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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte CHRIS CASILLI¹

Appeal 2017-005078
Application 13/890,797
Technology Center 2800

Before ROBERT E. NAPPI, ERIC S. FRAHM, and JOHN D. HAMANN,
Administrative Patent Judges.

NAPPI, *Administrative Patent Judge.*

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) of the Final Rejection of claims 1 through 6, 8 through 12, and 14 through 25.

We affirm.

INVENTION

The invention is directed to a method of using a mobile computing device to communicate with a building automation system. Abstract and paragraphs 12 through 14 of Appellant's Specification. Claim 1 is illustrative of the invention and is reproduced below:

¹ According to Appellant, the real party in interest is Siemens Industry Inc. App. Br. 1.

1. A device for modification of at least one parameter associated with a building automation system, comprising:
 - an input device;
 - a memory;
 - a display;
 - a processor coupled to the memory and the display;
 - a plurality of environmental parameters where at least one environmental parameter of the plurality of environmental parameters is associated with a graphical user interface displayable upon the display, where the at least one environmental parameter is modified by the graphical user interface via the input device; and
 - a code generated by the processor that encodes at least one of the plurality of environmental parameters in a machine perceivable code that is displayable and where at least one of the environmental parameters is associated with an energy efficiency visual feedback indicator that is displayed in the display.

REJECTIONS AT ISSUE

The Examiner has rejected claims 1 through 6, 9 through 12, and 15 under 35 U.S.C. § 103(a) as unpatentable over Seem (US 2008/0277486 A1, Nov. 13, 2008), James (US 2012/0130924 A1, May 24, 2012), and Fukasawa (US 2005/0011958 A1, Jan. 20, 2005). Final Act. 3–8.²

The Examiner has rejected claims 16, 17, 19 through 22, 24, and 25 under 35 U.S.C. § 103(a) as unpatentable over Seem and Fukasawa. Final Act. 8–11.

² Throughout this Opinion, we refer to the Appeal Brief, filed November 21, 2016 (“App. Br.”); the Reply Brief filed February 6, 2017 (Reply Br.); the Examiner’s Answer, mailed January 12, 2017 (“Answer”); the Final Office Action, mailed May 5, 2016 (“Final Act.”); and Appellant’s Specification filed May 9, 2013.

The Examiner has rejected claims 8 and 14 under 35 U.S.C. § 103(a) as unpatentable over Seem, James, Fukasawa, and Fadell (US 2014/0316581 A1, Oct. 23, 2014). Final Act. 11.

The Examiner has rejected claims 18 and 23 under 35 U.S.C. § 103(a) as unpatentable over Seem, Fukasawa, and Fadell. Final Act. 11–12.

ANALYSIS

We have reviewed Appellant’s arguments in the Briefs, the Examiner’s rejections, and the Examiner’s response to Appellant’s arguments. Appellant’s arguments have not persuaded us of error in the Examiner’s rejections of claims 1 through 6, 8 through 12, and 14 through 25 under 35 U.S.C. § 103(a).

With respect to the rejection of claims 1 through 6, 9 through 12, and 15 based upon Seem, James, and Fukasawa, Appellant argues that none of the cited references teach an energy efficiency visual feedback indicator. App. Br. 8. Appellant argues that Seem teaches an indication of temperature, which is not an indication of efficiency. App. Br. 8–9; Reply Br. 4. Further, Appellant argues that James teaches forecasting energy usage and not providing information on what is actually occurring as claimed. App. Br. 9.

The Examiner provides a detailed response identifying that the Specification does not define, nor use the term energy efficiency, does not describe how to calculate energy efficiency, and that the Specification merely describes the conservation indicator (claimed energy efficiency indicator) as something that changes color based upon user input of a temperature set point. Answer 2–3. The Examiner thus finds that

Fukasawa's teaching of a display of the temperature set point meets the claimed energy efficiency visual feedback indicator. Answer 3–4. Further, the Examiner finds that James display of energy usage also meets claimed energy efficiency visual feedback. App. Br. 4.

Appellant's arguments have not persuaded of error in the Examiner's rejection of claims 1 through 6, 9 through 12, and 15. Claim 1, which we select as representative, recites displaying an energy efficiency visual feedback indicator that is associated with an environmental parameter. As discussed by the Examiner, Appellant's Specification does not define the energy efficiency parameter or how the energy efficiency is calculated. We construe the term broadly and consider James' teaching of an indication of energy usage and costs in response to changing temperature settings to meet the claimed energy efficiency visual feedback indicator, as it is representative of the energy used based upon the setting. *See* James, paragraphs 74 and 75. Appellant's argument that James does not provide information of what is actual occurring, is not convincing as we do not find that the claim is limited in this manner. Because we concur with the Examiner that James teaches the claimed energy efficiency, we do not reach the Examiner's alternative finding that Seem also teaches the energy efficiency indicator. Accordingly, we are not persuaded of error in the rejection of representative claim 1 or claims 2 through 6, 9 through 12, and 15.

With regard to claims 16, 17, 19 through 22, 24, and 25, Appellant states, "Claims 16-17, 19-22, and 24-25 depend from allowable independent claims and are in condition for allowance." App. Br. 9. We are not persuaded of error by these arguments. Initially, we note that claims 16 and

21 are independent (not dependent as argued by Appellant) and the remainder of the claims discussed depend upon claims 16 or 21. Further, independent claim 16, which we select as representative, does not recite an energy efficiency indicator. As such, Appellant's arguments discussed above with respect to claim 1 are not applicable. Thus, Appellant has not identified an error in the rejection of representative claim 16 and we sustain the Examiner's rejection of claims 16, 17, 19 through 22, 24, and 25.

With respect to the rejections of claims 8, 14, 18, and 23, Appellant does not provide separate arguments for their patentability, nor does Appellant list these rejections (*see* App. Br. 7) as rejections to be reviewed on appeal. We summarily affirm these rejections.

DECISION

The decision of the Examiner to reject claims 1 through 6, 8 through 12, and 14 through 25 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). *See* 37 C.F.R. § 41.50(f).

AFFIRMED