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IBM Lotus & Rational SW c/o Schmeiser, Olsen & Watts LLP 33 Boston Post Road West Suite 410 Marlborough, MA 01752			CASANOVA, JORGE A	
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* MATTHEW GORDON MARUM,  
SAMUEL GEORGE PADGETT,  
STEVEN KEITH SPEICHER, and MICHAEL JOHN TABB

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Appeal 2015-008280  
Application 13/420,919  
Technology Center 2100

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Before MAHSHID D. SAADAT, LINZY T. McCARTNEY, and  
NATHAN A. ENGELS, *Administrative Patent Judges*.

McCARTNEY, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeals under 35 U.S.C. § 134(a) from a rejection of  
claims 1–25. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM-IN-PART.

## STATEMENT OF THE CASE

The present patent application concerns “the use of database query results, and more specifically, to systems and methods for changing contents of a query result set displayed according to a graphical representation.”

Spec. ¶ 2. Claim 1 illustrates the claimed subject matter:

1. A method for changing query result data graphically displayed on an electronic device, comprising:

performing a query of a data repository;

displaying a graphical representation of a set of query results identified from the query, the set of query results including a plurality of query result records, the graphical representation including a first location corresponding to a first record field value and a second location corresponding to a second record field value;

displaying at a first location at least one query result record having the first record field value;

selecting a query result record of the at least one query result record having the first record field value; and

changing a field value of the selected query result record from the first record field value to the second record field value by transitioning the selected query result record to a second location of the graphical representation.

## REJECTIONS

Claims 1–14 stand provisionally rejected on the ground of non-statutory double patenting as unpatentable over claims 26–39 of co-pending Application No. 13/159,682.

Claims 1–4 and 7 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Gemmell et al. (US 2008/0059899 A1; Mar. 6, 2008) and Hirata et al. (US 6,317,739 B1; Nov. 13, 2001).

Claim 5 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Gemmell, Hirata, and Kagawa (US 2007/0027855 A1; Feb. 1, 2007).

Claim 6 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Gemmell, Hirata, Kagawa, and Bedworth et al. (US 2006/0004721 A1; Jan. 5, 2006).

Claims 8–17 and 19–23 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Gemmell, Hirata, and Folting (US 2007/0074130 A1; Mar. 29, 2007).

Claim 18 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Gemmell, Hirata, Folting, Kagawa, and Bedworth.

Claims 24 and 25 stand under 35 U.S.C. § 103(a) as unpatentable over Gemmell, Hirata, Folting, and Kagawa.

## ANALYSIS

### *Non-statutory Double Patenting Rejection*

Appellants have not contested the Examiner’s non-statutory double patenting rejection and have therefore waived any argument concerning this rejection. *See* 37 C.F.R. §§ 41.47(c)(iv), 41.41(b)(2). We summarily affirm this rejection.

### *§ 103 Rejections*

Claim 1 recites “[a] method for changing query result data graphically displayed on an electronic device,” the method including the following steps:

displaying a graphical representation of a set of query results identified from the query, the set of query results including a plurality of query result records, the graphical

representation including a first location corresponding to a first record field value and a second location corresponding to a second record field value

. . . .

selecting a query result record of the at least one query result record having the first record field value; and

changing a field value of the selected query result record from the first record field value to the second record field value by transitioning the selected query result record to a second location of the graphical representation.

App. Br. 19. Appellants argue the cited portions of Gemmell do not teach or suggest changing a field value as recited in claim 1. *See* App. Br. 12–13; Reply Br. 2–4. According to Appellants, Gemmell’s “records are not moved to different locations of the histogram” and Gemmell’s “search results . . . are not changed or transitioned between record field values at different locations of the histogram.” App. Br. 10, 11. Appellants also contend one of ordinary skill in the art would not have combined Gemmell’s histogram with Hirata’s drag-and-drop operation to arrive at the claimed invention. *Id.* at 11–13.

We find Appellants’ arguments persuasive. The cited portions of Gemmell disclose a histogram of search results, the histogram including a selection pane that allows a user to highlight a desired portion of the histogram and generate a new histogram for the search results associated with the highlighted histogram portion. *See* Gemmell ¶¶7, 10; Fig. 2, 3; Non-Final Act. 6–8. The Examiner found the search results associated with the highlighted portion of the histogram teach the recited “selected query result record.” Non-Final Act. 7. The Examiner also found Gemmell’s process of generating a new histogram “implicitly teaches” changing a field

value of a selected query result record as recited in claim 1 because the “user’s newly selected portion . . . prompts the interface to generate a new histogram with respect to that portion.” *Id.* at 7–8. But as argued by Appellants, the Examiner has not demonstrated that Gemmell’s process of generating a new histogram changes the value of the associated search results. Rather, the cited portions of Gemmell indicate that highlighting a portion of the histogram merely *filters* the search results so that Gemmell’s system only displays the highlighted search results. *See, e.g.*, Gemmell ¶¶ 45–46; Figs. 2, 3.

As for Hirata, the Examiner found Hirata’s drag-and-drop operation also teaches changing a field value in the manner recited in claim 1 and concluded it would have been obvious to combine Hirata’s and Gemmell’s teachings to arrive at the invention recited in claim 1. Non-Final Act. 8–9. However, even if Hirata’s drag-and-drop operation teaches changing a field value as recited in claim 1, the Examiner has not provided sufficient reasoning to support the conclusion that it would have been obvious to combine Hirata’s and Gemmell’s teachings in the proposed manner. The Examiner equated Gemmell’s histogram with the recited locations corresponding to field values. *See id.* at 7–8. Gemmell’s histogram represents the number of search results that have a particular attribute. Gemmell ¶ 41. For example, when the search results consist of images, the histogram represents the number of images created on a certain date. *See id.* The Examiner has not clearly explained why one of ordinary skill in the art would modify Gemmell’s invention to allow users to drag-and-drop parts of the histogram to change a *static* characteristic such as the number of images created on a specific date, much less a field value associated with any

particular search result as required by claim 1. The Examiner's conclusory assertions that "[d]oing so would have enhanced the user interface of Gemmell" and "allowed users to specifically tailor results to their needs" do not adequately address this issue.

For the above reasons, we do not sustain the Examiner's rejection of claim 1. We also do not sustain the Examiner's rejection of independent claims 15 and 24, which suffers from similar deficiencies. Finally, because claims 2–14, 16–23, and 25 depend from claim 1, claim 15, or claim 24, we also do not sustain the Examiner's rejections of these claims.

#### DECISION

We affirm the Examiner's provisional rejection of claims 1–14 on the ground of non-statutory double patenting. We reverse the Examiner's rejections under 35 U.S.C. § 103(a) of claims 1–25 under 35 U.S.C. § 103.

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