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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte BRADLEY K. LANE, LISA A. FERRERA, PASCAL DORSTER,
TIMOTHY A ADCOCK, and GENE A. FRANTZ

Appeal 2010-009879
Application 11/060,946
Technology Center 2400

Before THU A. DANG, JAMES R. HUGHES, and
GREGORY J. GONSALVES, *Administrative Patent Judges*.

GONSALVES, Administrative Patent Judge

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the rejection of claims 1, 6, 10, 15, 22, and 31-33 (App. Br. 3). Claims 2-5, 7-9, 11-14, 16-21, and 23-30 were cancelled (*id.*). We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

The Invention

Claim 1 follows:

1. A home computing resource system, the system comprising:

a communication link;

a user terminal, the user terminal including an adaptor, the adaptor exchanging signals with the communication link, the signals from the user terminal requesting data processing; and

a service provider, the service provider exchanging signals with the communication link, wherein the service provider processes data in response to the user input of the user terminal and bills the user terminal corresponding to an amount of data processing performed in response to a request.

Claims 1, 6, 10, 15, 22, and 31-33 stand rejected under 35 U.S.C. 102(b) as being anticipated by Swart (U.S. Patent Application Publication No. 2003/0028884).

ISSUE

Appellants' responses to the Examiner's positions present the following issue:

Does Swart disclose billing a user “corresponding to an amount of data processing performed in response to a request,” as recited in independent claim 1, and as similarly recited in independent claims 10, 15, and 22?

ANALYSIS

Appellants contend that the Examiner erred in rejecting independent claims 1, 10, 15, and 22 as anticipated because Swart does not disclose the claim limitation quoted above (App. Br. 9). In support of their contention, Appellants argue that Swart instead teaches “billing on the basis of the identity of the content delivered or downloaded from the content delivery server” (*id.* at 12).

Swart discloses billing on the basis of content and copyright:

Upon successful delivery of the requested programming, the content delivery server 450 logs the results with a customer billing server and content fee and copyright billing server (not shown in FIG. 4) within the system administrator 500. The customer billing server determines if the content delivery requires additional charges to the customer's account and enters this into the billing record and logs it with a database administrator (not shown in FIG. 4) within the system administrator.

(¶ [0060]). However, we do not find any teaching in the portions of Swart cited by the Examiner that the billing corresponds to or is based on the processing performed.

Accordingly, we find error in the Examiner’s anticipation rejection of independent claims 1, 10, 15, and 22, as well as the claims on appeal that are dependent therefrom (*i.e.*, claims 6 and 31-33).

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DECISION

We reverse the Examiner's decision rejecting claims 1, 6, 10, 15, 22, and 31-33 as anticipated under 35 U.S.C. § 102(b).

REVERSED

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