

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID R. BAILEY, ANAND RAJARAMAN, and
TODD J. FELDMAN

Appeal 2008-0028
Application 10/909,134
Technology Center 2100

Decided: February 29, 2008

Before HOWARD B. BLANKENSHIP, JEAN R. HOMERE, 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 1-53. We have jurisdiction under 35 U.S.C.
§ 6(b).

We REVERSE.

THE INVENTION

The disclosed invention relates generally to the field of search engines. More particularly, Appellants' invention relates to techniques for facilitating viewing search results that span multiple item categories, and for locating web pages that include offerings for products and other types of items (Spec. 1).

Independent claim 1 is illustrative:

1. A computer-implemented method of analyzing web page content, the method comprising:
 - retrieving a web page located by a crawler program;
 - programmatically analyzing content of the web page to evaluate whether the web page includes a product offering; and
 - generating, based at least in part on the programmatic analysis of the web page, a score that reflects a likelihood that the web page includes a product offering.

THE REFERENCE

The Examiner relies upon the following reference as evidence in support of the rejection:

Jammes US 6,484,149 B1 Nov. 19, 2002

THE REJECTION

Claims 1-53 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Jammes.

PRINCIPLES OF LAW

Under 35 U.S.C. § 102, “[a] single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation.” *Perricone v. Medicis Pharm. Corp.*, 432 F.3d 1368, 1375-76 (Fed. Cir. 2005) (citation omitted). To anticipate, every element and limitation of the claimed invention must be found in a single prior art reference, arranged as in the claim. *Karsten Mfg. Corp. v. Cleveland Golf Co.*, 242 F.3d 1376, 1383 (Fed. Cir. 2001); *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 927 F.2d 1565, 1576 (Fed. Cir. 1991).

ISSUE(S)

We decide the question of whether Appellants have shown that the Examiner erred in holding that the cited Jammes reference anticipates the claimed subject matter. More particularly, we have determined that the following issue is dispositive in this appeal:

Whether Appellants have shown that the Examiner erred in finding that Jammes discloses using a program to analyze web page content to evaluate whether the web page includes a product offering.

(*see* claim 1; *see also* equivalent language recited in each of independent claims 18, 30, 41, and 52).

Independent Claims 1, 18, 30, 41, and 52

We consider the Examiner’s rejection of independent claims 1, 18, 30, 41, and 52 as being anticipated by Jammes.

At the outset, we note that the Examiner states on page 7 of the Office Action (mailed June 28, 2006) that “[a]s to claims 16, 18-53, all limitations of these claims have been addressed in the analysis of claims 1-17 above, and these claims are rejected on that basis.” In particular, the Examiner only sets forth the mapping of claim elements to the Jammes reference for claims 1-15 and 17 in the Office Action mailed June 28, 2006 (pp. 3-7). Because of differences in the limitations of claims 1-15 and 17 versus the limitations recited in claims 16 and 18-53, we are left to speculate as to the Examiner’s mapping between each element of claims 16 and 18-53 and the corresponding portions of the Jammes reference.

With respect to each independent claim on appeal, Appellants contend that Jammes does not disclose using a program to analyze web page content to evaluate whether the web page includes a product offering (*see* App. Br. 6, discussion of claim 1; *see also* App. Br. 12, discussion of claim 18; *see also* App. Br. 15, discussion of claim 30; *see also* App. Br. 17, discussion of claim 41; *see also* App. Br. 18, discussion of claim 52).

The Examiner disagrees. The Examiner contends that Jammes discloses “determining whether any products or web pages are products that a customer looks for.” (Ans. 3-4). The Examiner asserts that the web server of Jammes examines a “traffic analysis database” to extract the customer’s history of accesses to particular web pages and orders of products (Ans. 4). The web server then displays relevant products to the customer (*id.*). The Examiner contends that this finding is supported by the Abstract of Jammes and also by elements 1802-1840 of Figure 18 (Ans. 4).

We begin our analysis by noting that the relevant portion of Jammes' Abstract discloses that a "traffic analysis database" is examined to determine a customer's history of page access, and also the customer's order history, as follows:

The Web server receives requests to access Web pages from consumers using standard Web browsers. The Web server opens a template file related to the requested Web page, creates hyperlinks and other information content by executing database references embedded within the template file, and merges the hyperlinks and content with the template file to generate an HTML Web page to send to the Web browser. The Web server automatically creates additional hyperlinks to any Web pages or products preferred by the consumer by executing customize instructions associated with customize references in a template file. *To determine whether any products or Web pages are preferred by a consumer, the Web server examines a traffic analysis database and extracts the consumer's history of accesses to Web pages and orders of products [emphasis added].*

(Jammes, abstract).

We note that the function of the "traffic analysis database" is further described in column 48 of Jammes, as follows:

A traffic analysis database logs (i.e., stores information about) an individual consumer's access to each Web page and also logs each consumer's order for any product. The traffic analysis database thus, in one embodiment, comprises a 'browse' table and a 'product orders' table.

(Jammes, col. 48, ll. 42-46).

After considering the evidence before us, we do not agree with the Examiner that extracting the customer's history of web page accesses and the customer's previous product orders (as stored in the traffic analysis database) fairly discloses using a program to analyze *web page content* to evaluate whether the *web page includes a product offering*. We note that a database is not a web page. Moreover, the traffic analysis database of Jammes merely stores the customer's history of web page access along with previous customer orders, and not product offerings as required by the language of each independent claim on appeal (*see* Jammes, col. 48, ll. 42-46).

Our review of Figure 18 (as relied on by the Examiner) merely discloses that user selection of a product category displayed on a web page (e.g., "Automotive" hyperlink 1806) results in an associated query that is performed against product information database 116 to look up all products related to the automotive group (*see* Jammes, col. 46, ll. 27-31). We note again that a database is not a web page. Therefore, we find that Jammes' disclosure of examining a database to determine all products related to a product group does not fairly disclose using a program to analyze *web page content* to evaluate whether the *web page includes a product offering*, as required by the language of each independent claim on appeal.

In an alternative theory of anticipation, the Examiner further points to Figure 20B of Jammes that discloses a condition where if any preferred product rules are satisfied (at step 2040) then a template ID and a product name are extracted for each preferred product (*See* Jammes, Fig. 20B, steps 2040-2044, and col. 34, lines 10-15; col. 40, lines 56-60) (Ans. 4, ¶1).

For convenience, we reproduce column 34, lines 10-15 and column 40, lines 56-60 of Jammes below:

In a further step **1112**, the Drop_Event_Handler determines whether a data record was successfully added to the relationship table **202** of the product information database **116** by examining a value of a result code embedded in a message transmitted by the Web server **106** to the enhanced Web browser **112**.

(Jammes, col. 34, ll. 10-15).

Techniques for using such cross sale relationships include automatically generating a message to a consumer who has just ordered a particular product, such message displaying a list of related products and asking the consumer if the consumer would like to order one of the listed products.

(Jammes, col. 40, ll. 56-60).

Regarding the first cited portion of Jammes (col. 34, ll. 10-15), we find nothing in this portion that fairly discloses using a program to analyze *web page content* to evaluate whether the *web page includes a product offering*, as required by the language of each independent claim on appeal.

Regarding the second cited portion of Jammes (col. 40, ll 56-60), we find that generating a message for a consumer (who has just ordered a product) that displays a list of related products does not fairly disclose using a program to analyze *web page content* to evaluate whether the *web page includes a product offering*, as required by the language of each independent claim on appeal. As discussed *supra*, Jammes discloses that product information database 116 is referenced to look up all products related to a particular group of products (e.g., the automotive group) (*see* Jammes, col.

46, ll. 27-31). Because product information database 116 is not a web page, we find this portion of Jammes falls short of anticipating the language of each independent claim on appeal.

For at least the aforementioned reasons, we agree with Appellants that Jammes does not fairly disclose using a program to analyze *web page content* to evaluate whether the *web page includes a product offering*, as required by the language of each independent claim on appeal. “[A]bsence from the reference of any claimed element negates anticipation.” *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565, 1571 (Fed. Cir. 1986).

Because we conclude that Appellants have met their burden of showing that the Examiner has failed to establish a *prima facie* case of anticipation, we reverse the Examiner’s rejection of independent claims 1, 18, 30, 41, and 52 as being anticipated by Jammes. Likewise, we reverse the Examiner’s rejection of dependent claims 2-17, 19-29, 31-40, 42-51, and 53 which depend from independent claims 1, 18, 30, 41, and 52.

CONCLUSION OF LAW

Based on the findings of facts and analysis above, we conclude Appellants have met their burden of showing that the Examiner erred in rejecting claims 1-53 under 35 U.S.C. § 102(e) for anticipation.

DECISION

We reverse the Examiner’s decision rejecting claims 1-53.

Appeal 2008-0028
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REVERSED

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614