UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/461,385	08/16/2014	Brant Candelore	201304958.01	9885

36738 7590 02/27/2018

ROGITZ & ASSOCIATES
4420 Hotel Circle Court
SUITE 230
SAN DIEGO, CA 92108

EXAMINER
ASANBAYEV, OLEG

ART UNIT	PAPER NUMBER
2423	

NOTIFICATION DATE	DELIVERY MODE
02/27/2018	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Noelle@rogitz.com
eofficeaction@appcoll.com
John@rogitz.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte BRANT CANDELORE

Appeal 2016-007680
Application 14/461,385[1]
Technology Center 2400

Before BRUCE R. WINSOR, IRVIN E. BRANCH, and ADAM J. PYONIN, *Administrative Patent Judges*.

PYONIN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–10, 12–15, and 18. *See* App. Br. 12–16; Final Act. 2. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

---

[1] Sony Corp., which is the applicant, is identified as the real party in interest. App. Br. 2; Bib. Data Sheet.

STATEMENT OF THE CASE

Introduction

The Application discloses "information is sent about each scene in a video" in order to "improve cognitive comprehension of plots in videos and thus assist not only people with cognitive issues but also inattentive people that have trouble following along with the plot." Abstract. Claims 1, 7, and 13 are independent. Claim 1 is reproduced below for reference (emphases added):

> 1. A device comprising:
>
> at least one computer memory that is not a transitory signal and that comprises instructions executable by at least one processor for:
>
> receiving content with plural scenes:
>
> receiving overall plot information pertaining to the content in its entirety;
>
> *for a current scene in the plural scenes, receiving first plot information relating only to the current scene*;
>
> for a second scene different from the current scene in the plural scenes, receiving second plot information relating to the second scene, the first plot information being different from the second plot information;
>
> responsive to receiving input of a first predetermined command during presentation of the current scene, presenting the overall plot information pertaining to the content in its entirety;
>
> responsive to receiving input of a second predetermined command during presentation of the current scene, *presenting the first plot information with the current scene*; and
>
> responsive to receiving input of the second predetermined command during presentation of the second scene, presenting the second plot information with the second scene

References and Rejections

The Examiner relies on the following references:

Haberman	US 2005/0228806 A1	Oct. 13, 2005
Franklin	US 2005/0278734 A1	Dec. 15, 2005
Hutter	US 7,020,889 B1	Mar. 28, 2006
Stathacopoulos	US 2015/0245101 A1	Aug. 27, 2015

The Examiner makes the following rejections:

R1: Claim 1 stands rejected under 35 U.S.C. § 112(a), as failing to comply with the written description requirement. App. Br. 2.

R2: Claims 1–3 stand rejected under 35 U.S.C. § 103 as being unpatentable over Franklin and Haberman. Final Act. 3.

R3: Claims 4–10, 12–15, and 18 stand rejected under 35 U.S.C. § 103 as being unpatentable over Franklin, Haberman, and Hutter. Final Act. 6–13.

R4: Claims 7 and 13 stand additionally[2] rejected under 35 U.S.C. § 103 as being unpatentable over Haberman and Stathacopoulos. Final Act. 13.

ANALYSIS

We have reviewed the Examiner's rejections in light of Appellants' arguments. Any arguments Appellant could have made but chose not to

[2] We note the MPEP provides the rejection should not "cite all references that may be available, but only the 'best.' (See 37 CFR 1.104(c).) Multiplying references, any one of which is as good as, but no better than, the others, adds to the burden and cost of prosecution and should therefore be avoided." MPEP § 904.03.

make in the Briefs[3] are deemed to be waived. *See Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential) ("[T]he Board will not, as a general matter, unilaterally review . . . uncontested aspects of the rejection.").

We are persuaded the Examiner errs in finding claim 1 does not comply with the written description requirement. We are not persuaded the Examiner errs in finding the claims are obvious in view of the cited references; we adopt the Examiner's findings and conclusions therein as our own, and we add the following primarily for emphasis.

A. Rejection R1: Written Description

Appellant argues the rejection includes "clear reversible error that 'receiving first plot information related ***only*** to the current scene' lacks written description," (App. Br. 4) because "the skilled artisan would have ample evidence in the specification to ***reasonably*** conclude that the inventor had possession of the claimed invention at the time the invention was filed" (App. Br. 6, quotations omitted). Appellant states, for example, the Specification "describes that 'for ***each different scene*** of content, if desired, plot information related ***to that respective scene*** can be presented on the display,'" which "means that Appellant clearly described that for each scene, plot information for that scene can be presented, unmistakably signaling to the skilled artisan that information related 'only' to each respective scene can be provided." App. Br. 4–5 (quoting Spec. 14).

[3] Separately, we note Appellant's Appeal Brief does not permit the direct reproduction of readily legible copies. *See* 37 C.F.R. 1.52(a)(1)(iv) and 37 C.F.R. 1.52(a)(1)(v). Appellants' Reply Brief does not display the same deficiencies.

We agree with Appellants that the Specification's disclosure of "plot information related to [each different] respective scene" constitutes the recited "plot information relating only to the current scene," because the current scene will be one of the each different scenes of the program. Accordingly, we are persuaded the Specification provides sufficient support for the limitations of claim 1. We do not sustain the Examiner's rejection of claim 1 for failing to comply with the written description requirement.

B. Rejection R2: Obviousness

Appellant argues the Examiner errs in finding Franklin and Haberman teach or suggest the limitations of claim 1, because Franklin "leads away from [c]laim 1 by precluding a user from receiving information pertaining to the current scene." Reply Br. 3. Particularly, Appellant contends the Examiner's claim construction, in which the Examiner finds "the claim permits the plot information to relate to prior scenes that happened up to the current scene" (as taught by Franklin), is contradicted by the claim language at issue, which "says the plot information relates only to the current scene." Reply Br. 4.

We are not persuaded the Examiner errs. During prosecution, claims are given their broadest reasonable interpretation, consistent with the Specification, as they would be understood by one of ordinary skill in the art. *In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1369 (Fed. Cir. 2004). Here, Appellant's Specification provides the following description of the claimed plot information:

> plot information 108 specific to the scene being shown, *as opposed to the entire program*, is presented.

> The plot information 108 may thus summarize events that have occurred in the program thus far (i.e., up to the current scene) but will not "spoil" the program by mentioning events that occur in later scenes. Thus, *the plot information 108 is not simply a generalized summary of the entire program but rather a specific clue pertaining to the scene being shown to help a viewer better follow what is unfolding in the program*. Also unlike a generalized summary of the entire program, which remains static throughout the program, the plot information 108 changes from one scene to the next during the program.

Spec. 14 (emphases added). Consistent with the Specification, we agree with the Examiner that the recited "plot information relating only to the current scene" reasonably comprises plot information that informs a viewer of the plot up to the current scene. *See* Ans. 9, 11. Such plot information is "relating only to" the current scene in that it provides a specific clue pertaining to the scene being shown to help a viewer better follow what is unfolding in the program.

Franklin, similar to the claimed device, "provides a synopsis/backdrop of the events that have occurred thus far in the program." Ans. 8; *see also* Franklin Fig. 5, ¶ 5. Thus, we are not persuaded the reference teaches away from the claim as Franklin does not lead in a divergent direction from the path taken by the Appellant. *See* App. Br. 7–8; Ans. 8–9; *see also Ricoh Co., Ltd. v. Quanta Computer, Inc.*, 550 F.3d 1325, 1332 (Fed. Cir. 2008) (citations omitted) ("A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant."). Nor are we persuaded the Examiner errs in finding Franklin reasonably teaches or suggests the disputed limitations. *See* Ans. 10; Franklin ¶¶ 28, 31–33.

Accordingly, we sustain the Examiner's rejection of independent claim 1.

C. Rejection R3: Obviousness

Appellant argues the Examiner errs in finding Franklin, Haberman, and Hutter teach or suggest the limitations of independent claims 7 and 13, because "these claims explicitly recite that the presented information is 'describing what is happening in a currently playing scene'" and thus the Examiner's rationale with respect to independent claim 1 cannot apply to claims 7 and 13. App. Br. 10–11.

Appellant's arguments are not responsive to the Examiner's findings, and thus are not persuasive of error. Particularly, Appellant overlooks that the Examiner finds Franklin's "description provided to the viewer does apply to the action in the currently playing scene because at least some of the time segments will be from the currently playing scene, based on the segments being divided by time as in Fig. 4." Ans. 13; *see also* Final Act. 10, 22. The Examiner's findings are reasonable, because Franklin discloses "divid[ing] the transcript into segments . . . . [which] can be arbitrary," and one "segment division could be time as shown in FIG. 4" whereas "[a]nother segment division could be based on the scenes in the program." Franklin ¶ 31. When Franklin's segments are based on time rather than scenes of the program, some scenes will overlap (i.e., be included in) two or more segments. Appellant does not challenge the Examiner's finding that Franklin's description of a prior segment, which includes a scene overlapping the current segment, will describe what is happening in the current (and overlapping) scene. *See* Ans. 13.

Appellant does not show the Examiner errs in finding Franklin teaches or suggests "describing what is happening in the currently playing scene," as recited in claim 7 or the limitations similarly recited by claim 13. Accordingly, we are not persuaded the Examiner errs in finding Franklin, in combination with the other cited references, teaches or suggests the limitations of claims 7 and 13.

D. Rejection R4: Obviousness

The Examiner additionally finds the combination of Haberman and Stathacopoulos teaches or suggests the limitations of independent claims 7 and 13. Appellant does not discuss or otherwise present arguments for this rejection. Accordingly, we summarily sustain the Examiner's rejection.[4] *Cf. Hyatt v. Dudas*, 551 F.3d 1307, 1313–14 (Fed. Cir. 2008) (The Board may treat arguments Appellant failed to make for a given ground of rejection as waived).

CONCLUSION

We do not sustain the Examiner's written description rejection of claim 1. We sustain the Examiner's obviousness rejections of independent claims 1, 7, and 13. Appellants advance no further argument on the

[4] We note the Examiner relies on Stathacopoulos for teaching "presenting on a display text describing what is happening in a currently playing scene." Final Act. 14; Stathacopoulos ¶¶ 25, 31. In the event of further prosecution, the Examiner may wish to consider whether Stathacopoulos, alone or in combination with other references, renders obvious the limitations of claim 1. Although the Board has discretion to enter a new ground of rejection for issues not before us (*see* 37 C.F.R. § 41.50(b)), no inference should be drawn when we decline to exercise that discretion.

dependent claims. Accordingly, we sustain the Examiner's rejections of these claims for the same reasons discussed above.

DECISION

The Examiner's decision rejecting claim 1 under 35 U.S.C. § 112(a) is reversed.

The Examiner's decision rejecting claims 1–10, 12–15, and 18 under 35 U.S.C. § 103 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)(1)(iv).

AFFIRMED