

The opinion in support of the decision being entered today is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LINDA D. EDD, TERRY CHARLES LAMBERT,
TIMOTHY JERALD MCGUIRE, and THOMAS ALAN SHORE

Appeal 2007-0990
Application 09/871,920
Technology Center 2100

Decided: June 28, 2007

Before JAMES D. THOMAS, KENNETH W. HAIRSTON, and
ST. JOHN COURTENAY III, *Administrative Patent Judges*.

COURTENAY, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1-50 and 59. It is our view, after consideration of the record before us, that the evidence relied upon supports the Examiner's rejection of claims 1-19, 23, 24, 26, 27, 32-40, 43, 45, 50,

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and 59, but does not support the Examiner's rejection of claims 20-22, 25, 28-31, 41, 42, 44, and 46-49. Accordingly, we AFFIRM-IN-PART.

THE INVENTION

The disclosed invention generally relates to the management of electronic content. More particularly, the disclosed invention is directed to the management of electronic content organized into a website and accessible via a network such as the Internet. In various embodiments, content management information for a content item is maintained in a content management record that is separate from the content item, which allows for greater flexibility when implementing changes in a content management process, and when managing content in different domains. Moreover, in various embodiments, content management records are maintained in a groupware-type environment, whereby collaborative tools such as document sharing and messaging may be used to facilitate the interaction among members of a content creation, development and management team during the various stages of a content management process (Specification 1, 4).

Independent claim 1 is illustrative:

1. A method of managing content in a content-controlled database, the method comprising:

(a) linking a content management record to a content item to be incorporated into a content-controlled database, the content management record storing content management information associated with the content item;

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(b) processing the content item through a plurality of stages of a content management process, including updating the content management information stored in the content management record during each stage of the content management process, wherein the plurality of stages includes at least one review stage during which approval of the content item is obtained; and

(c) promoting the content item as a result of the content management process such that the content item is user accessible from the content-controlled database, including updating the content management information stored in the content management record to indicate that the content item has been promoted.

THE REFERENCES

Ivanov	US 5,706,452	Jan. 6, 1998
Klibaner	US 2002/0161597 A1	Oct. 31, 2002 (filed Jun. 27, 2001)

THE REJECTION

1. Claims 1-50 and 59 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the teachings of Ivanov in view of Klibaner.

Rather than repeat the arguments of Appellants or the Examiner, we make reference to the Briefs and the Answer for the respective details thereof.

ANALYSIS

At the outset, we find both Appellants and the Examiner have given incomplete consideration to the teaching value of Ivanov and Klibaner. We

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note that one limitation in dispute in claim 1 is “promoting the content item as a result of the content management process such that the content item is *user accessible*” (emphasis added), which the Examiner and Appellants appear to agree is not present in Ivanov alone (*see* Br. 5, *see* Answer 7-8). However, after carefully reviewing the evidence before us, we find that Ivanov does, in fact, teach promotion of content to make the content user accessible.

In particular, we note that Ivanov discloses a plurality of review stages (col. 8, ll. 34-45). Once a review stage is completed, the workflow manager triggers review of the next stage (col. 8, ll. 46-51). The reviewers at a particular stage may only access the document for review once all reviews at the prior stage are completed (col. 8, ll. 43-45). Therefore, once a review stage is completed, the content item (document) is “promoted” such that it is user accessible (i.e., new reviewers may access the document for review). Nevertheless, even without relying on this teaching of Ivanov, we sustain the Examiner’s rejection of each independent claim since we conclude Klibaner may be properly combined with Ivanov and we find the combination teaches all elements of each claim, as discussed *infra*.

Motivation

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 must make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148

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USPQ 459, 467 (1966). 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, 1741, 82 USPQ2d 1385, 1396 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)). In *KSR*, The Supreme Court further stated:

When a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability. For the same reason, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill.

KSR Int’l Co. v. Teleflex Inc., 127 S. Ct. at 1740, 82 USPQ2d at 1396.

This reasoning is applicable here. We note that Ivanov teaches approving documents using a tiered review process (col. 8, ll. 34-48). Klibaner teaches publication of a document to a website, upon approval by multiple parties (pp. 2-3, ¶ 26; *see also* p. 8, ¶ 48). Therefore, we conclude it would have been obvious to a person of ordinary skill in the art that modifying Ivanov with the teachings of Klibaner would have resulted in a predictable variation of Ivanov, i.e., a combined system where a document is approved by multiple parties via a tiered review process before publication

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on a website. We agree with the Examiner that the proffered combination would have been an advantageous improvement to Ivanov, since the combined system would have provided publication of the approved documents to a website, while also ensuring that documents would not appear on the website without first passing through a tiered review process. Therefore, when we take account of the inferences and creative steps that a person of ordinary skill in the art would have employed, we find the Examiner has articulated an adequate reasoning with a rational underpinning that reasonably supports the legal conclusion of obviousness.

Independent Claim 1

We consider first the Examiner's rejection of independent claim 1 as being unpatentable over Ivanov in view of Klibaner.

Appellants argue: (a) the combination of Ivanov and Klibaner fails to teach or suggest the promotion of content to make the content "user accessible" in a database (Br. 5), and (b) that neither Ivanov or Klibaner teaches or suggests updating the content management information stored in the content management record to indicate that the content item has been promoted (Br. 7). Appellants further argue (c), that the Examiner has taken a definition of "promotion" altogether different from that which would be understood by one of ordinary skill in the art reading Applicants' disclosure (Br. 8).

The Examiner disagrees for essentially the same reasons we further discuss *infra* (Answer 6-9).

In response to Appellants' argument (a) that neither Ivanov or Klibaner teaches or suggests the promotion of content to make the content "user accessible" in a database (*see* Br. 5), we find Ivanov teaches a plurality of "promotions," since each stage of the review process must be completed before the document can be "promoted" to the next stage, until it is finally approved (col. 8, ll. 34-51). We note Ivanov also teaches a database that stores documents and reviews (col. 7, ll. 47-49, 61-63, col. 8, l. 6). We find Klibaner teaches publication of a document that has been approved by multiple parties (i.e., content controlled), since the "decision" of Klibaner's process is published as a result of mutual agreement of the parties (pp. 2-3, ¶¶ 23, 25, and 26; *see also* p. 8, ¶ 48). We further note that Klibaner teaches the information placed on the website is preferably stored and maintained in a database (p. 2, ¶ 25). Therefore, we conclude the combination of Ivanov and Klibaner would have resulted in publication of finally approved documents as a result of a mutual agreement by the reviewers. Thus, a document that received final approval and was published would have been promoted and made user accessible from a content-controlled database, as required by the language of claim 1.

We disagree with Appellants' argument (b) that neither Ivanov nor Klibaner teaches or suggests updating the content management information stored in the content management record to indicate that the content item has been promoted (*see* Br. 7). In contrast, we find Ivanov teaches and/or suggests these limitations. Specifically, Ivanov teaches updating a content management record when a document receives final approval, i.e., after all stages have been finalized (col. 15, lines 34-38). This operation is

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performed by the workflow manager who changes the status of the document to “Finalized” once all review stages are complete (*id.*).

Regarding Appellants’ argument (c), we note that Appellants have not provided a definition of “promotion” in the Specification. Accordingly, we give the term its broadest reasonable interpretation consistent with the Specification. Appellants describe promotion in the context of the statement: “[a]ny approved content item is thereafter promoted such that such content item is available to users of the content controlled database” (Specification 7, ll. 8-9). Thus, we conclude that a broad but reasonable interpretation of the term “promoted” is met by an operation where a document is finally approved for publication on a publicly accessible web server, as taught and/or suggested by the combination Ivanov and Klibaner.

For at least the aforementioned reasons, we conclude the Examiner has met the burden of presenting a prima facie case of obviousness. Accordingly, we will sustain the Examiner’s rejection of claim 1 as being unpatentable over Ivanov in view of Klibaner.

Dependent claims 2-12, 17, and 18

Appellants have not presented any substantive arguments directed separately to the patentability of dependent claims 2-12, 17, and 18. In the absence of a separate argument with respect to the dependent claims, those claims stand or fall with the representative independent claim. See *In re Young*, 927 F.2d 588, 590, 18 USPQ2d 1089, 1091 (Fed. Cir. 1991). See also 37 C.F.R. § 41.37(c)(1)(vii). Therefore, we will sustain the Examiner’s

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rejection of these claims as being unpatentable over Ivanov in view of Klibaner for the same reasons discussed *supra* with respect to claim 1.

Independent claims 32, 50, and 59

We consider next the Examiner's rejection of independent claims 32, 50, and 59 as being unpatentable over Ivanov in view of Klibaner.

We note that Appellants rely on the same arguments previously presented for claim 1, and present an additional argument that each of independent claims 32, 50, and 59 recite *a program* for promoting the content item as a result of the content management process and updating the content management record (Br. 9-10). However, we find the systems disclosed by both Ivanov and Klibaner are computer systems. We further find the argued promotion/updating steps are automatically performed by Ivanov's workflow manager *program* (col. 7, ll. 11-18; *see also* col. 15, ll. 34-38) that resides on "server computer 24" (col. 7, ll. 44-45). Therefore, we conclude the Examiner has met the burden of presenting a *prima facie* case of obviousness for independent claims 32, 50, and 59. Accordingly, we will sustain the Examiner's rejection of independent claims 32, 50, and 59 as being unpatentable over Ivanov in view of Klibaner.

Dependent claims 33-38 and 40

Appellants have not presented any substantive arguments directed separately to the patentability of dependent claims 33-38 and 40. In the absence of a separate argument with respect to the dependent claims, those claims stand or fall with the representative independent claim. See *In re*

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Young, 927 F.2d at 590, 18 USPQ2d at 1091. See also 37 C.F.R. § 41.37(c)(1)(vii). Therefore, we will sustain the Examiner's rejection of these claims as being unpatentable over Ivanov in view of Klibaner for the same reasons discussed supra with respect to independent claim 32.

Dependent claims 13-16, 19, 23, 24, 26, 27, 39, 43 and 45

Turning to the remaining dependent claims, Appellants have argued several groups of dependent claims separately. We will initially address dependent claims 13-16, 19, 23, 24, 26, 27, 39, 43 and 45. We have sustained the Examiner's rejection of these claims as being obvious over Ivanov in view of Klibaner for the following reasons:

Regarding claim 13, we find Appellants' arguments unavailing (Br. 11). We agree with the Examiner that the copyright reviewers disclosed by Ivanov (col. 9, ll. 50-63) are "country-related" entities that review the item based on "country-specific" requirements, since copyright laws are country specific (*see* Answer 10).

Regarding claim 14, we find Appellants' arguments unavailing (Br. 11). We agree with the Examiner that a typical database administrator has responsibility for "all of the content" in a database (*see* Answer 10-11). Furthermore, we find Ivanov discloses a "final reviewer" that reviews a document after all other reviews have been completed (col. 8, ll. 43-45). Therefore, we conclude that Ivanov would have provided a clear suggestion to one of ordinary skill in the art to employ at least one reviewer having responsibility for all the database content to ensure that all content items are universally approved before publication.

Regarding claim 15, we find Appellants' arguments unavailing (Br. 12). We note the Examiner has pointed to Ivanov at column 27, lines 15-20 as teaching a revision process in which a rejected proposal can be modified and resubmitted (*see* Answer 11). We agree with the Examiner that this post rejection stage is a development stage since it changes the content of the document and "formats" it for inclusion in the database.

Regarding claims 16 and 39, we find Appellants' arguments unavailing (Br. 12). We agree with the Examiner that the resubmission of a revised content item includes returning the content item to an earlier stage in the content management process; specifically, returning to the first review stage (*see* Answer 11).

Regarding claim 19, we find Appellants' arguments unavailing (Br. 13). Appellants argue that claim 19 is not directed to a "web server in the abstract," but rather refines the concept of promotion (*id.*). However, we have found *supra* that the combination of Ivanov and Klibaner teaches and/or suggests promotion of a content item for publishing on a website server (*see* discussion of claim 1 *supra*).

Regarding claim 23, we find Appellants' arguments unavailing (Br. 15). As discussed *supra*, Ivanov discloses a plurality of "promotions" as each stage of the review process is complete. Once a stage of the review process is completed, the content item is promoted and the next set of reviewers can review the document (Ivanov, col. 8, ll. 20-59). Since all reviews are combined to form one master review (i.e., grade), we find each successive review stage can reasonably be interpreted as an "update review process," as claimed.

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Regarding claims 24 and 43, we find Appellants' arguments unavailing (Br. 15). As discussed *supra* with respect to claim 23, once a stage is completed, the item is promoted and the next set of reviewers can review the document. Ivanov teaches the next set of reviewers is notified when the update review process is initiated (col. 9, l. 66 through col. 10, l. 8). We find the reviewers for the next stage are "authors" because they write reviews and are "associated with" the content item since they are reviewing the content item.

Regarding claims 26, 27, and 45, we find Appellants' arguments unavailing (Br. 15-16). We direct Appellants attention to Ivanov at column 18, lines 5-9 of which describes reminding a reviewer if a time period has passed without the update review process being completed.

Dependent claims 20-22, 25, 28-31, 41, 42, 44, and 46-49

Responsive to Appellants' arguments, we reverse the Examiner's rejection of the following dependent claims as being unpatentable over Ivanov in view of Klibaner:

Regarding claim 20, we find Appellants' arguments persuasive (Br. 13). We note the Examiner has cited only Fig. 1 of Klibaner as allegedly teaching the subject matter of claim 20. However, after reviewing Fig. 1 (Klibaner) and both references relied on by the Examiner, we find Ivanov and Klibaner fail to teach or reasonably suggest copying the content item to a staging server or copying the content item from the staging server to a production server automatically during automatic synchronization of the staging and production servers, as required by the language of claim 20.

Regarding claims 21 and 41, we find Appellants' arguments persuasive (Br. 14). We note the Examiner has provided only a single paragraph in support of the rejection of numerous dependent claims, including claims 21 and 41 (*see* Answer 5, 12). The Examiner has provided a citation to "recording specific dates" at column 23, lines 60-62 and column 15, lines 42-45 of Ivanov, but has not provided a specific citation directed to deferring promotion of the content item. Upon review of the sections cited by the Examiner, and the entirety of Ivanov and Klibaner, we find Ivanov and Kilbaner fail to teach or reasonably suggest "after approval of the content item, deferring promotion of the content item until a predetermined date identified in the content management record," as required by the language of claim 21 and the equivalent language of claim 41. While Ivanov discloses various dates in the content management record (e.g., col. 11, lines 45-50; col. 12, lines 53-58; col. 14, lines 14-18; col. 15, lines 40-44), we find nothing in Ivanov that fairly discloses deferring promotion of the content item until a particular date after the content item has been approved.

We note that claims 22 and 42 depend from claims 21 and 41, respectively. Because we have reversed the Examiner's rejections of claims 21 and 41, we will also reverse the Examiner's rejections of claims 22 and 42 as being unpatentable over Ivanov in view of Kilbaner.

Regarding claims 25 and 44, we find Appellants' arguments persuasive (Br. 15). We note again that the Examiner has provided only a single paragraph in support of the rejection of numerous dependent claims, including claims 25 and 44 (Answer 5, 12). The Examiner has provided a

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citation to “recording specific dates” at column 23, lines 60-62 and column 15, lines 42-45 of Ivanov, but has not provided a specific citation directed to initiating the update review process in response to the current data matching the update review data identified in the content management record. Upon review of the sections cited by the Examiner, and the references in their entirety, we find Ivanov and Kilbaner do not teach or reasonably suggest that “initiating the update review process is performed in response to the current data matching the update review data identified in the content management record,” as required by the language of claims 25 and 44. While Ivanov discloses various dates in the content management record (e.g., col. 11, lines 45-50; col. 12, lines 53-58; col. 14, lines 14-18; col. 15, lines 40-44), we find nothing in Ivanov that fairly teaches initiating an update review process in response to the current data matching one of these dates.

Regarding claims 28 and 46, we find Appellants’ arguments persuasive (Br. 16). We note again that the Examiner has provided only a single paragraph in support of the rejection of numerous dependent claims, including claims 28 and 46 (Answer 5, 12). The Examiner has not provided any specific citation directed to “demotion of the content item,” as claimed (claims 28 and 46). Upon review of the general citations of the Examiner, and the entirety of Ivanov and Klibaner, we find nothing in Ivanov or Kilbaner that fairly teaches or reasonably suggests that “initiating the update review process includes initiating demotion of the content item a time period after the update review process has been initiated if the update review process has not yet been completed,” as required by the language of claim 28 and the equivalent language of claim 46.

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Regarding claims 29 and 47, we find Appellants' arguments persuasive (Br. 16-17). Again, we note the Examiner has provided only a general citation in support of the rejection of numerous dependent claims, including claims 29 and 47 (Answer 5, 12). The Examiner has not provided any specific citation directed to whether the content item is a "parent content item" or "automatically initiating a review of a child content item linked to the parent content item" (claim 29; *see also* equivalent language of claim 47). Upon review of the general citations of the Examiner, and the entirety of both references, we find nothing in Ivanov or Kilbaner that fairly teaches or reasonably suggests that "the content item is a parent content item" or "automatically initiating a review of a child content item linked to the parent content item in response to a modification of the parent content item," as required by the language of claim 29 and the equivalent language of claim 47.

We note that claims 30, 31, 48, and 49 depend from claims 29 and 47, respectively. Because we have reversed the Examiner's rejections of claims 29 and 47, we will also reverse the Examiner's rejections of claims 30, 31, 48, and 49 as being unpatentable over Ivanov in view of Kilbaner.

DECISION

We sustain the Examiner's rejection of claims 1-19, 23, 24, 26, 27, 32-40, 43, 45, 50, and 59, but we reverse the Examiner's rejection of claims 20-22, 25, 28-31, 41, 42, 44, and 46-49. Therefore, the decision of the Examiner rejecting claims 1-50 and 59 is affirmed-in-part.

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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).

AFFIRMED-IN-PART

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