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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte THOMAS WITTING

Appeal 2010-009206
Application 10/445,722
Technology Center 3600

Before: MURRIEL E. CRAWFORD, HUBERT C. LORIN, and BIBHU R.
MOHANTY, *Administrative Patent Judges*.

CRAWFORD, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellant seeks our review under 35 U.S.C. § 134 from the Examiner's final rejection of claims 1-18. We have jurisdiction under 35 U.S.C. § 6(b).

SUMMARY OF THE DECISION

We reverse.

BACKGROUND

Appellant's invention is directed to predicting marketing campaigns having more than one step (Spec. 4:3-5).

Claim 1 is illustrative:

1. A method of predicting outcomes of marketing campaigns comprising more than one campaign step, using a computer system, the method comprising:

defining, in the computer system, a marketing campaign as including at least first and second campaign steps, the second campaign step configured to be performed after the first campaign step and only toward customers who responded to the first campaign step;

compiling first customer objects in a repository, the first customer objects corresponding to a first target group of customers registered in the computer system, at least one constraint taken into account when compiling the customer objects;

predicting, using the computer system and the first customer objects, a number of responses to be received if the first campaign step were performed toward the first target group of customers, each customer having a response probability;

compiling, using the computer system, second customer objects from the first customer objects, the second customer objects corresponding to a second target group selected from the first target group using respective response probabilities of

individual customers in the first target group, the second target group being a subset of the first target group and substantially equal to the predicted number of responses;

predicting, using the computer system and the second customer objects, an outcome of performing the second campaign step toward the second target group; and

generating, using the computer system, a prediction for the marketing campaign using at least the predictions regarding the first and second campaign steps.

Appellant appeals the following rejections:

Claims 1, 9, 11, 13, and 15 are rejected under 35 U.S.C. § 103(a) as unpatentable over Blume (US 6,839,682 B1, iss. Jan. 4, 2005) and Jedid-Jah Jonker, et al., *EVALUATING DIRECT MARKETING CAMPAIGNS; RECENT FINDINGS AND FUTURE RESEARCH TOPICS*, Econometric Institute Report 9851/A, 1-31 (Nov. 1998) (hereinafter “Jonker”).

Claims 2, 3, and 12 are rejected under 35 U.S.C. § 103(a) as unpatentable over Blume, Jonker, and Vic Barnett, *Comparative Statistical Inference - Third Edition*, 108 (1999) (hereinafter “Barnett”).

Claims 4-6, 10, 14 and 16-18 are rejected under 35 U.S.C. § 103(a) as unpatentable over Blume, Jonker, and Fisher (US 2002/0052775 A1, pub. May 2, 2002).

Claims 7 and 8 are rejected under 35 U.S.C. § 103(a) as unpatentable over Blume, Jonker, and Lin (US 6,847,934 B1, iss. Jan. 25, 2005).

FACTUAL FINDINGS

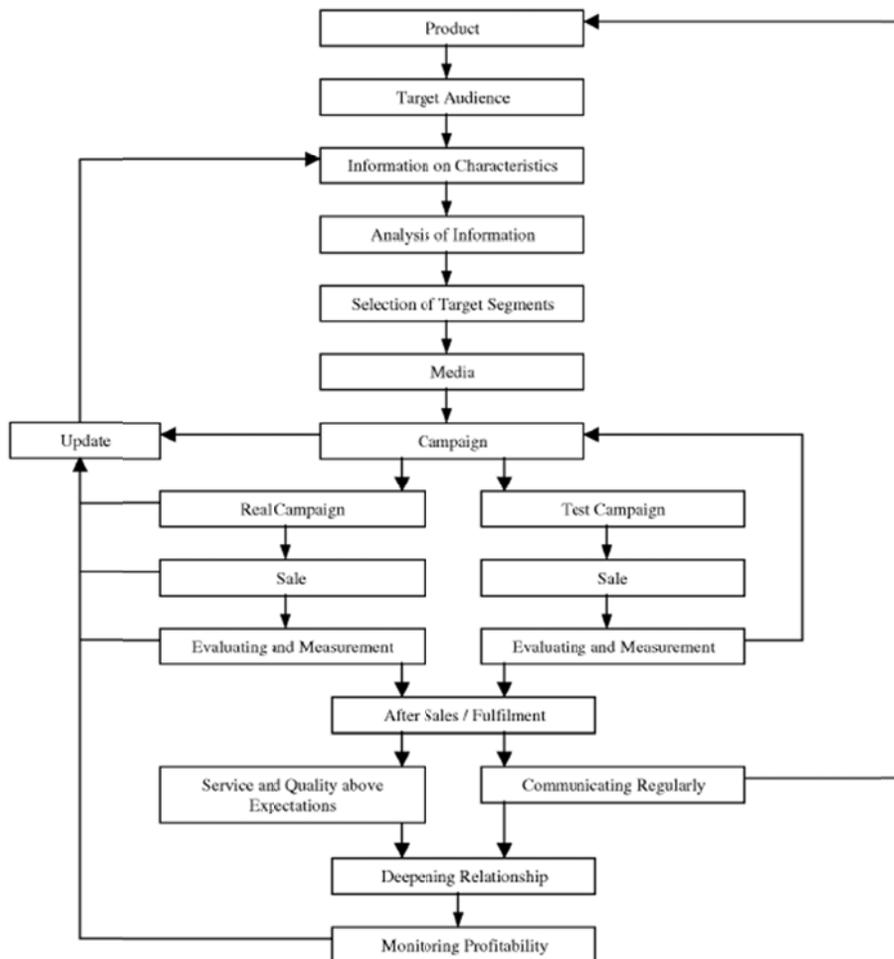
We find the following facts by a preponderance of the evidence.

1. Jonker discloses a test campaign, stating:

If a company wants to analyze whether there is a difference in response between one or double income households, both with a top level income, the company can send a mailing to individuals in both groups and compare the responses. If there is a difference in response in that double incomes respond more, and as this difference can be attributed mainly to the difference in the size of the household (because the other characteristics are comparable), the company can decide to approach mainly double income households.

(Pg. 7).

2. Jonker discloses at Figure 1 a flow chart of the stages of a direct marketing campaign, as follows:



Jonker Figure 1 disclosing the stages of a marketing campaign.
(Pg. 27).

ANALYSIS

Each of independent claims 1, 11, and 15 recite a step for predicting an outcome of a second campaign step, where the second campaign step is “performed after the first campaign step and only towards customers who responded to the first campaign step.”

We are persuaded of error by Appellant’s argument that Blume fails to disclose predicting the outcome of a second campaign step that follows a first campaign step. App. Br. 11-12. Blume discloses a technique to predict responses (Fig. 14, col. 44, ll. 55-57), and discloses this could be used as input to a “second-level predictive model” (col. 45, l. 65 to col. 46, l. 3), but does not disclose that the second-level model would rely only on customers who responded to the first-level model.

We are persuaded of error also by Appellant’s argument that Jonker fails to disclose that the second campaign step is performed only towards customers who responded to the first campaign step, because “other households are targeted as well.” App. Br. 11-12. Jonker discloses a test marketing campaign before a second campaign. FF 1. The target of the second campaign is a market segment similar to that used in the test campaign, such as “double-income households,” but is not limited to households who responded to the test campaign, as required. This is evident in the flow chart which shows test and real campaigns as parallel, rather than successive, steps. FF 2.

For these reasons, we reverse the rejection of claims 1, 11, and 15, as well as variously rejected dependent claims 2-10, 12-14, and 16-18.

Appeal 2010-009206
Application 10/445,722

DECISION

We reverse the Examiner's rejections under 35 U.S.C. § 103(a) of claims 1-18.

REVERSED

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