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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte STEPHEN L. HODGE

Appeal 2018-006258
Application 15/341,572
Technology Center 2400

Before ALLEN R. MacDONALD, MICHAEL M. BARRY, and JOHN R. KENNY, *Administrative Patent Judges*.

MacDONALD, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant[1] appeals from the Examiner's decision to reject claims 1–4, 7–11, 13, 14, and 16–34. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM-IN-PART.

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[1] Appellant indicates the real parties in interest is Global Tel*Link Corporation. Appeal Br. 3.

CLAIMED SUBJECT MATTER

Claims 1 and 10 are illustrative of the claimed subject matter (emphasis, formatting, and bracketed material added):

1. The system comprising:

[A.] an inmate profile database comprising an inmate information database, an internet profile database, an internet filter category database, and an internet access log database;

[B.] an input device configured to receive login information from an inmate residing in a controlled environment facility;

[C.] an authentication subsystem configured to verify an identity of the inmate based on the received login information;

[D.] an internet profile generator configured to:

[i.] retrieve, from the inmate information database, inmate information associated with the inmate, wherein the inmate information includes a criminal report detailing crimes committed by the inmate,

[ii.] ***automatically generate*** an inmate internet profile that includes internet content categories permitted or prohibited for the inmate ***based directly on*** the inmate information, and

[iii.] store the inmate internet profile in the internet profile database; and

[E.] an internet content filtering subsystem configured to:

[i.] receive a request to view a website from the inmate,

[ii.] determine one or more content categories of the requested website from the internet filter category database, and

[iii.] permit internet access to the requested website using the one or more content categories of the requested website and a full inmate filter profile, wherein the full inmate filter profile is a ***logical combination*** of the internet content categories of the inmate internet profile and a global internet profile providing internet restrictions applicable to all inmates of the controlled environment facility

10. The system of claim 1, wherein the internet content filtering subsystem is further configured to:

[F.] determine from the internet filter category database that the requested website is an uncategorized website;

[G.] ***search of the uncategorized website for problematic content*** based on the inmate internet profile; and

[H.] ***provide the inmate with internet access to the uncategorized website based on the search of the uncategorized website for problematic content*** based on the inmate internet profile.

REFERENCES[2]

The prior art relied upon by the Examiner is:

Name	Reference	Date
Kipust	US 6,002,427	Dec. 14, 1999
Thomas	US 7,134,130 B1	Nov. 7, 2006
Hind	US 2002/0095296 Al	July 18, 2002
Gutta	US 2003/0126267 A1	July 3, 2003
Hodge	US 2006/0285650 Al	Dec. 21, 2006
Gupta	US 2015/0188925 A1	July 2, 2015

[2] All citations herein to these references are by reference to the first named inventor only.

REJECTION

A.

The Examiner rejects claims 1–4, 9–11, 16–18, 21–23, 25–30, and 32–34 under 35 U.S.C. § 103 as being unpatentable over the combination of Gupta, Gutta, and Hodge. Final Act. 7–12.

Appellant separately argues claims 1 and 10. Appellant does not present separate arguments for claims 2–4, 9, 11, 16–18, 21–23, 25–30, and 32–34. Thus, the rejections of these claims turn on our decisions as to claim 1 (with which claims 2–4, 9, 11, 16–18, 21–23, 25–30, and 32–34 are grouped) and claim 10 (with which claim 18 is grouped). Except for our ultimate decision, we do not discuss the § 103 rejection of claims 2–4, 9, 11, 16–18, 21–23, 25–30, and 32–34 further herein.

B.

The Examiner rejects claims 7, 8, 13, 14, 19, 20, 24, and 31 under 35 U.S.C. § 103 as being unpatentable over the combination of Gupta, Gutta, and Hodge in various combinations with other references. Final Act. 13–17.

Appellant does not present arguments for claims 7, 8, 13, 14, 19, 20, 24, and 31. Thus, the rejections of these claims turn on our decision as to claim 1. Except for our ultimate decision, we do not discuss the § 103 rejections of claims 7, 8, 13, 14, 19, 20, 24, and 31 further herein.

OPINION

We have reviewed the Examiner's rejections in light of Appellant's arguments that the Examiner has erred.

A.

Appellant raises the following argument in contending that the Examiner erred in rejecting claim 1 under 35 U.S.C. § 103.

> **Gupta's** view of the state of the art is that controlled environments offer one limited, generic restriction profile, namely a profile that limits almost all content available on the Internet for everyone. **Gupta**, para. [0018].
>
> *Gupta* then proceeds to discuss a new approach, whereby *Gupta* replaces the one limited generic, restriction profile described in paragraph [0018] with his alternative approach. But *Gupta's* alternative approach ***does not satisfy the recited two separate profiles***, namely the recited "inmate internet profile and a global internet profile."

Appeal Br. 14 (emphasis added).

> *Gupta's* alternative approach does not satisfy the recited **combination** of two separate profiles, namely the "inmate internet profile and a global internet profile." Instead, *Gupta* replaces one profile (a limited, generic profile), not with two profiles, but with another profile (a customizable profile). . . .
>
> In summary, Gupta does not disclose a "combination" of two profiles, but instead merely replaces the historical **one-profile** approach with another **single profile** approach.

Appeal Br. 15–16.

We are unpersuaded by Appellant's argument. We disagree with Appellant's assertion that Gupta uses a "single profile approach." Paragraphs 40–54 of Gupta teach using a logical combination of Access Sets (each defining authorized web content) and Trump Sets (each defining denied web content).

> In contemplated embodiments, each webpage (or entire website) or web link listed in a Trump Set is tagged with a hard deny. This denial of access trumps any conflicting authorization by an "Access Set." Thus, if an administrator or overseer inadvertently assigns or designates a webpage or web links thereof to an Access Set, or perhaps even assigns the same webpage or web link to both the Asset Set and the Trump Set, ***any designation of the same webpage or web links on a Trump Set will override the Access Set and access will be denied.*** If the ability to create a Trump Set is confined to fewer users than those able to create Access Sets, denial of access to web content on the Trump Set can effectively be ensured even when a person creating an Access Set lacks specific awareness of web content that has been predefined in Trump Set.
>
> In the correctional facility context, the creation and acceptance of Access Sets and Trump Sets may be accomplished for resident inmates individually or as a group, such that one or more inmates may be provided with ***one or more*** "Access Sets" for the system in use based on a user class as shown at step 228.

Gupta ¶¶ 51–52 (emphasis added). Contrary to Appellant's "single profile approach" argument, we determine that there is no meaningful difference between combining Gupta's Access/Trump Sets to determine inmate Internet access, and the combining restrictions to determine inmate Internet access as described by Appellant.

> Once the CIBMS[3] 110 verifies the inmate and authorizes access to the Internet, the CIBMS 110 ***retrieves Internet restrictions unique to that user from a user profile***. In an embodiment, it may be necessary for each inmate to have personal restrictions that may differ from other inmates. For example, an inmate with a known proclivity towards pornography may have extremely broad restrictions on nude images, partial nude images, or even suggestive content, whereas other inmates may have access to such content. In an embodiment, the CIBMS 110 may also have global restrictions that are applicable to all inmates. Thus, by

[3] "Controlled Internet browsing management system." Spec. ¶ 17.

> ***combining*** the ***personal restrictions*** with the ***global restrictions***, a full filter profile can be applied to each individual inmate. Using this filter profile, the CIBMS 110 filters the Internet contents permitted for the inmate.

Spec. ¶ 23 (emphasis added).

B.

Appellant also raises the following arguments in contending that the Examiner erred in rejecting claim 1 under 35 U.S.C. § 103.

> Gupta's approach is a two-step approach that relies on the intermediate "user class" to provide the connection between the "inmate information" and the "inmate's internet profile." While the association between the "user class" and the "inmate information" may be manual or automatic, the association between the "user class" and the internet restrictions is manual. *Gupta*, ¶ [0056].
>
> Accordingly, given that one of the steps in the *Gupta's* two-step process is manual and the product of the discretion of the prison officials, the overall *Gupta* process is therefore manual and not automatable.

Appeal Br. 17 (emphasis added).

We are unpersuaded by Appellant's argument. The argument is not commensurate with the scope of the claim language. Essentially, Appellant's argument is reading the term "fully" into claim 1 as a modifier for "automatically." Claim 1 is not explicitly so limited, nor does Appellant explain how claim 1 would be inherently so limited, nor do we find any basis elsewhere in the claims or Specification that would similarly mandate the argued limitation.

Also, as Appellant acknowledges, Gupta's "association between the 'user class' and the 'inmate information' may be manual or automatic."

That a portion of Gupta's process is automatic is sufficient to teach or suggest show "automatically generat[ing]" as required by claim 1.

C.

Appellant further raises the following argument in contending that the Examiner erred in rejecting claim 1 under 35 U.S.C. § 103.

> Gupta's generation of the purported "inmate internet profile" is obtained directly from Gupta's user class, the intermediary involved in Gupta's process. Therefore, Gupta's generation of the purported "inmate internet profile" is obtained indirectly, **not directly**, from the "inmate information."

Appeal Br. 18.

We are unpersuaded by Appellant's argument. Again, the argument is not commensurate with the scope of the claim language. Appellant's "intermediary" argument appears to be arguing that "directly" is a connection modifier. We disagree. Rather, claim 1 states "internet content categories permitted or prohibited for the inmate based directly on the inmate information" in which we read "directly" as an informational modifier. That is, the "permitted or prohibited" categories must be based "directly" on the "inmate information." Although we find Appellant's Specification silent as to the term "directly," Appellant discloses:

> The Internet profile generator 334 uses the inmate information database 342 to generate Internet profiles for the inmates ***based on*** their offenses, charges, sentencing, current disciplinary status, among others. The Internet profiles consist of different categories of Internet contents and indication of which categories the inmate has permission to access.

Spec. ¶ 35 (emphasis added). Gupta similarly states:

> For example, violent offenders may be provided access to different web content than non-violent inmates via differently

> defined Access Sets and Trump Sets tailored to the needs and concerns associated with each resident/inmate group user class.

Gupta ¶ 53. We agree with the Examiner's determination that Gupta teaches an offender's access can be based directly on information about the inmate's offense.

D.

Appellant raises the following argument in contending that the Examiner erred in rejecting claims 10 and 18 under 35 U.S.C. § 103.

> [N]either Gupta nor Gutta appear to deal with making a determination that "the requested website is an uncategorized website," as required by dependent claims 10 and 18. . . .
>
> The Office's [analysis] appears to be the contrary of what is required to meet the recited feature.

Appeal Br. 20.

We are persuaded there is insufficient articulated reasoning to support the Examiner's determination that Gupta, Gutta, and Hodge suggest "determine . . . that the requested website is an uncategorized website." Therefore, we further conclude that there is insufficient articulated reasoning to support the Examiner's final conclusion that claim 10 would have been obvious to one of ordinary skill in the art at the time of Appellant's invention.

CONCLUSIONS

The Examiner has not erred in rejecting claims 1–4, 7–9, 11, 13, 14, 16, 17, and 19–34 as being unpatentable under 35 U.S.C. § 103.

Appellant has established that the Examiner erred in rejecting claims 10 and 18 as being unpatentable under 35 U.S.C. § 103.

The Examiner's rejection of claims 1–4, 7–9, 11, 13, 14, 16, 17, and 19–34 as being unpatentable under 35 U.S.C. § 103 is **affirmed**.

The Examiner's rejection of claims 10 and 18 as being unpatentable under 35 U.S.C. § 103 is **reversed**.

DECISION SUMMARY

In summary:

Claims Rejected	**35 U.S.C. §**	**Basis**	**Affirmed**	**Reversed**
1–4, 9–11, 16–18, 21–23, 25–30, 32–34	103	Gupta, Gutta, Hodge	1–4, 9, 11, 16, 17, 21–23, 25–30, 32–34	10, 18
7, 8, 13, 14, 19, 20, 24, 31	103	Gupta, Gutta, Hodge, Kipust, Thomas, Hind	7, 8, 13, 14, 19, 20, 24, 31	
Overall Outcome			**1–4, 7–9, 11, 13, 14, 16, 17, 19–34**	**10, 18**

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