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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/013,473	01/14/2008	Anton W. Krantz	321671-US-NP (1777.582US1)	8688
144365	7590	11/20/2018	EXAMINER	
Schwegman Lundberg & Woessner, P.A. P.O. Box 2938 Minneapolis, MN 55402 UNITED STATES OF AMERICA			KASSIM, KHALED M	
			ART UNIT	PAPER NUMBER
			2468	
			NOTIFICATION DATE	DELIVERY MODE
			11/20/2018	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ANTON W. KRANTZ and
NIRAJ KHANCHANDANI

Appeal 2018-002632
Application 12/013,473¹
Technology Center 2400

Before DAVID M. KOHUT, DANIEL J. GALLIGAN, and
DAVID J. CUTITTA II, *Administrative Patent Judges*.

CUTITTA, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1 and 3–21, which are all of the claims pending in the application.²

We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ Appellants identify MICROSOFT TECHNOLOGY LICENSING, LLC as the real party in interest. App. Br. 2.

² Claim 2 has been cancelled.

CLAIMED SUBJECT MATTER

According to Appellants, the claims are directed to sharing messages with a secondary recipient based on the message type (Abstract).³ Claim 1, reproduced below, is representative of the claimed subject matter:

1. A method, comprising:

retrieving messages received for a primary message recipient from a unified messaging server in a first domain by a trusted delegate server based on a message sharing policy, the message sharing policy specifying a message type that a secondary message recipient is allowed to access, the message sharing policy being managed by a policy server independent of the first domain, the messages being integrated at the unified messaging server with other streams of messages into a message store; and

sending one or more of the messages of the message type as defined by the message sharing policy to the secondary message recipient in a second domain over a packet-switched network.

REFERENCES AND REJECTION

Claims 1 and 3–21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Singh (US 2003/0165231 A1; published Sept. 4, 2003), Jakobsson (US 6,587,946 B1; issued July 1, 2003), and Ford (US 2007/0100944 A1; published May 3, 2007). Final Act. 2–10.

³ This Decision refers to: (1) Appellants' Specification filed January 14, 2008 (Spec.); (2) the Final Office Action (Final Act.) mailed October 27, 2016; (3) the Advisory Action (Adv. Act.) mailed February 7, 2017; (4) the Appeal Brief (App. Br.) filed June 19, 2017; (5) the Examiner's Answer (Ans.) mailed November 16, 2017; and (6) the Reply Brief (Reply Br.) filed January 16, 2018.

Our review in this appeal is limited only to the above rejection and the issues raised by Appellants. Arguments not made are waived. *See* MPEP § 1205.02; 37 C.F.R. §§ 41.37(c)(1)(iv) and 41.39(a)(1).

ANALYSIS

35 U.S.C. § 103(a)

“message sharing policy specifying a message type”

Appellants contend the Examiner erred in finding Jakobsson teaches a “message sharing policy specifying a message type that a secondary message recipient is allowed to access,” as recited in claim 1 and similarly recited in claims 11 and 16. App. Br. 12, 14; Reply Br. 2–3. Specifically, Appellants argue Jakobsson “does not rely [on] or use a message sharing policy of any kind (let alone the claimed message sharing policy) to send messages to the message recipient. It seems that the ‘E-mail message’ of [Jakobsson] is ‘to be forwarded on to secondary recipients’ without regard to the message type.” App. Br. 14; Reply Br. 2; *see* App. Br. 12.

We are not persuaded. The Examiner finds (*see* Final Act. 4; *see also* Adv. Act. 2; *see also* Ans. 14–15), and we agree, Jakobsson’s description of an “E-mail message . . . forwarded on to secondary recipients” (Jakobsson, 7:61–62) teaches a “message sharing policy specifying a message type that a secondary message recipient is allowed to access.”

Contrary to Appellants’ argument that “the ‘E-mail message’ of [Jakobsson] is ‘to be forwarded on to secondary recipients’ without regard to the message type” (App. Br. 14; Reply Br. 2; *see* App. Br. 12), Jakobsson explicitly describes forwarding E-mails based on message type. In particular, Jakobsson describes “forwarding E-mail from a primary

recipient's mailbox 420 to some number of secondary recipient's mailboxes" and explains that "[t]he choice of secondary recipients can be made according to rules that specify, for example, that all E-mail from a certain sender always gets routed to a certain secondary recipient." Jakobsson, 7:5–12. That is, Jakobsson's "rules" for message forwarding teach a "message sharing policy." *Id.* And, those rules "specify[] a message type" such as "all E-mail from a certain sender." *Id.* Appellants' additional arguments addressing Jakobsson's shared key (App. Br. 12) and Singh's message condition based message forwarding (App. Br. 9–12) do not address Jakobsson's rules-based E-mail forwarding.

Not only does Jakobsson itself teach a "message sharing policy specifying a message type that a secondary message recipient is allowed to access," but the Examiner also finds, and we agree, that the combination of Singh and Jakobsson teaches a "message sharing policy specifying a message type that a secondary message recipient is allowed to access." Ans. 13–14; Adv. Act. 2. The Examiner's combination relies on Singh (Ans. 13–14; *see* Adv. Act. 2; *see also* Final Act. 2–3) to teach "message types," e.g., "voice mail, [E]-mail, video messaging, [and] instant messaging" messages (Singh ¶¶ 4, 6, 27–28) and a message sharing policy, e.g., "a command or rule to forward certain calls" (Singh ¶¶ 14, 31). Based on those teachings from Singh and Jakobsson's teaching of forwarding messages to a secondary recipient based on rules, the Examiner concludes that "it would have been obvious . . . to use the . . . types of messages . . . as [the] conditions . . . allowing a secondary recipient to receive specific message[s] [that] were intended for a primary recipient." Ans. 15; Adv. Act. 2. Appellants' arguments that Singh by itself does not forward

messages based on message types and that Singh does not forward messages to a secondary message recipient (App. Br. 10–12) do not address the Examiner’s combination of Singh and Jakobsson.

Accordingly, we are not persuaded the Examiner erred in finding Jakobsson, or the combination of Singh and Jakobsson, teaches a “message sharing policy specifying a message type that a secondary message recipient is allowed to access,” as recited in claim 1 and similarly recited in claims 11 and 16.

Issue 2

Appellants contend the Examiner improperly combined Singh, Jakobsson, and Ford. App. Br. 13–20; Reply Br. 4–5. Specifically, Appellants argue the “cited references . . . fail[] to mention a single reason for combining the unified message system and a message sharing policy and the Office Action fails to articulate sufficient reasoning for combining Singh with Jakobsson and Ford.” App. Br. 15; *see* Reply Br. 5. Further, Appellants argue the Examiner’s rejection is “unclear.” App. Br. 14–17. Still further, Appellants argue “Jakobsson’s technology cannot be modified with Ford’s teachings and Singh’s teachings to disclose [the claimed] subject matter” because “each proxy server in [Jakobsson’s] quorum is involved.” App. Br. 19.

We are not persuaded of Examiner error. Contrary to Appellants’ argument that there is no articulated reasoning for the Examiner’s combination (App. Br. 15, 19; Reply Br. 5), the Examiner’s combination is supported by articulated reasoning with rational underpinning. Namely, the Examiner determines the combination “allow[s] a secondary recipient to

receive specific messages [that] were intended for a primary recipient.”

Ans. 15; Adv. Act. 2. Jakobsson describes the desirability of that feature by providing an example of a secretary receiving a primary recipient’s E-mail when the primary recipient is on vacation or at home sick (*see* Jakobsson 7:14–20).

Nor are we persuaded by the argument that “Appellants cannot ascertain how the references are being combined to teach or suggest *a message sharing policy specifying a message type that a secondary message recipient is allowed to access.*” App. Br. 15. Appellants’ Reply Brief states that the Examiner relies on Jakobsson to teach “specifying a message type that a secondary message recipient is allowed to access” (Reply Br. 2), showing that Appellants understand the Examiner relies on Jakobsson to teach the disputed limitation. Similarly, Appellants’ Appeal Brief states that “the Examiner relied upon only Jakobsson (and none of the other references) to assert an alleged disclosure [of] the . . . claim language,” reciting “*the message sharing policy specifying a message type that a secondary message recipient is allowed to access.*” App. Br. 15. Because Appellants demonstrate they understand the Examiner relies on Jakobsson to teach the disputed claim language, Appellants’ argument that the Examiner’s rejection is “unclear” (App. Br. 15–17) does not persuade us of Examiner error.

Appellants also argue that “[t]he Office Action fails to explain how the teachings in column 7 lines 60–67 [of Jakobsson] can use the message conditions of Singh” (App. Br. 17). We are not persuaded of error. The Examiner relies on the message types and message sharing policy taught by Singh (Ans. 13–14; *see* Adv. Act. 2; *see also* Final Act. 2–3) and further

relies on the forwarding of messages to a secondary recipient based on rules taught by Jakobsson (Ans. 13–14; Adv. Act. 2) to conclude that “it would have been obvious to use the . . . types of messages . . . as [the] conditions . . . allowing a secondary recipient to receive specific message[s] [that] were intended for a primary recipient” (Ans. 15; Adv. Act. 2). The Supreme Court has stated that “[a] person of ordinary skill is also a person of ordinary creativity, not an automaton,” and “in many cases . . . will be able to fit the teachings of multiple patents together like pieces of a puzzle.” *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398, 420–21 (2007). Here, because the Examiner identifies message types, message sharing policies, and shared message access in the references, we determine that it would not have been “uniquely challenging or difficult for one of ordinary skill in the art” to combine Singh, Jakobsson, and Ford with a reasonable expectation of success. *Leapfrog Enters., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007) (citation omitted).

Additionally, Appellants’ argument that Jakobsson’s “technology cannot be modified with Ford’s teachings and Singh’s teachings” (App. Br. 19) unpersuasively requires the bodily incorporation of “each proxy server in [Jakobsson’s] quorum” (*see In re Sneed*, 710 F.2d 1544, 1550 (Fed. Cir. 1983) (“[I]t is not necessary that the inventions of the references be physically combinable to render obvious the invention under review”)). The Examiner combines the teachings of Singh, Jakobsson, and Ford, which “does not involve an ability to combine their specific structures.” *In re Nievelt*, 482 F.2d 965, 968 (CCPA 1973).

Accordingly, we are not persuaded the Examiner erred in combining Singh, Jakobsson, and Ford. Therefore, we sustain the rejection of claims 1,

Appeal 2018-002632
Application 12/013,473

11, and 16 under 35 U.S.C. § 103(a) as being unpatentable over Singh, Jakobsson, and Ford. We likewise sustain the Examiner's rejection of claims 3–10, 12–15, and 17–21 under 35 U.S.C. § 103(a) because Appellants offer no additional persuasive arguments for patentability. *See* App. Br. 8–20.

DECISION

For the reasons above, we affirm the Examiner's decision rejecting claims 1 and 3–21.

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. § 41.50(f).

AFFIRMED