

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not binding precedent of the Board.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 SCOTT ALLEN CARROLL, GERALD FRANCIS
MCBREARTY, SHAWN PATRICK MULLEN,
and JOHNNY MENG-HAN SHIEH

Appeal 2007-1567
Application 09/506,235
Technology Center 2100

Decided: July 27, 2007

Before KENNETH W. HAIRSTON, ANITA PELLMAN GROSS,
and SCOTT R. BOALICK, *Administrative Patent Judges*.

HAIRSTON, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from a Final Rejection of claims 1 to 3, 6 to 10, 13 to 17, and 20 to 22. We have jurisdiction under 35 U.S.C. § 6(b).

Appellants have invented a system and method of determining a document weight for each of a plurality of Web documents stored in a plurality of server computers. According to Appellants, the total number of bytes representing the content of each of the documents is calculated, and a complexity weight is assigned to programs in each of the plurality of documents. The byte total for each document is then multiplied by the complexity weight for the document, and a server computer for each Web document is then designated based upon the document weight for the document (Specification 4 and 10 to 12).

Claim 1 is representative of the claims on appeal, and it reads as follows:

1. In a World Wide Web (Web) communication network, a Web server system for accessing stored Web documents from resource databases and transmitting said Web documents onto said Web comprising:

a plurality of server computers of different computer powers at a resource location;

a plurality of stored Web documents, each accessible from said resource database by a designated at least one of said server computers;

means for determining a document weight for each of said plurality of Web documents including:

means for counting the total number of bytes of data representing the content of each of said documents,

means for assigning a complexity weight to programs in each of said plurality of documents, and

means for multiplying the byte total for each Web document by the complexity weight of the Web document,

means for designating the server computers for said respective Web documents based upon said document weights,

means for changing the content of each of said documents,

means, responsive to said means for changing the content, for periodically redetermining the document weights for each of said plurality of documents, and

means for redesignating said server computers for said respective Web documents based upon said redetermined document weights.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Narendran	US 6,070,191	May 30, 2000 (filed Oct. 17, 1997)
Bates	US 6,275,858 B1	Aug. 14, 2001 (filed Jan. 4, 1999)

The Examiner rejected claims 1 to 3, 6 to 10, 13 to 17, and 20 to 22 under 35 U.S.C. § 103(a) based upon the teachings of Narendran and Bates.

Appellants contend that the claimed redetermination of document weights is based on changes in the content of the document whereas the redesignation of servers in Narendran is not related to changes in the document (Br. 10 and 11). Appellants also contend that Bates is only concerned with refreshing an Internet Web page, and checking for changes in the refreshed Web page by comparing or looking for changes in the byte

content of the Web page (Br. 11 and 12). In response to the Examiner's contention that "Narendran's recitation of multiplying the byte total of a document by an 'access rate' is analogous to a complexity weight since appellant does not disclose that the 'complexity weight' is pertaining to the content of the web document" (Answer 8), Appellants note that the claimed "complexity weight" is assigned to program contents of the Web documents (i.e., programs in each of the documents) (Reply Br. 3).

We will reverse the obviousness rejection.

ISSUE

Are the applied references concerned with changes to a document at a resource server location?

FINDINGS OF FACT

As indicated *supra*, Appellants determine a document weight of a document at a server location, and thereafter periodically redetermine the document weight in response to changes to the content of the document.

Appellants acknowledge that the "Narendran reference and the present invention are directed to Web page distribution sites usually made up of several server computers which access the Web pages from a Web database in response to a user request sent over the Web from the user's receiving Web station" (Br. 9).

Appellants acknowledge that “[b]oth Narendran and the present invention are also directed to the distribution of the Web page accessing workload among the servers whereby the server combinations with the highest capacities are assigned to the most active Web pages” (Br. 9).

Narendran describes a server system wherein a redirection server 14-1 redirects a client request to one of the document servers 16 based on a precomputed redirection probability (Figure 2; Abstract). The documents in the servers “are distributed across the document servers in accordance with a load distribution algorithm which may utilize the access rates of the documents as a metric for distributing the documents across the servers and determining the redirection probabilities” (Abstract). “[T]he length of the documents may be taken into account” in defining the access rate to the document (col. 5, ll. 41 to 46). In the event of a failure of a document server, the redirection probabilities are recomputed (Abstract; col. 3, ll. 19 to 23).

As indicated *supra*, Bates determines if a Web page has changed after a refreshing operation by adding together all of the bytes in a Web page (Abstract; col. 4, ll. 36 to 40).

PRINCIPLES OF LAW

The Examiner bears the initial burden of presenting a *prima facie* case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). The Examiner’s articulated reasoning in the rejection must possess a rational underpinning to support the legal conclusion of obviousness. *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006).

ANALYSIS

Although we agree with the Examiner that the determination of the length or size of a document in Narendran is inherently a counting of the total number of bytes of each document, we do not agree with the Examiner that an “access time” to retrieve a document is a teaching of assigning a “complexity weight” specifically to “programs” in a document. If Narendran lacks such a teaching, then Narendran cannot use such a “complexity weight” in the multiplication step with the document byte total to derive a document weight as claimed. We agree with the Appellants that Narendran is completely silent as to changing the contents of a document, and lacks a teaching of redetermining the document weights.

With respect to the teachings of Bates, we agree with the Appellants’ argument that this reference, like Narendran, is not concerned with changes in a document at a resource server location.

CONCLUSION OF LAW

After consideration of Appellants’ arguments, we find that the Appellants have successfully rebutted the Examiner’s positions.

Appeal 2007-1567
Application 09/506,235

DECISION

The obviousness rejection of claims 1 to 3, 6 to 10, 13 to 17, and 20 to 22 is reversed.

REVERSED

pgc

Volel Emile
International Business Machines Corporation
Intellectual Property Law Department
Internal Zip 4054 11400 Burnet Road
Austin TX 78758