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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte LEWIS E. FARSEDAKIS

Appeal 2014–004939
Application 12/486,398
Technology Center 3600

Before ANTON W. FETTING, JOSEPH A. FISCHETTI, and
TARA L. HUTCHINGS, *Administrative Patent Judges*.

FETTING, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE¹

Lewis E. Farsedakis (Appellant) seeks review under 35 U.S.C. § 134 of a final rejection of claims 1, 15, 16, 46, and 57–60, 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 form of web sites that sellers visit to find buyers. Specification 1:10–11.

¹ Our decision will make reference to the Appellant’s Appeal Brief (“App. Br.,” filed December 2, 2013) and Reply Brief (“Reply Br.,” filed March 3,

An understanding of the invention can be derived from a reading of exemplary claim 1, part of which is reproduced below (some paragraphing added).

1. A method of introducing at least one Buyer-side user to at least one Seller-side user, without the Seller having had to post an entry for the item being sold, comprising the steps

performed by an automated system,

that publicizes a web page on which Buyer Contacts are displayed,

without the Buyer-side email address or telephone number being shown on the web page where Buyer Contacts are displayed;

of:

...

for at least one self-described claimed identity, performing cross referencing, followed by computing an Identity Rating for at least one of the Buyer-side user and the Seller-side user wherein the Identity Rating is a score that reflects how real is the self-described claimed identity;

displaying the computed Identity Rating to an opposite party;

.....

The Examiner relies upon the following prior art:

Konstacky	US 2007/0050265 A1	Mar. 1, 2007
Clay	US 2007/0055616 A1	Mar. 8, 2007
Tedesco	US 2009/0012878 A1	Jan. 8, 2009

2014), and the Examiner's Answer ("Ans.," mailed January 2, 2014), and Final Action ("Final Act.," mailed July 2, 2013).

Claims 1, 15, 16, 46, and 57–60 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Konstacky, Tedesco, and Clay.

ISSUES

The issues of obviousness turn primarily on whether the references describe computing an Identity Rating for at least one of the Buyer-side user and the Seller-side user wherein the Identity Rating is a score that reflects how real is the self-described claimed identity.

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

Konstacky

01. Konstacky is directed to providing a list of at least one item desired to be purchased by at least one buyer to a seller. Buyers provide information relating to items desired to be purchased. This information is selectively communicated to sellers based upon search criteria provided by the sellers. A buyer database is created for recording buyer related information. An items wanted database is created for recording items wanted information. One or more buyer database records are created by recording buyer related information received from at least one buyer into the fields of at least one buyer database record. One or more items wanted

database records are created by recording item wanted related information received from at least one buyer into the fields of at least one items wanted database record. Optionally, a seller database is created for recording seller related information. Also optionally, one or more seller database records are created by recording seller related information received from at least one seller into the fields of at least one seller database record. An items wanted database search request is received from a seller. The search request contains information related to an item which the seller desires to sell. The items wanted database is filtered into a set of records satisfying the search request. The filtered set of records is translated such that the set of records is suitable for transmission and display across the Internet. For example, the filtered set of records may be translated into a hypertext markup language format. The seller is provided with the translated filtered set of records by way of an Internet transmission. Konstacky para. 5.

Tedesco

02. Tedesco is directed to using various types of devices (e.g., mobile or cellular telephones) to sell and to buy personal property. Tedesco para. 19.
03. Tedesco describes sorting messages within a given voicemail or email mailbox based on one or more criteria, including the credibility or rating of a prospective buyer (e.g., more credible,

established buyers with stronger ratings may be given priority in a mailbox). Tedesco para. 126.

04. Tedesco describes a seller providing a rule which provides that a ring tone should be output through a speaker of a cellular phone at different volumes based on the rating of a prospective buyer.

Tedesco para. 132.

05. Tedesco describes the central computer tracking each party's prior uses of the system and publishing associated ratings for users that future potential counterparties may review and evaluate pursuant to "discovery." The score or rating may be calculated based on one or more metrics that consider one or more of: (1) the number of transactions consummated by a party, (2) the ratio of consummated transactions to postings listed by a party, (3) feedback or scores provided by other users, (4) feedback or scores provided by adjudicators (e.g., as described herein), (5) feedback or scores provided by human assistants (e.g., as described herein), and/or (5) any other metric or data point. Tedesco para. 144.

Clay

06. Clay is directed to auctioning items for sale on an internet network. Specifically, the invention relates to apparatus, methods, and systems for online auction trading. Clay para. 3.

07. Items may be displayed in chronological order by the date and time they were posted, in chronological order by the auction end date and time. Clay para. 77.

ANALYSIS

We are persuaded by Appellant's argument that none of the references describes computing an Identity Rating for at least one of the Buyer-side user and the Seller-side user wherein the Identity Rating is a score that reflects how real is the self-described claimed identity. App. Br. 12–13; Claim 1. The Examiner finds that Tedesco describes user ratings. Final Act. 3. We agree. However, the claim is narrower, requiring the rating rate the reality of a self-described identity. Tedesco instead rates effectively the desirability of a customer, rather than the likelihood the customer is accurately identified. The Examiner responds that the Specification provides many possible implementations and so any implementation in the art would suffice. Ans. 6. Again, we agree with the Examiner's finding as to the breadth of possible implementations, but disagree as to its pertinence to the issue of whether Tedesco describes any suggestion for, much less any implementation of, an identity rating.

CONCLUSIONS OF LAW

The rejection of claims 1, 15, 16, 46, and 57–60 under 35 U.S.C. § 103(a) as unpatentable over Konstacky, Tedesco, and Clay is improper.

Appeal 2014-004939
Application 12/486,398

DECISION

The rejection of claims 1, 15, 16, 46, and 57–60 is reversed.

REVERSED