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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

Appeal 2016-000164
Application 13/159,682
Technology Center 2100

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

McCARTNEY, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a rejection of claims 26–39. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

STATEMENT OF THE CASE

The present patent application concerns "the use of database query results, and more specifically, to systems and method for changing contents of a query result set displayed according to a graphical representation." Spec. ¶ 1. Claim 26 illustrates the claimed subject matter:

> 26. A computer program product for displaying a contact list, the computer program product comprising:
>
> a non-transitory computer readable storage medium having computer readable program code embodied therewith, the computer readable program code comprising;
>
> computer readable program code configured to performing a query of a data repository;
>
> computer readable program code configured to display 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;
>
> computer readable program code configured to display at the first location at least one query result record having the first record field value;
>
> computer readable program code configured to select a query result record of the at least one query result record having the first record field value; and
>
> computer readable program code configured to change 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 the second location of the graphical representation.

REJECTIONS

Claims 26–39 stand provisionally rejected on the ground of non-statutory double patenting as unpatentable over claims 1–14 of co-pending Application No. 13/420,919.

Claim 26 stands rejected under 35 U.S.C. § 112 as failing to comply with the enablement requirement.

Claims 26–29 and 32 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 30 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Gemmell, Hirata, and Kagawa (US 2007/0027855 A1; Feb. 1, 2007).

Claim 31 stand rejected under 35 U.S.C. § 103(a) unpatentable over Gemmell, Hirata, Kagawa, and Bedworth et al. (US 2006/0004721 A1; Jan. 5, 2006).

Claims 33–39 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Gemmell, Hirata, and Folting et al. (US 2007/0074130 A1; Mar. 29, 2007).

ANALYSIS

Non-Statutory Double Patenting and Enablement Rejections

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

§ 103 Rejections

Claim 26 recites "computer readable program code configured to," among other things, do the following:

> display 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;
>
> . . . .
>
> select a query result record of the at least one query result record having the first record field value; and
>
> change 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 the second location of the graphical representation.

App. Br. 16. Appellants argue the cited portions of Gemmell do not teach or suggest changing a field value as recited in claim 26. *See* App. Br. 8–9; 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. 8. 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 10–11.

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 ¶ 10; Fig. 2, 3; Non-Final Act. 8. The Examiner found the search results associated with the highlighted portion of the histogram teach the recited "selected query result record." *See* Non-Final Act. 8. 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 26 because the "user's newly selected portion . . . prompts the interface to generate a new histogram with respect to that portion." *Id.* at 9. But as argued by Appellants, the Examiner has not demonstrated that Gemmell's process of generating a new histogram changes a field 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 26 and concluded it would have been obvious to combine Hirata's and Gemmell's teachings to arrive at the invention recited in claim 26. Non-Final Act. 9–10. However, even if Hirata's drag-and-drop operation teaches changing a field value as recited in claim 26, 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* Non-Final Act. 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.* It is unclear 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 26. 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 obviousness rejection of claim 26. Because claims 27–39 depend from claim 26, we also do not sustain the Examiner's rejections of these claims.

DECISION

We affirm the Examiner's provisional rejection of claims 26–39 on the ground of non-statutory double patenting, as well as the Examiner's rejection of claim 26 under 35 U.S.C. § 112. We reverse the Examiner's rejections of claims 26–39 under 35 U.S.C. § 103(a).

Because we have affirmed at least one ground of rejection with respect to each claim on appeal, we affirm the Examiner's decision. *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