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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JAN BLOM and
DIVYA VISWANATHAN

Appeal 2016-002349
Application 13/634,544
Technology Center 2100

Before ERIC S. FRAHM, JOHNNY A. KUMAR, and
TERRENCE W. McMILLIN, *Administrative Patent Judges*.

KUMAR, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Final Rejection of claims 35–54. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

Exemplary Claim

Independent claim 35 illustrates the invention as follows:

35. A method comprising:

causing, at least in part, retrieval of a file associated with a first communication stored in an online account;

determining whether the file is modified after the retrieval;

generating a second communication including a modified version of the file based, at least in part, on the determination; and

causing, at least in part, transmission of the second communication including the modified version to the online account.

Rejections

Claims 35, 40–43, 48–50, and 52 are rejected under 35 U.S.C. § 102(b) as being anticipated by Gong (US 2004/0064733 A1, Apr. 1, 2004). Final Act. 2–6.

Claims 36–39, 44–47, 53, and 54 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gong and Brezina (US 2009/0030872 A1, Jan. 29, 2009). Final Act. 7–10.

Claim 51 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Gong and Ikonen (US 2008/0189373 A1, Aug. 7, 2008). Final Act. 10–11.

ANALYSIS

Independent claim 35 recites, *inter alia* (emphasis added), “determining whether the file is modified after the retrieval; generating a

second communication *including a modified version of the file* based, at least in part, on the determination.”¹

Appellants argue Gong does not disclose this limitation. App. Br. 6–9; Reply Br. 2–4.

In particular, Appellants argue, and we agree, Gong checks whether the file is subject to Concurrent Version Control as described in paragraph [0009], however, it is clear from the proceeding paragraphs [in Gong] [0031] and [0038] [paragraph [0009]] which delve more deeply into what actually occurs in *Gong* that the user simply sends a modified version to the Concurrent Version Control with notice of an update.

Reply Br. 3–4. Appellants argue that Gong “provides email notifications without the attached modified file.” *Id.* at 4.

We agree with Appellants as our interpretation of the disclosure of Gong coincides with that of Appellants. *See* App. Br. 6–9; Reply Br. 2–4. We conclude that the Examiner’s findings are not supported by Gong for the reasons set forth by Appellants.

Therefore, on this record, we find the weight of the evidence supports the positions articulated by Appellants in the briefs. Accordingly, as such, we cannot sustain the Examiner’s rejections of claims 35, 43, and 52. Because we reverse the rejection of independent claims 35, 43, and 52 on appeal, we also reverse the rejections of dependent claims 36–42, 44–51, 53, and 54, which depends on claims 35, 43, and 52 respectively.

DECISION

The Examiner’s decision to reject claims 35–54 is reversed.

¹ Claims 43 and 52 recite similar subject matter.

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Application 13/634,544

REVERSED