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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
13/693.073, 12/04/2012, Frederick A. Kulack, ROC920100167US2, 4951

46797 7590 12/01/2016
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EXAMINER

OHBA, MELLISSA M

ART UNIT PAPER NUMBER

2164

NOTIFICATION DATE DELIVERY MODE

12/01/2016

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte FREDERICK A. KULACK, KEVIN G. PATERSON,
and SHANNON E. WENZEL

Appeal 2015-007723
Application 13/693,073
Technology Center 2100

Before JEAN R. HOMERE, NABEEL U. KHAN, and
KARA L. SZPONDOWSKI, *Administrative Patent Judges*.

SZPONDOWSKI, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1, 2, and 4–9, all claims currently pending in the application. Claim 3 has been cancelled. Claims App'x. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

STATEMENT OF THE CASE

Appellants' invention is directed to displaying logical statement relationships between diverse documents in a research domain. Spec. ¶ 5. Claim 1, reproduced below with the disputed limitations in *italics*, is representative of the claimed subject matter:

1. A computer-implemented method of analyzing a document with a managed research domain, comprising:
 - parsing text of a first document to identify one or more assertions made by the text of the first document, wherein each assertion comprises one or more premises and at least one conclusion;
 - for each identified assertion:
 - generating assertion metadata describing a relationship between one or more topics in the assertion, *wherein the assertion metadata further comprises a measure of strength of the identified assertion*, and
 - determining a set of documents stored by the managed research domain that contain assertions regarding the topics identified in the assertion; and
 - providing an indication to a user of the set of documents that contain assertions regarding the topics identified in the one or more assertions.

REJECTIONS

Claims 1, 2, and 4–9 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1–16 of copending Application No. 13/035310. Final Act. 4

Claims 1 and 4–9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Willse et al. (US 2004/0059736 A1; published Mar. 25,

Appeal 2015-007723
Application 13/693,073

2004) (“Willse”) and Rosenberg (US 2005/0203924 A1; published Sept. 15, 2005). Final Act. 5–9.

Claim 2 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Willse, Rosenberg, and Yasin (US 2010/0114561 A1; published May 6, 2010). Final Act. 9–10.

ANALYSIS

Double Patenting: Claims 1, 2, and 4–9

Claim 1 is provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claim 10 of co-pending Application No. 13/035,310 and claims 2 and 4–9 over claims 11 and 14–18 of co-pending Application No. 13/035,310. Final Act. 3–4.

The Examiner’s Answer dated June 19, 2015 does not withdraw the double patenting rejection, and thus maintains the rejection made in the Final Rejection. *See* Ans. 2 (“Every ground of rejection set forth in the Office action dated 9/22/2014 from which the appeal is taken is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading ‘WITHDRAWN REJECTIONS.’”). Appellants have not acknowledged or traversed these rejections. We therefore affirm these rejections, *pro forma*, as no error has been demonstrated by Appellants.

35 U.S.C. § 103(a): Claims 1, 2, and 4–9

Issue: Did the Examiner err in finding the combination of Willse and Rosenberg teaches or suggests “the assertion metadata further comprises a measure of strength of the identified assertion,” as recited in independent claim 1?

The Examiner finds Willse’s confidence and levels of concepts teach or suggest the disputed limitation. Ans. 3–4, citing Willse ¶¶ 37, 82, 88, 99, and 100; Final Act. 5, citing Willse ¶¶ 37, 82, 88, 99–103, and 137.

Specifically, the Examiner construes “measure of strength” as “confidence.” Ans. 3. The Examiner states “[t]he confidence is an indication of the ‘strength’ of the relationship between the concept and the document.” Ans. 3; *see also* Ans. 4. The Examiner finds “[s]ince the concept of Willse is the assertion of the claim, the confidence of the concept is the measure of strength of the assertion.” Ans. 4.

Appellants contend Willse’s confidence measure is used to determine how strongly latent concepts are believed to be represented in a document. Br. 7. According to Appellants, Willse describes a measure of confidence in the system’s own determinations, not a measure of a how strongly an assertion is made by the content of the document. Br. 8. Appellants state a “measure of strength” is “a measure of how strongly an assertion is made by a given document.” Br. 9, citing Spec. ¶¶ 47, 48, and 50.

We are persuaded by Appellants’ arguments. “[D]uring examination proceedings, claims are given their broadest reasonable interpretation *consistent with the specification.*” *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000) (emphasis added). We find the Examiner’s interpretation of the “measure of strength” unreasonably broad in light of the Specification and inconsistent with both the Specification and the claim language. We note that claim terms are not interpreted in a vacuum, devoid of the context of the claim as a whole. *See Hockerson-Halberstadt, Inc. v. Converse Inc.*, 183 F.3d 1369, 1374 (Fed. Cir. 1999). “The construction that stays true to the claim language and most naturally aligns with the patent’s description of the

invention will be, in the end, the correct construction.” *Renishaw PLC v. Marposs Societa’ per Azioni*, 158 F.3d 1243, 1250 (Fed. Cir. 1998) (citation omitted).

Although Appellants do not explicitly define the “measure of strength” in the Specification, the claim language requires the “measure of strength *of the identified assertion*.” Such terminology is consistent with Appellants’ use of “strength” in the Specification. *E.g.*, Spec. ¶ 20 (“strength of each of the assertions”); ¶ 46 (“strength of the assertion”); ¶ 47 (“strength of the overall assertion in each of the statements”); ¶ 50 (“strength 328 describes the relationship 324 that is stated by the author of the statement and characterizes the amount or degree of conviction of the opinion of the author, as to the relationship 324 between the first topic 322 and second topic 526”).

Willse describes using text analysis to determine a concept representation for a set of documents. Willse Abstract. Willse’s confidence refers to the relationship between the concept and the document. Ans. 7. Specifically, Willse describes the confidence that a concept is *discussed* in a document. Willse ¶ 37. We agree with Appellants that such disclosure does not teach or suggest the “measure of strength of an identified assertion.” Rather, at most it teaches or suggests the *presence* of an identified assertion in a document, not the strength of the identified assertion itself, as claimed.

Accordingly, we are persuaded the Examiner erred in finding the combination of Willse and Rosenberg teaches or suggests the disputed limitation. We, therefore, do not sustain the Examiner’s rejection of independent claim 1 for the reasons set forth above, and the Examiner’s rejection of dependent claims 2 and 4–9 for the same reasons.

DECISION

The Examiner's provisional rejections of claims 1, 2, and 4–9 on the ground of non-statutory obviousness-type double patenting are affirmed.

The Examiner's 35 U.S.C. § 103(a) rejections of claims 1, 2, and 4–9 are reversed.

Because we have affirmed at least one ground of rejection with respect to each claim on appeal, the Examiner's decision is affirmed. *See* 37 C.F.R. § 41.50(a)(1).

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