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EXAMINER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte W. CALEB BARLOW, JAMES E. CHRISTENSEN, DAVID S.
MARSHAK, ANDREW L. SCHIRMER, and TRACEE L. WOLF

Appeal 2015-007945
Application 13/724,104
Technology Center 2100

Before ST. JOHN COURTENAY III, JOHN A. EVANS, and
STEVEN M. AMUNDSON, *Administrative Patent Judges*.

EVANS, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants¹ seek our review under 35 U.S.C. § 134(a) of the Examiner's Final Rejection of Claims 11–25, which are all of the pending claims. Claims Appendix. We have jurisdiction under 35 U.S.C. § 6(b).

¹ The Appeal Brief identifies International Business Machines Corporation, as the real party in interest. App. Br. 3.

We AFFIRM.²

STATEMENT OF THE CASE

The claims relate to systems and methods for the management of data items representing intended future conversations. *See* Abstract.³

INVENTION

Claims 11 and 20 are independent.⁴ The claims have not been argued separately and therefore stand or fall together. 37 C.F.R. § 41.37(c)(1)(iv). An understanding of the invention can be derived from a reading of representative Claim 11 (*see* App. Br. 23), which is reproduced below with some formatting added:

11. A system comprising:
a processor programmed to initiate executable operations comprising: receiving a plurality of first inputs from a first user, each first input being related to a respective intended

² Rather than reiterate the arguments of Appellants and the Examiner, we refer to the Appeal Brief (filed Apr. 16, 2015, “App. Br.”), the Reply Brief (filed Aug. 28, 2015, “Reply Br.”), the Examiner’s Answer (mailed July 1, 2015, “Ans.”), the Final Action (mailed Nov. 18, 2014, “Final Act.”), and the Specification (filed Dec. 21, 2012, “Spec.”) for their respective details.

³ “[F]amiliarity with the background of this case is assumed and presented herein only to the extent necessary to provide context for the analysis that follows.” *See U.S. Ethernet Innovations, LLC v. Acer, Inc.*, 2015-1640, 2015-1641, 2016 WL 1622309, at *1 n.1 (Fed. Cir. April 25, 2016).

⁴ Regarding the “the computer program product comprising a computer-readable storage medium” recited in the preamble of independent claim 20, we note the definition in the Specification (¶ 13) (“The term computer-readable storage medium means to a non-transitory storage medium.”).

future conversation, each first input creating at least one data item representing the respective intended future conversation; receiving at least one attribute for each of the plurality of intended future conversations associated with each first input, the at least one attribute indicating a relationship or importance to the first user of a participant invited to a corresponding intended future conversation; responsive to receiving at least one attribute for each of the plurality of the intended future conversations associated with each first input, a conversation module executed by the processor automatically ranking the plurality of intended future conversations associated with each first input in a particular order based on at least one of the received attributes indicating the relationship or importance to the first user of the participant invited to the corresponding intended future conversation; and generating a listing of the intended future conversations that is based on the ranking.

References and Rejections

The Examiner relies upon the prior art as follows:

Adams, <i>et al.</i> ,	US 8,429,292 B2	Filed Aug. 1, 2006
O'Sullivan, <i>et al.</i> ,	US 2009/0055236 A1	Feb. 26, 2009
Coulomb, <i>et al.</i> ,	US 2009/0217176 A1	Aug. 27, 2009

1. Claims 11–13, 16–21, and 23–25 stand rejected under pre-AIA 35 U.S.C. §103(a) as obvious over Coulomb and O'Sullivan. Final Act. 2–16.
2. Claims 14, 15, and 22 stand rejected under pre-AIA 35 U.S.C. §103(a) as obvious over Coulomb, O'Sullivan, and Adams. Final Act. 16–19.

ANALYSIS

We have reviewed the rejections of Claims 11–25 in light of Appellants’ arguments that the Examiner erred. We have considered in this decision only those arguments Appellants actually raised in the Briefs. Any other arguments which Appellants could have made but chose not to make in the Briefs are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(iv). We are not persuaded that Appellants identify reversible error. Upon consideration of the arguments presented in the Appeal Brief and Reply Brief, we agree with the Examiner that all the pending claims are unpatentable over the cited combination of references. We adopt as our own the findings and reasons set forth in the rejection from which this appeal is taken and in the Examiner’s Answer. We provide the following explanation to highlight and address specific arguments and findings primarily for emphasis. We consider Appellants’ arguments *seriatim*, as they are presented in the Appeal Brief, pages 13–22.

CLAIMS 11–25: OBVIOUSNESS OVER COULOMB, O’SULLIVAN, AND ADAMS.

Appellants argues all claims as a group and specifically argue Claim 11. App. Br. 21, 22.

Whether Coulomb’s “criteria” teach the claimed “attribute.”

Independent Claim 11 recites, *inter alia*, “receiving at least one attribute for each of the plurality of intended future conversations associated with each first input.” Independent Claim 20 contains a substantially

Appeal 2015-007945
Application 13/724,104

identical recitation. Coulomb teaches “[a] meeting invitation and a meeting are defined with a number of criteria such as a meeting name.” Coulomb, ¶ 18. The Examiner finds Coulomb’s “criteria” teach the claimed “attribute.” Final Act. 3.

Appellants contend that the term “criteria,” recited by Coulomb, is distinct from the term “attribute,” recited in the claims. App. Br. 14. Appellants argue a criterion is “a standard on which a judgment or decision may be based.” *Id.* (citing <http://www.merriam-webster.com/dictionary/criteria>). Appellants argue, in contrast, the claimed “attribute” is “an inherent characteristic.” *Id.* (citing <http://www.merriam-webster.com/dictionary/attribute>). Because, according to the dictionary, the plain meaning of the term “criteria” differs from the plain meaning of the term “attribute,” Appellants contend the cited passage of Coulomb does not disclose the claimed “receiving at least one attribute for each of the plurality of intended future conversations associated with each first input.” *Id.*

The Examiner finds Appellants’ Specification defines the claimed “attribute” as any property, characteristic, requirement or information associated with an intended future conversation that provides context for the conversation. Ans. 3 (citing Spec., ¶ 31). The Examiner finds that Coulomb discloses that each meeting has an associated meeting name, meeting invitation parent number, meeting subject, start and an end time, location, chairman, invitee, ... , and priority number, which the Examiner finds are meeting attributes. *Id.* at 4.

Appellants do not reply to this aspect of the Examiner's findings, and Appellants' arguments are not persuasive of error.

Whether O'Sullivan teaches an "attribute" indicating importance.

The Examiner finds O'Sullivan teaches a weighting factor indicating the likelihood the invitee will attend the meeting which the Examiner equates to the claimed attribute indicating a relationship or importance to the first user of a participant invited to the meeting. *See* Final Act. 4–5.

Appellants contend the likelihood that an invitee attend the meeting is not equivalent to the claimed "relationship or importance to the first user of a participant." App. Br. 17.

The Examiner finds that O'Sullivan teaches that when user 46 accepts an invitation to Team Status meeting, a weighting factor is calculated. This weighting factor is associated with user 46 and the Team Status Meeting. The Moderator makes decisions that are based on this weighting factor. For instance, if user 46 is a critical or important person and the calculated weighting factor is low, moderators may decide to reschedule the meeting. The weighting factor clearly is associated with the user and the meeting. The value of the weighting factor shows a relationship between the user and the meeting. If the value of the weighting factor is high, the probability of the user attending the meeting is high, and vice versa. Furthermore, the meeting may be rescheduled to another time if the weighting factor is low along with position of user 46. Ans. 8.

Appellants contend the judgment whether user 46 is a "critical attendee" is made by a meeting moderator. Thus, O'Sullivan's "attendance

Appeal 2015-007945
Application 13/724,104

weighting factor” does not indicate whether the user is a “critical attendee.”
Reply Br. 2–3.

On this record, we are not persuaded of error. For the reasons discussed above, we find a preponderance of the evidence supports the Examiner’s underlying factual finding that O’Sullivan’s “attendance weighting factor” is used to judge whether the user is critical. Accordingly, we are not persuaded of error regarding the Examiner’s ultimate legal conclusion of obviousness.

DECISION

The rejection of Claims 11–25 under 35 U.S.C. § 103 is AFFIRMED.

AFFIRMED