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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte, ROBERT EMMETT KOLBA JR., DANIEL OLIVER,
MAX GLENN MORRIS, GAURAV ANAND, SANDY WONG,
BENJAMIN DAVID LANGMAID STEWART,
MELITTA LORRAINE GEISTDOERFER ANDERSEN RILEY,
SHAJIB SADHUKHA, and LIWEI CHEN

Appeal 2018-005747
Application 14/012,039
Technology Center 2100

Before MAHSHID D. SAADAT, CARL L. SILVERMAN, and
MICHAEL J. ENGLE *Administrative Patent Judges*.

SILVERMAN, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant¹ appeals under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–3, 5–9, 11–16, and 18–20, which constitute all pending claims. We have jurisdiction under 35 U.S.C. § 6(b). An Oral Hearing was held January 9, 2020.

We REVERSE.

¹ Throughout this Decision, we use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42(a). Appellant identifies Microsoft Technology Licensing, LLC as the real party in interest. Appeal Br. 2.

STATEMENT OF THE CASE

The invention relates to search features in a computing environment which provide integration among different contexts of search results.

Abstract; Spec. ¶¶ 2, 3; Figs. 3, 4. Claim 1, reproduced below, is exemplary of the subject matter on appeal (emphases added):

1. A method comprising:
 - receiving, at a processor device, at least a portion of a search query by a search service;
 - searching by the search service at least one index associated with content accessible through an application based on the at least one portion of the search *query to provide one or more contextualized search results associated with the content of the application*; and
 - returning from the search service the one or more contextual search results responsive to the searching operation, each contextual search result including a reference to the content associated with the search result, one or more application identifiers identifying the application, and one or more action identifiers identifying an action designated to be performed by the application on the content referenced by the search result.*

Appeal Br. 21 (Claims App.).

THE REJECTION

Claims 1–3, 5–9, 11–16, and 18–20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Marmaros et al. (US 2005/0149500 A1) (“Marmaros”) in view of Lazaridis et al. (US 2013/0212528 A1) (“Lazaridis”). Final Act. 6–18.

REFERENCES

Prior art relied upon by the Examiner:

Name	Reference	Date
Marmaros et al.	US 2005/0149500 A1	July 7, 2005
Lazaridis et al.	US 2013/0212528 A1	Aug. 15, 2013

ANALYSIS

Appellant argues, *inter alia*, that the Examiner errs in finding the combination of Marmaros and Lazaridis teaches the claim 1² limitations:

each contextual search result including [1] a reference to the content associated with the search result, [2] one or more application identifiers identifying the application, and [3] one or more action identifiers identifying an action designated to be performed by the application on the content referenced by the search result.

(also referred to as disputed limitations). Appeal Br. 7–15; Reply Br. 2–4.

In the Final Action, the Examiner finds that Marmaros teaches disputed limitations (1) and (2). Final Act 6–8 (citing Marmaros ¶¶ 19, 20, 22). The Examiner finds the Marmaros search result includes identifiers identifying articles based at least in part on user content and that an identifier may be an URL, a file name, an icon, a path, or anything else that identifies an article. *Id.* (citing Marmaros ¶ 19). According to the Examiner:

*(... The Examiner further notes and as further described in paragraph [0016] that articles are documents or group of documents or information that may be returned as set of results from the search engine.), **and one or more action identifier** (e.g. the Examiner notes that the Applicant has defined an action*

² Appellant argues independent claims 1, 7, and 14 as a group, and we choose claim 1 as representative of the group. *See* 37 C.F.R. § 41.37(c)(1)(iv).

identifier as a type of metadata data that defines data, see paragraph [0022]. The Examiner notes that such metadata that are designated and/or defined to differentiate other types of metadata are well known in the art and is simply a design choice made by the Applicant. Similarly, Marmaros, see paragraph [0034] discloses parameters where the parameters provided by the user are used to differentiate other types of data and when accessed by a search engine, is able to index and parse the result sets, based on the differentiating parameters.).

Id. at 7–8.

The Examiner finds Lazaridis teaches limitation (3):

Lazaridis discloses **identifying an action designated to be performed by the application on the content referenced by the search result** (e.g. Lazaridis, see paragraph [0103], discloses the display or communication of the search result may order the items returned as part of the search results, where in some embodiments, the matching modules may be followed by actions, where each matching module followed immediately by its associated action. The Examiner interprets the identified action as action associated with the matching results.).

Id. at 8.

The Examiner concludes it would have been obvious to one of ordinary skill in the art to include the claimed feature with the motivation to enhance the user’s expectation of using search features. *Id.* at 8–9.

In the Appeal Brief, Appellant argues that Marmaros does not teach **both** a reference to the content and an application identifier identifying the application because the claimed article identifier cannot map to **both** a reference to content and an application identifier identifying the application. Appeal Br. 7–8 (citing Marmaros ¶ 20). According to Appellant,

Marmaros’s “result set . . . that **may be associated** with a client application is not similar to an ‘application identifier’ that specifically ‘identifies the application’ **and** is **included in a returned contextual search result.**” *Id.* at 8 (additional emphases added). Appellant argues Marmaros does not teach that the “‘associations’ to client applications are actually returned as part of a search result.” *Id.* Therefore, Appellant argues that “Marmaros’s ‘articles’ and ‘article identifiers’ do not provide sufficient basis for teaching ‘reference to content’ and ‘an application identifier identifying the application’” as recited in disputed limitations (1) and (2). *Id.*

Regarding disputed limitation (3), Appellant argues the Examiner errs by disregarding functionality provided by the action identifier and recited in the claims: “identifying an action designated to be performed.” *Id.* at 9. Appellant disputes the Examiner’s finding that the recited identifiers are “well-known in the art” and the use of an action identifiers is a “design choice” and argues the Examiner does not meet the required burden to support these findings. *Id.* at 9–11 (citing MPEP § 2144.03; *K/S HIMPP v. Hear-Wear Techs., LLC*, 751 F.3d 1362 (Fed Cir. 2014)).

Appellant argues the Examiner errs in finding Lazaridis teaches disputed limitation (3) because Lazaridis does not teach “identifying an action designated to be performed by the application **on the content referenced by the search result.**” Appeal Br. 11–12 (citing Final Act, 8–9; Lazaridis ¶ 103, Fig. 8). According to Appellant, “Lazaridis discloses the **return of an action** that a module (e.g., an application) **can** perform completely independent of any specific content associated with a search **result**” and this is not “an action designated to be performed by the application **on the content** referenced by the search result.” *Id.* at 12, 13.

In the Answer, the Examiner refers to Marmaros and Lazardis. Ans.

4–6. Regarding disputed limitation (3), the Examiner refers to Lazardis:

Lazardis, see Figure 8, paragraphs [0091-0094], which further illustrates ‘alarm,’ which is a reference associated to the contextual search, where the search result includes Date and Time and Contacts (see items 808 and 812), as illustrations of one or more application identifier, identifying the application ‘Date and Time’ and ‘Contacts.’

Id. at 5, 4 (same).

Lazardis further describes action identifiers, see paragraph [0089], which discloses a device may have one or more input mechanism, such as a specific key or button that consistently launches the search feature, regardless of the GUI context. For example, see Lazardis, paragraphs [0101-0105], discloses examples of action identifiers, such as answering or receiving voice calls, as actions that may be performed when the search results are displayed on the device display screen. See further paragraph [0065], which discloses the name of the module or action in a set of search results, where the keywords associated with the module or action and using for matching against search queries. Finally, Lazardis, see Figure 8, paragraphs [0091-0094], which further illustrates ‘alarm,’ which is a reference associated to the contextual search, where the search result includes Date and Time and Contacts (see items 808 and 812), as illustrations of one or more application identifier, identifying the application ‘Date and Time’ and ‘Contacts.’

Id. at 5.

In the Reply Brief, Appellant reiterates arguments presented in the Appeal Brief and argues that Lazardis’s search results that include a Date and Time icon cannot map to the “application identifier” because the Examiner identifies no Lazardis application that performs or is capable to

perform an action on content referenced by the search result. Reply Br. 4 (citing Final Act. 3–4). According to Appellant:

As discussed in the Appeal Brief (pages 13-14), the independent claims recite the language “action designated to be performed by the application on the content referenced by the search result,” (*emphasis added*). The search results disclosed in Lazaridis (FIG. 8) are merely icons for “modules” (“Date and Time”) or an operation performable by a module (“Set My Alarm”). However, the Lazaridis operation (“Set My Alarm”) is not performed on any “content” referenced by the returned search result. Accordingly, the “Date and Time” and “Contacts” modules cannot be the disclosed “one or more application identifiers identifying the application” because the Lazaridis modules are not disclosed or suggested as performing actions on content referenced by the search result as generally recited in the claims (e.g., “one or more action identifiers identifying an action designated to be performed by the application on the content referenced by the search result”).

Id. at 4–5.

We are persuaded by Appellant’s arguments because, on the record before us, the Examiner presents insufficient evidence that the combination of Marmaros and Lazaridis teaches the disputed limitations.

During prosecution, claims must be given their broadest reasonable interpretation when reading claim language in light of the Specification as it would have been interpreted by one of ordinary skill in the art. *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). While we interpret claims broadly but reasonably in light of the Specification, we nonetheless must not import limitations from the Specification into the claims. *See In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993). 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). However, the broadest *reasonable* interpretation differs from the broadest *possible* interpretation. *In re Smith Int'l, Inc.*, 871 F.3d 1375, 1383 (Fed. Cir. 2017). The correct inquiry in giving a claim term its broadest reasonable interpretation in light of the specification is “an interpretation that corresponds with what and how the inventor describes his invention in the specification, *i.e.*, an interpretation that is ‘consistent with the specification.’” *Id.* at 1382–83 (quoting *In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997)).

Here, Lazaridis does not teach the disputed limitation (3) “[each contextual search result including a reference to] one or more action identifiers identifying an action designated to be performed by the application on the content referenced by the search result.” Although Lazaridis refers to a Date and Time Application (“App”) in Figure 5, there is no teaching cited in Lazaridis that *this* application identifies an action designated to be performed by *this* application. Instead, a separate search result “Set My Alarm” is displayed and identified as an “Action.” *See* Lazaridis, Fig. 8, element 810; Fig. 5, Type. Additionally, although Lazaridis’s “Set My Alarm” may be *associated* with the Date and Time Application, Lazaridis’s “Set My Alarm” is not designated to be performed by the application *on the content referenced by the search result*.

Our interpretation of disputed limitation (3) is consistent with the Specification. *See, e.g.*, Spec. ¶¶ 28, 29, 33 37, 64; Figs. 1, 2.

In view of the above, we do not sustain the rejection of claim 1, independent claims 7 and 14, and dependent claims 2, 3, 5, 6, 8, 9, 11–13, 15, 16, and 18–20. *Cf. In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992)

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("[D]ependent claims are nonobvious if the independent claims from which they depend are nonobvious").

Because our decision with regard to the disputed limitation is dispositive of the rejections, we do not address additional arguments raised by Appellant.

DECISION

Claims Rejected	35 U.S.C. §	References	Affirmed	Reversed
1-3, 5-9, 11-16, 18-20	103(a)	Marmaros, Lazaridis		1-3, 5-9, 11-16, 18-20

REVERSED