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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MARTIN RUEHL, KARSTEN KRUEGEL, and BJOERN MUELLER

Appeal 2016-001363
Application 13/466,261[1]
Technology Center 2100

Before LARRY J. HUME, JOHN D. HAMANN, and MATTHEW J. McNEILL, *Administrative Patent Judges*.

HAMANN, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants file this appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–5, 7, and 9. We have jurisdiction under 35 U.S.C. § 6(b). We reverse.

THE CLAIMED INVENTION

Appellants' claimed invention "relates to a configuration tool for configuring a model of a technical system on a computer having a display."

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[1] According to Appellants, the real party in interest is "dSPACE digital signal processing and control engineering GmbH." App. Br. 1.

Spec. ¶ 1. Claim 1 is illustrative of the subject matter of the appeal and is reproduced below.

> 1. A configuration device, comprising:
>
> a tangible, non-transitory computer-readable medium having computer-executable instructions for configuring a model of a technical system and displaying the model on a display connected to a computer;
>
> wherein the model includes at least two model components, each model component having at least one port;
>
> wherein each model component is displayable in an expanded component representation and a reduced component representation on the display, the expanded component representation including display of the at least one port of the model component and the reduced component representation not including the display of the at least one port of the model component;
>
> wherein each model component is displayable in an expanded line representation and a reduced line representation on the display, independently of whether the model component is displayed in the expanded component representation or the reduced component representation, the expanded line representation including display of at least one port association line from the at least one port of the model component, and the reduced line representation including display of a component association line from a reduced port of the model component without display of any port association lines from the at least one port of the model component; and
>
> wherein, for a model component displayed in the expanded component representation and in the reduced line representation, the at least one port of the model component is displayed without any corresponding port association lines while the reduced port of the model component is displayed with a corresponding component association line.

REJECTION ON APPEAL[2]

The Examiner rejected claims 1–5, 7, and 9 under 35 U.S.C. § 102(b) as being anticipated by Biermann et al. (US 2008/0091279 A1; published Apr. 17, 2008) (hereinafter "Biermann").[3]

DISPOSITIVE ISSUE ON APPEAL

The dispositive issue for this appeal is whether Biermann discloses displaying a model component in an expanded component and a reduced line representation,[4] in accordance with claim 1.

ANALYSIS

Appellants argue Biermann only discloses displaying model components in either (i) an entirely expanded form or (ii) an entirely reduced form, but not in mixed form (e.g., an expanded component representation and a reduced line representation) in accordance with the claims. App. Br. 8–9 (citing Biermann Figs. 1–10).

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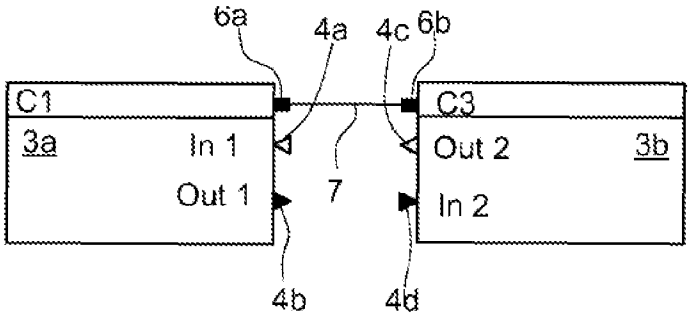
[2] The Examiner withdrew the § 112, second paragraph, rejection of claims 1–5, 7, and 9. Ans. 2.

[3] The Examiner also provisionally rejected claim 1 for obviousness-type double patenting over claim 1 of copending Application No. 13/957,463. No patent has issued yet from that copending Application, nor do Appellants present arguments addressing this provisional rejection. We find it is premature to address this provisional rejection. *See Ex parte Moncla*, 95 USPQ2d 1884, 1885 (BPAI 2010) (precedential).

[4] Appellants similarly argue Biermann fails to disclose displaying a model component in a reduced component representation and an expanded line representation. App. Br. 8–9. In light of our findings, we need not reach this argument.

For an expanded component and a reduced line representation, the individual ports of the model component are displayed and component association lines between connected model components are displayed while port association lines between individual ports are not shown. *See* App. Br. 8 (citing bottom half of Figs. 1 and 2); *see also* App. Br. 11 (reciting for claim 1 for this disputed representation that "the at least one port of the model component is displayed without any corresponding port association lines while the reduced port of the model component is displayed with a corresponding component association line"). This concept is illustrated in the bottom half of Appellants' Figure 1, reproduced below.



Appellants' Figure 1 illustrates an expanded component representation (i.e., component C1 showing its two ports 4a and 4b and component C2 showing its two ports 4c and 4d) and a reduced line representation (i.e., a component association line (from 6a to 6b) is shown connecting the components C1 and C2 while not showing which ports of the components C1 and C2 are connected (i.e., no port association lines between the ports 4a–4d are shown)). *See* Fig. 1.

Appellants argue Biermann does not disclose for a model component the expanded component and reduced line representation. *See* App. Br. 8–9; Reply Br. 2–4 (citing Biermann Fig. 1). Specifically, Appellants argue the

Examiner conflates port association lines (which connect individual ports) and component association lines (which connect reduced ports) — in Biermann's Figure 1 the line 11 connecting a port of the phase control component and a port of the PWM out component is a port association line connecting individual ports, and thus, fails to illustrate a reduced line representation.[5] *See id.*

> The Examiner finds Biermann's Figure 1:
>
> discloses an expanded component representation [(phase control block)] is connected to an expanded component representation [(PWM out block)] through a reduced line representation . . . represent[ing] an association line between I/O ports of the component representations while the rest of *associated lines* between the rest of the individual ports are not shown.

Ans. 4–5 (citing Biermann Fig. 1; ¶¶ 20, 23).

We are persuaded by Appellants' arguments. We find Biermann fails to disclose an expanded component and **a reduced line** representation. *See* Biermann Fig. 1. We agree with Appellants that the line connecting the Examiner cited I/O ports is a port association line between individual ports rather than a component association line between connected model components (i.e., at the reduced port). *See id.*; *see also* Appellants' Fig. 1 (showing a component association line). The claim language clearly (i) requires the use of a **component association line** for the reduced line representation and (ii) delineates between a **port association line**, which is

[5] Claim 1 recites "the reduced line representation includ[es] display of a component association line from a reduced port of the model component without display of any port association lines from the at least one port of the model component."

from an individual port of the model component, and a **component association line**, which is from a reduced port of the model component without display of any port association lines from the individual ports of the model component. *See* App. Br. 11 (claim 1).

Accordingly, we do not sustain the Examiner's rejection of claim 1, nor the remaining claims on appeal, each of which depend at least indirectly therefrom.[6]

DECISION

We reverse the Examiner's decision rejecting claims 1–5, 7, and 9.

REVERSED

[6] In the event of further prosecution, we leave it to the Examiner to consider for the claims on appeal whether a rejection under 35 U.S.C. §101 for failing to claim statutory subject matter is appropriate. Although the Board is authorized to reject claims under 37 C.F.R. § 41.50(b), no inference should be drawn when the Board elects not to do so. *See* MPEP § 1213.02.