rejection, along with the rejection of claims 3 and 7–15 not separately argued.

B. Claims 4 and 5 (Issue 2)

Appellant argues the Examiner's findings regarding independent claim 4 (and dependent claim 5), which recite "processing the plurality of loaded components in reverse *hierarchical order*," are in error because "it appears the examiner may be confusing *reverse hierarchical order* with *recursive processing*" with regard to the teachings of King. (Br. 9–10.) We disagree. As the Examiner finds, and we agree:

> King teaches an *initial* order of processing components (King, column 40, lines 42-54: whereas a media tree is initially traversed downward from top to bottom), then the initial downward traversal is the forward order. Subsequently, King et al further teaches that there is a subsequent traversal that is reverse of the initial order when processing components. This is also explained in King, column 40, lines 42-54 (whereas the recursive algorithm implements a traversal that pops back <u>upward</u> through the tree(s) to finalize the loading of finalized layout parameters during layout processing).
>
> Thus, in conclusion, a reverse order of layout loading is taught by popping upward in the tree(s) which is reverse of the initial downward tree traversal . . . .

(Ans. 19–20.) Appellant does not persuasively rebut these findings.

For the foregoing reasons, we are not persuaded of error in the Examiner's 35 U.S.C. § 103(a) rejection of claims 4 and 5, which are argued collectively, and we, therefore, sustain the rejection.

C. Claim 6 (Issue 3)

Claim 6 depends from claim 5, and adds the limitation "wherein at least one descendent component is a shadow component." (Br. 13 (Claims App'x).) Appellant argues the Examiner's findings regarding claim 6, which are premised on King's teaching of a "pointer to collect content at the time of assembly" (Final Act. 10), are in error because "the examiner does not reference any textual description in the King disclosure that describes how the pointer is determined in order to perform the function of applicant's *shadow component*, as recited in claim 6." (Br. 10–11.)

The Examiner first notes Appellant's Specification describes a "shadow component" broadly as "a placeholder component" that, "*during the loading phase, effects a replacement of itself with specific other components*." (Ans. 21 (citing Spec. 36–37).) The Examiner then explains how King's teaching of a pointer in the "footer" component depicted in King's Figure 7 teaches a placeholder component that satisfies the claimed "shadow component":

> The Examiner has interpreted the Footer component in Fig. 7 (pre-loading/pre-rendering phase) to be the descendent component. Additionally, it is shown that the Footer component is a *placeholder component*, since as shown in Fig. 7 (pre-loading/prerendering phase), the Footer uses in place of the actual text rendered in the Footer, a pointer that refers to the text. In other words, the pointer acts as the placeholder to the text. This is further explained in column 17, lines 31-35 of King et al, which explains that the footer component includes a pointer to point[] to the text string *for the footer*. Most importantly, during the rendering/layout phase when the footer component is rendered/ *loaded-for-rendering*, it is clear that it is not the pointer address that is rendered. Instead it is the actual text data/text-component-data that is rendered *in place of the pointer*. This is shown in Figs 9, 10 and 11, where the footer displays text 'Call

> in Your Order Today' in place of pointer address-data. As further explained in column 18, lines 32-56: various compositions can be selected, and the components rendered (which include footer component 15 as shown in Fig 8) are adapted/recomputed to adaptively be laid out in context with the selected composition.

(Ans. 22.) Appellant does not persuasively rebut these findings.

For the foregoing reasons, we are not persuaded of error in the Examiner's 35 U.S.C. § 103(a) rejection of claim 6, and we, therefore, sustain the rejection.

DECISION

The Examiner's rejection of claims 1 and 3–15 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