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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DEVANG K. NAIK

Appeal 2016-006961[1]
Application 13/411,180[2]
Technology Center 2600

Before NORMAN H. BEAMER, ADAM J. PYONIN,
and MICHAEL J. ENGLE, *Administrative Patent Judges*.

BEAMER, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–20. Claims 21–40 are withdrawn. We have jurisdiction over the pending rejected claims under 35 U.S.C. § 6(b).

We AFFIRM-IN-PART.

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[1] An oral hearing was held February 6, 2018.

[2] Appellant identifies Apple Inc. as the real party in interest. (App. Br. 2.)

THE INVENTION

Appellant's disclosed and claimed inventions are directed to associating a name with a user-selection phonetic pronunciation. (Abstract.) Claim 1, reproduced below, is illustrative of the claimed subject matter:

> 1. A method comprising:
>
> at one or more processors:
>
> receiving a name;
>
> mapping the name to one or more sets of monosyllabic components that represent alternative phonetic pronunciations for at least a portion of the name, wherein monosyllabic components from the one or more sets of monosyllabic components are combinable to construct a phonetic pronunciation of the name;
>
> displaying the one or more sets of monosyllabic components;
>
> receiving a user selection of a monosyllabic component from each of the one or more sets of monosyllabic components; and
>
> combining the selected monosyllabic component from each of the one or more sets of monosyllabic components to construct the phonetic pronunciation of the name.

REJECTIONS

The Examiner rejected claims 1–5, 8–15, and 18–20 under 35 U.S.C. § 103(a) as being unpatentable over Wouters et al. (US 2009/0076819 A1, published Mar. 19, 2009) and Chu et al. (US 2007/0219777 A1, published Sept. 20, 2007). (Final Act. 3–6.)

The Examiner rejected claims 6–7 and 16–17 under 35 U.S.C. § 103(a) as being unpatentable over Wouters, Chu, and Feng et al. (US 2006/0025999 A1, published Feb. 2, 2006). Final Act. 7–8.)

ISSUES ON APPEAL

Appellant's arguments present the following issues:[3]

Issue One: Whether the Examiner erred in finding the combination of Wouters and Chu teaches or suggests all of the limitations of independent claims 1 and 11. (App. Br. 7–18.)

Issue Two: Whether the Examiner erred in finding the combination of Wouters and Chu teaches or suggests the additional limitation of dependent claims 5 and 15. (App. Br. 19–20.)

ANALYSIS

We have reviewed the Examiner's rejections in light of Appellant's arguments that the Examiner errs. Except with respect to claims 5 and 15, we disagree with Appellant's arguments, and we adopt as our own (1) the pertinent findings and reasons set forth by the Examiner in the Action from which this appeal is taken (Final Act. 3–6) and (2) the corresponding reasons set forth by the Examiner in the Examiner's Answer in response to

[3] Rather than reiterate the arguments of Appellant and the findings of the Examiner, we refer to the Appeal Brief (filed Nov. 19, 2015, hereinafter "App. Br."); the Reply Brief (filed July 5, 2016, hereinafter "Reply Br."); the Final Office Action (mailed Jan. 28, 2015, hereinafter "Final Act."); and the Examiner's Answer (mailed May 4, 2016, hereinafter "Ans.") for the respective details.

Appellant's Appeal Brief (Ans. 2–8). We concur with the applicable conclusions reached by the Examiner and emphasize the following.

Issue One

Appellant argues Wouters does not teach or suggest "mapping the name to one or more sets of monosyllabic components that represent alternative phonetic pronunciations," as required by claim 1, because "Wouter[s] merely discloses generating 'alternative unit sequences' that represent the ***same*** phonetic pronunciations, but with ***alternative prosodic properties***." (App. Br. 10.) Appellant relies on the distinction made in Wouters between phonetic pronunciations and prosodic properties such as pitch, duration, and stress. (App. Br. 11–12; Wouters ¶¶ 6–8.) In sum, Appellant asserts the Examiner construes the claims to "render[] the word 'phonetic' superfluous." (Reply Br. 14.)

However, the Examiner relies on a portion of the Specification which states:

> For speech synthesis, the phonetic alphabet is the one supported by the speech synthesizer used to render the spoken pronunciation. In one configuration, the synthesizer 206 and/or any one of the other components of FIG. 2 guesses the syllable stress when synthesizing a name based on a speech synthesis dictionary. The syllable stress may be derived from a set of rules that are specific to a language and/or locale. For example, the name "Obama" includes sound units "o", "bam", and "a." The first sound unit "o" may be stressed such that the name is pronounced "Ohh-bam-a." Alternatively, the last unit of the name may be stressed such that the name is pronounced "O-bam-Ahh." In certain configurations, the system 800 and/or 100 includes various sounds units that are stressed or not stressed. The various sound units may be presented to a user as alternative selectable components like, for example, the components illustrated in FIGS. 5-7. In some implementations,

> the system 800 may present various pronunciations to a user including pronunciations with stressed and unstressed sound units which a user may select.

(Spec. ¶ 74; Ans. 4.) This description of syllable stress is tantamount to the "lexical stress" of a syllable that Wouters refers to as a "prosodic property." (Wouters ¶ 6.) Thus, the Examiner relies on the Specification to conclude the claim phrase "phonetic pronunciations" broadly but reasonably encompasses variations in prosodic properties — specifically, "the limitation of '**alternative phonetic pronunciations**' can be properly read on sounds of speech including **articulation**, **stress**, and **intonation**, such as . . . disclosed by Wouters, in light of the specification (such as paragraph 74)." (Ans. 4.) We are not persuaded the Examiner errs, and do not agree that the Examiner's construction is meant to read out the word "phonetic" from the claims.[4]

Appellant also argues Wouters does not teach or suggest the required "monosyllabic components" of the claims. (App. Br. 12.) To the contrary, as the Examiner correctly finds (Final Act. 4), Wouters explicitly discloses use of monosyllabic components:

> The inventive solution can be refined by partitioning the alternative unit sequences into several subsets. Each subset is associated with a single ***syllable***, word, or other meaningful linguistic entity of the prompt to be optimised.

(Wouters ¶ 59 (emphasis added).)

> For example, realisations [sic] in a subset associated with a word can be grouped into a first set of realisations that modify

[4] Separately, we note claim 1 recites "one or more sets of monosyllabic components that represent alternative phonetic pronunciations for at least a portion of the name," and Wouters discloses displaying at least one set of linguistic descriptions. (*See* Wouters Fig. 5, ¶ 4).

> the first ***syllable*** in the word, a second set that modify the second ***syllable***, etc.

(Wouters ¶ 63 (emphasis added).)

Appellant further argues Wouters does not teach or suggest the required displaying or user selection of monosyllabic components — again relying on the above discussed argument that the components of Wouters on which the Examiner relies represent alternative prosodic properties rather than phonetic pronunciations. (App. Br. 14.) This argument is unpersuasive for the reasons discussed above.[5]

Appellant also argues Wouters does not teach or suggest the required combining of the selected monosyllabic components to construct the phonetic pronunciation, but rather the components relied on by the Examiner "are concatenated to alternative speech waveforms ***before*** the alternative speech waveforms are presented to an operating person for selection." (App. Br. 16.) Therefore, argues Appellant, "'concatenating' is not performed on

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[5] In the Reply Brief, Appellant alternatively argues Wouters does not display monosyllabic components, but rather, "[w]hat is displayed are ***labels*** — the descriptors of the alternative unit sequences." (Reply Br. 17.) This argument could have been raised in the opening brief and is therefore waived. *See In re Hyatt*, 211 F.3d 1367, 1373 (Fed. Cir. 2000) (noting that an argument not first raised in the brief to the Board is waived on appeal); *Ex parte Borden*, 93 USPQ2d 1473, 1477 (BPAI 2010) (informative) ("Properly interpreted, the Rules do not require the Board to take up a belated argument that has not been addressed by the Examiner, absent a showing of good cause."); *see also* 37 C.F.R. § 41.41(b)(2) ("Any argument raised in the reply brief which was not raised in the appeal brief, or is not responsive to an argument raised in the examiner's answer, . . . will not be considered by the Board for purposes of the present appeal, unless good cause is shown."). Moreover, we conclude that, in the context of the claims, displaying a label that identifies a particular sound component falls within a broad but reasonable construction of displaying that sound component.

'***[user] selected*** monosyllabic component,' as required by claim 1." (*Id.*) This argument is unpersuasive because the concatenation described in Wouters, on which Appellant relies, relates to the manner in which the individual sound components are formed, prior to being presented to the user for selection. (Wouters ¶¶ 53, 59.) The Examiner correctly relies on the separate disclosure in Wouters of the alternative syllable-oriented embodiment discussed above, in which the individual syllables of a word or phrase (after being formed via the concatenation that Appellant relies on) are separately displayed in the manner illustrated in Figure 5. (Final Act. 4; Ans. 5–6; Wouters Fig. 5, ¶¶ 59, 62, 63.) As at least suggested by the disclosure of Wouters, for each syllable, the user may select any one of the various prosodic pronunciations displayed, and upon completing that selection a waveform of the combined series of selected syllables is generated. (Wouters Figs. 4, 5, ¶¶ 54, 59, 62–65.) As stated in the Wouters Abstract, "[a]n input linguistic description is converted into a speech waveform." (*See also* Wouters ¶ 65: "After optimisation of a speech prompt, the result can be stored as a waveform and used for playback on a device of choice.")

In addition to the above arguments, Appellant asserts Wouters teaches away from the claimed invention, and modifying Wouters to satisfy the claim limitations would impermissibly change its principle of operation. (App. Br. 17–19.) However, these arguments are premised on the above-discussed arguments that the claimed "phonetic pronunciation" does not cover prosodic pronunciation, and that Wouters does not teach or suggest monosyllabic components, which arguments are unpersuasive for the reasons discussed above.

Accordingly, we sustain the Examiner's rejection of independent claims 1 and 11.

Issue Two

Claims 5 and 15 require "displaying a second portion of the one or more sets of monosyllabic components in response to a user selection of one of the first portion of the one or more sets of monosyllabic components." (App. Br. 22, 24.) In rejecting these claims, the Examiner relies on portions of Wouters disclosing displaying different components of words for user selection, and on the disclosure in Chu of "different 'n paths,'" in the context of linguistic analysis. (Final Act. 6; Wouters Figs. 4–5; Chu Fig. 5, ¶ 49.)

Appellant argues the Examiner errs because there is no teaching or suggestion in the references of displaying a second portion of monosyllabic components ***in response to*** selection of a first portion. (App. Br. 20.) We agree with Appellant — the Examiner does not cite to any pertinent disclosure in the references that teaches or suggests this aspect of the claims. Therefore, on the record before us, we are constrained to not sustain the Examiner's rejection of claims 5 and 15.

CONCLUSIONS

For the reasons stated above, we sustain the obviousness rejections of independent claims 1 and 11 over Wouters and Chu. We also sustain the obviousness rejections of claims 2–4, 8–10, 12–14, and 18–20 over Wouters and Chu, and of claims 6–7 and 16–17 over Wouters, Chu, and Feng, which rejections are not argued separately with particularity. (App. Br. 12, 15.)

Also for the reasons stated above, we reverse the obviousness rejections of claims 5 and 15 over Wouters and Chu.

DECISION

We affirm the Examiner's obviousness rejections of claims 1–4, 6–14, and 16–20.

We reverse the Examiner's obviousness rejections of claims 5 and 15.

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-IN-PART