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EXAMINER

DURAN, ARTHUR D

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte CHITRA JAIN, ROY E. LOWRANCE, GREGOR S. BAILAR,
and DANIEL R. SWANSON SR.

Appeal 2017-001889
Application 10/824,178¹
Technology Center 3600

Before BRUCE T. WIEDER, TARA L. HUTCHINGS, and
ROBERT J. SILVERMAN, *Administrative Patent Judges*.

SILVERMAN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

The Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's decision rejecting claims 1, 2, 5, 6, 8–10, 12, 13, 16, 17, 19–21, 23–26, 28–31, 33, and 35. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

¹ The Appellants identify “Capital One Financial Corporation and its subsidiary companies” as the real parties in interest. Appeal Br. 3.

ILLUSTRATIVE CLAIM

1. A method of providing personalized customer service, comprising:

electronically receiving purchase information from a financial card provider system at a merchant data management system from one or more purchases made from a particular merchant using a financial card affiliated with the particular merchant and provided to the customer by a financial card provider associated with the financial card provider system, the financial card provider being distinct from the merchant, the financial card having an associated financial account, the financial card having a radio frequency identification (RFID) device coupled thereto, the RFID device storing identification data identifying the financial account;

wherein the purchase information includes an identification of items purchased during the one or more purchases;

determining, at the merchant data management system, a number of loyalty points to be awarded to the financial account based on the purchase information;

reading, at the merchant data management system, the identification data from the RFID device using an RFID reading device;

determining, using the merchant data management system, one or more additional items to be purchased;

generating, at the merchant data management system, personalized service data based on the purchase information, a purchase history, and the number of loyalty points associated with the identified financial account, wherein the personalized service data comprises an offer for a financial incentive tied to the financial account stored at the financial card provider system if the one or more additional items are selected, wherein the one or more additional items are based on purchase information, the purchase history and the number of loyalty points associated with the identified financial account and wherein the offer is an offer received from the financial card

provider system and based on an identified merchant competitor; and

providing the offer to the customer via an electronic visual interface associated with the merchant data management system.

CITED REFERENCES

Hind et al. (hereinafter “Hind”)	US 2002/0174025 A1	Nov. 21, 2002
Shirai	US 2003/0167206 A1	Sept. 4, 2003
Bednarek	US 2005/0251440 A1	Nov. 10, 2005
Pliha	US 7,580,856 B1	Aug. 25, 2009

REJECTION

Claims 1, 2, 5, 6, 8–10, 12, 13, 16, 17, 19–21, 23–26, 28–31, 33, and 35 are rejected under 35 U.S.C. § 103(a) as unpatentable over Pliha, Hind, Bednarek, and Shirai.

FINDINGS OF FACT

The findings of fact relied upon, which are supported by a preponderance of the evidence, appear in the following Analysis.

ANALYSIS

The Appellants contend that the Examiner erred in rejecting independent claim 1, because the cited prior art references fail to teach or suggest at least the following features of claim 1:

electronically receiving purchase information from a financial card provider system at a merchant data management system from one or more purchases made from a particular merchant using a financial card affiliated with the particular merchant and provided to the customer by a financial card provider associated with the financial card provider system, the financial card provider being distinct from the merchant, the financial card having an associated financial account.

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See Appeal Br. 16–21.² *See also* Reply Br. 2–5. Notably, claim 1 further states that “the purchase information includes an identification of items purchased during the one or more purchases.”

The Examiner finds that the claimed “receiving purchase information from a financial card provider system at a merchant data management system” is met by a disclosure, in Pliha, that the Examiner characterizes as “the bank reporting to the retailer the bank’s customer transaction activity information.” Answer 5 (referring to Pliha col. 11, l. 5–col. 12, l. 25 and col. 15, l. 60–col. 16, l. 30).

However, regardless of whether the Examiner’s cited portions of Pliha teaches the claimed “purchase information,” the Examiner’s identified portions of Pliha do not teach the receipt thereof “at a merchant data management system,” as claimed. A portion of the reference cited by the Examiner (*see* Answer 3–5) states that Pliha’s “system stores all transactions made by a customer with a participating retailer or dealer” and “[t]hese files may be stored in numerous places including, but not limited to the system manager’s databases or the financial institution databases.” Pliha col. 15, ll. 63–65. Yet, the Examiner does not identify a portion of Pliha that teaches the identified data being provided to a retailer or “merchant data management system,” as claimed.

The Bednarek reference contains, at least, a similar shortcoming. The Examiner finds that paragraph 108 of Bednarek “discloses a report from the financial card provider to the merchant on the consumer redemption rates related to participant/consumer actions.” Final Action 4. However, the cited

² Citations to the Appeal Brief refer to the Corrected Appeal Brief dated May 12, 2016.

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portion of Bednarek merely discloses that “an organization (e.g., incentive company or system operator) . . . can maintain a database or databases that contains the identity of customers and a redemption rate associated with each participant,” adding:

The entity (e.g., incentive company) that maintains the participant redemption rates, also has a communication link with the reward program sponsors so that a participants [sic] redemption rate can be reported upon request. In this way, a wide range of program sponsors can quickly query a single source to obtain a participant’s specific redemption rate as needed.

Bednarek ¶ 108. Thus, in consonance with the Appellants’ argument, we find that Bednarek’s “redemption rates” — even if derived from information about a participant’s purchasing activity — “are not themselves purchase information,” as claimed. Appeal Br. 20.

In view of the foregoing, we are persuaded of error in the rejection of independent claim 1. Independent claims 12, 23, 28, and 33 contain limitations similar to those discussed above, in regard to claim 1. *See id.* at 26. Accordingly, we do not sustain the rejection of independent claims 1, 12, 23, 28, and 33, or their dependent claims 2, 5, 6, 8–10, 13, 16, 17, 19–21, 24–26, 29–31, and 35 under 35 U.S.C. § 103(a).

DECISION

We REVERSE the Examiner’s decision rejecting claims 1, 2, 5, 6, 8–10, 12, 13, 16, 17, 19–21, 23–26, 28–31, 33, and 35 under 35 U.S.C. § 103(a).

REVERSED