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EXAMINER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ROBERT J. SUNDSTROM

Appeal 2015-006627
Application 11/724,646¹
Technology Center 2400

Before DANIEL N. FISHMAN, AMBER L. HAGY, and
SHARON FENICK, *Administrative Patent Judges*.

FENICK, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant seeks our review under 35 U.S.C. § 134(a) of the Examiner's final rejection of claims 1–34, all the pending claims in the present application. (Appeal Br. 12.) We have jurisdiction over the appeal under 35 U.S.C. § 6(b)(1).

We REVERSE.

Invention

Appellant's invention relates to communications between users, and specifically to predicting a likelihood that a first user will initiate

¹ According to Appellant, the real party in interest is Scenera Technologies, LLC. (Appeal Br. 3.)

communication with a second user, based on stored information, and providing that predicted likelihood and status information for the first user to the second user. (Spec. Abstract.)

Illustrative Claim

Claim 1, reproduced below with emphasis added, is illustrative:

1. A method for providing predicted likelihood of communication between users, the method comprising:
predicting a likelihood that a first user will initiate communication with a second user based on stored information for the first user that indicates the second user;
associating the predicted likelihood with status information for the first user; and
providing an indication of the status information with the predicted likelihood to the second user,
wherein at least one of the preceding actions is performed on at least one electronic hardware component.

Rejections

Appellant appeals the following rejections:

Claims 1–9, 12–17, 19, 20, 22–31, 33, and 34 are rejected under 35 U.S.C. § 103(a) as unpatentable over Idan et al. (US 7,577,246 B2; Aug. 18, 2009) and Pushparaj (US 2006/0013140 A1; Jan. 19, 2006). (Final Action 3–17.)

Claims 10, 11, 18, 21, and 32 are rejected under 35 U.S.C. § 103(a) as unpatentable over Idan, Pushparaj, and Doss et al. (US 7,395,221 B2; July 1, 2008). (Final Action 17–24.)

ANALYSIS

Issue: Did the Examiner err in finding that the combination of Idan and Pushparaj teaches or suggests “predicting a likelihood that a first user

will initiate communication with a second user based on stored information for the first user that indicates the second user,” as in claim 1?

The Examiner finds that the claimed limitation is taught by the combination of Idan and Pushparaj. (Final Action 3–4.) Idan relates to quality evaluation of an agent of an organization that interacts with a calling party, and the storing of results regarding the quality of and agent’s interactions. (Idan Abstract, 3:41–4:9, 8:41–10:15, Fig 2.) Pushparaj relates to a user who has several communications devices (Pushparaj ¶¶ 1–2, 13–14) and the use of data to predict the probability of contacting the user on a given device (*id.* ¶¶ 15, 19).

The Examiner finds that the prediction of a likelihood that a first user (mapped by the Examiner to Idan’s agent) will initiate communication with a second user (mapped by the Examiner to Idan’s supervisor or officer) is taught in Idan’s determination of the evaluation of an agent interaction and the transfer of interactions to the supervisor or compliance officer. (Final Action 3 (citing Idan 9:31–40, 10:58–62, 10:65–67, Figs.1 and 2).) Although the Examiner finds that “Idan does not explicitly disclose stored information for a first user that indicates a second user will be contacted,” the Examiner finds that this element of the disputed limitation is taught by Idan in combination with Pushparaj’s disclosure of data regarding a the chance of contacting a user through a designated device. (*Id.* at 4 (citing Pushparaj ¶¶ 13, 15, 20, Fig 3).)

Appellant argues that Idan, in combination with Pushparaj, as applied by the Examiner at most teaches that stored information regarding agent performance will result in the second user (the supervisor or compliance officer) contacting the first user (the agent). (Appeal Br. 25 (citing Final

Action 25 in which the Examiner indicates that stored information in Idan “is . . . used . . . for a supervisor or office to contact an agent”).) Thus, Appellant argues, there is no teaching or suggestion in the combination of Idan and Pushparaj of a first user initiating communication with a second user, or the prediction of a probability of such initiation. (*Id.*)

The Examiner’s reference to Idan regarding such contacts (*e.g.*, Final Action 3) is Idan’s teaching that, “[a]t step 228, one or more interactions are transferred to a supervisor, a compliance officer or any other user.” (Idan 10:65–67.) This may indicate that the second user is contacted; however, we agree with Appellant that such a transfer is not initiated by a first user (the agent) and does not indicate the prediction of a likelihood that a first user will initiate communication with a second user. Furthermore, we agree that the combination of Idan and Pushparaj does not teach the claimed limitation that such a prediction occurs and is based on stored information for the first user that indicates the second user.

Therefore, we find Appellant’s arguments regarding the disputed limitation to be persuasive. Because we agree with at least one of the arguments advanced by Appellant, we need not reach the merits of Appellant’s other arguments.

Accordingly, we do not sustain the Examiner’s obviousness rejection of independent claim 1, and independent claims 22, 33, and 34 containing commensurate limitations. Additionally, we do not sustain the rejections of dependent claims 2–21 and 23–32, based on the same reasoning.

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DECISION

We reverse the Examiner's § 103(a) rejections of claims 1–9, 12–17, 19, 20, 22–31, 33, and 34 over Idan and Pushparaj, and of claims 10, 11, 18, 21, and 32 over Idan, Pushparaj, and Doss.

REVERSED