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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DENNIS SUNGA FERNANDEZ and IRENE HU FERNANDEZ

Appeal 2015-003908
Application 12/394,977¹
Technology Center 2400

Before JAMES R. HUGHES, JOHN P. PINKERTON, and
MATTHEW J. McNEILL, *Administrative Patent Judges*.

McNEILL, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1–24, which are all the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

¹ According to Appellants, the real party in interest is LOT 3 ACQUISITION FOUNDATION, LLC. App. Br. 3.

STATEMENT OF THE CASE

Introduction

Appellants' application relates to remote surveillance and communications technology, particularly to integrated fixed and mobile network electronics and related software for object attribute processing. Spec. ¶ 2. Claim 1 is illustrative of the subject matter on appeal and reads as follows with the disputed limitations italicized:

1. A controller comprising:
a communicator configured to:
receive, via a network, first visual data from a first mobile unit and second visual data from a second mobile unit; and
transmit, via the network, the first visual data to the second mobile unit and the second visual data to the first mobile unit, to facilitate visual communication between the first mobile unit and the second mobile unit; and
recognition software configured to:
visually recognize a first object of observation associated with the first visual data and a second object of observation associated with the second visual data; and
verify that the first visual data was received from the first object of observation and to verify that the second visual data was received from the second object of observation.

The Examiner's Rejections

Claims 1, 3, 4, 7, 9, and 11 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Samadi (US 5,664,007; Sept. 2, 1997). Ans. 2–5.

Claims 1, 3, 4, 9, 12, 17–22, and 24 stand rejected under 35 U.S.C. § 103(a) as unpatentable over David (US 5,544,649; Aug. 13, 1996) and Montoya (US 5,983,109; Nov. 9, 1999). Ans. 6–11. The Examiner adds Peifer (US 5,987,519²; Nov. 16, 1999) to reject claims 2, 5, 6, 10, and 11 (Ans. 11–12, 14–15); Puthuff (US 6,112,103; Aug. 29, 2000) to reject claims 7 and 23 (Ans. 12–13); Walker (US 5,862,223; Jan. 19, 1999) to reject claims 8 and 14 (Ans. 13–14); Buhrmann (US 5,903,845; May 11, 1999) to reject claim 13 (Ans. 15–16); Rudrapatna (US 6,052,598; Apr. 18, 2000) to reject claim 15 (Ans. 16–17), Kennedy III (US 6,301,480 B1; Oct. 9, 2001) to reject claim 16 (Ans. 17–18); and Thomas (US 2005/0198063 A1; Sept. 8, 2005) to reject claim 19 (Ans. 18).

ANALYSIS

We have reviewed the Examiner’s rejections in consideration of Appellants’ contentions and the evidence of record. Appellants persuade us the Examiner fails to establish the claims are unpatentable over the cited prior art.

Obviousness – Samadi

Appellants argue the Examiner erred in rejecting claim 1 as obvious over Samadi because Samadi does not teach or suggest “visually recogniz[ing] a first object of observation associated with the first visual data.” App. Br. 12–14; Reply Br. 4–5. The Examiner finds Samadi teaches a cell phone with an attached camera that is used to transmit visual data to

² The Final Action and Answer incorrectly cite to Peifer et al. as US 5,987,510.

another user. Ans. 21–22 (citing Samadi Fig. 3B, 3:30–57). The Examiner finds this disclosure teaches visually recognizing a first object of observation and verifying that the object of observation is associated with first visual data. *Id.* Appellants argue that although Samadi teaches two units with processors configured to send and receive visual data as well as pause requests and reconnection requests, Samadi is silent as to *visually* recognizing an object of observation. Reply Br. 4 (citing Samadi 8:8–20). *Id.*

Appellants have persuaded us of Examiner error. The Examiner has failed to explain how Samadi’s disclosure of recognizing control signals, such as a pause request and reconnection request, teaches or suggests *visually* recognizing an object of observation associated with visual data. The Examiner has not established that Samadi analyzes the visual data for any objects of observation or verifies that visual data was received from an object of observation. Accordingly, on the record before us, we do not sustain the rejection of claim 1 as unpatentable over Samadi. Because we are persuaded of error with regard to the identified issue, which is dispositive of the rejection of claim 1 over Samadi, we do not reach the additional issues raised by Appellants’ arguments.

Obviousness – David and Montoya

Appellants argue the Examiner erred in rejecting claim 1 as unpatentable over David and Montoya because the combination does not teach or suggest “visually recogniz[ing] a first object of observation associated with the first visual data.” App. Br. 14–17; Reply Br. 6. The Examiner finds David teaches first visual data that includes a visual image

of a patient and second visual data that includes a visual image of a doctor. Ans. 22 (citing David Fig. 2). The Examiner finds the software that allows the exchange of this data visually recognizes the first and second objects of observation. *Id.* The Examiner further finds David teaches verifying that the first visual data was received from the first object of observation by disclosing analysis of patient visual data and health condition. Ans. 23 (citing David Fig. 4). Appellants argue that although David teaches the exchange of visual data, including images of a patient and a doctor, David is silent regarding *visually* recognizing an object of observation in the visual data and *verifying* that the visual data was received from the object of observation. App. Br. 14–17; Reply Br. 6. Appellants argue merely receiving and displaying visual data is not the same as visually recognizing an object of observation. App. Br. 16.

Appellants have persuaded us of Examiner error. The Examiner has failed to explain how David’s disclosure of exchanging visual data including images of patients and doctors teaches or suggests *visually* recognizing an object of observation associated with visual data. The Examiner has also failed to explain how a doctor reviewing medical data for a patient teaches or suggests recognition software configured to verify that visual data is received from an object of observation. Montoya does not remedy the deficiencies of David with respect to these limitations. Accordingly, on the record before us, we do not sustain the rejection of claim 1 as unpatentable over David and Montoya. Because we are persuaded of error with regard to the identified issue, which is dispositive of the rejection of claim 1 over David and Montoya, we do not reach the additional issues raised by Appellants’ arguments.

CONCLUSIONS

On the record before us and in view of the analysis above, Appellants have persuaded us that the Examiner erred in rejecting claim 1 as obvious over Samadi. Therefore, we do not sustain the rejection of claim 1 or claims 3, 4, 7, 9, and 11 dependent therefrom.

On the record before us and in view of the analysis above, Appellants have persuaded us that the Examiner erred in rejecting claim 1 as obvious over David and Montoya. Therefore, we do not sustain the rejection of claim 1, independent claims 20, 21, and 24 which recite similar limitations, and claims 2–19, 22, and 23 dependent therefrom.

DECISION

We reverse the decision of the Examiner to reject claims 1–24.

REVERSED