

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 33

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte YURI SHTIVELMAN

Appeal No. 2004-1095
Application No. 09/457,608

ON BRIEF

Before BARRETT, GROSS, and BARRY, ***Administrative Patent Judges***.
GROSS, ***Administrative Patent Judge***.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 through 18, which are all of the claims pending in this application.

Appellant's invention relates to a method for aiding an agent in a hosted communication session. The method includes comparing an incoming query to queries stored in a database, and if there is a match, providing the stored response to the agent to use in responding to the query. Claim 1 is illustrative of the claimed invention, and it reads as follows:

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1. A method for aiding a live agent in a hosted communication session wherein agents participate in and host chat room communication sessions on the Internet, comprising steps of:

(a) accessing an incoming query to an agent-hosted chat session by a comparison system;

(b) comparing the incoming query with queries in a database having stored queries matched with stored responses; and

(c) in the case of a match, providing the stored response to the live agent for use in responding to the incoming query.

The prior art reference of record relied upon by the examiner in rejecting the appealed claims is:

Busey et al. (Busey)	6,377,944	Apr. 23, 2002
		(filed Dec. 11, 1998)

Claims 1 through 18 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Busey.

Reference is made to the Examiner's Answer (Paper No. 31, mailed December 17, 2003) for the examiner's complete reasoning in support of the rejection, and to appellant's Brief (Paper No. 30, filed November 26, 2003) for the appellant's arguments thereagainst.

OPINION

We have carefully considered the claims, the applied prior art reference, and the respective positions articulated by

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appellant and the examiner. As a consequence of our review, we will reverse the anticipation rejection of claims 1 through 18.

"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." *In re King*, 801 F.2d 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1986). **See also *Lindemann Maschinenfabrik GMBH v. American Hoist and Derrick***, 730 F.2d 1452, 1458, 221 USPQ 481, 485 (Fed. Cir. 1984).

Independent claim 1 requires, in pertinent part, a live agent, comparing an incoming query to stored queries, and providing the result of the comparison to the live agent for the agent to use in responding to the query. Independent claim 10 similarly recites a system that compares an incoming query to stored queries and provides the result of the comparison to an agent for the agent to use in responding to the incoming query. Appellant asserts (Brief, pages 10-11) that in *Busey* the WRU, which compares an incoming query to a database, works independently from the WebACD, where customers have contact with an agent. We agree.

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Busey discloses (column 6, lines 45-63) that there are three distinct subsystems, the Web Response Unit (WRU), WebACD and Communications Interface Unit (CIU). "The WRU allows a customer to obtain information independently, such as by querying a database, compilation of Frequently Asked Questions (FAQ) or other information source" (column 6, lines 51-54). If the customer cannot obtain a satisfactory answer through the WRU, then the customer may be connected to a live agent through the WebACD. In other words, the WRU compares the query to queries stored in a database and provides the results of the comparison directly to the customer. It is only after receiving unsatisfactory results that the customer has any contact with the live agent.

Busey (column 9, lines 14-24) further explains the functions of the WRU. In particular, Busey states (column 9, lines 14-15) that the WRU "allows a customer to receive information in the form of 'self-help.'" Busey explains that the customer is provided with query mechanisms that do not require any assistance from a human agent. Busey discloses (column 9, line 56-column

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10, line 2) that the Self Help Server (SHS) submits the query to various databases and if an answer is found, the SHS displays the answer to the customer. Busey states (column 10, lines 23-25) that if a customer is not satisfied with the results of the database search, "the customer is given the opportunity to request agent assistance." In other words, Busey queries databases, displays the result to the customer, and then the customer contacts a live agent. Thus, part (c) of claim 1 and the last part of claim 10, in which the match is provided to the live agent for use in answering the query are not disclosed by Busey. Since Busey does not disclose every element of claims 1 and 10, we cannot sustain the anticipation rejection of claims 1 and 10 nor of their dependents, claims 2 through 9 and 11 through 18.

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CONCLUSION

The decision of the examiner rejecting claim 1 through 18 under 35 U.S.C. § 102(e) is reversed.

REVERSED

LEE E. BARRETT)	
Administrative Patent Judge)	
)	
)	
)	
)	BOARD OF PATENT
ANITA PELLMAN GROSS)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
)	
LANCE LEONARD BARRY)	
Administrative Patent Judge)	

APG/vsh

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CENTRAL COAST PATENT AGENCY
PO BOX 187
AROMAS, CA 95004