UNITED STATES PATENT AND TRADEMARK OFFICE

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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 JIHYUN AHN, SORA KIM, JINYONG KIM,
HYUNKYOUNG KIM, HEEWOON KIM, and YUMI AHN[1]

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Appeal 2018-004937
Application 14/175,557
Technology Center 2600

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Before BRADLEY W. BAUMEISTER, MICHAEL J. STRAUSS, and
JEREMY J. CURCURI, *Administrative Patent Judges*.

STRAUSS, *Administrative Patent Judge*.

DECISION ON APPEAL

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[1] According to Appellants, the real party in interest is Samsung Electronics
Co., Ltd. *See* App. Br. 1.

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from a rejection of claims 1–8, 10–12, 14–23, 25–27, 29, and 30. Claims 9, 13, 24, and 28 are canceled. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.[2]

THE INVENTION

The claims are directed to a mobile terminal responsive to criterion associated with a user, such as a user's emotional state, age, and gender, in responding to a user's query. Spec. 1. Claim 1, reproduced below, is representative of the claimed subject matter:

> 1. A mobile terminal supporting a voice talk function, the terminal comprising:
> a display unit including electrical circuitry;
> an audio processing unit including electrical circuitry;
> a processor in operable communication with the audio processing unit and the display unit via the electrical circuitry and configured to:
> select content corresponding to a first criterion associated with a user in response to a user input,
> determine a content output scheme based on a second criterion associated with the user,
> change at least one of words constituting the selected content, output speed of the selected content, and output size of the selected content, based on the determined content output scheme, and
> output the changed content through the display unit and audio processing unit,

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[2] We refer to the Specification, filed February 7, 2014 ("Spec."); the Final Office Action, mailed August 10, 2017 ("Final Act."); the Appeal Brief, filed January 16, 2018 ("App. Br."); and the Examiner's Answer, mailed February 8, 2018 ("Ans.").

wherein the processor acquires the first criterion from predetermined per-emotional state expression information based on facial expressions acquired from a user's face image.

REFERENCES

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

Maes et al.	US 2002/0135618 A1	Sept. 26, 2002
Salmenkaita et al.	EP 1 333 650 A2	Aug. 6, 2003

REJECTION

The Examiner rejects claims 1–8, 10–12, 14–23, 25–27, 29, and 30 under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Salmenkaita and Maes. Final Act. 2–10.

APPELLANTS' CONTENTIONS

1. Appellants contend Salmenkaita's disclosure of filtering website URLs fails to teach or suggest changing words constituting a selected content as required by claim 1. App. Br. 6.

2. Appellants contend Salmenkaita fails to "disclose, teach, or suggest the claimed recitations 'select content corresponding to a first criterion associated with a user in response to a user input' and 'determine a content output scheme based on a second criterion associated with the user,' as recited in Claim 1." App. Br. 6–7.

3. Appellants contend Salmenkaita "does not disclose, teach, or suggest changing the 'form' of the words that compose the content." App. Br. 7.

4. Appellants contend the Examiner improperly relied on the same portions of Salmenkaita for teaching or suggesting both the "determine" and "change" operations recited by the claims. *Id.*

ANALYSIS

Appellants' contentions are unpersuasive of reversible Examiner error. 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. 2–11; Ans. 2–10) and (2) the reasons set forth by the Examiner in the Examiner's Answer in response to Appellants' Appeal Brief (Ans. 10–15). We concur with the conclusions reached by the Examiner. We highlight the following for emphasis.

1. *change at least one of words constituting the selected content*

The Examiner finds Salmenkaita's disclosure of filtering URL recommendations based on factors such as a user's age or family status teaches or suggests the disputed requirement to change at least one of words constituting the selected content, output speed of the selected content, and output size of the selected content, based on the determined content output scheme. Final Act. 3. Appellants argue "Salmenkaita . . . merely discloses changing a URL of a recommended website, but does not disclose, teach, or suggest changing a document received from the website." App. Br. 6. The Examiner responds, explaining the unfiltered URL recommendations disclose selected content (e.g., the URLs Mayoutart.com and Artsclub.com) and the filtered recommendations (e.g., the URL Mayoutart.com) disclose selected content having a changed word. Ans. 12.

Appellants' contention is unpersuasive of Examiner error. We interpret the disputed limitation to require one of three changes be performed, i.e., "change[,] at least one of[, (i)] words constituting the selected content, [(ii)] output speed of the selected content, and [(iii)] output size of the selected content, [(the change)] based on the determined content output scheme." We agree with the Examiner that Salmenkaita's content filtering results in and thereby teaches or suggests changing words constituting the selected content. Contrary to Appellants' later argument (App. Br. 7), claim 1 does not require changing the form of one or more individual words constituting the selected content by, for example, modifying the word or substituting a different word. Instead, under a broad, but reasonable interpretation, eliminating a word changes the words constituting the selected content thereby teaching or suggesting the disputed limitation.

We also are unpersuaded by Appellants' argument that Salmenkaita does not change a document received from the website identified by a URL. App. Br. 6. The Examiner relies on Salmenkaita's recommendation response message of URLs, not the associated websites or returned website documents, for teaching or suggesting the disputed words constituting the selected content. Final Act. 3. Thus, Appellants' argument does not address the Examiner's findings.

> 2. *"select content corresponding to a first criterion associated*
> *with a user in response to a user input" and*
> *"determine a content output scheme based on a second*
> *criterion associated with the user"*

The Examiner finds Salmenkaita's selection of recommended content corresponding to a current context (i.e., based on criteria), the current

context being associated with a user in response to a user speech input, teaches or suggests the select content operation. Final Act. 3. The Examiner further finds Salmenkaita's wireless device display of recommendation results, including (i) recommendations with no age restriction filter and (ii) recommendations with a filter for family oriented subject matter as depicted in Figures 3H and 3I, disclose output schemes that are based on filters (i.e., a display output of recommendations limited to family oriented subject matter) that, in turn, teach or suggest the disputed determine operation. *Id.*

Appellants' contention 2 is unpersuasive because, other than allege that Salmenkaita fails to teach or suggest the disputed limitation, Appellants fail to address the Examiner's findings. The Examiner's findings with respect to the disputed limitation are rational; thus, based on Appellants' naked allegations of error without further explanation, we do not see any error in these findings. Final Act. 3. Merely reciting a claim limitation and asserting it is not present falls short of identifying an error in the Examiner's rejection as required on appeal. "Filing a Board appeal does not, unto itself, entitle an appellant to *de novo* review of all aspects of a rejection." *Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential) (internal citations omitted). Arguments must address the Examiner's action. 37 C.F.R. § 41.37(c)(1)(iv) ("The arguments shall explain why the examiner erred as to each ground of rejection contested by appellant.")

3. *"changing the 'form' of the words that compose the content"*

Appellants' contention that the rejection is deficient because Salmenkaita "does not disclose, teach, or suggest changing the 'form' of the

words that compose the content" (App. Br. 7) is unpersuasive because the claims do not require a change in form, only a change of words constituting the selected content (Claim 1). Thus, Appellants' argument is not commensurate with the scope of the appealed claims. *See In re Self*, 671 F.2d 1344, 1348 (CCPA 1982) (limitations not appearing in the claims cannot be relied upon for patentability). Furthermore, Appellants fail to address the Examiner's finding that Salmenkaita's filtering of recommendations as depicted in Figures 3H and 3I provides different forms of words teaching or suggesting the argued change of word form feature.

4. *Reliance on a common portion of Salmenkaita for teaching or suggesting both the "determine" and "change" operations*

Appellants urge "the Board overturn the Examiner's rejection" because

> the Examiner cites the same passages ([0100] and FIG. 3I) of Salmenkaita in support of his rejection of the claimed recitations "determine a content output scheme based on a second criterion associated with the user" and "change at least one of words constituting the selected content, output speed of the selected content, and output size of the selected content, based on the determined content output scheme."

App. Br. 7, citing Advisory Action dated October 20, 2017, pp. 2–4.

Appellants' contention is unpersuasive for failure to identify cognizable reversible error resulting from such reliance. For example, Appellants fail to identify a specific deficiency of the cited portion of Salmenkaita to teach or suggest the disputed limitations. As explained above, argument must address the Examiner's findings. It is insufficient to merely identify a claim limitation and assert it is not present.

For the reasons discussed above, we are unpersuaded of Examiner error. Accordingly, we sustain the rejection of independent claim 1 and, for the same reasons, independent claim 16 under 35 U.S.C. § 103(a) over Salmenkaita and Maes together with the rejection of dependent claims 2–8, 10–12, 14, 15, 17–23, 25–27, 29, and 30 which are not argued separately.

DECISION

We affirm the Examiner's decision to reject claims 1–8, 10–12, 14–23, 25–27, 29, and 30 under 35 U.S.C. § 103(a).

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