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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte STEFAN LIESCHE, ANDREAS NAUERZ,
STEFAN SCHMITT, and HOLGER WATERSTRAT

Appeal 2015-007713
Application 11/865,754¹
Technology Center 2100

Before JEAN R. HOMERE, DANIEL J. GALLIGAN, and
DAVID J. CUTITTA II, *Administrative Patent Judges*.

GALLIGAN, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants seek our review under 35 U.S.C. § 134(a) of the
Examiner’s final rejection of claims 1–4, 6–11, 13–18, 20–22, and 24–29.²
We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.³

¹ The Appeal Brief identifies International Business Machines Corporation as the real party in interest. App. Br. 1.

² Claims 5, 12, 19, and 23 have been canceled. See App. Br. 18–22.

³ Our Decision refers to Appellants’ Appeal Brief, filed January 9, 2015 (“App. Br.”); Appellants’ Reply Brief, filed August 19, 2015 (“Reply Br.”); Examiner’s Answer, mailed June 19, 2015 (“Ans.”); and Final Office Action, mailed August 14, 2014 (“Final Act.”).

STATEMENT OF THE CASE

Claims on Appeal

Claims 1, 8, 16, and 21 are independent claims. Claim 1 is reproduced below:

1. A method, comprising:

collecting collected client context data from a client and collected portal server data from a portal server for a user interaction with the portal server, wherein the collected client context data and the collected portal server data comprises at least one of date, time, time zone, geographic location, regional settings, IP-address, type of client device, markup language, currently selected user profile, available contacts, available tasks, performed actions, navigational position, and last visited page;

selecting a user interaction profile record in a user interaction profile database based, at least in part, on the collected client context data and the collected context portal server data, wherein the collected client context data and the collected portal server context data indicate at least one usage condition, and further wherein the collected client context data collected from the client includes data corresponding to availability of desktop applications for execution on the client;

determining control information from the selected user interaction profile record;

triggering instantiation handlers based, at least in part, on the determined control information; and

changing state and content of a user interface with the triggered instantiation handlers to adapt the user interface to the at least one usage condition, wherein the user interface allows interaction with the portal server.

References

Vass et al.	US 2004/0255027 A1	Dec. 16, 2004
Spilotro et al.	US 2006/0168259 A1	July 27, 2006

Deeds	US 2006/0179410 A1	Aug. 10, 2006
Aravamudan et al.	US 2011/0022587 A1	Jan. 27, 2011

Examiner's Rejections

Claims 8–11 and 13–15 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Final Act. 2–3.⁴

Claims 1–4, 6–11, 13–18, 20, 21, and 24–26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Aravamudan, Spilotro, and Vass. Final Act. 4–11.

Claims 22 and 27–29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Aravamudan, Spilotro, Vass, and Deeds. Final Act. 11–12.

ANALYSIS

Rejection of Claims 8–11 and 13–15 under 35 U.S.C. § 101

Appellants do not contest the rejection of claims 8–11 and 13–15 under 35 U.S.C. § 101. App. Br. 5. Therefore, we summarily sustain the rejection.

*Rejection of Claims 1–4, 6–11, 13–18, 20, 21, and 24–26
under 35 U.S.C. § 103(a)*

Appellants argue: “Vass relates to providing applications based on a user’s interest. Therefore, while Vass relates to providing a user with applications based on the selected interest space, Vass does not disclose or

⁴ The Examiner’s omission of claim 9 from the statement of the rejection appears to be an oversight as claim 9 depends from independent claim 8. Appellants understand claim 9 to be included in the rejection. App. Br. 5. Furthermore, Appellants indicate claim 12 has been canceled (App. Br. 19), and, therefore, we do not consider claim 12 to be included in the rejection.

suggest selecting a profile based on the availability of desktop applications for execution.” App. Br. 10.

This argument is not persuasive because it does not address the combined teachings of the references. “Non-obviousness cannot be established by attacking references individually where the rejection is based upon the teachings of a combination of references.” *In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986) (citation omitted). The Examiner relied upon Aravamudan for teaching selecting a user profile based on certain collected data, and the Examiner further relied upon Vass for teaching data corresponding to the availability of applications for execution. Final Act. 4–6 (citing Aravamudan ¶¶ 131, 185; Vass ¶¶ 22, 23, 32). Vass discloses that, “[b]ased on what the user (i.e., connected peer) wants to do in the interest space, the peer will be able to select other *available applications*.” Vass ¶ 23 (emphasis added). We are not persuaded of error in the Examiner’s finding that Vass teaches “data corresponding to availability of desktop application[s] for execution.” Final Act. 6 (citing Vass ¶¶ 22, 23, 32).

In concluding the subject matter of claim 1 would have been obvious, the Examiner explained:

[C]onsidering the teachings of Aravamudan, Spilotro and Vass, it would have been obvious to one having ordinary skill in the art at the time of the invention to add data collected from the client includes data corresponding to availability of desktop application for execution on the client, as taught by Vass, to the teachings of Aravamudan and Spilotro because users function more effectively when they know what sources are available to them (e.g. see Vass paragraph 0022).

Final Act. 6. The Examiner further explained:

One of ordinary skill in the art would recognize that adding Vass’ context of available applications to Aravamudan’s returning of

records based on context provides the ability to only identify records to the client when the resource is actually available for execution because users function more effectively when they know exactly what sources are available to them.

Final Act. 14. Thus, the Examiner provided articulated reasoning with rational underpinning supporting the conclusion of obviousness. Appellants' arguments do not address the Examiner's rationale for combining the references, and as stated above, Appellants' arguments do not address what the combined disclosures of the references teach or suggest.

We are not persuaded of error in the Examiner's conclusion of obviousness, and, therefore, we sustain the rejection of claim 1 under 35 U.S.C. § 103(a). With respect to the rejection of claims 2–4, 6–11, 13–18, 20, 21, and 24–26, Appellants either offer no additional argument or reiterate substantially the same arguments that they advance for claim 1. *See* App. Br. 10–12. Therefore, we also sustain the rejection of claims 2–4, 6–11, 13–18, 20, 21, and 24–26 under 35 U.S.C. § 103(a).

Rejection of Claims 22 and 27–29 under 35 U.S.C. § 103(a)

Claim 22 recites:

The system of claim 21, wherein the portal server is further configured to select at least one of the plurality of profile records based at least in part on a currently available set of contacts, wherein the at least one profile is selected according to a number of business contacts in the set of contacts or a number of personal contacts in the set of contacts for a user of the user interface.

App. Br. 22.

Appellants contend the Examiner erred in concluding the subject matter of claim 22 would have been obvious based on the combination of Aravamudan, Spilotro, Vass, and Deeds. App. Br. 12–13; Reply Br. 1–3. Appellants argue “Deeds discloses that a change in a user profile forces a

change in the buddy list, while claim 22 recites a user interface is adapted based on a selected profile, which is selected based on the currently available contacts (business contacts or personal contacts).” App. Br. 13.

Appellants’ arguments are not persuasive because they are not commensurate with the scope of claim 22. The phrase “currently available” precedes “set of contacts,” and, therefore, the claim requires that the set, not the contacts themselves, be “currently available.” Thus, the selection in claim 22 is “based at least in part on a currently available set of contacts,” not based on which *contacts* are currently available, as Appellants’ argument suggests. Deeds discloses first and second buddy lists that include, respectively, a number of business contacts and a number of personal contacts. Deeds ¶ 50 (cited at Ans. 21) (“[A] user’s first buddy list includes business contacts and the second buddy list includes personal contacts”). Deeds discloses that the system can switch between either set of contacts: “The processor thereafter is capable of switching from the first user profile to the second user profile such that the first buddy list is deactivated and the second buddy list is activated.” Deeds ¶ 13 (cited at Final Act. 12). Therefore, Deeds teaches that both sets of contacts are “currently available,” as required by claim 22.

With respect to claims 27–29, Appellants advance substantially similar arguments based on the phrase “currently available.” App. Br. 12–15; Reply Br. 1–5. However, these claims do not recite the phrase “currently available.” Therefore, Appellants’ arguments are not commensurate with the scope of claims 27–29.

Because Appellants’ arguments do not persuade us the Examiner erred in concluding the subject matter of claims 22 and 27–29 would have

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been obvious based on the combination of Aravamudan, Spilotro, Vass, and Deeds, we sustain the rejection of these claims under 35 U.S.C. § 103(a).

DECISION

We affirm the Examiner's decision to reject claims 1–4, 6–11, 13–18, 20–22, and 24–29.

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