

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PAUL R. RAMSEY

Appeal 2008-2460
Application 10/117,447
Technology Center 2400

Decided: January 14, 2009

*Before ALLEN R. MACDONALD, JEAN R. HOMERE, and
JAMES R. HUGHES, Administrative Patent Judges.*

HUGHES, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1-21. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

We AFFIRM.

Appellant's Invention

Appellant invented a method for transferring a compressed image from a first (local) computer system to a second (remote) computer system, and decompressing and displaying the image on the remote computer system. (Spec. 1, ll. 23-26.) A software application on the first computer system compresses the image, and calls an X extension function to transfer data including the compressed image to the second computer system including a remote X Server. The remote X Server receives the data and invokes an executable code corresponding to the X extension function that controls the decompression of the compressed image. The remote X Server then calls a standard X internal PutImage operation to display the decompressed image on a display of the second computer system. (Spec. 1, l. 25 to 2, l. 6.)

Claims

Claim 1 is illustrative of the invention:

1. A method comprising:

executing an application on a first computer system, wherein said executing comprises:

(a) compressing an image, and

(b) calling an X extension function to induce transfer of a data stream containing the compressed image to a remote X Server executing on a second computer system;

the remote X Server receiving the data stream, and invoking an executable code corresponding to the X extension function in response to receiving the data stream, wherein the executable code:

(c) decompresses the compressed image, and

(d) calls a standard X internal PutImage operation to display the decompressed image on a remote display associated with the second computer system.

References

The Examiner relies on the following reference as evidence of unpatentability:

Busboom US 5,485,570 Jan. 16, 1996

Rejections

The Examiner rejected claims 1-21 under 35 U.S.C. § 102(b) as being unpatentable over Busboom.

Appellant's Contentions

Appellant contends Busboom does not teach: (1) a first computer system calling an X extension function and compressing an image, (2) the X extension function inducing transfer of a data stream containing the compressed image to a remote X Server executing on a second computer system, (3) the remote X Server receiving the data stream, and invoking an executable code corresponding to the X extension function in response to receiving the data stream, and (4) the executable code decompressing the compressed image. (App. Br. 4.)

Examiner's Findings and Conclusions

The Examiner found that Busboom discloses each feature of Appellant's claim 1, and therefore anticipates the claim. (Supp. Ans. 4-5.) In particular, the Examiner found that Busboom discloses compressing and decompressing an image in an X Windows environment using tool kit routines callable by application programs. (Supp. Ans. 12-13.) The Examiner also found that Busboom discloses sending data streams in an X Windows system between a primary and secondary processor, where the secondary processor may be part of a remote system. (Supp. Ans. 12, 16.) The Examiner also determined that Busboom discloses a remote X Server. (Supp. Ans. 12.)

ISSUE

Did Appellant establish that the Examiner erred in determining Busboom anticipates each feature of Appellant's claimed invention?

FINDINGS OF FACTS (FF)

We have made the following findings of facts relevant to the rejections under review based on a preponderance of evidence on the record:

Appellants' Invention

1. Appellant invented a method for transferring a compressed image from a first computer system to a second computer system, then decompressing the image and displaying the image on a display of the second computer system. (Spec. 1, ll. 23-26.)
2. A software application resident in a first computer system compresses an image, then calls an X extension function in order to transfer data including the compressed image to the second computer system that includes a remote X Server. (Spec. 1, ll. 25-28; 4, ll. 9-28.)
3. The remote X Server in the second computer system receives the data and decompresses the compressed image using an executable code corresponding to the X extension function. (Spec. 2, ll. 2-4; 5, ll. 3-30.)
4. The remote X Server then calls a standard X internal PutImage operation to display the decompressed image on a display of the second computer system. (Spec. 2, ll. 3-6; 5, ll. 5-30.)

Busboom Reference

5. The Examiner found that Busboom discloses every element in Applicant's claim 1. (Supp. Ans. 4-5.)

6. Specifically, the Examiner found that Busboom discloses: executing an application (application 30) on a first computer system (host 12, fig.1 or Processor 44, fig. 3), wherein said executing comprises:

- (a) compressing an image (images are compressed col.4, lines 43-62 and col. 8, lines 15-23), and
- (b) calling an X extension function to induce transfer of a data stream containing the compressed image to a remote X Server (X server 18, and fig. 3, 48) executing on a second computer system (output generated by application 30 is transmitted b [sic] Xlib to X server for execution col. 4, lines 14-31 and col. 7, lines 13-59);

the remote X Server corresponding to the receiving the data stream, and invoking an executable code X extension function in response to receiving the data stream (col. 7, lines 5-19 and col. 31-59), wherein the executable code:

- (c) decompresses the compressed image (image processing such as image decompression is executed on the secondary processor 48 col.4, lines 43-62 and col. 8, lines 15-23), and
- (d) calls a standard X internal PutImage operation (inherent function in X windows and Xlib) to display the decompressed image on a remote display associated with the second computer system (col. 7, lines 31-59 and col. 8, lines 13-61).

(Supp. Ans. 4-5.)

7. In particular, the Examiner found that Busboom discloses compressing and decompressing an image in an X Windows environment using tool kit routines callable by application programs. (Supp. Ans. 12-13.)

8. The Examiner found that Busboom discloses processing of images (windows) and compressing and decompressing images by a secondary processor. (Supp. Ans. 12-13, 15-16).

9. The Examiner also determined Busboom discloses sending data streams in an X Windows system between a primary and secondary processor, where the secondary processor may be part of a remote system. (Supp. Ans. 12, 14, 16.)

10. The Examiner further found that Busboom discloses a remote X Server. (Supp. Ans. 12.)

11. Busboom describes a first computer system (host, central processor). (Col. 4, ll. 3-15; col. 5, ll. 35-39; Fig. 1, element 12; Fig. 3, element 44.)

12. Busboom describes executing an application on the first computer system. (Col. 4, ll. 16-41; col. 6, ll. 22-28; Fig. 1, element 30; Fig. 3, element 60.)

13. Busboom describes compressing and decompressing images. (Col. 4, ll. 58-62 and col. 8, ll. 19-22.)

14. Busboom discloses that an application on the first computer system makes procedure calls to an Xlib (library of software routines) and/or tool kits that compress (decompress) images in an X Windows environment. (Col. 4, ll. 42-62 and col. 8, ll. 13-22.)

15. Busboom describes a second computer system (X display station, secondary processor). (Col. 3, ll. 24-45; col. 5, ll. 35-49; Fig. 1, element 10; Fig. 3, element 48.)

16. Busboom describes how the second computer system, in particular the secondary processor, may be a remote system separate from the first computer system. (Col. 3, ll. 24-45; col. 8, l. 49 to col. 9, l. 26.)

17. Busboom discloses an X Server resident in the second computer system. (Col. 3, ll. 38-56; Fig. 1, element 18.)

18. Busboom's X Server receives inputs and controls the display of images. (Col. 3, l. 38 to col. 4, l. 2.)

19. Busboom discloses that an application on the first computer system makes procedure calls to the Xlib and/or tool kits that induce transfer of a data stream to the second computer system in an X Windows environment. (Col. 4, ll. 42-62 and col. 8, ll. 13-22.)

20. Busboom discloses calling an X extension function to induce transfer of a data stream that may contain a compressed image to a remote X Server executing on a second computer system.

21. Busboom discloses that the second computer system, in particular the X Server, receives a data stream from the first computer system, and processes the data to produce a displayed image in an X Windows environment. (Col. 4, ll. 42-62; col. 7, ll. 5-19; and col. 7, l. 31 to col. 8, l. 62.)

22. Busboom describes making procedure calls to the Xlib and/or tool kits on the second computer system to execute code or software (corresponding to an X extension function) that decompresses an image. (Col. 8, ll. 13-22).

23. The Examiner found that Busboom also discloses a system supporting multiple graphic sessions on networked X Windows devices. (Supp. Ans. 17)

24. The Examiner also determined that Busboom discloses calling an X extension function to transfer a second data stream including a second compressed image to a second X Server on the first computer system. (Supp. Ans. 18)

25. Busboom describes a system that supports multiple networked X display stations (X Windows compatible display stations). (Col. 2, ll. 29-36; col. 8, l. 37 to col. 9, l. 26.)

26. Busboom discloses that an application on one computer system may make procedure calls to the Xlib and/or tool kits to induce transfer of a data stream to another computer system. The second system may then return a data stream to the first computer system. The data transfers occur within an X Windows environment. (Col. 4, ll. 42-62; col. 6, ll. 7-65; and col. 8, ll. 13-22.)

PRINCIPLES OF LAW

Burden on Appeal

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). “[W]hen the PTO shows sound basis for believing that the products of the applicant and the prior art are the same, the applicant has the burden of showing that they are not.” *In re Spada*, 911 F.2d 705, 708 (Fed. Cir. 1990). *See also In re Best*, 562 F.2d 1252, 1255 (CCPA 1977).

Anticipation

Anticipation is a question of fact. *In re Schreiber*, 128 F.3d 1473, 1477 (Fed. Cir. 1997). Under 35 U.S.C. § 102, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros., Inc. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir. 1987); *see Perricone v. Medicis Pharm. Corp.*, 432 F.3d 1368, 1375 (Fed. Cir. 2005) (citation omitted). However,

[t]he law of anticipation does not require that the reference ‘teach’ what the subject patent teaches. Assuming that a reference is properly ‘prior art,’ it is only necessary that the claims under attack, as construed by the court, ‘read on’ something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or ‘fully met’ by it.”

Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772 (Fed. Cir. 1983). In an appeal from a rejection for anticipation, the Appellants must explain which limitations are not found in the reference. *See Gechter v. Davidson*, 116 F.3d 1454, 1460 (Fed. Cir. 1997) (“[W]e expect that the Board’s anticipation analysis be conducted on a limitation by limitation basis, with specific fact findings for each contested limitation and satisfactory explanations for such findings.”).

ANALYSIS

Appellant argues claims 1-8 and 11-21 together as a group. Appellant relies on the same arguments for each of the grouped claims. Accordingly, we confine our discussion to appealed claim 1, which contains the claim limitations representative of Appellant’s arguments. Further, we address the other claims only to the extent that Appellant has argued them separately pursuant to 37 C.F.R. § 41.37(c)(1)(vii). This opinion considers only those arguments that Appellant presented in the Briefs. Arguments that Appellant could have made but chose not to make in the Briefs are waived. *See* 37 C.F.R. § 41.37(c)(1)(vii).

Lack of Method Limitations *Claim 1*

Appellant asserts Busboom does not teach all the limitations of his claimed method. In particular, Appellant argues that Busboom fails to teach: (1) a first computer system calling an X extension function and compressing

an image, (2) the X extension function inducing transfer of a data stream containing the compressed image to a remote X Server executing on a second computer system, (3) the remote X Server receiving the data stream, and invoking an executable code corresponding to the X extension function in response to receiving the data stream, and (4) the executable code decompressing the compressed image. (App. Br. 4.)

The Examiner properly found that each limitation of Appellant's claim 1 was disclosed by Busboom. (FF 5-10.) Busboom discloses each step of Appellant's claimed method. Busboom discloses a first computer system that calls an X extension function and compresses an image in an X Windows environment. (FF 11-14.) Busboom discloses a second computer system including a remote X Server. (FF 15-17.) Busboom discloses the X extension function inducing transfer of a data stream to the remote X Server executing on the second computer system. (FF 19.) The X server controls the display of images and accordingly a compressed image may be transferred to the X Server. (FF 18, 20.) Busboom discloses that the remote X Server receives the data stream, and invokes an executable code corresponding to the X extension function to decompress the compressed image. (FF 21-22.) Thus, the Busboom describes and discloses each of Appellant's claimed limitations. Appellant provides no persuasive evidence supporting his arguments that Busboom fails to disclose each limitation of Appellant's claims.

Claims 9-10

Appellant reiterates his previous arguments, and asserts one additional basis for the patentability of claims 9-10 that Busboom does not teach compressing a second image on the second computer system and calling an X extension function to transfer the compressed image to a second X Server on the first computer system. (App. Br. 7.) As explained previously, Busboom anticipates Appellant's independent claim 1. Appellant's dependent claims 9 and 10 stand or fall with claim 1. Even so, the Examiner correctly determined that Busboom discloses compressing a second image on the second computer system and calling an X extension function to transfer the compressed image to a second X Server. (FF 23-24.) Busboom discloses that its system supports multiple X display stations. (FF 25.) Busboom also discloses a first computer system may transfer data to a second computer system that may then return data to the first computer system all within an X Windows environment. (FF 26.) It is apparent that such a display station could be part of a first (host) computer system, and thus, the second X Server could be resident on the first computer system. Accordingly, Busboom discloses each of Appellant's claimed limitations. Appellant provides no persuasive evidence supporting his arguments that Busboom fails to disclose each limitation of Appellant's claims.

CONCLUSIONS OF LAW

Appellant did not establish the Examiner erred in determining that Busboom anticipates each feature of Appellant's claimed invention.

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DECISION

We affirm the Examiner's rejection of claims 1-21.

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

AFFIRMED

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