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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte PATRICK J. EAMES, BRENT L. HADLEY,
STEPHEN P. MILLER, and JOSEPH F. FLOYD

Appeal 2016-001310
Application 13/626,228
Technology Center 2100

Before JAMES R. HUGHES, SCOTT B. HOWARD, and
MATTHEW J. McNEILL, *Administrative Patent Judges*.

HOWARD, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants¹ appeal under 35 U.S.C. § 134(a) from the Final Rejection of claims 1, 4–8, and 11–21, which constitute all of the claims pending in this application. Claims 2, 3, 9, and 10 have been cancelled. App. Br. 10, 12. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ Appellants identify The Boeing Company as the real party in interest. App. Br. 1.

THE INVENTION

The disclosed and claimed invention is directed “to panoptic visualization of documents or their document components in a manner that reflects logical relationships between the documents / components.” Spec. 1, ll. 21–23.

Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. An apparatus for implementation of a panoptic visualization document differencing system, the apparatus comprising a processor and a memory storing executable instructions that in response to execution by the processor cause the apparatus to at least:

generate a comparison document component based on a comparison of two or more source document components of a plurality of document components, each document component including respective media content and having associated metadata providing structured information about the document component, the comparison document component including respective media content and having associated metadata providing structured information about the two or more source document components;

interpret the associated metadata for the comparison document component to select a layout model from a plurality of layout models, and identify one or more second document components of the plurality of document components, according thereto, the structured information provided by the associated metadata for the comparison document component further identifying a link between the comparison document component and one or more second document components; and

generate a layout of a panoptically-arranged images of document components including the comparison document component and one or more second document components according to the associated metadata therefor, and according to the selected layout model, the images of the document components including images of the respective media content thereof.

REFERENCES

The prior art relied upon by the Examiner as evidence in rejecting the claims on appeal is:

Kumhyr et al.	US 2004/0093564 A1	May 13, 2004
Gallo	US 2006/0161863 A1	July 20, 2006
Endo et al.	US 2007/0094615 A1	Apr. 26, 2007

REJECTIONS

Claims 1, 4, 5, 8, 11, 12, 15, 18, and 19 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Kumhyr in view of Endo. Final Act. 3–14.

Claims 6, 7, 13, 14, 20, and 21 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Kumhyr in view of Endo and Gallo. Final Act. 14–18.

ANALYSIS

We have reviewed the Examiner’s rejection in light of Appellants’ arguments that the Examiner erred. In reaching this decision, we have considered all evidence presented and all arguments made by Appellants. We are not persuaded by Appellants’ arguments regarding the pending claims.

First, Appellants contend the Examiner erred in finding Kumhyr or Endo teaches the “generate a comparison document component” limitation recited in claim 1. App. Br. 6. Appellants’ contentions each consist of a one sentence summary of the Examiner’s finding followed by a general denial and a summary of the disputed claim limitation without any explanation of

how the Examiner erred or why the cited section does not teach the disputed claim limitation. For example, Appellants state

The Examiner cites paragraph [0035] of Kumhyr for disclosing that the comparison of text may be based on the formatting features of documents and code (from which the text is compared), which the Examiner alleges corresponds to associated metadata. But this like the previous assertion, this is factually erroneous. Nowhere does Kumhyr disclose that the formatting features of documents and code are metadata providing structured information about the documents, code or their text, similar to the associated metadata of independent Claim 1. And even still, nowhere does Kumhyr disclose that the data structure referred to in paragraph [0045] (cited as the comparison document) has associated metadata providing structured information about the two or more source document components, similar to the comparison document of independent Claim 1.

*Id.*² That is insufficient to raise an argument that that Examiner erred. *See In re Lovin*, 652 F.3d 1349, 1357 (Fed. Cir. 2011) (Rule 41.37 requires “more substantive arguments in an appeal brief than a mere recitation of the claim elements and a naked assertion that the corresponding elements were not found in the prior art.”); *see also* 37 C.F.R. § 41.37(c)(1)(iv) (“A statement which merely points out what a claim recites will not be considered an argument for separate patentability of the claim.”); *cf. In re*

² To the extent Appellants attempt to raise a new issue in the Reply Brief without showing good cause, those arguments have been waived. *See Optivus Technology, Inc. v. Ion Beam Applications S.A.*, 469 F.3d 978, 989 (Fed. Cir. 2006); *accord Ex parte Borden*, 93 USPQ2d 1473, 1473–74 (BPAI 2010) (informative opinion) (absent a showing of good cause, the Board is not required to address an argument newly presented in the reply brief that could have been presented in the principal brief on appeal); 37 C.F.R. §41.41(b)(2) (same).

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Baxter Travenol Labs., 952 F.2d 388, 391 (Fed. Cir. 1991) (“It is not the function of this court to examine the claims in greater detail than argued by an appellant, looking for [patentable] distinctions over the prior art.”).

Because Appellants have not identified any specific errors in the Examiner’s findings, “the Board will not, as a general matter, unilaterally review those uncontested aspects of the rejection.” *Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential). Instead, we agree with and adopt the Examiner’s findings regarding the “generate a comparison document component” limitation recited in claim 1.

Second, Appellants also argue the Examiner erred in finding Endo teaches the “interpret the associated metadata” limitation recited in claim 1. App. Br. 6–7. Specifically, Appellants argue that Endo does not disclose a comparison document. *Id.* Appellants further argue that because Endo does not disclose a comparison document, it cannot teach “interpretation of associated metadata for the comparison document.” App. Br. 7.

The Examiner finds Kumhyr teaches generating a comparison document as recited in claim 1. Final Act. 3–4.

Nonobviousness cannot be established by attacking the references individually when the rejection is predicated upon a combination of prior art disclosures. *In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). The test for obviousness is not whether the claimed invention is expressly suggested in any one or all of the references, but whether the claimed subject matter would have been obvious to those of ordinary skill in the art in light of the *combined teachings* of those references. *In re Keller*, 642 F.2d 413, 425 (CCPA 1981). Because the Examiner finds Kumhyr teaches the comparison document and Appellants’ arguments are directed to Endo

individually and do not address the combined teaching of the references, we are not persuaded by Appellants' arguments that the Examiner erred.

With regard to the same limitation, Appellants also argue Endo only teaches a single layout model and, therefore, cannot teach "selection of a layout model from associated metadata for a comparison document." App. Br. 7. Specifically, Appellants argue Endo figure 3 "only discloses a single layout model." *Id.*

The Examiner finds Endo teaches "arranging the layout based on metadata, such as page number." Final Act. 5 (citing Endo ¶ 26). The Examiner further find Endo teaches "select[ing] a layout from a plurality of possible layouts, such as the layouts in Figure 3." Final Act. 19.

We are not persuaded by Appellants' argument that the Examiner erred. We agree with the Examiner that each of the different rows of documents in figure 3 shows a different layout for display. Accordingly, we are not persuaded by Appellants' argument that Endo teaches only a single layout model.

Third, Appellants argue the Examiner erred in finding Endo teaches a layout of panoptically arranged images. App. Br. 7. Specifically, Appellants argue that because "Endo does not disclose the comparison document of independent Claim 1, Endo likewise does not disclose a layout of panoptically-arranged images of document components including the comparison document component, contrary to the conclusion reached by the Examiner." *Id.*

For the same reasons discussed above regarding Appellants' argument regarding Endo and the comparison document, we are not persuaded by Appellants' argument the Examiner erred.

Fourth, Appellants argue the Examiner erred in combining Endo and Kumhyr:

Endo quite clearly discloses displaying thumbnails of pages of key and target documents in relation to one another to enable a comparison between the documents, and without having to open the documents. See, e.g., Endo, para. [0025]. As readily understood by those skilled in the art, a thumbnail is a reduced-sized version of an image typically used for recognition and organization of images. Endo utilizes thumbnails for this specific purpose. The thumbnail of an image would not generally be sufficient in size to allow one to easily discern features of the underlying image, particularly an image of the sort displayed by Kumhyr. Appellants respectfully submit that it would not have been obvious to one skilled in the art to modify Endo to display full-versions of its pages (thus requiring opening the document), nor to display a thumbnail with a target page superimposed on a key page (similar to Kumhyr).

App. Br. 8.

“The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference.” *Keller*, 642 F.2d at 425. Instead, the relevant issue is “what the combined teachings of the references would have suggested to those of ordinary skill in the art.” *Id.* “Combining the *teachings* of references does not involve an ability to combine their specific structures.” *In re Nievelt*, 482 F.2d 965, 968 (CCPA 1973). Because Appellants argument focuses on the bodily incorporation of the references and not what the combined teachings would suggest to a person of ordinary skill in the art, the argument is not persuasive.

Accordingly, we sustain the Examiner’s rejection of claim 1, along with the rejections of claims 8 and 15, which are argued on the same

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grounds, and dependent claims 4, 5, 11, 12, 18, and 19, which are not separately argued. *See* App. Br. 8.

With respect to dependent claims 6, 7, 13, 14, 20, and 21, Appellants merely contend that because the additional reference used in the rejection of those claims (Gallo) does not cure the shortcomings of the other references applied against claim 1, the Examiner failed to make a prima facie case of obviousness for these claims. App. Br. 8–9. Because we determine that the rejection of claim 1 is not erroneous for the reasons discussed above, we sustain the rejections of these claims.

DECISION

For the above reasons, we affirm the Examiner’s decisions rejecting claims 1, 4–8, and 11–21.

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