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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte YUICHI KAGEYAMA, MITSURU TAKEHARA,
NORIFUMI KIKKAWA, and YUAN WEI

Appeal 2019-000568
Application 14/006,765
Technology Center 2400

Before ROBERT E. NAPPI, STEVEN M. AMUNDSON, and
MICHAEL T. CYGAN, *Administrative Patent Judges*.

AMUNDSON, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant¹ seeks our review under 35 U.S.C. § 134(a) from a final rejection of claims 1, 2, 6–8, 10–16, and 22–24, i.e., all pending claims.

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

We affirm.

¹ We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42 (2017). Appellant identifies the real party in interest as Sony Corporation. Appeal Br. 2.

STATEMENT OF THE CASE

The Invention

According to the Specification, the invention concerns “managing a community site.” Spec. ¶¶ 11–12, code (57).² The Specification explains that a Social Network Service (SNS) “provides a community site which only users of the mobile apparatuses sharing the same space and time can access by acquiring position information and time information through the function of GPS (Global Positioning System), Wi-Fi, or the like.” *Id.* ¶ 3. The Specification also explains that an SNS “provides not only a human association on a network via the Internet but also a service in which the human association is realized by ad-hoc mobile apparatuses executing proximity wireless communication and which reflects real world human association, which is referred to as ASNS (Ad-hoc SNS).” *Id.* ¶ 4.

According to the Specification, however, “when the community site is left unmanaged, there is a concern that a third person may secretly look at information of the community site.” Spec. ¶ 9. Thus, due to unease about data security, “users may not use the community site.” *Id.* Hence, the invention endeavors to provide users “with more peace of mind” by deleting data under certain circumstances, thus precluding unauthorized access to data. *Id.* ¶¶ 10–15, 45, 60, 73–82, 96–98, Fig. 6. Consequently, communications can occur “securely since the information can be prevented

² This decision uses the following abbreviations: “Spec.” for the Specification, filed March 22, 2012; “Final Act.” for the Final Office Action, mailed May 9, 2017; “Advisory Act.” for the Advisory Action, mailed August 10, 2017; “Appeal Br.” for the Appeal Brief, filed April 26, 2018; and “Ans.” for the Examiner’s Answer, mailed August 27, 2018.

from being leaked, for example, so that a third person cannot look at the information.” *Id.* ¶ 100; *see id.* ¶ 99.

Exemplary Claim

Independent claim 1 exemplifies the claims at issue and reads as follows (with formatting added for clarity):

1. A server comprising:

a communication interface configured to acquire, from each of a plurality of terminals, location information corresponding to each of the plurality of terminals; and

processing circuitry configured to:

create a community site which only terminals within a predetermined range of a geographic location corresponding to the community site are permitted to access;

manage the community site in accordance with management data to permit access to the community site only by terminals located within the predetermined range of the geographic location based at least in part on the location information corresponding to each of the plurality of terminals; and

provide content identified by at least one of the plurality of terminals permitted to access the community site to be accessible via the community site,

wherein

the communication interface is configured to acquire updated location information corresponding to the at least one of the plurality of terminals, and

the processing circuitry is configured to automatically delete the content identified by the at least one of the plurality of terminals from the community site in a case that it is determined that the at least one of the plurality of terminals is outside of the predetermined range of the geographic location

corresponding to the community site based on the updated location information.

Appeal Br. 15 (Claims App.).

The Prior Art Supporting the Rejections on Appeal

As evidence of unpatentability under 35 U.S.C. § 103(a), the Examiner relies on the following prior art:³

Lambers	US 2005/0096936 A1	May 5, 2005
Alfaro et al. (“Alfaro”)	US 2006/0223599 A1	Oct. 5, 2006
Oh	US 2010/0056183 A1	Mar. 4, 2010
Fujihara et al. (“Fujihara”)	US 2012/0110099 A1	May 3, 2012 (filed Mar. 17, 2010)
Steiner	US 2012/0213404 A1	Aug. 23, 2012 (filed Aug. 29, 2011)

The Rejections on Appeal

Claims 1, 16, and 22–24 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Oh and Lambers. Final Act. 3–5.

Claims 2, 6, and 7 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Oh, Lambers, and Fujihara. Final Act. 5–6.

Claim 8 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Oh, Lambers, and Alfaro. Final Act. 6–7.

Claims 10–15 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Oh, Lambers, and Steiner. Final Act. 7–9.

³ The Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112-29, 125 Stat. 284 (2011), amended 35 U.S.C. § 103 effective March 16, 2013. Because the effective filing date for Application 14/006,765 predates the AIA’s amendments to § 103, this decision refers to the pre-AIA version of § 103.

ANALYSIS

We have reviewed the rejections in light of Appellant’s arguments that the Examiner erred. For the reasons explained below, we concur with the Examiner’s conclusions concerning unpatentability under § 103(a). We adopt the Examiner’s findings and reasoning in the Final Office Action, Advisory Action, and Answer. *See* Final Act. 3–9; Advisory Act. 2; Ans. 3–6. We add the following to address and emphasize specific findings and arguments.

The § 103(a) Rejection of Claims 1, 16, and 22–24

WHETHER LAMBERS QUALIFIES AS PRIOR ART

Appellant disputes that Lambers qualifies as prior art. *See* Appeal Br. 10–12. In particular, Appellant argues that Lambers “is non-analogous to the claimed subject matter.” *Id.* at 12; *see id.* at 13.

“A reference qualifies as prior art for an obviousness determination only when it is analogous to the claimed invention.” *Airbus S.A.S. v. Firepass Corp.*, 941 F.3d 1374, 1379 (Fed. Cir. 2019). The scope of analogous art includes two types of references: (1) references “from the same field of endeavor” as the claimed invention and (2) references “reasonably pertinent” to a problem facing the inventor. *In re Bigio*, 381 F.3d 1320, 1325 (Fed. Cir. 2004); *see In re Wood*, 599 F.2d 1032, 1036 (CCPA 1979). A “reasonably pertinent” reference “logically would have commended itself to an inventor’s attention in considering” a problem facing the inventor. *See In re Clay*, 966 F.2d 656, 659 (Fed. Cir. 1992).

For a problem facing the inventor, Appellant asserts that Lambers “would not have been considered by an inventor trying to solve the problem of unmanaged community site when a manager does not manage the

community site or there is no manager” because Lambers “neither discloses a community site nor discloses managing an ASNA [sic] server.” Appeal Br. 11. Appellant also asserts that a skilled artisan “would not look to a vending machine that deletes its own content based on its own location for the feature of a server deleting content from a community site based on a location of a mobile terminal (separate from the server) that posts on the community site.” *Id.* at 12 (emphasis omitted).

We disagree that an inventor or skilled artisan would not look to Lambers when considering a problem facing the inventor. The Specification explains that “when the community site is left unmanaged, there is a concern that a third person may secretly look at information of the community site.” Spec. ¶ 9. Thus, due to unease about data security, “users may not use the community site.” *Id.* Hence, the invention endeavors to provide users “with more peace of mind” by deleting data under certain circumstances, thus precluding unauthorized access to data. *Id.* ¶¶ 10–15, 45, 60, 73–82, 96–98, Fig. 6.

Like the invention, Lambers addresses data security and precluding unauthorized access to data. *See, e.g.*, Final Act. 4; Advisory Act. 2; Ans. 4–5; Lambers ¶¶ 9, 40, code (57). Specifically, Lambers discloses a processing center distributing data “securely” to automated vending machines to permit purchases of products containing the data, e.g., CDs or DVDs containing music, movies, or software. Lambers ¶¶ 8–9, 27, 31–32, 37, Fig. 2; *see id.* ¶¶ 2, 11; Final Act. 4. Lambers explains that during data distribution the “data may be secured to prevent interception and unauthorized use of the data.” Lambers code (57); *see* Final Act. 4. In addition, Lambers describes bidirectional communications between the

processing center and the vending machines to permit the vending machines “to transmit to the processing center such data as operational status, customer orders, machine or system fault data, inventory levels, [and] security breaches.” Lambers ¶¶ 27, 31; *see id.* ¶ 41; Ans. 4 (citing Lambers ¶¶ 27, 31).

In addition, Lambers addresses a security breach that occurs because a vending machine has been stolen, “moved to another location” outside “a predetermined range of longitudes and latitudes,” e.g., locations outside a particular store, and then reenergized. Lambers ¶ 40; *see* Appeal Br. 9 (citing Lambers ¶ 40). For further data security, Lambers discloses configuring a vending machine “to automatically delete all internally stored data files to prevent unauthorized use and copying of the data files.” Lambers ¶ 40; *see* Final Act. 4 (citing Lambers ¶ 40); Ans. 4–5 (citing Lambers ¶ 40).

Like the invention, configuring a vending machine “to automatically delete all internally stored data files to prevent unauthorized use and copying of the data files” in Lambers addresses data security and precluding unauthorized access to data. *See* Final Act. 4; Advisory Act. 2; Ans. 4–5; Lambers ¶ 40. Accordingly, Lambers “logically would have commended itself to an inventor’s attention in considering” a problem facing the inventor. *See Clay*, 966 F.2d at 659. Hence, Lambers constitutes analogous art as “reasonably pertinent” to a problem facing the inventor.

CLAIM 1: THE “AUTOMATICALLY DELETE” LIMITATION

As noted above, the § 103(a) rejection of claim 1 rests on Oh and Lambers. *See* Final Act. 3–4. Appellant argues that the Examiner erred in rejecting claim 1 because Oh and Lambers fail to teach or suggest following limitation in claim 1:

the processing circuitry is configured to automatically delete the content identified by the at least one of the plurality of terminals from the community site in a case that it is determined that the at least one of the plurality of terminals is outside of the predetermined range of the geographic location corresponding to the community site based on the updated location information.

See Appeal Br. 8–10.

In particular, Appellant contends that a vending machine in Lambers corresponds to a client device “that receives the content . . . before vending the content to a purchasing user.” Appeal Br. 8. Appellant also contends that Lambers “describes a configuration in which the client device,” i.e., the vending machine, “deletes the electronic content when” it determines that it “is outside of a predetermined range of a location.” *Id.* at 9. Then, Appellant asserts that claim 1 differs from Lambers because “claim 1 expressly recites that the server is the device that deletes content identified by terminals when the at least one of the plurality of terminals is outside of the predetermined range of the geographic location.” *Id.* (emphasis omitted).

Appellant’s arguments do not persuade us of Examiner error because (1) Oh discloses a server providing location-based, content-sharing services according to claim 1; (2) Lambers discloses location-based content deletion for security reasons; and (3) the combined disclosures teach or suggest the “automatically delete” limitation. *See* Oh ¶¶ 10, 26–27, 30, 35–39, 44, Figs. 1–3; Lambers ¶¶ 27, 40; Final Act. 3–4; Advisory Act. 2; Ans. 5–6.

Appellant also argues that the Examiner erred in rejecting claim 1 because combining the teachings of Oh and Lambers does not yield claim 1’s subject matter. *See* Appeal Br. 12–13. Specifically, Appellant

asserts that modifying Oh's mobile devices "to include the capability of deleting content as described in Lambers would result in a system in which the mobile devices (and not a server) would delete the content of a chat (Lambers) when the mobile terminals move away from the location designated for the chat (Oh)." *Id.* at 13 (emphasis omitted).

We disagree. Oh discloses a server communicating with mobile devices. Oh ¶¶ 26–27, 31–33, 35, 44, Figs. 1–2; *see* Final Act. 3; Advisory Act. 2; Ans. 6. Lambers discloses deleting from a first device (a vending machine) content provided by or associated with a second device (a processing center) when the second device lacks an ability to control the content due to the content's geographic location away from the second device. *See* Lambers ¶¶ 27, 40; Final Act. 4; Advisory Act. 2; Ans. 5–6. Applying that concept to Oh's server and mobile devices results in deleting from the server content provided by or associated with a mobile device when the mobile device lacks an ability to control the content due to the content's geographic location away from the mobile device. For instance, the mobile device may lack an ability to control the content when the mobile device exits "a predetermined geographic region associated with a location-based chat session." Oh ¶ 36; *see* Final Act. 3–4; Advisory Act. 2; Ans. 4–5; Oh ¶¶ 10, 26, 30, 32–35, Fig. 2. As the Examiner properly reasons, modifying Oh's server "to include the capability of deleting content in Lambers would result in a system as claimed." Ans. 6.

For the reasons discussed above, Appellant's arguments have not persuaded us that the Examiner erred in rejecting claim 1 for obviousness based on Oh and Lambers. In our view, the claimed subject matter exemplifies the principle that "[t]he combination of familiar elements

according to known methods is likely to be obvious when it does no more than yield predictable results.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007). Thus, we sustain the § 103(a) rejection of claim 1.

INDEPENDENT CLAIMS 22–24 AND DEPENDENT CLAIM 16

Appellant does not argue patentability separately for independent claims 22–24 or dependent claim 16. *See* Appeal Br. 7–14. Thus, we sustain the § 103(a) rejection of these claims for the same reasons as claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv).

The § 103(a) Rejections of Claims 2, 6–8, and 10–15

Claims 2, 6–8, and 10–15 depend directly or indirectly from claim 1. Appellant does not argue patentability separately for these dependent claims. *See* Appeal Br. 7–14. Thus, we sustain the § 103(a) rejections of these dependent claims for the same reasons as claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv).

CONCLUSION

We affirm the Examiner’s decision to reject claims 1, 2, 6–8, 10–16, and 22–24.

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1, 16, 22–24	103(a)	Oh, Lambers	1, 16, 22–24	
2, 6, 7	103(a)	Oh, Lambers, Fujihara	2, 6, 7	
8	103(a)	Oh, Lambers, Alfaro	8	

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
10–15	103(a)	Oh, Lambers, Steiner	10–15	
Overall Outcome			1, 2, 6–8, 10–16, 22–24	

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)(1)(iv). *See* 37 C.F.R. § 41.50(f).

AFFIRMED