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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/452,534	04/20/2012	Taylor Bayouth	2991.100US1	6356
21186	7590	12/19/2016	EXAMINER	
SCHWEGMAN LUNDBERG & WOESSNER, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402			CHANNAVAJALA, SRIRAMA T	
			ART UNIT	PAPER NUMBER
			2157	
			NOTIFICATION DATE	DELIVERY MODE
			12/19/2016	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte TAYLOR BAYOUTH

Appeal 2015-007358
Application 13/452,534
Technology Center 2100

Before CARL W. WHITEHEAD JR., AMBER L. HAGY, and
AARON W. MOORE, *Administrative Patent Judges*.

MOORE, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant¹ appeals under 35 U.S.C. § 134(a) from a Final Rejection of claims 1–20, which are all of the pending claims. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

THE INVENTION

The application is directed to “[a] system for managing search engine campaigns.” (Spec. ¶ 3.) Claim 1, reproduced below, is exemplary:

1. A method comprising:

storing, in a database of a server, advertising campaign data associated with a customer account;

generating a synchronization thread for an advertising platform selected from a plurality of advertising platforms; and

synchronizing, using the synchronization thread, the advertising campaign data with the advertising platform, wherein synchronizing comprises:

selecting a proxy class associated with the advertising platform, the proxy class stored on the server;

requesting from the advertising platform, via the proxy class, a set of campaigns that are associated with the customer account and the advertising platform;

receiving, from the advertising platform, the set of campaigns associated with the customer account; and

updating the advertising campaign data stored in the database based on the set of campaigns received from the advertising platform and a set of campaigns stored in the advertising campaign data.

¹ Appellant identifies Hostopia.com Inc. as the real party in interest. (*See* App. Br. 2.)

THE REFERENCES

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

Collins et al.	US 2007/0027754 A1	Feb. 1, 2007
Collins et al.	US 2007/0027756 A1	Feb. 1, 2007
Xie et al.	US 2007/0239528 A1	Oct. 11, 2007

THE REJECTIONS

1. Claims 1, 6–9, 14, 19, and 20 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Collins '754 and Xie. (*See* Final Act. 6–10.)
2. Claims 2–5, 10–13, and 15–18 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Collins '754, Xie, and Collins '756. (*See* Final Act. 11–12.)

ANALYSIS

In the Final Office Action, the Examiner found that Collins '754 “does not specifically teach ‘selecting a proxy class associated with the advertising platform, the proxy class stored on the server’” but that Xie does. (Final Act. 8.) In particular, the Examiner found that Xie “teaches [a] proxy server identifying web pages to the browser, further continuous [monitoring of] user activity with respect to the advertising campaign.” (*Id.*)

Appellant argues the rejections are in error because the cited portions of Xie “fail to teach the claimed proxy class, and instead teach a proxy server itself.” (*See* App. Br. 8–9.) In particular, Appellant argues that “Claim 1 explicitly recites the proxy class is stored on the server,” that “[t]here is no indication in [the cited] portion of Xie, or other portions, of

Xie that has a proxy class being stored on a server or that the proxy server is a proxy class,” and that “[i]nstead, Xie discusses the use of a proxy server itself.” (App. Br. 9, emphasis omitted.)

The Examiner responds that “Xie supports ‘proxy server’ fig 2 element 225 that generates, fetches requested data[, and] also scan[s] a proxy site for external web site links and creating and adding to that campaign’s proxy group [which] is [a] similar function of [the] ‘proxy class’ which communicates with advertising platform, interacts with the user’s account data and like.” (Ans. 4, emphasis omitted.)

Appellant replies that the “Examiner is attempting to reject the claims using a proxy server of Xie despite the claims distinguishing between a server and a proxy class—at least because the proxy class is stored on the server,” that “[n]o explanation is given as to how the proxy server of Xie could function as both the proxy class of the claims and also the server of the claims,” and that “[t]he Answer similarly fails to detail how the proxy server of Xie requests the claimed set of campaigns.” (Reply Br. 2–3, emphasis omitted.)

The Examiner does not find that Xie’s proxy server is a proxy class; instead, the finding is that Xie’s proxy server performs a “similar function of ‘proxy class’ which communicates with advertising platform, interacts with the user’s account data and like.” (Ans. 4, emphasis omitted.) We do not agree that the respective functions are similar.

Appellant’s claimed proxy class is used to request, from an advertising platform, a set of campaigns associated with the customer account. (See Claim 1 & Spec. ¶ 28 (“[M]erchant campaign engine 116 may use proxy class 120 to communicate with advertising platform 110 and

update the user’s account on advertising platform 110 to include the created advertising campaign.”).) Xie’s “dynamic proxy server,” on the other hand, “retrieves an advertiser web page referenced by [a] browser request,” “dynamically edits the advertiser web page . . . to create a proxied web page, and sends the proxied page back to the browser.” (Xie ¶¶ 38–39.)

Essentially, Xie’s proxy server modifies web pages delivered to end users, for example to change phone numbers or prices, while the proxy class of the application is used by the merchant campaign engine to communicate with a particular advertising platform.

Because the Examiner does not find that Xie’s proxy server is a proxy class, and because we do not agree that the Xie’s proxy server is “similar” to the claimed proxy class, we conclude the Examiner has not established a prima facie case of obviousness and, therefore, do not sustain the rejections of claims 1–20 under 35 U.S.C. § 103(a). Because this issue is fully dispositive of the appeal, we do not reach Appellants’ other arguments.

DECISION

The rejections of claims 1–20 are reversed.

REVERSED