UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/839,850	08/16/2007	Patrick R. Guido	RSW920040110US2	9220

103765   7590   06/18/2020

IBM Corp-Rochester Drafting Center
1701 North Street Building 256-3
Department SHCB
Endicott, NY 13760

EXAMINER
NGUYEN, LE V

ART UNIT	PAPER NUMBER
2174	

NOTIFICATION DATE	DELIVERY MODE
06/18/2020	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 PATRICK R. GUIDO, ROBERT C. LEAH,
PAUL F. McMAHAN, and WAYNE B. RILEY

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Appeal 2019-001357
Application 11/839,850
Technology Center 2100

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Before JOHN A. JEFFERY, DENISE M. POTHIER, and
JASON J. CHUNG, *Administrative Patent Judges*.

CHUNG, *Administrative Patent Judge*.

Opinion Concurring filed by JEFFERY, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant[1] appeals the Final Rejection of claims 1, 3–14, 16–21, 23–26, and 28–33.[2] We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

INVENTION

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[1] We use the word "Appellant" to refer to "applicant" as defined in 37 C.F.R. § 1.42. According to Appellant, International Business Machines (IBM) Corporation is the real party in interest. Appeal Br. 1.
[2] Claims 2, 15, 22, and 27 are cancelled. Appeal Br. 17, 20, 22–23.

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The invention relates to deactivate and reactivate a portlet associated with a portal page. Spec. ¶ 4. Claims 1 and 9 are illustrative of the invention and are reproduced below with emphasized font denoting disputed limitations:

> 1. A method to control operation of a portlet associated with a portal page, comprising:
> deactivating a selected portlet in response to a user operating a deactivation feature presented in the selected portlet;
> freezing a portlet content in the selected portlet except a reactivation feature presented on the deactivated portlet in response to deactivating the selected portlet, *wherein freezing the portlet content comprises preventing the portlet content from being altered across any refreshes of the portal page* and wherein content of an active portlet associated with the portal page is changeable across any refreshes of the portal page;
> disabling hyperlinks, buttons and other inputs to the selected portlet in response to deactivating the selected portlet; and
> reactivating the selected portlet in response to the user operating the reactivation feature presented in the deactivated selected portlet, wherein the deactivated selected portlet is prevented from being moved, closed, edited or affected.

Appeal Br. 17 (Claims Appendix) (emphasis added).

> 9. A method to control operation of a portlet associated with a portal page, comprising:
> deactivating a selected portlet in response to a user operating a deactivation feature presented in the portlet;
> *overlaying the selected portlet with an electronic invisible pane or window in response to the selected portlet being deactivated to block, the portlet being visible through the electronic invisible pane or window and the electronic invisible pane or window blocking all inputs of the selected portlet while the selected portlet is deactivated* except a reactivation feature presented in the selected portlet in response to the selected portlet being deactivated; and

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> reactivating the selected portlet in response to the user operating the reactivation feature presented in the deactivated selected portlet, wherein the deactivated selected portlet is prevented from being moved, closed, edited or affected.

Id. at 18 (Claims Appendix) (emphasis added).

REJECTIONS[3]

The Examiner rejects claims 1, 3–8, 14, 16–18, 20, 21, 23–26, and 28–33 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Lillie (US 2005/0065913 A1; filed Sept. 22, 2003), Chowdhry (US 2003/0167315 A1; published Sept. 4, 2003), Jerrard-Dunne (US 2006/0041637 A1; filed Aug. 18, 2004), and Richmond (HTML's META-tag: HTTP-EQUIV, Web Developer's <Virtual Library>; Oct. 12, 1999). Final Act. 2–13, 17–20.[4]

The Examiner rejects claims 9–13 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Lillie, Kuwamoto (US 5,483,632; issued Jan. 9, 1996), and Chowdhry. Final Act. 13–16.

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[3] In the event of further prosecution, the Examiner should evaluate claims 26, 28, and 29 in light of *Subject Matter Eligibility of Computer Readable Media*, 1351 Off. Gaz. Pat. Office 212 (Feb. 23, 2010). We note that Appellants' Specification specifically includes a "stream of information being retrieved when the computer program product is 'downloaded' through a network." Spec. ¶ 43.

[4] Although the Examiner separates the rejection of claims 1, 3–8, 14, 16–18, 20, 21, 23–25, and 30–33 from the rejection of claims 26, 28, and 29, these two rejections are based on the same combination of references. *Compare* Final Act. 2–13 (rejecting claims 1, 3–8, 14, 16–18, 20, 21, 23–25, and 30–33 over the combination of Lillie, Chowdhry, Jerrard-Dunne, and Richmond) *with id.* at 17–20 (rejecting claims 26, 28, and 29 over the combination of Lillie, Chowdhry, Jerrard-Dunne, and Richmond). We, therefore, consolidate the listing of these two rejections into one rejection.

The Examiner rejects claims 19 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Lille, Chowdhry, Jerrard-Dunne, Richmond, and Kuwamoto. Final Act. 16–17.

ANALYSIS

I. *Claims 1, 3–8, 14, 16–20, 21, 23–26, and 28–33 Rejected Under 35 U.S.C. § 103(a)*

The Examiner finds Lillie and Chowdhry fail to teach the limitation "freezing the portlet content comprises preventing the portlet content from being altered across any refreshes of the portal page" (hereinafter "disputed limitation") recited in independent claims 1, 14, 18, 21, and 26. Final Act. 3, 7, 9–10, 19; Ans. 17–18. The Examiner finds Jerrard-Dunne teaches bypassing a portlet such that the portlet page need not be refreshed each time, which the Examiner maps to the disputed limitation recited in claims 1, 14, 18, 21, and 26. Final Act. 3–4, 7–11, 19 (citing Jerrard-Dunne ¶ 50); Ans. 17–18.

Appellant argues Jerrard-Dunne's portlet is simply bypassed, but fails to teach the above quoted, disputed limitation. Appeal Br. 6–7; Reply Br. 3. We agree with Appellant.

The Examiner relies on Jerrard-Dunne to teach the disputed limitation recited in claims 1, 14, 18, 21, and 26. Final Act. 3, 7, 9–10, 19; Ans. 17–18. The cited portion of Jerrard-Dunne teaches bypassing a portlet such that the portlet page need not be refreshed each time, which fails to teach the disputed limitation recited in claims 1, 14, 18, 21, and 26. Jerrard-Dunne ¶ 50 (cited at Final Act. 3–4, 7–11, 19; Ans. 17–18).

Accordingly, we do not sustain the Examiner's rejection of: (1) independent claims 1, 14, 18, 21, and 26; and (2) dependent claims 3–8, 16, 17, 20, 23–25, and 28–33 under 35 U.S.C. § 103(a).

II. *Claims 9–13 Rejected Under 35 U.S.C. § 103(a)*

The Examiner finds Lillie teaches automatically deactivating a portlet and adjusting the opacity of a front most portlet, which the Examiner maps to the limitation "overlaying the selected portlet with an electronic pane or window" recited in claim 9. Final Act. 13; Ans. 19. The Examiner finds Kuwamoto teaches a foreground window is available for editing, which the Examiner maps to the limitation "blocking all inputs of a selected window while the selected window is deactivated" recited in claim 9. Final Act. 13–14 (citing Kuwamoto, 7:17–22, 9:45–67, Figs. 6 and 12); Ans. 19.

Appellant argues Lillie and Kuwamoto fail to teach the italicized claim 9 limitation recited *supra* on page 2 because (1) Lillie merely teaches that a portlet can be activated, deactivated, or removed and adjusting the opacity of overlapping portlets and (2) Kuwamoto simply teaches editing a foreground window. Appeal Br. 13–14; Reply Br. 5–6. We agree with Appellant.

Claim 9 recites "overlaying the selected portlet with an electronic invisible pane or window *in response to* the selected portlet being deactivated to block" (emphasis added). Claim 9 requires a nexus (i.e., the "in response to" limitation) between: (1) the limitation "overlaying the selected portlet with an electronic invisible window or pane;" and (2) a preceding condition of "the selected portlet being deactivated to block." Stated another way, the cited portions of Lillie and Kuwamoto fail to teach a preceding condition of "overlaying the selected portlet with an electronic invisible window or pane" triggers the result of "overlaying the selected portlet with an electronic invisible window or pane" as required by claim 9. Nor has the Examiner adequately explained how this "in response to"

limitation is met. *See* Final Act. 13–14 (lacking any explanation pertaining

to the limitation "overlaying the selected portlet with an electronic invisible

pane or window *in response to* the selected portlet being deactivated to

block" (emphasis added) recited in claim 9); Ans. 19 (lacking any

explanation pertaining to the limitation "overlaying the selected portlet with

an electronic invisible pane or window *in response to* the selected portlet

being deactivated to block" (emphasis added) recited in claim 9).[5]

     Accordingly, we do not sustain the Examiner's rejection of:

(1) independent claim 9; and (2) dependent claims 10–13 under 35 U.S.C.

§ 103(a).

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[5] In the event of further prosecution, the Examiner should consider including an explanation of how Lillie and Kuwamoto teach the limitation "overlaying the selected portlet with an electronic invisible pane or window *in response to* the selected portlet being deactivated to block" (emphasis added) recited in claim 9.

CONCLUSION

In summary:

Claim(s) Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1, 3–8, 14, 16–18, 20, 21, 23–26, 28–33	103(a)	Lillie, Chowdhry, Jerrard-Dunne, Richmond		1, 3–8, 14, 16–18, 20, 21, 23–26, 28–33
9–13	103(a)	Lillie, Kuwamoto, Chowdhry		9–13
19	103(a)	Lille, Chowdhry, Jerrard-Dunne, Richmond, Kuwamoto		19
Overall Outcome				**1, 3–14, 16–21, 23–26, 28–33**

REVERSED

UNITED STATES PATENT AND TRADEMARK OFFICE
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Before JOHN A. JEFFERY, DENISE M. POTHIER, and
JASON J. CHUNG, *Administrative Patent Judges*.

JEFFERY, *Administrative Patent Judge*, CONCURRING.

I join the majority in reversing the Examiner's rejections for the
reasons indicated, but add that the Examiner's reliance on the cited passages
and figures from both Lillie and Kuwamoto for teaching the recited invisible
pane overlay functionality, where the invisible pane blocks all inputs of the
selected portlet that is visible through the invisible pane, strikes me as
unclear on this record, particularly since this overlay is responsive to
deactivating the selected portlet as the majority indicates. That the
Examiner does not specify clearly how the recited limitations of claim 9 map
to the relied-upon features in the cited references only further undermines
the propriety of the rejection in my view.

That said, this Board has addressed patentability issues involving
similar transparent overlays where inputs to the underlying window are at

least partially blocked by an overlying transparent window. *See Ex parte Apple*, Appeal 2016-005175 (PTAB Sept. 19, 2016) (non-precedential), *reh'g denied* (PTAB Dec. 12, 2017). The prior art at issue in that case, principally U.S. Patent 5,651,107 (Frank), was discussed extensively regarding the functionality of the transparent overlay and the underlying window as shown in the Board's reproduction of Frank's Figure 8 on page 5 of the Board's decision:
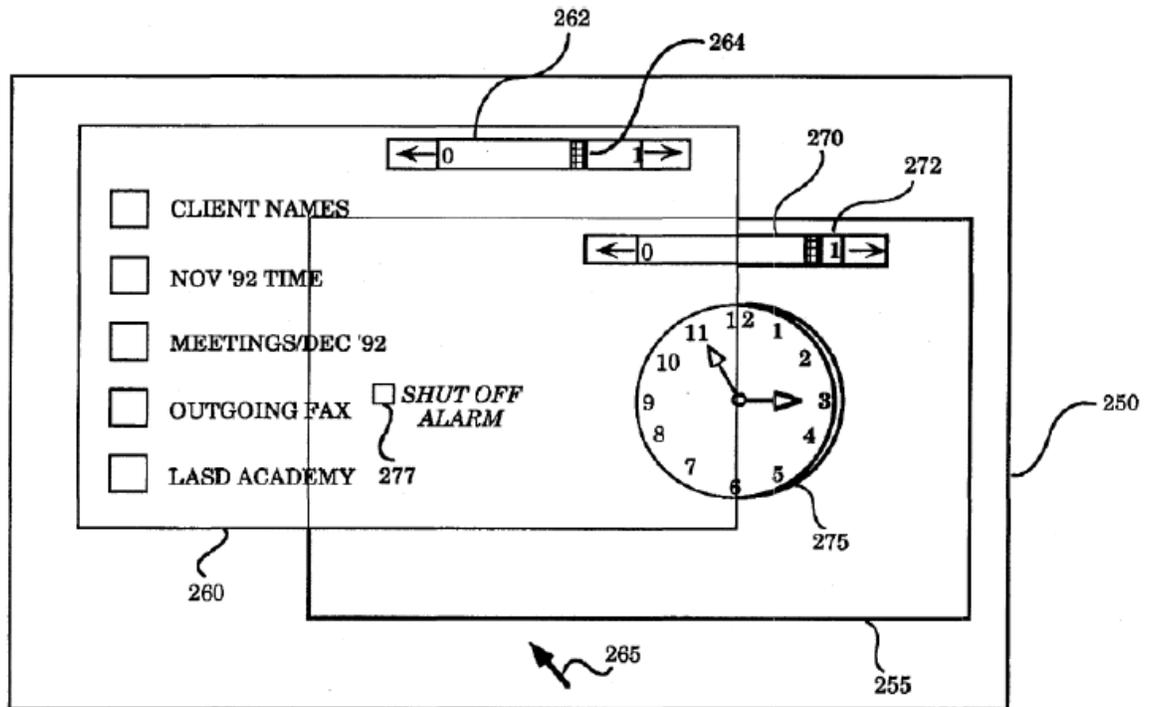

Figure 8

Frank's Figure 8 reproduced on page 5 of the Board's decision

Notably, the Board on pages 4 to 8 of the *Apple* decision discussed various functionalities of Frank's system, including the ability to access the underlying window "through" the overlying transparent window by selecting

certain buttons—functionality that at least suggests that the inputs to that underlying window are otherwise blocked.

Although the Frank reference is not at issue here, it nonetheless raises the question of whether it suggests the recited overlay functionality in claim 9, particularly when considered in light of the other cited prior art. As a Board of review—not of initial examination—we need not answer that question in the first instance here, but I nonetheless raise this question for the Examiner to consider after this decision.

On this record, however, I agree that the Examiner's articulated basis for the rejection of claim 9 is problematic and, therefore, join the majority in reversing that rejection, as well as the other rejections.