

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. 40

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GUY RIDDLE

Appeal No. 2003-2053
Application 08/646,500

ON BRIEF

Before FLEMING, DIXON, and SAADAT, **Administrative Patent Judges**.
FLEMING, **Administrative Patent Judge**.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1 through 20, all the claims that are present in this application. Claims 21 through 25 have been withdrawn from consideration.

Invention

The invention relates to teleconferencing systems. See page 1 of Appellant's specification. Teleconferencing also includes

data sharing where various types of data such as documents, spreadsheets, graphic data or other types of data, can be shared and manipulated by all participants in the teleconference. However, with the wide diversity of systems having different computer capabilities, prior art systems have typically required that the application provide support for all capabilities used within the teleconference. This fact substantially complicates teleconferencing applications, and makes expansion of capabilities difficult or impossible. Thus, it would be desirable to be able to relieve the application of the burden of supporting all capabilities by providing accessories which interface logically between the application and the base teleconference component to provide additional and expandable capabilities. See page 1 of Appellant's specification.

Appellant solves this problem by providing a system and method which provides capability expansion in a teleconferencing environment. One or more accessories are invoked and arranged in an accessory stack associated with an application. The accessory stack is positioned logically between the teleconferencing application and a conference component in both a logical and a remote end point. Each accessory provides at least one additional capability to the system independent of the

application and the conference component. The number of accessories so stacked can be arbitrarily large. In this way, a teleconference application with limited functionality can be made to appear to the user to be quite robust. Moreover, additional capabilities can be easily added to the system. See page 2 of Appellant specification.

Figure 4 illustrates a plurality of processes and/or apparatus which may be operative within telecommunication system 150c. An application program 401, such as a teleconferencing application, an audio/video server, or a data server, communicates with conference accessory 404 in the form of Application Program Interface calls. Each accessory 404-406 is a derived component which adds some additional capability to the conference component 400. An accessory 404 receives the Application Program Interface calls from the application 401 and events from conference component 406. An accessory claims Application Program Interface calls and events directed to it, and forwards those not directed to it. In this way, all events intended for the application 401 are passed along through the accessories to the application 401. Similarly, Application Program Interface calls for the conference component are passed to the conference component through the accessory stack. See

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page 9 of Appellant's specification. Because the accessory provides its capability to the teleconference system while remaining independent of the application, an application with only minimal teleconference capability may appear to the user to be quite robust simply by accessorizing a number accessories. See page 10 of Appellant's specification.

Claim 1 is representative of Appellant's claimed invention and is reproduced as follows:

1. A system comprising:

a processor;

a memory coupled to the processor, the memory storing a teleconferencing application and at least one accessory; and

an accessory invocation mechanism which dynamically associates the accessory with the teleconferencing application such that a capability of the accessory is provided during a teleconference, independent of the teleconferencing application.

References

The references relied on by the Examiner are as follow:

Leondires et al. (Leondires) 5,841,763 Nov. 24, 1998
(Filing date Jun. 13, 1995)

Larson et al. (Larson) 5,907,324 May 25, 1999
(Filing date Nov. 5, 1997 which is continuation of application
08/485,642 filed June 7, 1995)

Shinjo et al., (Shinjo) "Object-Stacking in the World-Wide Web"
Fourth International Workshop on Object-Orientation in Operating
Systems, IEEE (Aug. 14-15, 1995), pp. 210-219.

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Rejections at Issue

Claims 1, 3 through 5, 9, 11, 16, 19 and 20 stand rejected under 35 U.S.C. § 102 as being anticipated by Larson.

Claims 2, 6 through 8, 10, 13, 14 and 17 stand rejected under 35 U.S.C. § 103 as being unpatentable over Larson in view of Shinjo.

Claims 12, 15 and 18 stand rejected under 35 U.S.C. § 103 as being unpatentable over Larson in view of Leondires.

Throughout our opinion, we will make reference to the briefs¹ 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 Appellant and the Examiner, for the reasons stated **infra**, we affirm the Examiner's rejection of claims 11, 16, 19 and 20 under 35 U.S.C. § 102 and we reverse the Examiner's rejection of claims 1, 3 through 5 and 9 under 35 U.S.C. § 102. Furthermore, we reverse

¹ Appellants filed an appeal brief on December 30, 2002. The Examiner mailed an Examiner's answer on March 25, 2003. Appellant filed a reply brief on June 2, 2003. The Examiner mailed an office communication on July 7, 2003, stating that the reply brief has been entered into the record.

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the Examiner's rejection of the claims 2, 6 through 8, 10, 12, 13 through 15, 17 and 18 under 35 U.S.C. § 103.

Rejection under 35 U.S.C. § 102

For claim 1, Appellant argues that Larson fails to teach the limitation of claim 1 requiring an accessory capability. Appellant argues that the plain meaning of the term "accessory" is defined in the **American Heritage College Dictionary** as a subordinate or supplementary item; an adjunct. Appellant argues that Larson fails to teach accessories that are not part of the teleconferencing software package or teleconferencing application software package. See pages 8 and 9 of the Brief.

The Examiner responds by stating that the definition relied on by Appellant does not require that the subordinate be a separate entity. The Examiner points out that the term "accessory" does not distinguish over the Larson's teleconferencing software application. See page 10 of the Examiner's answer.

Appellant responds to the Examiner's argument in Appellant's reply brief, stating that independent claim 1 not only recites accessory capability but also recites "a capability of the accessory is provided during a teleconference, independent of the

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teleconferencing application." Appellant argues that the point is that the claimed "accessory" is not an "application" included in the original software package such as disclosed by Larson. See pages 2 and 3 of the reply brief.

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 Maschninenfabrik GMBH v. American Hoist & Derrick Co.**, 730 F.2d 1452, 1458, 221 USPQ 481, 485 (Fed. Cir. 1984).

As further pointed out by our reviewing court, we must first determine the scope of the claim. "[T]he name of the game is the claim." **In re Hiniker Co.**, 150 F.3d 1362, 1369, 47 USPQ2d 1523, 1529 (Fed. Cir. 1998). Claims will be given their broadest reasonable interpretation consistent with the specification, and limitations appearing in the specification are not to be read into the claims. **In re Etter**, 756 F.2d 852, 858, 225 USPQ 1, 5 (Fed. Cir. 1985). As our reviewing court 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

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to those words by persons skilled in the relevant art." **Tex. Digital Sys., Inc. v. Telegenix, Inc.**, 308 F.3d 1193, 1202, 64 USPQ2d 1812, 1817 (Fed. Cir. 2002).

We agree with the Examiner that the term "accessory" does not require independence. Accepting the definition provided by the Appellant, the definition only requires that the accessory be a subordinate or supplementary item. Thus, we find that Larson does teach conferencing applications which are accessories and that they are supplemental or subordinate items to the teleconferencing application. We further note that in the reply brief, Appellant does not argue that the term accessory requires more.

However, the Appellant does argue that the claim recites "independent of the teleconferencing application." Upon our review of Larson, we fail to find that the teleconferencing applications are independent of the teleconferencing software. Larson clearly teaches that the desktop software package includes a number of Electronic Conferencing Applications 102. See Larson column 13, lines 42 through 58. Clearly, Larson teaches that the Electronic Conferencing Applications 102 are part of the desktop

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conference software package which is designed to provide a comprehensive software package including all the capabilities and the information necessary to conduct, store and establish a conference. Therefore, we agree with the Examiner that the Electronic Conference Applications 102 are accessories but we disagree with the Examiner that they are independent of the teleconferencing application.

We note that claims 5 through 7, due to their dependence upon claim 1, require that the accessory is independent of the teleconferencing application. Furthermore, we note that claim 9 also requires that "the accessory provides an additional capability independent of the teleconferencing application." Therefore, we will reverse the Examiner's rejection of these claims for the same reasons as above.

For independent claim 11, Appellant argues that the claim limitation "accessory capabilities," is not taught in Larson for the same reasons as argued for independent claim 1. See page 20 of the brief. Furthermore, we note that Appellants did not respond to the Examiner's argument that the term "accessory" does not distinguish over Larson in the Appellant's reply brief.

As we have discussed above, we fail to find that the ordinary meaning of accessory requires that the Larson's

electronic conferencing applications 102 be independent of the Larson's teleconferencing software. The term "accessory" only requires that the Larson Electronic Conferencing Applications 102 be a subordinate or supplemental item to the Larson's teleconferencing application. As shown above, Larson does teach that the Electronic Conferencing Applications 102 are accessories in that they are supplemental items in which the software package can choose to use. Therefore, we find that the Examiner has shown that Larson teaches all the claimed elements recited in Appellant's claim 11.

For independent claim 16, Appellant argues that Larson does not teach "automatically accessorizing all automatic accessories each automatic accessory having a capability" as required by Appellant's independent claim 16. Appellant argues that Larson fails to teach "accessories" for the same reasons as argued for independent claim 1. Appellant further argues that Larson fails to teach "automatic accessories." See page 25 of the brief.

As shown above, we have found that Larson does teach accessories. Furthermore, we find that Larson does teach automatic accessories. The Examiner has pointed out that Larson teaches automatic accessories in column 13, lines 23 through 29 and that the Persistent Conference Manager 108 provides all the

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necessary accessories as required by the teleconference.

Therefore, we find that Larson teaches all the claimed elements as recited in Appellant's claim 16.

For claims 19 and 20, we note that the Appellant has argued these as a group. See pages 4 and 28 of the brief.

37 CFR § 1.192 (c)(7) (July 1, 2000) **as amended at** 62 Fed. Reg. 53196 (October 10, 1997), which was controlling at the time of Appellant filing the brief, states:

For each ground of rejection which Appellant contests and which applies to a group of two or more claims, the Board shall select a single claim from the group and shall decide the appeal as to the ground of rejection on the basis of that claim alone unless a statement is included that the claims of the group do not stand or fall together and, in the argument under paragraph (c)(8) of this section, Appellant explains why the claims of the group are believed to be separately patentable. Merely pointing out differences in what the claims cover is not an argument as to why the claims are separately patentable.

We will, thereby, consider the Appellant's claims as standing or falling together, and we will treat claim 19 as a representative claim of that group. **See In re McDaniel**, 293 F.3d 1379, 1383, 63 USPQ2d 1462, 1465 (Fed. Cir. 2002) ("If the brief fails to meet either requirement [of 37 CFR § 1.192 (c)(7)], the Board is free to select a single claim from each group of claims subject to a

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common ground of rejection as representative of all claims in that group and to decide the appeal of that rejection based solely on the selected representative claim.") **See also, In re Watts**, 354 F.3d 1362, 1368, 69 USPQ2d 1453, 1457 (Fed. Cir. 2004).

Appellant makes the same argument as for claim 1 in that Appellant argues that Larson does not teach accessories capabilities. See page 28 of brief. Therefore, we find that Larson teaches all the claimed limitations as recited in claim 19 for the same reasons above.

Rejections under 35 U.S.C. § 103

Claims 2, 6 through 8 and 10 stand rejected under 35 U.S.C. § 103 as being unpatentable over Larson in view of Shinjo. We note that claims 2 and 6 through 8 through their dependence upon claim 1 recites "independent of the teleconferencing application." We also note that independent claim 10 recites "accessory invocation mechanism stacking a plurality of accessories each independent of the application." As we have found above, we fail to find that Larson teaches this limitation. Furthermore, upon our review of Shinjo, we fail to find that

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Shinjo teaches this missing piece. Therefore, we will not sustain the Examiner's rejection of claims 2, 6 through 8 and 10 under 35 U.S.C. § 103.

Claims 13, 14 and 17 stand rejected under 35 U.S.C. § 103 as being unpatentable over Larson in view of Shinjo. Appellant argues that neither Larson nor Shinjo teaches or suggests "stacking the accessories serially between the application and the conference component" as recited in Appellant's claim 13. Appellant agrees that Shinjo teaches an object stacking and server stacking model for World-Wide Web applications. However, Appellant argues that the Examiner has not identified and the Appellant has failed to find any teachings in Shinjo which teach stacking teleconferencing accessories serially between a teleconferencing application and a conference component. See page 23 of the brief. Appellant argues that Larson and Shinjo fails to teach "automatic accessories serially between the teleconferencing application and a conferencing component" as recited by appellant's dependent claim 17. Appellant argues the same argument as above in that Shinjo fails to teach stacking accessories serially between the application and the conference component. See page 26 of Appellant's brief.

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Upon our review of Larson and Shinjo, we fail to find that either reference teaches "stacking the accessories serially between the application and the conference component" as recited in claim 13 or "linking all automatic accessories serially between the teleconferencing application and a conference component" as recited in Appellant's claim 17. Therefore, we will not sustain the Examiner's rejection of claims 13, 14 and 17 under 35 U.S.C. § 103.

Claims 12, 15 and 18 stand rejected under 35 U.S.C. § 103 as being unpatentable over Larson in view of Leondires. Appellant argues that neither Larson nor Leondires teaches or suggests determining if a second end point participating in a teleconference has a capability of the accessory as required by claim 12. Appellant agrees that Leondires does teach a multi audio-video conferencing system that performs a hardware check to determine if the participant's system in an audio-video conference has hardware sufficient to participate in the conference. However, the Appellant argues that Leondires does not teach or suggest determining if a second end point participating in a teleconference has accessories capabilities. See pages 21 and 22 of the brief. Appellant makes similar arguments for claim 18 arguing that neither Larson nor Leondires

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teaches automatically identifying which capabilities of the automatic accessories are common to a local end point and remote end point as recited by claim 18.

Appellant points out that the plain meaning of the term "accessory" requires something nonessential but desirable. We agree with this definition. Thus, accessory cannot be essential to the application as to their existence. Therefore, we fail to find that Leondires teaches determining if a second end point participating in a conference has an accessory capability. We fail to find that a teaching in Leondires of an essential hardware component can read on the above language. Therefore, we will not sustain the Examiner's rejection of claims 12, 15 and 18 under 35 U.S.C. § 103.

In view of the foregoing, we have affirmed the Examiner's rejection of claims 9, 11, 16, 19 and 20 under 35 U.S.C. § 102 and we have reversed the rejection of claims 1, 3 through 5 and 9 under 35 U.S.C. § 102. Furthermore, we have reversed the Examiner's rejection of claims 2, 6 through 8, 10, 12 through 15, 17 and 18 under 35 U.S.C. § 103.

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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

MICHAEL R. FLEMING)	
Administrative Patent Judge)	
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)	
)	BOARD OF PATENT
JOSEPH L. DIXON)	
Administrative Patent Judge)	APPEALS AND
)	
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