



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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/285.107	11/23/2005	Antti K. Laurila	39700-805001US/NC41496US	7998

12358 7590 12/14/2016
Mintz Levin/Nokia Technologies Oy
One Financial Center
Boston, MA 02111

EXAMINER

JONES, PRENELL P

ART UNIT	PAPER NUMBER
----------	--------------

2467

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

12/14/2016

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):

IPDocketingBOS@mintz.com
IPFilerroomBOS@mintz.com
Nokia.IPR@nokia.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ANTTI K. LAURILA and MIIKKA POIKSELKA

Appeal 2016-000083
Application 11/285,107
Technology Center 2400

Before ALLEN R. MacDONALD, MIRIAM L. QUINN, and
STEVEN M. AMUNDSON, *Administrative Patent Judges*.

AMUNDSON, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants¹ seek our review under 35 U.S.C. § 134(a) from a rejection of claims 1, 3, 14, 16, and 24–26.² Because the claims have been twice rejected, we have jurisdiction under 35 U.S.C. §§ 6(b) and 134(a). *See Ex parte Lemoine*, 46 USPQ2d 1420, 1423 (BPAI 1994) (precedential).

We affirm.

¹ According to Appellants, the real party in interest is Nokia Corporation. App. Br. 2.

² Claims 2, 15, 21, and 22 “are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form” Non-Final Act. 8.

STATEMENT OF THE CASE

The Invention

According to the Specification, the invention generally “relates to group communication in communication systems providing a group communication service” and “primarily relates to informing group members about usable media types in a group.” Spec. ¶¶ 1, 15.³ “[I]nformation on usable media types in the group is sent to group members in a message advertising the group,” and “[t]he message contains either a new field for the information or an existing field is extended to contain the information.” Abstract. The Specification explains that a “message advertising a group” refers to any “message informing group members about an existing group.” Spec. ¶ 6.

Exemplary Claim

Independent claim 1 exemplifies the subject matter of the claims under consideration and reads as follows:

1. A method, comprising:

advertising a group, wherein the advertising comprises an extensible markup language document management server sending, before a creation of a group call, at least one message advertising the group to at least one intended group member, wherein the at least one message advertising the group includes an indication of usable media types in the group,

wherein the usable media types include a plurality of the media types usable by the group during the group call, and

³ This decision uses the following abbreviations: “Spec.” for the Specification, filed November 23, 2005; “Non-Final Act.” for the Non-Final Office Action, mailed May 19, 2014; “App. Br.” for the Appeal Brief, filed December 29, 2014; “Ans.” for the Examiner’s Answer, mailed July 24, 2015; and “Reply Br.” for the Reply Brief, filed September 24, 2015.

wherein at least one processor implements at least the advertising.

App. Br. 19 (Claims App.).

The Prior Art Supporting the Rejections on Appeal

As evidence of unpatentability, the Examiner relies on the following prior art:

Glitho et al. ("Glitho")	US 6,625,141 B1	Sept. 23, 2003
Benitez Pelaez et al. ("Benitez Pelaez")	US 2004/0190689 A1	Sept. 30, 2004
Hoover Brewer	US 2006/0140173 A1	June 29, 2006
	WO 2005/020598 A2	Mar. 3, 2005
Synnergren et al. ("Synnergren")	WO 2006/006897 A1	Jan. 19, 2006

The Rejections on Appeal

Claims 1, 3, 14, and 24 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Brewer, Glitho, Hoover, and Benitez Pelaez. Non-Final Act. 3–5; App. Br. 4; Ans. 3–5.

Claims 16 and 25 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Brewer, Glitho, Hoover, Benitez Pelaez, and Synnergren. Non-Final Act. 5–6; App. Br. 4; Ans. 5–6.

Claim 26 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Brewer, Glitho, Benitez Pelaez, and Synnergren. Non-Final Act. 6–8; App. Br. 4; Ans. 6–7.

ANALYSIS

We have reviewed the rejections of claims 1, 3, 14, 16, and 24–26 in light of Appellants' arguments that the Examiner erred. For the reasons

explained below, we disagree with Appellants' assertions regarding error by the Examiner. We adopt the Examiner's findings and reasoning in the Non-Final Office Action and Answer and add the following primarily for emphasis.

*The Rejections of Claims 1, 3, 14, 16,
24, and 25 Under 35 U.S.C. § 103(a)*

“MESSAGE ADVERTISING THE GROUP INCLUD[ING]
AN INDICATION OF [A PLURALITY OF] USABLE MEDIA TYPES”

Appellants argue that the Examiner erred in rejecting claim 1 because Benitez Pelaez and Glitho do not disclose or suggest a “message advertising the group includ[ing] an indication of usable media types . . . wherein the usable media types include a plurality of the media types usable by the group during the group call,” as recited in claim 1. App. Br. 10, 14–16; Reply Br. 2, 6–8, 10–12. Appellants seek to distinguish Benitez Pelaez by asserting that a querying message in Benitez Pelaez “does not include the media types usable by the group during the group call” but instead “simply asks the called party to respond with the media type preferred by the called party.” App. Br. 10; Reply Br. 2. Appellants further assert that the querying message (1) “does not advertise the useable media types for the group, as required by claim 1,” and (2) concerns “the called party’s usable media types, not the group’s usable media types, as required by claim 1.” App. Br. 10, 16; Reply Br. 2, 7.

For Glitho, Appellants admit that Glitho discloses invitation messages that carry “descriptions that allow participants to agree on a set of compatible media types.” Reply Br. 11. Appellants argue, however, that Glitho does not “mention the contents of” the descriptions in the invitation messages. *Id.* Appellants also argue that the invitation messages are sent

“after a group advertisement” and “likely only include[] the sender’s media type.” *Id.* at 11–12.

Appellants’ arguments have not persuaded us of Examiner error. The Examiner explains that the rejection relies on the combination of Glitho and Benitez Pelaez. Ans. 9–11; *see* Non-Final Act. 4–5; Ans. 3–4. The Examiner finds, and we agree, that Glitho teaches “providing services via [session initiation protocol] SIP protocol messaging in a multimedia communication system” where invitation messages include “the option for participants to agree on a set of compatible (e.g. usable) media types.” Ans. 9–10 (citing Glitho 4:31–43); *see* Non-Final Act. 4; Ans. 3. Further, the Examiner finds that Benitez Pelaez teaches “multiple media types are available to users of a call session, wherein [the] multiple media types are provided as optional choices after initiation of [the] call session (during [the] call session)” Ans. 9 (citing Benitez Pelaez ¶¶ 68–69); *see* Non-Final Act. 5; Ans. 4.

In essence, Appellants’ arguments attack the references individually. App. Br. 10, 14–16; Reply Br. 2, 6–8, 10–12. Where a rejection rests on a combination of references, however, an appellant cannot establish nonobviousness by attacking the references individually. *See In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). Moreover, “the test for combining references is not what the individual references themselves suggest but rather what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art.” *In re McLaughlin*, 443 F.2d 1392, 1395 (CCPA 1971); *see In re Keller*, 642 F.2d 413, 425 (CCPA 1981). Appellants do not address what the Glitho-Benitez Pelaez combination “taken as a whole would suggest to one of ordinary skill in the

art” and, therefore, have not established Examiner error. App. Br. 10, 14–16; Reply Br. 2, 6–8, 10–12.

Further, Appellants’ argument that Glitho’s invitation messages are sent “after a group advertisement” does not respond to the rejection because the Examiner relies on Brewer, not Glitho, for teaching “advertising a group . . . before a creation of a group call,” as recited in claim 1. Non-Final Act. 3; Ans. 3. Similarly, Appellants’ argument that Glitho’s invitation messages “likely only include[] the sender’s media type” does not respond to the rejection because the Examiner relies on Benitez Pelaez, not Glitho, for teaching “the usable media types include a plurality of the media types usable by the group during the group call,” as recited in claim 1. Non-Final Act. 5; Ans. 4.

SUMMARY FOR CLAIM 1

For the reasons discussed above, Appellants’ arguments have not persuaded us that the Examiner erred in rejecting claim 1 for obviousness based on Brewer, Glitho, Hoover, and Benitez Pelaez. Hence, we sustain the rejection of claim 1.

CLAIMS 3, 14, 16, 24, AND 25

Appellants do not argue claims 3, 14, 16, 24, and 25 separately from claim 1. App. Br. 10–17; Reply Br. 6–12. We therefore sustain the rejections of those claims. *See* 37 C.F.R. § 41.37(c)(1)(iv).

The Rejection of Claim 26 Under 35 U.S.C. § 103(a)

Appellants argue that the Examiner erred in rejecting claim 26 because “[c]laim 26 includes similar features as claim 1” and distinguishes over the references for the same reasons as claim 1. App. Br. 17; Reply

Br. 8, 12–13. As noted above, Appellants’ arguments have not persuaded us that the Examiner erred in rejecting claim 1.

Appellants also argue that the Examiner erred in rejecting claim 26 because Synnergren and Glitho do not disclose or suggest “storing, by the user equipment, the indication” of “a plurality of media types usable in the group during the group call,” as recited in claim 26. App. Br. 17; Reply Br. 8–9, 13–14. More specifically, Appellants assert that in Synnergren an application server rather than user equipment stores a plurality of media types in an invitation message sent by a client (user equipment). App. Br. 17; Reply Br. 9, 13. Appellants further assert that Glitho does not “mention the contents of” the descriptions in the invitation messages and that the invitation messages are sent “after a group advertisement” and likely “only include a single media type, rather than a plurality of media type[s].” *Id.* at 13–14.

Appellants’ arguments have not persuaded us of Examiner error. Appellants’ arguments again attack the references individually instead of addressing what the combination “taken as a whole would suggest to one of ordinary skill in the art.” *See McLaughlin*, 443 F.2d at 1395; *see also Keller*, 642 F.2d at 425.

In addition, the Examiner finds, and we agree, that while Synnergren’s application server “stores media messages, the client [user equipment] beforehand provided the server with invite messages which include media types” and, therefore, “Synnergren teaches that the client [user equipment] provided storage for invite messages prior to sending the messages to the server for storage.” Ans. 11 (citing Synnergren 14:23–32).

In the Reply Brief, Appellants do not address the finding that Synnergren teaches user equipment message storage prior to sending. Reply Br. 13–14.

Appellants' arguments regarding Glitho applied to claim 26 parallel Appellants' arguments regarding Glitho applied to claim 1. Reply Br. 11–12, 13–14. For the reasons discussed above, those arguments have not persuaded us of reversible error.

Accordingly, Appellants' arguments have not persuaded us that the Examiner erred in rejecting claim 26 for obviousness based on Brewer, Glitho, Benitez Pelaez, and Synnergren. Hence, we sustain the rejection of claim 26.

DECISION

We affirm the Examiner's decision to reject claims 1, 3, 14, 16, and 24–26.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED