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

UNITED STATES PATENT AND TRADEMARK OFFICE

_____

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

_____

Ex parte RICHARD G. HARTMANN,
GILFORD F. MARTINO, and
VINCENT T. TIMON III

_____

Appeal No. 2006-0575
Application No. 09/344,323

_____

ON BRIEF

_____

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

KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1-20.

The invention pertains to retrieving variable sizes of webpage data. In particular, a user is permitted to define the type and size of data to be served in response to a client browser request, preventing transfer over the web of data files larger than those which a user is willing to accept.

Representative independent claim 1 is reproduced as follows:

1. A method for operating a server responsive to a request for data from a user of a client browser specifying predefined configuration parameters comprising one or both of data type and size, comprising the steps of:

receiving from said browser a head request for the header of a data file;

responsive to said head request, serving to said browser data file header information including data file data type and size;

responsive to said browser determining from said data file header that said data file data type and size are in accordance with said request for data, receiving from said browser a get request, said browser responsive to said predefined configuration parameters, consisting only of one or both of said data file data type and said size, not being in accordance with said data file header information, not issuing said get request to said server; and thereafter

responsive to said get request, serving to said browser data corresponding to said header.

The examiner relies on the following references:

Albers et al. (Albers)	6,223,188	Apr. 24, 2001 (filed May 31, 1996)
Ball et al. (Ball)	6,366,933	Apr. 02, 2002 (filed Oct. 27, 1995)

Claims 1-20 stand rejected under 35 U.S.C. § 103 as unpatentable over Albers in view of Ball.

Reference is made to the brief and answer for the respective positions of appellants and the examiner.

OPINION

At the outset, we note that, in accordance with appellants' grouping of the claims at page 6 of the brief, all claims will stand or fall together. Accordingly, we will focus on independent claim 1.

The examiner's position is found at pages 3-5 of the final rejection of April 2, 2004. The examiner asserts that Albers operates a server in response to a request for data from a client browser specifying data type and size, wherein a HEAD request for the header of a data file is received from the browser and the

browser data file header information, including data type and data size, is served to the browser in response to the HEAD request. However, the examiner admits that Albers lacks any explicit teaching of

> responsive to said browser determining from said data file header that said data file data type and size are in accordance with said request for data, receiving from said browser a GET request, said browser responsive to predetermined configuration parameters, consisting only of one or both of said data file data type and said size, not being in accordance with said request for data, not issuing said GET request to said server; and thereafter responsive to said GET request, serving to said browser data corresponding to said header (final rejection, Paper No. 24 - page 3).

From this reasoning, the examiner concludes that the artisan would have been motivated "to look into the related network arts for potential methods and systems for implementing the servicing the browser user's requests for resources or objects over the Internet" (final rejection, Paper No. 24 - page 3).

Thus, the examiner turns to Ball for a disclosure of HEAD information provided by a http server. Specifically, the examiner indicates column 12, line 2, through column 13, line 14, of Ball, as teaching a varying threshold, dependent on the URL, associated with each page to determine a maximum frequency of direct HEAD requests. If the page was visited within the threshold, or the

modification date obtained from the proxy-caching server is current with respect to the threshold, the page is not checked.

After indicating various other portions of Albers regarding the retrieval of information and the setting of parameters to configure a system (final rejection, Paper No. 24 - page 4), the examiner concludes that it would have been obvious

> to have incorporated Albers' teachings of using HEAD request to efficiently provide information on hypermedia links without forcing the user actually download the information represented by those links (Albers, col. 2, lines 11-20) with the teachings of Ball, for the purpose of allowing users to specify lists of documents of interest (Ball, Abstract, Fig. 13; col. 2, lines 39-45; col. 4, lines 44-51;col. 21, lines 37-50) [sic, final rejection, Paper No. 24 - page 5].

We have reviewed the evidence before us, including the applied references, as well as the arguments of appellants and the examiner, and we conclude therefrom that the examiner has failed to establish a prima facie case of obviousness with regard to the instant claimed subject matter.

We agree with appellants that Albers discloses that a user places a cursor over a link and information about that link is displayed to the user (column 8, lines 10-20, of Albers) and the

user decides from that information to download the linked material or not. The selection of a set of links in a chosen document by the system may be controlled by a user selection or predefined parameters, or the system may simply select all links currently displayed (column 8, lines 17-21), but nowhere does Albers indicate that such predefined parameters are data type and size, as required by the instant claims.

It is true that Albers indicates at boxes 730 and 740 in Figure 7, that the data file type and data file size are indicated to the user, but this is not a teaching that the user gets to specify the data type and size, as required by the instant claims. We think appellants make a crucial point in distinguishing the instant claimed invention from that of Albers in asserting that

> in Albers information is presented to the user to act on, whereas in appellants' invention the decision is made based on configured values (brief-page 11).

While there is clearly some user interaction with the system in Albers, and one might say that there may be some configuration parameters defined by a user, as in permitting users to control the focus of their attention (column 10, lines 17-18), there is

clearly no indication in Albers that a user gets to specify the data type and size, as in the instant claimed invention.

Moreover, Ball appears to be of no help in this regard. Ball permits a user to specify lists of documents of interest, and one feature is to use a threshold based on the date of a document, permitting updating of current versions of documents, but we find nothing therein indicative of an ability or a desire to specify data size and data type and of using a HEAD request to determine from the file header the file size and type and then, only when the size and type match the predefined configuration parameters, issuing a GET request to download the data portion of the file.

In response, the examiner cites portions of Albers indicative of a user setting different parameters to configure a system to provide auditory cues (Figure 9, column 7, lines 39-51). While this much is true, there is no indication that Albers' parameters include data type and/or size. Again, the examiner points to Figure 7, items 730 and 740, in Albers for a showing of an indication of data type and size. However, these parameters are indicated to the user. Unlike that required by the instant claims, the user does not specify the desired data file and/or size.

Albers merely displays these parameters to the user and the user decides whether to act on the information.

Moreover, even if, arguendo, Albers and Ball taught the individual features asserted by the examiner, an assertion with which we do not agree, we still find insufficient motivation for the skilled artisan to have combined these references in any meaningful way to obtain the instant claimed subject matter.

The examiner admits that Albers lacks the teaching of

> responsive to said browser determining from said data file header that said data file data type and size are in accordance with said request for data, receiving from said browser a GET request, said browser responsive to predetermined configuration parameters, consisting only of one or both of said data file data type and said size, not being in accordance with said request for data, not issuing said GET request to said server; and thereafter responsive to said GET request, serving to said browser data corresponding to said header (final rejection, Paper No. 24 - page 3).

Yet, even if Ball taught all of this, which it does not, why would the artisan have been led to make the combination? The examiner reasons that it would have been obvious

> to have incorporated Albers' teachings of using HEAD request to efficiently provide information on hypermedia links without forcing the user actually download the information represented by those links (Albers, col. 2, lines 11-20) with the teachings of Ball, for the purpose of allowing users to specify lists of documents of interest (Ball, Abstract, Fig. 13; col. 2, lines 39-45; col. 4, lines 44-51;col. 21, lines 37-50) [sic, final rejection, Paper No. 24 - page 5].

But such a rationale does not explain what reason the artisan would have had for making the combination, absent the knowledge of appellants' teachings. To say that this would allow users to specify lists of documents of interest means nothing. Exactly why would users wish to make such lists? Other than appellants' disclosure, one must question what in the applied references would have suggested to the artisan to take Albers' teaching of presenting information to a user regarding data type and size and somehow modify this teaching to include the functions of

> responsive to said browser determining from said data file header that said data file data type and size are in accordance with said request for data, receiving from said browser a GET request, said browser responsive to predetermined configuration parameters, consisting only of one or both of said data file data type and said size, not being in accordance with said request for data, not issuing said GET request to said server; and thereafter responsive to said GET request, serving to said browser data corresponding to said header (final rejection, Paper No. 24 - page 3).

We find nothing within the four corners of the applied references which would have suggested such a modification.

The decision of the examiner rejecting claims 1-20 under 35 U.S.C. § 103 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	)	

IBM CORPORATION - DEPT. 917
3605 HIGHWAY 52 NORTH
ROCHESTER, MN 55901-7829

EAK/dal