

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

Paper No. 42

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte VICTOR H. SHEAR, W. OLIN SIBERT
DAVID M. VANWIE and ROBERT P. WEBER

Appeal No. 2005-0476
Application No. 08/848,077

ON BRIEF

Before KRASS, GROSS, and NAPPI, **Administrative Patent Judges.**

NAPPI, **Administrative Patent Judge.**

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 of the final rejection of claims 151 through 177 which constitute all the claims remaining in the application. For the reasons stated *infra* we will not sustain the examiner's rejection of these claims.

THE INVENTION

The invention relates to a technique for managing rights to information stored on portable media such as Digital Video Disks (DVD). See page 3 of appellants' specification. The technique encrypts digital properties of the information in a tamper-resistant software "container" together with rules about

the use of the information that may apply and be enforced on the consumer's appliance. See page 23 of appellants' specification. The rules are applied while viewing the information and are different depending upon the appliance that is being used to view the information. See page 24 of appellants' specification.

Claim 151 is representative of the invention and reproduced below:

A control set for governance of specified information, including the following:

a first rule or group of rules allowing a first use to be made of the information;

a second rule or group of rules allowing the first use or a second use to be made of the information;

a meta-rule specifying use of the first rule or group at a first appliance or class of appliances characterized by a first set of resources and specifying use of the second rule or group at a second appliance or class of appliances characterized by a second set of resources, the second set of resources including functionality not present in the first set of resources.

THE REFERENCES

The references relied upon by the examiner are:

Halter et al. (Halter)	5,319,705	June 7, 1994
Hekmatpour	5,644,686	July 1, 1997 (filed April 29, 1994)
Stefik	5,715,403	February 3, 1998 (filed Nov. 23. 1994)

THE REJECTIONS AT ISSUE

Claims 151, 153, 155 through 157, 160, 164, 169 through 171, 173, 175, 176, and 177 stand rejected under 35 U.S.C. § 103 as being obvious over Hekmatpour. Claims 152 and 154 stand rejected under 35 U.S.C. § 103 as being obvious over Hekmatpour in view of Halter. Claims 158, 159, 161, 164, 167, 168, and 174 stand rejected under 35 U.S.C. § 103 as being obvious over Hekmatpour in view of Stefik. Claims 162, 163, 165, 166, and 172 stand rejected under 35 U.S.C. § 103 as being obvious over Hekmatpour in view of Stefik and Halter. Throughout the opinion we make reference to the briefs and the answer for the respective details thereof.

OPINION

We have carefully considered the subject matter on appeal, the rejections advanced by the examiner and the evidence of obviousness relied upon by the examiner as support for the rejections. We have, likewise, reviewed and taken into consideration, in reaching our decision, appellants' arguments set forth in the briefs along with the examiner's rationale in support of the rejections and arguments in rebuttal set forth in the examiner's answer.

With full consideration being given to the subject matter on appeal, the examiner's rejections and the arguments of appellants and the examiner, for the reasons stated *infra* we will not sustain the examiner's rejection of claims 151 through 177 under 35 U.S.C. § 103.

Rejection of claim 151, 153 and 155 through 157.

Appellants argue, on page 8 of the brief:

Generally speaking, claim 151 teaches a meta-rule that specifies use of one rule at a first appliance or class of appliances and a second rule at a second appliance or class of appliances. Nothing in Hekmatpour even hints at a control set that specifies that different rules be used at different appliances or classes of appliances based on the resources present at those appliances.

In the statement of the rejection, on pages 5 and 6 of the answer:

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Hekmatpour '686 [citations omitted] would have been selected in accordance with: "a first rule or group of rules allowing a first use to be made of the information; a second rule or group of rules allowing the first use or a second use to be made of the information; a meta-rule specifying use of the first rule or group at a first appliance or class of appliances characterized by a first set of resources and specifying use of the second rule or group at a second appliance or class of appliances characterized by a second set of resources, the second set of resources including functionality not present in the first set of resources ..." because such selection would have provided "*means for non-inferential accessing of multimedia displayable information ... responsive to the means for inferential processing of information and the means for inferential processing of information is itself responsive to the provided external information.*" (See Hekmatpour '686 (col. 5, ll. 10-13)).

In response to appellants' arguments, the examiner states, on page 45 of the answer, that one of ordinary skill in the art "derives the instant invention based on the disclosure, as well as all that the prior art reference to Hekmatopur '686 would have reasonably suggested to a person of ordinary skill in the art at the time of the invention."

We disagree with the examiner's reasoning. We find that Hekmatpour teaches an expert system, which develops a knowledge base to be used in

interactive multimedia systems for training, i.e. an expert system that develops training material. See column 1, lines 1-20. The knowledge base is built up by interviewing and observing experts about the system for which training is to be developed, the questions presented to the experts are directed to how they address problems with the system for which the training is being developed. See column 10, lines 4- 56. This data is then used to develop a knowledge base, which is stored in a hierarchical form. See column 14, line 66 through column 15, line 13. We find no disclosure in Hekmatpour which teaches or suggests the claimed “meta-rule” which specifies the use of a first rule or group at a first appliance or class of appliances and specifies use of a second rule or group at a second appliance or class of appliances. Further, we do not find that the sections of Hekmatpour excerpted by the examiner, provide a suggestion to modify Hekmatpour to make use of a first, second and meta-rule as claimed. Accordingly, we will not sustain the examiner’s rejection of independent claim 151 or dependent claims 153, 155 through 157 under 35 U.S.C. § 103 as being obvious over Hekmatpour.

The rejection of claims 160, 164, and 169.

Appellants argue on page 13 of the brief:

Claim 160 recites a method of governing usage of information including a step of “based on the identification [of one or more features of an appliance], determining whether to use the first rule set or the second rule set to govern a usage of the governed information.” Appellants respectfully submit that Hekmatpour does not teach or disclose determining which rule set to use based on the features of an appliance.

The examiner's rejection of claim 160, on page 10 of the answer repeats the same rationale applied to claim 151 discussed above. In response to the appellants' arguments, the examiner states, on page 50 of the answer "it is noted that the features upon which applicant relies [*sic*, appellants rely] (i.e., "of one or more features of an appliance") are not recited in the rejected claim(s)."

We disagree with the examiner. Claim 160 includes the limitations "identifying one or more features of the appliance" and "based on the identification, determining whether to use the first rule set or the second rule set to govern a usage of the governed information." Thus, contrary to the examiner's assertions, we find that the scope of claim 160 includes a determination of whether to use a first or second rule is based upon an identification of one or more features of the appliance. We do not find that Hekmatpour teaches or suggests this limitation. Accordingly, we will not sustain the examiner's rejection of independent claim 160 or claims 164, and 169 under 35 U.S.C. § 103 as being obvious over Hekmatpour.

The rejection of claims 170, 171, 173, 175, 176, 177.

Appellants argue on page 14 of the brief:

Claim 170 recites the steps of identifying a first appliance or one or more resources of the first appliance and, based on the identification, determining to use a first rule set to govern a first use of governed information. Claim 170 also recites the steps of identifying a second appliance or one or more resources of the second appliance and based on the identification, determining to use a second rule set to govern a second use of the governed information. Hekmatpour does not teach or suggest these steps.

In response the examiner states, on page 51 of the answer, that Hekmatpour's statement, in column 3, lines 54-67 "[u]se of an on-line computer based training methodology would eliminate a back-level problem" teaches the limitation of identifying a first appliance or one or more resources of the first appliance, and based on the identification, determining to use a first rule set to govern a first use of governed information.

We disagree with the examiner. We do not find that Hekmatpour teaches this limitation. Further, we do not find that the sections of Hekmatpour excerpted by the examiner, suggest this limitation. Accordingly, we will not sustain the examiner's rejection of independent claim 170 or dependent claims 171, 173, 175, 176 and 177 under 35 U.S.C. § 103 as being obvious over Hekmatpour.

The examiner rejects claims 152, 154, 158, 159, 161 through 164, 167, 168, 172 and 174 under 35 U.S.C. § 103 as being obvious over Hekmatpour in view of a combination of Stefik and Halter. These claims all ultimately depend upon either independent claims 151, 160 and 170. As stated *supra*, we do not find that Hekmatpour teaches the limitations claimed in claims 151, 160 and 170. The examiner has not asserted, nor do we find that either Stefik or Halter teach the limitations discussed *supra* with respect to claims 151, 160 and 170. Accordingly, we will not sustain the examiner's rejection of claims 152, 154, 158, 159, 161 through 164, 167, 168, 172 and 174 under 35 U.S.C. § 103.

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CONCLUSION

We will not sustain the examiner's rejection of claims 151 through 177 under 35 U.S.C. § 103.

REVERSED

ERROL A. KRASS)	
Administrative Patent Judge)	
)	
)	
ANITA PELLMAN GROSS)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
ROBERT E. NAPPI)	
Administrative Patent Judge)	

RN/RWK

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