The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 20

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JAMES R.H. CHALLENGER, CAMERON FERSTAT, ARUN K. IYENGAR, PAUL REED, GERALD A. SPIVAK, and KAREN A. WITTING

Appeal No. 2004-1585
Application No. 09/283,562

ON BRIEF

Before HAIRSTON, KRASS, and JERRY SMITH, Administrative Patent Judges.

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 22.

The disclosed invention relates to a method and apparatus for constructing and publishing a plurality of objects. When at least one of the objects includes at least one fragment that

belongs to a first class, the method and apparatus delays publication of the at least one object to examine the content of the object, and when at least one of the objects includes at least one fragment that belongs to a second class, the method and apparatus publishes the at least one object without examining the content of the object.

Claim 1 is illustrative of the claimed invention, and it reads as follows:

> 1. A method for constructing and publishing a plurality of objects comprising the steps of:
>
> providing a plurality of fragments;
>
> constructing objects from the plurality of fragments;
>
> delaying publication of at least one of the objects, where the at least one of the objects includes at least one fragment belonging to a first class, to examine content; and
>
> publishing at least one of the objects including at least one of the fragments belonging to a second class without examining content.

The references relied on by the examiner are:

Shuman	6,424,995	Jul. 23, 2002 (filed Oct. 16, 1996)
Wright et al. (Wright)	6,442,598	Aug. 27, 2002 (filed Oct. 27, 1997)

Claims 1 through 12 and 14 through 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the appellants' admitted prior art in view of Wright.

Claim 13 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the appellants' admitted prior art in view of Wright and Shuman.

Reference is made to the brief (paper number 17) and the answer (paper number 18) for the respective positions of the appellants and the examiner.

OPINION

We have carefully considered the entire record before us, and we will reverse the 35 U.S.C. § 103(a) rejection of claims 1 through 22.

Appellants have admitted (specification, pages 1 and 2) that it is known in the art to immediately publish some stories (e.g., scores from a sporting event) on a Web site without review, and to publish other stories (e.g., a background piece on the athlete that made the scores) on a Web site only after review for correctness and appropriateness. The immediately publishable stories belong to a so-called fast category, and the stories that have to be reviewed before publication belong to a so-called slow category. Based upon appellants' perceived need in the art for

"a method for permitting a single Web page to include multiple fragments wherein some of the included fragments belong to the fast category and others belong to the slow category," and the statement that "a need exists for a system and method for generating complex Web pages which result in more flexibility in Web page design and better performance than conventional approaches of treating entire Web pages as single logical entities" (specification, page 2), we assume that the conventional Web page did not mix fragments from the two different categories as required by appellants' disclosed and claimed invention.

The examiner acknowledges (answer, page 4) that the admitted prior art does not disclose "constructing objects from the plurality of fragments" as required by all of the claims on appeal. For such a teaching, the examiner turns to Wright which discloses a server unit that gathers Web pages[1] from sites on the Internet, and bundles the Web pages prior to transferring them to a client over a broadcast medium (Figure 2; Abstract; column 5, lines 22 through 50).

---

[1] We agree with the appellants' argument (brief, page 6) that the Web pages in Wright are "*already published* Web pages."

Even if we assume for the sake of argument that it would have been obvious to one of ordinary skill in the art "to have combined Wright into AAPA[2] since Wright provides pages as fragments gathered from the internet and these pages are bundled into composite package files, which are considered as objects of a plurality of fragments" (answer, page 4), the combined teachings of the references would still not teach the last two steps of each of the independent claims on appeal. As indicated supra, none of the stories/objects in the admitted prior art includes a mix of stories/objects that belong to both the first class and the second class. In the absence of such a mix of stories/objects, the admitted prior art does not have to make publication decisions based upon the mixed stories/objects. The only disclosure of such publication decisions based upon a mix of first and second classes of constructed objects is appellants' disclosed and claimed invention, and such teachings may not be used by the examiner to frame an obviousness rejection of the claims on appeal. Thus, the obviousness rejection of claims 1 through 12 and 14 through 22 is reversed.

[2] AAPA refers to appellants' admitted prior art.

The obviousness rejection of claim 13 is reversed because the teachings of Shuman do not cure the noted shortcomings in the teachings of the admitted prior art and Wright.

DECISION

The decision of the examiner rejecting claims 1 through 22 under 35 U.S.C. § 103(a) is reversed.

REVERSED

KENNETH W. HAIRSTON Administrative Patent Judge	)	
ERROL A. KRASS Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
JERRY SMITH Administrative Patent Judge	)	

KWH:hh

F. CHAU & ASSOCIATES, LLP
1900 HEMPSTEAD TURNPIKE, STE. 501
EAST MEADOW, NY 11554