



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
13/505,131 04/30/2012 Christer Boberg 1009-0136 / P29449 US1 9506

102721 7590 11/15/2016
Murphy, Bilak & Homiller/Ericsson
1255 Crescent Green
Suite 200
Cary, NC 27518

Table with 1 column: EXAMINER

WU, TSUNG YIN

Table with 2 columns: ART UNIT, PAPER NUMBER

2454

Table with 2 columns: NOTIFICATION DATE, DELIVERY MODE

11/15/2016

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

official@mbhiplaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

*Ex parte* CHRISTER BOBERG, MIKAEL KLEIN,  
SOFIE LASSBORN, ANDERS LINDGREN, and  
BJÖRN NORHAMMAR

---

Appeal 2015-008153  
Application 13/505,131  
Technology Center 2400

---

Before MAHSHID D. SAADAT, JOHNNY A. KUMAR, and  
JON M. JURGOVAN, *Administrative Patent Judges*.

KUMAR, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants<sup>1</sup> appeal under 35 U.S.C. § 134(a) from the Examiner's  
Final Rejection of claims 24–46.<sup>2</sup> We have jurisdiction under 35 U.S.C.  
§ 6(b).

We affirm.

---

<sup>1</sup> According to Appellants, the real party in interest is Telefonaktiebolaget  
L M Ericsson (App. Br. 2).

<sup>2</sup> Claims 1–23 were canceled.

## STATEMENT OF THE CASE

### *Invention*

Appellants' invention relates to a method and arrangement which enable notifications to be handled more efficiently in a communication network (Spec. 1:4–7).

### *Exemplary Claim*

24. A method at a notifier of a communication system for handling notifications, at least partly according to a notification scheme, said method comprising:

accumulating user traffic statistics acquired from a statistics server, wherein said user traffic statistics are on user traffic that has been generated in said communication system and which involve a registered subscriber; and

providing for a differentiated distribution rate, based upon said user traffic statistics, to be applied together with the notification scheme when distributing notifications received from a notification source function and associated with said subscriber.

### *The Examiner's Rejection*

Claims 24–46 are rejected under 35 U.S.C. § 102(b) as anticipated by Xie et al. (US 2006/0286993 A1; published Dec. 21, 2006) (Ans. 2–16).

### *Appellants' Contentions*

Appellants contend the following:

1. Regarding independent claim 24, the Examiner's interpretation of "accumulating user traffic statistics . . . which involve a registered subscriber" is unreasonably broad (App. Br. 7–12; Reply Br. 2–5). The

plain meaning of “accumulating user traffic statistics” requires a technique in which a collection of quantitative data describing user traffic for a registered subscriber is gathered gradually over some period of time, whereas Xie’s queries to check whether a channel is being used and to determine Quality of Service (QoS) do not gather user traffic data for a particular registered subscriber over a period of time (*id.*). Similar arguments apply to independent claim 32 (App. Br. 14–15).

2. Xie does not inherently disclose a statistics server (claim 24) or statistics unit (claim 32), because there is no reason why a person of ordinary skill in the art would conclude Xie’s querying necessarily involves the acquiring of user traffic statistics from a statistics server (App. Br. 13–15).

3. Claims 24 and 32 require “a differentiated distribution rate” for notifications based on user traffic statistics and associated with the subscriber, whereas Xie’s notification delay is not differentiated and is not associated with the same registered subscriber for which the user traffic statistics were accumulated (App. Br. 14–16; Reply Br. 6). Sending notifications with a fixed delay, without more, would have no effect on the distribution rate of notifications (*id.*).

4. Regarding independent claim 43, Xie does not disclose the differentiated distribution rate is based on “a throttle value associated with a registered subscriber . . . said throttle value being based on user traffic statistics on user traffic involving said subscriber” (App. Br. 16–18; Reply Br. 7). Xie discusses notifications that are sent with “no delay” or with a timer that determines whether a notification is sent at all, but Xie does not disclose a delay value that equates to the claimed throttle value based on

user traffic statistics that sets the differential distribution rate for notifications (*id.*).

5. Dependent claims 25 and 33 require accumulating the user traffic statistics to be repeated “at a pre-determined time interval,” whereas Xie’s process of sending notifications at the next scheduled predetermined periodic time interval does not suggest user traffic statistics are accumulated on a periodic basis (App. Br. 18–19).

6. Xie’s method of using a queue to buffer notification and discard notifications when necessary to stay within the notification output queue is not equivalent to adapting a maximum notification output rate per the requirements of dependent claims 30 and 38 (App. Br. 19–21).

7. Dependent claims 31 and 39 require “differentiating the distribution rate by applying a filter, wherein said filter is based on acquired user traffic statistics,” whereas Xie’s method of transmitting packets with a delay or discarding packets if the queue becomes full does not disclose filtering based on acquired user traffic statistics (App. Br. 21).<sup>3</sup>

## ANALYSIS

We have reviewed the Examiner’s rejections in light of Appellants’ arguments (App. Br. 6–21; Reply Br. 2–7) that the Examiner erred. We disagree with Appellants’ above contentions 1–7. We adopt as our own (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken (Final Act. 7–21) and (2) the reasons set forth by the

---

<sup>3</sup> Separate patentability is not argued for dependent claims 26–29, 34–37, 40–42, and 44–46 (*see* App. Br. 6). Except for our ultimate decision, these claims are not discussed further.

Examiner in the Examiner's Answer (Ans. 16–21) in response to Appellants' Appeal Brief. We concur with the conclusions reached by the Examiner. We highlight and address specific findings and arguments for emphasis as follows.

*Independent Claims 24 and 32*

Regarding Appellants' contention 1, we do not agree that the Examiner's interpretation of "accumulating user traffic statistics" is unreasonably broad. The Examiner finds Xie's presence server determines a Quality of Service (QoS) value for available channels and selects the highest quality communication pipe for high priority notifications (Ans. 16 (citing Xie ¶ 50)). Xie further teaches the presence server monitors a particular user's traffic and discards periodic notifications when there is a high traffic load, in order to prevent interference with the user's other traffic (*see* Ans. 4 (citing Xie ¶ 34)). Therefore, under the broadest reasonable interpretation consistent with Appellants' disclosure, we agree with the Examiner's finding that Xie monitors the quality and load of network traffic for a particular user or subscriber (i.e., the user's traffic statistics), and does so on a periodic basis (i.e., accumulates the data over time) to determine whether to send the notification update and which communication channel to use (Ans. 4 and 16; *see In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1369 (Fed. Cir. 2004) ("[T]he PTO is obligated to give claims their broadest reasonable interpretation during examination.")).

As to Appellants' contention 2, we agree with the Examiner's finding that Xie's presence server provides the user traffic statistics, as discussed *supra*, and is therefore equivalent to the claimed statistics server (Ans. 17).

We are unpersuaded of Examiner error by Appellants' contention 3 that Xie's notification delay is not a differentiated distribution rate. The Examiner finds, and we agree, that Xie's high priority notifications are sent with no delay, while low priority notifications are filtered by sending them on a delayed scheduled or by discarding them (Ans. 18 (citing Xie ¶¶ 48–49)), and thus Xie teaches a notification distribution rate that is differentiated based on priority and user traffic load (*id.*).

Accordingly, we sustain the Examiner's rejection of independent claims 24 and 32 under 35 U.S.C. § 102(b) as anticipated by Xie.

#### *Independent Claim 43*

Regarding Appellants' contention 4, we agree with the Examiner's finding that Xie's notification delay value, ranging from no delay for high priority messages, up to a maximum delay or discarding the notification when traffic load is too high, teaches a throttle value for the differentiated distribution rate that is based at least partially on user traffic involving the subscriber (Ans. 4 and 18 (citing Xie ¶¶ 34, 48–49, and 51–52)). Therefore, we sustain the Examiner's rejection of independent claim 43 under 35 U.S.C. § 102(b) as anticipated by Xie.

#### *Claims 25 and 33*

Appellants' contention 5 that Xie does not teach accumulating the user traffic statistic is repeated at a pre-determined time interval is not persuasive of Examiner error. As discussed *supra* with respect to independent claims 24 and 32, we agree with the Examiner's finding that Xie's presence server accumulates user traffic statistics, and we further agree

that Xie's accumulation is repeated at a pre-determined time interval, as the amount of traffic is determined at each periodic notification update interval (Ans. 19 (citing Xie ¶¶ 33 and 51–52); *see also* ¶¶ 31 and 34 (notifications sent at next normal time period, unless traffic load is too high)).

Accordingly, we sustain the Examiner's rejection of claims 25 and 33 under 35 U.S.C. § 102(b) as anticipated by Xie.

*Claims 30 and 38*

As to Appellants' contention 6 that Xie does not teach adapting a notification throttle value by comparing user traffic to a pre-defined throttle threshold, we are not persuaded of error in the rejection because we agree that Xie teaches changing the delay value (i.e., throttle value) based on the user traffic load, where the pre-defined throttle threshold for maximum delay or discarding of a notification is the threshold of a full packet queue (Ans. 19–20 (citing Xie ¶ 52)). Thus, we sustain the Examiner's rejection of claims 30 and 38 under 35 U.S.C. § 102(b) as anticipated by Xie.

*Claims 31 and 39*

We are unpersuaded of Examiner error by Appellants' contention 7 that Xie does not teach applying a notification filter based on acquired user traffic statistics. The Examiner finds, and we agree, that Xie's low priority notifications are subjected to a filter, which delays or discards notifications when the user traffic load is high (Ans. 20 (citing Xie ¶ 49); *see also* Xie ¶ 34). Accordingly, we sustain the Examiner's rejection of claims 31 and 39 under 35 U.S.C. § 102(b) as anticipated by Xie.

Appeal 2015-008153  
Application 13/505,131

DECISION

We affirm the Examiner's rejection of claims 24–46 under 35 U.S.C. § 102(b).

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