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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SANJIV SIRPAL, PAUL E. REEVES, ALEXANDER DE PAZ, EDUARDO DIEGO TORRES MILANO, JARED L. FICKLIN, DENISE BURTON, and GREGG WYGONIK

Appeal 2019-002613
Application 14/824,846
Technology Center 2100

Before JOSEPH L. DIXON, ST. JOHN COURTENAY III, and JOYCE CRAIG, *Administrative Patent Judges*.

COURTENAY, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant[1] appeals under 35 U.S.C. § 134(a) from a Final rejection of claims 21–40. Claims 1–20 are cancelled. We have jurisdiction over the pending claims under 35 U.S.C. § 6(b).

We reverse.

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[1] We use the word "Appellant" to refer to "applicant" as defined in 37 C.F.R. § 1.42(a) (2018). According to Appellant, the real party in interest is "Z124." *See* Appeal Br. 2.

STATEMENT OF THE CASE[2]

Introduction

Appellant's claimed invention relates generally to "an annunciator display or window . . . that spans across both the primary and secondary screens." (Spec. ¶ 7).

Independent Claim 21

> 21. A method of displaying information on a multi-display device including a plurality of desktops and/or applications each having at least one window, and an annunciator window, the method comprising:
>
> receiving, by a processor, a first input to reveal one of a desktop or application on a first display of the multi-display device;
>
> in response to the first input, selecting, by the processor, a desktop or application to display on the first display;
>
> displaying, by the processor, the selected desktop or application on the first display;
>
> displaying, by the processor, an annunciator window, having information therein showing at least one of a device status, a connectivity status, and a messaging status;
>
> configuring, by the processor, the annunciator window to display a first portion of the annunciator window in the first display and a second portion of the annunciator window in the second display;
>
> receiving a user input gesture in the first portion of the annunciator window displayed in the first display;

[2] We herein refer to the Final Office Action, mailed Jan. 23, 2018 ("Final Act."); Appeal Brief, filed July 30, 2018 ("Appeal Br."); the Examiner's Answer, mailed Dec. 14, 2018 ("Ans."), and the Reply Brief, filed Feb. 8, 2019 ("Reply Br.").

in response to the user input gesture:

expanding, by the processor, a first size of the first portion of the annunciator window, wherein the annunciator is expanded as a drawer over the first display; and

maintaining a second size of the second portion of the annunciator window displayed in the second display, wherein the second portion of the annunciator window is not expanded over the second display.

Appeal Br. 10, Claims Appendix, dispositive disputed limitation emphasized.

Evidence

The prior art relied upon by the Examiner as evidence:

Name	Reference	Date
MediaChance	Non-Patent Literature[3]	Mar. 23, 2009
Tseng et al.	US 2009/0249247 A1	Oct. 1, 2009
Anttila et al.	US 2012/0005602 A1	Jan. 5, 2012

Rejection

Claims Rejected	35 U.S.C. §	Reference(s)/Basis
21–40	103(a)	Tseng et al. ("Tseng"), Anttila et al. ("Anttila"), MediaChance

[3] MediaChance, "MultiMonitor TaskBar," https://web/archive.org/web/20090323041828/http://www.mediachance.com/free/multimon.htm.

Issue on Appeal

Did the Examiner err in rejecting claims 21–40 under 35 U.S.C. § 103(a), as being obvious over the combined teachings and suggestions of the cited references?

ANALYSIS

Rejection of Claims 21–40 under 35 U.S.C. § 103(a)

Issues: Under 35 U.S.C. § 103(a), we focus our analysis on the following argued claim limitations that we find are dispositive regarding the rejection of claims 21–40:

Did the Examiner err by finding that Tseng, Anttila, and MediaChance collectively teach or suggest the disputed, dispositive limitations:

> in response to the user input gesture:
>
> *expanding*, by the processor, *a first size of the first portion of the annunciator window*, wherein the annunciator is expanded as a drawer *over the first display;* and
>
> *maintaining a second size of the second portion of the annunciator window displayed in the second display*, wherein the second portion of the annunciator window is not expanded over the second display,

within the meaning of independent claim 21? (emphasis added regarding disputed limitations).

Appellant traverses the Examiner's reliance (Final Action 4) on Tseng's description at paragraph 53, as found to teach or suggest: "in response to the user input gesture: *expanding*, by the processor, *a first size of the first portion of the annunciator window*, wherein the annunciator is expanded as a drawer over the first display." Claim 21 (emphases added).

In particular, Appellant contends that "Tseng never mentions that the message area or *status bar can have portions* or *that one of the portions may be expanded while another portion maintains its size*." Appeal Br. 8 (emphases added); *see also* Reply Br. 2–3.

Additionally, Appellant contends: "Anttila never states that the application status bar has *two portions*" Appeal Br. 8 (emphasis added).

The Examiner disagrees with Appellant, and further explains the basis for the rejection:

> While Tseng is shown operating on a single display, Anttila and MediaChance cure the "dual-display" status bar deficiency of Tseng. Anttila teaches a multi-display device where expanded information is triggered based on input received within the status bar area and then displayed on the same display for which the input occurred (see Anttila paragraphs 0054–56, 0061 and Figs. 6A–D, 7A–D). MediaChance teaches independently operable **taskbars** for each monitor (see MediaChance page 1 and Figure "with multimon taskbar").

Ans. 4 (emphasis added).

Claim Construction [4]

As an initial matter of claim construction, we turn to the Specification for *context* regarding the claim term "annunciator window." Claim 1. *See* Spec. ¶ 7: "In accordance with the present invention, an *annunciator display or window* is provided *that spans across both the primary and secondary screens*. Because of the increase in size of the annunciator window, annunciations are better displayed." The Specification also describes: "FIG. 7 is a first representation of a preferred embodiment showing a device

[4] We give the contested claim limitation the broadest reasonable interpretation ("BRI") consistent with the Specification. *See In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997).

incorporating an *annunciator window or display*, and an enlarged exploded view of the annunciator window disposed above the device." Spec. ¶ 69 (emphasis added). We reproduce Figure 7 of Appellant's drawings below:

Figure 7 of Appellant's Drawings, illustrating the claimed "annunciator window" 1100:

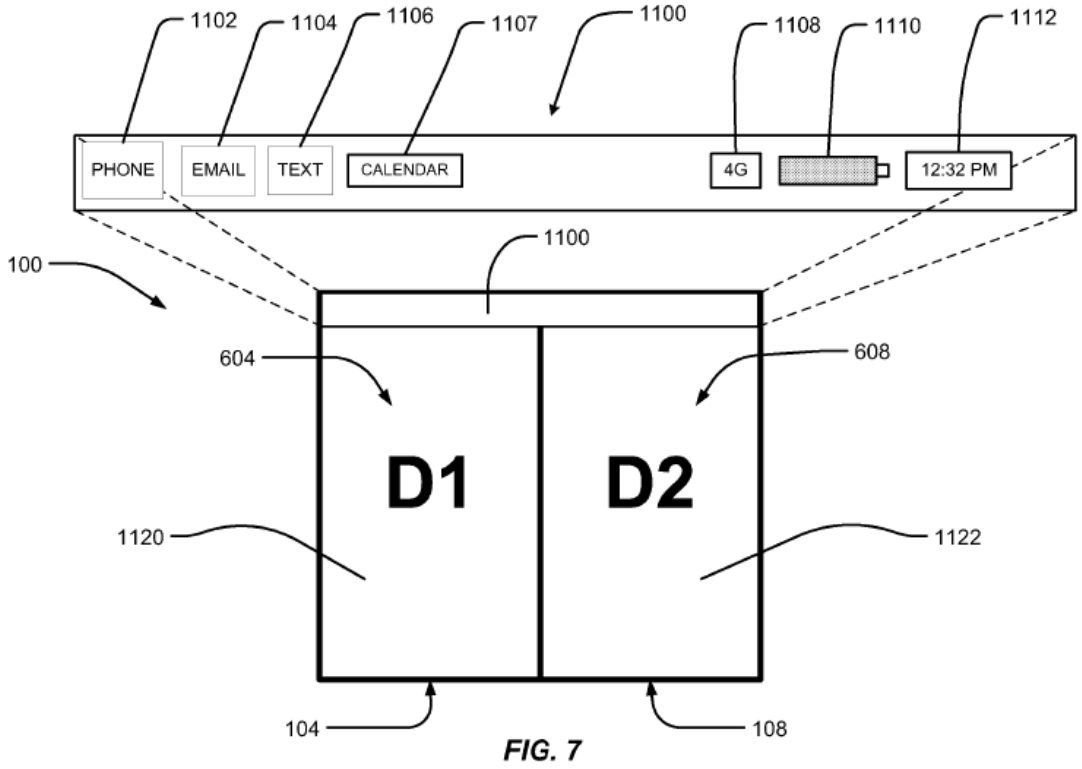

FIG. 7

Figure 7 of Appellant's Drawings, as reproduced above, depicts the claimed "annunciator window" 1100, as shown spanning across the top of dual displays D1 and D2, respectively.

We agree with the Examiner that Tseng teaches only a single display, for example, at Figure 2B, as found by the Examiner on page 4 of the Final Action. *See also* Ans. 4: "Tseng is shown operating on a *single* display." (emphasis added). Therefore, without more, Tseng cannot teach both a first and second display:

> *the annunciator window* to display *a first portion of the annunciator window* in the **first display** and *a second portion of the annunciator window* in the **second display**[,]

as recited in independent claim 21 (emphases added).

Turning to the secondary reference, Anttila (¶ 54–56 and 61), we find no express teaching of "*a first size of the* ***first portion*** of *the annunciator window"* and "*a second size of the* ***second portion*** of *the annunciator window*," as recited in independent claim 21. (Emphases added).

Although Anttila (¶ 54) describes that "an *application status bar* . . . may be displayed in the top or bottom portion of an application window" on *a multi-display computing apparatus 102*, and that an icon in the application status bar can be selected to trigger display of a *task selection interface* on one of the displays (*see* Anttila ¶ 54, Figs. 6A–D, 7A–D), we find some degree of speculation is required to ascertain whether the respective "application status bar" on each of the displays, or the triggered "task selection interface" being displayed within the application window(s), is being relied upon by the Examainer as teaching a "***first portion*** *of the annunciator window*," as recited in independent claim 21 (emphasis added).

To the extent the claimed "annunciator window" is being read by the Examiner on Anttila's task switch 906 (Figure 9B), because the task

switcher can span dual displays 902 (top display) and 904 (bottom display), as shown in Figure 9B, (and described in Anttila's ¶¶ 61–62) we find this reading still does not teach or suggest at least the "maintaining . . . wherein clause" negative limitation (shown in bold) of claim 21:

> in response to the user input gesture:
>
> *expanding*, by the processor, *a first size of the first portion of the annunciator window*, wherein the annunciator is expanded as a drawer *over the first display;* and
>
> **maintaining** *a second size of the second portion of the annunciator window displayed in the second display*, **wherein** the second portion of the annunciator window **is not expanded over the second display.**

Claim 21 (emphases added).

"A rejection . . . must rest on a factual basis . . . ." *In re Warner*, 379 F.2d 1011, 1017 (CCPA 1967). "The Patent Office has the initial duty of supplying the factual basis for its rejection. It may not . . . resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in its factual basis." *Id*.

Here, we find that to affirm the Examiner on this record would require some degree of speculation as to the Examiner's intended mapping of the claimed "*annunciator window*" to the corresponding feature(s) found in the cited reference(s).[5] We decline to engage in this speculation.

[5] *See* the mapping rule: "When a reference is complex or shows or describes inventions other than that claimed by the applicant, *the* **particular part** *relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified*." 37 C.F.R. § 1.104(c)(2) (emphasis added).

In reviewing MediaChance (page 1), we also find no express teaching of "*a first size of the **first portion*** of ***the*** *annunciator window"* and "*a second size of the **second portion*** of ***the*** *annunciator window*" (emphases added). Consistent with our understanding of the Examiner's findings and explanations, we only find that MediaChance teaches displaying two independently operable taskbar**s** by adding a *second taskbar* to the extended desktop on a second display, and not two separate "portions" of a single taskbar ("the annunciator window"), in which the single taskbar spans dual displays. *See also* MediaChance (page 2, middle of left column), i.e., the "**MultiMon Task bar**" description: "The real multi-monitor support in Windows has task-bar only in the primary monitor. The extended monitors are plain 'ta[s]kbarless.' There is no other way to add another taskbar to the extended monitor."

Accordingly, based upon our review of the record, we find a preponderance of the evidence supports Appellant's contention that Tseng, Anttila, and MediaChance collectively fail to teach or suggest the disputed, dispositive limitations:

> in response to the user input gesture:
>
> *expanding*, by the processor, *a first size of the first portion of the annunciator window*, wherein the annunciator is expanded as a drawer *over the first display;* and
>
> *maintaining a second size of the second portion of the annunciator window displayed in the second display*, wherein the second portion of the annunciator window is not expanded over the second display

Claim 21 (emphases added).

Therefore, we are constrained on this record to reverse the Examiner's obviousness rejection of independent claim 21 over the cited combination of Tseng, Anttila, and MediaChance. Because remaining independent claims 30 and 36 recite the disputed limitations using similar language of commensurate scope, we also reverse the Examiner's rejection of independent claims 30 and 36.

Because we have reversed the rejection of each independent claim on appeal, we also reverse the Examiner's obviousness rejection of each associated dependent claim.

Accordingly, we reverse the Examiner's obviousness rejection of all claims 21–40 on appeal.

CONCLUSION

The Examiner erred in rejecting claims 21–40, as being obvious under 35 U.S.C. § 103(a), over the cited combination of Tseng, Anttila, and MediaChance.

DECISION SUMMARY

Claims Rejected	**35 U.S.C. §**	**Reference(s)/Basis**	**Affirmed**	**Reversed**
21–40	103(a)	Tseng, Anttila, MediaChance		21–40

REVERSED