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IBM CORPORATION
C/O: Fabian Vancott
215 South State Street
Suite 1200
Salt Lake City, UT 84111

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NAZAR, AHAMED I

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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 ANTON ALEKSANDROV, AMIT BEN-SHEFFER, and
TODD ERIC KAPLINGER

_____

Appeal 2018-007219
Application 13/474,506
Technology Center 2100

_____

Before MAHSHID D. SAADAT, ALLEN R. MacDONALD, and
NABEEL U. KHAN, *Administrative Patent Judges.*

MacDONALD, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant[1] appeals from the
Examiner's decision to reject claims 1, 4–13, and 15–25. Claims 2–3 and 14
have been cancelled. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

CLAIMED SUBJECT MATTER

Claim 1 is illustrative of the claimed subject matter (emphasis,
formatting, and bracketed material added):

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[1] We use the word Appellant to refer to "applicant" as defined in 37 C.F.R.
§ 1.42(a). Appellant identifies the real party in interest as International
Business Machines Corporation. Appeal Br. 2.

1. A method for integrating remote content with local content, comprising:

[A.] operating an application on a mobile device to display *local content* stored on said mobile device; *the local content being displayed in a local object displayed in a display of the mobile device, and the local object being created by the operation of the application on the mobile device*;

[B.] retrieving remote content with an overlay component of said application; and

[C.] *displaying said local content and said remote content simultaneously in the display of said mobile device, in which the overlay component displays the remote content within an overlay object overlaying the local object*,

[D.] in which the remote content is:

sent directly to the overlay object without further processing through the application; and

displayed in the overlay object.

REFERENCES

The prior art relied upon by the Examiner is:

Name	Reference	Date
Udell	US 2002/0054084 A1	May 9, 2002
Leper	US 2012/0324334 A1	Dec. 20, 2012

REJECTION

The Examiner rejects claims 1, 4–13, and 15–25 under 35 U.S.C. § 103 as being unpatentable over Udell in view of Leper. Final Act. 14–40.

Appellant separately argues claims 1, 13, 21, and 24. Appellant does not present separate arguments for claims 4–12, 15–20, 22, 23, and 25. Thus, the rejection of these claims turn on our decision as to one of claims 1,

13, 21, and 24. Except for our ultimate decision, we do not discuss the § 103 rejection of claims 4–12, 15–20, 22, 23, and 25.

OPINION

We have reviewed the Examiner's rejection in light of Appellant's arguments that the Examiner has erred.

A.

Appellant raises the following argument in contending that the Examiner erred in rejecting claim 1 under 35 U.S.C. § 103.

> ***First, Udell and Leper, alone or in combination, fail to describe the "local content" and the "local object," and relies on the browser application described in Udell to describe more than one element within claim 1 which is improper under Ex parte Weideman [sic] ("[[I]]t is improper to rely on the same structure in the Lohr reference as being responsive to two different elements. . . in claim l").***
> Here, the Action relies on the browser application to allegedly describe the claimed "application" operated on a mobile device, the "local content" stored on the mobile device, and the "local object" created by the operation of the application and used to display the local content. . . . However, based on the amendments previously made to claim 1, ***the browser application of Udell may not be interpreted as describing the "local content" since the "local content [is] displayed in a local object displayed in a display of the mobile device," and "the local object [is] created by the operation of the application on the mobile device."*** Here, the browser system, software, a browser application, or similar elements described in Udell are all one in the same, and may be collectively referred to as a browser application.
> With this understanding, it is unclear how the browser application of Udell can be interpreted by the Action as both the claimed "local content" as well as the claimed "application." "The application (103) may include machine readable instructions that cause at least some of the local content (102) to be displayed on a display (105) in a local object (106)." . . .

3

Thus, it is clear Udell fails to describe local content being displayed in a local object of its browser application, customized or not. ***In this manner, the "local content" and "application" of claim 1 cannot both be described by the browser application of Udell. Therefore, the Action impermissibly seeks to use a single structure or element (i.e., the browser application) in Udell to disclose at least two separate claimed elements***. . . . Fig. 1 and associated description clearly depicts the application (103) being separate from the claimed local content (102), remote content (101), local object (106), and overlay object (109). ***The Action fails to persuasively present how the browser application of Udell can be interpreted as both the claimed "local content" as well as the claimed "application."*** Further, the Action fails to appreciate that "local content" is significantly different than an "application," and is referred to throughout Appellant's specification as being analogous to "remote content" in that both are displayable content like a webpage, etc. rather than executable items.

Appeal Br. 12–14 (Appellant's emphasis and citations omitted; panel's emphasis added); *see also* Reply Br. 4–7.

We are not persuaded the Examiner erred in rejecting claim 1. A claim under examination is given its broadest reasonable interpretation consistent with the underlying specification. *See In re American Acad. of Science Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). Appellant's Specification describes: (a) an application as having "machine readable code that causes [a] processor to access [a] local file . . . where local content . . . is stored;" (b) local content as including "resources that were pre-packaged in [an application] and were installed on [a device] when the application . . . was installed on the device;" and (c) a local object as "a portion of [a display] dedicated to displaying the local content." Spec. ¶¶ 23, 25. Thus, Appellant's Specification describes the local content and the local object as being components of the application (*i.e.*, either: (a) an internal resource of

the application; or (b) an object that corresponds to a portion of a display and that is created by the application to perform a function on the display). Further, Udell discloses a browser software application that is programmable to have a network address of a specific website as its home page address. *See* Udell ¶ 25. Udell further discloses that the browser software application includes an auto-execute software application that automatically executes the browser software application upon installation so that the browser software application generates a display of a customized browser and the website. *See id.* ¶¶ 8, 25, 27. In light of Appellant's Specification and the disclosure of Udell, we conclude that the Examiner's interpretation of the claimed "application," "local content," and "local object" as reading on Udell's disclosure of the browser software application is reasonable.

Appellant's reliance on *Ex parte Wiedeman*, Appeal No. 2008-3454 (BPAI Jan. 27, 2009), is not persuasive. In *Wiedeman*, the claim elements recited two separate and distinct portions of a seat (*i.e.*, seat bottom and center support), and the Board found it improper for the Examiner to rely on a single portion of the seat structure taught in the Lohr reference to teach the two recited claim elements because the Examiner's finding violated the principle that all limitations in a claim must be considered to be meaningful. *See Wiedeman* at 7. However, in this appeal, the claimed "local content" and "local object" are described in Appellant's Specification as being components of the claimed "application," and, thus, the Examiner's interpretation of the claimed "application," "local content," and "local object" as reading on Udell's browser software application does not eliminate consideration of the claimed "local content" and "local object." Therefore, we conclude the holding of *Wiedeman* is inapplicable to the

present appeal because the Examiner's interpretation gives meaning to all recited elements of the claims.

Appellant also raises the following argument in contending that the Examiner erred in rejecting claim 1 under 35 U.S.C. § 103.

> ***Second, Udell and Leper, alone or in combination, fail to describe, "displaying said local content and said remote content simultaneously in a display of said mobile device, in which the overlay component displays the remote content within an overlay object overlaying the local object."*** . . . The Action again cites to paragraph [0027] of Udell and argues, "'[a]fter the browser has been customized, the complete browser is generated - allowing any computer system capable of using the browser to view the customized browser [viz. local content] and website [viz. remote content]." . . . However, ***the mere ability to view the local content and the remote content as the Action asserts Udell describes is not enough.*** Claim 1 recites, "displaying said local content and said remote content simultaneously in the display of said mobile device, in which the overlay component displays the remote content within an overlay object overlaying the local object." ***Udell fails to describe the overlay object, or such an object that overlays the local object.*** . . .
>
> As to the statement that Udell allegedly describes, "[d]isplaying a web page in a browser describes an overlay object (a web page frame) that overlays the local object (the larger browser interface)," ***the Action fails to identify where the alleged "web page frame" and "larger browser interface" are described in Udell. These elements are not described in the Udell reference at all, let alone with a requisite level of specificity to allow the Action to assert that simply because a web browser is described, that it includes elements analogous to the claimed "display," "local object," "overlay component," "local content," and "remote content."***

Appeal Br. 15–16 (Appellant's emphasis and citations omitted; panel's emphasis added); *see also* Reply Br. 7–8.

This argument is not persuasive either. The Supreme Court has made clear that when considering obviousness, "the analysis need not seek out

precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ." *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007). Udell explicitly describes generating a customized browser including a specified website, where a user is capable of viewing the browser and website. *See* Udell ¶ 27. The Examiner finds Udell's customized browser teaches the claimed "local content," and Udell's website teaches the claimed "remote content." *See* Final Act. 15. The Examiner further finds that one of ordinary skill in the relevant art, in light of Udell's disclosure, would infer that the displayed website would overlay the displayed browser interface, as the aforementioned configuration is a traditional configuration of browsers. *See* Final Act. 16. Appellant's argument is not persuasive of error in the Examiner's finding.

Appellant further raises the following argument in contending that the Examiner erred in rejecting claim 1 under 35 U.S.C. § 103.

> ***Third, Udell and Leper, alone or in combination, fail to describe, "displaying said local content and said remote content simultaneously in a display of said mobile device, in which the overlay component displays the remote content within an overlay object overlaying the local object."*** . . . The Action again cites to paragraph [0027] of Udell, and argues, "'[a]fter the browser has been customized, the complete browser is generated--allowing any computer system capable of using the browser to view the customized browser [viz. local content] and website [viz. remote content]." . . . Here, the Action is seeking to equate the claimed "local content" with a customized browser of Udell. However, the "local content," as demonstrated above, is not part of the "application" (what the Action relies on the browser of Udell to describe). Instead, the claimed "local content" is content "to be displayed on a display (105) in a local object (106)." . . . Here, ***it is unclear what the Action cites as the "local object," but it cannot simply be the browser of Udell***

7

> ***since the browser of Udell must be used to describe either the claimed "local object" or the claimed "overlay object" but cannot be used to describe both. Thus, Udell fails to describe simultaneously displaying local and remote content, "in which the overlay component displays the remote content within an overlay object overlaying the local object." (Claim 1).***

Appeal Br. 16–17 (Appellant's emphasis and citations omitted; panel's emphasis added); *see also* Reply Br. 8–10.

We are not persuaded by this argument either. Appellant's Specification describes: (a) a local object as "a portion of [a display] dedicated to displaying the local content;" and (b) an overlay object as "a portion of [a display] that is dedicated to showing the remote content." Spec. ¶¶ 25, 28. Thus, Appellant's Specification describes the local object and the overlay object as being components of the application (*i.e.*, objects that correspond to portions of a display and are created by the application to perform functions on the display). As previously described, Udell further discloses that the browser software application includes an auto-execute software application that automatically executes the browser software application upon installation so that the browser software application generates a display of a customized browser and the website. *See id.* ¶¶ 8, 25, 27. In light of Appellant's Specification and the disclosure of Udell, we conclude that the Examiner's interpretation of the claimed "local object" and "overlay object" as reading on Udell's disclosure of the browser software application is reasonable.

B.

Appellant raises the following argument in contending that the Examiner erred in rejecting claim 13 under 35 U.S.C. § 103.

First, for at least the reasons presented above in connection with the similar recitations of claim 1, the rejection of claim 13 should not be sustained.

Second, Udell and Leper, alone or in combination, fail to describe, "retrieving remote content located on a remote source storing data representing a website of an entity with the overlay component upon a user-selection of an entity website button that identifies the website of the entity presented in the local object." . . . In rejecting claim 13, the Action cites to a "park button" of Udell to allegedly describe the "entity website button" of claim 13. . . . Udell describes the "park button" at paragraph [0027] as "an action ("button") of returning the browser-program to the home page." . . . Thus, ***the park button of Udell is simply a home page button that presents a pre-assigned home page to a user once selected***.

In contrast, claim 13 recites, "retrieving remote content located on a remote source storing data representing a website of the entity with the overlay component upon a user-selection of an entity website button that identifies the website of the entity presented in the local object." . . . First, the park button of Udell does not identify an entity or its associated website. Second, a home page as provided by the park button of Udell is not analogous to an "entity website." This is especially the case since the entity's website . . . is identified by the entity website button," whereas the park button of Udell does not identify the home page or any other web page. . . . Udell is silent regarding identification of an entity associated with its park button. ***On this line of reasoning, a home page is simply not analogous to an entity's website as recited in claim 13, and, in turn, the park button of Udell is not analogous to the "entity website button" of claim 13***. . . . [T]he disconnect is that Udell does not describe user-customization of the "park button" of Udell to identify the entity or its website (i.e. "entity website button"). In other words, ***simply because a user may customize the look of the park button does not mean that Udell describes how or with what image the park button may be customized.***

Appeal Br. 18–19 (Appellant's emphasis and citations omitted; panel's emphasis added); *see also* Reply Br. 11–12.

We are also not persuaded the Examiner erred in rejecting claim 13. Claim 13 recites, *inter alia*, "retrieving remote content located on a remote source storing data representing a website of an entity with the overlay component **upon a user-selection of an entity website button that identifies the website of the entity presented in the local object**." Appeal Br. 27, emphasis added. Thus, claim 13 requires that an entity website button: (a) triggers a retrieval of remote content upon a user-selection; and (b) identifies a website of an entity. This is consistent with Appellant's Specification, which describes that a local object includes "a company website button" and further describes that "in response to the website button's selection, the application may request remote content from a remote source, retrieve the remote content with the overlay component, and present the remote content in the display with the overlay object." Spec. ¶¶ 35, 36. Further, Udell discloses that the customized browser created by the browser software application includes a park button that returns the browser software application to a home page. *See* Udell ¶ 27. In light of Appellant's Specification and the disclosure of Udell, we conclude that the Examiner's interpretation of the claimed "entity website button" as reading on Udell's disclosure of the park button is reasonable.

<center>C.</center>

Appellant raises the following argument in contending that the Examiner erred in rejecting claim 21 under 35 U.S.C. § 103.

> First, for at least the reasons presented above in connection with the similar recitations of claim 1, the rejection of claim 21 should not be sustained.
>
> **Second, Udell and Leper, alone or in combination, fail to describe, "retrieving remote content located on a remote source storing data representing a website of an entity with a web view overlay component controlled with said application upon**

<center>10</center>

> ***detection of a user-selection of an entity website button
> presented in the local object, the remote content comprising
> data from the website of the entity."*** . . . In rejecting claim 21,
> the Action cites to a "park button" of Udell to allegedly describe
> the "entity website button" of claim 21. . . . Udell describes the
> "park button" at paragraph [0027] as "an action ("button") of
> returning the browser-program to the home page." . . . Thus, ***the
> park button of Udell is simply a home page button that presents
> a preassigned home page to a user once selected***. First, the park
> button of Udell does not identify an entity or its associated
> website as claim 21 recites, "representing a website of an entity."
> Second, a home page as provided by the park button of Udell is
> not analogous to an "entity website" since the entity's website is
> identified by the "entity website button," whereas the park button
> of Udell does not identify the home page or any other web page
> . . . . Udell is silent regarding identification of an entity associated
> with its park button. ***On this line of reasoning, a home page is
> simply not analogous to an entity's website as recited in claim
> 21, and, in turn, the park button of Udell is not analogous to
> the "entity website button" of claim 21***. . . . [A]s demonstrated
> above in connection with claim 13, Udell does not describe user-
> customization of the "park button" of Udell to identify the entity
> or its website (i.e. "entity website button"). In other words,
> ***simply because a user may customize the look of the park
> button does not mean that Udell describes how or with what
> image the park button may be customized.***

Appeal Br. 20–21 (Appellant's emphasis and citations omitted; panel's

emphasis added); *see also* Reply Br. 13–14.

We are also not persuaded the Examiner erred in rejecting claim 21.

Claim 21 recites, *inter alia*, "retrieving remote content located on a remote

source storing data representing a website of an entity with a web view

overlay component controlled with said application ***upon detection of a***

user-selection of an entity website button presented in the local object, the

remote content comprising data from the website of the entity." Appeal

Br. 29, emphasis added. Despite Appellant's separate heading for its

11

argument regarding claim 21, this argument is substantively similar to its

argument regarding claim 13. Thus, we are not persuaded the Examiner

erred in rejecting claim 21 for similar reasons why we are not persuaded the

Examiner erred in rejecting claim 13, as previously discussed.

D.

Appellant raises the following argument in contending that the

Examiner erred in rejecting claim 24 under 35 U.S.C. § 103.

> First, for at least the reasons presented above in connection
> with the similar recitations of claims 1, 13, and 21, the rejection
> of claim 24 should not be sustained.
> ***Second, Udell and Leper, alone or in combination, fail to
> describe, "the overlay object and local object are created by the
> overlay component."*** The Action cites to paragraph [0008] of
> Udell and argues, "those application components that create and
> display the browser interface (the local object) and retrieve
> remote content for display in a browser window (the overlay
> object) amount to an overlay component.)." . . . Here, the Action
> again argues that the browser application of Udell describes both
> the claimed "overlay object" and the "local object." However, ***it
> is clear that the browser application of Udell is never described
> as functioning to create the claimed "overlay object" and the
> "local object," nor are these elements described as part of the
> Udell [browser] application.***

Appeal Br. 22–23 (Appellant's emphasis omitted; panel's emphasis added);

see also Reply Br. 15.

We are also not persuaded the Examiner erred in rejecting claim 24.

Claim 24 recites, *inter alia*, "the overlay object and local object ***are created***

by the overlay component." Appeal Br. 30, emphasis added. Appellant's

Specification describes: (a) a local object as "a portion of [a display]

dedicated to displaying the local content;" (b) an overlay object as "a portion

of [a display] that is dedicated to showing the remote content;" and (c) an

overlay component as a component "embedded into [an application]" that

"request[s] and receive[s] remote content . . . from a remote source." Spec.
¶¶ 25, 27, 28. Thus, Appellant's Specification describes the local object, the
overlay object, and the overlay component as being components of the
application (*i.e.*, objects that either: (a) correspond to portions of a display
and are created by the application to perform functions on the display; or (b)
are embedded into the application). As previously described, Udell further
discloses that the browser software application includes an auto-execute
software application that automatically executes the browser software
application upon installation so that the browser software application
generates a display of a customized browser and the website. *See id.* ¶¶ 8,
25, 27. In light of Appellant's Specification and the disclosure of Udell, we
conclude that the Examiner's interpretation of the claimed "local object,"
"overlay object," and "overlay component" as reading on Udell's disclosure
of the browser software application is reasonable.

CONCLUSION

The Examiner has not erred in rejecting claims 1, 4–13, and 15–25 as
being obvious under 35 U.S.C. § 103.

The Examiner's rejection of claims 1, 4–13, and 15–25 as being
obvious under 35 U.S.C. § 103 is **affirmed**.

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1, 4–13, 15–25	103	Udell, Leper	1, 4–13, 15–25	

TIME PERIOD FOR RESPONSE

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) (2016).

<u>AFFIRMED</u>