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Go Daddy Operating Company, LLC
14455 NORTH HAYDEN ROAD
SUITE 219
SCOTTSDALE, AZ 85260

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* BRAD OWEN  
and  
JASON STEINER

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Appeal 2014-006797  
Application 11/030,612  
Technology Center 2400

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Before THU A. DANG, MELISSA A. HAAPALA, and  
KAMRAN JIVANI, *Administrative Patent Judges*.

DANG, *Administrative Patent Judge*.

DECISION ON APPEAL

I. STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 21–58. Claims 1–20 have been canceled. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

### A. INVENTION

According to Appellants, the invention relates to “filtering email messages, email delivery confirmations, and email message integrity” (Spec. ¶ 1).

### B. REPRESENTATIVE CLAIMS

Claims 21 and 39 are exemplary:

21. A system, comprising a server computer having a database storing an email message attribute used to identify an email message that was or will be sent via a computer network from a sender to a recipient, wherein said email message attribute was stored in said database by said sender, and said email message attribute is a separate data from said email message, and said email message is not stored in said database, and wherein said database is utilized by an email filter for obtaining a status of said email message attribute and routing said email message based on said status.

39. A method, comprising the steps of:  
sending an email message via a computer network from a sender to a recipient, and  
logging an email message attribute used to identify said email message to a database at a computer network location, wherein said email message attribute is a separate data from said email message, and said email message is not stored in said database, and said email message attribute is indicative of whether said email message has originated from said sender.

### C. REJECTIONS

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Matsuo	US 6,374,246 B1	Apr. 16, 2002
Pollack	US 6,505,236 B1	Jan. 7, 2003
Malik	US 7,155,484 B2	Dec. 26, 2006
Bandini	US 2009/0157708 A1	June 18, 2009

Claims 39–42 stand rejected under 35 U.S.C. § 102(a) as anticipated by Malik.

Claims 21–23, 27–32, 35, 37, 38, 43, 47–51, and 54–58 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Malik and Matsuo.

Claims 24–26, 44–46, 52, and 53 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Malik, Matsuo, and Pollack.

Claims 33, 34, and 36 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Malik, Matsuo, and Bandini.

### II. ISSUES

The principal issues before us are whether the Examiner erred in finding that:

1. Malik discloses “logging an email message attribute used to identify said email message to a database . . . said email message attribute is indicative of whether said email message has originated from said sender” (claim 39).

2. The combination of Malik and Matsuo discloses or at least suggests “a database storing an email message attribute used to identify an email message . . . stored in said database by said sender, . . .” (claim 21).

### III. FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence.

#### *Appellants' Specification*

1. According to Appellants, “email message attributes” are “data that may be used to identify the email message,” which may include “the entire email message, the email message headers, the date and time the message was sent, the email message ID, the Recipient’s email address, the Sender’s email address, . . .” (Spec. ¶ 33).

#### *Malik*

2. Malik discloses an email attribute database that includes a list of desired email attributes, wherein the email attributes may include a particular sender’s name, a specific email address of a sender, a specified sender IP address, email content, type of content, and the like (col. 3, ll. 44–48).

3. Malik further discloses that an attribute extracting filter extracts known attributes from each of the email messages, and the extracted attributes are conveyed to the attribute compare logic which compares the extracted attributes with each of the desired email attributes in the desired email attribute database. The comparison results in a determination of whether or not the email message includes any desired attributes rather than spam or junk mail (col. 4, ll. 54–67).

#### IV. ANALYSIS

##### *35 U.S.C. § 102(a)*

As to claim 39, Appellants contend “Malik’s attributes are not ‘used to identify’ an email message” (App. Br. 8). Although Appellants concede “some or all of ‘[Malik’s] attributes may be used to determine whether or not an email message should be deleted,” according to Appellants, “the attributes are not ‘used to identify said email message’” (*id.* at 9). That is, although Appellants concede that Appellants’ Specification states “the email message attributes may include . . . the Recipient’s address, [and] the Sender’s email address,” Appellants contend “attributes as taught in Malik are not specific to, and may not be ‘used to identify said email message’ . . .” (*id.*).

We have considered all of Appellants’ arguments and evidence presented. However, we disagree with Appellants’ contentions regarding the Examiner’s rejection of the claims. Based on the record before us, we are unpersuaded that the Examiner erred in finding that claim 39 is anticipated by Malik.

As a preliminary matter of claim construction, we give the claims their broadest reasonable interpretation consistent with the Specification. *See In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997). Although Appellants contend, “attributes as taught in Malik are not specific to” an email message (App. Br. 9), we note such contention is not commensurate in scope with the language of claim 39, because claim 39 does not require an “attribute” to be “specific” to any email message.

Appellants’ Specification defines “email message attributes” as “data that may be used to identify the email message,” such as the Recipient’s

email address, the Sender's email address, and the like (FF 1). Appellants concede that Appellants' Specification states "the email message attributes may include . . . the Recipient's email address, [and] the Sender's email address" (App. Br. 9 (emphasis omitted)). Giving the term its broadest, reasonable interpretation consistent with the Specification and claims, we conclude an "email message attribute" is any data used to identify an email message, *which includes email addresses* which identify the email message as going to a particular recipient and coming from a particular sender.

We find no error with the Examiner's finding that "Malik teaches an email attribute database that includes email attributes which are detectable attributes or parameters associated with an email message," wherein the attributes "include, but are not limited to: an email address of a sender, email content, list of attachments, and type of content" (Ans. 4; FF 2). As the Examiner points out, "appellants have not provided any distinction of the difference between the 'used to identify' feature claimed and performing mail filtering to identify spam messages using the cited attributes in Malik" (Ans. 4).

On this record, we are not persuaded of error in the Examiner's reliance on Malik for disclosing storing email message attributes used to identify an email message (such as identifying the sender via the sender's email address) to a database, wherein the email message attribute "is indicative of whether said email message has originated from said sender" as set forth in claim 39 (Ans. 4, FF 2). Appellants do not provide substantive arguments for claims 40–42 separate from claim 39 (App. Br. 7), and thus, these claims fall with claim 39.

*35 U.S.C. § 103(a)*

As for independent claims 21, 32, 43, 47, and 54, although Appellants concede that Malik's attributes are used "to determine whether one or more emails in a group of emails should be, for example, deleted or forwarded," Appellants merely repeat "Malik's 'attributes' cannot be used to identify an email" (App. Br. 11). Appellants then contend although Matsuo "may be used to identify users and email recipients[,] . . . Matsuo does not teach storing an email message attribute that may be used to identify an email" (App. Br. 12). That is, "identifying users and email recipients (Matsuo) does not teach or suggest identifying an email message" (*id.*)

As discussed above, we are unpersuaded of error in the Examiner's reliance on Malik for disclosing attributes "used to identify an email," such as identifying the sender via the sender's email address (Ans. 4; FF 2). Further, we also note that Appellants concede that Malik's attributes are also used "to determine whether one or more emails in a group of emails should be, for example, deleted or forwarded" (App. Br. 11). That is, Malik's attributes are also used to determine/identify whether an email is to be deleted or forwarded (FF 3).

We are also unpersuaded by Appellants' contention that "identifying users and email recipients (Matsuo) does not teach or suggest identifying an email message" (App. Br. 12). That is, as discussed above, giving the term its broadest, reasonable interpretation consistent with the Specification and claims, we conclude an "email message attribute" is any data that is used to identify an email message, which includes email addresses which identify the email message as going to a particular recipient and coming from a particular sender.

Accordingly, we agree with the Examiner's finding that Malik in view of Matsuo teaches or at least suggests "a database storing an email message attribute used to identify an email message . . . stored in said database by said sender, . . ." as recited in claim 21, and similarly recited in claims 32, 43, 47, and 54

On this record, we are unpersuaded of error in the Examiner's rejection of claims 21, 32, 43, 47, and 54, and of claims 22, 23, 27–31, 35, 37, 38, 48–51, and 55–58 depending respectively therefrom over Malik and Matsuo.

As for claims 24, 25, 44–46, 52, and 53, Appellants merely contend "an email attachment (Pollack) does not fairly teach or suggest an email message attribute used to identify an email message" (App. Br. 13). However, as discussed above, we find no error with the Examiner's reliance on Malik and Matsuo for teaching and suggesting such limitations. Accordingly, we also find no error with the Examiner's rejection of 24, 25, 44–46, 52, and 53 over Malik, Matsuo, and Pollack.

Appellants do not provide separate arguments for claims 26, 33, 34, and 36 (App. Br. 13), accordingly, we also affirm the rejection of these claims over Malik and Matsuo, in further view of Bandini.

## V. CONCLUSION AND DECISION

We affirm the Examiner's rejections of claims 39–42 under 35 U.S.C. § 102(a), and claims 21–38, and 43–58 under 35 U.S.C. § 103(a).

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