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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MANGESH KALE and ANAND PAITHANKAR

Appeal 2015-008096
Application 12/687,758¹
Technology Center 2400

Before JOHN A. EVANS, LARRY J. HUME, and
MATTHEW J. McNEILL, *Administrative Patent Judges*.

McNEILL, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1–8, 10, 11, 17, and 20–23, which are all the claims pending in this application.² We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

¹ According to Appellants, the real party in interest is Avaya Inc. App. Br. 2.

² Claims 9, 12–16, 18, and 19 have been canceled. App. Br. 2.

STATEMENT OF THE CASE

Introduction

Appellants' application relates to a universal contact manager that synchronizes contacts between devices. Spec. ¶ 2. Claim 1 is illustrative of the appealed subject matter and reads as follows:

1. A method for managing contact information at a contact server, the contact server comprising a processor and memory, the method comprising:
 - the contact server receiving a synchronization signal from a first communication device;
 - the contact server receiving contact information for a contact from the first communication device;
 - the contact server parsing the contact information into two or more fields;
 - the contact server automatically segregating the contact into a category;
 - the contact server storing the contact information into a database, wherein the contact is associated with the category in the database;
 - the contact server receiving a request for the contact information from a second communication device, wherein the request comprises at least one item of information about the contact and wherein the first communication device and the second communication device are both owned by a user;
 - the contact server searching the database for at least one item of information about the contact;
 - upon locating the contact in the database, the contact server determining what contact information to send to the second communication device; and
 - the contact server sending the determined contact information to the second communication device.

The Examiner's Rejections

Claims 1–3, 5–9, 11, 17, and 20 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Chen et al. (US 2002/0049751 A1; Apr. 25, 2002), Vendrow et al. (US 2011/0130168 A1; June 2, 2011), and Guedalia et al. (US 2007/0143397 A1; June 21, 2007). Final Act. 4–8.

The Examiner added Gehrke et al. (US 2002/0178003 A1; Nov. 28, 2002) to reject claim 20 (Final Act. 8–9), Bentley (US 2009/0209286 A1; Aug. 20, 2009) to reject claim 4 (Final Act. 10), Goyal et al. (US 2010/0151827 A1; June 17, 2010) to reject claim 10 (Final Act. 11), and Wilkins et al. (US 2013/0191402 A1; July 25, 2013) to reject claims 21–23 (Final Act. 12).

ANALYSIS

Claim 1

Appellants argue the Examiner erred in rejecting claim 1 because the combination of Chen, Vendrow, and Guedalia does not teach or suggest a “server receiving a request for the contact information from a second communication device.” App. Br. 7–12; Reply Br. 3–6. In particular, Appellants argue Guedalia teaches four distinct embodiments, and none of those embodiments teaches or suggests a contact server receiving a request for contact information from a second communication device. App. Br. 11–12. Appellants argue Guedalia’s first embodiment teaches a First Peer Computer 100 and First Peer Telephone 150 (two “communication devices”), but the First Peer Telephone 150 (the “second communication device”) requests a call to a third party instead of requesting contact information for a third party. *Id.* at 7–8. Appellants argue Guedalia’s second and fourth embodiments similarly teach uploading contact

information to a server for the purpose of establishing calls instead of sending the contact information to a second communication device. *Id.* at 8–9, 10–11. Appellants argue Guedalia’s third embodiment, taught in Figure 6, teaches a single device (the First Peer Telephone) that requests contact information, instead of two devices as claimed. *Id.* at 9–10.

Appellants have not persuaded us of Examiner error. The Examiner finds, and we agree, Guedalia teaches a First Peer Computer (“first communication device”) and First Peer Telephone (“second communication device”) owned by a user.³ Ans. 3 (citing Guedalia ¶ 139). Guedalia teaches the First Peer Computer synchronizes its contact list with the Server either through a “push” or “pull” command. Guedalia ¶¶ 164–167. The First Peer Telephone may retrieve the contact list from the Server by sending a request, and such requests may specify a periodic refresh rate. Guedalia ¶ 168. Accordingly, Guedalia teaches a “second communication device” (the First Peer Telephone) that sends a request to the “contact server” (the Server) for “contact information” that was previously uploaded by the “first communication device” (the First Peer Computer). We, therefore, are not persuaded the Examiner erred in rejecting claim 1.

³ Appellants appear to argue the first and second communication devices must be owned by the same user. *See* App. Br. 7. However, claim 1 merely recites “wherein the first communication device and the second communication device are both owned by a user.” The broadest reasonable interpretation of this limitation does not require that the two devices are owned by the same user. Instead, both devices must be “owned by a user.” Even if ownership by the same user were required, we agree with the Examiner that Guedalia teaches common ownership of two communication devices. Ans. 3 (citing Guedalia ¶ 139).

Claim 22

Claim 22 recites: “The method of claim 1, wherein automatically segregating the contact into the category comprises: determining a time of day of the contact; and in response to determining the time of day of the contact, storing the contact in a personal category if the contact is sent on a weekend.” Appellants argue the Examiner erred in rejecting claim 22 because although Wilkins teaches sorting contacts into categories, Wilkins does not teach storing the contact in a personal category if the contact is sent on a weekend. App. Br. 13 (citing Wilkins ¶ 67). The Examiner finds Wilkins teaches sorting contacts based on the time of day, specifically which contacts are “most recently accessed.” Ans. 5 (citing Wilkins ¶ 182).

As a matter of claim construction under the broadest reasonable interpretation, we conclude the step of “storing the contact in a personal category if the contact is sent on a weekend” may never occur. *See Ex parte Schulhauser*, Appeal No. 2013-007847, at *9 (PTAB, April 28, 2016) (precedential) (holding “The Examiner did not need to present evidence of the obviousness of the remaining method steps of claim 1 that are not required to be performed under a broadest reasonable interpretation of the claim (e.g., instances in which the electrocardiac signal data is not within the threshold electrocardiac criteria such that the condition precedent for the determining step and the remaining steps of claim 1 has not been met.”)); *see also Ex parte Katz*, Appeal No. 2010-006083, 2011 WL 514314, at *4–5 (BPAI Jan. 27, 2011).

Here, in further support of the Examiner’s legal conclusion of obviousness, we apply the precedential guidance of *Schulhauser*. Therefore, the Examiner need not present evidence establishing the obviousness of the

conditional storing step of claim 22 because it is not required to be performed under the broadest reasonable interpretation of the claim (e.g., instances when the contact is not sent on a weekend, such that the condition precedent for the “storing” step of claim 22 is not met).

Therefore, we find Appellants’ argument that Wilkins fails to teach or suggest the conditional storing step of claim 22 unavailing because it is not commensurate with the broadest reasonable interpretation of claim 22. *See In re Schulhauser* at *9. Accordingly, we sustain the Examiner’s rejection of claim 22.

Claim 23

Claim 23 recites:

The method of claim 1, wherein automatically segregating the contact into the category comprises:

determining if a location of a person sending the contact is at home or at work;

in response to determining the location of the person sending the contact is at home, identifying the contact as a personal contact; and

in response to determining the location of the person sending the contact is at work, identifying the contact as a business contact.

Appellants argue the Examiner erred in rejecting claim 23 because Wilkins does not teach or suggest determining the location of the person sending the contact and, in response, categorizing the contact appropriately. App. Br. 14. Appellants argue Wilkins instead teaches a contact’s “availability can be determined based on the location of the receiver of a message or users being in the same city.” *Id.* (citing Wilkins ¶ 186).

We agree with Appellants that the Examiner has failed to establish, by a preponderance of the evidence, that Wilkins teaches determining the location of the person sending a contact and categorizing a contact based on that location. Accordingly, on this record, we do not sustain the rejection of claim 23.

CONCLUSIONS

On the record before us and in view of the analysis above, we are not persuaded by Appellants' contentions that the Examiner erred in rejecting claim 1 under § 103 as unpatentable over Chen, Vendrow, and Guedalia. Therefore, we sustain the rejection of claim 1. Appellants argue the patentability of independent claim 17 for the same reasons as claim 1. *See* App. Br. 12. Accordingly, we sustain the rejection of claim 17. We also sustain the rejection of claims 2–8, 10, 11, 20, and 21 which were not argued separately from their respective independent claims. *See* App. Br. 12.

On the record before us and in view of the analysis above, we are not persuaded by Appellants' contentions that the Examiner erred in rejecting claim 22.

On the record before us and in view of the analysis above, Appellants have persuaded us that the Examiner erred in rejecting claim 23. Therefore, we do not sustain the rejection of claim 23.

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Application 12/687,758

DECISION

We affirm the decision of the Examiner rejecting claims 1–8, 10, 11, 17, and 20–22.

We reverse the decision of the Examiner rejecting claim 23.

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-IN-PART