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 IGNATIUS M. ZETTEL and KEVIN R. CLAYTON

Appeal 2007-1361
Application 09/681,573
Technology Center 2100

Decided: October 24, 2007

Before ANITA PELLMAN GROSS, LANCE LEONARD BARRY,
and JAY P. LUCAS, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

DECISION ON APPEAL

I. STATEMENT OF THE CASE

A Patent Examiner rejected claims 1-29. The Appellants appeal therefrom under 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

A. INVENTION

The invention at issue on appeal "publishes," i.e., disseminates, electronic documents to a document management system ("DMS") in various formats. (Specification ¶ 0001.) To print a document, software applications temporarily route control of the document to a printing program called a "printer driver." Regardless of which application is seeking to print, the printer driver displays the same screens. Besides enabling a user to select a printer, the screens sometimes allow a user to select output parameters. For example, he may specify a range of pages or a number of copies to print. (*Id.* ¶ 0002.)

A user may need to convert an electronic document from its native format to another format for access by another user. For example, an individual seeking access to a document created using a "[personal computer- ("PC-")] based word processing application" may use a "non-PC-based word processing application." (*Id.* ¶ 0003.)

Accordingly, upon receipt of an instruction to publish an electronic document, the Appellants' printer driver retrieves the document and displays a graphical user interface ("GUI") that allows a user to select a publication format, e.g., the portable document format ("PDF"). Upon receipt of such a selection, the driver may convert the document into the selected format. The driver then transmits the converted document to a system for publication thereof. (*Id.* ¶¶ 0003, 0010, 0012.)

B. Illustrative Claims

Claims 1 and 5, which further illustrate the invention, follow:

1. A method to electronically publish media to a document management system comprising the steps of:

accessing an electronic data file;

receiving a publication instruction from a document creation application to publish the accessed data file;

initializing a publication enabler capable of converting a data file into at least one publication format in response to the publication instruction, wherein the publication enabler is independent of the document creation application used to create the electronic data file;

selecting a publication format via the publication enabler;

if necessary for publication to the document management system, converting the accessed data file directly into another publication format; and

publishing the data file in at least one publication format to a document management system.

5. The method of claim 1 wherein the step of publishing further comprises the step of transmitting the data file and a plurality of document parameters to the document management system, wherein the data file and plurality of document parameters are configured to enable the document management system to automatically assign a coded filename, a storage location, and a file identifier to the data file.

C. Rejections

Claims 1-11, 13-15, 25, 27, and 29 stand rejected under 35 U.S.C. § 103(a) as obvious over Academic Technology Services, *Adobe PDF for Electronic Publishing* ("ATS") and U.S. Patent Application Publication

No. 2002/0002563 ("Bendik"). Claims 12 and 16-23 stand rejected under § 103(a) as obvious over ATS; Bendik; and U.S. Patent No. 6,336,124 ("Alam"). Claim 24 stands rejected under § 103(a) as obvious over ATS; Bendik; Alam; and U.S. Patent No. 6,370,567 ("Ouchi"). Claim 26 stands rejected under § 103(a) as obvious over ATS; Bendik; and U.S. Patent No. 6,009,442 ("Chen"). Claim 28 stands rejected under § 103(a) as obvious over ATS, Bendik, and Ouchi.

II. CLAIMS 1-4, 7, AND 25-29

"When multiple claims subject to the same ground of rejection are argued as a group by appellant, the Board may select a single claim from the group of claims that are argued together to decide the appeal with respect to the group of claims as to the ground of rejection on the basis of the selected claim alone. Notwithstanding any other provision of this paragraph, the failure of appellant to separately argue claims which appellant has grouped together shall constitute a waiver of any argument that the Board must consider the patentability of any grouped claim separately." 37 C.F.R. § 41.37(c)(1)(vii) (2006).[1]

[1] We cite to the version of the Code of Federal Regulations in effect at the time of the Appeal Brief. The current version includes the same rules.

Here, the Appellants argue claims 1-4 and 7, which are subject to the same ground of rejection, as a group. (Br.[2] 8-12). We select claim 1 as the sole claim on which to decide the appeal of the group. With this representation in mind, rather than reiterate the positions of the parties *in toto*, we focus on the issues therebetween.

A. PUBLICATION FORMAT

The Examiner finds, "By allowing conversion to a PDF, the limitation of selecting a publication format via a publication enabler, which is only required to be capable of converting a data file into at least one publication format in response to a publication instruction is met." (Answer 17.) The Appellants argue, "PDFWriter, as disclosed in ATS, does not make any publication format choice available to a user for selection thereof." (Br. 11.) Therefore, the issue is whether ATS selects at least one format for dissemination.

"Both anticipation under § 102 and obviousness under § 103 are two-step inquiries. The first step in both analyses is a proper construction of the claims. . . . The second step in the analyses requires a comparison of the properly construed claim to the prior art." *Medichem, S.A. v. Rolabo, S.L.*, 353 F.3d 928, 933, 69 USPQ2d 1283, 1286 (Fed.Cir. 2003) (internal citations omitted).

[2] We rely on and refer to the Appeal Brief of Oct. 18, 2006 in lieu of the briefs of June 16, 2006 and March 9, 2006 because the latter briefs were defective. These latter briefs were not considered in deciding this appeal.

1. Claim Construction

"[T]he PTO gives claims their 'broadest reasonable interpretation.'" *In re Bigio*, 381 F.3d 1320, 1324, 72 USPQ2d 1209, 1211 (Fed. Cir. 2004) (quoting *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1668 (Fed. Cir. 2000)). "Moreover, limitations are not to be read into the claims from the specification." *In re Van Geuns*, 988 F.2d 1181, 1184, 26 USPQ2d 1057, 1059 (Fed. Cir. 1993) (citing *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)).

Here, contrary to the Appellants' argument, claim 1 does not require making a publication format choice available to a user for selection thereof. The claim instead recites in pertinent part the following limitations: "a publication enabler capable of converting a data file into at least one publication format in response to the publication instruction . . . selecting a publication format via the publication enabler. . . ." A definition of "publish" is "disseminate." *Webster's Ninth New Collegiate Dictionary* 952 (1985). Giving the representative claim the broadest, reasonable construction, the limitations merely require selecting at least one format for dissemination.

In contrast, claim 25 recites in pertinent part the following limitations: "a processing unit programmed to call the GUI on demand and enable a *user* selection of one or more publication formats. . . ." (Emphasis added.) Giving the independent claim the broadest, reasonable construction, the limitations require that a **user** selects at least one format for dissemination.

2. Obviousness Analysis

The question of obviousness is "based on underlying factual determinations including . . . what th[e] prior art teaches explicitly and inherently. . . ." *In re Zurko*, 258 F.3d 1379, 1383, 59 USPQ2d 1693, 1696 (Fed. Cir. 2001) (citing *Graham v. John Deere Co.*, 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966); *In re Dembiczak*, 175 F.3d 994, 998, 50 USPQ2d 1614, 1616 (Fed. Cir. 1999); *In re Napier*, 55 F.3d 610, 613, 34 USPQ2d 1782, 1784 (Fed. Cir. 1995)). "In rejecting claims under 35 U.S.C. § 103, the examiner bears the initial burden of presenting a *prima facie* case of obviousness." *In re Rijckaert*, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993) (citing *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992)). "'A *prima facie* case of obviousness is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art.'" *In re Bell*, 991 F.2d 781, 783, 26 USPQ2d 1529, 1531 (Fed. Cir. 1993) (quoting *In re Rinehart*, 531 F.2d 1048, 1051, 189 USPQ 143, 147 (CCPA 1976)).

Here, regarding claim 1, the Appellants recognize, "ATS teaches creating PDF files from an existing electronic document using Adobe PDFWriter. . . ." (Br. 8) In the reference's own words, "PDFWriter . . . allows you to 'print' your document to a PDF file similar to the way you would print your document on a printer." (ATS, p. 3.) The Appellants also recognize that "the Adobe PDFWriter of ATS . . . creates files of one format - a PDF." (Br. 11.) Because the Adobe PDFWriter coverts documents into

PDF, and we agree with the Examiner that "PDF is the at least one publication format" (Answer 17) required by the claim, we further agree with him that PDFWriter (always) selects the PDF for dissemination. We have another issue, however, to address regarding claim 1-4 and 7.

Regarding claim 25, selection by PDFWriter, however, is different from selection by a user. The Examiner does not allege, let alone show, that the addition of Bendik, Chen, or Ouchi cures the aforementioned deficiency of ATS. Absent a teaching or suggestion that a user selects at least one format for dissemination, we are unpersuaded of a prima facie case. Therefore, we reverse the rejection of claim 25 and of claims 26-29, which depend therefrom.

B. Reason to Combine ATS and Bendik

The Examiner makes the following finding.

> It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined ATS publication with Bendik's DMS, since it would have allowed a user to use the advantages of a DMS, namely, easily sharing documents within a workgroup without requiring knowledge of the DOS filename or the physical location of the document (Bendik: paragraph 0003).

(Answer 16.) The Appellants "believe[ ] that the Examiner has not properly shown how it would be obvious to one skilled in the art to combine art that contains such opposite teachings." (Reply Br. 2.) Therefore, the issue is whether the Examiner has identified a reason that would have prompted a

person of ordinary skill in the relevant field to combine a DMS with ATS' teaching of creating documents in the PDF.

1. Claim Construction

Claim 1 recites in pertinent part the following limitations: "a publication enabler capable of converting a data file into at least one publication format in response to the publication instruction . . . selecting a publication format via the publication enabler. . . ." Giving the representative claim the broadest, reasonable construction, the limitations require disseminating a formatted data file to a DMS.

2. Obviousness Analysis

The presence or absence of a reason "to combine references in an obviousness determination is a pure question of fact." *In re Gartside*, 203 F.3d 1305, 1316, 53 USPQ2d 1769, 1776 (Fed. Cir. 2000) (citing *In re Dembiczak*, 175 F.3d 994, 1000, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999)). "[I]t can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does." *KSR Int'l v. Teleflex Inc.*, 127 S.Ct. 1727, 1741, 82 USPQ2d 1385, 1396 (2007). A reason to combine teachings from the prior art "may be found in explicit or implicit teachings within the references themselves, from the ordinary knowledge of those skilled in the art, or from the nature of the problem to be solved." *WMS Gaming, Inc. v. Int'l Game Tech.*, 184 F.3d 1339, 1355, 51 USPQ2d 1385, 1397 (Fed. Cir.

1999) (citing *In re Rouffet*, 149 F.3d 1350, 1357, 47 USPQ2d 1453, 1456 (Fed. Cir. 1998)).

Here, ATS discloses creating documents in the PDF as aforementioned. For its part, Bendik discloses, "Document management systems automate document management on computer networks and facilitate location and sharing of documents in workgroups without requiring knowledge of, for example, the [Disk Operating System] filename or physical location of a document." (¶ 0003.) The latter reference explains, "A document management system may also provide system administration functions by establishing criteria that are used to, for example, determine storage location and/or determine document archival actions. Furthermore, security criteria can be assigned to limit unauthorized access to documents." (*Id.*)

Bendik adds, "Document management systems typically store critical information required to access a document in a document 'profile.'" (¶ 0004.) "The profile information is stored in a database and is used to retrieve the document via a search or query without the user having to remember, for example, the DOS filename and storage location (for example, server.backslash.volume:directory.backslash.filename). Profiling thus provides quick access to documents." (*Id.*)

We agree with the Examiner that facilitating the location and sharing of documents, providing system administration functions, limiting

unauthorized access, or providing quick access to documents would have prompted a person of ordinary skill in the relevant field to combine a DMS with ATS' teaching of creating documents in the PDF. Such a combination, moreover, would have suggested disseminating a formatted data file to a DMS. Therefore, we affirm the rejection of claim 1 and of claims 2-4 and 7, which fall therewith.

III. CLAIMS 5 AND 6

When the patentability of dependent claims is not argued separately, the claims stand or fall with the claims from which they depend. *In re King*, 801 F.2d 1324, 1325, 231 USPQ 136, 137 (Fed. Cir. 1986); *In re Sernaker*, 702 F.2d 989, 991, 217 USPQ 1, 3 (Fed. Cir. 1983). Here, the Appellants do not separately argue the patentability of claim 6, which depends from and is subject to the same ground of rejection as claim 5. We select claim 5 as the sole claim on which to decide the appeal of the two claims.

The Examiner makes the following findings.

> ATS further discloses the method wherein the step of publishing further comprises the step of transmitting the data file to a system wherein the data file are configured to allow the system to automatically assign a coded filename, a storage location, and a file identifier to the data file (page 5, number 7: Here, the file is saved to the hard drive in a document management system under a filename).

(Answer 5.) The Appellants argue, "claim 5 calls for, in part, transmitting <u>the data file</u> to the document management system. That is, the accessed data file, from which the data file in at least one publication format is published,

is itself transmitted to the DMS." (Reply Br. 4.) They further argue, "ATS discloses saving the converted PDF document to a location specified by a user, but ATS is silent on the accessed data file from which the PDF is created." (*Id.*)

A. Claim Construction

"Claims in dependent form shall be construed to include all the limitations of the claim incorporated by reference into the dependent claim." 37 C.F.R. § 1.75. Here, dependent claim 5 recites in pertinent part the following limitations: "[t]he method of claim 1 wherein the step of publishing further comprises the step of transmitting the data file. . . ." For its part, claim 1 recites in pertinent part the following limitations: "publishing the data file in at least one publication format to a document management system." Construing claim 5 in view of claim 1, the dependent claim requires transmitting the formatted data file to the DMS. Contrary to the Appellants' argument, the dependent claim does not require transmitting the unformatted data.

B. Obviousness Analysis

As found regarding claims 1-4, 7, and 25-29, teachings within the references themselves would have prompted a person of ordinary skill to combine a DMS with ATS' teaching of PDFWriter so as to disseminate a formatted data file to a DMS. We also find that such a combination would have transmitted the formatted data file to the DMS. Therefore, we affirm the rejection of claim 5 and of claim 6, which falls therewith.

IV. CLAIMS 8-11 AND 13-15

Here, the Appellants argue claims 8-11 and 13-15, which are subject to the same ground of rejection, as a group. (Br. 12-13.) We select claim 8 as the sole claim on which to decide the appeal of the group.

The Examiner finds, "Bendik discloses conforming data to a document management system with parameters (paragraph 0049)." (Answer 8.) The Appellants argue, "Instead of creating a PDF document according external rules, PDFWriter creates a PDF file according to its own rules." (Br. 13.) Therefore, the issue is whether the combined teachings of ATS and Bendik would have suggested disseminating electronic media to a DMS in accordance with the latter's rules for storage.

A. CLAIM CONSTRUCTION

Claim 8 recites in pertinent part the following limitations: "publish the content of the electronic media directly into the at least one publication format in accordance with the received media control instruction and storage rules of the document management system. . . ." Giving the representative claim the broadest, reasonable construction, the limitations merely require disseminating electronic media to a DMS in accordance with the DMS' rules for storage.

B. OBVIOUSNESS ANALYSIS

"Non-obviousness cannot be established by attacking references individually where the rejection is based upon the teachings of a

combination of references." *In re Merck & Co.*, 800 F.2d 1091, 1097, 231 USPQ 375, 380 (Fed. Cir. 1986) (citing *In re Keller*, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981)). In determining obviousness, furthermore, a reference "must be read, not in isolation, but for what it fairly teaches in combination with the prior art as a whole." *Id.* The test for obviousness is what the combined teachings of the references would have suggested to one of ordinary skill in the art. *In re Young*, 927 F.2d 588, 591, 18 USPQ2d 1089, 1091 (Fed. Cir. 1991) (citing *Keller*, 642 F.2d at 425, 208 USPQ at 881).

Here, the Appellants' argument attacks ATS individually. The Examiner, however, bases his rejection on combined teachings of ATS and Bendik. As found regarding claims 1-4, 7, and 25-29, teachings within the references themselves would have prompted a person of ordinary skill to combine a DMS with ATS' teaching of PDFWriter so as to disseminate a formatted data file to a DMS. Such a data file comprises electronic media.

Bendik adds that "system variables of the document management system of the present invention are preferably set . . . during installation of the system." (¶ 0049.) These system variables are used to define rules for storage in the DMS. More specifically, "the installation process includes answering a few queries or requests for information to set up system parameters through variables that define, for example, the location of document files and templates." (*Id.*) "The answer to a first query preferably defines how an organization desires to store its documents. . . ." (*Id.*) "The

answer to a second query preferably defines the path where 'public' document contents 20 are to be stored in file system 120. The answer to a third query preferably defines a mapped drive to identify the path of the document storage." (*Id.*)

Because the combined teachings of ATS and Bendik generally would have suggested disseminating electronic media to a DMS, and Bendik discloses defining rules for storage in the DMS, we find that the combined teachings of the references specifically would have suggested disseminating the electronic media to the DMS in accordance with the latter's rules for storage. Therefore, we affirm the rejection of claim 8 and of claims 9-11 and 13-15, which fall therewith.

V. CLAIM 12

The Examiner admits, "ATS fails to specifically disclose . . . rout[ing] the electronic data file to a converter configured to substantially simultaneously convert the electronic data file into at least two of a number of publication formats." (Answer 11.) He asserts, however, "Alam discloses . . . rout[ing] the electronic data file to a converter configured to substantially simultaneously convert the electronic data file into at least two of a number of publication formats (Figure 6: Here, a PDF and an Output Format Document are publication formats.)" (*Id.*) The Appellants argue that "all the elements of the present claims are <u>not</u> present in the references." (Br. 15.) Therefore, the issue is whether Alam simultaneously transforms the content of electronic media into more than one format.

A. CLAIM CONSTRUCTION

"The Patent and Trademark Office (PTO) must consider all claim limitations when determining patentability of an invention over the prior art." *In re Lowry*, 32 F.3d 1579, 1582, 32 USPQ2d 1031, 1034 (Fed. Cir. 1994) (citing *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 403-04 (Fed. Cir. 1983)).

Here, claim 12 recites in pertinent part the following limitations: "the computer is further caused to receive more than one media control instruction and simultaneously transform the content of the electronic media into more than one format." Contrary to the Examiner's characterization, the limitations do not permit the transform to be *substantially* simultaneous. Instead, the claim requires *simultaneously* transforming the content of the electronic media into more than one format.

B. OBVIOUSNESS ANALYSIS

Figure 6 of Alam, on which the Examiner relies, "illustrat[es] conversion of data representing a document to portable document format, to an intermediate format, and finally to a different output format. . . ." (Col. 3, ll. 16-18.) Although the reference transforms a "text and/or image document 518" (col. 6, l. 34) into "a PDF document 626" (*id.* l. 37), "an intermediate format document 530" (*id.* l. 42), and "an output format document 534" (*id.* 44-45), the transformations are not simultaneous. Instead, the Figure shows that the three transformations are serial.

The Examiner does not allege, let alone show, that the addition of Bendik or Ouchi cures the aforementioned deficiency of Alam. Absent a teaching or suggestion of *simultaneously* transforming the content of the electronic media into more than one format, we are unpersuaded of a prima facie case. Therefore, we reverse the rejection of claim 12.

VI. CLAIMS 16-23

Here, the Appellants argue claims 16-23, which are subject to the same ground of rejection, as a group. (Br. 16-17.) We select claim 16 as the sole claim on which to decide the appeal of the group.

The Examiner finds that ATS discloses "converting data directly from one format into a publication format (page 3, number 1- page 5, number 7)" (Answer 11) and "transmit[ing] the converted data to at least one publication system capable of publishing the data file into a publication format (page 5, number 7)." (*Id.*) The Appellants argue that "the Adobe PDFWriter generates a PDF document, but ATS fails to disclose a converter together with at least one publication system." (Br. 17.) Therefore, the issue is whether the combined teachings of ATS and Bendik would have suggested a converter and a DMS, one or both constituting a system for disseminating.

A. CLAIM CONSTRUCTION

"Claims must be read in view of the specification, of which they are a part." *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 979, 34 USPQ2d 1321, 1329 (Fed. Cir. 1995) (en banc).

Here, claim 16 recites in pertinent part the following limitations:

> (D) route the electronic data file to a converter configured to convert the electronic data file directly into at least one of a number of publication formats compatible with a document management system; and
>
> (E) transmit the at least one converted data file to at least one publication system capable of publishing the converted data file in the at least one publication format to the document management system.

Although the Appellants indicate that these limitations correspond to Paragraphs 9, 12, and 32 of their Specification (Br. 5-6), they fail to map the the claimed "converter," "publication system," and "document management system" to specific items described therein.[3]

Furthermore, the following omissions of key elements have stymied our attempt to map the claimed "converter," "publication system," and "document management system" to specific items described in the paragraphs cited by the Appellants. The first paragraph cited thereby discloses "publishing electronic documents to a document management system" (Specification ¶0009); the last paragraph, a "document management system's generation of document parameters. . . ." (*Id.* ¶0032.) Neither paragraph, however, mentions a "converter," "converting," or a "publication system."

[3] Such a mapping "is [always] considered important to enable the Board to more quickly determine where the claimed subject matter is described in the application." M.P.E.P. § 1206.

The other paragraph cited by the Appellants describes "convert[ing] the electronic data file into at least one of a number of publication formats. . . ." (*Id.* ¶ 0012.) Although the paragraph explains that "a processor . . . transmit[s] the converted data file to at least one publication system," it mentions no "document management system."

These paragraphs indicate that the claimed "converter" and "document management system" are separate elements. As best as we can tell from the Specification, however, the claimed "publication system," is merely a part of, a function of, or another name for the "converter" or the "document management system." As found regarding claims 1-4, 7, and 25-29, a definition of "publish" is "disseminate." Reading the representative claim in view of the Specification, the limitations require a converter and a DMS, one or both constituting a system for disseminating.

B. OBVIOUSNESS ANALYSIS

The Appellants' argument attacks ATS individually. As mentioned regarding claims 8-11 and 13-15, however, the Examiner bases his rejection on combined teachings of ATS and Bendik. Because the Adobe PDFWriter coverts documents into PDF, we agree with the Examiner that PDFWriter constitutes a converter. For its part, Bendik discloses a DMS. Teachings within the references themselves would have prompted a person of ordinary skill to combine a DMS with ATS' teaching of PDFWriter so as to disseminate a formatted data file to a DMS. In such a combination, moreover, either the PDFWriter, or the DMS, or both, constitutes a system

for disseminating. Therefore, we affirm the rejection of claim 16 and of claims 17-23, which fall therewith.

VII. CLAIM 24

The Examiner admits, "ATS, Bendik, and Alam fail to specifically disclose displaying a listing of document approving supervisors." (Answer 14.) He likewise admits that Ouchi fails to display a list of supervisors (*id.*), but alleges that the latter reference "discloses displaying a list of addresses in response to a user instruction (Figure 12; column 10, lines 63-66: The setting of the BRANCH INDICATOR is a user instruction)." (*Id.*) The Appellants argue, "Ouchi fails to teach or suggest that any of the addresses in the distribution list are displayed." (Br. 18) Therefore, the issue is whether Ouchi would have suggested displaying a list of supervisors who approve documents.

A. CLAIM CONSTRUCTION

Claim 24 recites in pertinent part the following limitations: "displays a listing of document approving supervisors." In other words, the limitations require displaying a list of supervisors who approve documents.

B. OBVIOUSNESS ANALYSIS

Figure 12 of Ouchi "illustrates a route that specifies that a set of e-mails are to be sent to a distribution list if the user at e-mail address B sets the BRANCH INDICATOR=N." (Col. 10, ll. 63-66.) Despite his allegation, the Examiner has not shown that the reference displays any of the

addresses in the distribution list, let alone a list of supervisors who approve documents. Absent a teaching or suggestion of displaying a list of supervisors who approve documents, we are unpersuaded of a prima facie case. Therefore, we reverse the rejection of claim 24.

VIII. ORDER

In summary, the rejections of claims 1-11 and 13-23 are affirmed. The rejections of claims 12 and 24-29, however, are reversed.

"Any arguments or authorities not included in the brief or a reply brief filed pursuant to [37 C.F.R.] § 41.41 will be refused consideration by the Board, unless good cause is shown." 37 C.F.R. § 41.37(c)(1)(vii). Accordingly, our affirmance is based only on the arguments made in the briefs. Any arguments or authorities omitted therefrom are neither before us nor at issue but are considered waived. *Cf. In re Watts*, 354 F.3d 1362, 1367, 69 USPQ2d 1453, 1457 (Fed. Cir. 2004) ("[I]t is important that the applicant challenging a decision not be permitted to raise arguments on appeal that were not presented to the Board.")

No time for taking any action connected with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

KIS

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