UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte AJAY KUMAR, HANUMANTHA RAO SUSARLA, and
PRAKASH KHEMANI

Appeal 2008-0268
Application 10/087,197[1]
Technology Center 2100

Decided: June 23, 2008

Before JOSEPH L. DIXON, JEAN R. HOMERE, and
JAY P. LUCAS, *Administrative Patent Judges*.

HOMERE, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from the Examiner's rejection of claims 1, 3 through 9, 11 through 15, and 17 through 20. Claims

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[1] Filed on Mar. 01, 2002. The real party in interest is Sun Microsystems, Inc.

2, 10, and 16 have been canceled. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

The Invention

Appellants invented a distributed system and method for synchronizing the states of a session data in a client-server network. (Spec. 4.) As depicted in Figure 1, the network (10) includes, inter alia, a plurality of application servers (104), each containing a client state (108) of a session data. The network further includes a distributed data store (110) containing a primary state of the session data, which is accessible by the application servers. Each client state is a local instance of the session data containing a plurality of individual attributes including access data. Each application server is able to track accesses of the individual attributes of the client state by recording and identifying in the server the individual attributes that are accessed. The distributed store subsequently uses the accessed individual attributes to synchronize the primary state with the client state of the session data. (Spec. 20-21.)

Exemplary independent claim 1 further illustrates the invention. It reads as follows:

1. A system, comprising:

a distributed store comprising a primary state of session data configured for access by a plurality of application servers, wherein the session data comprises a plurality of attributes; and

a first application server of the plurality of application servers, comprising a client state of the session data accessible to processes executing within the application server, wherein the first application server

is configured to track accesses of the individual attributes of the client state, wherein to track accesses of the individual attributes of the client state, the first application server is configured to store information identifying the accessed individual attributes;

wherein the distributed store is configured to synchronize the primary state with the client state according to the tracked accessed individual attributes.

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

Mooris	US 5,813,017	Sep. 22, 1998
Bauer	US 5,870,759	Feb. 09, 1999
Montero	US 2002/0143958 A1	Oct. 03, 2002 (filed Mar. 30, 2001)
Lin	US 6,546,135 B1	Apr. 08, 2003 (filed Aug. 30, 1999)

The Examiner rejected the claims on appeal as follows:

1. Claims 1, 3 through 9, 11 through 15, and 17 through 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Montero and Bauer.

2. Claims 6, 13, and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Montero, Bauer and Morris.

3. Claims 7, 14, and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Montero, Bauer and Lin.

FINDINGS OF FACT

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

Montero

1. As depicted in Figure 1, Montero discloses a distributed communication network having a shared database (18), which maintains copies of session data stored in a plurality of application servers (14). (P. 3, para. 0031, 0035.)

2. Each application server maintains in its local RAM a fully current copy of the session data for each http session, and further writes a copy of the session data to the shared database at only specified intervals in a manner that minimizes the number of writes in the session database. (P. 3, para. 0036, p. 039.)

3a. Each http session includes immutable attributes such as a "session create time", a session name indicating any desired state information, and a "time out interval." Each session further includes mutable attributes such as "last access time," "last write time." (P. 3, para. 0038, p. 5, para. 0053.)

3b. The "last write time" attribute indicates the last time the shared session database was updated. Upon comparing the last write time with the current time, if the resulting difference exceeds a predetermined time threshold, the local session database is checked for updates via the "last access time" attribute. (P. 5, para. 0053.)

3c. The "last access time" attribute indicates the last time the local session database was accessed and modified. If the local session database

has been modified since the last update of the shared session database, a new copy of the local session database reflecting the changes is transmitted to the shared session database to update it. (P. 5, para. 0053.)

4. The write interval may depend upon a number of factors such as the nature of the content of the Web site, the load of the servers, the amount of traffic, the connection speed, the type of session. (P. 4, para. 0039.)

5. The write session is performed at the end of a predetermined interval only if the session has been modified since the last write to the shared database. (P. 4, para. 0044-0045.)

6. Writes or update triggers to the shared database may also depend upon criteria other than time at a predetermined interval. They include (1) the number of requests since the last write, (2) the number of changes to the locally stored session since the last write. (P. 4, para. 0049.)

Bauer

7. Bauer discloses a database synchronizer that reduces delays in synchronizing data between a server relational database and a client relational database that are intermittently connected. (Abstract, col. 1, ll. 54-59.)

8. The synchronizer compares a before-image of the client database taken at the last synchronization with the current client data to determine whether any data therein has been modified. (Col. 2, ll. 49-55.)

9. Upon determining that the client database has been modified, the synchronizer identifies the particular modified row(s) within the database, and transmits a modification message to the server. (Col. 2, ll. 55-67.)

10. The synchronizer uses a smart differencing technique that omits un-modifiable fields from the before-image table of the client database. Consequently, the synchronizer minimizes the length of modification messages transmitted to the server by transmitting only sufficient information to update the server. (Col. 3, ll. 3-13, ll. 53-60.)

Morris

11. Morris discloses a binary comparison in a client server-environment, wherein a modified file on the client is compared to a segmented compressed base version of the file at the server using a differencing function without decompressing the entire file. (Abstract.)

Lin

12. Lin discloses an acyclic graph for representing comparison data. (Fig. 5.)

PRINCIPLES OF LAW

OBVIOUSNESS

Appellant has the burden on appeal to the Board to demonstrate error in the Examiner's position. *See In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006) ("On appeal to the Board, an applicant can overcome a rejection

[under § 103] by showing insufficient evidence of *prima facie* obviousness or by rebutting the *prima facie* case with evidence of secondary indicia of nonobviousness.") (quoting *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998)).

> "Section 103 forbids issuance of a patent when 'the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.'" *KSR Int'l Co. v. Teleflex Inc*., 127 S. Ct. 1727, 1734 (2007).

The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, (3) the level of skill in the art, and (4) where in evidence, so-called secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966). *See also KSR*, 127 S. Ct. 1727, 1734 ("While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls.")

"The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results."). *Leapfrog Enter., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1161 (Fed. Cir. 2007) (quoting *KSR Int'l v. Teleflex, Inc*., 127 S. Ct. 1727, 1739(2007)). "One of the ways in which a patent's subject matter can be proved obvious is by noting that there existed at the time of invention a known problem for which there was an obvious solution encompassed by the patent's claims." *KSR*, 127 S. Ct. at 1742.

Discussing the obviousness of claimed combinations of elements of prior art, *KSR* explains:

> When a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable variation, §103 likely bars its patentability. For the same reason, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill. *Sakraida* [*v. AG Pro, Inc.,* 425 U.S. 273 (1976)] and *Anderson's-Black Rock*[*, Inc. v. Pavement Salvage Co*., 396 U.S. 57 (1969)] are illustrative—a court must ask whether the improvement is more than the predictable use of prior art elements according to their established functions.

KSR, 127 S. Ct. at 1740. Where the claimed subject matter cannot be fairly characterized as involving the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for the improvement, a holding of obviousness can be based on a showing that there was "an apparent reason to combine the known elements in the fashion claimed." *KSR*, 127 S. Ct. at 1741. Such a showing requires "some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id*., 127 S. Ct. at 1741 (quoting *In re Kahn*, 441 F.3d 977, 987(Fed. Cir. 2006)).

The reasoning given as support for the conclusion of obviousness can be based on interrelated teachings of multiple patents, the effects of demands known to the design community or present in the marketplace, and the background knowledge possessed by a person having ordinary skill in the

art. *KSR*, 127 S. Ct. at 1740-41. *See also Dystar Textilfarben GmbH v. C.H. Patrick Co.*, 464 F.3d 1356, 1368 (Fed. Cir. 2007).

We note our reviewing court has recently reaffirmed that:

> [A]n implicit motivation to combine exists not only when a suggestion may be gleaned from the prior art as a whole, but when the 'improvement' is technology-independent and the combination of references results in a product or process that is more desirable, for example because it is stronger, cheaper, cleaner, faster, lighter, smaller, more durable, or more efficient. Because the desire to enhance commercial opportunities by improving a product or process is universal-and even common-sensical-we have held that there exists in these situations a motivation to combine prior art references even absent any hint of suggestion in the references themselves. In such situations, the proper question is whether the ordinary artisan possesses knowledge and skills rendering him capable of combining the prior art references.

Leapfrog, 485 F.3d at 1162 (holding it "obvious to combine the Bevan device with the SSR to update it using modern electronic components in order to gain the commonly understood benefits of such adaptation, such as decreased size, increased reliability, simplified operation, and reduced cost").

Also, a reference may suggest a solution to a problem it was not designed to solve and thus does not discuss. *KSR*, 127 S. Ct. at 1742 ("Common sense teaches . . . that familiar items may have obvious uses beyond their primary purposes, and in many cases a person of ordinary skill will be able to fit the teachings of multiple patents together like pieces of a puzzle. . . . A person of ordinary skill is also a person of ordinary creativity, not an automaton.").

The prior art relied on to prove obviousness must be analogous art. As explained in *Kahn*,

> the 'analogous-art' test-has long been part of the primary *Graham* analysis articulated by the Supreme Court. *See Dann* [*v. Johnston*,] 425 U.S. [219,] 227-29 (1976), *Graham*, 383 U.S. at 35. The analogous-art test requires that the Board show that a reference is either in the field of the applicant's endeavor or is reasonably pertinent to the problem with which the inventor was concerned in order to rely on that reference as a basis for rejection. *In re Oetiker*, 977 F.2d 1443, 1447 (Fed. Cir. 1992). References are selected as being reasonably pertinent to the problem based on the judgment of a person having ordinary skill in the art. *Id*. ("[I]t is necessary to consider 'the reality of the circumstances,'-in other words, common sense-in deciding in which fields a person of ordinary skill would reasonably be expected to look for a solution to the problem facing the inventor." (quoting *In re Wood*, 599 F.2d 1032, 1036 (C.C.P.A. 1979))).

Kahn, 441 F.3d at 986-87. *See also In re Clay*, 966 F.2d 656, 659 (Fed. Cir. 1992) ("[a] reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem.").

In view of KSR's holding that "*any* need or problem known in the field of endeavor at the time of invention and addressed by the patent can provide a reason for combining the elements in the manner claimed," 127 S. Ct. at 1742 (emphasis added), it is clear that the second part of the analogous-art test as stated in *Clay*, *supra*, must be expanded to require a determination of whether the reference, even though it may be in a different field from that of the inventor's endeavor, is one which, because of the matter with which it deals, logically would have commended itself to an

artisan's (not necessarily the inventor's) attention in considering *any* need or problem known in the field of endeavor. Furthermore, although under *KSR* it is not always necessary to identify a known need or problem as a motivation for modifying or combining the prior art, it is nevertheless always necessary that the prior art relied on to prove obviousness be analogous. *See KSR*, 127 S. Ct. at 1739. ("The Court [in *United States v. Adams,* 383 U.S. 39, 40 (1966)] recognized that when a patent claims a structure already known in the prior art that is altered by the mere substitution of one element for another *known in the field*, the combination must do more than yield a predictable result.") (emphasis added). *See also Sakraida*, 425 U.S. 273, 280 (1976)

> ("Our independent examination of that evidence persuades us of its sufficiency to support the District Court's finding 'as a fact that each and all of the component parts of this patent . . . were old and well-known throughout the dairy industry long prior to the date of the filing of the application for the Gribble patent.'").

ANALYSIS

Claims 1, 8, 9, 11, 15, and 17

Independent claim 1 recites in relevant part an application server that tracks accesses of individual attributes of an internally residing client state by storing information identifying the accessed individual attributes. (App. Br., Appendix A.) Appellants argue that the combination of Montero and Bauer does not teach these limitations. Particularly, Appellants submits that Montero looks at updates to the session as a whole by using the number of updates or last write access times of the session data to determine whether a client data has been modified. However, it does not track individual

attributes accesses by storing information identifying the individually accessed attributes. (App. Br. 12, Reply Br. 4.) Further, Appellants argue that even though Bauer stores information identifying individually updated attributes, they are not session attributes. (App. Br. 13.) Additionally, Appellants argue that there is insufficient rationale for combining the teachings of Montero with Bauer. (App. Br. 14) The Examiner, in response, avers that Montero stores information about the "last access time" attributes as a way to identify changes made to the local session database to thereby update the shared session database. (Ans. 11-12.) Further, the Examiner finds that Bauer complements Montero by particularly identifying the modified attributes in a client database to update corresponding fields in a server database. (Ans. 13.)

Therefore, the pivotal issue before us is whether one of ordinary skill in the art would have found sufficient rationale for combining the teachings of Montero with Bauer's to yield an application server that identifies individually accessed session attributes, as claimed. We answer this inquiry in the affirmative.

As detailed in the Findings of Facts section above, Montero discloses recording the "last write time" and "last access time" attributes for each http session in an application server to synchronize the session data in both a local database within the application server and a shared database. (FF. 1-3c.) Further, Bauer discloses identifying individually modified records in a local database to update corresponding records in a central database, thereby synchronizing the two databases. (FF. 7-9.) We find that one of ordinary skill in the art would readily recognize that Montero's recording of the cited

session attributes teaches tracking these attributes to identify any changes that occurred in the local session database in order to propagate the identified changes to a corresponding session in the shared database.

Further, we find that the ordinarily skilled artisan would have readily appreciated that Bauer's teaching of identifying individually modified attributes in a client database, taken in combination with Montero's synchronization system, would *predictably result* in a system that identifies individually modified attributes in a local session database to synchronize a corresponding session in the shared database. Therefore, Appellants' allegation that there is insufficient rationale to combine the cited references is not persuasive. The Supreme Court has held that in analyzing the obviousness of combining elements, a court need not find specific teachings, but rather may consider "the background knowledge possessed by a person having ordinary skill in the art" and "the inferences and creative steps that a person of ordinary skill in the art would employ." *See KSR Int'l*, at 1740-41. To be nonobvious, an improvement must be "more than the predictable use of prior art elements according to their established functions." *Id.* at 1740. As set forth above, an application server that identifies modified attributes session in local database is a prior art element that is being used for the known purpose of updating a corresponding session in a shared database.

Appellants argue that Montero seeks to introduce delay in synchronizing session data in the form of periodic writes, whereas Bauer seeks to minimize delay in synchronizing the data. Consequently, Appellants submit that Montero teaches away from Bauer. (App. Br. 14-15.) This argument is unavailing.

The determination of obviousness must consider, *inter alia*, whether a person of ordinary skill in the art would have been motivated to combine the prior art to achieve the claimed invention and whether there would have been a reasonable expectation of success in doing so. *Brown & Williamson Tobacco Corp. v. Philip Morris, Inc.*, 229 F.3d 1120, 1124 (Fed. Cir. 2000). *Medichem S.A. v. Rolabo S.L.*, 77 USPQ2d 1865, 1869 (Fed. Cir. 2006). Where the teachings of two or more prior art references conflict, the Examiner must weigh the power of each reference to suggest solutions to one of ordinary skill in the art, considering the degree to which one reference might accurately discredit another. *In re Young*, 927 F.2d 588, 591 (Fed. Cir. 1991). If the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 902 (Fed. Cir. 1984.) Furthermore, our reviewing court has held that "[a] reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant." *In re Gurley*, 27 F.3d 551, 553 (Fed. Cir. 1994). *See also Para-Ordnance Mfg. v. SGS Importers Int'l,* 73 F.3d 1085, 1090 (Fed. Cir. 1995).

In this case, Montero seeks to minimize the number of writes that take place between the shared database and the application server database by scheduling such updates to take place at pre-determined time intervals when the sessions attribute were updated. (FF. 2, 5.) In the same vein, Bauer seeks to minimize delays in synchronizing a client database with a server database

by transmitting only the modified attributes identified in the client data table instead of transmitting the an entire table. (FF. 7-10.) Therefore, the ordinarily skilled artisan would aptly recognize that Montero's reduction of the number of writes in no way discourages or precludes Bauer's reduction of delays in synchronizing the databases. In fact, Montero's minimization of the number of writes appears to reinforce Bauer's objective, as the combination would predictably result in a much lighter transmission of data. That is, the resulting synchronization system would transmit at predetermined time intervals to the shared database only those session attributes that were modified in the local database since the last update.

It therefore follows that Appellants have not shown that the Examiner erred in concluding that the combination of Montero and Bauer renders independent claim 1 unpatentable.

Appellants do not provide separate arguments with respect to the rejection of claims 1, 8, 9, 11, 15, and 17. Therefore, we select claim 1 as being representative of the cited claims. Consequently, claims 8, 9, 11, 15, and 17 fall together with representative claim 1. 37 C.F.R. § 41.37(c)(1)(vii).

Claim 3

Appellants argue that the combination of Montero and Bauer does not teach a first application server configured to track mutable individual attributes and not track immutable attributes. (App. Br. 16.) We do not agree. As detailed in the Findings of Facts section above, Montero teaches tracking mutable session attributes such as "last write time" and "last access

time", whereas immutable attributes such as session name or create time are not tracked. (FF. 3a.) Similarly, Bauer teaches tracking mutable session fields, and not tracking immutable session fields. (FF. 10.) One of ordinary skill in the art would readily recognize that the combination of Montero and Bauer would predictably result in an application server that tracks only mutable attributes of a local session to update a corresponding session at a central database. Further, Appellants reiterate the arguments proffered for independent claim 1 above. We have already addressed these arguments in our discussion of claim 1 above, and we found them to be unavailing. It therefore follows that Appellants have not shown that the Examiner erred in concluding that the combination of Montero and Bauer renders dependent claim 3 unpatentable.

Claim 4

Appellants argue that the combination of Montero and Bauer does not teach a distributed store to synchronize only the mutable attributes between the primary state and the client state. (App. Br. 17.) We do not agree. As detailed in the Findings of Facts section above, Montero teaches synchronizing mutable session attributes such as "last write time" and "last access time" between the local session database and the shared session database. (FF. 3a-3c.) Similarly, Bauer teaches synchronizing mutable session fields between a client database and a server centralized database. (FF. 7-10.) We find that one of ordinary skill in the art would readily recognize that the combination of Montero and Bauer would predictably result in an application server that tracks mutable attributes of a local session

to update a corresponding session at a central database. Further, Appellants reiterate the arguments proffered for independent claim 1 above. We have already addressed these arguments in our discussion of claim 1 above, and we found them to be unavailing. It therefore follows that Appellants have not shown that the Examiner erred in concluding that the combination of Montero and Bauer renders dependent claim 4 unpatentable.

Claims 5, 12, and 18

Appellants argue that the combination of Montero and Bauer does not teach a distributed store to update a primary state with a subset of the accessed individual attributes that have been modified. (App. Br. 18.) We do not agree. As detailed in the Findings of Facts section above, Montero teaches determining whether the "last access time" attribute has been modified to synchronize a local session database and a shared session database at a pre-determined time interval. (FF. 3c.) Similarly, Bauer teaches identifying modified records in a client database to update corresponding records in a server centralized database. (FF. 9.) We find that one of ordinary skill in the art would readily recognize that the combination of Montero and Bauer would predictably result in an application server that tracks mutable attributes subset of a local session to update a corresponding session at a central database. Further, Appellants reiterate the arguments proffered for independent claim 1 above. We have already addressed these arguments in our discussion of claim 1 above, and we found them to be

unavailing. It therefore follows that Appellants have not shown that the Examiner erred in concluding that the combination of Montero and Bauer renders dependent claim 5 unpatentable.

Appellants do not provide separate arguments with respect to the rejection of claims 5, 12, and 18. Therefore, we select claim 5 as being representative of the cited claims. Consequently, claims 12, and 18 fall together with representative claim 5. 37 C.F.R. § 41.37(c)(1)(vii).

Claims 6, 13, 19

Appellants assert that the combination of Montero, Bauer, and Morris does not teach a binary comparison of the tracked accessed individual attributes and the benchmark of the session data to determine a subset of the tracked accessed individual attributes that are modified in respect to the benchmark of the session data. (App. Br. 19.) We do not agree. As detailed in the Findings of Facts section above, Montero teaches determining whether the "last access time" attribute has been modified to synchronize a local session database and a shared session database at a pre-determined time interval. (FF. 3c.) Similarly, Bauer teaches compares a before-image data with current image data to identify modified records in a client database to thereby update corresponding records in a server centralized database. (FF. 8-10.) Additionally, Morris discloses a binary comparison of modified file at a client with a segment of a compressed version of the file at the server. (FF. 11.) We find that one of ordinary skill in the art would readily recognize that the combination of Montero, Bauer, and Morris would predictably result in an application server that performs a binary comparison

of tracked mutable attributes of a local session with before-image attributes of the session to update a corresponding session at a central database.

Further, Appellants reiterate the arguments proffered for independent claim 1 above. We have already addressed these arguments in our discussion of claim 1 above, and we found them to be unavailing. It therefore follows that Appellants have not shown that the Examiner erred in concluding that the combination of Montero and Bauer renders dependent claim 6 unpatentable.

Appellants do not provide separate arguments with respect to the rejection of claims 6, 13, and 19. Therefore, we select claim 6 as being representative of the cited claims. Consequently, claims 13, and 19 fall together with representative claim 6. 37 C.F.R. § 41.37(c)(1)(vii).

Claims 7, 14, and 20

Appellants assert that the combination of Montero, Bauer, and Lin does not teach an object graph comparison of the tracked accessed individual attributes and the benchmark of the session data to determine a subset of the tracked accessed individual attributes that are modified in respect to the benchmark of the session data. (App. Br. 21-22.) We do not agree. As detailed in the Findings of Facts section above, Montero teaches determining whether the "last access time" attribute has been modified to synchronize a local session database and a shared session database at a pre-determined time interval. (FF. 3c.) Similarly, Bauer teaches compares a before-image data with current image data to identify modified records in a client database to thereby update corresponding records in a server centralized database.

(FF. 8-10.) Additionally, Lin discloses an acyclic graph for displaying comparison data. (FF. 12.) We find that one of ordinary skill in the art would readily recognize that the combination of Montero, Bauer, and Lin would predictably result in representing on an acyclic graph a comparison of tracked mutable attributes of a local session with before-image attributes of the session to update a corresponding session at a central database.

Further, Appellants reiterate the arguments proffered for independent claim 1 above. We have already addressed these arguments in our discussion of claim 1 above, and we found them to be unavailing. It therefore follows that Appellants have not shown that the Examiner erred in concluding that the combination of Montero and Bauer renders dependent claim 7 unpatentable.

Appellants do not provide separate arguments with respect to the rejection of claims 7, 14, and 20. Therefore, we select claim 7 as being representative of the cited claims. Consequently, claims 14 and 20 fall together with representative claim 7. 37 C.F.R. § 41.37(c)(1)(vii).

SUMMARY and DECISON

Appellants have not shown that the Examiner erred in concluding that:

A. The combination of Montero and Bauer renders claims 1, 3 through 5, 8, 9, 11, 12, 15, 17 and 18 unpatentable under 35 U.S.C. § 103(a).

B. The combination of Montero, Bauer and Morris renders claims 6, 13, and 19 unpatentable under 35 U.S.C. § 103(a).

C. The combination of Montero, Bauer and Lin renders claims 7, 14, and 20 unpatentable under 35 U.S.C. § 103(a).

Therefore, we affirm these rejections.

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

pgc

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