

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* RALPH SOMMERER, ROBERT TUCKER,  
NATASA MILIC-FRAYLING, and JURIJ LESKOVEC

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Appeal 2008-0714  
Application 10/186,933  
Technology Center 2100

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Decided: September 16, 2008

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Before HOWARD B. BLANKENSHIP, ST. JOHN COURTENAY III, and  
CAROLYN D. THOMAS, *Administrative Patent Judges*.

BLANKENSHIP, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1-46, which are all the claims remaining in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Appellants claim a method and “computer program product” directed to a browser session navigation tool that allows a user to browse previously viewed resource pages during a browser session. Each visit to a resource page results in creation of a “visit data structure” that references the resource page content. (*See Abstract.*)

Claim 24 is illustrative.

24. A method of recording browser navigation activity, the computer system including an archive memory and being capable of accessing a plurality of resource pages, the method comprising:

detecting a navigation event indicating a visit to one of the plurality of resource pages;

populating fields in a visit data structure representing the visit to the resource page, responsive to the detecting operation, the fields comprising a signature field including signature data that uniquely identifies content of the resource page and a page reference field that includes a reference to a page data structure that references content of the resource page that is persisted in the archive memory; and

recording the visit data structure.

The Examiner relies on the following references as evidence of unpatentability.

Chang	US 6,105,012	Aug. 15, 2000
Berstis	US 6,243,091 B1	Jun. 5, 2001
Pass	US 2002/0078043 A1	Jun. 20, 2002

Claims 1-22 and 24-45 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Berstis and Chang.

Claims 23 and 46 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Berstis, Chang, and Pass.

*I. Berstis*

Berstis teaches representing a browsed document on a user's display by a page icon that relates to the document content. Each link between browsed pages is represented by a roadway to connect the respective page icons, while indicating the user's present position. *Berstis Abstract.*

Berstis Figures 3 through 4F depict the "global history view window" as the user browses the World Wide Web. Figure 4G represents the view after a protracted Web search session or a series of Web sessions. Berstis col. 6, l. 8 - col. 9, l. 2. In particular, Figure 4E shows the global history window when the movie Web page is invoked from the WORLD TODAY Web page (col. 8, ll. 7-24), and Figure 4F shows the global history map when the user has selected the back button of the browser from the movie page, returning to the WORLD TODAY page. *Id.*, ll. 25-39.

To store the information needed for the global history map, Berstis teaches a data structure ("N-way tree structure") in Figure 8, represented by a set of nodes connected by a set of connecting links. Each node stores the information associated with that node, including the links which connect to the node. Each node may store, for example, the URL for the Web page and pointers to cached copies of the page, among other information. Berstis col. 11, ll. 10-26.

*II. The Rejections*

Based on the arguments presented in Appellants' Brief, we will decide the appeal on the basis of claims 24 and 46 alone. *See* 37 C.F.R. § 41.37(c)(1)(vii).

In defense of claim 24, Appellants submit that the applied references fail to teach “a signature field including signature data that uniquely identifies content of the resource page,” (Br. 7-9) and “a page reference field that includes a reference to a page data structure that references content of the resource page that is persisted in the archive memory (*id.* at 9).

Claim 24 recites “populating fields in a visit data structure” representing the visit to the resource page, with the fields comprising a “signature field” and a “page reference field.” Other than “populating” the fields and, in the final step of the claim, “recording” the visit data structure, the claimed method requires nothing of the contents of the “visit” data structure. In a statement of intended use, the claim references a “page” data structure, but there are no steps in the claim that do anything with respect to that particular “data structure.”

The contents of the data structure, with its two fields, do not affect the function of the medium into which the data structure is recorded. Nor does the data structure content affect the function of any underlying machine in the invention set forth in the claim. The claim is drawn to gathering data and recording a compilation or mere arrangement of the data into an unspecified medium.

The information content of the fields -- i.e., what the content of the fields may “identify” or “reference” -- does not change the underlying structure or function of any machine or electronic memory, or otherwise serve to modify the actual requirements of the steps, of the invention set forth by claim 24. Appellants’ arguments based on the information content of the fields thus rest on nonfunctional descriptive material. The *content* of

nonfunctional descriptive material is not entitled to weight in the patentability analysis. *Cf. In re Lowry*, 32 F.3d 1579, 1583 (Fed. Cir. 1994) (“Lowry does not claim merely the information content of a memory. . . . Nor does he seek to patent the content of information resident in a database.”). *See also Ex parte Nehls* (BPAI Jan. 28, 2008), available at <http://www.uspto.gov/web/offices/dcom/bpai/prec/fd071823.pdf>; *Ex parte Curry*, 84 USPQ2d 1272 (BPAI 2005) (nonprecedential) (Fed. Cir. Appeal No. 2006-1003, *aff’d* Rule 36 Jun. 12, 2006); *Manual of Patent Examining Procedure* (MPEP) § 2106.01 (Eighth ed., Rev. 7, July 2008).

Berstis teaches gathering data in accordance with instant claim 24, and storing the data to memory in the form of a data structure having at least two fields, which is sufficient to show the actual requirements of claim 24 with respect to populating fields of a data structure, and then recording the data structure.

Even if the named contents of the fields were to be given weight, we note that the Specification (28: 11-22) and Figure 9, reference numeral 907, indicate that the “signature data” can correspond to a Web page URL, which is expressly disclosed by Berstis as the content of a data structure field. Further, Appellants have not provided a response to the Examiner’s position (Ans. 13-14) with respect to how Berstis teaches the contents of the “page reference field.”

Appellants also submit (Br. 10) that Chang fails to disclose recording a “visit data structure.” As the Examiner indicates in the Answer, however, Berstis describes storing a visit data structure (col. 11, ll. 10-26), even if the designation (name) of the data structure were to be given weight as some kind of implied step relating to the user’s visit of a Web page.

We therefore find the teachings of Chang to be merely cumulative in the showing of *prima facie* obviousness of the subject matter of claim 24. We do not reach Appellants’ allegation (Br. 10-12) of a “lack of motivation” for combining the teachings of Berstis and Chang. We disagree, however, that the Examiner is required to identify a motivation to combine the references derived from the references themselves. “[A]ny need or problem known in the field of endeavor at the time of invention and addressed by the patent can provide a reason for combining the elements in the manner claimed.” *In re ICON Health and Fitness Inc.*, 496 F.3d 1374, 1380 (Fed. Cir. 2007) (quoting *KSR Int’l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1742 (2007)).

Turning to the § 103(a) rejection of claim 46 over Berstis, Chang, and Pass, Appellants appear to respond to some rejection not made by the Examiner. (*See* Br. 12-14.) The rejection relies on Pass for its teachings of searching for images in memory (e.g., ¶¶ [0003], [0005], [0009]; Fig. 9). The cached copies of Web page content taught by Berstis (col. 11, ll. 10-26) contain images that are different from the displayed icons which represent that content. Pass demonstrates that searching for images in memory, such as images in the Web page content taught by Berstis, was a process well known to the artisan. A person having ordinary skill in the art uses known

elements for their intended purpose. *Anderson's-Black Rock, Inc. v. Pavement Salvage Co.*, 396 U.S. 57 (1969) (radiant-heat burner used for its intended purpose in combination with a spreader and a tamper and screed). “[W]hen a patent ‘simply arranges old elements with each performing the same function it had been known to perform’ and yields no more than one would expect from such an arrangement, the combination is obvious.” *KSR*, 127 S. Ct. at 1740 (quoting *Sakraida v. Ag Pro, Inc.*, 425 U.S. 273, 282 (1976)).

We are therefore not persuaded that claims 24 and 46 have been rejected in error. Claims 1-22 and 25-45 fall with claim 24. Claim 23 falls with claim 46.

#### CONCLUSION

The rejections of claims 1-46 under 35 U.S.C. § 103(a) are 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).

AFFIRMED

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