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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
13/729,884 12/28/2012 Albert Temho Nee G-603-O1 2826

919 7590 12/05/2016
PITNEY BOWES INC.
INTELLECTUAL PROPERTY & PROCUREMENT LAW DEPT.
37 EXECUTIVE DRIVE
MSC 01-152
DANBURY, CT 06810

Table with 1 column: EXAMINER

PHAM, KHANH B

Table with 2 columns: ART UNIT, PAPER NUMBER

2166

Table with 2 columns: NOTIFICATION DATE, DELIVERY MODE

12/05/2016

ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ALBERT TEMHO NEE, DEBORAH LYNN PURCELL, and
PITNEY BOWES, INC.

Appeal 2015-008022
Application 13/729,884
Technology Center 2100

Before ERIC S. FRAHM, CATHERINE SHIANG, and KAMRAN JIVANI,
Administrative Patent Judges.

FRAHM, *Administrative Patent Judge.*

DECISION ON APPEAL
STATEMENT OF THE CASE

Introduction

Appellants appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 1, 4–15, and 17–19. Claims 2, 3, 9, 16, 19, and 20 have been canceled. Therefore, only the rejection of claims 1, 4–8, 10–15, 17, and 18 is before us on appeal. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse the § 102(b) rejection of claims 15, 17, and 18, and affirm the § 102(b) rejection of claims 1, 4–8, and 10–14.

Exemplary Claims

An understanding of the invention can be derived from a reading of independent claims 1 and 15, which are reproduced below with bracketed

lettering and *emphases* added:

1. A computer implemented method for displaying query results graphically comprising:

determining, using a computer, a results value indicating a number of items returned by a query of a dataset;

obtaining a threshold value indicating a number of records permitted in a first display mode;

if the results value is equal or below the threshold value, then displaying the query results in a first graphical display mode; and

if the results value is above the threshold value, then displaying the query results in a second graphical display mode; and

[A] *wherein, the first graphical display mode displays interactive query result display elements and the second graphical display mode displays non-interactive query result display elements;*

the items returned by a query are obtained from a *remote server*, if the results value is equal or below the threshold value, then the items returned are received in a *record format*, and

if the results value is above the threshold value, then the items returned are provided in a *remotely rendered image*.

15. A computer implemented method for sending query results of a query received from a client computer comprising:

obtaining a threshold value indicating a number of records permitted in a first display mode;

determining, using a computer, if the query will return a number of records from a dataset that exceeds the threshold value;

if the results value is equal or below the threshold value, then providing the query results in a first mode; and

if the results value is above the threshold value, then providing the query results in a second mode; and

[B] *wherein the first mode comprises providing requested fields from each of the returned records, and the second mode comprises providing a rendered image including results data,*

the threshold value is set at least partially by determining a type of rendering engine utilized by the client computer.

The Examiner's Rejection

The Examiner rejected claims 1, 4–8, 10–15, 17, and 18 under 35 U.S.C. § 102(b) as being anticipated by Kimchi (US 2008/0201302 A1; published Aug. 21, 2008). Final Act. 2–7.

Appellants' Contentions

Appellants contend Kimchi fails to disclose:

(1) where the image processing work is done, i.e., whether images are received in record format, or as a remotely rendered image (Br. 5);

(2) varying a display mode processed on a rendering engine of a computer (Br. 5);

(3) varying processing/display modes based on the type of rendering engine as recited in claim 15;

(4) interactive query result display elements as recited in

limitation [A] of claim 1 (Br. 6);

(5) a mode that provides requested fields from returned records as recited in limitation [B] of claim 15 (Br. 6);

(6) limitation [A] of claim 1 (Br. 6); and/or

(7) limitation [B] of claim 15 (Br. 6).

Reply Brief

Although our rules provide Appellants an opportunity to reply to the Examiner's Answer, Appellants chose not to reply thereto. Therefore, Appellants have not disputed the Examiner's articulated reasoning and findings found at pages 2–6 of the Answer, where the Examiner (i) compares Kimchi's Figure 9 to Appellants' Figure 2, and Kimchi's Figure 10 to Appellants' Figure 3 (Ans. 3); and (ii) cites new portions of Kimchi as disclosing (a) rendering query results at a server 210 (i.e., a remotely rendered image) (*see* Ans. 3 (citing Kimchi's ¶ 54 and Fig. 2)), and (b) providing requested fields such as an exact location, and distinguishing between two different display modes similar to Appellants' recited first and second modes (*see* Ans. 5 (citing Kimchi's ¶ 55)).

Issues on Appeal

Based on Appellants' arguments in the Appeal Brief (Br. 3–7), the following two issues are presented on appeal:¹

¹ Appellants present separate arguments only as to independent claims 1 and 15, and rely on these arguments as to the patentability of their respective dependent claims (*see, generally*, Br. 3–7). Based on Appellants' arguments in the Appeal Brief, and the fact that claims 4–8 and 10–14 all ultimately depend from claim 1, we select claim 1 as representative of the group of claims consisting of claims 1, 4–8, and 10–14. Because claims 17 and 18

Anticipation Rejection of Claims 15, 17, and 18

(1) Did the Examiner err in rejecting claims 15, 17, and 18 under 35 U.S.C. § 102(b) because Kimchi fails to disclose “determining a type of rendering engine” as recited in independent claim 15, and as similarly recited in claims 17 and 18 by way of dependency on claim 15?

Anticipation Rejection of Claims 1, 4–8, and 10–14

(2) Did the Examiner err in rejecting claims 1, 4–8, and 10–14 under 35 U.S.C. § 102(b) because Kimchi fails to disclose the disputed limitations recited in representative independent claim 1?

ANALYSIS

We have reviewed the Examiner’s rejection in light of Appellants’ contention in the Appeal Brief (Br. 3–7) that the Examiner has erred, as well as the Examiner’s response to Appellants’ arguments (Ans. 2–6). We agree with Appellants’ conclusions as to the anticipation rejection of claims 15, 17, and 18 with regard to Kimchi as applied by the Examiner (*see* Ans. 4, 6–8, and 10). However, with regard to the anticipation rejection of representative claim 1 with regard to Kimchi, we agree with the Examiner’s conclusion that Kimchi discloses limitation [A], a remote server, receiving returned items in record format, and providing returned items in a remotely rendered image as recited in representative independent claim 1 (Ans. 2–6).

contain, by way of dependency, the same limitation as claim 15 (“determining a type of rendering engine utilized by the client computer”), the outcome of claims 17 and 18 will stand/fall with the outcome for claim 15.

Anticipation Rejection of Claim 15, 17, and 18 Applying Kimchi

With regard to claim 15, we agree with Appellants' argument that Kimchi fails to disclose determining a type of rendering engine and/or performing processing differently based upon such a determination (Br. 5–6). The Examiner's reliance (*see* Final Act. 6–7; Ans. 4–5) upon Kimchi's paragraphs 42 and 43 as disclosing determining a type of rendering engine, as set forth in claim 15 is in error. Although paragraphs 42 and 43 describe allocating storage capacity based on storage considerations and/or a maximum number of visual indicators that can be displayed, Kimchi is silent as to *determining a type of rendering engine* and/or performing processing differently based upon such a determination, as set forth in claims 15, 17, and 18. Furthermore, the Examiner's explanation found at pages 4–6 of the Answer does not satisfactorily explain how Kimchi's paragraphs 42 and 43 meet the limitation, either inherently or expressly, of determining a type of rendering engine.

Accordingly, we do not sustain the Examiner's anticipation rejection of claims 15, 17, and 18 based on Kimchi.

Anticipation Rejection of Claims 1, 4–8, and 10–14 Applying Kimchi

With regard to representative claim 1, we disagree with Appellants' arguments. We adopt as our own (1) the findings and reasons set forth by the Examiner in the Final Office Action from which this appeal is taken (Final Act. 2–4), as well as the Advisory Action, mailed January 26, 2015 (p. 2), and (2) the reasons set forth by the Examiner in the Examiner's Answer (Ans. 2–4 and 5–6) in response to Appellants' Appeal Brief. We concur with the conclusions reached by the Examiner regarding the

obviousness of the method for displaying query results graphically set forth in representative claim 1.

Notably, Appellants cite Figures 2 and 3 of the Drawings as support for the inventions recited in claims 1 and 15 on appeal (*see* Br. 2–3). Although in the argument section of the Appeal Brief, Appellants cite paragraphs 16–21 as describing the claimed invention (Br. 3–5), we do not find that these paragraphs support the claims as well as Figures 1–3 and 5 and corresponding paragraphs 22–29, 33–38, and 40–47 (cited by Appellants as supporting the claimed subject matter (*see* Br. 2–3, Summary of Claimed Subject Matter). We agree with the Examiner’s cogent articulation that Kimchi’s Figure 9 is equivalent to Appellants’ Figure 2, and Kimchi’s Figure 10 is equivalent to Appellants’ Figure 3 (Ans. 3). Appellants have not filed a Reply Brief or otherwise rebutted the Examiner’s findings and explanation regarding the comparison of Kimchi’s Figures 9 and 10 with Appellants’ Figures 2 and 3.

In light of the Examiner’s new citations to Kimchi as disclosing (a) rendering query results at a server 210 (i.e., a remotely rendered image) (*see* Ans. 3 (citing Kimchi’s ¶ 54 and Fig. 2)), and (b) providing requested fields such as an exact location, and distinguishing between two different display modes similar to Appellants’ recited first and second modes (*see* Ans. 5 (citing Kimchi’s ¶ 55)), we do not find Appellants’ arguments to the contrary (Br. 5–7) to be persuasive.

We agree with the Examiner (Final Act. 2–4; Ans. 2–4) that Kimchi discloses limitation [A] as recited in representative independent claim 1. Appellants have not rebutted the Examiner’s new citation to paragraphs 54

(Ans. 3) and 55 (Ans. 5), or otherwise shown the Examiner's findings at pages 2–6 of the Answer (that Kimchi discloses the first and second graphical display modes, and returning items from a remote server or remotely rendering an image based on a threshold comparison of returned query items) to be in error.

Accordingly, we sustain the Examiner's anticipation rejection of representative claim 1, as well as claims 4–8 and 10–14 grouped therewith.

CONCLUSIONS

(1) The Examiner erred in rejecting claims 15, 17, and 18 as being anticipated under 35 U.S.C. § 102(b) by Kimchi because Kimchi fails to disclose the disputed limitation of “determining a type of rendering engine utilized by the client computer” recited in independent claim 15.

(2) The Examiner did not err in rejecting claims 1, 4–8, and 10–14 as being anticipated under 35 U.S.C. § 102(b) by Kimchi because Kimchi discloses limitation [A], a remote server, receiving returned items in record format, and providing returned items in a remotely rendered image as recited in representative independent claim 1.

DECISION

The Examiner's anticipation rejection of claims 15, 17, and 18 is reversed, and the anticipation rejection of claims 1, 4-8, and 10-14 is affirmed.

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-IN-PART