

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MITSUO YOSHIOKA

Appeal 2007-1447
Application 10/214,588
Technology Center 2100

Decided: May 15, 2007

Before JAMES D. THOMAS, JOSEPH L. DIXON, and
JEAN R. HOMERE, *Administrative Patent Judges*.

HOMERE, *Administrative Patent Judge*.

DECISION ON APPEAL
STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134 from the Examiner's Final Rejection of claims 1 through 3 and 7. Claims 4 through 6 have been canceled. We have jurisdiction under 35 U.S.C. § 6(b) to decide this appeal.

Appellant invented a display apparatus for displaying document contents described in a markup language received from a remote server. (Specification 1.)

Claim 1 is illustrative and representative of the claimed invention. It reads as follows:

1. A document display apparatus for receiving documents described in a markup language from a server connected through a network and displaying the documents, comprising:

a first receiving system that receives a description file defining a plurality of pages forming the documents;

a second receiving system that receives, from the server, at least one first separate file comprising at least one of characters, images, and sounds defined by an initial display page of the received description file;

a first display system that analyzes the initial display page of the received description file and displays the initial display page by using the at least one first separate file; and

a third receiving system that receives, from the server, at least one second separate file comprising at least one of characters, images, and sounds defined by a second page of the description file, after the second receiving system receives all of the first separate files.

In rejecting the claims on appeal, the Examiner relied upon the following prior art:

Mighdoll US 6,311,197 B2 Oct. 30, 2001

The Examiner rejected the claims on appeal as follows:

Claims 1 through 3 and 7 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Mighdoll.

Appellant contends¹ that Mighdoll does not anticipate claims 1 through 3 and 7. Particularly, Appellant contends that Mighdoll does not fairly teach or suggest a document display apparatus, as recited in representative claim 1. (Br. 7, Reply Br. 3.)² For this same reason, Appellant further contends that Mighdoll does not anticipate claims 2, 3, and 7. (Br. 13-14.) The Examiner, in contrast, contends that Mighdoll teaches the cited limitation. (Answer 4 and 8.) The Examiner therefore concludes that Mighdoll anticipates claims 1 through 3 and 7. (Id).

We affirm.

ISSUES

The *pivotal* issue in the appeal before us is as follows:

Has Appellant shown that the Examiner failed to establish that Mighdoll anticipates the claimed invention under 35 U.S.C. § 102(e) when Mighdoll teaches an apparatus with a distributed architecture for displaying received hypertext documents?

¹ This decision considers only those arguments that Appellant submitted in the Appeal and Reply Briefs. Arguments that Appellant could have made but chose not to make in the Briefs are deemed to have been waived. *See* 37 C.F.R. § 41.37(c)(1) (vii)(eff. Sept. 13, 2004). *See also In re Watts*, 354 F.3d 1362, 1368, 69 USPQ2d 1453, 1458 (Fed. Cir. 2004.)

² Appellant reiterates the same argument at the Oral Hearing held on May 9, 2007.

FINDINGS OF FACT

The following findings of fact are supported by a preponderance of the evidence.

THE INVENTION

1. Appellant invented a display apparatus (103, 104) (e.g. a video game machine) for displaying document contents described in a markup language received from a remote server (102) through a network (101). (Specification 1.)
2. First, the display apparatus (103, 104) receives from the server a description file (figure 5) defining a document having a plurality of pages. (Id 11.)
3. Second, the display apparatus (103, 104) receives from the server a first page from the plurality of pages contained in the received description file. (Id 12.)
4. A browser software (352) running on the display apparatus (103, 104) analyzes the content of the received first page. (Id.)
5. An image drawing engine (351) running on the display apparatus (103, 104) displays the analyzed page on the monitor (202) of the display apparatus (103, 104). (Id. 13.)
6. Next, invention repeats the sequence in findings of fact 2 through 5 above for displaying a subsequent page contained in the description file. (Id. 14.)

THE PRIOR ART RELIED UPON

7. Mighdoll teaches an apparatus for displaying a hypertext markup language (HTML) document downloaded from a remote server. (Col. 3, ll. 28-29.)
8. The disclosed apparatus comprises a WebTV system, which includes a WebTV server (5) that particularly supports a WebTV client (1). (Col. 4, ll. 2-4.)
9. On behalf of the WebTV client (1), the WebTV server (5) receives from the remote server (4) an HTML document. (Col. 11, ll. 38-42.)
10. The WebTV server (5) partitions the received HTML document into a plurality of screen pages viewable on the WebTV monitor (12). (Col. 11, ll. 43-47.)
11. The WebTV server (5) forwards a first screen page of the received document to the WebTV client (1) to display on its monitor (12). (Col. 12, 11. 4-7.)
12. After the WebTV client displays the first received screen page, the sequence in findings of fact 7 through 11 is repeated for displaying the next screen page. (Col. 12, ll.7-16.)

PRINCIPLES OF LAW
ANTICIPATION

It is axiomatic that anticipation of a claim under § 102 can be found if the prior art reference discloses every element of the claim. *See In re King*, 801 F.2d 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1986) and *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1457, 221 USPQ 481, 485 (Fed. Cir. 1984).

In rejecting claims under 35 U.S.C. § 102, a single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation. *Perricone v. Medicis Pharmaceutical Corp.*, 432 F.3d 1368, 1375, 77 USPQ2d 1321, 1325-26 (Fed. Cir. 2005), citing *Minn. Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 1565, 24 USPQ2d 1321, 1326 (Fed. Cir. 1992). Anticipation of a patent claim requires a finding that the claim at issue “reads on” a prior art reference. *Atlas Powder Co. v. IRECO, Inc.*, 190 F.3d 1342, 1346, 51 USPQ2d 1943, 1945 (Fed Cir. 1999) (“In other words, if granting patent protection on the disputed claim would allow the patentee to exclude the public from practicing the prior art, then that claim is anticipated, regardless of whether it also covers subject matter not in the prior art.”) (internal citations omitted).

ANALYSIS

35 U.S.C. § 102(e) REJECTION

As set forth above, representative claim 1 requires an apparatus that acquires, partitions and displays pages of a markup language-based document received from a remote server. As detailed in the Findings of Fact section above, we have found that Mighdoll teaches an apparatus including a WebTV client (1) and WebTV server (5) which acts as a proxy for a WebTV client (1). (Findings of Fact 7 and 8.) We have also found that, on behalf of the client computer, the proxy server acquires an HTML document from the remote server, and forwards it to the client on a page by page basis to be displayed on the client monitor. (Findings of fact 9 –11.) In light of these findings, it is our view that Mighdoll teaches the limitation of an apparatus for displaying markup language-based documents from a remote server, as recited in representative claim 1. It follows that the Examiner did not err in rejecting representative claim 1 as being anticipated by Mighdoll.

Appellant reiterates the arguments with respect to the rejection of dependent claims 2, 3, and 7. Therefore, they fall together with representative claim 1. *See 37 C.F.R. § 41.37(c)(1)(vii)(2004.)*

CONCLUSION OF LAW

On the record before us, Appellant has not shown that the Examiner failed to establish that Mighdoll anticipates claims 1 through 3, and 7 under 35 U.S.C. § 102(e).

OTHER ISSUES

In any further prosecution of the present application, the Examiner should consider rejecting claims 1 through 3, and 7 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly claim the subject matter of the invention. Independent claim 1 recites a first, second and third receiving systems being part of a document display apparatus. However, Appellant's Specification, at pages 11, and 12, merely discusses the display device without providing any particular structure corresponding to the claimed receiving systems. As such, the recited receiving systems are misleading and confusing thereby not particularly pointing out and distinctly claiming the invention. Dependent claims 2 and 3 incorporate the deficiencies of claim 1 by virtue of their dependency.

DECISION

We have affirmed the Examiner's decision to reject claims 1 through 3 and 7.

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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

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