UNITED STATES PATENT AND TRADEMARK OFFICE

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13/563,108	07/31/2012	Mehmet Kivanc Ozonat	83013407	4910

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EXAMINER
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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Ex parte MEHMET KIVANC OZONAT and
CLAUDIO BARTOLINI

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Appeal 2017-002857
Application 13/563,108
Technology Center 2100

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Before JOSEPH L. DIXON, JOYCE CRAIG, and ALEX S. YAP,
Administrative Patent Judges.

DIXON, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants[1] appeal under 35 U.S.C. § 134(a) from the Examiner's
Final rejection of claims 1–15. We have jurisdiction under 35 U.S.C. § 6(b).
We AFFIRM.

The claims are directed to organizing content. Claim 1, reproduced
below, is illustrative of the claimed subject matter:

> 1. A computer-implemented method for organizing
> content comprising:
>
> building a customized content corpus for a user;
>
> building a concept graph customized for the user's
> context based on the customized corpus; and
>
> organizing, utilizing multi-view clustering, the
> content within the corpus based on the concept graph.

REFERENCES

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

Chen et al. "Chen"	US 2004/0220905 A1	Nov. 4, 2004
Larcheveque et al. "Larcheveque"	US 2011/0238408 A1	Sept. 29, 2011
Ozonat	US 2012/0102037 A1	Apr. 26, 2012

REJECTION

The Examiner made the following rejection:

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[1] Appellants identify Hewlett Packard Enterprise Development, LP, as the
real party in interest. App. Br. 3.

Claims 1–15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Larcheveque in view of Ozonat and Chen.

ANALYSIS

Claim 1

With respect to independent claim 1, Appellants contend "Larcheveque, Ozonat, and Chen do not teach or suggest, 'building a ***customized content corpus*** for a user; ***building a concept graph*** customized for the user's ***context*** based on the ***customized corpus,***' as recited by independent claim 1." (App Br. 6). Appellants paraphrase the paragraphs relied upon by the Examiner in the rejection and generally contend that a textual chat and matching a pattern to determine required conditions in order to change a user's credentials, as described by Larcheveque, does not teach or suggest the claimed "building a customized content corpus for a user; ***building a concept graph customized for the user's context based on the customized corpus.***" (App Br. 6, 7).

Appellants further contend that the Ozonat reference does not cure the deficiencies of the Larcheveque reference. (App. Br. 7). Appellants argue:

> [T]hat searching a hierarchical clustering of message threads, as described by Ozonat, does not teach or suggest, "building a customized content corpus for a user; ***building a concept graph customized for the user's context based on the customized corpus***" as recited by Appellants' independent claim 1, at least because searching a hierarchical message thread is ***not built based on a customized corpus.***

(App. Br. 8). Appellants further discuss paragraphs 38 and 39 (which the Examiner does not rely upon) and paragraph 7 of the Ozonat reference and generally contend that "Ozonat describes a hierarchical clustering of

3

message threads that can be searched. However, Ozonat is silent as to any organization **based on a concept graph**." (App Br. 8).

Finally, Appellants contend Chen does not cure the deficiencies of the combination of the Larcheveque and Ozonat references. (App Br. 8).

The Examiner addresses the three references and the combination in the statement of the rejection in the Final Office Action and in the response to arguments section in the Examiner's Answer. (Final Act. 2–9; Ans. 2–5).

We find Appellants do not identify any portion of the Specification or specific definitions which define or limit the context of Appellants' claimed invention. Moreover, Appellants do not file a Reply Brief to respond to the Examiner's clarifications.

Merely reciting the language of the claim is insufficient. *See* 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."). Merely alleging that the references fail to support an obviousness rejection is insufficient to persuade us of Examiner error. Attorney arguments and conclusory statements that are unsupported by factual evidence are entitled to little probative value. *In re Geisler*, 116 F.3d 1465, 1470 (Fed. Cir. 1997); *see also In re De Blauwe*, 736 F.2d 699, 705 (Fed. Cir. 1984); and *Ex parte Belinne*, No. 2009-004693, slip op. at 7-8 (BPAI Aug. 10, 2009) (informative), *available at* http://www.uspto.gov/web/offices/dcom/bpai/its/fd09004693.pdf.

Here, we find Appellants' arguments are conclusory in nature and fail to address the thrust of the Examiner's obviousness rejections.

"Argument in the brief does not take the place of evidence in the record." *In re Schulze*, 346 F.2d 600, 602 (CCPA 1965) (citing *In re Cole*, 326 F.2d 769, 773 (CCPA 1964)). This reasoning is applicable here.

On this record, we find Appellants have failed to present *substantive* arguments and supporting *evidence* persuasive of Examiner error. *Cf. In re 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."). Appellants have not shown error in the Examiner's conclusion of obviousness of independent claim 1 and dependent claims 2–8, not separately argued.

Claims 9 and 13

With respect to independent claims 9 and 13, Appellants repeat the language of claims 9 and 13 and rely upon the same reasoning set forth with respect to independent claim 1. *See* App. Br. 6–9. Appellants generally contend that the prior art does not teach or suggest the claimed invention. *See id.* Merely reciting the language of the claim is insufficient. *See* 37 C.F.R. § 41.37(c)(1)(iv). Here, we find Appellants' arguments are conclusory in nature and fail to address the thrust of the Examiner's obviousness rejections. On this record, we find Appellants have failed to present *substantive* arguments and supporting *evidence* persuasive of Examiner error in the obviousness rejection of independent claims 9 and 13 and dependent claims 10–12, 14, and 15, not separately argued.

CONCLUSION

The Examiner did not err in rejecting claims 1–15 based upon obviousness.

DECISION

For the above reasons, we sustain the Examiner's obviousness rejection of claims 1–15.

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