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ynunez@millermatthiashull.com

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte RANJAN DASGUPTA and
JORGE LUIS SHIMABUKURO

Appeal 2017-008753
Application 14/546,012¹
Technology Center 2100

Before: CAROLYN D. THOMAS, CARL W. WHITEHEAD JR., and
PHILLIP A. BENNETT, *Administrative Patent Judges*.

BENNETT, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1–20, which constitute all the pending claims in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ Appellants' Brief ("Br.") identifies Scientific Games, Inc. as the real party in interest. Br. 3

CLAIMED SUBJECT MATTER

Appellants' claims are directed to electronic gaming machine systems which provide automated, downloadable operating system upgrades with a roll back² capability. Spec. ¶ 24. Claims 1, 13, and 17 are the independent claims, and they are reproduced below:

1. A method of installing a second operating system (OS) on an electronic gaming machine (EGM) already having a first OS installed, the method comprising:

automatically collecting via a processor from one or more nonvolatile sources associated with the EGM, a roll back data set associated with the first OS, and storing the collected roll back data set in a nonvolatile storage location associated with the EGM, the roll back data set comprising machine configuration data and one or more data structures;

downloading the second OS to the EGM over a network connection between the EGM and a server;

initiating installation of the second OS by the processor;

determining by the processor to roll the EGM back to the first OS;

automatically retrieving the stored roll back data set by the processor; and

automatically reverting the EGM to run the first OS based on the roll back data set.

Br. 12 (Claims Appendix).

13. An electronic gaming machine (EGM) that is configured to automatically change from using a first operating system (OS) to using a second OS, the EGM comprising:

one or more nonvolatile data sources associated with the EGM;

² We note the term "roll back" is often spelled "rollback" in the context of computing operations. Appellants' Specification uses both spellings. Appellants utilize both spellings in their Brief. Appellants' claims, however, uniformly recite "roll back," which we will utilize herein to maintain consistency with the language in the claims.

a network interface from the EGM to an OS server; and
a processor associated with computer-executable
instructions that cause:

collection of a roll back data set from the one or
more nonvolatile data sources;

storing of the collected roll back data set in a
nonvolatile memory location associated with the EGM;

downloading the second OS to the EGM from the
OS server;

initiating installation of the second OS, determining
to roll the EGM back to the first OS; and

automatically reverting the EGM to run the first OS
based on the roll back data set, the roll back data set
including machine configuration data and one or more
data structures associated with the first OS.

Br. 13 (Claims Appendix).

17. A method of installing a configuration on a first
electronic gaming machine (EGM) having existing configuration
data, the method comprising:

receiving at the first EGM from a second EGM, a roll back
data set comprising one or more data structures associated with
an operating system (OS) run by the second EGM; and

automatically reconfiguring the first EGM in accordance
with the roll back data set from the second EGM.

Br. 14 (Claims Appendix).

REFERENCES

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

Morrow	US 2005/0044401 A1	Feb. 24, 2005
Walker	US 2006/0258422 A1	Nov. 16, 2006
Huomo	US 2007/0155505 A1	July 5, 2007
Sylla	US 2008/0318658 A1	Dec. 25, 2008
Bytnar	US 2010/0298043 A1	Nov. 25, 2010

Chen	US 7,966,485 B2	June 21, 2011
Quan	US 2014/0162793 A1	June 12, 2014

REJECTIONS

Claims 1–6 and 11–14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bytnar and Sylla. Final Act. 2–8.

Claims 7 and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bytnar, Sylla, and Chen. Final Act. 8–10.

Claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Bytnar, Sylla, and Huomo. Final Act. 10.

Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Bytnar, Sylla, and Walker. Final Act 11.

Claims 10 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bytnar, Sylla, and Morrow. Final Act. 11–12.

Claims 17–20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Quan and Bytnar. Final Act. 12–15.

ISSUES

First Issue: In rejecting independent claims 1 and 13, has the Examiner erred in finding Bytnar teaches or suggests roll back of an operating system?

Second Issue: Has the Examiner erred in finding the combination of Bytnar, Sylla, and Chen teach or suggest “wherein the trigger event includes expiration of a periodic timer,” as recited in dependent claims 7 and 15?

Third Issue: Has the Examiner erred in finding Quan and Bytnar teach or suggest “a roll back data set comprising one or more data structures

associated with an operating system (OS),” as recited in independent claim 17?

ANALYSIS

We have reviewed the Examiner’s rejections in light of Appellants’ arguments set forth in the Appeal Brief.³ We are not persuaded of error by Appellants’ arguments. *See Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential). We adopt as our own (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken (Final Act. 2–17) and (2) the findings, reasons, and explanations set forth by the Examiner in the Examiner’s Answer in response to Appellants’ Brief (Ans. 2–21) and concur with the conclusions reached by the Examiner. We highlight the following for emphasis.

First Issue

Appellants contend the Examiner erred in finding Bytnar teaches rolling back the operating system in an electronic gaming machine. Br. 6. More specifically, Appellants argue Bytnar teaches only the use of roll back after an operating system is successfully initiated. *Id.* According to Appellants, because snapshots in Bytnar are only taken of an operating system after it has been initiated, it is not possible for Bytnar’s system to roll back to a previous version of the operating system. Br. 6–7. We disagree.

Appellants’ argument focuses on a narrow aspect of Bytnar’s disclosure, and does not address the entirety of its teachings. Appellants are correct that in one embodiment Bytnar teaches snapshotting an already installed operating system in order to preserve a safe state revert to a prior state. Br. 6 (citing Bytnar ¶ 51). However, Bytnar teaches other, more

³ No reply brief was filed.

pertinent embodiments which Appellants' arguments fail to address. Bytnar teaches an electronic gaming machine "which may store wagering game software 132." Bytnar ¶ 16. Bytnar further teaches "wagering game software 132 may include . . . operating system files and other software associated with a wagering game or the operation of a wagering game machine." *Id.* Thus, Bytnar teaches the software on the wagering game machine includes the operating system of the device. Bytnar also teaches "[a] snapshot event may occur when software is upgraded or modified," and that in those situations "the upgrade event may cause two snapshots to be taken, a first snapshot just prior to the upgrade, and a second snapshot after the upgrade has been successfully completed." Bytnar ¶ 52.

Despite Appellants' assertions to the contrary, Bytnar teaches taking a snapshot of the system software *prior to an upgrade of that same system software*, and that the "[t]he snapshot may include . . . operating system software." Bytnar ¶ 56. Bytnar also teaches that the snapshot of the operating system software may be used to roll back to the previous version after an upgrade. *Id.* ("The rollback event may be automatically generated, for example, in response to a hardware failure or an upgrade failure.") Accordingly, we are not persuaded the Examiner erred in finding Bytnar teaches or suggests roll back of an operating system, and we sustain the rejections of independent claims 1 and 13.

Second Issue

Appellants argue separately for patentability of dependent claims 7 and 15. Claim 7 recites the limitation "wherein the trigger event includes expiration of a periodic timer." Br. 12–13 (Claims Appendix). Claim 15 recites the limitation "wherein the trigger event includes one or more of

expiration of a periodic timer [and other recited events].” Br. 14 (Claims Appendix).⁴

In rejecting these claims over the prior art, the Examiner finds Chen teaches that it was known for trigger events to occur upon the expiration of a periodic timer. Final Act. 8 (citing Chen col. 12, ll. 28–34). The Examiner concludes it would have been obvious to a person of ordinary skill in the art to incorporate the periodic timer of Chen into the teachings of Bytnar and Sylla as a software failure detection mechanism. *Id.*

Appellants contend the Examiner erred because Chen teaches only the use of a periodic timer to detect software faults, but not for the purpose of collecting rollback data. Br. 8. We are not persuaded by this argument because it does not address the findings made by the Examiner. As the Examiner explains, Chen is not relied upon to show “collecting the roll back data set upon the occurrence of a trigger event.” Rather, Bytnar teaches this limitation. Ans. 19 (citing Bytnar ¶ 32). Appellants do not dispute this finding. The Examiner relies on Chen only to show that it was known to use the expiration of a periodic timer as a trigger event. We agree with the Examiner’s finding. *See* Chen col. 12, ll. 28–34. Accordingly, we are not persuaded the Examiner has erred in rejecting dependent claims 7 and 15.

Third Issue

Appellants also argue the Examiner erred in rejecting independent claim 17, which recites a “method of installing a configuration on a first electronic gaming machine (EGM) having existing configuration data.” The

⁴ Because the Examiner finds the prior art shows the recited “periodic timer” of claim 15 we need not and do not address whether the prior art teaches or suggests the other recited trigger events.

Examiner rejects claim 17 over the combined teachings of Quan and Bytnar. Claim 17 differs slightly in scope from the other independent claims in that it recites receiving “a roll back data set comprising one or more data structures associated with an operating system (OS)” run by a second EGM. Appellants argue the Examiner erred because Quan teaches only the concept of restoring application state across devices. Br. 9. Appellants further argue “‘application state’ is not *OS* state nor does it reflect *OS* data,” and the Examiner is improperly “assuming that Quan’s rollback data *includes* OS data structures.” *Id.*

Appellants’ arguments are not persuasive because they are not commensurate with the broad scope of the argued limitation. Claim 17 recites the use of a roll back data “comprising one or more data structures *associated with* an operating system (OS).” Br. 14 (Claims Appendix). Thus, under the language of claim 17, the recited “one or more data structures” need only be “associated with” an operating system to fall within the scope of the claim. Appellants’ argument presupposes that the recited data structures must form the operating system itself. However, the broad language emphasized by Appellants does not impose this requirement. Rather, the claim requires only that the data structures be associated with the operating system.

We agree with the Examiner that the application state data in Quan discloses “one or more data structures associated with an operating system” because “[b]ased on the application state data, an operating system of another electronic device can recreate the same environment and status of the application on the other electronic device.” As such, Quan’s the data structures forming Quan’s application state data are at least “associated

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with,” the operating system under which they are run. Accordingly, we are not persuaded the Examiner has erred in finding Quan teaches or suggests the recited “a roll back data set comprising one or more data structures associated with an operating system (OS),” and we sustain the rejection of claim 17.

Remaining Claims

Appellants present no separate argument for the remaining claims. As such, these claims fall along with their respective independent claims.

DECISION

We affirm the Examiner’s rejection of claims 1–20.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED