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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ALAN EDWARD BARATZ, JOHN F. BUFORD,
ANTHONY FRANK BARTOLO, JAYESH GOVINDARAJAN,
ANWAR A. SIDDIQUI, and VYANKATESH BALAJI DESHPANDE

Appeal 2018-006112
Application 13/381,270
Technology Center 2400

Before ROBERT E. NAPPI, CATHERINE SHIANG, and
MICHAEL T. CYGAN, *Administrative Patent Judges*.

CYGAN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision to reject claims 1–10, 13–16, and 18–20. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

¹ We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as Avaya, Inc. Appeal Br. 2.

CLAIMED SUBJECT MATTER

The claims are directed to a method for using profile information identifying a session participant to select another participant on a different node of a peer-to-peer network. App. Br. 3. Claim 1 is illustrative:

1. A method, comprising:
 - receiving identification information identifying a second session participant operating a second node on a peer-to-peer network;
 - gathering profile information descriptive of the second session participant using the identification information;
 - employing the profile information descriptive of the second session participant to select a first session participant operating a first node of a plurality of nodes on the peer-to-peer network from among at least two potential participants associated with an entity and to determine a communication connection to be employed during a communication session between the first node and the second node; and
 - initiating the communication session.

Independent claims 16 and 19 recite a system and computer-readable storage medium, respectively, having limitations commensurate in scope with claim 1. Dependent claims 2–10, 13–15, 18, and 20 each incorporate the limitations of their respective independent claims. Claims 11, 12, and 17 have been cancelled. App. Br. 12–13 (Claims App'x).

REFERENCE

Name	Reference	Date
Chaturvedi et al. (Chaturvedi)	US 8,725,895 B2	Issued May 13, 2014, filed Feb. 15, 2010

REJECTION

Claims 1–10, 13–16, and 18–20 are rejected under pre-AIA 35 U.S.C. § 102(e) as being anticipated by Chaturvedi. Regarding the limitation in representative claim 1 of “receiving identification information identifying a second session participant; gathering profile information descriptive of the second session participant operating a second node on a peer-to-peer network; gathering profile information descriptive of the second session participant using the identification information,” the Examiner determines that Chaturvedi discloses storing and receiving a profile information for a user in the form of a “buddy list” that identifies other users that have previously agreed to communicate with the user. Final Act. 2–3 (citing Chaturvedi 3:45–62).²

The Examiner further determines that Chaturvedi discloses an access server’s use of the buddy list and an online-status indicating session table to select profile information for the user at endpoint 104 and to make a connection. *Id.* at 3 (citing Chaturvedi 7:46–59). The Examiner determines this to disclose the claimed employing of the profile information of the second session participant to select a first session participant, and initiating the communication session. *Id.* The Examiner further identifies Chaturvedi’s endpoints 104 and 106 as first node and second node, and the management layer 260 as disclosing the step of determining the communication connection as being online. *Id.* at 7; Ans. 4–5.

Appellant contends that Chaturvedi does not disclose the invention of claim 1 because Chaturvedi does not use profile information that is

² All references to “Final Act.” refer to the Final Action of May 12, 2017.

descriptive of the second participant. App. Br. 7. Appellant contends that Chaturvedi instead discloses profile information that is descriptive of the first participant; i.e., whether the first participant is online. *Id.* Accordingly, Appellant contends that the Examiner has not shown that Chaturvedi discloses the limitation of “employing the profile information descriptive of the second session participant to select a first session participant.” *Id.*

Anticipation of a claim may be found “only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros., Inc. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir. 1987). The issue presented by the Appellant is whether the Examiner has shown that Chaturvedi expressly or inherently describes the limitation of “employing the profile information descriptive of the second session participant to select a first session participant.”

Chaturvedi’s access server relies upon two pieces of information, (1) which names are on the user’s buddy list, and (2) which of those names are currently online. Chaturvedi 7:48–52. Appellant’s arguments are based on the second piece of information, arguing that the online status of an endpoint (e.g., a buddy) is information relating to the endpoint, not to the user.

However, the Examiner’s rejection is based on the first piece of information, not the second. The Examiner determines that “gathering profile information descriptive of the second session participant using the identification information” is disclosed by Chaturvedi at column 3, lines 45–62. At that section, Chaturvedi discloses “profile information” as including the “buddy list.” The “buddy list” is disclosed as the other users that have previously agreed to communicate with the user, whether those users are

online or not. *Id.* The user will only be shown the entire list of “buddies,” with indicia indicating which are online. Ans. 6 (citing Chaturvedi 8:33–53). Accordingly, the profile information in the entire “buddy list” describes information about the user in the form of the user’s prior contacts, and is not limited to information concerning the buddies themselves. *Id.*

Consequently, the Examiner rejects the later-occurring limitation of “employing the profile information descriptive of the second session participant to select a first session participant” over Chaturvedi’s employing of a user’s buddy list to select another buddy for communication connection. Final Act. 3; Chaturvedi 7:46–56.

Although Appellant has focused on Chaturvedi’s notification of the online status of the first participant as not being descriptive of the second participant, Appellant has not persuaded us that Chaturvedi’s use of the “buddy list” does not disclose profile information that is descriptive of the second participant and employed to select a first session participant from potential participants. Accordingly, we are not persuaded of error in the Examiner’s rejection of claim 1. Since the Examiner’s rejection of claims 2, 5, 6, 8, 10, 13–16, and 18–20 rely on the same grounds, and since Appellant has not argued those claims separately from claim 1, we are not persuaded of error in the Examiner’s rejection of those claims.

Appellant argues that dependent claim 3 is not anticipated by Chaturvedi, for the reasons expressed for the rejection of claim 1, and additionally because Chaturvedi does not disclose the profile information comprising demographic information of the second participant. The Examiner cites to Chaturvedi’s disclosure of the profile information comprising information (IP address, port, NAT type) about the buddies.

Final Act. 3 (*citing* Chaturvedi 8:23–29); Ans. 5 (*citing* Chaturvedi 4). The Examiner has not explained how that information is “demographic” information. The Examiner has not provided further explanation except for bare quotations of sections of Chaturvedi, none of which explicitly recites demographic information. Furthermore, even if that information were considered demographic information, that is information describing the first participants (“buddies”), not the second participant. Accordingly, based on the record, we are persuaded that the Examiner has not shown Chaturvedi to disclose demographic information describing the second participant, and therefore, we are persuaded of error the Examiner’s rejection of claim 3.

Appellant argues that dependent claim 4 is not anticipated by Chaturvedi, for the reasons expressed for the rejection of claim 1, and additionally because Chaturvedi does not disclose the profile information comprising previous interaction information of the second participant. However, since the “buddy list” of Chaturvedi is based upon actions of prior agreement to communicate with the second participant, we are not persuaded of error in the Examiner’s rejection of claim 4.

Appellant argues that dependent claims 7 and 9 are not anticipated by Chaturvedi, for the reasons expressed for the rejection of claim 1, and additionally because Chaturvedi does not disclose determining the identity of a webpage (claim 7) or determining whether the second session participant is logged into a networking website (claim 9). App. Br. 8–9. Appellant argues that Chaturvedi, while disclosing “online” connections, is concerned with peer-to-peer operations, and does not address a webpage or website. *Id.* The Examiner has not provided further explanation except for bare quotations of sections of Chaturvedi, none of which explicitly recites a

webpage or a website. Final Act. 4 (citing Chaturvedi 10:41–54); Ans. 6–7 (citing Chaturvedi 10:41–54) Accordingly, based on the record, we are persuaded that the Examiner has not shown Chaturvedi to disclose demographic information describing the second participant, and therefore, we are persuaded of error the Examiner’s rejection of claims 7 and 9.

DECISION

For the above-described reasons, we affirm the Examiner’s rejection of claims 1, 2, 4–6, 8, 10, 13–16, and 18–20, as being anticipated under 35 U.S.C. § 102(e), and we reverse the Examiner’s rejection of claims 3, 7, and 9 under that same statutory section. Because less than all claims have been affirmed, we affirm-in-part.

CONCLUSION

In summary:

Claims Rejected	35 U.S.C. §	Basis	Affirmed	Reversed
1–10, 13–16, 18–20	102(e)	Anticipation	1, 2, 4–6, 8, 10, 13–16, 18–20	3, 7, 9

TIME PERIOD FOR RESPONSE

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-IN-PART