

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 27

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT WESLEY BOSSEMEYER JR.

Appeal No. 2002-1982
Application No. 08/863,462

ON BRIEF

Before JERRY SMITH, BARRETT and SAADAT, Administrative Patent Judges.

SAADAT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the Examiner's final rejection of claims 1-19, which are all of the claims pending in this application.

We affirm-in-part.

BACKGROUND

Appellant's invention is generally directed to a dial-up service, and more specifically, to a method of accessing a dial-up service which allows access to a verified user. As depicted

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in Figure 6 and described in page 12 of the specification, a user dials a service number and is prompted to speak a plurality of digits. Using speaker independent voice recognition of step 176, the uttered digits are compared to a stored utterance. Access is allowed if the user is verified otherwise; the user is prompted to input a personal identification number (PIN) which provides access upon verification.

Representative independent claims 1 and 10 are reproduced below:

1. A method of accessing a dial-up service, comprising the steps of:
 - (a) dialing a service number;
 - (b) speaking a plurality of digits to form a first utterance;
 - (c) recognizing the plurality of digits using speaker independent speaker recognition;
 - (d) when a user has used the dial-up service previously, verifying the user based on the first utterance using a speaker verification system that has only two possible decisions verified and not verified;
 - (e) when the user is not verified, requesting the user to enter a personal identification number; and
 - (f) when the personal identification number is valid, providing access to the dial-up service.

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10. A method of allowing access to a communication service, comprising the steps of:

(a) entering a communication service address by a user;

(b) speaking an access code to form a plurality of utterances;

(c) determining if the user has previously used a communication server;

(d) when the user has previously utilized the communication service, verifying an identity of the user utilizing a speaker verification system;

(e) when the identity of the user is not verified, requesting the user to enter a personal identification number; and

(f) when the personal identification number is valid, providing access to the communication service.

The Examiner relies on the following references in rejecting the claims:

Uchiyama et al. (Uchiyama)	5,121,428	Jun. 9, 1992
Hunt et al. (Hunt)	5,297,194	Mar. 22, 1994
Cameron	5,384,833	Jan. 24, 1995

Claims 1-3, 10-12 and 15-17 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Hunt.

Claims 4-9 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hunt and Cameron.

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Claims 14, 18 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hunt and Cameron and further in view of Uchiyama.

We make reference to the answer (Paper No. 22, mailed September 12, 2000)¹ for the Examiner's reasoning and to the appeal brief (Paper No. 21, filed June 27, 2000) and the reply brief (Paper No. 24, filed October 12, 2000) for Appellant's arguments thereagainst.

OPINION

At the outset, we note that Appellant indicates that the claims do not stand or fall together (brief, page 7). While, Appellant provides arguments, which appear to be separate and related to each claim individually (brief, pages 8-46), identical arguments centered around Hunt and the recited features of claim 1 are repeated. Therefore, as directed by 37 CFR § 1.192(c)(7) (July 1, 1999), we will consider Appellant's claims as standing or falling together as far as they related to the same ground of rejection.

With regard to the 35 U.S.C. § 102 rejection of claims 1, 10 and 15, Appellant's main point of argument is that Hunt provides

¹ The answer refers to the final rejection (Paper No. 19, mailed March 16, 2000) for the complete text of the rejections.

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for three possibilities after the first utterance and requires the termination of the call if the voice does not match (brief, pages 8, 28 & 37). Appellant points out that the claims, in contrast, allow access to the dial-up system even if no voice recognition and verification is accomplished (brief, pages 9, 29 & 38). Appellant further argues that the claimed system does not require the use of the voice recognition, but makes it available only as an option for the caller to gain access (brief, pages 10, 30 & 39).

In response to Appellant's arguments, the Examiner asserts that although Hunt discloses a system with three options, it still anticipates a two-option system (answer, page 4). The Examiner apparently relies on Hunt (col. 3, lines 22-29) to show that if an utterance is not accepted, the user is required to input additional information which results in two possible decisions: verified or not verified (answer, page 5).

Additionally, the Examiner argues that the system of Hunt, similar to the claimed step (f), allows access to the service after the user personal information is entered and verified (answer, page 6).

A rejection for anticipation under section 102 requires that the four corners of a single prior art document describe every

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element of the claimed invention, either expressly or inherently, such that a person of ordinary skill in the art could practice the invention without undue experimentation. See Atlas Powder Co. v. IRECO Inc., 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1947 (Fed. Cir. 1999); In re Paulsen, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

A review of Hunt reveals that the reference describes a system and method for enabling a caller to obtain access to services via a telephone network (abstract). After a first utterance is stored in the voice verification reference database (col. 6, lines 2-14), the system performs the step of voice verification to determine if the utterance is spoken by a voice previously enrolled (col. 6, lines 20-24). Hunt further discloses that if a "match" is established, access to the service is allowed, but the call is terminated if voice cannot be substantially matched (col. 6, lines 27-30). However, Hunt provides for another option which prompts the caller to input additional personal information if the entered voice substantially matches a stored voice, but not within a predetermined criterion (col. 6, lines 30-37). It is after the caller fails to provide such information that the call is terminated (col. 6, lines 37-39).

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Therefore, Hunt's initial inquiry is whether a "match" within a predetermined criterion is established before access is allowed. If a "match" is not established, the system makes a second inquiry to determine whether the voice "substantially" matches a stored sample, which results in the termination of the call if the entered voice cannot be "substantially" matched. However, if the second inquiry determines that the voice is substantially matched, but not within the predetermined criteria, the user is requested to enter additional personal information before access is authorized. It is this "not matched," but "substantially matched" state that reads on the claimed "not verified" state.

"The starting point for any claim construction must be the claims themselves," Pitney Bowes, Inc. v. Hewlett-Packard Co., 182 F.3d 1298, 1305, 51 USPQ2d 1161, 1165 (Fed. Cir. 1999); see also Smithkline Diagnostics, Inc. v. Helena Laboratories Corp., 859 F.2d 878, 882, 8 USPQ2d 1468, 1472 (Fed. Cir. 1988) (claim interpretation must begin with the language of the claim itself). Here, Appellant's claim 1 requires "using a speaker verification system that has only two possible decisions verified and not verified," which either allows access when the user is verified or requests additional information when the user is not verified,

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without any other inquiries. On the other hand, claims 10 and 15 do not limit the outcome to only two possible decisions and therefore, do not preclude the possibility that the personal identification number may not be entered in the "not verified" state when a "substantial match" is not established. However, limiting the determination of a valid user to only two conditions, as recited in claim 1, precludes that possibility and the additional inquiry for determining a "substantial" match, which prompts the entry of the personal information only when a substantial match is established.

With respect to Appellant's argument that the claimed system allows access to the dial-up services even if the user has not enrolled in the system (brief, pages 10 and 30), we note that the claims actually require prior use. Step (d), in claim 1 for example, recites "when the user has used the dial-up service previously" as a condition for using the dial-up service.

In view of the analysis made above, we find that the Examiner has established a prima facie case of anticipation with respect to claims 10 and 15, but not with respect to claim 1. Accordingly, we sustain 35 U.S.C. § 102 rejection of claims 10-12 and 15-17 over Hunt, whereas the rejection of claims 1-3 cannot be sustained.

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Turning now to the 35 U.S.C. § 103 rejection of claims 4-9 and 13 over Hunt and Cameron, Appellant points out that neither reference describes the "enrollment on the fly" feature (brief, page 15). Appellant further argues that Cameron merely compares each received word of a first utterance against a set of templates (col. 1, lines 18-33) without showing any comparison between the utterances (brief, page 16). The examiner responds by referring to the fact that the saved templates are in fact digits uttered by the user (col. 2, lines 20-23) and stored as voice samples to which a second utterance is compared (answer, page 9).

We agree with the Examiner that the voice templates are actually formed by storing training utterances as uttered digits or any other word by the user and are compared with any received or second utterance for verification and generating scores as "weighted decisions" (col. 2, lines 16-26). Therefore, the Examiner's reliance on Cameron for teaching a comparison between separate utterances for establishing a password and the corresponding codes and scores as the recited weighted decisions and verification decision supports a prima facie case of obviousness with respect to claim 13. However, regarding claims 4-9, we find that the Examiner has not pointed to any teachings

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in Cameron, nor do we find any, that would have overcome the deficiencies of Hunt with respect to their base claim 1, as discussed above.² Thus, we sustain the 35 U.S.C. § 103 rejection of claim 13 over Hunt and Cameron, but not with respect to claims 4-9.³

Regarding the 35 U.S.C. § 103 rejection of claims 14, 18 and 19 over Hunt, Cameron and Uchiyama, Appellant merely repeats the arguments pointing to the alleged failure of the prior art to teach a system having voice verification as an option to access the system, brief, pages 36, 44 & 46). However, contrary to Appellant's position and as discussed above, the claimed optional voice verification of base claims 10 and 15 are taught by the prior art and therefore, the 35 U.S.C. § 103 rejection of claims 14, 18 and 19, dependant thereon, are sustained.

² It should be noted that our decision to reverse the anticipation rejection of claim 1 does not preclude reliance on Hunt for a rejection under 35 U.S.C. § 103. However, such rejection neither is before us nor can be implied based on the reasoning addressed in the rejection of claims 4-9 as no reasoning and/or discussion that may be extended to the subject matter of claim 1 was presented by the examiner.

³ Although not noted by the Examiner, we observe that the first occurrence of the term "utterance" in the last line of claim 4 should probably be "first utterance" in order to provide proper antecedent basis for the term.

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CONCLUSION

In view of the foregoing, the decision of the Examiner rejecting claims 1-3 under 35 U.S.C. § 102 and claims 4-9 under 35 U.S.C. § 103 is reversed, but is affirmed with respect to the 35 U.S.C. § 102 rejection of claims 10-12 and 15-17 and the 35 U.S.C. § 103 rejection of claims 13, 14, 18 and 19.

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

AFFIRMED-IN-PART

JERRY SMITH)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
LEE E. BARRETT)	APPEALS
Administrative Patent Judge)	AND
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