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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* QIMING CHEN and MEICHUN HSU

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Appeal 2015-005421  
Application 13/454,693  
Technology Center 2100

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Before HUNG H. BUI, JOSEPH P. LENTIVECH, and  
NABEEL U. KHAN, *Administrative Patent Judges*.

LENTIVECH, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants<sup>1</sup> seek our review under 35 U.S.C. § 134(a) of the Examiner's Final Rejection of claims 1–20, the only claims pending in the application on appeal. App. Br. 2. We have jurisdiction over the pending claims under 35 U.S.C. § 6(b).

We affirm.

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<sup>1</sup> According to Appellants, the real party in interest is Hewlett-Packard Development Company, LP. App. Br. 2.

STATEMENT OF THE CASE

*Appellants' Invention*

Appellants' invention generally relates to performing inter-query engine communication. Spec., Abstract. A query engine is a component of a database management system (DBMS) that executes a query and provides a result. Spec. 1. Query engines may also import and export data between their local databases. *Id.* To coordinate the exchange of data, the query engines communicate amongst themselves (e.g., perform inter-query engine communication). *Id.* Claim 1, which is illustrative, reads as follows:

1. A method comprising:

receiving a message from a first query engine agent over a signal communication network, wherein the first query engine agent is associated with a first query engine, and wherein the signal communication network comprises a first virtual network;

determining, by a second query engine agent associated with a second query engine, a data exchange to perform based on the message, and wherein a data communication network comprises a second virtual network; and

performing the data exchange over the data communication network.

*Rejections*

(1) Claims 1–7, 9, 11, and 13–19 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Faybishenko et al. (US 2003/0055818 A1; Mar. 20, 2003) (“Faybishenko”). Final Act. 2–10.

(2) Claims 8 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Faybishenko and Acedo et al. (US 2009/0198699 A1; Aug. 6, 2009) (“Acedo”). Final Act. 10–11.<sup>2</sup>

(3) Claims 10 and 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Faybishenko and Chen et al. (US 2011/0047172 A1; Feb. 24, 2011) (“Chen”). Final Act. 11–12.<sup>3</sup>

### *Issue on Appeal*

Did the Examiner err in finding that Faybishenko discloses the limitations recited in claim 1?

### ANALYSIS

We have reviewed the Examiner’s rejections in light of Appellants’ arguments that the Examiner has erred. We disagree with Appellants’ conclusions. We adopt as our own the findings and reasons set forth by the Examiner in the Final Office Action from which this appeal is taken and the reasons set forth in the Examiner’s Answer in response to Appellants’ Appeal Brief. Final Act. 2–12; Ans. 2–8. We highlight and address specific findings and arguments for emphasis as follows.

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<sup>2</sup> In the body of the rejection of claims 8 and 20, the Examiner references “Chambers” instead of Acedo. Final Act. 11. We find this reference to “Chambers” to be a typographical error and treat the rejection as being based on Faybishenko and Acedo herein.

<sup>3</sup> The header of the rejection indicates that the rejection is based on Faybishenko and Acedo. Final Act. 11. However, in the body of the rejection the Examiner relies on Chen. Final Act. 12. We find the listing of Acedo in the header of the rejection to be a typographical error and treat the rejection as being based on Faybishenko and Chen herein.

*§ 102 Rejection*

Appellants do not separately argue claims 1–7, 9, 11, and 13–19. *See* App. Br. 9–13; Reply Br. 1–4. We select claim 1 as representative. Accordingly, claims 2–7, 9, 11, and 13–19 stand or fall with claim 1. 37 C.F.R. § 41.37(c)(1)(iv).

Contention 1

Appellants contend Faybishenko fails to disclose all the limitations recited in claim 1. App. Br. 9–13; Reply Br. 1–4. In particular, Appellants contend Faybishenko fails to disclose “receiving a message . . . over a signal communication network” and “performing the data exchange over the data communication network,” as recited in claim 1. App. Br. 9–11; Reply Br. 1–2. Appellants contend “Faybishenko discloses that all communication between nodes is through the same hub architecture, and with no disclosure of two networks, one for messages and one for data.” App. Br. 9 (citing Faybishenko ¶¶ 9–12, 48–52, 72–76; Figs. 1–3).

A “network” is “a system of linked computers.” Network, *Microsoft Encarta Dictionary* 595 (2004). Appellants’ Specification provides that a signal communication network “is used to pass messages between the servers 102” and a data communication network “is used to transfer data between the servers 102.” Spec. ¶ 11. Faybishenko discloses that a hub, including a router for routing queries to providers, receives a query from a consumer, determines an appropriate provider for responding to the query, and then routes the query to that provider. Ans. 2–3 (citing Faybishenko ¶¶ 50, 76). Faybishenko, therefore, discloses that the query is received from the consumer via a first network that includes the consumer, the hub, and the provider. Faybishenko discloses that the hub facilitates efficient query

routing by handling message routing between consumers and providers. Faybishenko ¶ 50. Faybishenko, therefore, discloses “receiving a message . . . over a signal communication network,” as recited in claim 1.

Faybishenko further discloses that upon receiving the query, the provider generates a response and can forward the response to the consumer via a different hub that includes a router for routing responses to consumers. Faybishenko ¶ 50. Faybishenko, therefore, discloses that the response (e.g., data) is transmitted to the consumer via a second network that includes the provider, the different hub, and the consumer. As such, Faybishenko discloses “performing the data exchange over the data communication network,” as recited in claim 1.

### Contention 2

Appellants also contend Faybishenko does not disclose “wherein the signal communication network comprises a first virtual network” and “wherein a data communication network comprises a second virtual network,” as recited in claim 1. App. Br. 11–12; Reply Br. 2.

“A reference anticipates a claim if it discloses the claimed invention ‘such that a skilled artisan could take its teachings in combination with his own knowledge of the particular art and be in possession of the invention.’” *In re Graves*, 69 F.3d 1147, 1152 (Fed. Cir. 1995) (quoting *In re LeGrice*, 301 F.2d 929, 936 (CCPA 1962)). Furthermore, “[e]very patent application and reference relies to some extent upon knowledge of persons skilled in the art to complement that [which is] disclosed.” *In re Bode*, 550 F.2d 656, 660 (CCPA 1977) (quoting *In re Wiggins*, 488 F.2d 538, 543 (CCPA 1973)). Those persons “must be presumed to know something” about the art

“apart from what the references disclose.” *In re Jacoby*, 309 F.2d 513, 516 (CCPA 1962).

Faybishenko discloses that each hub acts as an access point that provides virtual access to a portion of or the entire distributed information discovery network. Faybishenko ¶ 50. A person of ordinary skill in the art would understand Faybishenko as disclosing the first network that includes the consumer, the hub, and the provider and the second network that includes the provider, the different hub, and the consumer as being virtual networks. As such, we are not persuaded the Examiner erred in finding Faybishenko discloses “wherein the signal communication network comprises a first virtual network” and “wherein a data communication network comprises a second virtual network,” as recited in claim 1.

### Contention 3

Appellants also contend Faybishenko does not disclose “receiving a message from a first query engine agent . . . associated with a first query engine” and “determining, by a second query engine agent associated with a second query engine, a data exchange to perform based on the message,” as recited in claim 1. App. Br. 12–13; Reply Br. 3–4. In particular, Appellants contend:

Faybishenko gives no indication that the consumers 140 have a query engine. Instead, the consumers 140 (users or clients) which may be in a peer-to-peer (P2P) structure, such as with “Napster” or “Gnutella,” are merely entities or clients that send search/query requests.

While the consumers 140 may be “peers” with providers 120 in a distributed structure, the cited reference does not state that the consumers 140 have a search engine. Therefore, in Faybishenko, a message that is a basis of a data exchange is *not*

received from a query engine agent associated with a first query engine, as claimed. Again, Faybishenko does not disclose that the consumer 140 has a query engine.

App. Br. 13 (citing Faybishenko ¶¶ 8–12, 35–37, 48–52) (internal citations omitted).

We do not find Appellants' contention persuasive. Appellants' Specification defines a query engine as "a component of a database management system (DBMS) that executes a query and provides a result." Spec. ¶ 1. The Specification does not expressly define the term "query engine agent" but provides that "[t]he query engine agents 208 exchange messages across the signal communication network 106" and "[i]n response to a receive message, and according to message type, the query engine agents 208 make data available to query engines 202 using the data communication network 104." Spec. ¶ 20. Faybishenko discloses that a node may act as both a provider and a consumer and that a node may comprise one or more consumers, one or more providers, and/or one or more hubs. Faybishenko, Fig. 6; ¶¶ 48, 100. Faybishenko discloses that the provider may include a provider query request protocol (QRP) interface that accepts queries from the hub and responds to the queries with query responses. Faybishenko ¶ 74. Faybishenko discloses that the QRP interface may call a searching interface of the provider, for example, a database search engine in order to obtain data for the response. *Id.* Faybishenko also discloses that the database "may be a database that provides persistency, such as a GOODS (Generic Object Oriented Database System) database" and "GOODS is an object-oriented fully distributed database management system (DBMS) using an active client model." Faybishenko ¶ 82. As such,

we are not persuaded the Examiner erred in finding Faybishenko discloses the disputed limitation.

For the foregoing reasons, we are not persuaded the Examiner erred in rejecting claim 1 and its respective dependent claims 2–7, 9, 11, and 13–19, which Appellants do not argue separately .

*§ 103 Rejections*

Claims 8, 10, 12, and 20 stand rejected under 35 U.S.C. § 103(a) as based on Faybishenko and various additional references. Regarding claims 8, 10, 12, and 20, Appellants reiterate the same arguments presented regarding the patentability of claim 1 and further argue the additional references relied upon by the Examiner do not cure the deficiencies in the disclosure of Faybishenko discussed *supra*. See App. Br. 14–16. Accordingly, we are not persuaded the Examiner erred in rejecting claims 8, 10, 12, and 20 for the reasons discussed above with respect to claim 1.

DECISION

We affirm the Examiner’s rejections of claims 1–20.

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