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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte CHRISTOPHER J. PAVLOVSKI and
LAURENCE J. PLANT

Appeal 2015-007754
Application 12/494,045
Technology Center 2100

Before ROBERT E. NAPPI, JOHN P. PINKERTON, and
KAMRAN JIVANI, *Administrative Patent Judges*.

Per Curiam.

DECISION ON APPEAL

Appellants¹ file this appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–20, which constitute all of the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ Appellants identify International Business Machines Corp. as the real party in interest. Br. 3.

STATEMENT OF THE CASE

Introduction

Appellants' claimed invention is generally described as follows:

The present disclosure teaches a solution for a user customizable abstraction layer for tailoring all applications, operating system, and/or web based interfaces. The interface differs from conventional user interfaces by presenting a dynamic interface which can enable user access across all domains and applications with which the user can interact. The interface can be dynamically built as a user interacts with clients (e.g., devices/applications). Clients can utilize common usage patterns, installed application, installed themes, personal information, and the like, to create a highly customized user modifiable interface in a form envisioned by the user, not by the interface developer.

Spec. ¶ 10.²

Claim 11 is representative and reads as follows (with the disputed limitations *emphasized*):

11. A method for interfacing between a human and a machine comprising:

identifying an application executing on computing equipment comprising hardware;

while executing the application, generating output events and responding to input events, said output events being directed to a dioramic system, said input events coming from said dioramic system, *said dioramic system comprising an application independent layer of abstraction between a user and the executing application*;

² Our Decision refers to the Final Office Action mailed May 21, 2014 ("Final Act."), Appellants' Appeal Brief filed Feb. 23, 2015 ("Br."), the Examiner's Answer mailed June 19, 2015 ("Ans."), and the original Specification filed June 29, 2009 ("Spec.").

said dioramic system generating a dioramic user interface, which is presented to a user, wherein the dioramic user interface is tailored in accordance with user specific customizations specific to the dioramic system, wherein the dioramic user interface is an interactive and dynamically changing interface providing a computing environment resembling a real-world environment;

said dioramic system detecting each output event, processing the output event in accordance with the user specific customizations to generate output presented within the dioramic user interface;

and said dioramic system detecting user provided input, converting the user provided input in accordance with the user specific customizations to generate said input events, which are handled by said executing application, wherein specifics of said dioramic user interface resulting from the user customizations are application transparent.

Rejections on Appeal

Claims 11, 12, and 14–16 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Lee et al. (US 2005/0054381 A1; published Mar. 10, 2005) (“Lee”).

Claims 1, 2, 4–7, 9, and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over by Lee and Clark et al. (US 2009/0089689 A1; published Apr. 2, 2009) (“Clark”).

Claim 3 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee, Clark, and Cohen et al. (US 2006/0122939 A1; published June 8, 2006) (“Cohen”).

Claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee, Clark, and Fujioka (US 2009/0288015 A1; published Nov. 19, 2009).

Claims 13, 17, and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee and Fildebrandt (US 2009/0024696 A1; published Jan. 22, 2009).

Claims 19 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee, Fildebrandt, and Hughes (US 2003/0132973 A1; published July 17, 2003).

Appellants' Contentions

1. Appellants contend that independent claim 11, and dependent claims 12 and 14–16, are not anticipated by Lee. Br. 12–23.

2. Appellants contend that claims 13, 17, and 18 are not obvious over the combination of Lee and Fildebrandt and that the Examiner fails to provide a proper motivation for the combination of Lee and Fildebrandt. *Id.* at 21–24.

3. Appellants contend that independent claim 19, and dependent claim 20, are not obvious over the combination of Lee, Hughes, and Fildebrandt and that the Examiner fails to provide a proper motivation for the combination of Lee, Hughes, and Fildebrandt. *Id.* at 25–26.

4. Appellants contend independent claim 1, and dependent claims 2, 4–6, 9, and 10, are not obvious over the combination of Lee and Clark and that the Examiner fails to provide a proper motivation for the combination of Lee and Clark. *Id.* at 27–35.

5. Appellants contend claim 3 is not obvious over the combination of Lee, Clark and Cohen and that the Examiner fails to provide proper logic to modify the teachings of Lee with the teachings of Cohen. *Id.* at 31–32.

6. Regarding claim 8, Appellants contend the Examiner fails to

provide a proper motivation for the combination of Lee, Clark, and Fujioka. *Id.* at 33–34.

ANALYSIS

We have reviewed the Examiner’s rejections in light of Appellants’ arguments in the Brief that the Examiner has erred. *See* Br. 10–35. We have also reviewed the Examiner’s response to Appellants’ arguments and the evidence of record.

We disagree with Appellants’ contentions that the Examiner has erred. The Examiner has provided a detailed and comprehensive response, supported by evidence based on the teachings of the cited references, to each of Appellants’ contentions and arguments. We adopt as our own the findings and reasons set forth by the Examiner in the Office Action from which this appeal is taken (Final Act. 2–27) and in the Examiner’s Answer in response to Appellants’ Brief (Ans. 27–58). We concur with the conclusions reached by the Examiner. For emphasis, we consider and highlight specific arguments as presented in the Brief.

Regarding Appellants’ contention 1, we are not persuaded by Appellants’ arguments that Lee fails to expressly or inherently teach the disputed limitations of claims 11, 12, and 14–16. In regard to claim 11, the Examiner finds, and we agree, Lee teaches or suggests a “dioramic system comprising an application independent layer of abstraction between a user and the executing application,” as recited in claim 11. Ans. 27–30 (citing Lee ¶¶ 81, 197, 199, 201, 213, 214, 424 (“the intelligent agent comprises an avatar for interacting with the user”), 431 (“aspects of the intelligent agent include . . . a 3D graphic infrastructure (with regard to the appearance of the avatar); the

use of AI and machine learning mechanisms . . . and provision of a host platform abstraction layer”). The Examiner also finds, and we agree, Lee teaches or suggests the dioramic system “generating a dioramic user interface . . . wherein the dioramic user interface is an interactive and dynamically changing interface providing a computing environment resembling a real-world environment.” Ans. 30–32 (citing Lee ¶¶ 25, 26, 156, 186, 424 (“the avatar forms the user interface (or portion thereof”), 435 (“the avatar can be programmed to ‘move’ on the screen in a more natural, physically realistic manner”)); *see also* Lee ¶ 19 (“[t]his reference described software ‘creatures’ which could move through a three-dimensional virtual world, which is a simulated version of the actual physical world”)).

Considering the broadest reasonable interpretation of these and the other disputed limitations, we find, for the reasons stated by the Examiner, that the preponderance of the evidence supports the Examiner’s findings that Lee expressly or inherently teaches the disputed limitations of claims 11, 12, and 14–16 and, therefore, that these claims are anticipated under § 102(b) by Lee. *See* Ans. 27–40.

Regarding Appellants’ contentions 2–6, we are not persuaded by Appellants’ arguments that the combined teachings of the references fail to teach or suggest the disputed limitations of claims 1–6, 8–10, 13, and 17–20. Instead, we agree with the Examiner’s findings that, based on the broadest reasonable interpretation of the disputed limitations of these claims, the teachings of Lee, individually and in combination with the teachings of the other cited references, teach or suggest the claim limitations at issue. We also are not persuaded by Appellants’ arguments that the Examiner fails to provide a proper motivation for the various combinations of the cited

references. Instead, we find the Examiner's stated rationales constitute articulated reasoning with some rational underpinning in accordance with *KSR Int'l Co. v. Teleflex Co.*, 550 U.S. 398, 418 (2007).

CONCLUSION

Appellants' arguments have not persuaded us that the Examiner erred. Accordingly, we sustain the Examiner's rejections of claims 1–6 and 8–20, as well as claim 7, which depends from claim 1 and is not argued separately.

DECISION

We affirm the Examiner's decision rejecting claims 11, 12, and 14–16 under 35 U.S.C. § 102(b).

We affirm the Examiner's decision rejecting claims 1–10, 13, and 17–20 under 35 U.S.C. § 103(a).

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