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PHILIPS INTELLECTUAL PROPERTY & STANDARDS 465 Columbus Avenue Suite 340 Valhalla, NY 10595			DURANT, JONATHAN W	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte RICHARD VDOVJAK

Appeal 2014–004862
Application 13/132,949
Technology Center 3600

Before ANTON W. FETTING, MICHAEL C. ASTORINO, and
ROBERT J. SILVERMAN, *Administrative Patent Judges*.
FETTING, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE¹

Richard Vdovjak (Appellant) seeks review under 35 U.S.C. § 134 of the Examiner’s Final rejection of claims 1–20, the only claims pending in the application on appeal.² We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b).

¹ Our decision will make reference to the Appellant’s Appeal Brief (“App. Br.,” filed November 12, 2013) and Reply Brief (“Reply Br.,” filed March 17, 2014), and the Examiner’s Answer (“Ans.,” mailed January 17, 2014), and Final Action (“Final Act.,” mailed June 13, 2013).

² The claims currently of record are those filed Nov. 12, 2013 and entered according to the Advisory Action (“Adv. Act.” mailed Jan. 15, 2014).

The Appellant invented a way of managing patient records in a medical environment. Specification 1:2–5.

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 of reusing comparisons, comprising:

[1] receiving a record supplied by an outside party with an input;

[2] comparing

the received record

with

a plurality of records currently maintained by a receiving party

in order to determine if any two compared records

correspond to a same customer

with at least one computer processor [modifies comparing, not customer];

[3] generating a likelihood ratio

based on a probability value

that the compared records match

with the at least one computer processor;

- [4] comparing
the likelihood ratio
to
an accept threshold
and to
a reject threshold,
the accept threshold being different from the reject
threshold
with the at least one computer processor;
- [5] assigning a record
to an exception list
when the record's likelihood ratio a [sic] value
is both less than the accept threshold
and
is also greater than the reject threshold
to an exception list [sic]
with the at least one computer processor;
- [6] determining whether the records on the exception list should
be accepted as a match or rejected as not matching
and
- [7] recording the determination
with the at least one computer processor;
- [8] receiving assertions made by outside parties
whether records on the exception list were accepted or
rejected as matching
with the at least one computer processor;

[9] comparing the records on the exception list
that were at least one of accepted and rejected
by both the party receiving the record and each outside
party
in order to calculate an assertion acceptance value for
each outside party
with the at least one computer processor;
and
[10] recording the assertion acceptance values in a matrix
format
with the at least one computer processor.

The Examiner relies upon the following prior art:

Borthwick	US 2003/0126102 A1	July 3, 2003
Stead et al. ("Stead")	US 2006/0287890 A1	Dec. 21, 2006

Gummadi et al., *Modelling Group Trust For Peer-To-Peer Access Control*, Computer Society, Proceedings of the 15th International Workshop on Database and Expert Systems Applications (DEXA'04), pp. 971–978, (8/30/04–9/3/04).

Claim 9 stands rejected under 35 U.S.C. § 112, fourth paragraph, as failing to further limit the subject matter of a previous claim.³

Claims 1–5, 8–13, and 15–20 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Borthwick and Gummadi.

Claims 6, 7, and 14 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Borthwick, Gummadi, and Stead.

³ A rejection under 35 U.S.C. § 101 was withdrawn. Adv. Act. 2.

ISSUES

The issues of obviousness turn primarily on whether the applied art describes calculating an assertion acceptance value for each outside party based on the comparison of the records on the exception list that were at least one of accepted and rejected by both the party receiving the record and each outside party. The issues of being a proper dependent claim turn primarily on whether a product instantiating a process claim is independent or dependent.

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

Borthwick

01. Borthwick is directed to determining whether stored data items should be linked or merged. More specifically, the present invention relates to making use of maximum entropy modeling to determine the probability that two different computer database records relate to the same person, entity, and/or transaction. Borthwick para. 2.
02. Borthwick describes a significant database management problem related to merging two databases into one. Suppose one company merges with another company and now wants to create a master customer database by merging together existing databases from each company. It may be that some customers of the first

company were also customers of the second company. Some mechanism should be used to recognize that two records with common names or other data are actually for the same person or entity. Borthwick para. 7.

03. Borthwick describes using a statistical technique known as “maximum entropy modeling” to determine whether two records should be linked or matched. Briefly, given a set of pairs of records, which each have been marked with a reasonably reliable “link” or “non-link” decision (the training data), Borthwick builds a model using “Maximum Entropy Modeling” (or a similar technique) which will return, for a new pair of records, the probability that those two records should be linked. A high probability of linkage indicates that the pair should be linked. A low probability indicates that the pair should not be linked. Intermediate probabilities (i.e., pairs with probabilities close to 0.5) can be held for human review. Borthwick para. 11.

04. Borthwick describes useful results with its scoring process: computing the percentage of records on which the system was able to make a decision within the user's precision tolerance (the Human Removal Percentage), computing the percentage of human-marked link and no-link records (the recall) which were correctly marked with the required level of precision, and finally, as a by-product, detecting candidate threshold values above which and below which records can be linked/no-linked. Between the threshold values, records should likely be held for human review. The required level of precision may not be reached by using these

thresholds on new data, but they are reasonable values to use since on this test the thresholds give the user the minimum number of records for human review given his/her stated precision tolerance. The user is free to set the thresholds higher or lower. Borthwick para. 127.

05. Borthwick describes how with thresholds set for 98% merge precision, 1.2% of the record-pairs on which the DOH annotators are able to make a link/no-link decision (i.e., excluding those pairs which the annotators marked as “hold”) needed to be reviewed by a human being for a decision on whether to link the records (i.e. 1.2% of these records were marked by system 10 as “hold”). With thresholds set for 99% merge precision, 4% of these pairs need to be reviewed by a human being for a decision on whether to link the records. Borthwick para. 148.

Gummadi

06. Gummadi is directed to two important security issues related to the aspect of peer-to-peer file sharing. First is the problem of “Peer Selection,” where the notion of security deals with the identification and prevention of peers that display malicious tendencies in their behavior. The second issue is “Request Resolution” which comes into play when a peer needs to decide among the received requests for its resources. Request resolution is of vital importance since some of these requests may tend to exhaust the peer’s serving capabilities (like processing capacity and bandwidth), so that it can't respond to any further requests

normally. Consequences of such a maligned request may result in the peer losing its trust among other peers as well as being branded malicious. Gummadi describes how to model group trust for peer-to-peer access control so as to make them secure and thus provide a redressal to the above-mentioned issues. Gummadi, Abstract.

07. Gummadi describes its Trust Matrix as a matrix that stores peer-to-peer trust values. The peer-to-peer trust values that are stored in the Trust matrix are computed from the trust and reputation based model according to which each peer needs to store a trust value with respect to every other peer in the group with which it had made transactions. Gummadi para. 3.2.1 Trust Matrix.

ANALYSIS

Claim 9 rejected under 35 U.S.C. § 112, fourth paragraph, as failing to further limit the subject matter of a previous claim

Claim 9 is an independent computer readable media claim that refers to process claim 1 for shorthand much the same as a product-by-process claim does.

Claims 1–5, 8–13, and 15–20 rejected under 35 U.S.C. § 103(a) as unpatentable over Borthwick and Gummadi

As to independent claim 1, we are persuaded by Appellants' argument that

Gummadi does not teach or suggest calculating an assertion acceptance value for each outside party based on the comparison of the records on the exception list that were at least one of accepted and rejected by both the party receiving the record and each outside party. . . . To cure these shortcomings, the Examiner asserts that Gummadi is concerned with the same problem as the present application and thus obviously teach the claimed limitations.

App. Br. 10–11. We agree with the Examiner’s findings as to the first eight limitations, which are not under contention. The issue is whether the combined references describe creating the particular acceptance values matrix recited in claim 1, and in independent claims 9 and 11. Independent claim 15 does not recite this per se, but recites the equivalent in its final performing step that performs a generating step.

As Appellants contend, Gummadi builds its trust matrix from the trust and reputation based model according to which each peer needs to store a trust value with respect to every other peer in the group with which it had made transactions. The instant claims do not simply recite using acceptance values in the matrix (Limitation [9]), but creating those values by calculating an assertion acceptance value for each outside party from the comparing of the records on the exception list that were at least one of accepted and rejected by both the party receiving the record and each outside party.

Gummadi, in contrast, does not describe how each cell in its matrix is computed.⁴ Gummadi’s Trust Matrix Creation Algorithm only describes the procedure for adding values to the matrix and not the procedure for

⁴ Gummadi refers to its footnotes 1, 4, 5, 8, 9, 11, 17, and 18 for such computation (Gummadi para. 3.2.1) but none of those references are applied or even of record.

computing each such value. The Examiner does not present any findings as to why one of ordinary skill would have computed the values as in the recited acceptance values matrix.

Claims 6, 7, and 14 rejected under 35 U.S.C. § 103(a) as unpatentable over Borthwick, Gummadi, and Stead

These claims are dependent on the above claims.

CONCLUSIONS OF LAW

The rejection of claim 9 under 35 U.S.C. § 112, fourth paragraph, as failing to further limit the subject matter of a previous claim is improper.

The rejection of claims 1–5, 8–13, and 15–20 under 35 U.S.C. § 103(a) as unpatentable over Borthwick and Gummadi is improper.

The rejection of claims 6, 7, and 14 under 35 U.S.C. § 103(a) as unpatentable over Borthwick, Gummadi, and Stead is improper.

DECISION

The rejection of claims 1–20 is reversed.

REVERSED