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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte STEVEN HOLLAND, JOHN D. WILCOX, CHARLES M. REKIERE, and SEAN MICHAEL COLLISON

Appeal 2019-003674
Application 15/327,923
Technology Center 2100

Before CARL L. SILVERMAN, JAMES W. DEJMEK, and STEPHEN E. BELISLE, *Administrative Patent Judges*.

BELISLE, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant[1] appeals under 35 U.S.C. § 134(a) from a Final Rejection of claims 1 and 3–15. Appeal Br. 7, 14, 17. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

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[1] Throughout this Decision, we use the word "Appellant" to refer to "applicant" as defined in 37 C.F.R. § 1.42 (2018). Appellant identifies the real party in interest as Hewlett-Packard Development Company, L.P. Appeal Br. 3.

STATEMENT OF THE CASE

The Claimed Invention

Appellant's invention generally relates to a method and system for producing multiple pages for output (such as by printing or displaying), where such pages share an image or a portion of an image, without duplicating the shared image portion in memory. Spec. ¶¶ 8–10, 12, Figs. 1–2. According to the Specification, "to avoid such duplication of an image portion that is to be shared across multiple pages, attribute information can be generated for the shared image portion," where "at least some of the versions of the attribute information can differ due to different arrangements of the shared image portion in respective pages." Spec. ¶ 11. "The manner in which a shared image portion is arranged within a page can include one or some combination of: a position of the shared image portion, an orientation of the shared image portion, or another feature that affects a placement or other characteristic of the shared image portion in the page." Spec. ¶ 11. A media production system, such as a printer, produces (prints) the pages with the shared image based on the attribute information. Spec. ¶ 12, Fig. 1. According to the Specification, using this attribute information, as opposed to multiple duplicate images or image portions, results in more efficient use of memory storage capacity. Spec. ¶¶ 10, 25.

Claim 1, reproduced below, is illustrative of the subject matter on appeal:

> 1. A method comprising:
>
> receiving, by a system including a processor, an image to be shared across a plurality of pages;
>
> computing, by the system, versions of attribute information for the image, each of the versions of the attribute information associated with a respective different page of the plurality of pages,
>
> wherein a first version of the attribute information is associated with a first page of the plurality pages and is different from a second version of the attribute information that is associated with a second page of the plurality of pages, and
>
> each version of the attribute information specifying a respective arrangement of at least a portion of the image in the respective page of the plurality of pages; and
>
> producing, by the system, the plurality of pages for output on a single device according to the respective versions of the attribute information,
>
> wherein the produced plurality of pages includes the first page configured according to the first version of the attribute information and the second page configured according to the second version of the attribute information.

Appeal Br. 19 (Claims App.).

The Applied References

The Examiner relies on the following references as evidence of unpatentability of the claims on appeal:

Redin	US 4,677,575	June 30, 1987
Yuasa	US 2003/0016390 A1	Jan. 23, 2003
Dorai	US 2004/0099741 A1	May 27, 2004
Wyler	US 2007/0206221 A1	Sept. 6, 2007

The Examiner's Rejections

The Examiner made the following rejections of the claims on appeal:

Claims 1, 3, and 14 stand rejected under 35 U.S.C. § 102(a)(1) as being anticipated by Wyler. Advisory Act. 2–4.

Claims 4, 5, 7–10, 12, 13, and 15 stand rejected under 35 U.S.C. § 103 as being unpatentable over the combination of Wyler and Yuasa. Advisory Act. 5–9.

Claim 6 stands rejected under 35 U.S.C. § 103 as being unpatentable over the combination of Wyler and Redin. Advisory Act. 9–10.

Claim 11 stands rejected under 35 U.S.C. § 103 as being unpatentable over the combination of Wyler and Dorai. Advisory Act. 10–11.

We note that in the Advisory Action the Examiner withdrew "the objection to claim 10; and the rejection of claims 1–15 under 35 U.S.C. § 112(b); and the rejection of claims 1–15 under 35 U.S.C. § 101," which the Examiner had made in the Final Action. Advisory Act. 11; *see* Final Act. 3–6. As such, we do not address this objection and these rejections herein.

ANALYSIS[2]

Appellant disputes, *inter alia*, the Examiner's findings that Wyler anticipates independent claims 1 and 14 and, in combination with Yuasa, renders obvious independent claim 10. Appeal Br. 7–17; Reply Br. 6–14.

[2] Throughout this Decision, we have considered Appellant's Appeal Brief filed December 17, 2018 ("Appeal Br."); Appellant's Reply Brief filed April 8, 2019 ("Reply Br."); the Examiner's Answer mailed February 8, 2019 ("Ans."); the Final Office Action mailed August 3, 2018 ("Final Act."); the Examiner's Advisory Action resulting from the After Final

Wyler relates generally to "provid[ing] improved functionalities for displaying web content on mobile communicators." Wyler ¶ 9. In operation, "when a user requests a web page, such as web page 100, the web page is downloaded to a server, such as server 106 (FIG. 1) and converted to a tree representation of the Document Object Model (DOM) thereof." Wyler ¶ 335. Wyler discloses that "[a] web page which is adapted for each particular model of mobile communicator is generated using information received by the server, identifying the mobile communicator which is requesting the web page, and using the DOM representation." Wyler ¶ 337. Wyler also discloses that, during analysis of the web page, "fragmented images are identified," and "[f]or each fragmented image, the server creates a file, typically an XML file, which includes information related to each of the sub-images and to the whole image." Wyler ¶ 780. Subsequently, "[t]he adapted page, including [a] cluster of navlinks, is supplied to the mobile communicator, such as mobile communicator 104." Wyler ¶ 339. In sum, Wyler discloses a system for manipulated web pages downloaded to a server for display on different models of mobile devices.

To serve as an anticipatory reference, "the reference must disclose each and every element of the claimed invention, whether it does so explicitly or inherently." *In re Gleave*, 560 F.3d 1331, 1334 (Fed. Cir. 2009). The Examiner finds Wyler anticipates claims 1 and 14, and, as relevant here, both the limitations of "receiving . . . an image to be shared across a plurality of pages" *and* "producing . . . the plurality of pages for output on a single device according to the respective versions of the attribute

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Consideration Program Decision mailed October 15, 2018 ("Advisory Act."); and Appellant's Specification filed January 20, 2017 ("Spec.").

information." Ans. 3–13; Advisory Act. 3. In doing so, the Examiner finds: (1) "[a] received image is 'shared across a plurality of pages' when Wyler creates a plurality of device adapted web pages" (Ans. 6); and (2) "Wyler does directly disclose [outputting] a plurality of pages on a single device" (Ans. 10; *see id.* at 11 ("Wyler unquestionably discloses that the generated pages are output, and are thus 'for output.'")).

As a preliminary matter, based on the present record, we do not adopt the Examiner's determination that:

> On its face, the limitation "producing . . . the plurality of pages for output on a single device according to the respective versions of the attribute information" is subject to two, mutually exclusive interpretations: (1) "producing . . . the plurality of pages for output**, wherein the pages are output** on a single device according to the respective versions of the attribute information;" or (2) "producing . . . the plurality of pages for output**, where the pages are produced** on a single device according to the respective versions of the attribute information."

Ans. 9. Notably, notwithstanding this statement, the Examiner has not rejected the subject claims and claim limitation as being indefinite or lacking written description under 35 U.S.C. § 112. Instead, in both the Final Action and Advisory Action, the Examiner finds the subject limitation disclosed by Wyler's description of "producing the custom webpage including the image *for output on 'a particular model of mobile communicator'* (i.e., a single device)," which targets "interpretation (1)" above, namely producing pages so that such pages are configured for output on a single device. Final Act. 7 (emphasis added); Advisory Act. 3. The Examiner does add "if this limitation is intended to indicate that the production by the system is on a single device, Wyler discloses . . . that these steps are performed by a server (i.e., a single device)." Final Act. 7; Advisory Act. 3.

Regardless, the Specification explains, for example, in reference to an example media production system in Figure 1, that "page producer engine 102 is able to produce multiple pages 106 *for output by the media production system 100*," and that "the media production system 100 can be *a printer* to print the pages 106." Spec. ¶ 12 (emphases added), Fig. 1. We find, in view of and consistent with the Specification as a whole, that the broadest *reasonable*, not *possible*, interpretation of "producing . . . the plurality of pages for output on a single device according to the respective versions of the attribute information" is "producing (or creating) the plurality of pages *so that such pages are configured for output on a single device* according to respective versions of attribute information." *See In re Smith Int'l, Inc.*, 871 F.3d 1375, 1383 (Fed. Cir. 2017) (The broadest *reasonable* interpretation differs from the broadest *possible* interpretation.); *Trivascular, Inc. v. Samuels*, 812 F.3d 1056, 1062 (Fed. Cir. 2016) ("While the broadest reasonable interpretation standard is broad, it does not give the Board an unfettered license to interpret the words in a claim without regard for the full claim language and the written description.") (citations omitted); *Realtime Data, LLC v. Iancu*, 912 F.3d 1368, 1374 (Fed. Cir. 2019) (The broadest reasonable interpretation must take into account "the context of the *entire* patent.") (emphasis added) (quoting *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–13 (Fed. Cir. 2005) (en banc)); *see also* Reply Br. 9 ("[T]he single image that is shared across a plurality of pages is outputted on a single device.").

Appellant argues "Wyler does not teach 'receiving . . . an image to be shared across a plurality of pages;' *and* 'producing . . . the plurality of pages for output on a single device according to the respective versions of the

attribute information.'" Reply Br. 12 (emphasis added). More specifically, Appellant argues: "In sum, Wyler describes modifying a web page to be sent to different devices, such that each device can properly display the web page. In contrast, claim 1 requires an image to be shared across a plurality of pages and the plurality of pages is being outputted to a single device." Reply Br. 12. Appellant also argues:

> Even if one skilled in the art agreed with the Examiner's conclusion that Wyler describes a plurality of web pages, each with different attribute, then the first page of the plurality of pages would be on one model device and the second page of the plurality of pages would be on a second model device/other model device. Thus, given that each web page is on a different model device, it would not be possible to output the plurality of pages on a single device.

Appeal Br. 11. We find Appellant's argument persuasive, and agree that the Examiner has not provided sufficient evidence or technical reasoning to show how Wyler *explicitly* or *inherently* discloses the combination of limitations at issue (recited above). For example, even if Wyler discloses creating or producing a plurality of device-adapted web pages, such as adapting a given web page for output or display on mobile device model A and adapting that same web page for output or display on mobile device model B, and doing so for a plurality of web pages for each mobile device A and B, we are unpersuaded on the present record that such a description explicitly or inherently discloses producing (or creating) the plurality of web pages *so that the pages are configured for output on a single device, such as on only mobile device A*, according to *different versions of attribute information*. Because we find this issue dispositive here, we do not address Appellant's other arguments.

Accordingly, based on the present record, we do not sustain the Examiner's rejection under 35 U.S.C. § 102(a)(1) of independent claim 1. For similar reasons, we do not sustain the Examiner's rejection under 35 U.S.C. § 102(a)(1) of independent claim 14, which recites commensurate limitations. We also do not sustain the Examiner's rejection under 35 U.S.C. § 102(a)(1) of claim 3, which depends therefrom.

In addition, because the Examiner has not persuasively shown how the other cited art, particularly Yuasa, remedies the deficiency in Wyler (*see* Ans. 15; Advisory Act. 7–8), we do not sustain the Examiner's rejection under 35 U.S.C. § 103 of independent claim 10, which, in relevant part, recites limitations commensurate with those in independent claims 1 and 14 for which the Examiner relied upon disclosure in Wyler. We also do not sustain the Examiner's rejection under 35 U.S.C. § 103 of claims 4–9, 11–13, and 15, which variously depend from independent claims 1, 10, and 14.

DECISION SUMMARY

In summary:

Claims Rejected	**35 U.S.C. §**	**Reference(s)/ Basis**	**Affirmed**	**Reversed**
1, 3, 14	102(a)(1)	Wyler		1, 3, 14
4, 5, 7–10, 12, 13, 15	103	Wyler, Yuasa		4, 5, 7–10, 12, 13, 15
6	103	Wyler, Redin		6
11	103	Wyler, Dorai		11
Overall Outcome				1, 3–15

REVERSED