UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
15/076,578	03/21/2016	Michelle Fisher	BLZMPO004C26C1	7276

12120 7590 03/02/2020		EXAMINER
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PTOL-90A (Rev. 04/07)

UNITED STATES PATENT AND TRADEMARK OFFICE
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BEFORE THE PATENT TRIAL AND APPEAL BOARD
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Ex parte MICHELLE FISHER[1]
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Appeal 2019-000039
Application 15/076,578
Technology Center 3600
_____

Before JOHN A. EVANS, JASON J. CHUNG, and
SCOTT E. BAIN, *Administrative Patent Judges*.

EVANS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Claims on Appeal.

Appellant states the:

application was originally filed with claims 1–20. Claims 1–20
remain pending and all stand rejected and this is an appeal of
rejected Claims 1–20. Claims 3, 8, 9, 12, and 17–19, have been

cancelled and replaced by new claims 21–45. Claims 1–45 are reproduced and attached in the Claims Appendix.

Appeal Br. 2.

The Examiner finds:

[c]urrently, claims 1, 2, 4–7, 10, 11, 13–16, 20–24 and 28–45 are pending. Claims 1, 2, 6, 10, 11 and 20–24 have been amended. Claims 3, 8, 9, 12 and 17–19 have been cancelled. Claims 28-45 are newly added.

Final Act. 2. The Examiner has re-numbered Claims 28–45 as 25–42. *Id.* at 3; *see* Claims Appendix.

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Jurisdiction.

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Claims 1, 2, 4–7, 10, 11, 13–16, 20–24, and 28–45, as renumbered by the Examiner, are pending, stand rejected, are appealed, and are the subject of our decision under 35 U.S.C. § 134(a). We have jurisdiction over the pending claims under 35 U.S.C. § 6(b).

We REVERSE.

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RELATED APPEALS AND TRIALS

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Appellant declares the present Application is related to the Appeal of US 14/253,648. App. Br. 2.

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INVENTION

Summary of the Invention.

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The invention is directed to a "method and system for conducting an online payment transaction through a point of sale device." Abstract.

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Claims.

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Claims 1, 10, and 20 are independent.

Claim 1 is illustrative of the invention and is reproduced below with formatting added for clarity:

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1.   A method for processing a transaction, comprising:

maintaining a non-browser based application in a mobile device memory included in a mobile device,

wherein the non-browser based application is a mobile operating system platform based mobile application with a graphical user interface which includes a graphical icon that is preinstalled or downloaded and installed on the mobile device,

wherein the non-browser based application only generates a non-browser based application generated screen, the non-browser based application generated screen corresponding to a specific screen or area of the non-browser based application, the mobile device comprising the mobile device memory, a mobile device display, a mobile device processor, and a mobile device wireless radio interface, a mobile device wireless fidelity (Wi-Fi) interface that supports voice and data interactions through a first wireless communication channel device using at least one of GSM and CDMA;

receiving, at the non-browser based application generated screen, a list of products from a remote management server for display using the non-browser based application;

receiving, at the non-browser based application generated screen, an identification of one or more products selected from the list of products from non-browser based application generated screen,

wherein the non-browser based application generated screen receives the identification of the one or more products selected from the list of products through user input via the mobile device display;

sending, from the non-browser based application generated screen, the identification of one or more products to the remote management server;

receiving a transaction purchase request from the non-browser based application generated screen,

> wherein the non-browser based application generated screen receives the transaction purchase request from the user via the mobile device display;

sending, from the non-browser based application generated screen, the transaction purchase request to the remote management server;

receiving user input login information including an identification code associated with the user from the non-browser based application generated screen,

> wherein the non-browser based application receives the user input login information through user input via the mobile device display;

sending, from the non-browser based application generated screen, the user input login information to the remote management server; and

receiving information authenticating the user associated with the user input login information from the remote management server and further

> wherein the remote management server receives a transaction verification from a transaction server which processes the transaction using a payment method that corresponds to the identification code associated with the user, wherein the payment method is stored at the remote management server;

> wherein the transaction verification indicates that the transaction has processed; and

receiving, at the mobile device, the one or more products from the remote management server.

REJECTIONS[2] AT ISSUE[3]

References.

Name	Publication Number	Date
Gobburu	US 2002/0060246 A1	May 23, 2002
Yang	US 2002/0106081 A1	Aug. 8, 2002
Gautier	US 2005/0021478 A1	Jan. 27, 2005
Hayashi	US 2006/0095339 A1	May 4, 2006
Roever	US 2006/0170759 A1	Aug. 3, 2006
Hotelling	US 2006/0235864 A1	Oct. 19, 2006
Rackley	US 2008/0010191 A1	Jan. 10, 2008
Bemmel	US 2008/0046366 A1	Feb. 21, 2008

Rejections.

1. The rejection of Claims 27, 28, 30, 36, 37, and 39 under 35 U.S.C. 112 (pre-AIA), first paragraph, as failing to comply with the written description requirement (Final Act. 3–7) was withdrawn. *See* Advisory Action mailed March 13, 2018, Face Page.

2. Claims 1, 2, 5–7, 10, 11, 14–16, 20, 22, 24, 25, 26, 30, 32–35, 39, 41, and 42 stand rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Rackley, Gautier, and Hotelling. Final Act. 8–15.

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[2] The Application is being examined under the pre-AIA first to invent provisions. Final Act. 2.

[3] Throughout this Decision, we refer to the Appeal Brief ("Appeal Br.") filed July 3, 2018, the Reply Brief ("Reply Br.") filed September 24, 2018, the Final Office Action ("Final Act.") mailed December 6, 2017, the Examiner's Answer ("Ans.") mailed July 27, 2018, and the Specification ("Spec.") filed March 21, 2016.

3. Claims 4 and 13 stand rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Rackley, Gautier, Hotelling, and Bemmel. Final Act. 16.

4. Claims 21 and 23 stand rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Rackley, Gautier, Hotelling, and Hayashi. Final Act. 16–17.

5. Claims 27, 28, 36, and 37 stand rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Rackley, Gautier, Hotelling, and Roever. Final Act. 17–19.

6. Claims 29 and 38 stand rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Rackley, Gautier, Hotelling, and Gobburu. Final Act. 19–20.

7. Claims 31 and 40 stand rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Rackley, Gautier, Hotelling, and Gobburu. Final Act. 20–21.

ANALYSIS

Overview.

We have reviewed Appellant's arguments in the Briefs, the Examiner's rejection, and the Examiner's response to Appellant's arguments. Appellant's arguments have persuaded us of error in the Examiner's written description rejection of Claims 1, 2, 4–7, 10, 11, 13–16, 20–24, and 28–45 under 35 U.S.C. § 103.

CLAIMS 1, 2, 4–7, 10, 11, 13–16, 20–24, and 28–45: OBVIOUSNESS OVER RACKLEY, GAUTIER, HOTELLING, AND VARIOUS SECONDARY REFERENCES.

Appellant argues all claims as a group in view of the limitations of Claim 1. *See* Appeal Br. 42. Therefore, we decide the appeal of the § 103

rejections on the basis of illustrative Claim 1 and refer to the rejected claims collectively herein as "the claims." *See* 37 C.F.R. § 41.37(c)(1)(iv); I*n re King*, 801 F.2d 1324, 1325 (Fed. Cir. 1986).

Appellant contends the combination of Rackley, Gautier, and Hotelling fails to teach each element of Claim 1. Appeal Br. 15.

Non-browser based application.

Claim 1 recites, *inter alia*, "maintaining a non-browser based application in a mobile device memory." Claim 1 further recites various steps of "receiving, at the non-browser based application" and "sending from the non-browser based application."

Appellant contends Gautier teaches the mobile device interacts with a remote server and teaches "when the '***the application program is interacting with a remote server***', it displays content a 'browser like manner.'" Appeal Br. 22 (citing Gautier ¶¶ 80–81). Appellant argues this teaching contradicts the claims which recite a non-browser based application. *Id.*

The Examiner finds Gautier teaches "[a] potential purchaser can search and browse through numerous media items on-line that are available for purchase." Ans. 23. The Examiner further finds the media player can be used to browse, purchase, download and store a media item on a user's machine and that after downloading, the media player can play the item locally without a network connection. *Id.*

We find, contrary to the Examiner, that Gautier teaches a web-browser is required. Although not required to play media, once obtained, Gautier teaches a browser is required to obtain the media, contrary to the claims.

With respect to Rackley, the Examiner cites, *inter alia* paragraphs 22 and 128 as teaching non-browser based applications. Final Act. 9.

Contrary to the Examiner, Rackley teaches "payee information is input by the user via the Internet-accessible web site" (Rackley ¶ 35) and "[m]obile devices include such items as cellphones and PDAs that are connected for data communications via a wireless network to an MFTS" (*id.* ¶ 128). Rackley also teaches "[t]he MFTS is in turn connected to allow remote network access (e.g. Internet access) by users for account setup, configuration, editing, monitoring of transactions, etc." (*id.*). Final Act 9. Moreover, Rackley explicitly teaches browser-based user access:

> [a] user interface provides a means of input (allowing a user to send information to a system such as the MFTS) and a means of output (allowing the MFTS system to display information to the user). These inputs and outputs are transported via the Internet and viewed by the users using a web browser program such as Netscape Navigator, Internet Explorer, Firefox, or any other web browsers.

Rackley, ¶164.

Thus we find, contrary to the claims, that each of Gautier and Rackley teaches that a user interacts with the referenced servers using a browser-based application.

CONCLUSION

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1, 2, 5–7, 10, 11, 14–16, 20, 22, 24–26, 30, 32–35, 39, 41, 42	103	Rackley, Gautier, Hotelling		1, 2, 5–7, 10, 11, 14–16, 20, 22, 24–26, 30, 32–35, 39, 41, 42

4, 13	103	Rackley, Gautier, Hotelling, Bemmel		4, 13
21, 23	103	Rackley, Gautier, Hotelling, Hayashi		21, 23
27, 28, 36, 37	103	Rackley, Gautier, Hotelling, Roever		27, 28, 36, 37
28, 29	103	Rackley, Gautier, Hotelling, Gobburu		28, 29
31, 40	103	Rackley, Gautier, Hotelling, Yang		31, 40
Overall Outcome				1, 2, 4–7, 10, 11, 13–16, 20–24, and 28–45

REVERSED