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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte BRAD LEE CAMPBELL, DANIEL WADE HITCHCOCK, and
JOSHUA LEE DAVIS

Appeal 2019-000071
Application 14/107,150
Technology Center 2100

Before JENNIFER S. BISK, BARBARA A. BENOIT, and
MICHAEL M. BARRY, *Administrative Patent Judges*.

BISK, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ Throughout this Decision we have considered the Specification filed December 16, 2013 (“Spec.”), the Final Rejection mailed November 1, 2017 (“Final Act.”), the Appeal Brief filed February 28, 2018 (“Appeal Br.”), the Examiner’s Answer mailed August 1, 2018 (“Ans.”), and the Reply Brief filed September 25, 2018 (“Reply Br.”).

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant² appeals from the Examiner’s decision to reject claims 1–19 and 22. *See* Final Act. 1. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM IN PART.

CLAIMED SUBJECT MATTER

The claims are directed to a providing account information to applications. Claims 1 and 3, reproduced below (with disputed limitations emphasized), are illustrative of the claimed subject matter:

1. A non-transitory computer-readable medium embodying a program executable in a mobile computing device, wherein, when executed, the program causes the mobile computing device to at least:

render upon a touchscreen of the mobile computing device a first user interface comprising a plurality of selectable indicia corresponding to a plurality of applications;

launch a particular application of the plurality of applications in response to receiving a user selection of at least one of the plurality of selectable indicia via the touchscreen, the user selection corresponding to a request to launch the particular application;

determine a type of user selection based at least in part on an elapsed time associated with the user selection;

identify particular stored sign-in information from a repository that includes respective stored sign-in information for a plurality of accounts based at least in part on the type of user selection, the plurality of accounts being associated with at least two of the plurality of applications; and

² We use the term “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as Amazon Technologies, Inc. Appeal Br. 2.

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automatically initiate an operation to create a runtime association between the particular application and the particular stored sign-in information in response to the user selection to launch the particular application.

Appeal Br. 38 (Claims App.).

3. A system, comprising:

a client computing device; and

an information manager executed in the client computing device, wherein the information manager causes the client computing device to at least:

store respective account information for individual ones of a plurality of accounts;

render a first user interface that facilitates a first user selection of a particular application from a plurality of applications, the first user selection of the particular application corresponding to a request to launch the particular application;

select particular account information from a plurality of types of account information associated with a respective account of the plurality of accounts in response to a second user selection via a second user interface that is separate from a third user interface of the particular application, the particular account information being selected according to an elapsed time associated with the second user selection; and

automatically initiate an operation to create a runtime association between an instance of the particular application and the particular account information.

Appeal Br. 40 (Claims App.).

REFERENCES

The prior art relied upon by the Examiner is:

| Name | Reference | Date |
|----------|--------------------|---------------|
| Torres | US 2005/0177731 A1 | Aug. 11, 2005 |
| Lu | US 2008/0307236 A1 | Dec. 11, 2008 |
| Tseng | US 2009/0249247 A1 | Oct. 1, 2009 |
| Meyer | US 2009/0300097 A1 | Dec. 3, 2009 |
| Song | US 2011/0061016 A1 | Mar. 10, 2011 |
| Mahaffey | US 2014/0189808 A1 | July 3, 2014 |
| Wan | US 2014/0344907 A1 | Nov. 20, 2014 |

REJECTIONS³

Claims 1–6, 8–11, and 22 are rejected under 35 U.S.C. § 103 as being unpatentable over Song, Tseng, Wan, and Lu. Final Act. 3–11.

Claims 7, 12, and 13 are rejected under 35 U.S.C. § 103 as being unpatentable over Song, Tseng, Wan, Lu, and Torres. Final Act. 11–13.

Claims 14–16 and 18 are rejected under 35 U.S.C. § 103 as being unpatentable over Meyer, Tseng, and Lu.⁴ Final Act. 13–18.

Claim 17 is rejected under 35 U.S.C. § 103 as being unpatentable over Meyer, Tseng, Lu, and Torres. Final Act. 18–19.

Claim 19 is rejected under 35 U.S.C. § 103 as being unpatentable over Meyer, Tseng, Lu, and Mahaffey. Final Act. 19–20.

³ Claims 1, 3, and 14 were also rejected under 35 U.S.C. § 101 as directed to ineligible subject matter. Final Act. 2–3. That rejection was withdrawn in the Answer. Ans. 3.

⁴ The Final Action lists claim 21 as also being rejected by Meyer, Tseng, and Lu. Final Act. 13, 17–18. However, claim 21 was canceled. Appeal Br. 45 (Claims App.).

OPINION

We review the appealed rejections for error based upon the issues identified by Appellant, and in light of the arguments and evidence produced thereon. *Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential). To the extent Appellant has not advanced separate, substantive arguments for particular claims, or other issues, such arguments are waived. 37 C.F.R. § 41.37(c)(1)(iv).

We have considered all of Appellant’s arguments and any evidence presented. We highlight and address specific findings and arguments for emphasis in our analysis below.

Claim 1

The Examiner rejects claim 1 as obvious over the combination of Song, Tseng, Wan, and Lu. Final Act. 3–7. The Examiner cites to the combination of Song and Lu as teaching or suggesting the determine⁵ and identify⁶ limitations. Final Act. 6–7 (citing Lu ¶¶ 10, 13, 43). According to the Examiner, Lu describes “an account access based on selections which include a variation in type and time (i.e. dragging is a different type input because it has movement and longer interaction than a click/tap).” *Id.*

Appellant argues that Lu does not teach or suggest the determine limitation because “Lu merely discusses establishing a hotkey such as

⁵ The “determine limitation” recites “determine a type of user selection based at least in part on an elapsed time associated with the user selection.” Appeal Br. 38 (Claims App.).

⁶ The “identify limitation” recites “identify particular stored sign-in information from a repository that includes respective stored sign-in information for a plurality of accounts based at least in part on the type of user selection, the plurality of accounts being associated with at least two of the plurality of applications.” Appeal Br. 38 (Claims App.).

‘clicking a mouse, moving a mouse, pressing a character key, pressing a function key, or pressing a number key.’” Appeal Br. 21. Appellant adds that “nothing in Lu even mentions dragging, much less an interaction time or ‘an elapsed time associated with the user selection,’ being used to ‘determine a type of user selection.’” *Id.* at 22. Instead, Appellant contends that “Lu merely discusses being able to set a hotkey for an input event.” *Id.*

In the Answer, the Examiner explains that the language “based at least in part” of the determine limitation is not specifically defined in the Specification and Appellant has not provided further explanation of “how the relationship between the input and a calculation of time must be realized.” Ans. 3–4. The Examiner, therefore, interprets the determine limitation broadly and that it encompasses processing mouse movements such as dragging and clicking as input types that differ in duration, which are therefore “based at least in part” on an elapsed time and are, therefore, encompassed by the determine limitation. *Id.* at 4.

We are not persuaded of error in the Examiner’s finding that Lu at least suggests the determine limitation. We agree with the Examiner that the language “based at least in part on an elapsed time associated with the user selection” is very broad and would encompass input actions, including mouse events like clicking and dragging, that differ in the amounts of time they encompass. The portion of Lu relied upon by the Examiner for this disclosure explains that “a hotkey input event” includes “clicking a mouse, moving a mouse,” and pressing keys on the keyboard. Lu ¶ 43. A person of ordinary skill in the art would understand that Lu describes user selection based on conventional mouse event, which is “based at least in part on” the elapsed time associated with that event. We, therefore, are not persuaded that this argument shows reversible error by the Examiner.

Appellant also argues that the asserted combination of references does not teach or suggest the identify limitation. Appeal Br. 22. According to Appellant, neither Song nor Lu discuss a repository as claimed. *Id.* at 23–24.

In the Answer, the Examiner explains that “[a] repository is defined as a central location where data is stored and managed,” which “is the same functionality found in the table that manages account/password datum provided by Lu.” Ans. 4. In addition, according to the Examiner, “it is obvious to one of ordinary skill in the art that the table disclosed in Lu holds a plurality of account/password [data] otherwise the issue of remembering multiple passwords would not be present.” *Id.* at 5 (citing Lu ¶¶ 5–6). The Examiner also explains that Lu discloses that the table compares input conditions “to determine if account and password information should be transmitted.” *Id.* at 4 (citing Lu ¶¶ 36–38, 43, 51).

Appellant responds that, “even assuming for the sake of argument that the account and/or password correspondence table of Lu corresponds to the ‘repository’ of claim 1, nothing in Lu appears to show or suggest” the remaining requirements of the identify limitation, including “identify[ing] particular stored sign-in information” from that repository and that the stored sign-in information is “based at least in part *on a type of user selection [determined based at least in part on an elapsed time associated with the user selection]*.” Reply Br. 7.

We are not persuaded of error in the Examiner’s finding that the combination of Song and Lu at least suggests the identify limitation. We agree with the Examiner that Lu’s disclosure of “an account and/or password correspondence table registering correspondence relationship between an input interface type as well as an input signal value and an account and/or

password datum” teaches or suggests the recited “repository.” Lu ¶ 10. The Specification uses the term “repository” only in the claims, and Appellant does not disagree with the Examiner’s reasonable interpretation of the term. Lu also discloses an “identification module” for identifying an input type and a “processing module” that compares that input condition with data registered in the correspondence table to determine whether “the input condition exists” and if so, “transmit[s] the corresponding account and/or password datum to a central processing unit.” Lu ¶¶ 36–37. Appellant does not address these disclosures or explain why they do not teach or suggest identifying stored sign-in information based at least in part on the type of user selection. We, therefore, are not persuaded that this argument shows reversible error by the Examiner.

Accordingly, we are not persuaded of error in the Examiner’s rejection of claim 1 as obvious over the combination of Song, Tseng, Wan, and Lu.

Claim 2

The Examiner rejects claim 2 as obvious over the combination of Song, Tseng, Wan, and Lu. Final Act. 7–8. Claim 2 depends from claim 1 and recites the following:

wherein, when executed, the program further causes the mobile computing device to at least:

render a second user interface configured to facilitate a second user selection from among a subset of the plurality of accounts based at least in part on the type of user selection, the second user interface being separate from a third user interface of the particular application; and

wherein the particular stored sign-in information is identified based at least in part on the second user selection.

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The Examiner cites to Wan, Tseng, and Lu as teaching or suggesting the limitations recited by claim 2. Final Act. 8. In Wan, the Examiner points the disclosed drop down lists as an interface. *Id.* (citing Wan ¶49). In Tseng, the Examiner points to “a drag down second interface that provides access to different account[s].” *Id.* (citing Tseng Fig. 2b, ¶ 53). And in Lu, the Examiner points to the different input types for user selection. *Id.* (citing Lu ¶¶ 10, 13, 43).

Appellant argues that neither Lu nor Wan shows the type of user selection is “based at least in part on *an elapsed time associated with the user selection.*” Appeal Br. 26–28; Reply Br. 8–9. However, as discussed above, we agree with the Examiner’s finding that Lu teaches or suggests this limitation.

Appellant also argues, without further explanation, that “Tseng fails to show or suggest “render[ing] a second user interface configured to facilitate a second user selection from among a subset of the plurality of accounts based at least in part on *the type of user selection [determined by an elapsed time associated with the user selection], the second user interface being separate from a third user interface of the particular application.*” *Id.* at 27; Reply Br. 8. The Examiner explains that Tseng “discloses a second interface and the user interface does relate to accounts.” Ans. 5 (citing Tseng Fig. 2b, ¶ 53). According to the Examiner, “[i]t is understood that as a user navigates through an interface and a first selection (dragging selection) is performed [and] the second selection is performed through selection of the message itself (Tseng: Paragraph 53). Further the user selection type functionality is established by the combination including Lu elaborated on in claim 1 remarks above.” *Id.* In response to the Examiner’s

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explanation, Appellant states that it “respectfully disagrees” and reiterates, without elaboration, that Tseng fails to show “**the type of user selection [determined by an elapsed time associated with the user selection], the second user interface being separate from a third user interface of the particular application.**” Reply Br. 7–8.

The Board interprets Rule 41.37 “to require more substantive arguments in an appeal brief than a mere recitation of the claim elements and a naked assertion that the corresponding elements were not found in the prior art.” *In re Lovin*, 652 F.3d 1349, 1357 (Fed. Cir. 2011); *In re Geisler*, 116 F.3d 1465, 1470 (Fed. Cir. 1997); *In re De Blauwe*, 736 F.2d 699, 705 (Fed. Cir. 1984). Here, Appellant merely summarizes Tseng’s purported teachings and concludes that these teachings do not correspond to the limitation at issue. This is not enough to qualify as a substantive argument. Merely emphasizing certain claim language in some way is insufficient to constitute an argument for patentability. Moreover, in looking at the rejection, we find Examiner’s explanations reasonable. We are, therefore, not persuaded of error in the rejection by Appellant’s conclusory assertions.

Finally, for the first time in the Reply Brief, Appellant argues that “Tseng does not appear to show or suggest ‘**a subset of the plurality of accounts [associated with at least two of the applications].**” Reply Br. 8. This argument was not presented in Appellant’s Appeal Brief and will not be considered. *See* 37 C.F.R. § 41.41(b)(2) (“Any argument raised in the reply brief which was not raised in the appeal brief, or is not responsive to an argument raised in the examiner’s answer . . . will not be considered by the Board for purposes of the present appeal, unless good cause is shown.”).

Accordingly, we are not persuaded of error in the Examiner's rejection of claim 2 as obvious over the combination of Song, Tseng, Wan, and Lu.

Claim 22

The Examiner rejects claim 22, which depends from claim 1, over Song, Tseng, Wan, and Lu. Final Act. 10–11. Appellant does not make any additional arguments for claim 22. Appeal Br. 25. Accordingly, we are not persuaded of error in the Examiner's rejection of claim 22 as obvious over the combination of Song, Tseng, Wan, and Lu.

Claim 3

The Examiner rejects claim 3 as obvious over the combination of Song, Tseng, Wan, and Lu, explaining that “[c]laim 3 is similar in scope to claims 1–2 and therefore rejected under the same rationale.” Final Act. 8.

We do not sustain this rejection of claim 3. Appellant argues that neither Song nor Lu discloses the selecting limitation⁷ as recited by claim 3. Appeal Br. 31–32. The Examiner does not explicitly address these arguments, but states that “the rationale set forth above in claims 1 and 2 that similarly apply and the rejections are maintained with that consideration.” Ans. 5. Claim 3, however, does not include the language relied upon by the Examiner for the broad interpretation of claim 1. Specifically, instead of

⁷ The “selecting limitation” recites “select[ing] particular account information from a plurality of types of account information associated with a respective account of the plurality of accounts in response to a second user selection via a second user interface that is separate from a third user interface of the particular application, the particular account information being selected according to an elapsed time associated with the second user selection.” Appeals Br. 40 (Claims App.).

“determine a type of user selection *based at least in part on an elapsed time* associated with the user selection,” claim 3 recites “select particular account information . . . *according to an elapsed time* associated with the second user selection.” Appeal Br. 38, 40 (Claims App.) (emphases added). In other words, the language of claim 3 defining the relationship of elapsed time with the user selection is narrower than that used in claim 1—it is “according to the elapsed time” as opposed to “based at least in part on an elapsed time.” Given this difference in claim language and the Examiner’s reliance of the broad interpretation of “based in part on,” for the rejection of claim 1, the Examiner has not properly explained how mouse events that differ in many ways, including elapsed time, are selected “*according to an elapsed time.*” As pointed out by Appellant, Lu never discusses the time differences between the various user selection types or indicates that they are selected based on elapsed time, as opposed to, for example the type of motion involved. *See* Appeal Br. 22; Reply Br. 4. Therefore, it is not clear from the rejection that Lu’s disclosure of conventional mouse events as input events teaches or suggests selection “according to an elapsed time associated with the second user selection.”

Accordingly, we do not sustain the Examiner’s rejection of claim 3 as obvious over the combination of Song, Tseng, Wan, and Lu.

Claims 4–13

The Examiner rejects claims 4–6 and 8–11 over Song, Tseng, Wan, and Lu and claims 7, 12, and 13 over Song, Tseng, Wan, Lu, and Torres. Final Act. 8–13. Because these claims depend from claim 3, these rejections suffer from the same deficiency as that of claim 3. Accordingly, we do not sustain the Examiner’s rejection of claims 4–13.

Claims 14–19

Claim 14 is independent and, like claim 3, includes a selecting limitation using language similar to that of claim 3—“selecting, via the client computing device, a particular type of the account information *according to an elapsed time associated with a second user selection of the component*” (“the selecting limitation of claim 14”). Appeal Br. 43 (Claims App.) (emphasis added). For the reasons discussed above with regard to claim 3, it is not clear from the rejection that Lu’s disclosure of conventional mouse events as input events teaches or suggests the selecting limitation of claim 14. We, therefore, do not sustain the rejections of claim 14 or of claims 15–19, which depend from claim 14.

CONCLUSION

We affirm the Examiner’s decision to reject claims 1, 2, and 22. We reverse the Examiner’s decision to reject claims 3–19.

DECISION SUMMARY

| Claims Rejected | 35 U.S.C. § | Reference(s)/Basis | Affirmed | Reversed |
|------------------------|--------------------|------------------------------|-----------------|-----------------|
| 1–6, 8–11, 22 | 103 | Song, Tseng, Wan, Lu | 1, 2, 22 | 3–6, 8–11 |
| 7, 12, 13 | 103 | Song, Tseng, Wan, Lu, Torres | | 7, 12, 13 |
| 14–16, 18 | 103 | Meyer, Tseng, Lu | | 14–16, 18, 21 |
| 17 | 103 | Meyer, Tseng, Lu, Torres | | 17 |
| 19 | 103 | Meyer, Tseng, Lu, Mahaffey | | 19 |
| Overall Outcome | | | 1, 2, 22 | 3–19 |

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).

AFFIRMED IN PART