UNITED STATES PATENT AND TRADEMARK OFFICE

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FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK, NY 10038

EXAMINER
DEBNATH, SUMAN

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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Ex parte JASON E. ROOT, ALEXANDER D. WESTERMAN,
and DEBORAH A. LEVINE[1]

_____

Appeal 2018-005773
Application 14/962,251
Technology Center 2400

_____

Before JASON V. MORGAN, ADAM J. PYONIN, and
DAVID J. CUTITTA II, *Administrative Patent Judges*.

CUTITTA, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134(a) from the Final Rejection of
claims 37–60, all the pending claims in the present application.[2] *See*
Appeal Br. 2. We have jurisdiction over the appeal under 35 U.S.C. § 6(b).

We AFFIRM.

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STATEMENT OF THE CASE

Invention

Appellants indicate their invention relates to "controlling a virtual environment of a user of a network, such as the Internet, by which multiple users interact." Spec. ¶ 1. Specifically, the invention seeks to "eliminate language or other content that is inappropriate or unsuitable for children, and to prevent the transmission of personally identifiable information." Spec. ¶ 3.[3]

Exemplary Claims

Claims 37 and 48 are independent claims. Claims 37, 38, and 59 are exemplary and are reproduced below with limitations at issue emphasized:

> 37.   A method comprising:
>
> providing a virtual environment in which users interact with one another using system-generated prewritten messages and user-generated messages;
>
> transmitting information to an agent;
>
> receiving from the agent a return transmission of the information to authorize the agent to control the virtual environment of a first one of the users; and
>
> controlling the virtual environment of the first user based on additional information received from the agent setting a permitted level of the first user's interaction with other users, the level of interaction determining whether the first user can

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[3] This Decision refers to: (1) Appellants' Specification ("Spec.") filed December 8, 2015; (2) the Final Office Action ("Final Act.") mailed September 7, 2016; (3) the Appeal Brief ("Appeal Br.") filed March 3, 2017; (4) the Examiner's Answer ("Ans.") mailed April 17, 2018; and (5) the Reply Brief ("Reply Br.") filed May 15, 2018.

use the user-generated messages, the user-generated messages being assembled by:

receiving an input from the first user;

comparing the input to items contained in a system permissible items dictionary; and

when the input is contained in the system permissible items dictionary, assembling the user-generated message.

38.   A method according to claim 37, further comprising:

checking user-generated messages using a message checker to prevent communication of user-generated messages comprising predetermined combinations of items from the system permissible items dictionary.

59.   The method according to claim 37, further comprising:

when the input is not included in the system permissible items dictionary, preventing assembly of the user-generated message.

REFERENCES

The Examiner relies upon the following prior art in rejecting the claims on appeal:

Patron et al. ("Patron")	US 2005/0060167 A1	Mar. 17, 2005
Aaron	US 2008/0242268 A1	Oct. 2, 2008
Shochet et al. ("Shochet")	US 2011/0202605 A1	Oct. 4, 2012

REJECTIONS

Claims 37–39, 47–50 and 58–60 stand rejected under 35 U.S.C.
§ 103(a) as being unpatentable over the combination of Shochet and Aaron.
Final Act. 2–5.

Claims 40–46 and 51–57 stand rejected under 35 U.S.C. § 103(a) as
being unpatentable over the combination of Shochet, Aaron, and Patron.
Final Act. 6–8.

Our review in this appeal is limited only to the above rejections and
the issues raised by Appellants. Arguments not made are waived.
See 37 C.F.R. § 41.37(c)(1)(iv) (2016).

ANALYSIS

We refer to, rely on, and adopt the Examiner's findings and
conclusions, insofar as they relate to issues raised in this appeal, as set forth
in the Office Action and Answer. *See* Final Act; 2–8; Ans. 2–6. Our
discussion here will be limited to the following points of emphasis.

Rejections under § 103(a) of Claims 37 and 39–58

Issue: Does the Examiner err in finding the combination of Shochet
and Aaron teaches or suggests "comparing the input to items contained in a
system permissible items dictionary; and when the input is contained in the
system permissible items dictionary, assembling the user-generated
message," as recited in independent claim 37?

Appellants dispute the Examiner's factual findings. Appellants argue
that "[i]n the cited art, any message entered by a user is authorized and no

message is compared to any dictionary before being sent." Appeal Br. 5; *see* Reply Br. 3.

We find this argument unpersuasive because the Examiner's findings are supported by substantial evidence. The Examiner finds "Shochet discloses a communication mode in a free form manner wherein [a] user enters texts and these texts are compared against a permissible items dictionary to delete unwanted words/phrases." Ans. 3 (citing Shochet ¶ 49). We agree with the Examiner's finding that Shochet's "open chat" mode teaches, or at least suggests, "comparing the input to items contained in a system permissible items dictionary," as claimed, because Shochet's discussion of a "message filter" suggests a dictionary is used to determine and "automatically delete[] specific words or phrases" such as "bad language." *Id.* Shochet's message filter acts as a permissible items dictionary by deleting impermissible words and leaving only permissible words for assembly as a user-generated message. *See* Shochet ¶ 49.

As noted by Appellants, in a second message mode "Shochet discloses customized hierarchical menus that include a library of words and phrases which may be selected by a user to generate a message." Appeal Br. 5. This "Speed Chat" mode of Shochet "allow[s] a user to access a menu 110 of selectable, pre-prepared chat messages" and "it limits interaction to pre-determined words and phrases." Shochet ¶ 32. Then, "a representation of the finally selected word/phrase may then be submitted to the game server 20 as part of a process to display the chat message . . . to one or more other users within the game network environment." Shochet ¶ 32. Thus, we agree with the Examiner's finding (*see* Final act. 3) that Shochet's Speed Chat mode teaches or at least suggests, "when the input is contained in the system

permissible items dictionary, assembling the user-generated message," as claimed, because the Speed Chat mode only allows generation of a message if the user's input is included within Shochet's dictionary (i.e., "library of words and phrases") (Appeal Br. 5).

Appellants' argument that in Shochet "no message is compared to any dictionary before being sent" and that Shochet does not teach or suggest "'a system permissible items dictionary'" is unpersuasive because it is not commensurate with the scope of Appellants' claim. Appeal Br. 5; Reply Br. 3. Appellants provide no evidence that the Specification discloses the phrase "system permissible items dictionary." Appellants' Specification, however, does describe a dictionary as "contain[ing] a limited set of complete messages that are deemed appropriate or suitable for the intended users." Spec. ¶ 39. Appellants, therefore, fail to persuasively establish why Appellants' claimed dictionary fails to encompass Shochet's dictionary of permissible "predetermined words and phrases." Shochet ¶ 32. Further, Shochet teaches "that the two-communication modes above described may be used in cooperation." Shochet ¶ 49. Accordingly, we agree with the Examiner's finding that Shochet's Speed Chat and open chat modes, used in cooperation with each other, teach the limitations at issue.

We, therefore, sustain the Examiner's 35 U.S.C. § 103(a) rejection of claim 37. We also sustain, for similar reasons, the Examiner's § 103(a) rejection of independent claim 48, which is argued with independent claim 37. *See* Appeal Br. 6. Dependent claims 40–47, 49–58, and 60 are not argued separately with respect to the disputed limitation and fall with their respective independent claims. *See* Appeal Br. 6–9.

Rejections under § 103(a) of Claims 38, 39, 43, 49, 50, and 52–57

Issue: Does the Examiner err in finding the combination of Shochet and Aaron teaches or suggests "checking user-generated messages using a message checker to prevent communication of user-generated messages comprising predetermined combinations of items from the system permissible items dictionary," as recited in independent claim 38?

The Examiner relies on Shochet's Speed Chat and open chat modes to teach or suggest the limitation at issue in claim 38. *See* Final Act. 4–5; Ans. 4–5 (citing Shochet 37, 39).

Appellants dispute the Examiner's factual findings arguing Shochet does not teach checking user-generated messages because Shochet inhibits inclusion of words or phrases *prior* to generation of the message. *See* Appeal Br. 6–7. In particular, Appellants argue that both of the text modes from Shochet cited by the Examiner "relate to steps that are performed before any message is generated" and "[o]nce these phrases/words have been included in the menus, the system of Shochet seemingly permits their use in any combination as no function or mechanism is shown or described for checking the actual messages that are generated by the users." Appeal Br. 7; *see* Reply Br. 5.

We find this argument unpersuasive of Examiner error. Shochet's open chat mode uses "a message filter that automatically deletes specific words or phrases" such as bad language "that are typed by the players." Shochet ¶ 49. As discussed above with respect to claim 1, Shochet's message filter teaches or at least suggests using a dictionary. Shochet's open chat mode, therefore, teaches checking user-generated messages (e.g., open chat messages "typed by the players") using a message checker ("message

filter") to prevent communication of user-generated messages comprising predetermined combinations of items (e.g., letters or words making up "words or phrases" indicated as bad language in Shochet's dictionary). *See* Shochet ¶ 49. Appellants argument that Shochet's steps "are performed before any message is generated" is unpersuasive because Appellants fail to demonstrate why a user typing keys using Shochet's open chat mode does not teach or suggest a user-generated message, as claimed.

We, therefore, sustain the Examiner's 35 U.S.C. § 103(a) rejection of claim 38. We also sustain, for similar reasons, the Examiner's § 103(a) rejection of dependent claim 49, which is argued with independent claim 37. *See* Appeal Br. 7. Claims 39, 43, 50, and 52–57, which variously depend from claim 38 or 49, are not argued separately and so we affirm the rejections of these claims for similar reasons. *Id.*

Rejections under § 103(a) of Claims 59 and 60

Issue: Does the Examiner err in finding the combination of Shochet and Aaron teaches or suggests "when the input is not included in the system permissible items dictionary, preventing assembly of the user-generated message," as recited in claim 59, or "preventing the user-generated message including the input from being sent," as recited in claim 60?

The Examiner relies on Shochet's Speed Chat to teach or suggest the limitation at issue in claims 59 and 60. *See* Final Act. 5 (citing Shochet ¶¶ 37, 39); *see also* Ans. 5–6.

Appellants dispute the Examiner's factual findings arguing that "disabling the free-form message generating functionality of Shochet, in no way indicates that any user generated message is ever checked against any

dictionary of permissible items. Nor does Shochet ever describe or suggest that any message is ever prevented from being assembled or sent." Appeal Br. 8; see also Reply Br. 6–7.

We find Appellants' argument unpersuasive of error. We agree with the Examiner's finding that Shochet's Speed Chat mode teaches the limitation at issue because in Shochet's Speed Chat mode, a user can neither assemble nor send a desired message unless that message is included in the pre-determined message hierarchy. *See* Shochet ¶ 32. Accordingly, when the input message desired by the user is not included in the system permissible items dictionary (e.g., "menu 110 of selectable, pre-prepared chat messages" or the "pre-prepared [message] library"), the desired message cannot be assembled nor sent as a user-generated message because Shochet's Speed Chat mode "limits interaction to predetermined words and phrases" found in menu 110, i.e., to messages in the dictionary. Shochet ¶¶ 32, 37 (emphasis omitted).

Appellants also argue the limitation at issue is not taught by Aaron. Appeal Br. 8. We need not reach this argument because we agree with the Examiner that Shochet teaches the disputed limitation, as discussed here.

We, therefore, sustain the Examiner's 35 U.S.C. § 103(a) rejection of claims 59 and 60.

DECISION

We affirm the Examiner's § 103(a) rejections of claims 37–60.

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).

<u>AFFIRMED</u>