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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte GARY WILSON COX

Appeal 2019-003973
Application 14/696,117¹
Technology Center 2100

Before MARC S. HOFF, JASON J. CHUNG, and MICHAEL T. CYGAN,
Administrative Patent Judges.

HOFF, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from a Final Rejection of claims 1–4, 8–16, and 18–24.² We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Appellant’s invention is a method for spell-checking a video stream. A computing device receives first data representing first text, and queries a search engine using a first search phrase including the first text. Responsive

¹ We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant states that the real party in interest is Tribune Broadcasting Company, LLC. Appeal Br. 4.

² Claims 5–7 and 17 have been cancelled.

to a determination that the search engine has suggested a second search phrase, including second text different from the first search phrase, the computing device modifies the received video stream by overlaying the second text on the received video stream. Abstract; Spec. ¶ 59.

Claim 1 is reproduced below:

1. A method comprising:

receiving, by a computing device, a video stream;

receiving, by the computing device, first data representing first text;

querying, by the computing device, a search engine using a first search-phrase, wherein the first search-phrase includes the represented first text;

determining, by the computing device, that the search engine has suggested a second search-phrase based on the query, wherein the second search-phrase includes second text and is different from the first search-phrase; and

responsive to determining that the search engine has suggested the second search-phrase based on the query, modifying, by the computing device, the received video stream by overlaying the second text on the received video stream.

The prior art relied upon by the Examiner as evidence is:

Name	Reference	Date
Schneider	US 2005/0235031 A1	Oct. 20, 2005
Burke	US 2007 /0043706 A1	Feb. 22, 2007
Lee	US 2012/0066195 A1	Mar. 15, 2012
Zhang	US 2012/0281139 A1	Nov. 8, 2012
Hendry	US 2013/0238584 A1	Sept. 12, 2013
Press	US 2014/0372399 A1	Dec. 18, 2014

Claims 1, 2, 8–10, 14, 15, 18, 19, 21, and 22 stand rejected under 35 U.S.C. § 103 as being unpatentable over Lee, Schneider, and Zhang. Final Act. 2.

Claims 3 and 11 stand rejected under 35 U.S.C. § 103 as being unpatentable over Lee, Schneider, Zhang, and Hendry. Final Act. 9.

Claims 4, 12, 13, 16, and 20 stand rejected under 35 U.S.C. § 103 as being unpatentable over Lee, Schneider, Zhang, and Press. Final Act. 10.

Claims 23 and 24 stand rejected under 35 U.S.C. § 103 as being unpatentable over Lee, Schneider, Zhang, and Burke. Final Act. 14.

Throughout this decision, we make reference to the Appeal Brief (“Appeal Br.,” filed Jan. 9, 2019), the Reply Brief (“Reply Br.,” filed Apr. 19, 2019), and the Examiner’s Answer (“Ans.,” mailed Feb. 19, 2019) for their respective details.

ISSUES

1. Does the combination of Lee, Schneider, and Zhang teach or suggest responsive to determining that a search engine has suggested a second search-phrase based on a search query, modifying a received video stream by overlaying the second text on the received video stream?

2. Does the combination of Lee, Schneider, Zhang, and Press teach or suggest identifying, by the computing device, an indicator phrase within a received search result?

PRINCIPLES OF LAW

One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. *In re Keller*, 642 F.2d 413, 425 (CCPA 1981).

The test of obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference, nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art.

Id. at 425.

ANALYSIS

Claims 1–3, 8–11, 14, 15, 18, 19, and 21–24

Appellant argues that Lee teaches a search engine that suggests correctly spelled search queries when a user inputs a misspelled search query, maintains a search log of all input search queries, and generates query-suggestion pairs from the search log while discarding misspelled search queries from the search log. Appeal Br. 8. Even if Lee teaches making a determination that the search engine has suggested a second search-phrase based on the query, Appellant has not found any teaching or suggestion in Lee of modifying a received video stream. Appeal Br. 9.

Appellant’s argument is not persuasive. The Examiner relies on Zhang, not Lee, for a teaching of overlaying a search query on a received video stream. The Examiner relies on Lee for its teaching of a search engine responding to a misspelled search query with search results that include the correct spelling of the query words. Lee ¶ 22.

Appellant contends that Zhang does not make up for the deficiencies of Lee. Appeal Br. 9. At best, Zhang teaches modifying a video stream by overlaying downscaled captions on the video stream. *Id.* The downscaled captions of Zhang do not amount to text included in a suggested search phrase. *Id.* Appellant has not found any disclosure suggesting overlaying captions on a video stream responsive to a search engine suggesting and logging a correctly-spelled search query. Appeal Br. 10.

Appellant’s argument is not persuasive. Appellant again argues against a reference (Zhang) individually, where the Examiner has applied a combination of references against the claims. The Examiner relied on Zhang

for the teaching of “modifying a streaming video via . . . overlaying” that video with captions. Ans. 7.

Appellant asserts that Schneider does not make up for the deficiencies of Lee and Zhang. Appeal Br. 10. According to Appellant, nowhere in Lee is there teaching or suggestion of using the search log as a spell checker.

Appeal Br. 11. Appellant’s argument is not persuasive, because the Examiner relies on *Schneider*, rather than Lee, to teach the concept of spell checking, especially of text on video. “Aspects of the present invention may extend the use of spell checking when applied to *streaming text or real time decoded text* such as but not limited to teletext, closed caption, analog and/or digital audio and/or *video* signals, *broadcasts*, instant messaging, chat rooms, web conferencing, telephone, etc.” *Schneider* ¶ 70 (emphasis added).

Appellant argues that the Examiner has not sufficiently explained how one of ordinary skill in the art would have used the search log of Lee in the manner asserted. Appeal Br. 11. Appellant asserts that one of ordinary skill would not have been motivated to modify the references to arrive at the claimed invention. Appeal Br. 12.

We are not persuaded by Appellant’s argument. The Examiner concluded that it would have been obvious to modify Lee in view of Schneider so that the stored search log of Lee could be used “as a source to conduct spell checking for closed captions for video,” and “to provide a method for improving and expanding spell checking.” Final Act. 5. The Examiner concluded that it would have been obvious to modify Lee and Schneider in view of Zhang to expand “the video that is sent in Schneider to also be streaming video,” and to use Schneider’s spell check features before captions “are used in modifying the video stream.” *Id.* at 6. Zhang’s

teachings “would have allowed Lee’s and Schneider’s to provide a method for the adapting streaming video to clients.” Ans. 6. We determine that the Examiner stated a rationale for combining Lee with Schneider with Zhang having a rational underpinning to support the legal combination of obviousness. *See In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006).

Appellant’s further arguments against the Examiner’s combination of references amount to assertions that the references could not be bodily combined, but such bodily incorporation is not the test of obviousness. *See Keller*, 642 F.2d at 425. The Examiner has identified the teachings in each of Lee, Schneider, and Zhang, and has provided reasons why the skilled artisan would have combined the references to obtain the invention under appeal.

Thus, we find that the Examiner did not err in combining Lee, Schneider, and Zhang to achieve the invention recited in claims 1, 2, 8–10, 14, 15, 18, 19, 21, and 22. We sustain the Examiner’s § 103 rejection of these claims. Further, we sustain the Examiner’s § 103 rejection of claims 3 and 11, not separately argued, over Lee, Schneider, Zhang, and Hendry, and we sustain the Examiner’s § 103 rejection of claims 23 and 24, not separately argued, over Lee, Schneider, Zhang, and Burke.

Claims 4, 12, 13, 16, and 20

Claim 4 recites, *inter alia*, “identifying, by the computing device, an indicator phrase within the received search result.” Claims 12 and 16 recite substantially identical limitations.

Appellant argues that Press teaches determining a frequency of how often a user interacts with a suggested search query, and further teaches that the suggested search query can include an indicator phrase such as “DID YOU MEAN.” Appeal Br. 13–14. Appellant contends that Press does not

identify the indicator phrase itself within the received search result, for the purpose of determining that the search engine has suggested the search query, as claim 4 requires. Appeal Br. 14.

We are not persuaded by Appellant’s argument. Press teaches calculating the percentage of the times that suggestions given by an auto-suggest feature are based on a spell-corrected version of the input query. Press ¶ 43. Press teaches “analysis of the frequency with which the user makes use of the query-refinement tools (such as the “DID YOU MEAN: <spell-corrected-query>” prompt. Press ¶ 43. We agree with the Examiner that Press thus teaches an identification, by the computing device, of that indicator phrase within a received search result. We sustain the Examiner’s § 103 rejection of claims 4, 12, and 16, as well as claims 13 and 20 not separately argued, over Lee, Schneider, Zhang, and Press.

CONCLUSIONS

1. The combination of Lee, Schneider, and Zhang suggests, responsive to determining that a search engine has suggested a second search-phrase based on a search query, modifying a received video stream by overlaying the second text on the received video stream.

2. The combination of Lee, Schneider, Zhang, and Press suggests identifying, by the computing device, an indicator phrase within a received search result.

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/ Basis	Affirmed	Reversed
1, 2, 8–10, 14, 15, 18, 19, 21, 22	103	Lee, Schneider, Zhang	1, 2, 8–10, 14, 15, 18, 19, 21, 22	
3, 11	103	Lee, Schneider, Zhang, Hendry	3, 11	
4, 12, 13, 16, 20	103	Lee, Schneider, Zhang, Press	4, 12, 13, 16, 20	
23, 24	103	Lee, Schneider, Zhang, Burke	23, 24	
Overall Outcome			1–4, 8–16, 18–24	

ORDER

The Examiner’s decision to reject claims 1–4, 8–16, and 18–24 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED