

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 MICHAEL F. GUHEEN, JAMES D. MITCHELL, and
JAMES J. BARRESE

Appeal 2006-2503
Application 09/321,279
Technology Center 3600

Decided: January 17, 2007

Before TERRY J. OWENS, LINDA E. HORNER, and ANTON W. FETTING,
Administrative Patent Judges.

HORNER, *Administrative Patent Judge.*

DECISION ON APPEAL

This is a decision on appeal under 35 USC § 134(a) from the Examiner's final rejection of claims 1-42, all of the claims pending in the application.

We REVERSE.

BACKGROUND

The Appellants' invention relates to a method for performing a comparative analysis of network vendors. Claims 1 and 21, reproduced below, are representative of the subject matter on appeal. A copy of all of the claims can be found in the appendix to the Appellants' Brief.

1. A method for performing a comparative analysis of network vendors comprising the steps of:
 - (a) determining a current network framework;
 - (b) displaying a graphical depiction of the current network framework and a plurality of components thereof;
 - (c) coding at least some of the components with non-textual indicia to provide an altered appearance that indicates whether products or services relating to the components are available from one of the at least two vendors, wherein the coding presents a comparative analysis of at least two vendors of products or services that are related to components of the network framework;
 - (d) identifying a priority among the plurality of components in accordance with an order of implementation; and
 - (e) in response to (d), coding each corresponding component with corresponding indicia coding to indicate the priority of each said corresponding component.

21. A method for performing a comparative analysis of network vendors comprising the steps of:
- (a) determining a current network framework;
 - (b) displaying a graphical depiction of the current network framework and a plurality of components;
 - (c) assigning each vendor a unique indicia coding;
 - (d) comparing entries of the database with the plurality of components, wherein the entries correspond to all product and services of at least two vendors;
 - (e) if the database is indicative that a service or product corresponds to a component and the service or product is offered by a first vendor, displaying the component with a first unique non-textual indicia coding with the component shown in the graphical depiction of the current network framework, wherein the first unique indicia coding corresponds to the first vendor; and
 - (f) if the database is indicative that the service or product corresponds to the component and the service or product is offered by a second vendor, additionally displaying the component with a second unique non-textual indicia coding with the component shown in the graphical depiction of the current network framework, wherein the second unique indicia coding corresponds to the second vendor.

Appeal 2006-2503
Application 09/321,279

The Examiner relies upon the following as evidence of unpatentability:

Tonelli	US 5,821,937	Oct. 13, 1998
CNET reviews (from CNET.com): (i) "OK for \$2K" (Reference A); (ii) "The hard drives have it" (Reference B); (iii) "Five Top Web Servers" (Reference C); and (iv) "ISDN: the speed you need" (Reference D)		

The following rejections are before us for review.

1. Claims 21, 23, 24, 34-36, 39, 40, and 42 stand rejected under 35 USC §§ 102(a) and (e) as being anticipated by Tonelli.
2. Claims 1-20, 22, 25-33, and 41 stand rejected under 35 USC § 103(a) as being unpatentable over Tonelli in view of CNET reviews.
3. Claims 37 and 38 stand rejected under 35 USC § 103(a) as being unpatentable over Tonelli.¹

Rather than reiterate in detail the conflicting viewpoints advanced by the Examiner and the Appellants regarding this appeal, we make reference to the Advisory Action (mailed February 16, 2005) and the Examiner's Answer (mailed February 14, 2006) for the Examiner's complete reasoning in support of the rejection and to the Appellants' Brief (filed November 30, 2005) and Reply Brief (filed April 11, 2006) for the Appellants' arguments.

¹ Although the rejection of claims 37 and 38 is not listed in the Appellants' or the Examiner's Grounds of Rejection to be Reviewed on Appeal sections, both the Brief (Brief 40) and the Answer (Answer 19, 20) address the rejection in the Argument and Grounds of Rejection sections, respectively.

OPINION

In reaching our decision in this appeal, we have carefully considered the Appellants' specification and claims, the applied prior art, and the respective positions articulated by the Appellants and the Examiner. As a consequence of our review, we make the determinations that follow.

Independent claims 1, 10, 19, and 20 require identifying a priority among a plurality of components of a network framework in accordance with an order of implementation, and coding each corresponding component with corresponding indicia coding to indicate the priority of each corresponding component.

We find that Tonelli and CNET reviews, when considered in combination, would not have taught, suggested, or motivated one having ordinary skill in the art at the time the invention was made to have coded the components with indicia to indicate the priority of implementation of the components.

The Examiner determined that Tonelli uses color coding to denote the order in which components must be implemented (Answer 10) (citing Tonelli, col. 9, ll. 25-37 and 54-67 and col. 10, ll. 1-30 and 40-65). We disagree with this interpretation of Tonelli.

Tonelli describes an interface that can be used to design a network (Tonelli, col. 5, ll. 23-29). Once a user has added two devices on the network design sheet (30) of the interface, the user can create a connection between the devices by selecting a media type (e.g., unshielded twisted pair media), from the media palette (121) (Tonelli, col. 8, ll. 38-43). The user then selects one of the devices to begin the connection (Tonelli, col. 8, ll. 55-63). A status bar (32) on the interface

indicates that a connection has been started and instructs the user to click on a target device to complete the connection (Tonelli, col. 9, ll. 16-21). When the user drags the connection over the target device, the target device turns either green, red, or yellow to indicate if the device can accept the connection (green), cannot accept the connection (red), or can accept the connection only after intermediate steps are taken (yellow) (Tonelli, col. 9, ll. 23-32). In the case of a yellow target device, the user can configure the target device in order to complete the connection (Tonelli, col. 9, l. 38-col. 10, l. 32), or the network software can assist the user in adding necessary intermediate devices in order to complete the connection (Tonelli, col. 10, ll. 41-46).

The Appellants argue that Tonelli teaches color coding only the target device and does not teach coding each component being connected to indicate the priority among the components (Brief 28 and Reply Brief 3). The Appellants further argue that Tonelli merely teaches about the required compatibility of components that are implemented at the same time and does not imply a priority (i.e., an order) of implementation (Brief 29 and Reply Brief 3).

We agree with the Appellants that Tonelli teaches using a color indicator only on the target device, when the connection is dragged to the target device, to indicate whether a connection can be made. Tonelli describes using this color indicator during network design to indicate compatibility of devices being connected. Tonelli does not relate to implementation of the network design and thus does not teach or suggest using color indicators on a plurality of components of the network to indicate a priority of implementation.

Appeal 2006-2503
Application 09/321,279

The CNET reviews fail to cure the deficiencies of Tonelli because they relate only to presenting comparative analyses of products and services related to components of a network framework (CNET reviews, Ref. A, p. 1, Ref. B, p. 1, Ref. C, p. 1, and Ref. D, p. 1). The CNET reviews do not teach or suggest coding components of the network framework to indicate a priority of implementation among the components.

As such, we do not sustain the examiner's rejection of claims 1, 10, 19, and 20 under 35 USC § 103(a) as being unpatentable over Tonelli in view of CNET Reviews. Claims 2-9, which depend from claim 1, and claims 11-18, which depend from claim 10, are also patentable over the combined teachings of Tonelli and CNET Reviews.

Independent claim 21 requires displaying a component with a first unique non-textual indicia coding corresponding to a first vendor and additionally displaying the component with second unique non-textual indicia coding corresponding to a second vendor.

The Appellants argue that Tonelli does not teach or suggest displaying the same component with a first unique non-textual indicia coding corresponding to a first vendor and a second unique non-textual indicia coding corresponding to a second vendor. We agree with the Appellants' position. We find that each component of Tonelli is labeled with only one vendor name (Tonelli, Figure 11). Tonelli does not disclose labeling a single component with more than one vendor's name. As such, we do not sustain the Examiner's rejection of claim 21 under 35

Appeal 2006-2503
Application 09/321,279

USC §§ 102(a) and (e) as anticipated by Tonelli. Claims 22-36 and 39-42, which depend from claim 21, are also not anticipated by Tonelli.

Claims 37 and 38, which also depend from claim 21, are not obvious in view of Tonelli, because Tonelli would not have taught, suggested, or motivated one having ordinary skill in the art at the time of the invention, to have coded a component with a first unique non-textual indicia coding corresponding to a first vendor and a second unique non-textual indicia coding corresponding to a second vendor, as required in claim 21. As such, we do not sustain the Examiner's rejection of claims 37 and 38 under 35 USC § 103(a) as unpatentable over Tonelli.

Appeal 2006-2503
Application 09/321,279

CONCLUSION

To summarize, the decision of the Examiner to reject claims 1-42 is reversed.

REVERSED

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TERRY J. OWENS)
Administrative Patent Judge)
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) BOARD OF PATENT
LINDA E. HORNER) APPEALS
Administrative Patent Judge) AND
) INTERFERENCES
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Appeal 2006-2503
Application 09/321,279

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