

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOHN T. ELLIS, JAMES P. KRAKORA, and
JHEROEN P. DORENBOSCH

Appeal 2008-1156
Application 10/294,128
Technology Center 2100

Decided: February 12, 2008

Before JAMES D. THOMAS, HOWARD B. BLANKENSHIP, and
STEPHEN C. SIU, *Administrative Patent Judges*.

SIU, *Administrative Patent Judge*.

DECISION ON APPEAL

I. STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1-13 and 20-32. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

A. INVENTION

The invention at issue involves controlling communication between units in a communication system (Spec. 1). In particular, a subscriber requests to communicate with a group of subscribers. The subscriber has an associated identifier that is compared to an identifier associated with the group of subscribers. Communication between the subscriber and the group of subscribers is permitted based on the comparison (*id.* 13-14).

B. ILLUSTRATIVE CLAIM

Claim 1, which further illustrates the invention, follows:

1. A method of controlling communications with a group of associated subscriber units in a communications system, the method comprising:

receiving a request for a subscriber unit that is not one of the group of associated subscriber units to communicate with the group of associated subscriber units;

obtaining a second constraint corresponding to the group from a database that includes information for the group of associated subscriber units;

comparing a first association constraint corresponding to the subscriber unit to the second association constraint corresponding to the group; and

enabling, only when the first association constraint compares favorably to the second association constraint, communications between the subscriber unit and any other subscriber unit of the group of associated subscriber units that also have such communications enabled.

C. REJECTION

Claims 1-13 and 20-32 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,779,549 (“Walker”). Claims 14-19 and 33-38 were cancelled.

II. CLAIM GROUPING

“When multiple claims subject to the same ground of rejection are argued as a group by Appellants, 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 Appellants to separately argue claims which Appellants have 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

Appellants argue claims 1-13 and 20-32 as a group (App. Br. 3-4) but provide an additional argument for claim 20. We select claims 1 and 20 as the basis on which we decide the appeal.

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.

III. ISSUES

“Rather than reiterate the positions of parties *in toto*, we focus on the issue therebetween.” *Ex Parte Filatov*, No. 2006-1160, 2007 WL 1317144, at *2 (BPAI 2007).

Appellants argue that Walker fails to disclose “receiving a request for a subscriber unit that is not one of the group of associated subscriber units to communicate with the group of associated subscriber units” (App. Br. 4).

We find that Walker discloses “a player establishing **300** an online connection” (col. 6, ll. 22-23) and that the player “enters **302** a unique identifier through the associated I/O device” (col. 6, ll. 24-25). Walker also discloses that “a player must pay an entry fee to the central controller through the associated I/O device before he is allowed to participate in a tournament” (col. 6, ll. 43-45). Hence, Walker discloses that a user requests to join a tournament by “establishing . . . an online connection,” entering “a unique identifier” and paying an “entry fee.” We find that, under a broad but reasonable interpretation, a request to communicate with a group of units as recited in claim 1 encompasses a request or fee entered by a user to join a tournament. “[T]he PTO gives claims their ‘broadest reasonable interpretation.’” *In re Bigio*, 381 F.3d 1320, 1324 (Fed. Cir. 2004) (quoting *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000)).

Appellants also argue that Walker fails to disclose “*a first or second constraint, nor the comparison of the first and second constraint for a subscriber to join a group to which is (sic) not a member*” (App. Br. 4).

Walker discloses a “game session password” (col. 8, ll. 56-57) that is distributed to “qualified players” (col. 8, ll. 57-58). A player wishing to enter a chat room enters the password “so that only authorized players are allowed access to the questions” (col. 8, ll. 63-64). In addition, Walker discloses that in tournament plays, a player is “associated with an identifier for a team so that the central controller can incorporate the player into a team” (col. 9, l. 66 – col. 10, l. 2). We find that the first constraint recited in claim 1 encompasses, for example, the “unique identifier for a player” or the “game session password” and that the second constraint recited in claim 1 encompasses, for example, an identifier that is associated with the “team” as disclosed by Walker. In addition, Walker discloses comparison of the “unique identifier for a player” with the identifier associated with the “team.” Because both the comparison recited in claim 1 and the comparison disclosed by Walker involve comparing parameters or identifiers of a user and a group as well as enabling communication between the user and the group based on the comparison, we find that the comparison of the first and second constraint recited in claim 1 encompasses the comparison disclosed by Walker.

Appellants further argue “Walker discloses that the game session password being provided to the user” and that “there is a comparison between the second constraint to the second constraint” (Reply Br. 4). Based on these observations, Appellants conclude that “Walker does not provide any information regarding a favorable comparison between two

different constraints” (*id.*). We disagree. As discussed above, Walker discloses comparison of, for example, a “game session identifier” or an identifier associated with a user with “an identifier for a team” (col. 10, l. 1). Based on this comparison, a central controller determines whether the user may be incorporated into the team (col. 10, ll. 1-2). Thus, contrary to Appellants’ assertion, Walker discloses comparing two different constraints, for example, one constraint associated with a user and another constraint associated with a team.

Regarding independent claim 20, Appellants argue that Walker fails to disclose “a database for storing group information including a second constraint corresponding to the group of associated subscriber units” (Reply Br. 4). We disagree. As set forth above, we find that Walker discloses the first and second constraints. Walker also discloses a controller accessing “a database” and searching “the records (in the database) to determine whether or not the identifier (of a user) already exists” (col. 6, ll. 34-36). It logically follows that if the controller searches records in a database to locate identifiers, then the database must store the data or records being searched. Appellants fail to demonstrate otherwise.

It follows that Appellants have failed to demonstrate that the Examiner erred in rejecting claims 1 and 20. Therefore, we affirm the rejection of claims 1 and 20, and of claims 2-13 and 21-32, which fall therewith.

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IV. ORDER

In summary, the rejection of claims 1-13 and 20-32 under § 102(b) is 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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