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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,741	06/18/2001	David Holzer	Digi-P007	4756
40418	7590	01/28/2013	EXAMINER	
HEIMLICH LAW 5952 DIAL WAY SAN JOSE, CA 95129			DENNISON, JERRY B	
			ART UNIT	PAPER NUMBER
			2443	
			NOTIFICATION DATE	DELIVERY MODE
			01/28/2013	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DAVID HOLZER

Appeal 2011-004801
Application 09/884,741
Technology Center 2400

Before JOSEPH F. RUGGIERO, JOHN A. JEFFERY, and ANDREW CALDWELL, *Administrative Patent Judges*.

RUGGIERO, *Administrative Patent Judge*.

ON REQUEST FOR REHEARING

Appellant requests that we reconsider our Decision of November 21, 2012, wherein we sustained the Examiner's 35 U.S.C. § 102(e) rejection of claims 1, 2, 4, 6-9, 17, and 19-28 and the 35 U.S.C. § 103(a) rejection of claims 3, 5, 10-12, 18, 29, and 30, but did not sustain the 35 U.S.C. § 102(e) rejection of claims 13-16. We have reconsidered our Decision of November 21, 2012, in light of Appellant's arguments in the Request for Rehearing, and we find no error therein. We, therefore, decline to make any changes in the prior Decision for the reasons which follow.

Appellant’s arguments in the Request for Rehearing focus on the contention that, with respect to independent claim 19, our original Decision erred in concluding that Anderson discloses the claimed feature of “sending communications automatically...when connected to the network.” In asserting this contention, Appellant refers to the analysis applied to independent claim 1 in our original Decision.

As correctly characterized by Appellant (Request 3), our original Decision concluded that Anderson disclosed the claim 1 feature of “wherein the first information is sent automatically from the device to the service aggregator.” In particular, our original Decision determined that claim 1 did not require that the *connection* between the camera device and the service aggregator be made automatically, but only that information be sent automatically from the camera device to the service aggregator. Accordingly, our original Decision found that the Examiner did not err in determining that, although Anderson required a camera user to push a “Send” button to initially establish an Internet connection or a connection between the camera and the gateway server, Anderson nonetheless disclosed the automatic sending of information from the camera to photo-sharing websites through the gateway server. (Dec. 5).

According to Appellant (Request 3), however, the Board’s logic applied to the analysis of claim 1 is not properly applied to claim 19 since claim 19 requires the additional limitation that devices send communications automatically “when connected” to the network. We do not find Appellant’s arguments convincing of any error in the original Decision. Contrary to Appellant’s contention, the fact that a user of a camera device in Anderson must press a “Send” button to establish an initial network connection before

Appeal 2011-004801
Application 09/884,741

the disclosed automatic communications occur is not precluded by the language “when connected.” In other words, after establishment of an initial network connection in Anderson, i.e., “when” a connection is established, communications are automatically sent from camera device to the gateway server (col. 3, ll. 40-48).

CONCLUSION

Based on the foregoing, we have granted Appellant’s request to the extent that we have reconsidered our original Decision of November 21, 2012, but we deny the request with respect to making any changes therein.

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).

REHEARING DENIED

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