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IBM CORPORATION IPLAW SHCB/40-3 1701 NORTH STREET ENDICOTT, NY 13760			FRISBY, KESHA	
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* FERNANDO INCERTIS CARRO

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Appeal 2010-011398  
Application 10/993,231  
Technology Center 3700

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Before MURRIEL E. CRAWFORD, JOSEPH A. FISCHETTI, and JAMES  
A. TARTAL, *Administrative Patent Judges*.

TARTAL, *Administrative Patent Judge*.

DECISION ON APPEAL

## STATEMENT OF THE CASE<sup>1</sup>

Fernando Incertis Carro (Appellant) seeks our review under 35 U.S.C § 134 of the Examiner's final decision rejecting claims 1, 3-6, 8, 9, and 11-15. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b).

Appellant's claimed invention relates to computer systems, and more particularly to access of information relating to an audio-visual presentation. Spec. 1, ll. 6-7.

Claim 1, reproduced below, is illustrative of the subject matter on appeal.

1. A method of supplying information to an audience member, said method comprising [the] steps of:

using a first computing device, initiating presentation of a plurality of informational screens during respective time intervals to the audience member;

said first computing device recording start and stop times for the presentation of each of said informational screens;

during the presentation of one of said informational screens, the audience member, using a second computing device, requesting additional information not created nor presented during the presentation of said plurality of informational screens but relating to said one informational screen, and in response, said second computing device recording a time that said audience member made the request; and

comparing the time that said audience member made the request to the start and stop times for the presentation of each of said informational screens, and based on the comparison, determining that said audience member made said request during the presentation of said one presentation screen: and

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<sup>1</sup> Our decision will make reference to the Appellant's Appeal Brief ("App. Br.," filed Aug. 3, 2009) and the Examiner's Answer ("Ans.," mailed Sep. 4, 2007).

wherein based on the determining step, supplying to said second computing device said additional information not created nor presented during the presentation of said plurality of informational screens but relating to said one informational screen or a hyper link to said additional information not created nor presented during the presentation of said plurality of informational screens but relating to said one informational screen.

The Examiner relies upon the following evidence:

Mortimer	US 6,091,930	Jul. 18, 2000
Moskowitz	US 6,654,588 B2	Nov. 25, 2003
Vivian	US 2003/0036045 A1	Feb. 20, 2003
Lamming	EP 0 495 612 B1	Apr. 10, 1996

Claims 1, 3, 6, 9, 12, and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mortimer and Lamming.

Claims 4, 13, and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mortimer, Lamming, and Moskowitz.

Claims 5, 8, and 11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mortimer, Lamming, and Vivian.

#### FINDINGS OF FACT

We find that the findings of fact which appear in the Analysis below are supported by at least a preponderance of the evidence. *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Office).

#### ANALYSIS

Appellant argues claims 1, 3-6, 8, 9, and 11-15 as a group (App. Br. 5-9). We select claim 1 as the representative claim for this group, and the

remaining claims 3-6, 8, 9, and 11-15 each stand or fall with claim 1. 37  
C.F.R. § 41.37(c)(1)(vii).

We find unpersuasive Appellant's argument that neither Mortimer nor Lamming teaches "an audience member requesting additional information during the presentation of an information screen and then recording that request." App. Br. 10. We note that Appellant's argument is not commensurate with the scope of claim 1, which requires "recording a time that said audience member made the request," not "recording that request." The Examiner found that Mortimer discloses requesting additional information during the presentation of an information screen and that Lamming discloses time correlation with regards to what is being requested, that is, recording a time when an entry is made by a user that is associated with a time during a presentation. *See* Ans. 10, App. Br. 6-7.

Nonobviousness cannot be established by attacking the references individually when the rejection is predicated upon a combination of prior art disclosures. *See In re Merck & Co., Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). We find that Appellant has not addressed the combination of prior art references as a whole but simply improperly argues the merits of Mortimer and Lamming individually. *See In re Keller*, 642 F.2d 413, 425 (CCPA 1981) ("The test for obviousness is not . . . that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art"). Thus we find that Appellant has not overcome the Examiner's determination that Mortimer and Lamming, in combination, disclose the claim limitations at issue.

We also find unpersuasive Appellant's contention that one of ordinary skill in the art would not combine the teachings of Mortimer and Lamming because they "have different purposes from one another." *See* App. Br. 8. Appellant asserts that a user of the learning system disclosed by Mortimer would not need time correlation with respect to a request for additional information because the presentation "never disappears or goes away." App. Br. 8. Appellant also contends that a user of the methods disclosed by Lamming has no need to request additional information because Lamming limits access by the user to what was recorded at the time the marks were made. App. Br. 8.

Contrary to Appellant's assertion, a "reference may be read for all that it teaches, including uses beyond its primary purpose." *In re Mouttet*, 686 F.3d 1322, 1331 (Fed. Cir. 2012), *citing KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398, 418-21 (2007). Furthermore, Appellant has not addressed the combination of prior art references as a whole but again simply improperly argues the merits of Mortimer and Lamming individually. Appellant's contention with respect to the purposes of the cited references does not overcome the Examiner's determination that requesting additional information during the presentation of an information screen and time correlation with regards to what is being requested are both familiar elements based on the disclosures of Mortimer and Lamming. Appellant also has not shown that the claimed combination of these familiar elements yielded anything but predictable results. Accordingly, we find Appellant has not overcome the Examiner's obviousness determination. *See KSR*, 550

U.S. at 416 (“The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.”).

#### CONCLUSIONS OF LAW

We conclude that Appellant has not overcome the Examiner’s rejection of claims 1, 3, 6, 9, 12, and 14 under 35 U.S.C. § 103(a) as being unpatentable over Mortimer and Lamming.

We further conclude that Appellant has not overcome the Examiner’s rejection of claims 4, 13, and 15 under 35 U.S.C. § 103(a) as being unpatentable over Mortimer, Lamming, and Moskowitz.

We further conclude that Appellant has not overcome the Examiner’s rejection of claims 5, 8, and 11 under 35 U.S.C. § 103(a) as being unpatentable over Mortimer, Lamming, and Vivian.

#### DECISION

We AFFIRM the decision of the Examiner to reject claims 1, 3-6, 8, 9, and 11-15.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2011).

AFFIRMED

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