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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JEFF VANDERZWEEP, MARTIN HLUCKA, DAVID MIKULKA, ZDENEK DVORAK, TIM FELKE, and NAGABHUSHANA RAO BEGUR

Appeal 2019-001265
Application 14/231,472
Technology Center 2100

Before BRADLEY W. BAUMEISTER, JOHN F. HORVATH, and SCOTT RAEVSKY, *Administrative Patent Judges.*

RAEVSKY, *Administrative Patent Judge.*

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant[1] appeals from the Examiner's decision to reject claims 4, 5, and 9, all the pending claims in this appeal. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

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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 Honeywell International, Inc. Appeal Br. 2.

CLAIMED SUBJECT MATTER

The claims relate to using a path specification to limit requested entity data by designating a single explicit multiple step path between any two pairs of entity types. *See* Spec., Abstr. Claim 4, reproduced below, is illustrative of the claimed subject matter:

> 4. A method for using a path specification to request entity data to designate a single multiple step path between two pairs of entities, the method comprising:
>
> maintaining in a database a plurality of path specification elements, each of the plurality of path specification elements includes a relationship specification, the relationship specification includes relationships between at least two entities, an order of the relationships, and a forward or reverse context of following the relationships;
>
> determining a requested relationship specification from user input, the requested relationship specification comprises a source entity and a destination entity;
>
> returning a list of data items identified from the database based on a relationship specification identified as being associated with a path specification element of the plurality of path specification elements wherein the returning list of data items are from a destination table associated with the destination entity and are identified based on a search criteria from the user input, on the data items which are determined to be accessible and data items chosen on a defined path of path specification elements, and when only one matching path specification element exists, returning a list of data items based exclusively on the matching path specification element; wherein the determining step further comprising:
>
> determining by a parent filter whether a path specification exists on both the source entity and the destination entity wherein the path specification is a common destination entity specification; and
>
> selecting, by user input enabled by the parent filter, an entity of the common destination entity specification wherein a list of destination entities is reduced to only a

> set of destinations entities linked by a determined path specification.

REJECTION

Claims 4, 5, and 9 are rejected under 35 U.S.C. § 103 as being unpatentable over Siddavanahalli (US 8,913,797 B1, Dec. 16, 2014), Geisberger (US 8,824,337 B1, Sept. 2, 2014), and Cheng (US 2013/0254213 A1, Sept. 26, 2013). Final Act. 2, 24.

ANALYSIS

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). Arguments not made are waived. *See id.*; 37 C.F.R. § 41.37(c)(1)(iv).

Issue 1: Did the Examiner err in finding the combination of Siddavanahalli, Geisberger, and Cheng teaches or suggests "maintaining in a database a plurality of path specification elements, each of the plurality of path specification elements includes a relationship specification," as recited in claim 4? Appeal Br. 18–20.

Appellant contends that Siddavanahalli does not teach or suggest "a relationship based model to determine a *context* path between entities." *Id.* at 19. Rather, Appellant contends, Siddavanahalli's linking of persons that have been tagged in photographs "has no context relationship but is based on the two persons['] tagged photographs and not on a contextual relationship." *Id.*

The Examiner finds the express language of claim 4 contains "no such term such as 'contextual relationship.'" Ans. 5. The Examiner further finds that, although claim 4 recites a "forward or reverse context of following the

relationship," that limitation is "addressed with the Geisberger reference." *Id.*

We agree with the Examiner. Not only is Appellant's argument not commensurate with the claim, but Appellant's arguments attacking Siddavanahalli, Geisberger, and Cheng in isolation do not persuasively rebut the underlying factual findings made by the Examiner, which are based upon the combined teachings and suggestions of the cited references. One cannot show non-obviousness by attacking references individually, where the rejections are based on combinations of references. *In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986).

In Reply, Appellant contends the Examiner's Answer incorrectly equates a "person" in Siddavanahalli with the claimed "entit[ies]." Reply Br. 3. But a few sentences later, Appellant provides examples of entities including "an employee," which undermines Appellant's argument. *See id.* at 4.

Also in the Reply Brief, Appellant contends the Examiner incorrectly equates a "path spec" with an indirect link in Siddavanahalli. *Id.* However, the Examiner applied Siddavanahalli's "indirect links" against the same claim limitation in the Final Action. Final Act. 4 ("link determination module can store direct/indirect links and keep them in tables as shown (maintain)") (emphasis omitted). Appellant has not explained why this argument, which Appellant could have raised in the Appeal Brief, was not raised therein. *See* Appeal Br. 19 (addressing Siddavanahalli's "direct link," but not Siddavanahalli's indirect links).

We therefore do not consider this new argument. *See* 37 C.F.R. § 41.41(b)(2); *see also In re Hyatt*, 211 F.3d 1367, 1373 (Fed. Cir. 2000)

(noting that an argument not first raised in the Brief to the Board is waived on appeal); *Ex parte Nakashima*, Appeal No. 2009-001280, 2010 WL 191183, at *3–*6 (BPAI 2010) (explaining that arguments and evidence not timely presented in the principal Brief will not be considered when filed in a Reply Brief, absent a showing of good cause explaining why the argument could not have been presented in the Principal Brief).

Accordingly, Appellant does not persuade us of Examiner error with respect to this limitation.

Issue 2: Did the Examiner err in finding the combination of Siddavanahalli, Geisberger, and Cheng teaches or suggests "the relationship specification includes . . . a forward or reverse context of following the relationships," as recited in claim 4? Appeal Br. 20–21.

Appellant contends Geisberger does not teach or suggest this limitation because Geisberger's weights do not show a relationship "context," which Appellant defines as an "environment or setting." *Id.* at 20. Appellant states this limitation is described in paragraph [28] of the Specification, which describes, in part, "operation of the complex system 1 is modeled in software referred to herein as a 'fault model' 31 . . . . *The fault model 31 is essentially a database relating various data types, formula and logic subroutines related to the complex system 1*." *Id.* at 20–21 (citing Spec. ¶ 28). Appellant then contends that Geisberger's "weighting of links is not of the same (not various data types) and it does not provide a context of the path flow." *Id.* at 21.

The Examiner finds, and we agree, that neither the claims nor Specification define "context" as set forth in Appellant's Appeal Brief. Ans.

14–15. The Examiner further finds, and we agree, that Appellant's arguments are not commensurate with the scope of the claims. *Id.* at 15.

Appellant also raises additional arguments in the Reply Brief with respect to this limitation that Appellant did not, but could have raised in its Appeal Brief. *See* Reply Br. 4–5. We treat these arguments as waived. *See* 37 C.F.R. § 41.41(b)(2); *In re Hyatt*, 211 F.3d at 1373; *Ex parte Nakashima*, 2010 WL 191183, at *3–*6. Accordingly, Appellant does not persuade us of Examiner error with respect to this limitation.

Issue 3: Did the Examiner err in finding the combination of Siddavanahalli, Geisberger, and Cheng teaches or suggests "selecting, by user input enabled by the parent filter, an entity of the common destination entity specification wherein a list of destination entities is reduced to only a set of destinations entities linked by a determined path specification," as recited in claim 4? Appeal Br. 21–22.

Appellant contends that Cheng fails to teach or suggest this limitation. *Id.* First, Appellant contends the claim "requires the parent filter feature as described in paragraph [36] line[s] 1–8 of the present disclosure." *Id.* at 21 (emphasis omitted). Then Appellant contends this feature is not present in Cheng paragraph [80] because the "user selection of Cheng does not link or reduce the list of destination entities to only a set of destination[] entities linked by a determined path specification but simply enables the user to select paths connecting to the user." *Id.* at 21–22.

The Examiner finds, and we agree, that Appellant's argument impermissibly imports limitations from the Specification into the claims. Ans. 23. The Examiner also finds that Appellant "omits more than half of

what was cited by the [E]xaminer for the limitation in question," including paragraphs [81], [82], and [85] of Cheng. *Id.*

In Reply, Appellant does not address either of the Examiner's findings but instead maintains its argument that Cheng's paragraph [80] fails to disclose the claim limitation. Reply Br. 5. We find the Appellant's arguments unpersuasive because they do not respond to the Examiner's full rejection. Arguments not made are waived. *See* 37 C.F.R. § 41.37(c)(1)(iv).

Appellant also argues against the combination, stating "the Examiner has not provided a factual basis or articulated reasoning" for combining the references. Appeal Br. 24. However, the Examiner did provide a factual basis. *See* Final Act. 9–10, 13. We, therefore, sustain the Examiner's rejection of claim 4. Appellant's arguments regarding the rejection of independent claims 5 and 9 rely on the same arguments as for claim 1, and there are no pending dependent claims. *See* Appeal Br. 25. We therefore also sustain the Examiner's rejection of claims 5 and 9. *See* 37 C.F.R. § 41.37(c)(1)(iv).

CONCLUSION

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
4, 5, 9	103	Siddavanahalli, Geisberger, Cheng	4, 5, 9	

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