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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/145,236	12/31/2013	Gary Kacmarcik	0058-691001	7142
104433	7590	02/01/2019	EXAMINER	
Byrne Poh LLP/Google LLC 11 Broadway Ste 760 New York, NY 10004			CHEN, YU	
			ART UNIT	PAPER NUMBER
			2613	
			NOTIFICATION DATE	DELIVERY MODE
			02/01/2019	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte GARY KACMARCIC, JAMES WEATHERALL,
STEPHEN JOHN KONIG, ALEX PAKHUNOV,
and SERGEY YUREVICH ULANOV

Appeal 2017-010376
Application 14/145,236
Technology Center 2600

Before ALLEN R MacDONALD, KARA L. SZPONDOWSKI, and
DAVID J. CUTITTA II, *Administrative Patent Judges*.

SZPONDOWSKI, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–7, 9, 10, 12–22, and 24–26, constituting all claims pending in the current application. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

STATEMENT OF THE CASE

Appellants' invention is directed to displaying a program window of a cloud-based or network-based application running in the cloud on a personal computing device. Spec. ¶ 2. Claim 1, reproduced below with the disputed limitations in *italics*, is illustrative of the claimed subject matter:

1. A method, comprising:

receiving, on a local computing device, a video stream including a remote desktop including an open cloud-application window corresponding to a network-hosted application, the remote desktop encoded as image frames in a video stream;

decoding the image frames in the video stream of the remote desktop;

displaying the remote desktop on a local desktop of the local computing device so that:

at least a portion of a natively-operating application on the local desktop is visible through a transparent portion of the remote desktop, wherein the natively-operating application is executing natively on the local computing device, and

the open cloud-application window has an appearance of the natively-operating application;

detecting, at a location within the transparent portion of the remote desktop, a user-input action directed to the natively-operating application; and

passing the user-input action through the transparent portion of the remote desktop to the natively-operating application.

REJECTIONS

Claims 1–7, 9, 10, 12–22, and 24–26 stand rejected under 35 U.S.C. § 103 as being unpatentable over the combination of Schmieder et al. (US 2015/0121243 A1; published Apr. 30, 2015 (“Schmieder”)) and CertifiedCIO (YOUTUBE, *Windows Server 2012 RemoteApp on Windows 7 Walk-through*, <https://www.youtube.com/watch?v=vNSiQnRmo3Y> (last visited Jan. 18, 2019) (“CertifiedCIO”)).

ANALYSIS

Issue: Did the Examiner err in finding the combination of Schmieder and CertifiedCIO teaches or suggests “detecting, at a location within the transparent portion of the remote desktop, a user-input action directed to the natively-operating application” and “passing the user-input action through the transparent portion of the remote desktop to the natively-operating application,” as recited in independent claim 1 and commensurately recited in independent claims 10 and 16.

The Examiner relies on the combination of Schmieder and CertifiedCIO to teach or suggest the disputed limitations. Final Act. 8–11; Ans. 2–12. Specifically, the Examiner finds that although Schmieder does not explicitly teach the disputed limitations, Schmieder discloses that “item 117B shown in background [of Figure 1B] is on the transparent portion of the remote desktop,” and “one of ordinary skill in the art can expect this local application (item 117B) to accept user-input action.” Final Act. 9. The Examiner relies upon Schmieder’s disclosure that ““anything that is not rendered by the window itself will end up being transparent on the client.”” Final Act. 9 (citing Schmieder ¶ 46); *see also* Ans. 2–3. The Examiner finds

“CertifiedCIO discloses a mouse click action is passing through a transparent area, directed to the local application window and bring[ing] the local application window to the front.” Ans. 3; *see also* Final Act. 9–10. The Examiner finds “the mouse click action of CertifiedCIO is toward a transparent portion of surface as described in Schmieder.” Ans. 5; *see also* Ans. 11. As to the combination of the two references, the Examiner finds it was “well known that a user could click on different windows area and select a particular window.” Ans. 6; *see also* Ans. 10. The Examiner further finds “[t]he suggestion/motivation would have been in order to have a seamless integration of the remote application program with the desktop of the local computer.” Final Act. 11 (citing Schmieder ¶ 18). The Examiner further finds “these two arts are combined and in fact easily understood by one of ordinary skill in the art that these two features are in Microsoft RemoteApp product.” Ans. 5–6.

Appellants contend the Examiner improperly finds Schmieder’s local application window box 117B in Figure 1B is on a transparent portion of the remote desktop so that the local application may accept user-input action. App. Br. 8. According to Appellants, although Schmieder discloses that the surface onto which a remote application window box is rendered ““may also include a padding of a particular size”” and “this padding may be transparent,” “. . . nowhere does the Final Office Action provide a passage of Schmieder that teaches detecting any user-input actions within this padding that are directed to a natively-operating application.” App. Br. 8–9 (citing Schmieder ¶¶ 27, 42, 43, 46). Appellants further argue “[n]owhere does Schmieder teach or suggest passing, for example, a mouse click through the padding (i.e., the narrow shaded area on top of the remote application

window box 117A) to the local application window box 117B.” App. Br. 11. Likewise, Appellants argue CertifiedCIO does not “make any mention of a transparent region of a remote desktop” or “any transparent portion of a remote desktop in which a mouse click may be detected.” App. Br. 13; *see also* App. Br. 14. Appellants further argue the Examiner’s reasoning is based on improper hindsight in that “Schmieder provides no motivation to use the padding as asserted in the Final Office Action” because “the purpose of the padding in Schmieder is entirely different” in that it “assists with caching, but also allows the compression of data with algorithms and facilities that requires a specific alignment for encoding and decoding” and “enables the rendered window to be resized . . . without requiring the surface to be destroyed, recreated and transmitted to the client computing device.” App. Br. 10 (citing Schmieder ¶ 57); *see also* App. Br. 11–12.

We are persuaded by Appellants’ arguments. Schmieder describes rendering a remote application window having transparency characteristics, such as the border of the window is transparent or semi-transparent. Schmieder ¶¶ 18, 23, 44, Fig. 1B. Schmieder describes “anything that is not rendered by the window itself will end up being transparent on the client.” Schmieder ¶ 46. Therefore, Schmieder teaches a transparent border area of a remote application window. However, we agree with Appellants that Schmieder does not describe a user input action on that transparent border area. *See also* Ans. 7 (“Schmieder does not explicitly teach a user input.”).

CertifiedCIO is a video walk-through of Windows Server 2012 RemoteApp on Windows 7. The Examiner relies on CertifiedCIO’s video from 8:42 to 8:45, which depicts a remote application window in the

foreground on the left side of the display and a local application window in the background on the right side of the display. Ans. 7. The mouse clicks on the local application window, bringing it to the forefront. Therefore, CertifiedCIO teaches a user input on a local application window. However, although the Examiner finds “CertifiedCIO discloses a mouse click action is passing through a transparent area,” (Ans. 3; Final Act. 9–10), we do not see, and the Examiner does not explain, where CertifiedCIO discloses that the *mouse click action is passing through a transparent area* of the remote application window. Rather, the evidence of record shows CertifiedCIO merely discloses a user input on a local application window to bring it to the forefront.

Considering the combination of the two references, we find the Examiner’s rationale for combining the references deficient and unclear. Although the Examiner relies in part on both references mentioning the RemoteApp product (Ans. 11) and the RemoteApp product teaching the two disputed limitations (Ans. 5–6) (and indeed, CertifiedCIO is a walkthrough of the RemoteApp product), as noted above, the evidence of record does not show that the RemoteApp product teaches the mouse click action is detected on and passed through a transparent area of the remote application window, as claimed.

Moreover, the Examiner’s finding that one of ordinary skill in the art would have been motivated “in order to have a seamless integration of the remote application program with the desktop of the local computer” does not sufficiently explain why one of ordinary skill in the art would have combined Schmieder’s transparent border with CertifiedCIO’s user input. *See KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007) (Stating that

“[r]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness” (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)). Although we appreciate that the individual findings relied upon from *Schmieder* and *CertifiedCIO* appear to teach a remote application window with a transparent border characteristics, and a user input on a local application window, respectively, we note that a claim “composed of several [features] is not proved obvious merely by demonstrating that each [feature] was, independently, known in the prior art.” *KSR*, 550 U.S. at 418. Rather, a sustainable obviousness rejection further needs to explain the reasoning by which those findings support the Examiner’s conclusion of obviousness. *Perfect Web Techs., Inc. v. InfoUSA, Inc.*, 587 F.3d 1324, 1328–30 (Fed. Cir. 2009). In this case, the rejection fails to meet this required standard.

Accordingly, on this record, we do not sustain the Examiner’s 35 U.S.C. § 103 rejection of independent claims 1, 10, and 16, and for the same reasons, dependent claims 2–7, 9, 12–15, 17–22, and 24–26.

DECISION

We reverse the Examiner’s 35 U.S.C. § 103(a) rejection of claims 1–7, 9, 10, 12–22, and 24–26.

REVERSED