

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 22

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RICHARD ALLEN COHEN and ROBIN H. ROSTER

Appeal No. 2003-0977
Application No. 09/219,995

ON BRIEF

Before SMITH, FLEMING, and MACDONALD, ***Administrative Patent Judges***.

MACDONALD, ***Administrative Patent Judge***.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1-8, 11-19, and 22-24. Claims 9, 10, 20, and 21 are objected to as being dependent on rejected claims, but are indicated as allowable if rewritten in independent form including all the limitations of the claims from which they depend.

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Related Issue

We note that the oath lists the second inventor as "Robin H. Foster" and his residence as "Little Silver" in the state of "New Jersey." There has been a transcription error on the part of the Office in transferring this data into the rest of the record where the inventor and residence are listed as "Robin H. Roster" of the town of "Foster" in the state of "Massachusetts." The Examiner is instructed to have these errors corrected accordingly.

Invention

Appellants' invention relates to methods and apparatus for implementing a selection process in a call processing system. A call selection process in a call center is configured to utilize a continuum of skill levels, in one or more categories, for a given multi-skill agent. Categories of levels are associated with skills supported by each agent, with each of the categories including a level, e.g., a numerical value for each of the skills. The levels are used in a call selection computation that determines which of a number of waiting calls should be delivered to the agent. See Appellants' specification at page 2, lines 18-24.

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Claim 1 is representative of the claimed invention and is reproduced as follows:

1. A method of controlling a selection process for communications in a call center, the method comprising the steps of:

associating at least one category of levels with a plurality of skills supported by a given agent in the call center, the category including a level for each of at least a subset of the plurality of skills; and

selecting a communication for handling by the agent based at least in part on a computation involving at least one of the levels.

References

The references relied on by the Examiner are as follows:

Bogart et al. (Bogart)	6,163,607	Dec. 19, 2000 (filed Nov. 3, 1998)
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Rejections At Issue

Claims 1-8, 11-19, and 22-24 stand rejected under 35 U.S.C. § 102 as being anticipated by Bogart.

Throughout our opinion, we make references to the Appellants' briefs, and to the Examiner's Answer for the respective details thereof.¹

¹ Appellants filed an appeal brief on June 25, 2002. Appellants filed a reply brief on November 4, 2002. The Examiner mailed out an Examiner's Answer on August 27, 2002.

OPINION

With full consideration being given to the subject matter on appeal, the Examiner's rejections and the arguments of the Appellants and the Examiner, for the reasons stated *infra*, we reverse the Examiner's rejection of claims 1-8, 11-19, and 22-24 under 35 U.S.C. § 102.

I. Whether the Rejection of Claims 1-8, 11-19, and 22-24 Under 35 U.S.C. § 102 is proper?

It is our view, after consideration of the record before us, that the disclosure of Bogart does not fully meet the invention as recited in claims 1-8, 11-19, and 22-24. Accordingly, we reverse.

It is axiomatic that anticipation of a claim under § 102 can be found only 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, 1458, 221 USPQ 481, 485 (Fed. Cir. 1984).

With respect to independent claim 1, Appellants argue, "'category of levels' . . . is not a category of skills" and "the category of levels is not a 'score'". Rather, "the category of levels is a category of numerical values or other levels associated with a plurality of skills." (Appellants' brief, page

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4, lines 1-5). Appellants then conclude, "the Examiner is incorrect in stating that the Bogart reference anticipates associating a category of levels, e.g., numerical values, with a plurality of skills supported by a given agent." Although we agree with the initial steps of Appellants' analysis, we do not find that it is sufficient, standing alone, to reach Appellants' conclusion. Therefore, our analysis follows below.

Our reviewing court states in *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) that "claims must be interpreted as broadly as their terms reasonably allow." Our reviewing court further states, "[t]he terms used in the claims bear a 'heavy presumption' that they mean what they say and have the ordinary meaning that would be attributed to those words by persons skilled in the relevant art." *Texas Digital Sys. Inc v. Telegenix Inc.*, 308 F.3d 1193, 1202, 64 USPQ2d 1812, 1817 (Fed. Cir. 2002), *cert. denied*, 538 U.S. 1058 (2003).

Upon our review of Appellants' specification, we fail to find any definition of the term "category" that is different from the ordinary meaning. We find the ordinary meaning of the term "category" is best found in the dictionary. We note that the definition most suitable for "category" is "a specifically

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defined division in a system of classification; a class."² We in turn find the ordinary meaning of the term "class" is best found in the dictionary. We note that the definition most suitable for "class" is "a set, collection, group, or configuration containing members regarded as having certain attributes or traits in common."³

Further, upon our review of Appellants' specification, we fail to find any definition of the term "associating" that is different from the ordinary meaning. We find the ordinary meaning of the term "associating" is best found in the dictionary. We note that the definition most suitable for "associating" is "to bring into company with another; to join in a relationship."⁴

Now the question before us is, what does Bogart teach? To answer this question we find the following facts:

- 1) Bogart at line 22 of column 5 teaches, "a service profile **400** for skill X for agent Z.'
- 2) Bogart at lines 23-24 of column 5 teaches, "[a] service profile is a set of scores for a set of metrics."

² **Dictionary.com; WordNet 1.6, copyright 1997 Princeton University.** Copy provided to Appellants.

³ **Dictionary.com; WordNet 1.6, copyright 1997 Princeton University.** Copy provided to Appellants.

⁴ **The American Heritage Dictionary, Second College Edition, 1982, page 135.** Copy provided to Appellants.

- 3) Bogart teaches at figure 4 that an agent may have a plurality of skills with each skill having a service profile. See items 500 and 502.
- 4) Bogart at lines 27-41 of column 6 teaches, retrieving plural service profiles, combining the score of each service profile according to a formula, and selecting the best combined score.

Claim 1 at line 3 recites, "associating at least one category of levels with a plurality of skills supported by a given agent." Bogart at 3) above teaches the limitation of a plurality of skills supported by a given agent. Bogart at 1) and 2) above teaches that each skill has a set of metrics for each skill. Bogart at 2) above teaches that each metric has a level (a score). We find that one of ordinary skill in the art would recognize that a metric is an assigned classification of a score. We also find that one of ordinary skill in the art would recognize that each service profile uses the same set of metrics although some scores may be zero for a given skill.

Up to this point our analysis shows that Bogart teaches all aspects of the cited limitation of claim 1, except the act of "associating" the at least "one category of levels." We find that Bogart does not teach the act of "associating" the at least one category of levels as recited in claim 1, i.e., Bogart does not teach bringing the levels of plural skills together in a relationship.

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Therefore, for the reasons discussed above, we will not sustain the Examiner's rejection under 35 U.S.C. § 102.

Conclusion

In view of the foregoing discussion, we have not sustained the rejection under 35 U.S.C. § 102 of claims 1-8, 11-19, and 22-24.

REVERSED

JERRY SMITH)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
MICHAEL R. FLEMING)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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