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EXAMINER

ZHANG, FAN

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte YUKI KASAHARA

Appeal 2016-002049¹
Application 13/689,228
Technology Center 2600

Before JEAN R. HOMERE, ERIC B. CHEN, and MICHAEL J. ENGLE,
Administrative Patent Judges.

HOMERE, *Administrative Patent Judge.*

DECISION ON APPEAL

¹ Appellant identifies the real party in interest as PFU LIMITED. App.
Br. 1.

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1 and 4–12, which constitute all of the claims pending in this appeal. Claim 2 has been canceled. Claim 3 has been objected to as being dependent upon a rejected base claim, but would otherwise be allowable if rewritten in independent form to include the limitation of the base claim and any intervening claims. App. Br. 2. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Appellant's Invention

Appellant invented an overhead scanner device that captures two images of a document, each image including a point indicated on the document by the user such that the subsequent detection of the two points provided in the document specifies the boundary of a region to be cropped. Spec. 20:9–22:7, Figs. 1, 15.

Illustrative Claim

Independent claim 1 is illustrative and reads as follows:

Claim 1. An overhead scanner device comprising:
an imager placed above a document and configured to scan the document from above for reading an image of the document; and
a controller including:
an image acquiring unit that controls the imager to acquire the image of the document including at least an indicator provided by a user indicating directly one point on the document;
a specific-point detecting unit that detects two specific points each determined based on the distance from the gravity center of an indicator to the end of the indicator, from the image acquired by the imager; and

Appeal 2016-002049
Application 13/689,228

an image cropping unit that crops the image acquired by the imager into a rectangle with opposing corners at the two points detected by the specific-point detecting unit, wherein

the image acquiring unit controls the imager to acquire twice the image of the document to obtain two images of the document, each image including the indicator provided by the user, in response to an acquisition trigger, and

the specific-point detecting unit detects the two points, one of which is detected from one of the two images, another of which is detected from another one of two images.

Prior Art Relied Upon

Robbins	US 2006/0001650 A1	Jan. 5, 2006
Tossing	US 2010/0149211 A1	June 17, 2010
Saito	JP 7-162667 A	June 23, 1995
Fukushima	JP 2002-290702 A	Oct. 4, 2002
Morichika	JP 2004-363736 A	July 5, 2006
Tanaka	JP 2008-152622 A	July 3, 2008

Rejections on Appeal

Claims 1, 4, 5, 8, and 10–12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Saito, Tanaka, and Tossing.

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Saito, Tanaka, Tossing, and Fukushima.

Claim 7 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Saito, Tanaka, Tossing, and Robbins.

Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Saito, Tanaka, Tossing, and Morichika.

ANALYSIS

We consider Appellant's arguments *seriatim* as they are presented in the Appeal Brief, pages 6–31, and the Reply Brief, pages 5–9.² We have reviewed the Examiner's rejection in light of Appellant's arguments. We are unpersuaded by Appellant's contentions. Except as indicated herein below, we adopt as our own the findings and reasons set forth in the Examiner's Answer in response to Appellant's Appeal Brief, and in the Final Action. *See* Ans. 2–6, Final Act. 2–13. However, we highlight and address specific arguments and findings for emphasis as follows.

Appellant argues the proposed combination of Saito, Tanaka, and Tossing does not teach or suggest an image acquiring unit obtaining two images of a document, each image including an indicator provided by a user such that a detecting unit can detect the two points in the documents. App. Br. 9–12, Reply Br. 5–9. In particular, Appellant argues that Saito's

² Rather than reiterate the arguments of Appellant and the Examiner, we refer to the Appeal Brief (filed June 22, 2015), the Reply Brief (filed December 2, 2015), and the Answer (mailed October 2, 2015) for the respective details. We have considered in this decision only those arguments Appellant actually raised in the Briefs. Any other arguments Appellant could have made but chose not to make in the Briefs are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii).

disclosure of a scanning device capturing an image of a single document including two points simultaneously specified by a user defining a cropping region boundary, taken in combination with Tossing's disclosure of a touch panel having a document upon which a user specifies a first point, and subsequent second point does not teach the disputed limitations. App. Br. 11 (citing Tossing ¶¶ 2, 61–64, 77). Appellant submits the Examiner's conclusion that it "would not be difficult for a [person] skilled in the art to figure out that at least two images would be acquired to obtain the two boundary points specified at different time using one finger for defining boundary points" is merely speculative, and conclusory. *Id.* According to Appellant, because there is no structural connection between the cited references, the proposed combination of Saito with Tossing would not have been made without the benefit of hindsight, and is not supported by a rational underpinning. *Id.* at 11–12, Reply Br. 2. These arguments are not persuasive.

As correctly noted by the Examiner, and undisputed by Appellant, Saito discloses a scanning device for capturing an image of a document including two simultaneous markings thereby defining in the document a boundary region to be cropped upon detection. Ans. 3 (citing Saito Figs. 5, 6). As further correctly noted by the Examiner, Tossing discloses the user sequentially indicating on the document a first point, and a second point defining therein the cropping region boundary. *Id.* (citing Tossing Figs. 3a–c). We agree with the Examiner that Saito and Tossing are connected because they both pertain to the same problem of enabling a user to define

the boundary of a cropping region in an electronic document. *Id.* at 5. We further agree with the Examiner that Tossing’s disclosure of specifying the boundary points on the document consecutively would have justified the ordinarily skilled artisan modifying the use of Saito’s scanner to capture the boundary points sequentially on the document, as opposed to simultaneously. *Id.* at 3–5; Final Act. 3–4. Consequently, we agree with the Examiner that the proposed combination of Saito and Tossing would predictably result in the scanner capturing two images of the document, each image including a point such that the two points define the cropping region boundary in the document.

Regarding Appellant’s allegation of insufficient rationale for the proposed combination, the Supreme Court instructs that an obviousness analysis “need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007). As discussed above, we find Tossing’s disclosure of capturing the points sequentially in document and Saito’s disclosure of capturing the points using a scanner for subsequent detection of the cropping region are no more than a simple arrangement of old elements with each performing the same function it had been known to perform, yielding no more than one would expect from such an arrangement. *Id.* at 416. The ordinarily-skilled artisan, being “a person of ordinary creativity, not an automaton,” would be able to fit the teachings of Tossing and Saito together like pieces of a puzzle. *Id.* at 420–21.

Appeal 2016-002049
Application 13/689,228

Accordingly we do not agree with Appellant that the proposed combination is motivated by impermissible hindsight. Because Appellant has not demonstrated that the Examiner's proffered combination would have been "uniquely challenging or difficult for one of ordinary skill in the art," we agree with the Examiner that the proposed modification would have been within the purview of the ordinarily skilled artisan. *Leapfrog Enters., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007) (citing *KSR*, 550 U.S. at 418).

Accordingly, we are not persuaded of error in the Examiner's obviousness rejection of claim 1.

Regarding the rejection of claims 4–12, because Appellant has either not presented separate patentability arguments or have reiterated substantially the same arguments as those previously discussed for patentability of claim 1 above, claims 4–12 fall therewith. *See* 37 C.F.R. § 41.37(c)(1)(iv) (2013).

DECISION

We affirm the Examiner's obviousness rejection of claims 1 and 4–12.

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