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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC  
701 FIFTH AVENUE  
SUITE 5400  
SEATTLE, WA 98104

EXAMINER
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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* JOHN W. FISHER JR

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Appeal 2013–002943  
Application 11/833,949  
Technology Center 3600

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Before HUBERT C. LORIN, ANTON W. FETTING, and  
PHILIP J. HOFFMANN, *Administrative Patent Judges*.

FETTING, *Administrative Patent Judge*

DECISION ON APPEAL

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

John W. Fisher Jr (Appellant) seeks review under 35 U.S.C. § 134 of a final rejection of claims 1–19, the only claims pending in the application on appeal. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b).

The Appellant invented a client application providing a user with services to interact with a network-based agent and a server based technical support platform providing technical support to the user, whereby the user

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<sup>1</sup> Our decision will make reference to the Appellant’s Appeal Brief (“App. Br.,” filed August 17, 2012) and Reply Brief (“Reply Br.,” filed December 17, 2012), and the Examiner’s Answer (“Ans.,” mailed October 15, 2012), and Final Rejection (“Final Act.,” mailed November 16, 2011).

can fix technical problems with the user's computing system. Specification para. 24.

An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below [bracketed matter and some paragraphing added].

1. A method for obtaining customer support, the method comprising:

[1] transmitting parameters

specific to an end user product

to a network-based application

operable to dynamically generate a web page

instructive of a solution to a problem

associated with the end user product

based on the parameters

by searching only a solutions data store

that stores a plurality of solutions

which were moved to the  
solutions data store

from a predisposition solutions  
data store,

the predisposition solutions  
data store storing a plurality of  
potential solutions

that are accessible by  
technical support center  
agents

but inaccessible to an end  
user,

when each of the plurality of solutions  
was validated and approved for use

based on implementation of the  
potential solutions

by the technical support center  
agents;

[2] receiving an interactive link to the dynamically generated  
web page;

and

[3] browsing the dynamically generated web page by selecting  
the interactive link.

The Examiner relies upon the following prior art:

Zellweger	US 5,630,125	May 13, 1997
Drucker	US 6,292,796 B1	Sept. 18, 2001
Rachlin	US 6,298,457 B1	Oct. 2, 2001
Sullivan	US 6,999,990 B1	Feb. 14, 2006
Wing	US 7,305,465 B2	Dec. 4, 2007
Beniaminy	US 7,565,338 B2	July 21, 2009

Claims 1–6, 8, 11, and 14–18 stand rejected under 35 U.S.C. § 103(a) as  
unpatentable over Sullivan, Rachlin, Wing, and Beniaminy.

Claim 7 stands rejected under 35 U.S.C. § 103(a) as unpatentable over  
Sullivan, Rachlin, Wing, Beniaminy, and Zellweger.

Claims 9, 10, 12, 13, and 19 stand rejected under 35 U.S.C. § 103(a) as  
unpatentable over Sullivan, Rachlin, Wing, Beniaminy, and Drucker.

Claims 1 and 11 stand provisionally rejected under obviousness type  
double patenting.

## ISSUES

The issues of obviousness turn primarily on whether the limitation of “searching only a solutions data store that stores a plurality of solutions which were moved to the solutions data store from a predisposition solutions data store” that modifies the target of the “transmitting parameters” step is given patentable weight, and if so, whether the scope of what is meant by “only” is provided in the claim, and whether additional activities are allowed to be within the scope of the claim.

## FACTS PERTINENT TO THE ISSUES

The following enumerated Findings of Fact (FF) are believed to be supported by a preponderance of the evidence.

### *Facts Related to the Prior Art*

#### *Sullivan*

01. Sullivan is directed to automated customer support and service in a distributed computing environment and more particularly to a method of reducing a number of “live” support calls by providing intelligent, guided self-help in such an environment. Sullivan 1:15–19.
02. Sullivan’s system, as opposed to the user, develops the appropriate search strategies to enable the user to be guided to an appropriate subset of relevant support notes. Preferably, these strategies are developed automatically during a self-help session by having the system capture the live context of the user's computer. Sullivan 2:26–31.

03. When the user desires technical support, a technical support interface is launched. The user is then prompted to select a general problem area. In response to a user query, the system automatically serves a self-help home page (or template) to the user's interface. Preferably, the interface has a Web browser navigation metaphor to provide the user with a comfortable and intuitive interaction with the self-help system. Sullivan 2:55–62.
04. Sullivan's self-help home page includes a search field that is populated automatically with a system-supplied, self-help search string. The search string is a value that, when fed into the technical support server's search engine, should produce relevant hits. The search string is generated dynamically through the use of a diagnostic map that executes on the client machine when the self-help session is initiated. The diagnostic map examines the client system (including the existing applications, registry information and the like) and communicates with the technical support server to derive the search string as a background task. Diagnostic maps are programmable, reusable objects that allow technical support engineers (SEs) and others to write custom tools for diagnosing problems. Sullivan 2:63–3:12.
05. Sullivan's technical support system interacts with the user's local machine to execute diagnostic maps using a "mini Web server" process running on the client. Executing a map locally from the client browser begins by sending a special URL to the local mini Web server. The local process authenticates the user, breaks apart the URL to determine which map to run, checks to see if the map

is present (and, if not, downloads the map from the system server), “executes” the instructions of the map, collects the resulting XML, and then parses the XML looking for self-service tags to be used for further navigation purposes. Thus, for example, the tags enable the user to navigate to a page that describes the problem or to how to fix the problem. This process is also used to generate the system-supplied search string. Sullivan 10:34–50.

*Rachlin*

- 06.Rachlin is directed to software support mechanisms and, more particularly, to a computer implemented non-invasive networked-based customer-support method. Rachlin 1:6–9.
- 07.Rachlin describes sending parameters to a process (daemon) as a way to deliver input to an algorithm. Rachlin 4:23–26.

*Wing*

- 08.Wing is directed to knowledge management and intelligent content delivery. In particular, Wing provides an integrated interface for the collection of information and the use of collected information in the dynamic delivery of intelligently filtered content or knowledge to an end user. Wing 1:24–29.
- 09.Wing describes collecting information regarding a problem being experienced by an end user, accessing information regarding possible solutions to the described problem identifying specific content in the form of approved fixes or potential fixes, and collecting information regarding the efficacy of proposed fixes with respect to particular reported problems. Wing describes

making content developed by a technician available in real-time or substantially real-time to other technicians for delivery to end users. Wing 2:37–54.

10. Wing describes maintaining administered dynamic dispositions or administered solutions to reported problems, hereinafter referred to as “approved fixes,” as part of a solutions set database. Information may comprise a key indicator linking a symptom to an approved fix and/or a potential fix. Approved fixes and potential fixes are delivered to the end user in a logical, step-by-step solution sequence. Where an approved fix for a reported problem does not appear in a database of approved fixes, a potential solution, i.e. a solution that has not been formally administered and added to the database of approved fixes, may be provided to the end-user, to resolve their issues based on the live creation of a solution set (i.e., potential solution) by the support technician. Where a potential solution is newly created by a technician, that potential solution may be added to the solutions set database (i.e., the knowledge base). Accordingly, the content that can be delivered from the knowledge base is dynamic in that the available content is changing. After an approved fix or a potential fix has been suggested or otherwise delivered to an end user, information regarding whether the approved fix or potential fix was successful in solving the reported problem is collected and the probability or success rate associated with an approved fix-problem pair or potential fix-problem pair can be updated. Data regarding potential fixes and the results of applying such fixes to



problems can be placed in attention files, for ready access by a content developer, thereby allowing the content developer to consider the potential fix for addition to the dynamic disposition database. Wing 3:3–58.

*Beniaminy*

11. Beniaminy is directed to knowledge bases. More particularly, Beniaminy relates to capturing and sharing knowledge between the qualified personnel of a company and users or between users and qualified personnel associated with different companies.

Beniaminy 1:7–11.

12. Beniaminy's information gathered in the case (e.g., problem, dialogue, and solution, if any) is added to the KBS but flagged as not-yet-approved. Such flagged information goes through a quality control process wherein each such new information is tagged for review by appropriately-authorized experts. These experts are notified of new and as-yet-unreviewed additions to the knowledge base, and are asked to approve, reject, or edit (and then approve) each new addition. This process may use e-mail database management, version control, and/or workflow principles. The system may be set to never retrieve as-yet-unapproved knowledge except when the approved knowledge has no answer. Beniaminy 11:62–12:8.

ANALYSIS

Before comparing the claims to the art, we first find that although claim 1 is textually long, the only three actual steps recited are short and

simple. They are (1) transmitting parameters; (2) receiving a link; and (3) browsing a web page pointed to by that link. These are steps every search engine, and every web based service request resulting in a web page in general, performs. The bulk of limitation [1] about what happens after the parameters are transmitted is not part of the steps performed in the claimed process. Instead the bulk of limitation [1] describes the characteristics of a database at a network location separate from where the parameters are sent from. This has no functional bearing on the parameter transmission, and so is deserving of no patentable weight. *King Pharm., Inc. v. Eon Labs, Inc.*, 616 F.3d 1267, 1279 (Fed. Cir. 2010) (“The rationale behind this line of cases is preventing the indefinite patenting of known products by the simple inclusion of novel, yet functionally unrelated limitations.”) (citation omitted).

That said, even granting patentable weight to this limitation, we are not persuaded by the Appellants’ argument that

Wing does not disclose “searching *only* a solutions data store that stores a plurality of solutions *which were moved to the solutions data store* from a predisposition solutions data store, the predisposition solutions data store storing a plurality of potential solutions *that are accessible by technical support center agents but inaccessible to an end user*”

App. Br. 9. Appellants contend that “in Wing both the ‘potential solutions’ (those not formally approved) and the ‘approved fix’ databases are searched and solutions identified for consideration when providing technical support to the end user, regardless of where they are from.” App. Br. 8. First, this is a rejection under obviousness rather than anticipation and it is predictable to delete a step for the purpose of removing its function.

Thus it is predictable to narrow the domain of a search in general. Second, as the Examiner found at Answer 21–22 Wing describes searching only its solutions set database and that after making that search, only of that database, where an approved fix for a reported problem does not appear in the database of approved fixes, a potential solution, i.e. a solution that has not been formally administered and added to the database of approved fixes, may be provided to the end-user, to resolve their issues based on the live creation of a solution set. This second step may or may not occur by Wing’s wording. In the instance where it does not occur, the search only of the approved database is clear on its face. In the instance where it does occur, Wing does not say another database is searched, but rather that the technician himself creates a potential solution set. Even if the technician performs a search to create that solution set, Wing describes this as occurring subsequent to searching only the approved fixes. As the claim uses the transition phrase “comprising,” additional unrecited steps will not remove art from the scope of the claim.

As to separately argued claim 9, reciting storing the one or more other interactive links in a first folder containing links to web pages instructive of solutions that have not been viewed, we first find that there is no antecedent basis for the “one or more other interactive links.”<sup>2</sup> Assuming this refers to the limitation in claim 8, the Examiner relied upon Drucker, directed to accessing and filtering libraries with a computer (Drucker 1:5–7), to show it was known to save search results in a repository (Drucker 12:64–13:4). Thus, the Examiner found it was at least predictable to store links returned

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<sup>2</sup> Should prosecution continue, the Examiner should consider how to treat this lack of antecedent basis.

as search results. A file is simply the most primitive storage unit in a file system.

We will not reach the provisional rejection under obviousness type double patenting both because the rejection is only provisional and because Appellants filed a terminal disclaimer August 12, 2012, subsequent to the rejection.

#### CONCLUSIONS OF LAW

The rejection of claims 1–6, 8, 11, and 14–18 under 35 U.S.C. § 103(a) as unpatentable over Sullivan, Rachlin, Wing, and Beniaminy is proper.

The rejection of claim 7 under 35 U.S.C. § 103(a) as unpatentable over Sullivan, Rachlin, Wing, Beniaminy, and Zellweger is proper.

The rejection of claims 9, 10, 12, 13, and 19 under 35 U.S.C. § 103(a) as unpatentable over Sullivan, Rachlin, Wing, Beniaminy, and Drucker is proper.

The provisional rejection of claims 1 and 11 under obviousness type double patenting is not reached.

#### DECISION

The rejection of claims 1–19 is affirmed.

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