

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 JEFFREY MARK ACHTERMANN,
TROY ALLEN CRANFORD, ALBERTO GIAMMARIA,
AND DEWI ARIFIN TJIO

Appeal No. 2006-1825
Application No. 09/460,852

ON BRIEF

Before JERRY SMITH, BARRY , and MACDONALD, **Administrative Patent Judges**.
MACDONALD, **Administrative Patent Judge**.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 8-13, 15-17, 19, and 21-31. Claims 1-7, 14, 18, and 20 have been canceled.

Invention

Appellants' invention relates to a method, computer network, and computer program product for distributing data in a system including an end-user computer and a

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server. A distribution list is transmitted from the server to the end-user computer from which the end-user then selects data distribution from the distribution list. The selected data distribution is then downloaded from the server to the end-user computer.

Appellants' specification at page 4, lines 2-9.

Claim 8 is representative of the claimed invention and is reproduced as follows:

8. A method of distributing data in a network including a server and an end-user computer comprising the steps of:
 - querying the server from the end-user computer for a distribution list;
 - receiving the distribution list from the server at the end-user computer;
 - determining if the distribution list from the server is non-empty;
 - selecting a distribution from the distribution list if the distribution list is non-empty using a selected one of manual and automatic modes;
 - and
 - downloading the distribution from the server to the end-user computer.

References

The references relied on by the Examiner are as follows:

Janis	6,115,549	Sept. 5, 2000 Filed Feb. 12, 1997
Heath	6,360,366	Mar. 19, 2002 Filed Oct. 15, 1999

Rejections At Issue

Claims 8, 9, 15, 27, and 28 stand rejected under 35 U.S.C. § 102 as being anticipated by Janis.

Claims 10-13, 16, 17, 19, 21-26, and 29-31 stand rejected under 35 U.S.C. § 103 as being obvious over the combination of Janis and Heath.

Throughout our opinion, we make references to the Appellants' briefs, and to the Examiner's Answer for the respective details thereof.¹

OPINION

With full consideration being given to the subject matter on appeal, the Examiner's rejections and the arguments of the Appellants and the Examiner, for the reasons stated *infra*, we reverse the Examiner's rejection of claims 8, 9, 15, 27, and 28 under 35 U.S.C. § 102; and we reverse the Examiner's rejection of claims 10-13, 16, 17, 19, 21-26, and 29-31 under 35 U.S.C. § 103.

I. Whether the Rejection of Claims 8, 9, 15, 27, and 28 Under 35 U.S.C. § 102 is proper?

It is our view, after consideration of the record before us, that the disclosure of Janis does not fully meet the invention as recited in claims 8, 9, 15, 27, and 28.

¹ Appellants filed an appeal brief on July 9, 2004. Appellants filed a reply brief on January 17, 2006. The Examiner mailed an Examiner's Answer on November 16, 2005.

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Accordingly, we reverse. We treat claim 8 as a representative claim for purposes of this decision.

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

With respect to independent claim 8, Appellants argue at page 7 of the brief, “*Janis* discloses ‘publishing’ the distribution list” and “*Janis* does not disclose that any publishing is the result of querying.” We agree. Claim 8 requires “querying” and contrary to the Examiner’s position [answer, page 5], we do not find querying in *Janis* at column 8, lines 22-25. The Examiner’s response at page 12 of the answer is equally unpersuasive.

Appellants also argue at page 8 of the brief that *Janis* fails to teach the “selecting a distribution” step of claim 8. Rather, Appellants argue that *Janis* teach “transferring” if a workstation is on a distribution list. We agree. We do not find the function of selecting in column 14 of *Janis* as argued by the Examiner.

As to Appellants’ other arguments with respect to claim 8, we find them unpersuasive for the reasons set forth by the Examiner in the answer at pages 12-13.

Therefore, we will not sustain the Examiner’s rejection under 35 U.S.C. § 102.

II. Whether the Rejection of Claims 10-13, 16, 17, 19, 21-26, and 29-31 Under 35 U.S.C. § 103 is proper?

It is our view, after consideration of the record before us, that the evidence relied upon and the level of skill in the particular art would not have suggested to one of ordinary skill in the art the invention as set forth in claims 10-13, 16, 17, 19, 21-26, and 29-31. Accordingly, we reverse.

With respect to dependent claims 10-13, 16, 17, 19, 21-26, and 29-31, we note that the Examiner has relied on the Heath reference solely to teach “a Web Browser” [answer, page 10]. The Heath reference in combination with the Janis fails to cure the deficiencies of Janis noted above with respect to claim 8. Therefore, we will not sustain the Examiner’s rejection under 35 U.S.C. § 103 for the same reasons as set forth above.

Conclusion

In view of the foregoing discussion, we have not sustained the rejection under 35 U.S.C. § 102 of claims 8, 9, 15, 27, and 28; and we have not sustained the rejection under 35 U.S.C. § 103 of claims 10-13, 16, 17, 19, 21-26, and 29-31.

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REVERSED

JERRY SMITH
Administrative Patent Judge

LANCE LEONARD BARRY
Administrative Patent Judge

ALLEN R. MACDONALD
Administrative Patent Judge

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