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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 13/873,930 | 04/30/2013 | YING CHEN | CAM920120025US2_8134-0156 | 8452 |

73109          7590          03/02/2020

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| EXAMINER |
|---|
| MUHEBBULLAH, SAJEDA |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2141 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 03/02/2020 | ELECTRONIC |

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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* YING CHEN, JOEL DUQUENE,
JAMES P. EBERWEIN, and DONG K. LIEU[1]

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Appeal 2019-000445
Application 13/873,930
Technology Center 2100

_____

Before JOHN A. EVANS, JUSTIN BUSCH, and
JAMES W. DEJMEK, *Administrative Patent Judges*.

EVANS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

*Jurisdiction*.

Claims 21–35 stand rejected, are appealed, and are the subject of our decision under 35 U.S.C. § 134(a).  Appeal Br. 2.  Claims 1–20 have been cancelled.  *Id.*  We have jurisdiction over the pending claims under 35 U.S.C. § 6(b).

We REVERSE.

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*Related Appeals.*

Appellant is unaware of any related appeals or interferences. Appeal Br. 2.

*Summary of the Invention.*

The invention is directed to a method of establishing a screen-sharing session. *See* Abstract.

*Claims.*

Claims 21, 26, and 31 are independent.[2]

Claim 21 is illustrative of the invention and is reproduced below with formatting added for clarity:

21. A computer-implemented method within a participating device, comprising:

initially presenting, by the participating device and to a user of the participating device, content generated by a presenting device;

prompting the user to select one of a plurality of sub-portions, automatically determined from application hierarchy, of the content;

receiving, from the user and by the participating device, a selection of a sub-portion of the content from the plurality of sub-portions;

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[2] Independent Claim 26 recites, *inter alia*, "[a] participating device, comprising: a hardware processor configured to initiate the following executable operations." Claim 26 proceeds to recite steps of the claimed executable method. Claims 27–30 depend from Claim 26, but recite, *inter alia*, "[t]he system of claim 26, wherein." Thus, the dependent claims do not recite the same statutory class of invention as is recited by the independent claim from which they depend. Should prosecution continue, the Examiner may wish to consider requiring correction.

identifying a boundary of the sub-portion of the content;

transmitting, in response to the selection and to a computer associated with the presenting device, the boundary;

receiving, from the computer associated with the presenting device, only the sub-portion of the content and not unselected sub-portions of the content; and

subsequent presenting, by the participating device and to the user, only the sub-portion of the content and not the unselected sub-portions of the content, wherein

the plurality of sub-portions are concurrently presented by the participating device during the initially presenting.

## REJECTIONS[3] AT ISSUE[4]

*References.*

| Name | Publication Number | Date |
|------|--------------------|------|
| Pasetto | US 8,606,952 B2 | Dec. 10, 2013 |
| DeGrazia | US 2009/0217177 A1 | Aug. 27, 2009 |
| Dinka | US 2011/0191695 A1 | Aug. 4, 2011 |

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[3] The Application is being examined under the pre-AIA first to invent provisions. Final Act. 2.

[4] Throughout this Decision, we refer to the Appeal Brief ("Appeal Br.") filed May 14, 2018; the Reply Brief ("Reply Br.") filed October 24, 2018; the Final Office Action ("Final Act.") mailed December 14, 2017; the Examiner's Answer ("Ans.") mailed September 10, 2018; and the Specification ("Spec.") filed April 30, 2013.

*Rejections.*

1. Claims 21–24, 26–29, and 31–34 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Pasetto and Dinka. Final Act. 3–6.

2. Claims 25, 30, and 35 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Pasetto, Dinka, and DeGrazia. Final Act. 6.

ANALYSIS

*Overview.*

We have reviewed Appellant's arguments in the Briefs, the Examiner's rejection, and the Examiner's response to Appellant's arguments. Appellant's arguments have persuaded us of error in the Examiner's obviousness rejections of the Claims.

CLAIMS 21–35: OBVIOUSNESS OVER PASETTO, DINKA, AND DEGRAZIA.

Appellant argues all claims as a group in view of the limitations of Claim 21. *See* Appeal Br. 8, 13. Therefore, we decide the appeal of the § 103(a) rejections on the basis of illustrative Claim 21 and refer to the rejected claims collectively herein as "the claims." *See* 37 C.F.R. § 41.37(c)(1)(iv); *In re King*, 801 F.2d 1324, 1325 (Fed. Cir. 1986).

Claim 21 recites, *inter alia*, "prompting the user to select one of a plurality of sub-portions, automatically determined from application hierarchy, of the content."

The Examiner finds Dinka, but not Pasetto, teaches a method of sharing portions of a screen wherein the sub-portion is automatically

determined dependent on the position of an overlay frame that automatically selects the underlying frame once released and prompts the user to share the portion. Final Act. 4–5 (citing Dinka ¶ 43, i.e., "show this" button prompts user to share). The Examiner finds the claimed "application hierarchy" is the "'parent/child window relationship' as discussed in Applicants' specification." Final Act. 2 (citing Spec. ¶ 26) ("For example, when context menu 144 is presented within frame 142, choosing selection option 140 can automatically select the frame 142 as selected content based on mouse focus.").

Appellant contends Dinka teaches positioning of a mouse cursor over a window causes that window to be selected, but Dinka fails to teach "a plurality of sub-portions, [is] automatically determined from [an] application hierarchy," as claimed. Appeal Br. 9. Specifically, Appellant argues "it is the position of the cursor over the window (i.e., sub-portion) that determines that the window is to be selected," but an "application hierarchy" is not used. *Id.*

Appellant contends the Examiner makes no finding that either Dinka or Pasetto teaches prompting the user to select one of a plurality of sub-portions. *Id.* at 10.

In response to Appellant's contention that neither Dinka nor Pasetto teaches prompting the user, the Examiner makes no finding that the prior art teaches prompting, rather, the Examiner finds prompting is taught in Appellant's Specification. Ans. 7 ("Furthermore, the Examiner would like to point out the prompting is taught in Applicant's specification in Para. [0032].").

As the MPEP recognizes, any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as

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it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. MPEP § 2145(X)(A) (quoting *In re McLaughlin*, 443 F.2d 1392 (CCPA 1971)). However, the only finding the Examiner makes relative to the claimed prompting the user refers to Appellant's Specification, but not the prior art. In view thereof, we are constrained by the Record to find the prior art fails to teach each claimed limitation. Thus, we decline to sustain the rejections of Claims 21–35.

## CONCLUSION

| Claims Rejected | 35 U.S.C. § | Reference(s)/Basis | Affirmed | Reversed |
|---|---|---|---|---|
| 21–24, 26–29, 31–34 | 103(a) | Pasetto, Dinka | | 21–24, 26–26, 31–34 |
| 25, 30, 35 | 103(a) | Pasetto, Dinka, DeGrazia | | 25, 30, 35 |
| **Overall Outcome** | | | | 21–35 |

## REVERSED