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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte NATHAN SACCO, AVID LARIZADEH, GEORGE
LIANG, and JASON LEE

Appeal 2011-005553
Application 10/877,727
Technology Center 3600

Before JOSEPH A. FISCHETTI, BIBHU R. MOHANTY, and MICHAEL
W. KIM, *Administrative Patent Judges*.

KIM, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellants seek our review under 35 U.S.C. § 134 from the Examiner's final rejection of claims 1-4, 8-13, 17-22, 25-28, and 53-56. We have jurisdiction under 35 U.S.C. § 6(b).

SUMMARY OF THE DECISION

We AFFIRM.

BACKGROUND

Appellants' invention is directed to measuring and monitoring post-sales conditions within a network trading platform (Specification para. [0001]).

Claim 1 is illustrative:

1. A system, implemented by one or more machines, for managing post-sales parameters within a network-based trading environment, the system comprising:
 - one or more servers comprising:
 - a post-sales management module automatically to monitor, using one or more processors, a plurality of post-sales parameters pertaining to an inventory of sold items, the plurality of post-sales parameters including a receipt of payment;
 - an alert module to generate a payment due alert, for a seller of an item of the inventory of sold items, identifying a particular buyer when payment has not been received for the item within a predetermined time period;
 - notifier logic to automatically transmit a notice to the seller that the payment due alert is pending within the system; and
 - a non-paying bidder module to provide information about the particular buyer that has not paid for an item of the inventory of sold items.

Appellants appeal the following rejections:

Claims 1, 2, 9-11, 18-20, 25, 26, 54, and 56 are rejected under 35 U.S.C. § 102(e) as anticipated by Wang (US 2003/0154134 A1, pub. Aug. 14, 2003).

Claims 3, 12, 21, and 27 are rejected under 35 U.S.C. § 103(a) as unpatentable over Wang and Yung (US 7,110,954 B2, iss. Sep. 19, 2006).

Claims 4, 13, 22, and 28 are rejected under 35 U.S.C. § 103(a) as unpatentable over Wang and Wiesenmaier (US 2002/0120533 A1, pub. Aug. 29, 2002).

Claims 8, 17, 53, and 55 are rejected under 35 U.S.C. § 103(a) as unpatentable over Wang and Official Notice.

FACTUAL FINDINGS

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

1. The Specification does not define or describe the term *monitoring*.
2. The ordinary and customary definition of the term *monitoring*, as defined by *Merriam Webster's Collegiate Dictionary* 801 (11th ed. 2008), is: "to ... keep track of."
3. Wang discloses an accounting function that keeps track of order and accounting data such as overdue payments. (Para. [0056]).
4. Wang discloses a web page displaying a step to automatically send emails to a list of displayed customers who have not paid for orders at element 1570. (Fig. 31).

ANALYSIS

Claims 1, 2, 9-11, 18-20, 25, 26, 54, and 56

We are not persuaded of error by Appellants' argument that Wang fails to disclose automatically monitoring parameters, recited by independent claims 1, 10, 19, and 25, by requiring user input of a period of time and clicks to get information. App. Br. 11-13. We find the term *monitoring* is not defined or described in the Specification (FF 1), and we rely on the ordinary and customary meaning of "monitoring," which is "to ... keep track of" (FF 2). We find Wang discloses automatically monitoring parameters by storing information on orders so that overdue payments may be displayed (FF 3). All of this information is collected and stored prior to the user interaction set forth in Figure 31. Thus, this collection and storage of information meet the claim requirement of automatically monitoring because it keeps track of the parameters for later use. The claims do not specifically require that the monitoring step is relied upon in other steps, so our interpretation of this keeping track of data is consistent with the claims.

We are not persuaded of error by Appellants' argument that Wang fails to disclose an alert module to generate an alert for a seller, identifying a particular buyer, as recited by independent claims 1, 10, 19, and 25. App. Br. 13. Wang discloses at element 1570 in Figure 31 a step to automatically send emails about unpaid orders to a list of "displayed customers" (FF 4). We find Wang's display of customers meets the claim requirement by displaying overdue customer identification of particular buyers to a seller.

We also are not persuaded of error by Appellants' argument that Wang fails to disclose automatically transmitting a notice to a seller, as

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recited by independent claims 1, 10, 19, and 25. App. Br. 13-15. We agree with the Examiner (Ans. 9) that Wang discloses automatically transmitting to a seller the identification of a particular buyer when Wang discloses that it transmits a web page to a seller that displays customers to whom a program will then send emails if run (FF 4). Appellants did not respond to this argument.

For these reasons we affirm the rejection of claims 1, 10, 19, and 25, as well as dependent claims 2, 9, 11, 18, 20, 26, 54, and 56 for which no separate argument of patentability was presented. App. Br. 15.

Claims 3, 4, 8, 12, 13, 17, 21, 22, 27, 28, 53, and 55

We also affirm the rejections under 35 U.S.C. § 103(a) of dependent claims 3, 4, 8, 12, 13, 17, 21, 22, 27, 28, 53, and 55 which were not separately argued. App. Br. 15-16.

DECISION

We affirm the rejection of claims 1-4, 8-13, 17-22, 25-28, and 53-56.

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

peb