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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/975,299	12/18/2015	Matthew Ross Lehrian	P6526USC1 / APPL:0419-1	1062

73576 7590 08/27/2020

APPLE INC. - Fletcher
c/o Fletcher Yoder, PC
P.O. Box 692289
Houston, TX 77269-2289

EXAMINER	
NGUYEN, CHAU T	

ART UNIT	PAPER NUMBER
2177	

NOTIFICATION DATE	DELIVERY MODE
08/27/2020	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):

docket@fyiplaw.com
hill@fyiplaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MATTHEW ROSS LEHRIAN, CHRISTOPHER DOUGLAS WEELDREYER, and TSURISHADDAI WILLIAMSON

Appeal 2019-003384
Application 14/975,299
Technology Center 2100

BEFORE BRADLEY W. BAUMEISTER, GREGG I. ANDERSON, and DAVID J. CUTITTA II, *Administrative Patent Judges.*

ANDERSON, *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 1–20. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM IN PART.

Pursuant to our discretionary authority under 37 C.F.R. § 41.50(b), we enter a new ground of rejection for claims 1 and 14 under 35 U.S.C. § 102(a) as being anticipated by Appellant's Admitted Prior Art.

---

[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 Apple, Inc. Appeal Br. 2.

CLAIMED SUBJECT MATTER

The claims are directed to improving locking spreadsheet cells by adding various types of visual indicia. Spec.,[2] Title. Spreadsheets include a desired number of rows and columns of cells. *Id.* ¶ 22. Spreadsheet tables can have headers in the "top two rows and the leftmost column." *Id.*, Fig. 2A.

Standard spreadsheet functionality "includes the ability to define the content of one cell in such a way that the content of the one cell is determined based at least in part on the content of one or more other cells." Spec. ¶ 24. "[L]ocked cells are normally rendered (e.g., without any special visual indication to indicate that they are locked) when viewable in their actual relative positions with respect to an associated table in a given display view." *Id.* ¶ 24. "[L]ocked cells become 'floating' cells in the sense that they are not displayed in their actual relative positions with respect to an associated table but are rather overlaid on other cells of the table that are visible in a current display view." *Id.*

[2] We use "Spec." to refer to the Specification filed December 18, 2015; "Final Act." to refer to the Final Office Action mailed June 13, 2018; "Appeal Br." to refer to the Appeal Brief filed October 11, 2018; "Ans." to refer to the Examiner's Answer filed January 29, 2019; and "Reply Br." to refer to the Reply Brief filed March 28, 2019.

Figure 2B is reproduced below:

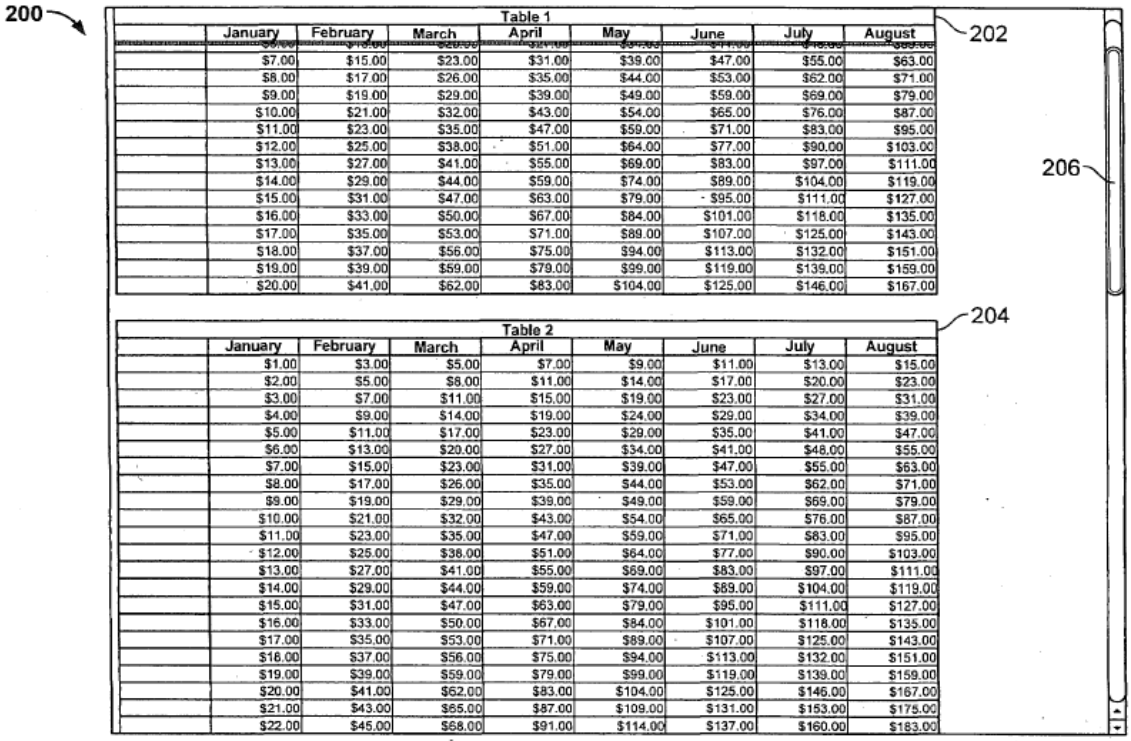

FIG. 2B

Figure 2B illustrates locked headers with respect to tables 202 and 204. Spec. ¶ 24. "[T]he locked header rows of table 202 have become floating since their actual relative positions with respect to table 202 have scrolled out of view." Still referring to Figure 2B, in one example, "a shadow is rendered with respect to the header rows to create a visual appearance that indicates that they are floating, i.e., not in their actual relative positions with respect to the table." *Id.* ¶ 25.

Claim 1, reproduced below, illustrates the claimed subject matter:

1. A non-transitory computer readable storage medium and comprising computer instructions for:

receiving an input configured to lock one or more cells of a first group of cells of a plurality of groups of cells in a single sheet of a spreadsheet application, wherein the one or more cells of

the first group of cells are configured to be locked independently of cells of other groups of cells of the plurality of groups of cells; and

locking the one or more cells of the first group of cells when the one or more cells of the first group of cells are scrolled out of view of a display and when at least a portion of the first group of cells is in view of the display, wherein locking the one or more cells of the first group of cells comprises casting a shadow visual effect from the one or more cells of the first group of cells onto one or more unlocked cells of the first group of cells when actual relative positions of the one or more cells of the first group of cells have scrolled out of view of the display.

REFERENCES

The Examiner relies upon the following prior art:

Name	Reference	Date
Lehrian	US 9,223,771 B2	Dec. 29, 2015
Fenkes	US 2008/0016437 A1	Jan. 17, 2008
Robertson	US 2004/0103369 A1	May 27, 2004
Buczek	US 2008/0082938	Apr. 3, 2008
Parsons	US 8,640,048 B1	Jan. 28, 2014

REJECTIONS[3]

1. Claims 1–7, 10 and 12 are rejected on the ground of nonstatutory double patenting as being unpatentable over claims 1–6, 8, and 13, respectively, of Lehrian. Final Act. 4–11.

[3] The Examiner has withdrawn the Final Action's rejection of claims 14–20 under 35 U.S.C. § 101 as being directed towards a judicial exception to patent-eligible-subject matter without reciting significantly more. Ans. 24. Because the Board is an appellate body that reviews 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)), our decision not to exercise our

2. Claims 1–7 and 10–12 are rejected under 35 U.S.C. § 103(a) over Fenkes, Robertson, and Buczek. *Id*. at 11–16.

3. Claims 8–9 and 13 are rejected under 35 U.S.C. § 103(a) over Fenkes, Robertson, Buczek, and Parsons. *Id.* at 16–19.

4. Claims 14–20 are rejected under 35 U.S.C. § 103(a) over Fenkes, Buczek, and Parsons. *Id.* at 19–23.

NON-STATUTORY DOUBLE PATENTING

Appellant "does not agree" that claims 1–7, 10, and 12 are obvious over claims 1–6, 8, and 13 of Lehrian, but Appellant does not present any substantive arguments relating to the double-patenting rejection. Appeal Br. 6. Appellant merely states, "Appellant is willing to file a terminal disclaimer" when the claims are indicated as allowable. Appeal Br. 6. Accordingly, we summarily sustain the double patenting rejection.

---

discretionary authority under 37 C.F.R. § 41.50(b) and consider the question of patent eligibility should not be interpreted as the Board agreeing that the claims are directed to patent-eligible subject matter. *But see, e.g.*, *Trading Techs. Int'l v. IBG LLC*, 921 F.3d 1084, 1093 (Fed. Cir. 2019) (holding that claims are abstract where "they recite a purportedly new arrangement of generic information that assists traders in processing information more quickly"); *see also Move Inc. v Real Estate Alliance*, 721 Fed. Appx 950, 954 (Fed. Cir. 2018) (finding a claimed "method for collecting and organizing information . . . and displaying this information on a digital map that can be manipulated by a user" to recite a patent-ineligible abstract idea).

OBVIOUSNESS REJECTION OF CLAIMS 1–7 AND 10–12 OVER FENKES, ROBERTSON, AND BUCZEK

Examiner's Determinations and Appellant's Contentions

With respect to independent claims 1 and 10, Appellant argues that none of the references teach the following language of claim 1:

> wherein locking the one or more cells of the first group of cells comprises *casting a shadow visual effect from the one or more cells of the first group of cells* onto one or more unlocked cells of the first group of cells when actual relative positions of the one or more cells of the first group of cells have scrolled out of view of the display.

Appeal Br. 11–12 (quoting claim 1). Independent claims 1 and 10 both include the "casting a shadow" italicized language.

In the Final Action, the Examiner relies on Buczek's disclosure of "freezing (locking) columns and rows in a user interface table" to teach "casting a shadow." Final Act. 14 (citing Buczek, Title, Abstract). More specifically, the Examiner cites Buczek's Figure 3, reproduced below:

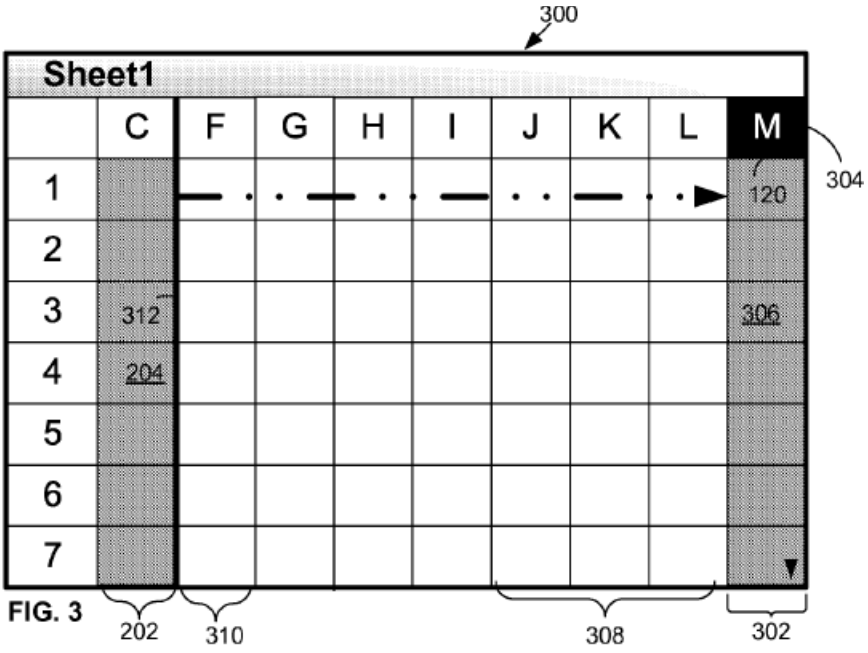

FIG. 3

Id. (citing Buczek, Fig. 3, ¶¶ 22–24).

Buczek's Figure 3, along with Figures 1, 2, 4, and 5, are "views of a user interface for displaying information in tabular form configured for freezing selected non-adjacent columns in a table." Buczek ¶ 9. The Examiner identifies column C202 as frozen, as indicated by the background shading. Final Act. 14 (citing Buczek ¶ 22). The Examiner finds Buczek's focus 120 freezes column M302, the background 306 being shaded to indicate it is frozen. *Id.* (citing Buczek ¶ 23).

Figure 4 of Buczek is reproduced below.

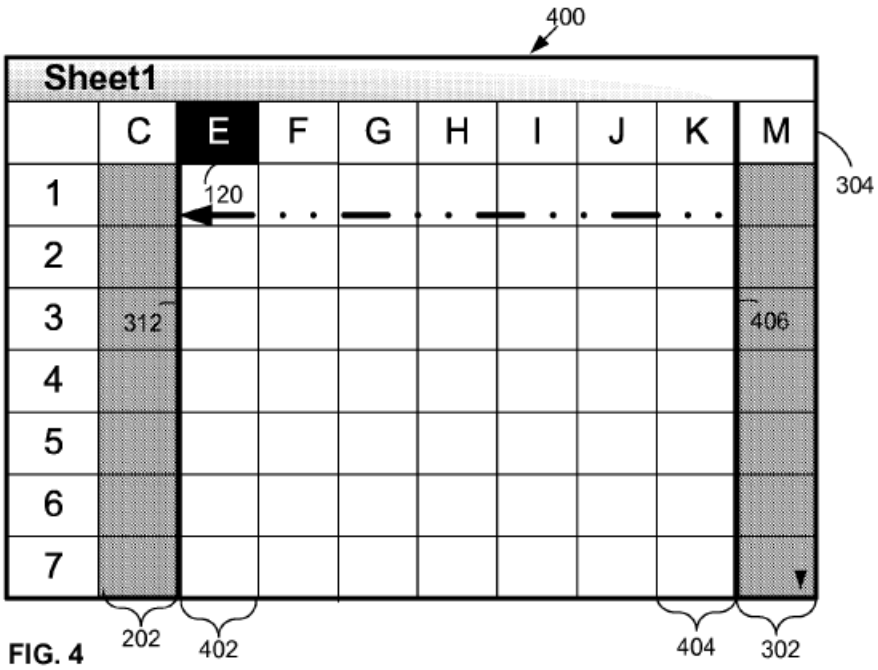

FIG. 4

Like Figure 3, Figure 4 is "a user interface for displaying information in tabular form configured for freezing selected non-adjacent columns in a table." Buczek ¶ 9. Although Buczek's Figure 4 was not cited specifically by the Examiner, the functionality illustrated was described and relied upon. Final Act. 14 (citing Buczek ¶ 24). As shown in Figure 4, and described in

paragraph 24, when the focus 120 is moved from column M302 (Fig. 3) to the left of column F310, column E402 (Fig. 4) becomes visible to "display between a frozen column and an adjacent column that is displayed." *Id.* (citing Buczek ¶ 24).

Appellant argues Buczek does not teach casting a shadow. Appeal Br. 12. According to Appellant,

> [Buczek] teaches augmenting an interior color or a border of the frozen cells (e.g., locked cells) to differentiate between the frozen and unfrozen cells. However, augmenting the interior or border of the locked cells, as taught by Buczek, appears to be unrelated to locked cells casting a shadow onto unlocked cells, as generally recited by independent claims 1 and 10. Indeed, as one having ordinary skill in the art would understand, the shadow cast *from* the locked cells would not affect the interior or border of the locked cells. In contrast, a shadow cast by/from the locked cells would cast a shadow onto adjacent, unlocked cells, as shown in FIGS. 2B-2D of the Application. In other words, as generally recited in claims 1 and 10, the locked cells *cast a shadow visual effect,* which *is cast based on the location of the locked cells and onto the unlocked cells* while, on the other hand, Buczek discloses augmenting an interior of the *locked* cells, such as through shading, color change, holding, highlighting, etc.

Id. The Examiner's Answer maintains the position that the casting a shadow limitation is shown. Ans. 26.

Analysis

"Before considering the rejections . . ., we must first [determine the scope of] the claims . . . ." *In re Geerdes*, 491 F.2d 1260, 1262 (CCPA 1974).

Here, the claims expressly require that locking the cells casts a "shadow" "onto one or more of the *unlocked* cells" (*see, e.g.*, claim 1) (emphasis added)—they do not cast a shadow onto the *locked* cells,

themselves. Appellant's Specification confirms that this plain meaning of the claims is accurate and intended. For example, Appellant's Figure 2B depicts the recited shadow, or thin line of cross hatching, is on the row of *unlocked* cells, which are only partially visible due to being covered by the floating locked cells. *See also* Spec. ¶ 24 ("the floating [locked] cells of a table are rendered with a shadow that makes them appear to float or hover above the table"); *id.* ¶ 25 ("a shadow is rendered with respect to the header rows to create a visual appearance that indicates that they are floating").

In contrast, Buczek discloses augmenting an interior of the locked cells, themselves. *See, e.g.*, Buczek, Figure 2 (reproduced above) (depicting the *locked* cells being highlighted). As explained by Appellant, though, the "casting a shadow" limitation of claim 1 is not met by highlighting, i.e., "casting a shadow," within the locked cells themselves.

The Examiner does not address Appellant's contention that the highlighting of a cell in Buczek is only with respect to the locked cells, and not the unlocked cells. The Examiner's conclusion to the contrary is not supported by sufficient evidence from Buczek.

Accordingly, we are persuaded by Appellant's argument. The Examiner's rejection of claims 1–7 and 10–12 (rejection 2 above) is not sustained.

THE OBVIOUSNESS REJECTION OF CLAIMS 8, 9, AND 13 OVER FENKES, ROBERTSON, BUCZEK, AND PARSONS

Claims 8, 9, and 13 depend from independent claims 1 and 10. The Examiner separately rejects these dependent claims (rejection 3 above), but the Examiner does not rely on the additionally cited reference, Parsons, to

cure the deficiency noted above in relation to the obviousness rejection of independent claims 1 and 10. *See* Final Act. 17–18. Accordingly, we also sustain the rejection of claims 8, 9, and 13 for the reasons set forth above in relation to claim 1.

THE OBVIOUSNESS REJECTION OF CLAIMS 14–20 OVER FENKES, BUCZEK, AND PARSONS

The Examiner's Determinations and Appellant's Contentions

With respect to independent claim 14, Appellant argues that none of the references teaches the following step:

> *scroll the workspace such that partial views of a first set of cells* of a first group of cells directly adjacent to one or more locked cells of the first group of cells *are always viewable as any part of the first group of cells is scrolled out of view* using the scroll bar, wherein the partial views of the first set of cells comprise less than an entirety of content inside each cell of the first set of cells, and wherein the first group of cells comprises a plurality of rows or a plurality of columns.

Appeal Br. 17 (quoting claim 14).

We first construe what the claim term "partial view" means. Based on the claim language, the broadest reasonable interpretation of "partial view" is a depiction of the row of hidden cells adjacent the bottom edge of the floating header, such that each individual cell is depicted as only being partially visible. *See*, *e.g.*, FIG 2B.

The claim language supports this interpretation. Claim 14 recites, in pertinent part, "wherein the partial views of the first set of cells comprise *less than an entirety of content inside each cell* of the first set of cells." Emphasis added.

The Specification also supports the above construction in describing an embodiment where:

> rows or columns of cells may be scrolled such that they are partially out of view. Smooth scrolling is depicted in the examples of Figures 2B–2D. In each of Figures 2B and 2C, the row directly below the floating header rows in table 202 is *partially scrolled out of view*.

Spec. ¶ 33 (emphasis added).

Figure 2B is reproduced at page 3 above. Figure 2C is reproduced below:

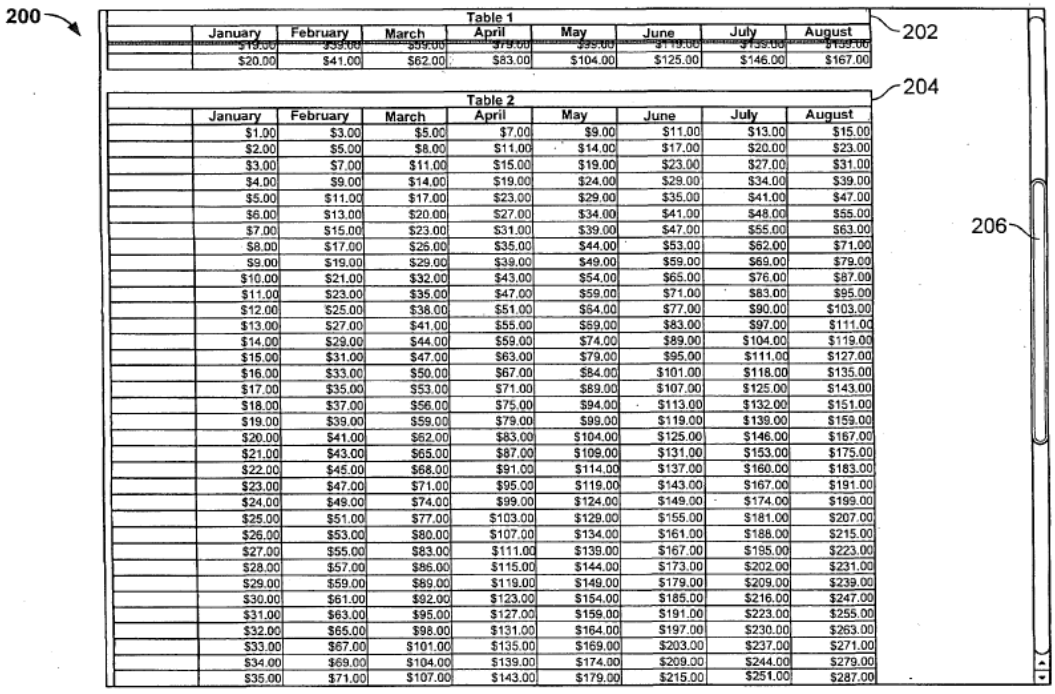

FIG. 2C

Figure 2C, like Figure 2B above, illustrates locked headers in tables 202 and 204. Spec. ¶ 24. As between Figures 2B and 2C, "the display view of sheet 200 has further been vertically scrolled down as indicated by the even lower position of vertical scroll bar 206." *Id.* ¶ 25. Thus, table 202 of Figures 2B and 2C shows a "partial view" of the hidden row immediately below the

month headers. As discussed above, the Specification describes this function as "smooth scrolling." *Id.* ¶ 33.

For the recited "partial views" of claim 14, the Examiner cites Figure 3 of Parsons as showing:

> the collection 300 before the user scrolls down, Figure 3C shows the pane after the user has scrolled down, and the thumbnail images 310–314 (the first set of cells) are *displayed only in portion* and the labels 346–348 are now visible, heading 360 is fixed at the top of the pane because the associated thumbnail images 310–314 are visible, and a new heading 368 has scrolled into the pane. Thus, scrolling in Figures 3A-3D show smooth scrolling, in which at least a portion of one or more of thumbnail images are scrolled in or out of view using scroll bar.

Final Act. 21.

Appellant argues that "Parsons does not appear to *always* show partial views of thumbnail images 310, 312, and 314." Appeal Br. 17 (citing Parsons, Fig. 3B, 3C). According to Appellant, "Parsons would also appear to scroll *the entire first set of cells* of out of view while also displaying the full content of another set of cells." Appeal Br. 17; Reply Br. 8 (citing Reply Br. 6–7 (arguments relating to claims 8 and 13)). Thus, Appellant argues that "[o]nce Parsons scrolls past the thumbnail images 310, 312, and 314, Parsons would not show partial views of the thumbnail images 310, 312, and 314." Appeal Br. 17; Reply Br. 7 (both citing Parsons, Figs. 3B, 3C).

The Examiner contends that Parsons' Figure 3C

> shows the pane after the user has scrolled down, and the thumbnail images 310–314 (the first set of cells) are displayed only in portion and the labels 346–348 are now visible, heading 360 is fixed at the top of the pane because the associated thumbnail images 310–314 are visible, and a new heading 368

> has scrolled into the pane. Thus, scrolling in Figures 3A–30 show smooth scrolling, in which at least a portion of one or more of thumbnail images are scrolled in or out of view using scroll bar.

Ans. 29, 30 (citing Ans. 27–29 (showing regarding claims 8 and 13)).

Appellant's arguments are persuasive. As Appellant contends, claim 14 recites, in part, "a first group of *cells*." Emphasis added. In substance, Appellant argues Parsons teaches thumbnail images, which are not a part of a spreadsheet "cell." *See* Appeal Br. 20 (claim 1 reciting "a plurality of groups of cells in a single sheet of a spreadsheet application"). The distinction between spreadsheet "cells" and thumbnail images is apparent because Parsons illustrates a spreadsheet document in Figures 2A through 2F, whereas Parsons illustrates thumbnail images in Figures 3A through 3d. None of Figures 2A through 2F depict a "partial view" of spreadsheet cells below a header. *See* Parsons, Figs. 2A–2F. And none of Figures 3A through 3D depict spreadsheet cells.

For the reasons stated, we do not sustain the rejection of claim 14. Claims 15–17 depend from independent claim 14, and claims 18–20 depend from claim 17. The Examiner separately rejects these dependent claims (rejection 4 above), but the Examiner does not rely on the additionally cited references, Fenkes or Buczek, to cure the deficiency noted above in relation to the obviousness rejection of independent claim 14. *See* Final Act. 22–23. Accordingly, we also do not sustain the rejection of claims 14–20 for the reasons set forth above in relation to claim 14.

NEW ANTICIPATION REJECTION OF CLAIMS 1 AND 14

Pursuant to our discretionary authority under 37 C.F.R. § 41.50(b), we enter a new ground of rejection for claims 1 and 14 under 35 U.S.C. § 102(a) as being anticipated by Appellant's Admitted Prior Art.

Claim 1

Appellant acknowledges that it was known to provide spreadsheet applications with the option to lock or freeze specified columns or rows of the spreadsheet's cells (hereafter referring to both of these functionalities either as "freezing panes" or "locked headers"). Spec. ¶ 3. Appellant also acknowledges that it was known that "locked rows or columns may be relevant to one group (e.g., may correspond to row and column labels of that group) but not to other groups [of cells]." *Id.*

Furthermore, Appellant acknowledges that it was known to include visual effects of the presence of hidden rows or columns in a spreadsheet application that employs freezing panes. *See* FIG. 1B (labeled as "Prior Art" and depicting a spreadsheet application with freezing panes that includes a bolded line between rows 1 and 5, indicating the hidden presence of rows 2–4, as well as a bolded line between columns A and C, indicating the hidden presence of column B); Spec. ¶ 8 (describing Figure 1B as illustrating "a prior art example of freezing panes in a typical spreadsheet application.").

Appellant's invention, then, is to improve upon the freezing-pane spreadsheet applications of the prior art by providing either of two alternative visual effects for indicating the presence of hidden rows or columns of cells under the locked headers. One alternative entails rendering the floating cells of a table's locked header with "a shadow that makes [the locked cells] appear to float or hover above the table." Spec. ¶

24. We understand that these shadows do not appear in the locked cells, themselves, but rather that the locked cells "cast[] a shadow visual effect from the one or more [locked cells] onto one or more unlocked cells . . . when actual relative positions of [some unlocked cells] have scrolled out of view of the display." Claim 1, Appeal Br. 20.

The second visual effect entails causing the "rows or columns of cells [to] be scrolled such that they are partially out of view." Spec. ¶ 33. For example,

> [i]n each of Figures 2B and 2C, the row directly below the floating header rows in table 202 is partially scrolled out of view. In Figure 2D, the row directly below the floating header rows in table 204 is almost completely scrolled out of view, but a portion of the row is still visible under the floating header rows.

Spec. ¶ 33.

We next analyze whether the shadow of claim 1, which is cast on the unlocked cells when other cells are locked, is functionally related to the operation of the spreadsheet—that is, whether the claimed shadow is functionally related to underlying substrate on which it is depicted:

> When presented with a claim including nonfunctional descriptive material, an Examiner must determine whether such material should be given patentable weight. The Patent and Trademark Office (PTO) must consider all claim limitations when determining patentability of an invention over the prior art. *In re Gulack*, 703 F.2d 1381, 1385 (Fed. Cir. 1983). The PTO may not disregard claim limitations comprised of printed matter. *See Gulack*, 703 F.2d at 1384; *see also Diamond v. Diehr*, 450 U.S. at 191. However, the PTO need not give patentable weight to descriptive material absent a new and unobvious functional relationship between the descriptive material and the substrate. *See Gulack*, 703 F.2d at 1386. *See also In re Ngai*, 367 F.3d 1336, 1338 (Fed. Cir. 2004); *In re Lowry*, 32 F.3d 1579, 1583–84 (Fed. Cir. 1994). The burden of establishing the absence of a

> novel, nonobvious functional relationship rests with the PTO. *In re Lowry*, 32 F.3d at 1584.

Ex Parte Halligan, 89 U.S.P.Q.2d 1355, 1367–68 (BPAI 2008) (non-precedential).

In the case of Appellant's claim 1, we find that no functional relationship exists between the shadow and the spreadsheet. Casting a shadow does not cause the spreadsheet to perform any function. The shadow does not cause cells to lock or unlock. The shadow does not initiate any spreadsheet macros or activate any functions. Rather, the shadow constitutes printed matter—graphical shading that informs a user (1) where the delineation is between the locked and unlocked cells and (2) that additional out-of-view unlocked cells exist. *E.g.*, Spec. ¶¶ 24–25.

Appellant acknowledges that all of claim 1, with the exception of the final wherein clause of claim 1, is directed to computer structures and functionalities found in prior-art spreadsheet applications. Claim 1's final wherein clause—the only portion of the claim not admitted to constitute prior art—reads as follows:

> wherein locking the one or more cells of the first group of cells comprises casting a shadow visual effect from the one or more cells of the first group of cells onto one or more unlocked cells of the first group of cells when actual relative positions of the one or more cells of the first group of cells have scrolled out of view of the display.

Our reviewing court has held that an applicant cannot create a novel product by attaching printed matter to it, even if that printed matter itself is new. *See, e.g., Ngai*. 367 F.3d at 1338 (adding instructions to a kit that describe a method of using it does not make the kit patentable over the same kit with a different set of instructions.). Our reviewing court has identified

cases in which the descriptive material can form a functional relationship with the underlying substrate. For example, in *In re Miller*, the addition of printed matter to the outside of a cup permitted an otherwise ordinary cup to be used like a measuring cup to half recipes. *In re Miller*, 418 F.2d 1392, 1396 (CCPA 1969). The printed matter in *Miller* was determined to serve as a computing or mathematical recipe conversion device permitting a cook to perform calculations automatically with no further thought. However, as discussed above, Appellant's claim 1 is more like the claim in *Ngai* than *Miller*. That the particular visual effect is a shadow does not change the function of the locking feature, or the product for that matter, in any way. The shadow merely describes a new, non-functional feature for a product that already exists. This final wherein clause, therefore, solely recites non-functional descriptive material. Moreover, even if functional, the claimed shadow visual effect differs from the prior art only in the content of the visual effect, which is not a patentable distinction. As a result, Appellant's claimed casting of a *shadow* visual effect does not distinguish the invention from the prior art. To grant a patent for this claim would mean that each novel visual effect used to distinguish between locked and unlocked cells in a spreadsheet application is sufficient to warrant a separate patent, even if the remainder of the invention is unchanged.

Therefore, the language of the final wherein clause does not patentably distinguish claim 1 from the prior-art spreadsheet applications. Accordingly, we newly reject claim 1 as being anticipated by Appellant's prior-art admissions.

Claim 14

We now turn to independent claim 14:

14. A system, comprising:

a processor configured to:

receive an indication that a scroll bar provided with a user interface of a spreadsheet application is being exercised with respect to a workspace of the spreadsheet application; and

scroll the workspace such that partial views of a first set of cells of a first group of cells directly adjacent to one or more locked cells of the first group of cells are always viewable as any part of the first group of cells is scrolled out of view using the scroll bar, wherein the partial views of the first set of cells comprise less than an entirety of content inside each cell of the first set of cells, and wherein the first group of cells comprises a plurality of rows or a plurality of columns; and

a memory coupled to the processor and configured to provide the processor with instructions.

Claim 14, Appeal Br. 22–23 (emphasis added).

We addressed above in relation to claim 1 that Appellant acknowledges that it was known to provide spreadsheet applications with locked headers or frozen panes that allows a user to scroll through the spreadsheet's workspace. E.g. Spec. ¶¶ 3, 5, 8, FIG. 1B. As such, Appellant acknowledges that it was known in the art at the time of the invention to provide a processor configured to receive an indication that a scroll bar provided with a user interface of a spreadsheet application is being exercised with respect to a workspace of the spreadsheet application, as recited in claim 14.

Furthermore, Appellant's express disclosure that spreadsheet applications were known also constitutes an admission that it was known at the time of the invention to provide a memory coupled to the processor and configured to provide the processor with instructions. The only portion of claim 14, that Appellant does not acknowledge constitutes prior art is the scrolling limitation. We now turn to that limitation.

As noted, Appellant acknowledges that it was known to provide spreadsheet applications with locking functions. E.g. Spec. ¶¶ 3, 5, 8, FIG. 1B. According to Appellant,

> the present claims are related to overcoming a problem specifically arising in the realm of computer networks. For example, when scrolling through a spreadsheet, it may be difficult for a user to distinguish between locked and unlocked cells. Accordingly, claim 14 is, in part, directed to clearly emphasizing the difference between locked and unlocked cells by also always showing partial views of unlocked cells directly adjacent to locked cells, as the original location of the locked cells is scrolled out of view.

Appeal Br. 10.

Like the shadows of claim 1, then, providing partial views of rows of hidden cells adjacent to the frozen headers does not provide any computer functionality. Rather, Appellant explains that the purpose of these partially visible cells is to provide a visual indication to the user of the boundary of the locked and unlocked cells. Appeal Br. 4. The partial-view cells, then, are just another visual effect or aesthetic expression, similar to the bold lines depicted by Appellant's prior-art Figure 1B, analogous to printed matter and not functionally related to the underlying substrate on which it is depicted, i.e., the spreadsheet. Moreover, even if functional, the claimed use of partial-view cells in a spreadsheet application differs from the prior art only

in the content of the visual effect, which is not a patentable distinction. As a result, Appellant's claimed use of a partial-view cells visual effect does not distinguish the invention from the prior art.

For these reasons, as well as the reasons set forth above in relation to claim 1, then, the scrolling clause of claim 14 solely recites non-functional descriptive material. That is, the language of the scrolling clause does not patentably distinguish claim 14 from the prior-art spreadsheet applications. Accordingly, we newly reject claim 14 as being anticipated by Appellant's prior-art admissions.

Other Claims

Although we decline to reject claims 2 through 13 and 15 through 20 pursuant to our discretionary authority under 37 C.F.R. § 41.50(b), we emphasize that our decision does not mean that the remaining claims are necessarily patentable. Rather, we merely leave the patentability determination of these claims to the Examiner. *See* MPEP § 1213.02.

CONCLUSIONS[4]

The Examiner's rejection of claims 1, 2, 3, 4, 5, 6, 7, 10, 12 on nonstatutory double patenting is sustained.

---

[4] In addition to considering the potential patent-eligibility rejection under 101, noted above (*see* n.3), upon further prosecution the Examiner also may wish to consider whether the differences between the prior-art spreadsheets and the two claimed inventions (the spreadsheet with the shadowed unlocked cells and the spreadsheet with the partially depicted hidden unlocked cells) constitute obvious aesthetic design choices under 35 U.S.C. § 103. *See In re Seid*, 161 F.2d 229 (CCPA 1947) (holding that matters relating to ornamentation only, which have no mechanical function, cannot be relied upon to patentably distinguish the claimed invention from the prior

The obviousness rejections of claims 1 through 20 are not sustained.

We exercise our discretionary authority under 37 C.F.R. § 41.50(b) and newly reject independent claims 1 and 14 as anticipated over Appellant's prior-art admissions.

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Reference(s) /Basis	Affirmed	Reversed	New Grounds
1–7, 10, 12		Nonstatutory Double Patenting	1–7, 10, 12		
1–7, 10–12	103	Fenkes, Robertson, Buczek		1–7, 10–12	
8–9, 13	103	Fenkes, Robertson, Buczek, Parsons		8, 9, 13	
14–20	103	Fenkes, Buczek, Parsons		14–20	
1, 14	102(a)	Appellant's Prior-Art Admissions			1, 14
Overall Outcome			**1–7, 10, 12**	**8, 9, 11, 13–20**	**1, 14**

art); *see also generally* MPEP § 2144.04(I) AESHTETIC DESIGN CHANGES.

Upon any further prosecution, the Examiner also may wish to consider in relation to claims 1–13, Appellant's admitted prior art in combination with Kjaer (US 2002/0091728 A1; published July 11, 2002), *e.g.*, FIG. 2; ¶¶ 49, 184 (teaching that visual shading can be used to create shadow effects and thereby emphasize one set of spreadsheet cells relative to others).

FINALITY AND RESPONSE

This decision contains a new ground of rejection pursuant to 37 C.F.R. § 41.50(b). Rule 37 C.F.R. § 41.50(b) provides "[a] new ground of rejection pursuant to this paragraph shall not be considered final for judicial review."

Rule 37 C.F.R. § 41.50(b) also provides that the Appellant, WITHIN TWO MONTHS FROM THE DATE OF THE DECISION, must exercise one of the following two options with respect to the new ground of rejection to avoid termination of the appeal as to the rejected claims:

> (1) *Reopen prosecution.* Submit an appropriate amendment of the claims so rejected or new Evidence relating to the claims so rejected, or both, and have the matter reconsidered by the examiner, in which event the prosecution will be remanded to the examiner. . . .
>
> (2) *Request rehearing*. Request that the proceeding be reheard under § 41.52 by the Board upon the same record. . . .

AFFIRMED IN PART;
37 C.F.R. § 41.50(b)