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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte STEFAN A. HEPPEL and JASPREET SINGH

Appeal 2019-005554
Application 14/220,329
Technology Center 2100

Before ERIC S. FRAHM, JOYCE CRAIG, and
MATTHEW J. McNEILL, *Administrative Patent Judges*.

FRAHM, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner’s decision to reject claims 10, 11, 14, 17, and 19–31, which constitute all the claims pending in this application. Claims 1–9, 12, 13, 15, 16, and 18 have been canceled (*see* Appeal Br. 28–30, Claims Appendix). We have jurisdiction under 35 U.S.C. § 6(b).

¹ We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. “The word ‘applicant’ when used in this title refers to the inventor or all of the joint inventors, or to the person applying for a patent as provided in §§ 1.43, 1.45, or 1.46.” 37 C.F.R. § 1.42(a). Appellant identifies the real party in interest as International Business Machines Corporation (Appeal Br. 2).

We reverse.

STATEMENT OF THE CASE

Disclosed Invention and Exemplary Claim

Appellant's disclosed invention relates to the display of web page content, and particularly, "the rendering of the content of web page frames or portlets on mobile devices" (*see* Spec. ¶ 1). Elements displayed on a web page may be too large to fit entirely with an active area of a mobile computing device, or may be too crowded in the display area to be read or interacted with easily (*see* Spec. ¶ 13). Accordingly, Appellant discloses and claims a mobile device processor (*see* claim 10) and computer program product (*see* claim 17) for performing a method of receiving and rendering web pages on portable computing device, wherein original page display instructions are modified to render the web page in a more aesthetic manner (*see* Spec. ¶ 18). Exemplary claim 10, under appeal, with *emphases* added to key portions of the claim at issue, reads as follows:

10. A mobile device, comprising:

a display with an active display area;

a computer memory configured to *receive display data that includes original page display instructions that specify how a plurality of portlets are to be displayed within a common page, wherein the original page display instructions are configured to cause the mobile device to render the common page on the display before rendering any individual portlet of the plurality of portlets separately from the common page*; and

at least one processor circuit communicatively connected to the display and the computer memory and configured to:

identify an initial portlet of the plurality of portlets by analyzing the original page display instructions, wherein analyzing the original page display instructions does not require user input,

automatically produce, based on the analysis of the original page display instructions, modified page display instructions having a first transition instruction by removing portlets, other than the initial portlet, from the original page display instructions, wherein the first transition instruction specifies how the at least one processor circuit will transition between displaying the initial portlet and at least one other portlet,

automatically scale, based on the modified page display instructions, the initial portlet to render the initial portlet full-screen within the active display area,

automatically render, based on the scaled initial portlet, a web page within the active display area, wherein the rendered web page includes the scaled initial portlet without other portlets and separately from the common page, and wherein the common page is not rendered on the display prior to the rendered web page.

Appeal Br. 28–29, Claims Appendix (emphases added). Independent claim 17 recites a computer readable storage medium having instructions embodied therewith to perform a method having limitations commensurate in scope with the limitations of claim 10.

The Examiner's Rejections

(1) The Examiner rejected claims 10 and 17 under 35 U.S.C. § 112(b), as being indefinite for failing to particularly point out and distinctly claim the subject matter which Appellant regards as the invention (Final Act. 2). Because the Examiner has withdrawn the § 112(b) rejection (*see* Ans. 3), we will not address this rejection or Appellant's arguments directed thereto any further.

(2) Claims 10, 11, 14, 17, 19–21, and 25–28 stand rejected under 35 U.S.C. § 103 as being unpatentable over Whitman et al. (US 2009/0070713 A1; published March 12, 2009) (hereinafter, “Whitman”) in view of Yamabuchi et al. (US 2007/0234206 A1; published Oct. 4, 2007) (hereinafter, “Yamabuchi”), and further, in view of Morris (US 2009/0089692 A1; published April 2, 2009). Final Act. 3–9; Ans. 3–7.

(3) Claims 22–24 and 29–31 are rejected under 35 U.S.C. § 103 as being unpatentable over Whitman, in view of Yamabuchi, in view of Morris, and further, in view of Fujioka (US 2010/0211579 A1; published Aug. 19, 2010). Final Act. 9–11.

Appellant’s Contentions

Appellant primarily contends that the Examiner erred in rejecting claims 10, 11, 14, 17, and 19–31 under 35 U.S.C. § 103 based on the failure of the applied references to teach or suggest the combination of limitations emphasized above (*see* Appeal Br. 8–27; Reply Br. 2–19).

Principal Issue on Appeal

Based on Appellant’s arguments in the Appeal Brief (Appeal Br. 14–19) and Reply Brief (Reply Br. 4–9), the following dispositive issue is presented on appeal:

Has Appellant shown that the Examiner erred in rejecting claims 10, 11, 14, 17, and 19–31 under 35 U.S.C. § 103 because the combination of Whitman, Yamabuchi, and Morris fails to teach or suggest:

a computer memory configured to receive display data that includes original page display instructions . . . configured to cause the mobile device to render the common page on the display before rendering any individual portlet of the plurality of portlets separately from the common page; and

at least one processor circuit communicatively connected to the display and the computer memory and configured to:

identify an initial portlet of the plurality of portlets by analyzing the original page display instructions, wherein analyzing the original page display instructions does not require user input;

automatically produce, based on the analysis of the original page display instructions, modified page display instructions . . .

automatically scale, based upon the modified page display instructions, the initial portlet . . .

automatically render, based on the scaled initial portlet, a web page within the active display area, wherein the rendered web page includes the scaled initial portlet without other portlets and separately from the common page, and wherein the common page is not rendered on the display prior to the rendered web page

as recited in claim 10, and as commensurately recited in remaining independent claim 17?

ANALYSIS

We have reviewed Appellant's arguments in the Briefs (Appeal Br. 11–27; Reply Br. 2–19), the Examiner's rejection (Final Act. 3–11), and the Examiner's response (Ans. 3–7) to Appellant's arguments in the Appeal Brief. We are persuaded by Appellant's contentions that the Examiner has not sufficiently shown that the combination of applied references, teaches or suggests the computer memory and processor circuit recited in claim 10, and the commensurate limitations found in independent claim 17. Our reasoning follows.

The USPTO “must examine the relevant data and articulate a satisfactory explanation for its action including a rational connection

between the facts found and the choice made.” *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (internal quotation marks and citation omitted); *see Synopsys, Inc. v. Mentor Graphics Corp.*, 814 F.3d 1309, 1322 (Fed. Cir. 2016) (stating that, as an administrative agency, the PTAB “must articulate logical and rational reasons for [its] decisions” (internal quotation marks and citation omitted)). We will not resort to speculation or assumptions to cure the deficiencies in the Examiner’s fact finding. *See In re Warner*, 379 F.2d 1011, 1017 (CCPA 1967). In this light, and in view of the Examiner’s findings of fact for the rejection of claim 10 (*see* Final Act. 3–6; Ans. 4–6), we are persuaded that the Examiner erred in rejecting claim 1 over the combination of Whitman, Yamabuchi, and Morris.

In the Final Rejection, the Examiner finds the combination of Whitman, Yamabuchi, and Morris renders claim 10 obvious. More particularly, the Examiner finds Whitman teaches automatically producing modified page display instructions having a first transition instruction by removing portlets, other than the initial portlet, from the original display instructions, citing paragraph 25. *See* Final Act. 4. Further, the Examiner finds Yamabuchi teaches analyzing original page instructions without requiring user input, citing paragraph 164, and first transition instructions specifying how the processor circuit will transition between displaying the initial portlet and at least one other portlet, citing paragraph 148. *Id.* at 5. The Examiner also finds Morris teaches that a common page is not rendered on the display prior to the rendered web page, citing paragraph 26. *Id.* at 5–6. Finally, the Examiner finds that the claim language in claim 10 does not require any ordering of display instructions, such that the claims merely

require the automatic production of modified display instruction. *See* Ans. 4–5.

Appellant argues, and we agree, that the combination of references fails to teach the claim limitations when taken as a whole. *See* Appeal Br. 14–18. In particular, Appellant argues claim 10 requires (i) receiving original instructions configured to cause the common page to be rendered first, (ii) modifying those instructions, and (iii) rendering, based on the modified instructions, a web page including an individual portlet without first rendering the common page. *Id.* at 15. Appellant submits Whitman, at paragraph 25, teaches maximizing an initial portlet after a user chooses a portlet from a previously displayed common page. Appellant argues the change from a common page to a maximized selected portlet is a second set of instructions to display a second page, not a modification of the original page display instructions, based on first transition instruction. *See* Appeal Br. 13. In further support of this argument, Appellant submits that the transition of Whitman through pre-established page display instructions as part of normal operations initiated by user interaction does not involve the modification of any page display instructions, but rather, merely involves using different page display instructions sequentially to display different things sequentially. *Id.* Similarly, Appellant argues, Yamabuchi teaches displaying a common page first, and then shifting to a scaled portlet. *See* Appeal Br. 15–16. Appellant then argues Morris teaches displaying a first widget, and switching to a second widget upon selection by a user. *See* Appeal Br. 16.

“[A] patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently,

known in the prior art.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007). In other words, the mere fact that elements can be combined is not, in itself, a reason to combine them. Rather, an obviousness rejection must explain the reasoning by which those findings support the Examiner’s conclusion of obviousness. *Perfect Web Techs., Inc. v. InfoUSA, Inc.*, 587 F.3d 1324, 1328–30 (Fed. Cir. 2009). In this case, the rejection fails to meet this required standard.

The Examiner fails to provide how the references can be construed to render claim 10 obvious in light of the limitations “reciting to receive display data that includes original page display instructions . . . configured to cause the mobile device to render the common page on the display before rendering any individual portlet of the plurality of portlets separately from the common page,” “identify an initial portlet of the plurality of portlets by analyzing the original page display instructions, wherein analyzing the original page display instructions does not require user input,” “automatically produce, based on the analysis of the original page display instructions, modified page display instructions,” and “automatically render, based upon the scaled initial portlet, a web page within the active display area, wherein the rendered web page includes the scaled initial portlet without other portlets and separately from the common page, and wherein the common page is not rendered on the display prior to the rendered web page.” Reading the limitations individually, the cited references may be construed to teach each of these claim elements.

However, reading the claim as a whole, these limitations, taken in combination, require a change in the ordering of displays, which is not taught or suggested by the references. Appellant argues, and we agree, that

the Examiner's claim construction ignores the actual requirements of the claim as a whole, and the rejection set forth in the Final Office Action has not sufficiently established how the references teach the combination of elements in the claim. *See* Appeal Br. 18.

As a result, based on the record before us, Appellant has shown the Examiner erred in rejecting independent claims 10 and 17, and thus claims 11, 14, and 19–31 depending respectively therefrom, under 35 U.S.C. § 103(a), and we cannot sustain the Examiner's obviousness rejection of claims 10, 11, 14, 17, and 19–31 over the combination of Whitman, Yamabuchi, and Morris.²

CONCLUSION

For all of the reasons above, we hold as follows:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
10, 11, 14, 17, 19–21, 25–27	103	Whitman, Yamabuchi, Morris		10, 11, 14, 17, 19–21, 25–27
22–24, 29–31	103	Whitman, Yamabuchi, Morris, Fujioka		22–24, 29–31
Overall Outcome				10, 11, 14, 17, 19–31

REVERSED

² Because we are persuaded of error with regard to the identified issue, which is dispositive of the rejection of claims 10, 11, 14, 17, and 19–31 over Whitman, Yamabuchi, and Morris, we do not reach the additional issues raised by Appellant's arguments.