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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JOHN H. YOAKUM

Appeal 2019-001141
Application 13/955,711
Technology Center 2400

Before IRVIN E. BRANCH, AMBER L. HAGY, and SCOTT RAEVSKY,
Administrative Patent Judges.

HAGY, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision to reject claims 1, 3–9, 11–15, and 17–20, which are all of the pending claims. *See* Final Act. 1. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ We use the word Appellant to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as applicant, Avaya, Inc. Brief 2.

CLAIMED SUBJECT MATTER

According to Appellant, the technology of the present application “relates generally to Web Real-Time Communications (WebRTC) interactive sessions.” Spec. ¶ 1. By way of “Technical Background,” Appellant describes WebRTC as providing “built-in capabilities for establishing real-time video, audio, and/or data streams in both point-to-point interactive sessions and multi-party interactive sessions.” *Id.* ¶ 3. To establish a WebRTC interactive flow (e.g., a real-time video, audio, and/or data exchange), “two WebRTC clients may retrieve WebRTC-enabled web applications, such as HTML5/JavaScript web applications, from a web application server. Through the web applications, the two WebRTC clients then engage in a media negotiation to communicate and reach an agreement on parameters that define characteristics of the interactive session.” *Id.* ¶ 4. Appellant’s Specification further describes typical WebRTC functionality, while noting a drawback:

Typically, a WebRTC client provides capability for modifying various aspects of the WebRTC client functionality at a local endpoint. For example, to facilitate a WebRTC interactive media flow, the WebRTC client may allow modification of attributes of local communicatively coupled devices such as speakers, microphones, video cameras, and video displays, as non-limiting examples. However, WebRTC does not include a mechanism for a first WebRTC client to effect changes to the functionality associated with a remote WebRTC client engaged in a media exchange with the first WebRTC client.

Id. ¶ 6. Appellant’s Specification purports to address the described drawback in the prior art by describing embodiments that “provide remotely controlling Web Real-Time Communications (WebRTC) client functionality via WebRTC data channels.” *Id.* ¶ 7.

Claims 1, 9, and 15 are independent. Claim 1, reproduced below, illustrates the claimed subject matter:

1. A method for remotely controlling Web Real-Time Communications (WebRTC) client functionality, comprising:

establishing, by a first WebRTC client executing on a first computing device and a second WebRTC client executing on a second computing device, a WebRTC media channel between the first WebRTC client and the second WebRTC client, wherein the second computing device and the second WebRTC client are located remotely from the first computing device and the first WebRTC client;

establishing, between the first WebRTC client and the second WebRTC client, a WebRTC data channel affiliated with the WebRTC media channel, wherein establishing the WebRTC data channel comprises:

establishing by a WebRTC Client Control Agent of the first WebRTC client and executing on the first computing device the WebRTC data channel with a WebRTC Functionality Modification Agent of the second WebRTC client and executing on the second computing device, and

sending, by the WebRTC Functionality Modification Agent, a client control authorization signal back to the WebRTC Client Control Agent allowing control of functionality of the second WebRTC client by the first WebRTC client;

receiving, by the second WebRTC client from the first WebRTC client via the WebRTC data channel, a client control signal comprising instructions originating from the WebRTC Client Control Agent of the first WebRTC client, the instructions comprising instructions to modify a functionality associated with the second WebRTC client; and

responsive to receiving the client control signal via the WebRTC data channel, modifying the functionality associated with the second WebRTC client according to the instructions, wherein modifying the functionality associated with the second

WebRTC client comprises modifying by the WebRTC Functionality Modification Agent of the second WebRTC client an attribute associated with a device communicatively coupled to the second computing device based on the client control signal.

REFERENCES

Baum et al. (“Baum”), US. Patent Application No. US 2009/0070477 A1, published Mar. 12, 2009.

R. Jessup, S. Loreto, M. Tuexen, “WebRTC Data Channel Protocol,” RTCWeb Working Group (Feb. 26, 2013) (“Jessup”).

Applicant Admitted Prior Art (“AAPA”) (Spec. ¶¶ 2–6; Final Act. 3).

REJECTION²

Claims 1, 3–9, 11–15, and 17–20 stand rejected under 35 U.S.C. § 103 as being unpatentable over the combination of AAPA, Baum, and Jessup. Final Act. 3–10.

OPINION

We have considered Appellant’s arguments and contentions (Brief 7–11) in light of the Examiner’s findings and explanations (Final Act. 2–10; Ans. 3–8). For the reasons set forth below, we are not persuaded of Examiner error in the rejection of the pending claims, and we, therefore, sustain the Examiner’s rejection.

² The Leahy-Smith America Invents Act (“AIA”) included revisions to 35 U.S.C. § 103 that became effective on March 16, 2013. Because the present application was filed after March 16, 2013, the rejection is under the provisions of Title 35 of the United States Code in effect after the effective date of the AIA.

Claims 1, 3–9, 11–15, 17–20 are all rejected under the same ground of rejection. Final Act. 3. Appellant argues the patentability of all claims together with independent claims 1, 9, and 15, which Appellant argues collectively. *See* Brief 8, 9. We select claim 1 as the representative claim, pursuant to our authority under 37 C.F.R. § 41.37(c)(1)(iv). Claims 3–9, 11–15, 17–20 stand or fall with claim 1.

The Examiner relies on the combination of AAPA, Baum, and Jesup as teaching or suggesting the limitations of claim 1. In particular, the Examiner finds AAPA (identified by the Examiner as paragraphs 2–6 of Appellant’s Specification)³ discloses a method for remotely controlling a WebRTC client functionality, including “establishing . . . a WebRTC media channel” between first and second clients, and “modifying a functionality associated with the second WebRTC client” Final Act. 3–4 (citing Spec. ¶¶ 4, 6). The Examiner relies on Baum in combination with Jesup for the remaining limitations, finding Baum discloses “[a] control and a data channel may be established, where the control channel may be used to control remote devices, such as sensors and cameras that provide streams via the data channel,” and Jesup discloses a “WebRTC data channel protocol provides a generic transport service to exchange generic data, thus providing that a WebRTC data channel would be fully capable of transporting the kind of information in Baum.” *Id.* at 4 (citing Baum ¶¶ 129, 209; Jesup at 3, Section 1). In mapping the other limitations of claim 1 onto Baum’s disclosure as modified by Jesup, the Examiner finds Baum discloses all of the recited functionality except Baum does not specifically teach use of

³ This finding by the Examiner is not challenged by Appellant. *See* Brief 8.

WebRTC, but the Examiner finds Jesup discloses WebRTC's "generic transport capabilities" (Final Act. 3). The Examiner further finds the ordinarily skilled artisan would have been motivated to incorporate the generic transport mechanism of WebRTC, as taught by Jesup, into the disclosure of Baum "to allow the local control of AAPA to be performed remotely using a control channel within the known WebRTC session."

Ans. 6.

Appellant argues the Examiner's findings are in error, essentially arguing that AAPA does not provide a WebRTC control channel for the remote control of a functionality (Brief 8), Baum does not provide for the use of WebRTC (*id.* at 8–10), and Jesup does not provide for the remote control of a functionality (*id.* at 10). As the Examiner points out, however, Appellant is attacking each reference singly for lacking a teaching that the Examiner relied on a combination of references to show. *See* Ans. 4–7. The test for obviousness is not whether the claimed invention is expressly suggested in any one or all of the references. "Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art." *In re Keller*, 642 F.2d 413, 425 (CCPA 1981) (citations omitted) (emphasis added). Thus, where, as here, the rejections are based upon the teachings of a combination of references, "[n]on-obviousness cannot be established by attacking references individually." *In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986) (citing *Keller*, 642 F.2d at 425). In addition, a reference "must be read, not in isolation, but for what it fairly teaches in combination with the prior art as a whole." *Id.* In arguing findings the Examiner never made with regard to the individual teachings of the prior art, Appellant has not demonstrated Examiner error.

Appellant also argues that “the conclusions reached by the Examiner are based on the benefit of hindsight gained from the claims recitations and the facts relied upon by the Examiner in making this argument seem to come from the claim recitations rather than the references themselves.” Brief 11. We disagree that the Examiner has engaged in improper hindsight reconstruction or has erred in combining the teachings of the cited references. As noted above, the Examiner’s findings are premised on disclosures gleaned from the prior art, such as AAPA’s teaching of WebRTC and local control, Baum’s disclosure of using data and control channels to remotely modify a functionality of a device of Baum, and Jesup’s disclosure of WebRTC’s generic transport mechanism. *See* Ans. 4–8.

Where, as here, the Examiner has articulated a reason having rational underpinnings for making a proposed combination of prior art teachings, that articulated reasoning demonstrates the combination is not based on hindsight. *See In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006) (requiring “some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness”) (cited with approval in *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398, 419 (2007)). A reason to combine teachings from the prior art “may be found in explicit or implicit teachings within the references themselves, from the ordinary knowledge of those skilled in the art, or from the nature of the problem to be solved.” *WMS Gaming Inc. v. Int’l Game Tech.*, 184 F.3d 1339, 1355 (Fed. Cir. 1999) (citing *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998)).

We determine the Examiner has provided an articulated reason for combining AAPA, Baum, and Jesup that includes a rational underpinning.

See Final Act. 6; Ans. 5. In particular, as the Examiner clarifies in the Answer, Appellant’s Specification discloses that the peer connection between WebRTC clients “typically employs the Secure Real-Time Transport Protocol (SRTP) to transport real-time media channels, and may utilize various other protocols for real-time data interchange.” Ans. 5 (citing Spec. ¶ 5). The Examiner finds this demonstrates “that other protocols can actually be used within WebRTC, such as SRTP, which is an extension of RTP.” *Id.* The Examiner also finds “Baum utilizes Real-time Transport Protocol . . . , which demonstrates an additional suggestion to utilize the different protocols (such as RTP) of Baum with WebRTC.” *Id.* (citing Baum ¶ 209). The Examiner also notes that Jesup discloses “that it was known to utilize WebRTC as a generic transport mechanism, thus demonstrating that one of ordinary skill in the art would have been fully capable of utilizing the WebRTC data channel to convey different information items, including that taught by Baum for the control channel.” *Id.* at 6. Thus, the Examiner finds the ordinarily skilled artisan would have been motivated

to provide a control channel for the WebRTC session to allow remote control of devices that provide streams, especially in cases where the remote client may not be associated with a remote user, such as remote sensors or cameras, where providing such controls to the local client would give the capability to control the remote client which would otherwise not be possible (due to the lack of a corresponding remote user).

Final Act. 6. The Examiner also finds “by specifically using the WebRTC data channel’s generic transport capabilities, the combination would not need to implement separate channels and protocols in order to provide such connections, thus simplifying execution of the system.” *Id.*

The Examiner has thus supported the finding of obviousness with articulated reasoning that includes a rational underpinning. Appellant, on the other hand, has not provided persuasive evidence or line of reasoning explaining why the Examiner's rationale is erroneous or why a person of ordinary skill in the art *would not* have reached the conclusions reached by the Examiner. At most, Appellant raises a semantic challenge to the Examiner's findings based on their use of language about what the references "may" or "would be able to do." *See* Brief 11. Such an argument is unpersuasive of Examiner error. As the Examiner notes, the Examiner's findings are based on *capabilities* of the systems disclosed in the prior art. *See* Ans. 7–8. An obviousness inquiry hinges in part on "whether the ordinary artisan possesses knowledge and skills rendering him *capable* of combining the prior art references." *See DyStar Textilfarben GmbH & Co. Deutschland KG v. C.H. Patrick Co.*, 464 F.3d 1356, 1368 (Fed. Cir. 2006). The Examiner's describing the capabilities of the prior art supports reasons why the ordinarily skilled artisan would have been motivated to combine, and would have been capable of combining, their teachings, and thus the Examiner's choice of language does not betray reasoning based on hindsight.

For the foregoing reasons, we are not persuaded of Examiner error in the rejection of claim 1 under 35 U.S.C. § 103 as obvious over the combination of AAPA, Baum, and Jesup, and we, therefore, sustain that rejection, along with the rejection of independent claims 9 and 15 argued collectively with claim 1 and the dependent claims, which Appellant does not argue separately.

CONCLUSION

The Examiner's decision rejecting claims 1, 3-9, 11-15, and 17-20 under 35 U.S.C. § 103 is affirmed.

DECISION SUMMARY

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1, 3-9, 11-15, 17-20	103	AAPA, Baum, Jessup	1, 3-9, 11-15, 17-20	

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