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 SUMAN KUMAR INALA, P. VENKAT RANGAN, RAMAKRISHNA SATYAVOLU, and SREERANGA PRASANNAKUMAR RAJAN

Appeal 2007-0221
Application 09/737,404
Technology Center 2100

Decided: May 17, 2007

Before KENNETH W. HAIRSTION, JOSEPH F. RUGGIERO, and HOWARD B. BLANKENSHIP, *Administrative Patent Judges.*

RUGGIERO, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from the Final Rejection of claims 1-5 and 7-11. We have jurisdiction under 35 U.S.C. § 6(b).

Appellants' claimed invention relates to an Internet Portal system and method in which portal software executing on an Internet-connected server includes a summary software agent. The summary software agent accesses Internet destinations included in a list, maintained on the Portal, of Internet destinations specific for a subscriber. Information is retrieved from the Internet destinations according to pre-programmed criteria and summarized for delivery to the subscriber.

We affirm.

Claim 1 is illustrative of the invention and it reads as follows:

> 1. An Internet Portal, comprising:
>
> an Internet-connected server; and
>
> a portal software executing on the server, including a summary software agent;
>
> wherein the Portal maintains a list of Internet destinations at secure servers maintaining personal, proprietary financial accounts for each one or more of a plurality of subscribing users, and the summary software agent automatically logs in to the secure servers on behalf of, and transparent to the subscribing users, according to data stored for the subscribing users at the Portal, retrieves financial information proprietary to each one of the subscribing users, stores the retrieved financial information at the portal, according to pre-programmed criteria, and summarizes the retrieved information for delivery to the subscribing users.

The Examiner relies on the following prior art references to show unpatentability:

Nazem	US 5,983,227	Nov. 9, 1999
Nielsen	US 6,006,333	Dec. 21, 1999
Nehab	US 6,029,182	Feb. 22, 2000
Rao	US 6,078,929	Jun. 20, 2000
Gershman	US 6,356,905 B1	Mar. 12, 2002

		(March 5, 1999)
Franco	US 6,687,745 B1	Feb. 3, 2004
		(June 22, 2000)

Claims 1-5 and 7-11, all of the appealed claims, stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nazem in view of Nehab, Gershman, and Rao. In a separate rejection under 35 U.S.C. § 103(a), claims 1-5 and 7-11 stand rejected as being unpatentable over Nielsen in view of Franco.

Rather than reiterate the arguments of Appellants and the Examiner, reference is made to the Brief and Answer for the respective details.

DISCUSSION

As a general proposition in an appeal involving a rejection under 35 U.S.C. § 103, an Examiner is under a burden to make out a prima facie case of obviousness. If that burden is met, the burden of going forward then shifts to Appellants 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 In re Oetiker,* 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); *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). Furthermore, "'there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness' . . . [H]owever, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would

employ." *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 82 USPQ2d 1385, 1396 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)).

With respect to the Examiner's 35 U.S.C. § 103(a) rejection of independent claims 1 and 7 based on the combination of Nazem, Nehab, Gershman, and Rao, after reviewing the Examiner's analysis (Answer 3-9), it is our opinion that the stated position is sufficiently reasonable that we find that the Examiner has at least satisfied the burden of presenting a prima facie case of obviousness. The burden is, therefore, upon Appellants to come forward with evidence and/or arguments which persuasively rebut the Examiner's prima facie case. 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 waived [see 37 C.F.R. § 41.37(c)(1)(vii)].

Appellants' arguments in response to the Examiner's 35 U.S.C. § 103(a) rejection do not attack the Examiner's establishment of motivation for the proposed combination of references but, rather, assert a failure by the Examiner to establish a prima facie case of obviousness since all of the claimed limitations are not taught or suggested by the applied prior art references. In particular, Appellants focus (Br. 6-7) on the alleged deficiency of Gershman in teaching the retrieving, storing, and summarizing financial information that is "proprietary" to the user.

After careful review of the disclosure of Gershman in light of the arguments of record, however, we are in general agreement with the Examiner's position as stated in the Answer. For all of the reasons articulated by the Examiner (Answer 18-20), we find that the bill-paying

function of the summary agent in Gershman (col. 34, ll. 56-64) would necessarily involve the retrieving of financial information "proprietary" to the subscribing user as claimed. We simply fail to see how the financial information necessary for paying bills such as checking account numbers and credit card numbers could be considered anything other than information that is "proprietary" to the user.

We also make the observation that Gershman also discloses the use of "proprietary" financial information in the life insurance planning example as illustrated in Figure 23 and discussed beginning at column 35, line 61. As illustrated, this "proprietary" information includes, at a minimum, the particular policy number of the policy owned by the user for which the analysis of insurance needs and goals is undertaken.

For the above reasons, since it is our opinion that the Examiner's prima facie case of obviousness has not been overcome by any convincing arguments from Appellants, the Examiner's 35 U.S.C. § 103(a) rejection, based on the combination of Nazem, Nehab, Gershman, and Rao, of independent claims 1 and 7, as well as dependent claims 2-5 and 8-11 not separately argued by Appellants, is sustained.

Turning to a consideration of the Examiner's separate obviousness rejection of appealed claims 1-5 and 7-11 based on the combination of Nielsen and Franco, we sustain this rejection as well. As with the previously discussed Gershman reference, Appellants' arguments (Br. 7-8) focus on the deficiency of Franco in disclosing the retrieving of financial information "proprietary" to a user. We agree with the Examiner (Answer 23-24), however, that Franco's description of the "Stock Watcher" application, illustrated in Franco's Figure 2, provides a teaching of the use of a user's

"proprietary" financial information as claimed. It is our view that the ordinarily skilled artisan would have recognized and appreciated that Franco's displayed information such as stock portfolios and trading orders would involve information about stocks that are owned by the user, i.e., financial information that is "proprietary' to the user.

CONCLUSION

In summary, we have sustained the Examiner's 35 U.S.C. § 103(a) rejections of all of the claims on appeal. Therefore, the decision of the Examiner rejecting claims 1-5 and 7-11 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv)(effective September 13, 2004).

AFFIRMED

tdl/gw

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