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

Paper No. 38

UNITED STATES PATENT AND TRADEMARK OFFICE

_____

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

_____

Ex parte MICHAEL F. LYNCH and JONATHAN A. TURNER

_____

Appeal No. 2002-0277
Application 08/618,005

_____

ON BRIEF

_____

Before THOMAS, HAIRSTON, and FLEMING, **Administrative Patent Judges**.

FLEMING, **Administrative Patent Judge**.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1 through 5, 7 through 10 and 12 through 20, all the claims pending in the instant application. Claims 6 and 11 have been canceled.

Invention

The invention relates to a computer system and method of automated travel pricing for travel reservation services. See

page 1 of Appellants' specification. The system obtains inventory information, specifying the rates and/or availability of the plurality of travel arrangements, from one or more computer reservation systems. The information is stored in a database along with one or more portfolios of information relating to a travel agency and each of the business entity customers of the travel agency that can be used to discount the listed rates of the travel arrangements. In response to a specific travel itinerary from a customer, the system automatically retrieves the inventory and/or discount information from the database and determines the lowest-priced, available travel arrangements conforming to the itinerary. See page 4 of the Appellants' specification. Appellants' claim 1 present in the application is representative of Appellants' claimed invention and is reproduced as follows:

1. An automated pricing system for use in a travel agency, comprising:

a database operable to store computer reservation system inventory information and travel agency profile information; and

a processor operable to:

retrieve from a plurality of computer reservation systems inventory information comprising an identification of available travel arrangements;

store said inventory information in said database;

in response to receipt of travel request information specifying a travel itinerary, access said database to retrieve computer reservation system inventory information and travel agency profile information; and

determine from among the inventory information retrieved from said database using the travel agency profile information, the lowest cost available travel arrangements that conform to said specified travel itinerary.

Throughout the opinion, we make references to the briefs[1] and the answer for the respective details thereof.

OPINION

With full consideration being given to the subject matter on appeal, the Examiner's rejection and the arguments of the Appellants and Examiner, for the reasons stated **infra**, we reverse the Examiner's rejection of claims 1 through 5, 7 through 10 and 12 through 20 under 35 U.S.C. § 103.

In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of establishing a **prima facie** case of obviousness. **In re Oetiker**, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). **See also In re Piasecki**, 745 F.2d 1468,

[1] Appellants filed an appeal brief on June 6, 2001. Appellants filed a reply brief on October 1, 2001. The Examiner mailed an Office communication on November 2, 2001, stating that the reply brief has been entered.

1472, 223 USPQ 785, 788 (Fed. Cir. 1984). The Examiner can satisfy this burden by showing that some objective teaching in the prior art or knowledge generally available to one of ordinary skill in the art suggests the claimed subject matter. **In re Fine**, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). Only if this initial burden is met does the burden of coming forward with evidence or argument shift to the Appellants. **Oetiker**, 977 F.2d at 1445, 24 USPQ2d at 1444. **See also Piasecki**, 745 F.2d at 1472, 223 USPQ at 788.

An obviousness analysis commences with a review and consideration of all the pertinent evidence and arguments. "In reviewing the [E]xaminer's decision on appeal, the Board must necessarily weigh all of the evidence and argument." **Oetiker**, 977 F.2d at 1445, 24 USPQ2d at 1444. "[T]he Board must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency's conclusion." **In re Lee**, 277 F.3d 1338, 1344, 61 USPQ2d 1430, 1434 (Fed. Cir. 2002). With these principles in mind, we commence review of the pertinent evidence and arguments of Appellants and Examiner.

Appellants argue that independent claims 1, 8 and 14 recite a processor that is operable to retrieve from a plurality of computer reservation systems inventory information and store the inventory information in a database. Appellants argue that Garback and Webber fail to teach this limitation. See pages 5 through 9 of the brief.

We note that independent claim 1 recites

> a processor operable to: retrieve from a plurality of computer reservation systems inventory information comprising an identification of available travel arrangements; store said inventory information in said database.

We note that Appellants' independent claim 8 recites

> [a]n automated pricing system for use in a travel agency, comprising: a database operable to store computer reservation system inventory information and travel agency profile information; and a processing network connected to the database and operable to: access a plurality of computer reservation systems and retrieve computer reservation system inventory information comprising an identification of available travel arrangements; store said retrieved computer reservation system inventory information in said database.

We also note that Appellants' independent claim 14 recites

> [a] method for automatically pricing travel arrangements for use in a travel agency, comprising the steps of: accessing a plurality of computer reservation systems and retrieving computer reservation system inventory information comprising an identification of available travel arrangements; . . . storing said retrieved computer reservation system inventory information and said generated travel agency profile information in a database.

The Examiner agrees that Garback does not expressly disclose a database of travel information being stored before the receipt of a travel request. See page 4 of the Examiner's answer. The Examiner argues that Webber does retrieve information about available flights and flight segments from a stored database, the tariff file, before connecting to the computer reservation system to check on the availability of seats on the flights. See page 7 of the Examiner's answer.

Upon our review of Webber, we fail to find that Webber teaches storing inventory information retrieved from a computer reservation system and determining from the stored inventory information the lowest cost available travel arrangements as recited in Appellants' claims. Webber is attempting to solve the problem that the computer reservation system such as Apollo does not indicate that the fares shown on the screen are subject to restrictions or changes. As a result, travel agencies must consult a Passenger Tariff Set, which is as big as a big city telephone book, to verify each flight. See column 1, lines 33 through 65. Webber solves this problem by providing a tariff file, which stores the information in the Airline Tariff Publishing Co. (ATPCO) set. See column 3, lines 7 through 40. For determining potential flights and seat reservations, Webber

still must access the computer reservation system to determine whether or not travel arrangements are available. See column 6, lines 34 through 40. Therefore, the tariff file as disclosed in Webber does not store a database having computer reservation system inventory information stored thereon as recited in Appellants' claims.

The Examiner recognizes that Webber's list of various sources does not contain sources of one or more computer reservation systems. See page 7 of the Examiner's answer. The Examiner argues that it would have been obvious to one of ordinary skill in the art that that information could be retrieved from the computer reservation systems and then stored in a database such as the Webber tariff file. See page 8 of the Examiner's answer.

When determining obviousness, "[t]he factual inquiry whether to combine references must be thorough and searching." **Lee**, 277 F.3d at 1343, 61 USPQ2d at 1433, **citing McGinley v. Franklin Sports, Inc.,** 262 F.3d 1339, 1351-52, 60 USPQ2d 1001, 1008 (Fed. Cir. 2001). "It must be based on objective evidence of record." **Id.** "Broad conclusory statements regarding the teaching of multiple references, standing alone, are not 'evidence.'" **In re**

Dembiczak, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617. "Mere denials and conclusory statements, however, are not sufficient to establish a genuine issue of material fact." **Dembiczak,** 175 F.3d at 1000, 50 USPQ2d at 1617, **citing McElmurry v. Ark. Power & Light Co.**, 995 F.2d 1576, 1578, 27 USPQ2d 1129, 1131 (Fed. Cir. 1993).

We note that the Examiner has not provided us any factual basis for modifying the Webber tariff file to store such information. Without the pertinent evidence, as well as reasons by which the finding are deemed to support the agency's conclusions, we are unable to sustain the Examiner's rejection based on obviousness.

In view of the foregoing, we have not sustained the Examiner's rejection of claims 1 through 5, 7 through 10 and 12 through 20 under 35 U.S.C. § 103.

REVERSED

JAMES D. THOMAS Administrative Patent Judge	)	
KENNETH W. HAIRSTON Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
MICHAEL R. FLEMING Administrative Patent Judge	)	

MRF:pgg

David G. Wille, Esq.
Baker & Botts LLP
2001 Ross Avenue Ste. 600
Dallas, TX 75201-2980