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EXAMINER
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BAUM, RONALD

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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* CORY R. WEPPLER, MIRA VRBASKI, LUI CHU YEUNG,  
HAIQING MA, and GITA BEYK

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Appeal 2015-006356  
Application 13/156,787<sup>1</sup>  
Technology Center 2400

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Before MARC S. HOFF, JUSTIN BUSCH, and SCOTT E. BAIN,  
*Administrative Patent Judges.*

BAIN, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–8 and 10–20, which constitute all claims pending in the application. Claim 9 has been canceled. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

STATEMENT OF THE CASE

The claimed invention relates to network management, and more specifically, to routing subscriber communications through underutilized

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<sup>1</sup> Appellants identify Alcatel Lucent as the real party in interest. App. Br. 1.

network nodes in order to reduce network congestion. Spec. ¶¶ 1–2. Claims 1, 8, and 14 are independent. Claim 1 is illustrative of the invention and the subject matter of the appeal, and reads as follows (disputed limitations in italics):

1. A method performed by a network node for resolving subscriber-related events, the method comprising:

receiving, at the network node, an indication of a first event from a network monitor, wherein the first event is associated with a subscriber;

identifying, by a *rules engine*, based on the first event, an applicable rule of a plurality of rules, the applicable rule specifying at least one action; and

*initiating, by a subscriber event handler, performance of the at least one action* with respect to at least one session associated with the subscriber, wherein the subscriber event handler receives the applicable rule from the rules engine.

App. Br. 12 (Claims App.).

Claims 1–8 and 10–20 stand rejected under pre-AIA 35 U.S.C. § 103(a) as unpatentable over Kwang (US 2009/0132579 A1; pub. May 21, 2009) and Steinfeldt et al. (US 2003/0187992 A1; pub. Oct. 2, 2003) (“Steenfeldt”). Final Act. 6–26.

#### ANALYSIS

We have reviewed the Examiner’s rejections in light of Appellants’ arguments presented in this appeal. Arguments which Appellants could have made but did not make in the Briefs are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(iv). On this record, we are not persuaded the Examiner erred. We adopt as our own the findings and reasons set forth in

the rejections from which this appeal is taken and in the Examiner's Answer, and highlight the following for emphasis.

*Claims 1, 8, and 14*

Appellants argue the independent claims (1, 8, and 14) as a group, with claim 1 representative of the group. App. Br. 7; *see* 37 C.F.R. § 41.37(c)(iv). Appellants first contend the Examiner erred in finding the prior art teaches a “subscriber event handler” that receives the applicable rule, as recited in claim 1. App. Br. 7. Specifically, Appellants argue the Examiner erred in finding the subscriber event handler is “software,” and that the Examiner has not identified the teaching in the prior art of receiving “the applicable rule.” *Id.* We are not persuaded by Appellants' contentions.

The Examiner finds “subscriber event handler” taught in Kwang. Ans. 2–3. Contrary to Appellants' argument, the Examiner does not rely solely on Kwang's teachings of software, but rather “software-hardware implementation” of a subscriber event handler. Ans. 2; Kwang ¶¶ 54–55; *id.* ¶ 50 (describing instructions executing from memory on servers or workstations, connected to local area network). Further, as the Examiner finds, the subscriber event handler taught in Kwang is “configurable,” thereby receiving applicable “rules” (via configuration settings) as recited in claim 1. Ans. 4 (citing Kwang ¶¶ 45, 52, 134, 138); *see also* Final Act. 11 (citing Kwang and Steinfeldt). Appellants' cursory argument, App. Br. 7, does not identify the alleged error in the Examiner's finding. *See In re Lovin*, 652 F.3d 1349, 1357 (Fed. Cir. 2011) (we “require more substantive arguments in an appeal brief than a mere recitation of the claim elements and a naked assertion that the corresponding elements were not found in the prior art”). We, therefore, are not persuaded of error.

Appellants also argue that the Examiner “fails to address” the claim limitation “initiating, by a subscriber event handler, performance of at least one action.” App. Br. 7. The Final Action, however, does address this limitation, finding it is taught in the combination of Steinfeldt with Kwang. Final Act. 9, 11. As the Examiner finds, Kwang teaches various “actions” by the subscriber event handler, such as sending data related to subscribers’ sessions. Ans. 5–6 (citing Kwang ¶¶ 45, 52–53, 78, 130); *see also id.* (citing Steinfeldt ¶¶ 107, 121, 140, 211, 339). To the extent Appellants’ position relies on the contention there is no “subscriber event handler” taught in Kwang or Steinfeldt, we are not persuaded by that contention for the reasons discussed above. Otherwise, Appellants again have offered little explanation of the alleged error in the Examiner’s findings, and therefore we are not persuaded. *See In re Lovin*, 652 F.3d at 1357.

Finally, Appellants argue the Examiner “fails to address” the claim 1 limitation “identifying, by a *rules engine*, based on the *first event* [associated with a subscriber], an applicable rule.” App. Br. 7–8 (emphasis in original). In particular, Appellants argue, the Examiner “fails to identify either the rules engine or the first event.” App. Br. 8. As discussed above, however, the Examiner finds Kwang teaches invoking “rules” by means of configuration criteria. Ans. 6 (citing Kwang ¶¶ 45, 52–53, 78, 130). Further, the Examiner finds Steinfeldt teaches a “service execution rule mechanism” including a “rule engine.” Ans. 6; Steinfeldt ¶¶ 140, 211, 339. In both Kwang and Steinfeldt, the Examiner finds, the rules are triggered, i.e. identified or enforced, by subscriber related activities or operations. Ans. 6. Again, Appellants do not identify the error in the Examiner’s finding, App. Br. 7–8, and we discern none on the record before us.

For the foregoing reasons, Appellants have not demonstrated the Examiner erred in rejecting the claims, and we sustain the rejection of independent claims 1, 8, and 14 under pre-AIA 35 U.S.C. § 103(a) as unpatentable over Kwang and Steinfeldt.

*Claim 2*

Appellants argue dependent claim 2 separately, asserting the Examiner erred in finding the prior art teaches “identifying a group of sessions” belonging to the subscriber, as recited in claim 2. App. Br. 9. We disagree. As the Examiner finds, Kwang teaches “aggregat[ing] the weekly or monthly total” of a user’s “multiple sessions.” Ans. 7; Final Act. 13–14 (citing Kwang ¶ 126). We discern no error in the Examiner’s finding that the foregoing passage in Kwang also teaches “identifying a group of sessions” belonging to the subscriber, because one of ordinary skill in the art would understand that “aggregating” particular sessions of a user (e.g., a monthly total) includes identifying the sessions to aggregate. *Id.*; *see also* Kwang ¶¶ 16–19, 90, 119.

Accordingly, we sustain the rejection of dependent claim 2 under pre-AIA 35 U.S.C. § 103(a) as unpatentable over Kwang and Steinfeldt.

*Remaining Claims*

Appellants argue the remaining claims 3–7, 10–13, and 15–20, all of which are dependent, are patentable for the same reasons as their base claims 1, 8, and 14. App. Br. 10. Because we do not find the Examiner erred with respect to the independent claims, *see supra*, we also find no error regarding the remaining dependent claims. Accordingly, we sustain the rejection of the remaining claims under pre-AIA 35 U.S.C. § 103(a) as unpatentable over Kwang and Steinfeldt.

Appeal 2015-006356  
Application 13/156,787

DECISION

We affirm the Examiner's decision to reject claims 1–8 and 10–20.

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). *See* 37 C.F.R. § 41.50(f).

AFFIRMED