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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SRIHARI V. ANGALURI, GARY D. CUDAK,
CHRISTOPHER J. HARDEE,
LUKE D. REMIS, and ADAM ROBERTS

Appeal 2018-005209
Application 14/324,190^{1,2}
Technology Center 2100

Before DENISE M. POTHIER, CATHERINE SHIANG, and
CARL L. SILVERMAN, *Administrative Patent Judges*.

SILVERMAN, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 11–13, 15–19, and 21, which constitute the only claims pending. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ The real party in interest is identified as International Business Machines Inc. by Appellants. App. Br. 2.

² The current Application is a parent application of U.S. Patent Application No. 14/827,581, in which an appeal (Appeal 2018-005221) has been filed.

STATEMENT OF THE CASE

The invention relates to modifying and ranking searches with actions based on prior search results and actions. *See* Abstract; Spec. ¶¶ 1, 23, 24. Claim 11, reproduced below, is exemplary of the subject matter on appeal (emphasis added):

11. A system comprising:
 - a computing device comprising at least one processor and memory, the computing device configured to:
 - determine a first action input by a user of the computing device;
 - determine a second action associated with web content, wherein the second action comprises a plurality of action types;
 - receive user input identifying search criteria;
 - present a biased list of search parameters based at least in part on an application type of a previously executed application;*
 - determine whether the search criteria is associated with the web content; and
 - in response to determining that the search criteria is associated with the web content,
 - prioritize at least one of the plurality of action types over another of the at least one of the plurality of action types, and
 - present recommended search results based on the prioritized plurality of action types,
 - wherein the computing device is further configured to determine the recommended search results based on the identified search criteria.

App. Br 10 (Claims Appendix).

THE REJECTIONS³

Claim 11–13 and 15–19 are rejected under 35 U.S.C. § 103 as being unpatentable over Johnson et al. (US 2012/0310922 A1; pub. December 6, 2012) (“Johnson”) in view of Wu et al. (US 2012/0173520 A1; pub. July 5, 2012) (“Wu”). Final Act. 4–12.

Claim 21 is rejected under 35 U.S.C. § 103 as being unpatentable over Johnson, Wu, and Andersson et al. (US 2013/0066853 A1; pub. March 14, 2013) (“Andersson”). Final Act. 12–15.

ANALYSIS

Appellants argue that the Examiner errs in finding Wu teaches the claim 11 limitation “present a biased list of search parameters based at least in part on an application type of a previously executed application.” App. Br. 6–7. Appellants argue Wu teaches ranking identified applications, not presenting a biased list of search parameters, and does not teach such a list based at least in part *on an application type of a previously executed application. Id.* According to Appellants:

Wu states that “the method 200 may determine that the ORBITZ application should be ranked higher than the FLIGHTSTATS application.” (Wu at para. [0034]). That is, Wu purports to suggest raking [sic] one travel application higher than another travel application. In another example, Wu describes ranking applications (not presenting a biased list of search parameters) as follows: “[T]he method 200 may rank applications based on predetermined application quality, authoritativeness, or various other metadata parameters associated with the applications.” (Wu at para. [0034]).

³ The 35 U.S.C § 112 rejection of claims 11–13, 15–19, and 21 is withdrawn. *See* Final Act. 2–3; Ans. 2.

As is evident from these passages, Wu suggests ranking applications, not presenting a biased list of search parameters as claimed. Therefore, Wu fails to suggest presenting a biased list of search parameters, much less presenting a biased list of search parameters based on an application type of a previously executed application.

Id. at 7.

In the Final Action, the Examiner finds the combination of Johnson and Wu teaches the limitations of independent claim 11, and relies on Wu for teaching the disputed limitation. Final Act. 4–8. In the Answer, the Examiner refers to the Specification’s description of search parameter 504 as including search queries, search strings, search terms or search phrases. Ans. 3–4 (citing Spec. ¶¶ 23, 24, and Fig. 5). The Examiner finds Wu discloses search string "flight bas to lax" is entered and the terms "flight," "to," "bas," "lax" of the search string are extracted. *Id.* at 4 (citing Wu ¶ 26). Referring to Wu, the Examiner finds:

The system identifies and ranks at least two applications: ORBIT and FLIGHTSTATS based on the search string. The type of each identified application is different. ORBIT application is for "purchase plane tickets" and FLIGHTSTATS is for "check flight arrival/departures times" in [0033] and [0034]. Also, the ORBIT application is ranked higher than the FLIGHTSTATS because the ORBIT application is utilized, used, or executed more frequently than the FLIGHTSTATS application. After identifying and ranking, the applications are displayed as in figure 4. Here, search terms or search parameters "bos" and "lax" are presented in field From and field To in ORBIT application in fig. 4.

Id. at 4–5.

The Examiner then finds Wu teaches the disputed limitation because “[c]learly, search parameters or search terms ‘bos’ and ‘lax’ are presented based on an application type of a previously executed application (i.e.,

ORBIT application is a type of application for purchasing plane ticket and FLIGHTSTAT application is a type of application for checking light arrival/departure time” and “[b]oth applications are ranked based on its previously used or executed).” *Id.* at 5 (emphasis omitted).

The Examiner additionally refers to Wu, paragraphs 26, 33, 34, and Figure 4, to show how the Wu system operates. *Id.* at 5–7.

In the Reply Brief, Appellants argue Wu’s mapping to applications is done without regard to whether the application was previously executed. Reply Br. 2–3. Appellants further argue the Specification describes “[w]ith continued reference to FIG. 5, the biased list of presented search parameters 504 may also be determined based on previously executed applications on the computing device 102.” *Id.* at 3 (citing Spec. ¶ 24) (emphasis omitted). Appellants reference the examples set forth in the specification and argue:

Based on these passages, it is clear that the present application describes presenting the biased list of search parameters based on a type of a previously executed application that the user executed on the user's device "a few minutes prior to conducting a search." To interpret the claims any broader, such as to encompass presenting a biased list of search parameters based on a rank/popularity of applications, is unreasonable and unsupported by the present application.

Id. at 4 (citing Spec. ¶ 24).

We are not persuaded by Appellants’ arguments and agree, instead, with the Examiner’s findings regarding the combination of Johnson and Wu and claim interpretation of claim 11’s disputed limitation. Appellants present no persuasive arguments the Examiner’s findings and claim interpretation are unreasonable, overbroad, or inconsistent with the Specification. Claim terms in a patent application are given the broadest

reasonable interpretation consistent with the Specification, as understood by one of ordinary skill in the art. *In re Crish*, 393 F.3d 1253, 1256 (Fed. Cir. 2004). Our reviewing court states that “the words of a claim ‘are generally given their ordinary and customary meaning.’” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc) (citations omitted).

Here, the broadest reasonable interpretation of “a previously executed application” includes the ranking of ORBIT and FLIGHTSTATS, which is based on using (executing) of the applications. *See Wu*, ¶¶ 33, 34. We note the claim recites “a previously executed application,” not “a previously executed application on the user’s computer device a few minutes prior to conducting a search.”

In view of the above, we sustain the rejection of claim 11, and dependent claims 12, 13, 15–19, and 21 as these claims are not argued separately. *See* 37 C.F.R. § 41.37(c)(1)(iv).

DECISION

We affirm the Examiner’s decision rejecting claims 11–13, 15–19, and 21 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). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED