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.
14/572,814	12/17/2014	Vignesh Sachidanandam	356009-US-NP	1931

143198 7590 09/02/2020

MICHAEL BEST & FRIEDRICH LLP (MS)
790 N WATER ST
SUITE 2500
MILWAUKEE, WI 53202

EXAMINER
BLAUFELD, JUSTIN R

ART UNIT	PAPER NUMBER
2142	

NOTIFICATION DATE	DELIVERY MODE
09/02/2020	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):

mkeipdocket@michaelbest.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte VIGNESH SACHIDANANDAM,
HIROSHI TSUKAHARA, and NED BEARER FRIEND

Appeal 2019-003467
Application 14/572,814
Technology Center 2100

Before ELENI MANTIS MERCADER, JOYCE CRAIG, and MATTHEW J. McNEILL, *Administrative Patent Judges*.

McNEILL, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1, 3–10, 12–15, and 17–21, which are all the claims pending in this application.[1] Claims 2, 11, and 16 are canceled. *See* Appeal Br. 13–16. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

---

[1] We use the word "Appellant" to refer to "applicant" as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as Microsoft Technology Licensing, LLC. Appeal Br. 2.

STATEMENT OF THE CASE

Introduction

Appellant's application relates to reordering summaries of electronic messages based on a configurable persistence. Spec. ¶ 2. Claim 1 illustrates the appealed subject matter and read as follows:

> 1. A method executed on a computing device to restructure a view of messages based on configurable persistence, the method comprising:
>
> displaying summaries of the messages within a summary pane of a messaging user interface (UI);
>
> inferring a due date based on a content of a first message from the messages;
>
> automatically reordering the displayed summaries such that a first summary associated with the first message is moved from an original location on the summary pane that corresponds to a receipt time of the first message to a top location on the summary pane for a duration of a reorder time based on the inferred due date;
>
> displaying the reorder time within the first summary instead of the receipt time of the first message in order to distinguish the first summary from remaining summaries; and
>
> upon an expiration of the duration of the reorder time, displaying the first summary at the original location on the summary pane that corresponds to the receipt time of the first message.

The Examiner's Rejections

Claims 1, 3–10, 12–14, 17, 18, 20, and 21 stand rejected under 35 U.S.C. § 103 as being unpatentable over Tysowski (US 2008/0270560 A1; Oct. 30, 2008) and Baird (US 2015/0334061 A1; Nov. 19, 2015). Final Act. 4–23.

Claim 15 stands rejected under 35 U.S.C. § 103 as being unpatentable over Tysowski, Baird, and MacBeth (US 2009/0235196 A1; Sept. 17, 2009). Final Act. 23–24.

Claim 19 stands rejected under 35 U.S.C. § 103 as being unpatentable over Tysowski, Baird, and Underwood (US 2014/0143738 A1; May 22, 2014). Final Act. 24–29.

ANALYSIS

The Examiner finds the combination of Tysowski and Baird teaches or suggests "inferring a due date based on a content of a first message from the messages," as recited in claim 1. *See* Final Act. 5; *see also* Ans. 4–6. In particular, the Examiner finds Tykowski teaches inferring from an email message a priority level of the message, which the Examiner equates to the claimed "due date." *See* Ans. 5. The Examiner concludes both the claimed "due date" and Tysowski's priority level provide the information the computing device needs to reorder the displayed summaries. *Id.* The Examiner concludes the limitation "due date" is not entitled to weight in the patentability analysis beyond this functional use because the content of the information is non-functional descriptive material. *See id.* at 6 (citing *Ex parte Nehls*, 88 USPQ2d 1883, 1887–90 (BPAI 2008) (precedential)).

Appellant argues the Examiner erred because Tysowski teaches retrieving a priority level from the header of a message, not inferring a due date from the content of a message. *See* Appeal Br. 7–8 (citing Tysowski ¶ 47).

Appellant has persuaded us of Examiner error. The Examiner has failed to establish that Tysowski teaches or suggests "inferring a due date based on a content of a first message from the messages." Tysowski teaches

determining a priority level for a message, where the priority level may be a default value or may be provided in optional header information included with the message. Tysowski ¶ 47. We agree with Appellant that Tysowski's priority level is not a "due date," as recited in claim 1.

First, claim 1 recites "automatically reordering the displayed summaries such that a first summary . . . is moved from an original location . . . to a top location . . . for a duration of a reorder time based on the inferred due date." Claim 1 further recites "upon an expiration of the duration of the reorder time, displaying the first summary at the original location." Thus, claim 1 recites using the inferred due date to determine the duration of the reorder time for a message and, upon expiration of the duration, returning the message to its original location. We, therefore, disagree with the Examiner's determination that the claimed "due date" is non-functional descriptive material because claim 1 recites a specific function—reordering the messages—that is based on the due date. Tysowski teaches using a priority level to reorder messages, but a priority level is not a date, let alone a due date.

Second, with regard to the functional aspect of reordering messages, the Examiner finds Tysowski uses the priority level to reorder messages, but the Examiner has not established that Tysowski's priority level is used to determine "duration of a reorder time," as claimed. Thus, the Examiner has failed to establish that Tysowski teaches using its priority level in a functionally equivalent way to the claimed "due date."

For these reasons, the Examiner has failed to sufficiently establish that Tysowski and Baird, alone or in combination, teach or suggest the disputed

"inferring" step.[2] We, therefore, do not sustain the Examiner's obviousness rejection of independent claim 1.[3] We also do not sustain the obviousness rejection of independent claims 12 and 18, which recite commensurate subject matter. We also do not sustain the obviousness rejection of dependent claims 3–10, 13, 14, 17, 20, and 21.

Claims 15 and 19 stand rejected as unpatentable over the combination of Tysowski, Baird, and one of MacBeth (claim 15) and Underwood (claim 19). The Examiner does not find that MacBeth or Underwood teaches or suggests the "inferring" step. Accordingly, we do not sustain the obviousness rejections of claims 15 or 19 for the same reasons.

SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1, 3–10, 12–14, 17, 18, 20, 21	103	Tysowski, Baird		1, 3–10, 12–14, 17, 18, 20, 21
15	103	Tysowski, Baird, MacBeth		15
19	103	Tysowski, Baird, Underwood		19

[2] Because we agree with at least one of the dispositive arguments advanced by Appellant, we need not reach the merits of Appellant's other arguments.
[3] Should there be further prosecution of this application, the Examiner may wish to consider whether the claims are patent eligible under 35 U.S.C. § 101. Although the Board is authorized to reject claims under 37 C.F.R. § 41.50(b), no inference should be drawn when the Board elects not to do so. *See* Manual of Patent Examining Procedure (MPEP) § 1213.02.

Overall Outcome				1, 3–10, 12–15, 17–21

REVERSED