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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* JONATHAN F. BRUNN and JENNIFER E. HEINS

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Appeal 2018-004364  
Application 14/684,392  
Technology Center 2100

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Before JOSEPH L. DIXON, ERIC S. FRAHM, and JASON M. REPKO,  
*Administrative Patent Judges.*

REPKO, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants<sup>1</sup> appeal under 35 U.S.C. § 134(a) from the Examiner’s rejection of claims 1–10. App. Br. 66.<sup>2</sup> We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

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<sup>1</sup> According to Appellants, the real party in interest is International Business Machines Corporation. App. Br. 1.

<sup>2</sup> Throughout this opinion, we refer to the Final Rejection (“Final Act.”) mailed July 28, 2017; the Appeal Brief (“App. Br.”) filed November 13, 2017; the Examiner’s Answer (“Ans.”) mailed January 31, 2018; and the Reply Brief (“Reply Br.”) filed March 19, 2018.

## THE INVENTION

Appellants' invention generally relates to social-network services. Spec. ¶ 1. The invention determines the relationship between comments made to a container (e.g., a photo album) and its elements (e.g., photos). *Id.* The invention also displays images of the container's elements in a fliptych manner. *Id.* ¶ 6. For example, one embodiment displays an image of a selected element or container in the center of the fliptych. *Id.* ¶ 64. The embodiment further displays and highlights a corresponding list of comments to the selected element. *Id.*

Claim 1 is reproduced below with our emphasis:

1. A method for improving understanding of comments on collections of data, the method comprising:

monitoring a social media stream for comments to a container and elements within said container;

saving said comments to a data structure along with an identification of said container or an element of said container upon which said comments are directed;

searching, by a processor, said data structure for comments to said container or to an element of said container in response to a user selecting to view comments to said container or said element of said container;

retrieving said comments to said container or to said element of said container from said data structure; and

*displaying images of elements of said container in a fliptych manner and a first list of comments in a comments section, wherein an image of said container or said element of said container selected by said user is displayed in a center section of said fliptych, wherein said first list of comments comprises comments directed to said container or said element of said container selected by said user which are highlighted.*

### THE EVIDENCE

The Examiner relies on the following as evidence:

Dasilva	US 2011/0238754 A1	Sept. 29, 2011
Assam	US 2012/0317631 A1	Dec. 13, 2012
Filler	US 2015/0227925 A1	Aug. 13, 2015

### THE REJECTIONS

Claims 1–3, 5, and 8–10<sup>3</sup> stand rejected under 35 U.S.C. § 103 as unpatentable over Assam and Filler. Final Act. 16–23.

Claims 4, 6, and 7 stand rejected under 35 U.S.C. § 103 as unpatentable over Assam, Filler, and Dasilva. Final Act. 24–29.

### THE OBVIOUSNESS REJECTION OVER ASSAM AND FILLER

The Examiner finds that Assam teaches every limitation recited in claim 1 except for the fliptych display. Final Act. 16–19. In concluding that claim 1’s subject matter would have been obvious, the Examiner finds that Filler teaches a fliptych display of elements. *Id.* at 18–19 (citing Filler ¶¶ 27, 70, 74, 100, Figs. 1, 8).

Appellants argue that the Examiner has not shown that the recited display function would have been obvious. App. Br. 5–8. Appellants argue that Assam merely permits historical searching of topics of interest to the user. *Id.* at 5. Likewise, Appellants argue that Filler does not remedy Assam’s deficiency because Filler merely teaches scrolling through a credit-

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<sup>3</sup> Although the Examiner omits claims 9 and 10 from the heading of the rejection, a discussion of these claims appears in the substantive portion of the rejection. *See* Final Act. 22–23. Thus, we treat claims 9 and 10 as rejected under Assam and Filler for the purpose of this appeal.

card collection. *Id.* According to Appellants, the Examiner has not provided articulated reasoning with some rational underpinning to support the obviousness conclusion. *Id.* at 37–42.

The disputed limitation of claim 1 recites, in part,

displaying images of elements of said container in a fliptych manner and a first list of comments in a comments section, wherein an image of said container or said element of said container selected by said user is displayed in a center section of said fliptych, wherein said first list of comments comprises comments directed to said container or said element of said container selected by said user which are highlighted.

Thus, claim 1 requires displaying both the container’s elements and the corresponding comments directed to the container or element. The claim further requires a fliptych display of the recited elements.

The Examiner finds that Assam’s topics correspond to the recited container. *See* Final Act. 16 (“*Topic’s form (i.e. container) threaded discussions based upon specific topics of interest.*”) (emphasis added); *see also* Ans. 6 (explaining that “Assam teaches . . . Authenticating registered Users to a topic as container”). Even assuming, without deciding, this is a reasonable interpretation of the recited container, the Examiner has not shown that it would have been obvious to display elements of Assam’s container and the comments in the recited manner for the reasons discussed in detail below.

Specifically, Assam teaches a system for authenticating user identities in social networks. Assam, Abstract. To illustrate this system, Assam uses an example of a discussion that has evolved on a social-network site. *Id.* ¶¶ 93–97. Assam’s authentication system monitors the discussion and authenticates registered users as the discussion occurs. *Id.* ¶ 94. To

authenticate users, the system reviews historical discussions and identifies topics. *Id.* The system tracks the discussions about a topic and determines whether a user’s posts on the topic have “credibility.” *Id.* ¶¶ 97, 104.

The Examiner’s rejection relies on Assam’s historical topic searches. *See* Final Act. 18; *see also* Ans. 7. As to this feature, Assam teaches an authentication system that displays historical discussions using the topic-based organization. Assam ¶ 94. The Examiner finds that Assam’s historical discussions correspond to claim 1’s recited comments. *See* Final Act. 18 (“Authentication System are adapted to display *historical discussions (i.e. list of comments)* for the Entry topics.”) (emphasis added). Assam’s historical review and search is not used for displaying a container, its elements, and its comments. App. Br. 8. Rather, the cited paragraphs disclose how Assam uses historical discussions to learn more about the user’s interests. *See id.* ¶¶ 97 (discussing user interests), 104 (discussing user credibility).

Nor has the Examiner shown that Filler remedies Assam’s deficiency in this regard. *See* Final Act. 18–19. Filler displays a credit-card collection. *See, e.g.*, Filler Fig. 1. The Examiner finds that Filler’s wallet corresponds to the recited container and the credit cards correspond to elements. Final Act. 18–19 (citing Filler ¶¶ 27, 70, 74, 100, Figs. 1, 8); *see also* Ans. 5. The Examiner concludes that Filler’s display method would allow Assam to display “many comments in a comment section.” Final Act. 10.

But claim 1 requires “displaying images of *elements* of said container in a fliptych manner.” App. Br. 67 (emphasis added). Thus, simply using Filler’s display method to Assam’s comments (Final Act. 10) does not

address claim 1's requirement of displaying both the container's elements and the corresponding comments.

To be sure, Assam teaches a blog post with images and comments. *See, e.g.,* Assam ¶ 201; *see also* Assam, Fig. 12, *cited in* Ans. 4. The Examiner, however, has not explained how Filler's credit cards—i.e., the recited elements according to the rejection—relate to Assam's historical topic searches or blog posts. Final Act. 18–19. And it is not apparent how applying Filler's method to Assam would have rendered Assam's system more “effective” as a “tool for scrolling.” *Id.* at 19. Considering how unconnected these features and their uses are, the Examiner's rationale (*id.*) is insufficient to support the conclusion that one of ordinary skill would have combined the disclosed topic searches, blog posts, and an animated credit-card collection to arrive at the claimed invention. *Accord* App. Br. 37–42.

On this record, we agree with Appellants that the Examiner has not shown that the Assam-Filler combination teaches or suggests the display step recited in claim 1, and the Examiner has not provided articulated reasoning with some rational underpinning to support the obviousness conclusion. App. Br. 5–8, 37–42.

Appellants present other arguments, but we find this argument (*id.*) dispositive of the appeal.

Thus, we do not sustain the Examiner's rejection of claim 1 or dependent claims 2, 3, 5, and 8–10.

#### THE OBVIOUSNESS REJECTION OVER ASSAM, FILLER, AND DASILVA

In rejecting claims 4, 6, and 7, the Examiner did not rely on the additional reference, Dasilva, to teach the display step, which is missing

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from Assam and Filler. *See* Final Act. 24–29. Thus, Dasilva does not cure the deficiency discussed above, and we do not sustain the Examiner’s rejections of dependent claims 4, 6, and 7 for the same reasons discussed above in connection with claim 1.

DECISION

We reverse the Examiner’s decision to reject claims 1–10.

REVERSED