



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/922,932	06/20/2013	Yen-Fu Chen	4218.103US2	8001

144407                      7590                      11/28/2018  
Schwegman Lundberg & Woessner / SNAP, Inc.  
P.O. Box 2938  
Minneapolis, MN 55402

EXAMINER
----------

LONG, ANDREA NATAE

ART UNIT	PAPER NUMBER
2175	

2175

NOTIFICATION DATE	DELIVERY MODE
11/28/2018	ELECTRONIC

11/28/2018

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspto@slwip.com  
slw@blackhillsip.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

*Ex parte* YEN-FU CHEN, FABIAN F. MORGAN,  
and KEITH R. WALKER

---

Appeal 2017-011840<sup>1</sup>  
Application 13/922,932  
Technology Center 2100

---

Before JEAN R. HOMERE, JON M. JURGOVAN, and  
AARON W. MOORE, *Administrative Patent Judges*.

HOMERE, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's Non-Final Rejection of claims 1–17, 19, and 20. App. Br. 1. Claim 18 has been canceled. Claims App'x. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

---

<sup>1</sup> Appellants identify the real party in interest as Snapchat, Inc. App. Br. 2.

*Introduction*

Appellants' claimed subject matter is directed to a method and system for displaying an archived version of a webpage in lieu of a current version thereof. Spec. ¶ 1. In particular, in response to a user request (104), a server (112) displays a first version of a web page in a browser (107) and provides the user (104) the option of archiving a user selected portion of the displayed content of the webpage along with the network address thereof. Spec. ¶ 11. Upon receiving a subsequent request from the user to open the webpage, the server downloads a second content of the webpage, which it compares with the archived version thereof to provide the user the option of displaying either the archived version or the current version if the two versions are different from each other. *Id.*

*Illustrative Claim*

Independent claim 1 is representative, and reads as follows:

A method for displaying archived web page content, the method comprising:

in response to a first instruction to open a web page at a network address, downloading a first content of the web page from a server at the network address;

causing display of the first content of the web page in a browser;

in response to a user input, providing, in the browser, a selectable feature for archiving one or more user-selected portions of the first content of the web page;

storing the network address of the web page and a copy of the one or more user-selected portions of the first content on a client device;

in response to receiving a second instruction to open the web page at the network address, downloading a second content of the web page from the server at the network address;

determining whether the second content of the web page is different than the first content of the web page; and responsive to determining that the second content is not different than the first content, causing display of the second content.

*Prior Art Relied Upon*

Kikinis	US 5,794,259	Aug. 11, 1998
Kelley	US 6,405,223 B1	June 11, 2002
McBrearty	US 2003/0101234 A1	May 29, 2003
Paxton	US 2004/0034647 A1	Feb. 19, 2004
Gaudette	US 6,981,225 B1	Dec. 27, 2005
Marcjan	US 2006/0230055 A1	Oct. 12, 2006

*Rejections on Appeal<sup>2</sup>*

The Examiner rejects the claims on appeal as follows:

Claims 19 and 20 stand rejected under 35 U.S.C. § 101 as being directed to patent ineligible subject matter. Non-Final Act. 3.

Claims 1, 2, 4, 5, 7, 12–17, and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of McBrearty, Marcjan, and Gaudette. *Id.* at 4–8.

Claims 3 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of McBrearty, Marcjan, Gaudette, and Kikinis. *Id.* at 9.

---

<sup>2</sup> Because the Examiner indicates that the double patenting rejection of the pending claims is maintained, but will be held in abeyance as per Appellants' request, this rejection is not before us for review. Non-Final Act. 2.

Claims 6 and 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of McBrearty, Marcjan, Gaudette, and Kelley. *Id.* at 9–11.

Claims 9–11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of McBrearty, Marcjan, Gaudette, and Paxton. *Id.* at 11–13.

### ANALYSIS

We consider Appellants’ arguments *seriatim* as they are presented in the Appeal Brief, pages 14–29, and the Reply Brief, pages 2–8.<sup>3</sup> We have reviewed the Examiner’s rejection in light of Appellants’ arguments. We are unpersuaded by Appellants’ contentions. We adopt as our own the findings and reasons set forth in the Non-Final Action and the Examiner’s Answer in response to Appellants’ Appeal Brief. *See* Non-Final Act. 2–15; Ans. 2–20. However, we highlight and address specific arguments and findings for emphasis as follows.

---

<sup>3</sup> Rather than reiterate the arguments of Appellants and the Examiner, we refer to the Appeal Brief (filed April 6, 2017) (“App. Br.”), the Reply Brief (filed September 27, 2017) (“Reply Br.”), the Answer (mailed July 27, 2017) (“Ans.”), and the Non-Final Action (mailed October 4, 2016) (“Non-Final Act.”) for the respective details. We have considered in this decision only those arguments Appellants actually raised in the Briefs. Any other arguments Appellants could have made but chose not to make in the Briefs are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(iv) (2012).

*Patent Ineligibility Rejection*

Dispositive Issue 1: Under 35 U.S.C. § 101, did the Examiner err in concluding that the computer-readable storage device recited in claims 19 and 20 is directed to patent ineligible subject matter?

Appellants argue the Examiner erred concluding that “computer-readable storage device,” as recited in claim 19, implicates a signal bearing medium because the Specification does not define the cited terms to exclude transitory media. App. Br. 13. According to Appellants, the Examiner misstates the law as no such explicit exclusion is required, and the Examiner has failed to construe the cited terms under the broadest reasonable interpretation consistent with the Specification. *Id.* (citing *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005)). Instead, Appellants submit that one of ordinary skill in the art would interpret “storage device” under its plain and ordinary meaning consistent with the Specification as being directed to “an apparatus for recording computer data in permanent or semi-permanent form,” and thereby does not encompass a signal per se. *Id.* at 13–14, Reply Br. 3 (citing Microsoft Computer Dictionary 5th ed., at 499). Appellants contend that the Specification makes a clear distinction between information conveyed to a computer via a communication medium and storage devices. *Id.* at 14 (citing Spec. ¶ 56).

These arguments are not persuasive. As an initial matter, we note paragraph 56 of the Specification makes no such distinction. Although the cited portion of the Specification discusses various signal-bearing media including computer-readable storage media, it is silent regarding “computer-readable storage devices.” Further, we note that while Appellants rely upon extrinsic evidence to proffer a definition for “storage device,” Appellants

have not done so for the disputed term in question, “computer-readable storage device.” As correctly noted by the Examiner, because the record before us is devoid of an expressed definition for “computer-readable storage device” that excludes transitory media, the cited term should be construed under the broadest reasonable interpretation to encompass transitory media, which is not patent eligible. Ans. 13–14 (citing *Ex parte Mewherter*, 107 USPQ2d 1857 (PTAB 2013) (precedential)). That is, although the claimed “computer-readable storage device” may implicate a physical or tangible medium, as argued by Appellants, it is not limited to such medium only.<sup>4</sup> Accordingly, we sustain the patent ineligible subject matter rejection of claims 19 and 20.

#### *Obviousness Rejections*

Dispositive Issue 2: Under 35 U.S.C. § 103, did the Examiner err in finding the combination of McBrearty, Marcjan, and Gaudette teaches or suggests “*in response to a user input, providing, in the browser, a selectable*

---

<sup>4</sup> Guidance on this point is provided in David J. Kappos, *Subject Matter Eligibility of Computer Readable Media*, 1351 Off. Gaz. Pat. & Trademark Office 212 (Feb. 23, 2010) (“A claim drawn to such a computer readable medium that covers both transitory and non-transitory embodiments may be amended to narrow the claim to cover only statutory embodiments to avoid a rejection under 35 U.S.C. § 101 by adding the limitation ‘non-transitory’ to the claim.”). See also U.S. Patent & Trademark Office, *Evaluating Subject Matter Eligibility Under 35 USC § 101: August 2012 Update*, 12–14, available at [http://www.uspto.gov/patents/law/exam/101\\_training\\_aug2012.pdf](http://www.uspto.gov/patents/law/exam/101_training_aug2012.pdf) (noting that while the recitation “non-transitory” is a viable option for overcoming the presumption that those media encompass signals or carrier waves, merely indicating that such media are “physical” or “tangible” will not overcome such presumption).

*feature for archiving one or more user-selected portions of the first content of the web page,”* as recited in claim 1?

Appellants argue the proposed combination of references does not teach or suggest the disputed limitations emphasized above. App. Br. 19–24; Reply Br. 3–6. In particular, Appellants argue the Examiner’s finding that McBrearty’s disclosure of identifying whether an entire page is in the cache so the user can decide to load “designated portions” thereof as teaching “identifying *portions* that are cached or ‘fresh’” is a misstatement of McBrearty’s teaching. App. Br. 19 (emphasis added).

This argument is not persuasive. At the outset, we note the disputed limitation “*one or more* user-selected portions,” includes, under the broadest reasonable interpretation, a single portion of the webpage as well as the entire webpage. We further note that because the webpage includes a plurality of portions, identifying whether the webpage is in the cache teaches identifying at least portions thereof. Importantly, we agree with the Examiner that McBrearty’s disclosure of determining whether “the entire web page” is cached teaches archiving one or more portions of the webpage. Ans. 14–15.

Further, Appellants argue that Marcjan’s disclosure of communicating a user-selected portion of a document to a web crawler does not teach storing the selected content in a local cache. App. Br. 19–20. Furthermore, Appellants argue the proposed combination of McBrearty with Marcjan is illusory because “McBrearty already includes the functionality of allowing a user to select a portion of a web page and either load the cached version or the fresh version.” *Id.* at 20. According to Appellants, “[a]ttempting to add functionality that already exists in a reference (i.e., the ability to select a

portion of the web page) does not have ‘rational underpinnings’ to support the conclusion it would be obvious to combine the references.” *Id.* at 21.

These argument are not persuasive. Appellants’ arguments are tantamount to an individual attack against the references. One cannot show non-obviousness by attacking the references individually where the rejections are based on combinations of references. *In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986); *see also In re Keller*, 642 F.2d 413, 425 (CCPA 1981). In this case, the Examiner relies upon McBrearty for its teaching of caching one or more portions of a document, while the Examiner relies upon Marcjan to teach comparing a user-selected portion of a document with an updated portion thereof. Non-Final Act. 4–5 (citing McBrearty ¶¶ 12, 13, 47, 74; Marcjan ¶¶ 26–28); Ans. 15–16. We therefore agree with the Examiner that the combination of McBrearty and Marcjan would predictably result in a system for comparing cached user-selected portions of a document with corresponding portions in a subsequent user-requested version of the document so as provide the user the option of loading either the cached portions or currently downloaded portions of the document. *Id.* Accordingly, the proposed combination is supported with sufficient rational underpinnings.

Additionally, Appellants argue the Examiner has committed a logical fallacy in combining the teachings of Marcjan and Gaudette because there is no link between the two references. App. Br. 21. In particular, Appellants argue that Marcjan’s disclosure of alerting a user when a selected portion of a document has changed has no link with Gaudette’s disclosure of displaying the differences between a currently downloaded version of a web page and a prior cached version of the web page. *Id.* at 22. According to Appellants,

“there is nothing in either reference to link the identification of changes in Marcjan to the display of downloaded content of Gaudette.” *Id.*

These arguments are not persuasive because they again amount to an attack against the references individually, as opposed to the combination thereof. In addition to the teachings of McBrearty and Marcjan discussed above, the Examiner relies upon Gaudette’s disclosure of a subtract button to initiate a comparison between a cached version and a current version of a document so as to display a blank page if the two versions are the same. Ans. 17; Non-Final Act. 6 (citing Gaudette, Fig. 4). We agree with the Examiner that the cited Gaudette teaching would complement the McBrearty-Marcjan combination to help identify when two versions of a document are the same as required by the claim. *Id.* Further, we find the Examiner’s proposed combination of the cited teachings of McBrearty, Marcjan, and Gaudette is no more than a simple arrangement of old elements with each performing the same function it had been known to perform, yielding no more than one would expect from such an arrangement. *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007). The ordinarily skilled artisan, being “a person of ordinary creativity, not an automaton,” would be able to fit the teachings of the cited references together like pieces of a puzzle to predictably result in system for recognizing when cached user-selected portions of a document are the same as corresponding portions in a subsequent user-requested version of the document so as provide the user the option of loading either portions of the document. *Id.* at 420–21. Because Appellants have not demonstrated that the Examiner’s proffered combination would have been “uniquely challenging or difficult for one of ordinary skill in the art,” we agree with the Examiner that the proposed

modification would have been within the purview of the ordinarily skilled artisan. *Leapfrog Enters., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007) (citing *KSR*, 550 U.S. at 418). Consequently, we are satisfied that, on the record before us, the Examiner has established by a preponderance of the evidence that the combination of McBrearty, Marcjan, and Gaudette renders claim 1 unpatentable. Accordingly, we are not persuaded of error in the Examiner's obviousness rejection of claim 1.

Regarding the rejection of claims 2–17, 19, and 20, to the extent Appellants have either not presented separate patentability arguments or have reiterated substantially the same arguments as those previously discussed for patentability of claim 1 above, those claims fall therewith. *See* 37 C.F.R. § 41.37(c)(1)(iv). Further, to the extent Appellants have raised additional arguments for patentability of these claims, we find that the Examiner has rebutted in the Answer each and every one of those arguments by a preponderance of the evidence. Ans. 18–20. We adopt the Examiner's findings and underlying reasoning, which we incorporate herein by reference. Because Appellants have failed to persuasively rebut the Examiner's findings regarding the rejections of claims 2–17, 19, and 20, Appellants have failed to show error in the Examiner's rejection of these claims.

Appeal 2017-011840  
Application 13/922,932

DECISION

For the above reasons, we affirm the Examiner's rejections of claims 1–17, 19, and 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) (1) (iv).

AFFIRMED