



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO. Includes application details for 13/731,918 and 112389 7590, inventor FONTAINE CARRINGTON WEEMS III, attorney 11887, examiner DYER, ANDREW R, art unit 2176, notification date 10/09/2020, and delivery mode ELECTRONIC.

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

- eofficeaction@apcoll.com
kate@klspatents.com
office@klspatents.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

*Ex parte* FONTAINE CARRINGTON WEEMS

---

Appeal 2019-003060  
Application 13/731,918  
Technology Center 2100

---

Before JOSEPH L. DIXON, MAHSHID D. SAADAT, and  
BRIAN D. RANGE, *Administrative Patent Judges*.

DIXON, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant<sup>1</sup> appeals from the Examiner's decision to reject claims 1–4 and 16–29. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

---

<sup>1</sup> We use the word Appellant to refer to “applicant” as defined in 37 C.F.R. § 1.42(a) (2017). Appellant identifies the real party in interest as Fontaine Carrington Weems III. Appeal Br. 2.

CLAIMED SUBJECT MATTER

The claims are directed to content management for virtual tours including exposing, within a virtual tour, a hotspot, the hotspot having an associated a hyperlink to a third-party content management provider and access code for accessing content from third-party content management provider; receiving an invocation of the hotspot; invoking the hyperlink associated with the hotspot; invoking the access code for accessing content from third-party content management provider; receiving, from the third-party content management provider, content; and displaying the received content within the virtual tour. Abstract. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method of content management for virtual tours, the method comprising:

displaying a first virtual tour image including both a rotatable panoramic image of a location and a clickable graphical unit interface (GUI) object embedded within the rotatable panoramic image of the location, the GUI object having an associated hyperlink to a third-party content management provider and access code for accessing media content from the third-party content management provider, wherein the rotatable panoramic image comprises a plurality of images stitched together to create a 360 degree image of the location; wherein the media content is related to a point of interest corresponding to a visual element of the rotatable panoramic image;

receiving an invocation of the GUI object;

invoking the hyperlink associated with the GUI object;

invoking the access code for accessing media content from the third-party content management provider;

Appeal 2019-003060  
Application 13/731,918

receiving the media content related to the point of interest corresponding to the visual element of the rotatable panoramic image from the third-party content management provider; and

displaying within a frame embedded within the rotatable panoramic image, the media content received from the third-party content management provider and related to the point of interest corresponding to the visual element of the rotatable panoramic image;

wherein a location of the GUI object in the rotatable panoramic image indicates a relationship between one or more visual elements of the image and the content received from the third-party content management provider for display in the image; and

wherein a virtual tour owner has an account with the content management provider and provides through the content management provider media content related to the GUI object.

#### REFERENCES

The prior art relied upon by the Examiner is:

Colavin et al.	US 2002/0140829 A1	Oct. 3, 2002
Berkema et al.	US 2003/0003957 A1	Jan. 2, 2003
Rasmussen et al.	US 2006/0139375 A1	June 29, 2006
Cardu	US 2008/0222538 A1	Sept. 11, 2008
Samarasekera et al.	US 2008/0291279 A1	Nov. 27, 2008
Vaittinen et al.	US 2012/0240077 A1	Sept. 20, 2012
Rasmussen et al.	US 2013/0073983 A1	Mar. 21, 2013

Appellant's Admitted Prior Art Spec. ¶ 20 (AAPA)

Easypano, the Virtual Tour Way; Tourweaver 4.00 User Manual available at [http://www.easypano.com/download/tw\\_manual.pdf](http://www.easypano.com/download/tw_manual.pdf) pp. 1–11 (also available at least 2011 via [archive.org](http://archive.org) (PTO Form–892, mailed 9/22/2017))

## REJECTIONS

Claims 1, 16, 20, 22, and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cardu, in view of EasyPano, in view of Berkema in view of AAPA, in view of Rasmussen ‘375, and in further view of Colavin.

Claims 2, 17, and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cardu, EasyPano, Berkema, AAPA, Rasmussen ‘375, and Colavin in further view of Samarasekera.

Claims 3, 4, 18, 19, 21, 24, 25, and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cardu, EasyPano, Berkema, AAPA, Rasmussen ‘375, and Colavin in further view of Rasmussen ‘983.

Claims 28 and 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cardu, EasyPano, Berkema, AAPA, Rasmussen ‘375, and Colavin in further view of Vaittinen.

## OPINION

### *35 U.S.C. § 103(a)*

With respect to independent claims 1, 16, and 22, Appellant argues the claims together. *See* Appeal Br. 9. Based on Appellant’s arguments, we select independent claim 1 as illustrative and will address Appellant’s arguments presented in both the Appeal Brief and Reply Brief. Dependent claims 20 and 26 include similar recitations similar to the recitation so claim 1 that we discuss below and will thus stand or fall with illustrative claim 1.

Appellant sets forth arguments with respect to only the Cardu reference. Appellant contends that the combination of references does not teach the claimed “displaying a first virtual tour image including both a rotatable panoramic image of a location and a clickable graphical unit

Appeal 2019-003060  
Application 13/731,918

interface (GUI) object embedded within the rotatable panoramic image of the location.” Appeal Br. 9; *see generally* Reply Br. 9–12. Appellant further contends that the cited section of Cardu

describes that a “hotspot,” when activated, displays a map, and that information related to the “hotspot” is displayed within an “Image Information” field. Further, this section of Cardu is with regard to FIG. 77, which depicts that the “Image Information” field is in a **separate frame** than a frame including a panoramic image, and that the map is also displayed in a **separate frame** than the frame including the panoramic image.

Appeal Br. 11. Appellant also argues, “cited portions of Cardu, however, do not **explicitly** state that the location of the hotspot indicates that the visual element and the media content have any relationship.” Appeal Br. 14.

The Examiner finds

all of the three mentioned elements [Cardu’s “Image Information” field and map are displayed in frames separate from the “frame including the panoramic image”] are displayed in the same window, which can also be considered a “frame.” Therefore, at least this interpretation meets the argued element of the claims. . . . All of the named elements are displayed in Cardu because they are related to the same location or point of interest. For example, tours, maps, and pictures of the same location are shown in the Applicant- references Fig. 77 of Cardu.

Non-Final Act. 18–19.

We note that the term “frame” is not disclosed in the Cardu reference and “window” is only found in limited paragraphs the Cardu reference. *See* Cardu ¶¶ 263 “opens a pop-up window”; 287 “Help: Provides context sensitive help to the user. This opens a new window providing the information about the User Interface.” The Rasmussen ‘375 reference also discloses in paragraph 43 “the browser window space is used to display the main and secondary maps.” Additionally, the Rasmussen reference

Appeal 2019-003060  
Application 13/731,918

discloses in paragraph 7 “displaying a viewing frame on one of the main map or the secondary map, wherein the map that has the viewing frame shows a geographic area that is larger than geographic area shown by the other map.”

The Examiner uses the broadest reasonable interpretation of the plain language to interpret the claimed “frame” to be the rectangular totality of the screen.<sup>2</sup> Ans. 18–19. Here, the Examiner finds that because all the information is displayed on the same screen at the same time and, therefore, it has a “relationship.”

Neither the Appellant nor the Examiner have provided definition or limiting contacts for the claimed “frame.” We note that the Specification gives some context for the “frame” and paragraphs 9 and 10 Rasmussen ‘375 reference evidence the use of multiple viewing frames.<sup>3</sup>

---

<sup>2</sup> We leave it to the Examiner to determine whether the express claim language “displaying *within a frame embedded within* the rotatable panoramic image” (emphasis added) has a written description support or is different from the disclosed “displayed within the virtual tour.” Spec. 7:5, 16, 21, 26; 10:19; 13:8, 11–12, 15.

<sup>3</sup> The Rasmussen ‘375 reference discloses:

[t]he system may be configured to provide a viewing frame on one of the main map or the secondary map, wherein the map that has the viewing frame shows a geographic area that is larger than geographic area shown by the other map. In one particular case, the viewing frame, secondary map, and main map move in a synchronous relationship, in response to user input. In another particular case, the viewing frame, secondary map, and main map move in a serial relationship, in response to user input. In another particular case, the viewing frame, secondary map, and main map move in a partially synchronous relationship, in response to user input. The system can be configured to enable each of the main map and the secondary map to be independently set to one of a

Common usage of the term “frame” can also be found in computer terminology where a “frame” is “[o]ne complete scan of the active area of a display screen.”<sup>4</sup> The term “frame” may also be defined as “[i]n computer-speak, a frame is a rectangular area absolutely positioned on the display screen. In the online world, a frame refers to a single section of a Web page that’s been coded to display ‘frames.’”<sup>5</sup> The term “frame” in “[g]raphics and desktop publishing programs . . . In these programs, frames are rectangular areas meant for inserting graphics and text. They allow users to place objects wherever they want to on the page.”<sup>6</sup>

We note that the disclosure in the Cardu reference is very limited with respect to Figures 77 and 78, but Figures 77 and 78 include areas with no reference numerals or associated description. Looking at the originally filed drawings from the patent application of the Cardu reference, Figure 77

---

traditional type, satellite type, or hybrid type map. Thus, the user could, for example, simultaneous view a detailed close-up satellite map on the secondary map, and a traditional zoomed out map on the main map.

. . .

At least two of the viewing frame, secondary map, and main map can be programmed or otherwise configured to move in a synchronous relationship, in response to user input.

Rasmussen ‘375 ¶¶ 9–10.

<sup>4</sup> Free On-line Dictionary of Computing website, last accessed 9/11/2020 9:30 am; <https://foldoc.org/frame>.

<sup>5</sup> NetLingo website; last accessed 9/11/2020 9:35 am; <https://www.netlingo.com/dictionary/f.php>.

<sup>6</sup> Tech Terms website; last accessed 9/11/2020 9:40 am <https://techterms.com/definition/frame>.

Appeal 2019-003060  
Application 13/731,918

includes “image information” area, “Directory and HotSpots” tabs, “blue navigator moves map” or “Navigation” area (which is the main map with a number “2”), framed image area in the middle of the screen (which is a zoomed version of the smaller map number “2” from the bottom left corner with additional zoom capability and navigation), a framed image area at the top middle of the screen (a street level image of a portion of the larger map at street level) and two advertising areas on the right side of the screen with discernible labels “Test Banner 4” and “Global Tour Gateway.” From this limited disclosure, the Examiner postulates the rejection. (*See Cardu ¶¶ 285–313* describing Figures 75–85.) We further note that the time frame of the Cardu reference was from 2005–2006.

The limited disclosure corresponding to Figures 75–85 makes it difficult to appreciate what is specifically disclosed or suggested by the Cardu reference with regards to the user interface rather than the developer/administrator interfaces. Moreover, we find that the majority of the disclosure of the Cardu reference is directed more towards the development of the city tour by an administrator (“admin”) rather than the end user interface. From the disclosure with regards to the hotspots and the development of the tour, it is not clear that the hotspots are displayed on or within the displayed map image with additional content that is linked to that hotspot on/within the same frame as the map. Rather, the media content received from the third-party for the hotspot is not clearly taught or suggested, by a preponderance of the evidence, as “displaying within a frame embedded within the rotatable panoramic image,” as claimed.

We further note that the Examiner’s rejection is based upon a combination of the various teachings and suggestions of the six prior art references where the Rasmussen ‘375 reference was relied upon by the

Examiner to disclose and suggest the hotspot display within the map. Non-Final Act. 7–8; *see also* Ans. 6, 7, 8.

The Examiner additionally argues that “[w]hile language such as ‘frame embedded within the rotatable panoramic image,’ this is not the limitation argued by Appellant here. Further, Rasmussen [‘375] was cited against that limitation, which Appellant ignores.” Ans. 6.

We disagree with the Examiner and find that independent claim 1 recites the express language the Examiner argues. We further find the Examiner has not made a specific finding regarding “displaying within a frame embedded within the rotatable panoramic image, the media content received from the third-party content.” The Examiner cites Figure 1B of Rasmussen ‘375 reference, but Figure 1B has two separate and distinct frames within the same rectangular area on the screen and the secondary map is not taught or suggested “within a frame embedded within the rotatable panoramic image.”

We note that some of the additionally cited paragraphs of the Cardu reference have teachings or suggestions for embedding links, but we are left to speculate as to the implementation in the totality of the user interface. (*See generally* Cardu ¶¶ 42, 97, 98, 103, 107, 108, 112–113, 114.)<sup>7</sup>

---

<sup>7</sup> [0042] e. URL embedding for linkage to other websites that would have further information regarding the hotspot.

[0097] The screen allows the admin to add, edit, delete and move a map hotspot to the city tour. On clicking the Manage City Hotspots (Map Hotspots) link, the Hotspot on Map screen is displayed as shown below:

[0098] (See Appendix-FIG. 20)

We find that the Examiner relies upon an unreasonably broad interpretation of the claim limitation as being the totality of the display screen area. Non-Final Act. 18 (“all of the three mentioned elements [panoramic image, “Image Information” area, HotSpot tab] are displayed in the same window, which can also be considered a ‘frame’”). Moreover, the Examiner does not address Appellant’s specific response to the proffered distinction, and the Examiner maintains that Appellant’s argument is not commensurate in scope with the argued limitation. Ans. 5–6.

Additionally, Appellant argues that the Cardu reference describes an “information field” that is related to the hotspot in Figure 77, but Cardu does

---

[0103] The admin can add hotspots to the City map by clicking the Add Hotspots button. Then the admin will be prompted with a marker to select a particular location in the map. After selecting a location a new screen titled “Add City Hotspot Details” will be displayed as shown below:

[0104] (See Appendix-FIG. 22)

[0107] The admin can edit the existing hotspots. On placing the marker on the existing hotspot the admin is prompted with three options-Edit Hotspot, Delete Hotspot and Move Hotspot. By clicking on the Edit Hotspot option the admin will be displayed with Edit Hotspot Details screen as shown below. The fields are populated with the existing information in editable mode.

[0108] (See Appendix-FIG. 23)

Fig. 23 shows XY coordinate indications for the screen/map

[0112] (See Appendix-FIG. 24)

#### 1.4.1.6 Manage Picture Hotspots (Picture Hotspots)

[0113] Picture Hotspots screen allows the admin to add or edit picture hotspots to the City Tour. On clicking the Manage Picture Hotspots link, the “Hotspot on Picture” screen will be displayed as shown below:

[0114] (See Appendix-FIG. 25)

Appeal 2019-003060  
Application 13/731,918

not explicitly state that the location of the hotspot indicates that the visual element and the media content have any “relationship.” Appeal Br. 14. The Examiner finds that, “there is no requirement that Cardu must ‘explicitly state’ such a concept in order to meet the contested limitation, and Appellant provides no legal basis or precedent supporting such a position” where “Cardu meets the limitation at least *implicitly*.” Ans. 7 (emphasis added).

We disagree with the Examiner and find that the limited disclosure of the Cardu reference does not specifically/explicitly or implicitly teach or suggest the “displaying within a frame embedded within the rotatable panoramic image, the media content received from the third-party content.” Although the Cardu reference discloses the “admin” having some ability to “add/delete/Edit” hotspots and their placement in an “edit mode” (Cardu ¶ 107), the details of the user interface are less detailed. The Examiner’s findings regarding the “implicit” teachings are not well supported by a preponderance of the evidence.

The Examiner further finds that:

Nonetheless, as a third notion, Cardu meets Appellant’s characterization, *while it differs from what is actually claimed*, that the location of the hotspot indicates that the visual element and the media content have a relationship because Cardu provides, “[w]hen the user *selects a hotspot under the “Hotspots” tab* then the activated hotspot is displayed on the map, the related 3600 panoramic picture or video will be loaded, the promotional banner will be displayed and linked to their Website and Email and simultaneously the *information related to the selected hotspot appears in the “Image Information” field*. The hotspots can also be activated in two ways: By selecting a hotspot under the “Hotspot” [1] By placing a cursor over a hotspot. This displays a thumbnail providing a preview or more

information about the hotspot. [2] By clicking on the hotspot the hotspots are activated.”

The selection of a particular hotspot *under the “Hotspots” tab* causes the activated hotspot to appear on the map. In other words, the hotspot is specifically selected and its appearance on the map indicates both that it is related to all visual elements of the map and panoramic image, and also that the “information related to the selected hotspot” is what appears in the “Image Information” field. Therefore, it follows that the “information related” to the hotspot is also related to the image and its visual elements, and that the location of the particularly selected hotspot (“on the map”) indicates that the visual element and the media content have a relationship.

Ans. 8 (emphasis deleted, emphases added).

In the Reply Brief, Appellant repeats the arguments from the Appeal Brief, and we note that the Examiner’s line of reasoning and analysis of the Cardu reference lack any specific citations to the text or to specific elements in the drawings. This may be because most of the user interface diagrams in the Figures 75–78 have no specific description, illustration, or correlation between the two portions of the disclosure. Consequently, although the Examiner explains his “implicit” teachings (Ans. 7), the Examiner does not start the Examiner’s analysis from any specific teachings or suggestions in the Cardu reference. Although the Cardu reference teaches and suggests the use of an image and some relationship of hotspots added by the Administrator in development or design of the virtual tour and display thereof on the image, the Cardu reference does not specifically teach or suggest displaying corresponding content from activation within the frame of the displayed image. Although the Examiner mentions the Rasmussen ’375 reference as also teaching display within the frame of the panoramic image (Ans. 6–7), Figure 1B of Rasmussen ’375 clearly shows the main map

136 within a frame which is modified and the secondary map 155 within a separate frame.

The Examiner contends that Appellant's arguments are not commensurate in scope with claim 1's limitations and "[n]owhere in the argued limitation is required 'embedded within a frame within the panoramic image'" (Ans. 5), but we find the argued limitation is expressly recited in the second "displaying" limitation. The Examiner does not specifically address the argued limitation, and the Examiner does not identify a specific teaching or suggestion in any of the prior art references. Rather, the Examiner relies upon an unreasonably broad interpretation of the claimed "frame" and relies upon "implicit" teachings regarding the prior art references.

To buttress the Examiner's finding of displaying "within a frame embedded within the rotatable panoramic image," the Examiner relies upon the teachings of the Rasmussen '375 reference which clearly teaches two distinct "frames." Additionally, the Examiner speculates that the whole window/screen is the same "frame" so that both the content from the third party content provider and the map would be "embedded within a frame within the panoramic image." The Examiner further identifies that the Rasmussen '375 reference teaches or suggests this limitation. Ans. 6; Non-Final Act. 7.

Appellant argues that:

The cited portions of Cardu describe an Information Field that is displayed related to the hotspot. According to Cardu in Figure 77, the Information Field includes audio, email link, and web link radio buttons for receiving additional information regarding the hotspot. The cited portions of Cardu, however, do not **explicitly** state that the location of the hotspot indicates that the visual

element and the media content have any relationship. Because the cited portions of Cardu do not explicitly state that the location of the hotspot indicates that the visual element and the media content have any relationship, the cited portions of Cardu do not teach or suggest the location of the GUI object in the rotatable panoramic image indicates a relationship between one or more visual elements of the image and the content received from the third-party content management provider for display in the image, as recited in claims 1, 16, and 22 of the present application.

Appeal Br. 14.

The Examiner finds that the Rasmussen '375 reference discloses (quoting Rasmussen Abstract and citing Figure 1b):

Digital mapping techniques are disclosed that provide more flexibility to the user through the use of multiple views of map information, including a secondary map and a main map. The secondary map can provide the user with either a zoomed out or in relative to the main map, or a different type of map view (e.g., satellite images). The secondary map can be turned on and off by the user. *The secondary map may include one or more viewing frames that indicate views (e.g., current and alternate views) of the main map.* The user can move the main map, viewing frame, or secondary map to achieve desired map views. During such movement, the relationship between the main and secondary maps can be synchronous, partially synchronous, or serial.

Non-Final Act. 7–8 (emphasis added).

But as evident from Figure 1B of Rasmussen '375, the main map and the secondary map are in separate “frames” and cannot teach or suggest the claimed “displaying within a frame embedded within the rotatable panoramic image, the media content received from the third-party content management provider and related to the point of interest corresponding to the visual element of the rotatable panoramic image” as proffered by the

Appeal 2019-003060  
Application 13/731,918

Examiner. *See also* Rasmussen ‘375 Figures 2a–2c with separate “frames,” and corresponding disclosure in ¶¶ 25–44; 32 “Note that the secondary map 155 in this embodiment is *distinct and separate from the main map 135, but effectively in-laid within the original space occupied by the main map.*” (Emphasis added).

As a result, we cannot agree with the Examiner that either the Cardu reference or the Rasmussen ‘375 reference teaches or suggests the claimed “displaying within a frame embedded within the rotatable panoramic image, the media content received from the third-party content management provider and related to the point of interest corresponding to the visual element of the rotatable panoramic image.”

A preponderance of the evidence must show nonpatentability before the PTO may reject the claims of a patent application. *In re Caveney*, 761 F.2d 671, 674 (Fed. Cir. 1985). Here, the Examiner has provided limited citations to the Rasmussen ‘375 reference and limited citations to the Cardu reference in the statement of the rejection and Response to Argument sections. As a result, we are left to speculate as to the propriety of the Examiner’s factual findings and conclusion of obviousness based upon these speculative findings.

“On appeal to the Board, an applicant can overcome a rejection by showing insufficient evidence of *prima facie* obviousness.” *In re Kahn*, 441 F.3d 977, 985–86 (Fed. Cir. 2006) (quoting *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998)).

[T]he examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a *prima facie* case of unpatentability. If that burden is met, the burden of coming forward with evidence or argument shifts to the applicant.

Appeal 2019-003060  
Application 13/731,918

After evidence or argument is submitted by the applicant in response, patentability is determined on the totality of the record, by a preponderance of evidence with due consideration to persuasiveness of argument.

*In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992).

“A rejection based on section 103 clearly 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.*

“Obviousness may not be established using hindsight or in view of the teachings or suggestions of the inventor.” *Para-Ordnance Mfg. v. SGS Importers Int’l*, 73 F.3d 1085, 1087 (Fed. Cir. 1995) (citing *W.L. Gore & Assocs., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1551, 1553 (Fed. Cir. 1983)). “The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification.” *In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992) (citing *In re Gordon*, 733 F.2d 900, 902 (Fed. Cir. 1984)). “It is impermissible to use the claimed invention as an instruction manual or ‘template’ to piece together the teachings of the prior art so that the claimed invention is rendered obvious.” *Fritch*, 972 F.2d at 1266 (citing *In re Gorman*, 933 F.2d 982, 987 (Fed. Cir. 1991)).

Here, the Examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness with an articulation of the reason(s) why the claimed invention would have been obvious. We find the underlying factual findings by the Examiner are not well supported by the portions of the Cardu and Rasmussen ‘375 references as articulated in the

Appeal 2019-003060  
Application 13/731,918

Non-Final Action and Examiner's Answer. Therefore, the Examiner's conclusions are mere conclusory statements which lacks some rational underpinning based upon facts to support the Examiner's legal conclusion of obviousness. Therefore, we cannot agree with the Examiner that a preponderance of the evidence supports the Examiner's factual findings and conclusion of obviousness of illustrative independent claim 1.

We find that the Cardu reference is directed more towards a disclosure of the development of the virtual tour map and sets forth little detail to the user interface during a virtual tour. Paragraphs 285–313 of the Cardu reference suggest that a separate window listing the hotspots tabs available for the user and that the hotspots are indicated on the panoramic image as “associated pulsing hotspots” (Cardu ¶ 288), but the corresponding content (“the media content received from the third-party content management provider and related to the point of interest corresponding to the visual element of the rotatable panoramic image,”) is presented in a separate frame outside the rotatable panoramic image frame rather than “displaying within a frame embedded within the rotatable panoramic image.”

Although the content is displayed on the same screen, the content is displayed in a different frame, and the Examiner has not addressed this difference from the claimed invention and merely cited to the Rasmussen '375 reference which also does not teach or suggest an embedded frame within the panoramic image.

As a result, we cannot sustain the Examiner's obviousness rejection of illustrative independent claim 1 and independent claims 16 and 22 which contain similar limitations.

With respect to the dependent claims, the Examiner relies upon additional prior art references, and Appellant relies upon the arguments advanced with respect to illustrative independent claim 1. Because the Examiner has not identified how the additional prior art references remedy the noted deficiency above with respect to illustrative independent claim 1, we do not sustain the Examiner's additional obviousness rejections.

With respect to the second rejection, Appellant relies upon the arguments advanced with respect to illustrative independent claim 1 which we found to be persuasive of error in the Examiner's factual findings or conclusion of obviousness. Appeal Br. 15. Therefore, we do not sustain the rejection of claims 2, 17, and 23.

With respect to the third rejection, Appellant relies upon the arguments advanced with respect to illustrative independent claim 1 which we found to be persuasive of error in the Examiner's factual findings or conclusion of obviousness. Appeal Br. 15. Therefore, we do not sustain the rejection of claims 3, 4, 18, 19, 21, 24, and 25.

With respect to the fourth rejection, Appellant relies upon the arguments advanced with respect to illustrative independent claim 1 which we found to be persuasive of error in the Examiner's factual findings or conclusion of obviousness. Appeal Br. 16. Therefore, we do not sustain the rejection of claims 28 and 29.

#### CONCLUSION

The Examiner's obviousness rejections are reversed.

DECISION SUMMARY

In summary:

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Reference(s)/Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1, 16, 20, 22, 26	103	Cardu, EasyPano, Berkema, AAPA, Rasmussen '375, Colavin		1, 16, 20, 22, 26
2, 17, 23		Cardu, EasyPano, Berkema, AAPA, Rasmussen '375, Colavin, Samarasekera		2, 17, 23
3, 4, 18, 19, 21, 24, 25, 27	103	Cardu, EasyPano, Berkema, AAPA, Rasmussen '375, Colavin, Rasmussen '983.		3, 4, 18, 19, 21, 24, 25, 27
28, 29		Cardu, EasyPano, Berkema, AAPA, Rasmussen '375, Colavin, Vaittinen		28, 29
<b>Overall Outcome</b>				1-4, 16-29

REVERSED