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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/193,912	02/28/2014	Minoru SATO	117153.02	9889
27049	7590	01/29/2019	EXAMINER	
OLIFF PLC P.O. BOX 320850 ALEXANDRIA, VA 22320-4850			NGUYEN, KEVIN M	
			ART UNIT	PAPER NUMBER
			2628	
			NOTIFICATION DATE	DELIVERY MODE
			01/29/2019	ELECTRONIC

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MINORU SATO, SHINJI KUBOTA, and TOMOHIRO NOMIZO

Appeal 2017-005042
Application 14/193,912
Technology Center 2600

Before JOSEPH L. DIXON, JOHN A. EVANS, and SCOTT B. HOWARD,
Administrative Patent Judges.

EVANS, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellants¹ seek our review under 35 U.S.C. § 134(a) from the Examiner’s final rejection of claims 1, 3, 4, and 6–29. App. Br. 1. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.²

¹ Appellants state the real party in interest is Seiko Epson Corporation. App. Br. 1.

² Rather than reiterate the arguments of Appellants and the Examiner, we refer to the Appeal Brief (filed November 7, 2016, “App. Br.”), the Reply Brief (filed February 3, 2017, “Reply Br.”), the Examiner’s Answer (mailed December 6, 2016, “Ans.”), the Final Action (mailed February 2, 2016, “Final Act.”), and the Specification (filed February 28, 2014, “Spec.”) for their respective details.

STATEMENT OF THE CASE

The claims relate to an imaging display system. *See* Abstract.

INVENTION

Claims 1, 3, and 4 are independent. App. Br. 1. An understanding of the invention can be derived from a reading of claim 1, which is reproduced below with some formatting added:

1. An image displaying device comprising:

a receiving unit that receives a first image data from a first terminal, and receives a second image data from a second terminal;

an image displaying unit that displays at least one image based on the first image data and the second image data received by the receiving unit, and

a mode switching unit that switches between a first mode and a second mode so that, in the first mode, the image displaying unit simultaneously displays a plurality of images based on the first image data and the second image data, and in the second mode, the image displaying unit displays only one image, the one image being based on the first image data, and a request to suspend transmission of the second image data is sent to the second terminal,

wherein the mode switching unit switches between the first mode and the second mode in response to an operation on at least one of the first terminal and the second terminal,

wherein the first terminal and the second terminal are connected to the receiving unit over a network during at least the second mode, and

wherein, in the first mode, the receiving unit sequentially receives the first image data and the second image data from the first terminal and the second terminal.

*References and Rejections*³

1. Claims 1, 3, and 4 stand rejected on the ground of nonstatutory double patenting as being unpatentable over claims 1, 3, 24, 29, and 30 of U.S. 8,698,702 (hereinafter “’702 patent”). Final Act. 4–7.

1. Claims 1, 3, and 4 stand rejected on the ground of nonstatutory double patenting as being unpatentable over claims 1, 3, and 4 of U.S. 7,420,527 (hereinafter “’527 patent”). Final Act. 7–12.

2. Claims 1, 3, 4, and 6–29 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Mizutome (US 2002/0078447 A1; June 20, 2002) and Matsumoto (US 6,473,088 B1; Oct. 29, 2002). Final Act. 13–23.

ANALYSIS

We have reviewed the rejections of claims 1, 3, 4, and 6–29 in light of Appellants’ arguments that the Examiner erred. We consider Appellants’ arguments *seriatim*, as they are presented in the Appeal Brief, pages 5–10.

CLAIMS 1, 3, AND 4: NON-STATUTORY, OBVIOUSNESS-TYPE
DOUBLE PATENTING.

The Examiner finds pending claims 1, 3, and 4 have been modified to become broader than the claims of the ’702 patent. Final Act. 4, 7. The Examiner finds pending claims 1, 3 and 4 have similarly been modified to become broader than the claims of the ’527 patent. *Id.* at 12.

³ The present Application was examined under the pre-AIA first to invent provisions.

Appellants contend the '702 and '527 patents pertain to a “sequential display mode” in which “the image displaying unit displays one image based on one of the first image data and the second image data.” App. Br. 10. Appellants argue that, in contrast, in the “first mode” of the pending claims, “the image displaying unit displays a plurality of images based on the first image data and the second image data.” *Id.* Appellants argue the claims of the '702 and '527 patents fail to teach the manner in which data is received during a mode such as the recited “first mode.” *Id.*

The Examiner’s Answer re-iterates the original findings that “the pending claims 1, 3 and 4 have been modified to become broader than the patent claims of Patent No. 8,698,702 and Patent No. 7,420,527.” Ans. 8.

The Examiner does not make a finding responsive to Appellants’ contention that the claims on appeal recite features not present in the claims of the '702 and '527 patents. In view of the foregoing, we decline to sustain the rejection of independent claims 1, 3, and 4.

CLAIMS 1, 3, 4, AND 6–29: OBVIOUSNESS OVER MIZUTOME AND MATSUMOTO.

Mode switching.

Independent claim 1 recites, *inter alia*, “wherein the mode switching unit switches between the first mode and the second mode in response to an operation on at least one of the first terminal and the second terminal.”

Independent claims 3 and 4 contain commensurate recitations.

The Examiner finds Mizutome teaches a TV system wherein remote control 125 is used to select between first and second display modes. Final Act. 15. The Examiner finds Mizutome teaches a first mode wherein the display device 114 simultaneously displays two images, e.g., a TV program

and an email homepage; and Mizutome teaches a second mode wherein only a single TV program is displayed on the full screen of the display. *Id.* The Examiner equates remote control 125 with at least one of the claimed terminals in view of Mizutome’s teaching the display switches between first and second modes in response to an operation on one of the TV channel button 201 and the internet button 207 on remote control 125. *Id.*

Appellants argue Mizutome’s remote control 125 does not send “image data” and, thus, cannot correspond to one of the claimed “terminals.” App. Br. 8.

The Examiner finds

Mizutome discloses “the selecting and the operating the television channel and the external device e.g. the internet in association with a proper operation screen, and it is controlled by the remote controller” to meet the claimed “the mode switching unit switches between the first mode and the second mode in response to an operation on at least one of the first terminal and the second terminal.”

Ans. 2–3. Without explicitly so stating, the Examiner finds the claimed “terminal” is broadly, but reasonably taught by Mizutome’s remote controller.

Claim 1 recites, *inter alia*, “a receiving unit that receives a first image data from a first terminal, and receives a second image data from a second terminal.” The Examiner fails to point to any disclosure in the prior art that teaches or suggests that a remote controller supplies image data. Thus we do not find the prior art teaches the claimed “terminal.”

The claimed image displaying system comprises a projector 30 and a plurality of PC computers 20, i.e., “terminals.” Fig. 1 (numeral 30). “The projector 30 acquires the image data which has been output from each computer PC 20.” Spec. 10. Contrary to the Examiner’s findings, the remote controller of Mizutome does not supply image data.

In view of the foregoing, we decline to sustain the rejection of claims 1, 3, 4, and 6–29 as obvious.

DECISION

The rejection of claims 1, 3, and 4 on the ground of nonstatutory double patenting is REVERSED.

The rejection of claims 1, 3, 4, and 6–29 under 35 U.S.C. § 103 is REVERSED.

REVERSED