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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SAMUEL MOON-HO SONG and DOUGLAS PERRY BOYD[1]

Appeal 2016-001016
Application 11/702,794
Technology Center 2800

Before BRADLEY R. GARRIS, TERRY J. OWENS, and PETER F. KRATZ, *Administrative Patent Judges*.

GARRIS, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134 from the Examiner's decision rejecting claims 58–83.[2] We have jurisdiction under 35 U.S.C. § 6.

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[1] TeleSecurity Sciences, Inc. is identified as the real party in interest. Br. 3.

[2] We do not address the issues raised by Appellants regarding the Examiner's objections to certain claims as containing informalities (Br. 10). Such issues relate to petitionable, rather than appealable, matters. *See* the Manual of Patent Examining Procedure § 1201 (MPEP, 9th ed., Rev. July 2015).

We AFFIRM.

Appellants claim a system to analyze the content of a packed bag comprising an enterprise server 20 configured to receive scan data from one or more remotely-located scanners 8 and configured to render volumetric data sets from the scan data, and remotely-located multiple local terminals 12 conveying inquiries to the enterprise server for scan data of interest to users of the terminals, wherein the enterprise server also is configured to service the terminals by performing electronic unpacking of the volumetric data sets in response to inquiries from the terminals (independent claim 58, Fig. 1). Appellants also claim a corresponding method to analyze the content of a packed bag (independent claim 72).

A copy of representative claim 58, taken from the Claims Appendix of the Appeal Brief, appears below.

> 58. A system to analyze a content of a packed bag, comprising:
>
> an enterprise server configured to receive scan data acquired by one or more scanners located remotely from the enterprise server, the scan data being representative of content of baggage scanned by the one or more scanners, the scan data being conveyed to the enterprise server substantially in real-time; and
>
> the enterprise server configured to render volumetric data sets from the scan data, the volumetric data sets including voxel values for a scannable characteristic throughout a volume of interest in the baggage; and
>
> multiple local terminals located remotely from the enterprise server and the one or more scanners, the multiple local terminals having user interfaces and displays, the multiple local terminals conveying inquiries to the enterprise server for scan data of interest to users of the multiple local terminals; and
>
> the enterprise server configured to service the multiple local terminals by performing electronic unpacking of the volumetric data sets, in response to the inquiries from the multiple local terminals, the electronic unpacking producing a

> rendered view of the contents of the baggage based on voxel values from the volumetric data sets and based on the inquiries from the multiple local terminals.

Under 35 U.S.C. § 103(a), the Examiner rejects as unpatentable:

claims 58, 59, 61, 62, 66–68, 72, 73, 75, 76, and 79–81 as unpatentable over McClelland (US 6,707,879 B2, issued Mar. 16 2004) in view of Simanovsky (US 6,026,143, issued Feb. 15, 2000) and Kling (US 6,907,099 B2, issued June 14, 2005) (Non-final Action (dated October 24, 2014) 4–10);

claims 60, 64, 65, 69, 70, 74, 78, and 82 as unpatentable over McClelland, Simanovsky, Kling, and Acharya (US 6,298,112 Bl, issued Oct. 2, 2001) (*id.* at 10–14); and

claims 63, 71, 77, and 83 over McClelland, Simanovsky, Kling, and Peschmann (US 5,182,764, issued Jan. 26, 1993) (*id.* at 14–17).

Appellants present arguments specifically directed to independent claims 58 and 72 (Br. 10–19) as well as dependent claims 60, 64, 65, 69, 74, 78, and 82 (*id.* at 19–22). No separate arguments are specifically directed to the remaining dependent claims (*see, e.g., id.* at 19 and 23). Accordingly, these remaining dependent claims will stand or fall with the claims from which they depend. We select claim 58 as representative of the independent claims.

We sustain the Examiner's rejections for the reasons expressed in the Non-final Action, the Answer, and below.

In rejecting claim 58, the Examiner finds that McClelland discloses a package screening system for analyzing the content of a packed bag comprising an enterprise server configured to receive scan data from

remotely-located scanners and multiple local terminals located remotely from the enterprise server but does not disclose the claim features wherein the enterprise server is configured to render volumetric data sets from the scan data, wherein the multiple local terminals convey inquiries to the enterprise server for scan data of interest, and wherein the enterprise server is configured to service the multiple local terminals by performing electronic unpacking of the volumetric data sets in response to such inquiries (Non-final Action 4–5). Regarding these deficiencies, the Examiner additionally finds that Simanovsky discloses a computed tomography imaging system comprising a reconstruction processor configured to render volumetric data sets from scan data and to perform electronic unpacking of the volumetric data sets (*id.* at 5–6) and that Kling discloses a computed tomography imaging system comprising an enterprise server (60_{1-4}) and multiple local terminals (80_{1-3}) wherein the enterprise server is configured to render volumetric data sets (i.e., alternative image reconstructions) from scan data in response to inquiries from the terminals (*id.* at 6 (citing Kling col. 6, l. 59–col. 7, l. 3)).

In light of these findings, the Examiner concludes that it would have been obvious to configure the enterprise server of McClelland to render volumetric data sets from the scan data, in accordance with the teachings of Simanovsky, and to service the multiple local terminals by performing electronic unpacking of the volumetric data sets in response to inquiries from the multiple local terminals, in accordance with the teachings of Simanovsky and Kling, so as to improve inspection performance (*id.*).

Appellants argue that Kling would not have suggested providing McClelland's system with an enterprise server configured to operate as claimed (Br. 16–17) because "Kling does not teach or suggest an enterprise

server" (*id.* at 17). Specifically, Appellants argue that "Kling's computers 60 . . . do not constitute enterprise servers" (*id.*).

Appellants' argument lacks persuasive merit because it does not explain why the Examiner is believed to have erred in finding that Kling's computers $60_{1\text{-}4}$ constitute an enterprise server (Non-final Action 6). On the other hand, the Specification supports a determination that the computers or workstations 60 of Kling (*see* col. 6, ll. 25–26) are servers because Appellants' workstations or terminals 12 are described expressly as servers (Spec. ¶ 31). Moreover, Kling's server comprising computers 60 is appropriately considered an enterprise server because, like Appellants' claimed and disclosed enterprise server, it services remotely-located multiple local computers (i.e., terminals or workstations) 80. Further, Appellants' argument lacks persuasive merit because it does not address specifically, and therefore does not show error in, the Examiner's conclusion that it would have been obvious to configure the enterprise server of McClelland to respond to inquiries from McClelland's multiple local terminals in view of Kling's above-mentioned teachings (Non-final Action 6).

For the reasons stated above and given by the Examiner, Appellants fail to show error in the rejection based on McClelland, Simanovsky, and Kling.

In the rejection based on McClelland, Simanovsky, Kling, and Acharya, the Examiner concludes that, in view of Acharya's teaching (i.e., at column 13, line 61–column 14, line 5), it would have been obvious to provide the modified-McClelland system with the features of a remote expert terminal, an expert-on-demand service, and a view sharing link as required by dependent claims 60, 64, 65, 69, 74, 78, and 82 (Non-final Action 10–14).

Appellants challenge this obviousness conclusion by arguing, for example, that "there are far simpler known solutions to provide access to screening experts" (Br. 20), that Acharya concerns a medical imaging system and "does NOT provide any suggest[ion] to use any portion of Acharya's system with a baggage scanning system" (*id.*), that "[t]here are other solutions to provide access to screening experts . . . [such as] screening experts [who] are on-site" (*id.* at 21–22), and that "Acharya does not refer to the concept of an EoD service even within the field of medical imaging" (*id.* at 22).

Appellants' arguments ineffectively attack Acharya individually. "Non-obviousness cannot be established by attacking references individually where the rejection is based upon the teachings of a combination of references." *In re Merck & Co., Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). As correctly explained by the Examiner, the test for obviousness is what the combined teachings of the references would have suggested to those of ordinary skill in the art (Ans. 9). In addition to *In re Keller*, 642 F.2d 413 (CCPA 1981) cited by the Examiner, *see also Merck*, 800 F.2d at 1097. For the reasons detailed by the Examiner, Acharya's teaching of remote services such as contractual arrangements, expert on-line assistance for image analysis, and other expert-aided operations (col. 13, l. 59–col. 14, l. 5) in combination with the other applied reference teachings would have suggested providing the modified-McClelland system with the claim features under review (*see* Non-final Action 10–14, Ans. 8–11).

In summary, because Appellants fail to show error on the Examiner's part, we have sustained each of the § 103 rejections on appeal.

The decision of the Examiner 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). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED