

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte MICHAEL A. MANSFIELD and DONALD J. FRIDRICH

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Appeal No. 2006-2184  
Application No. 09/819,427

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ON BRIEF

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Before JERRY SMITH, RUGGIERO, and MACDONALD, Administrative Patent Judges.

JERRY SMITH, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134 from the examiner's rejection of claims 1, 3-7, 9-11, 13-17, 19-21, 23-27, and 29-41, which constitute all the claims pending in this application.

The disclosed invention pertains to a system and method for providing personalized customer support. Specifically, information is received from a customer and the information evaluated. The system then identifies customer support information relevant to the customer information and presents the

relevant customer support information to the customer via a personalized web page.

Representative claim 1 is reproduced as follows:

1. A method for providing personalized customer support, comprising:

receiving customer information from a customer, the customer information including information as to products that the customer uses;

creating a profile for the customer that includes the received customer information;

evaluating the customer information contained in the profile;

identifying customer support information specifically relevant to the products that the customer uses; and

presenting the customer support information to the customer in at least one personalized web page.

The examiner relies on the following references:

Dedrick	5,717,923	Feb. 10, 1998
Moshfeghi et al. (Moshfeghi)	6,076,166	Jun. 13, 2000
Sullivan et al. (Sullivan)	6,542,898	Apr. 1, 2003 (filed May 12, 1999)

The following rejections are on appeal before us:<sup>1</sup>

1. Claims 1, 3-7, 9-11, 13-17, 19-21, 23-27, 29-33, and 36-41 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dedrick in view of Sullivan.

2. Claims 34 and 35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dedrick in view of Sullivan and further in view of Moshfeghi.

Rather than repeat the arguments of appellants or the examiner, we make reference to the brief 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, the appellants' arguments set forth in the brief along with the examiner's rationale in support of the rejections and arguments in rebuttal set forth in the examiner's answer.

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 have suggested to one

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<sup>1</sup> Although appellants' brief includes arguments pertaining to an additional rejection based on U.S. Pats. 6,446,076 and 6,457,076 to Burkey et al. and Cheng et al. respectively [see brief, pages 24-27], these arguments are not consistent with the two grounds of rejection to be reviewed on appeal listed on page 6 of the brief and acknowledged on pages 2 and 3 of the answer. In addition, the examiner's grounds of rejection does not rely on either the Burkey or Cheng references [see answer, pages 3-11]. Accordingly, any rejection based on the Burkey and Cheng references is not before us. Therefore, appellants' arguments pertaining to such a rejection have not been considered.

of ordinary skill in the art the obviousness of the invention as set forth in the claims on appeal. Accordingly, we affirm.

We first consider the examiner's rejection of claims 1, 3-7, 9-11, 13-17, 19-21, 23-27, 29-33, and 36-41 under 35 U.S.C. § 103(a) as being unpatentable over Dedrick in view of Sullivan. In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the examiner to establish a factual basis to support the legal conclusion of obviousness. See In re Fine, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the examiner is expected to make the factual determinations set forth in Graham v. John Deere Co., 383 U.S. 1, 17, 148 USPQ 459, 467 (1966). The examiner must articulate reasons for the examiner's decision. In re Lee, 277 F.3d 1338, 1342, 61 USPQ2d 1430, 1434 (Fed. Cir. 2002). In particular, the examiner must show that there is a teaching, motivation, or suggestion of a motivation to combine references relied on as evidence of obviousness. Id. 277 F.3d at 1343, 61 USPQ2d at 1433-34. The examiner cannot simply reach conclusions based on the examiner's own understanding or experience - or on his or her assessment of what would be basic knowledge or common sense. Rather, the examiner must point to some concrete evidence in the record in support of these findings. In re Zurko, 258 F.3d 1379, 1386, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001). Thus the examiner must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the examiner's conclusion. However, a suggestion, teaching, or

motivation to combine the relevant prior art teachings does not have to be found explicitly in the prior art, as the teaching, motivation, or suggestion may be implicit from the prior art as a whole, rather than expressly stated in the references. The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art. In re Kahn, 441 F.3d 977, 987-88, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006) (citing In re Kotzab, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1316-17 (Fed. Cir. 2000)). See also In re Thrift, 298 F. 3d 1357, 1363, 63 USPQ2d 2002, 2008 (Fed. Cir. 2002). These showings by the examiner are an essential part of complying with the burden of presenting a prima facie case of obviousness. Note In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If that burden is met, the burden then shifts to the applicant to overcome the prima facie case with argument and/or evidence. Obviousness is then determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. See Id.; In re Hedges, 783 F.2d 1038, 1039, 228 USPQ 685, 686 (Fed. Cir. 1986); In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984); and In re Rinehart, 531 F.2d 1048, 1052, 189 USPQ 143, 147 (CCPA 1976). Only those arguments actually made by appellants have been considered in this decision. Arguments which appellants could have made but chose not to make in the brief have not been considered and are deemed to be waived [see 37 CFR § 41.37(c)(1)(vii)(2004)].

Regarding independent claims 1, 11, 21, and 31, the examiner's rejection essentially finds that Dedrick teaches a customer support system and method with every claimed feature except for (1) the customer information including information as to products that the customer uses, and (2) identifying customer support information specifically relevant to products that the customer uses. The examiner cites Sullivan as disclosing such features and finds that it would have been obvious to one of ordinary skill in the art at the time of the invention to include such features in Dedrick to provide online technical support services for problems that customers encounter as they use their products [answer, pages 3-7].

Appellants argue that Dedrick does not disclose providing customer support to the user, but instead teaches customizing advertisements that are provided to end users [brief, pages 10 and 14]. The examiner responds that Dedrick presents customized electronic information to the user, and Sullivan teaches providing customer support information [answer, page 14].

Appellants also argue that Dedrick does not disclose evaluating customer information in a profile and presenting such information to the user in a personalized web page as claimed [brief, page 10]. According to appellants, Dedrick simply does not teach or suggest presenting a personalized web page to the user. Rather, electronic information is forwarded to a client interface via a content adapter that adapts the information to the user's personal tastes and presents the information to the user without a personalized web page [brief,

pages 10 and 11]. The examiner responds that both Dedrick and Sullivan suggest using customized web pages to present electronic information [answer, page 14].

In addition, appellants contend that Sullivan does not disclose (1) receiving customer information from a customer, where the information includes information as to products that the customer uses, nor (2) identifying customer support information specifically relevant to those products as claimed [brief, pages 12-14]. Appellants note that since Dedrick does not provide customer support, but rather customized advertisements, the skilled artisan would therefore not think to add features from Sullivan's customer support system to Dedrick's system [brief, page 14]. According to appellants, the examiner's combination of references is a result of improper hindsight reconstruction of the claimed invention [brief, pages 14 and 15]. The examiner responds that the Sullivan reference itself provides ample motivation to combine the references, namely Sullivan's recognition that providing technical support is becoming increasingly difficult as businesses move online [answer, pages 13 and 14].

Regarding independent claim 31, appellants add that neither Dedrick or Sullivan disclose "customer support information modules" as claimed [brief, page 22]. The examiner responds that the limitations calling for "modules" does not preclude the software used to implement the methods of Dedrick or Sullivan [answer, page 15].

We will sustain the examiner's obviousness rejection of the independent claims. At the outset, we note that the broadest reasonable interpretation of the term "customer support information" as claimed does not preclude advertisements such as those provided by Dedrick. Certainly, advertisements can inform customers about how products are used and provide useful information regarding details of the product and its operation. Merely because an advertisement's goal is to ultimately sell a product to a customer does not foreclose an advertisement's ability to also provide useful customer support information. Nevertheless, Dedrick expressly states that electronic information provided to end users is not limited to advertisements, but can comprise other types of electronic information including newspaper or magazine articles or encyclopedia entries [Dedrick, col. 9, lines 15-24].

Dedrick dynamically customizes electronic information provided to end users based on a comparison between electronic information received by the client system and specific user profile data contained in a personal profile database [Dedrick, abstract; col. 6, lines 34-52]. The personal profile database contains numerous types of personal information regarding individual users including their age, gender, income, marital status, mailing address, preferred shipping methods, etc. [Dedrick, col. 5, lines 50-59]. Notably, such user profile data also includes the user's favorite sizes and shapes, employer, job title, personal and business areas of interest, and "various lifestyle information" [Dedrick, col. 3, lines 36-58].

We find that such stored personal profile information reasonably includes “information as to products that the customer uses” as claimed. In fact, information regarding a user’s favorite sizes and shapes alone reasonably meets this limitation. Certainly, a user’s favorite size suggests a preferred product size. But also storing a user’s job title as well as personal and business areas of interest would not only reasonably suggest what products that a customer uses both personally and professionally, but also include information about the customer’s business as claimed. For example, stored data for a user who is an attorney and an avid hiker would reasonably suggest to the skilled artisan that the customer uses paper products and hiking footwear.

Dedrick provides electronic information to the end user in a wide variety of formats including audio, video, graphics, animation, text, etc. [Dedrick, col. 4, lines 44-48]. Also, end users access the system via client interfaces 23 that can be personal computers [col. 5, lines 2-19]. Although Dedrick does not expressly disclose end users accessing such content via personalized web pages, presenting multimedia content via web pages to end users’ personal computers with local and wide area network connectivity as in Dedrick nevertheless would have been well within the level of the skilled artisan – even at the time of Dedrick’s invention (1994). The advantages of using web pages – namely the ability to present customized text, graphics, video, and audio content in multiple browsers in a cross-platform environment – would have been readily apparent to skilled artisans at the time of the invention.

In addition, Sullivan amply teaches delivering unique content to selected end users via the use of customized web pages tailored for different audiences – the audiences determined, at least in part, on technical expertise [Sullivan, col. 10, lines 1-49]. In our view, the collective teachings of Dedrick and Sullivan amply suggest presenting customer support information to a customer in at least one personalized web page as claimed. Furthermore, the collective teachings of Dedrick and Sullivan reasonably suggest including information about the customer’s level of technical expertise as claimed. We further conclude that the references are reasonably combinable because they both relate to sending electronic information to clients.

Regarding independent claim 31, we agree with the examiner that the software used to implement the electronic information transmission methods of Dedrick or Sullivan reasonably meets the limitation calling for “customer information support modules” as claimed giving the term its broadest reasonable interpretation.

The examiner’s rejection of independent claims 1, 11, 21, and 31 is therefore sustained. Since appellants have not separately argued the patentability of dependent claims 3-7, 9, 10, 13-17, 19, 20, 23-27, 29, 30, and 33-41, these claims fall with the independent claims. See In re Nielson, 816 F.2d 1567, 1572, 2 USPQ2d 1525, 1528 (Fed. Cir. 1987). See also 37 CFR § 41.37(c)(vii).

We next consider the examiner's rejection of claims 34 and 35 under 35 U.S.C. § 103(a) as being unpatentable over Dedrick in view of Sullivan and further in view of Moshfeghi. We will sustain the examiner's rejection of claims 34 and 35. We find that the examiner has established at least a prima facie case of obviousness that appellants have not persuasively rebutted. Here, the examiner has (1) pointed out the teachings of Dedrick and Sullivan, (2) pointed out the perceived differences between these references and the claimed invention, and (3) reasonably indicated how and why these references would have been modified in light of the teachings of Moshfeghi to arrive at the claimed invention [answer, pages 10 and 11]. Once the examiner has satisfied the burden of presenting a prima facie case of obviousness, the burden then shifts to appellants to present evidence or arguments that persuasively rebut the examiner's prima facie case. Appellants did not persuasively rebut the examiner's prima facie case of obviousness, but merely noted that the addition of Moshfeghi fails to cure the deficiencies of the Dedrick/Sullivan combination in connection with claim 31. The rejection of claims 34 and 35 is therefore sustained.

As we indicated, the collective teachings of Dedrick and Sullivan reasonably teach and suggest all claimed limitations. We reach this conclusion, however, even if Sullivan were cited as the base reference and Dedrick as the secondary reference. In fact, Sullivan actually anticipates at least claim 1. In this regard, we note that Sullivan teaches providing personalized customer support

that involves (1) receiving information from a customer as to products that the customer uses (e.g., operating system type, software such as Microsoft Word, etc.) [see Sullivan, col. 7, lines 37-44; Figs. 5 and 6]; (2) creating a profile for the customer that includes the received customer information (i.e., information pertaining to the user is stored including the user's contact information, operating system type, values entered by the user in problem submission fields, etc.) [Sullivan, cols. 34-46]; (3) evaluating the customer information in the profile [id.]; (4) identifying customer support information specifically relevant to the products that the customer uses [Sullivan, col. 7, lines 44-57; Fig. 7]; and (5) presenting the customer support information to the customer in at least one personalized web page [id.].<sup>2</sup>

Although Sullivan anticipates at least claim 1, obviousness rejections can nevertheless be based on references that happen to anticipate the claimed subject matter. In re Meyer, 599 F.2d 1026, 1031, 202 USPQ 175, 179 (CCPA 1979). Moreover, in affirming a multiple-reference rejection under 35 U.S.C. § 103, the Board may rely on less than the total number of references relied on by the examiner. In re Bush, 296 F.2d 491, 496, 131 USPQ 263, 266- 67 (CCPA 1961); In re Boyer, 363 F.2d 455, 458 n.2, 150 USPQ 441, 444 n.2 (CCPA 1966). Under this analysis, the teachings of Dedrick are merely cumulative to

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<sup>2</sup> Regarding step (5), the personalized web page shown in Fig. 5 of Sullivan contains a search string 90 that is dynamically generated via diagnostic map that examines the client's system (including existing applications, registry information, etc.) and communicates with the technical support server to derive the search string. In addition, the system can produce a self-help answer or URL [Sullivan, col. 8, lines 36-55].

those found in Sullivan. Thus, the examiner's rejection is proper even based solely on the teachings of Sullivan.

In summary, we have sustained the examiner's rejection with respect to all claims on appeal. Therefore, the decision of the examiner rejecting claims 1, 3-7, 9-11, 13-17, 19-21, 23-27, and 29-41 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv).

AFFIRMED

JERRY SMITH	)	
Administrative Patent Judge	)	
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	)	
JOSEPH F. RUGGIERO	)	BOARD OF PATENT
Administrative Patent Judge	)	APPEALS AND
	)	INTERFERENCES
	)	
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Appeal No. 2006-2184  
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