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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte GERD M. RITTER, VOLKMAR STEGMANN,
HAMID MOGHADDAM, and AMIT KHANNA

Appeal 2010-008890
Application 11/237,317
Technology Center 2400

Before ALLEN R. MacDONALD, JASON V. MORGAN, and
JOHNNY A. KUMAR, *Administrative Patent Judges*.

KUMAR, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Introduction

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 9-11. Appellants have not appealed the rejections of claims 1-5, 12-17, 19, and 21-25. App. Br. 2-3. Claims 6-8, 18, and 20 have been canceled. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Claims

Dependent claim 9 (that depends upon claim 1) under appeal reads as follows:

> 1. A computer-implemented method for an enterprise resource planning system, comprising:
>
> receiving, from a groupware server, a meeting request corresponding to an appointment generated by a calendaring system, the meeting request identifying one or more participants and sent to an e-mail address identifying a resource;
>
> identifying, based on the e-mail address identifying the resource, complementary data stored in the enterprise resource planning system and providing additional information associated with the resource; and
>
> transmitting the complementary data from the enterprise resource planning system to the groupware server to modify the appointment generated by the calendaring system to include the complementary data,
>
> wherein one of the one or more participants is provided with the complementary data upon accessing the modified appointment.

9. A method as in claim 1, further comprising:

verifying that the resource is available during a time period specified in the appointment.

Rejection[1]

The Examiner rejected claims 9-11 under 35 U.S.C. § 102(b) as being anticipated by Zhang (US 6,016,478, Jan, 18, 2000). Ans. 4-9.[2]

Appellants' Contentions

1. Appellants contend that the Examiner erred in finding that Zhang anticipates claim 9 because Zhang "fails to disclose the method of claim 9." (App. Br. 4; Reply Br. 2-3).
2. Appellants contend that Zhang does not disclose:

   verifying that the resource is available during a time period specified in *the appointment*; identifying, based on the e-mail address identifying the resource, complementary data stored in the enterprise resource planning system and providing additional information associated with the resource; *and* transmitting *the complementary data* from the enterprise resource planning system to the groupware server to *modify the appointment* generated by the calendaring system to include *the complementary data*, and wherein one of the one or more participants is provided with the complementary data upon accessing the modified appointment, as recited in claim 9.

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[1] Appellants explicitly do not appeal the Examiner's 35 U.S.C. §§ 101, 102(b), and 103(a) rejections of claims 1-5, 12-17, 19, and 21-25. (App. Br. 3). We lack jurisdiction over these unappealed rejections. However, we recommend that the Examiner cancel unappealed claims 1-5, 12-17, 19, 21-25. *See* MPEP § 1215.03; *see also Ex Parte Ghuman*, 88 USPQ2d 1478 (BPAI 2008) (precedential).

[2] Separate patentability is not argued for claims 10 and 11. Except for our ultimate decision, these claims are not discussed further herein.

App. Br. 6 (emphasis in original).

Issue on Appeal

Whether the Examiner has erred in rejecting claim 9 as being anticipated because Zhang does not disclose "verifying that the resource is available during a time period specified in the appointment"?

ANALYSIS

We have reviewed the Examiner's rejections in light of Appellants' contentions (App. Br. 4-8 and Reply Br. 2-12) that the Examiner has erred in rejecting the claim 9 based on Zhang.

We disagree with Appellants' conclusions. We adopt as our own (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken and (2) the reasons set forth by the Examiner in the Examiner's Answer in response to Appellants' Appeal Brief. We concur with the conclusion reached by the Examiner.

As to Appellants' above contention 1, we specifically agree with the Examiner (Ans. 13) that the claimed "verifying that the resource is available during a time period specified in the appointment" equates to Zhang's "determining if a resource is available and replying with confirmation or sending a listing of alternate available times." Ans. 7 (citing Zhang, col. 16, ll. 18-20). Appellants point to paragraph [0039] of the Specification as providing support for "verifying that the resource is available." App. Br. 3. Appellants' Specification discloses that an ERP application at 650 "*determines* whether the resource is available by, for example, polling a database to obtain information related to the resource." Spec. ¶ [0039]

(emphasis added). Thus, according to Appellants' Specification, "verifying" includes "determining." Although this disclosure is not limiting of the claimed invention, it provides context for which the phrase "verifying" is interpreted. Based on our review of Zhang (col. 16, ll. 8-20; Ans. 7, 13-14), we find that the Examiner, giving the claim its broadest reasonable interpretation consistent with the Specification,[3] has properly found that the claimed "verifying" step is met by Zhang's "determining" (Ans. 13). In addition, we agree with the Examiner's finding that "once the availability of a resource is determined (i.e., verified), either a confirmation or complementary listing of alternate times is transmitted in response to an event invitation in order to reschedule the event." Ans. 13.

As to the Appellants' above contention 2, we are unpersuaded by Appellants' arguments on pages 5-7 of the Appeal Brief and pages 2-10 of the Reply Brief because they are not commensurate in scope with the claim language. Claim 9 also does not require that the "verifying" step is performed before the "transmitting" step.[4] "[A]lthough a method claim necessarily recites the steps of the method in a particular order, as a general rule the claim is not limited to performance of the steps in the order recited, unless the claim explicitly or implicitly requires a specific order." *Baldwin Graphics Systems, Inc. v. Siebert Inc.*, 512 F.3d 1338, 1345 (Fed. Cir. 2008); *see also Interactive Gift Exp., Inc. v. Compuserve Inc.*, 256 F.3d 1323, 1343-44 (Fed. Cir. 2001). The language of claim 9 does not explicitly or implicitly require the "verifying" step to be performed before the "transmitting" step.

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[3] *See In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997).
[4] We note that Appellants' amendment (seeking to add the verifying step before the transmitting step) of June 23, 2009, after the Final rejection was not entered by the Examiner.

Rather, the steps of "verifying" and "transmitting" could be performed in any order, or performed concurrently, and thus Appellants' contention does not persuade that the Examiner erred.

CONCLUSIONS

(1) The Examiner has not erred in rejecting claims 9-11 as being anticipated under 35 U.S.C. § 102(b) over Zhang.

(2) Claims 9-11 are not patentable.

DECISION

The Examiner's rejection of claims 9-11 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)(1)(iv).

AFFIRMED

msc