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Shook, Hardy & Bacon L.L.P. (eBay Inc.) 2555 Grand Blvd. KANSAS CITY, MO 64108-2613			KHOSHNOODI, FARIBORZ	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte KARIN MAUGE

Appeal 2019-001142
Application 12/610,038
Technology Center 2100

Before KALYAN K. DESHPANDE, JASON V. MORGAN, and
CATHERINE SHIANG, *Administrative Patent Judges*.

SHIANG, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant¹ appeals under 35 U.S.C. § 134(a) from the Examiner’s rejection of claims 1–5, 8, 10–15, 20–22, and 24–29, which are all the claims pending in the application.² We have jurisdiction under 35 U.S.C. § 6(b). We reverse.

¹ We use “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies eBay, Inc. as the real party in interest. Appeal Br. 3.

² Appellant failed to identify the prior appeal as being a related appeal. We remind Appellant and Appellant’s counsel of the duty to identify “all other prior . . . appeals . . . which satisfy all of the following conditions: involve an application . . . owned by the appellant or assignee, are known to appellant, the appellant’s legal representative, or assignee, and may be related to, directly affect . . . or have a bearing on the Board’s decision in the pending appeal.” 37 C.F.R. § 41.37(c)(1)(ii).

STATEMENT OF THE CASE

Introduction

The present invention relates to “generating more robust search results using sets of alternative terms.” Spec. ¶ 1. Claim 1 is exemplary:

1. A server computer comprising:
 - a processor; and
 - a computer readable medium, coupled with the processor, the computer readable medium storing instructions to be executed by the processor, to perform operations comprising:
 - receiving a query in an online publishing system, the query comprising a plurality of terms including syntax input by a user indicating that at least a first term and a second term are alternative terms in the plurality of terms;
 - parsing the plurality of terms included in the query to determine that the first term and second term are alternative terms;
 - associating the first term and the second term included in the query to a particular product domain associated with the query;
 - forming a group comprising the first term and the second term included in the query;
 - comparing the group comprising the first term and second term included in the query to queries received by the online publishing system;
 - determining a number of occurrences where the group comprising the first term and the second term has previously been included in queries received by the online publishing system;
 - comparing the number of occurrences of the group comprising the first term and the second term in queries received by the online publishing system to a threshold value for the product domain associated with the query;
 - determining that the number of occurrences meets the threshold value for the product domain associated with the query;

determining that the first term of the query belongs to at least a first existing set of terms stored in a database that does not include the second term;

adding the second term of the query to the first existing set of terms to form an updated first existing set of terms that includes the second term; and

storing, in the database, the updated first existing set of terms, wherein the updated first existing set of terms stored in the database is accessed to respond to subsequent queries.

*References and Rejection*³

Claims Rejected	35 U.S.C. §	References
1–5, 8, 10–15, 20–22, 24–29	103(a)	Brewer (US 2006/0161520 A1; July 20, 2006), Li (US 8,258,745 B2; Oct. 9, 2012)

ANALYSIS⁴

35 U.S.C. § 103(a)

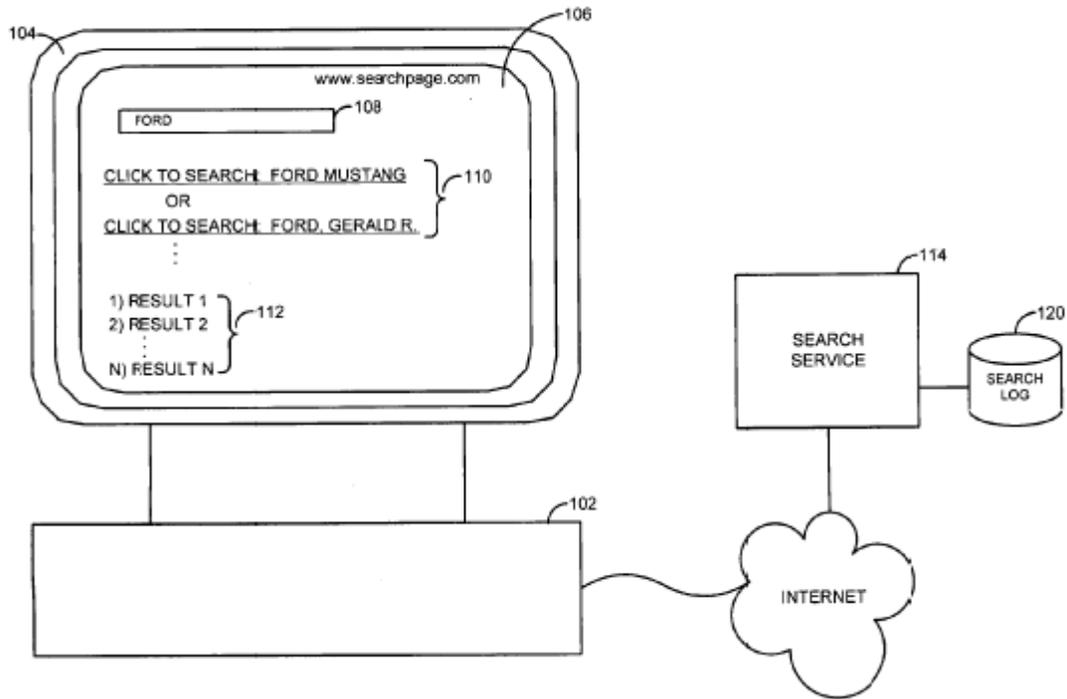
We have reviewed the Examiner’s rejection in light of Appellant’s contentions and the evidence of record. We concur with Appellant’s contentions that the Examiner erred in finding the cited portions of Brewer teach “associating the first term and the second term included in the query to a particular product domain associated with the query,” as recited in independent claim 1. *See* Appeal Br. 10.

The Examiner has not persuaded us the cited portions of Brewer disclose “associating the first term and the second term included in the query

³ Throughout this opinion, we refer to the (1) Final Office Action dated January 9, 2018 (“Final Act.”); (2) Appeal Brief dated June 11, 2018 (“Appeal Br.”); and (3) Examiner’s Answer dated September 19, 2018 (“Ans.”).

⁴ Appellant raises additional arguments. Because the identified issue is dispositive of the appeal, we do not address the additional arguments.

to a particular product domain associated with the query.” The Examiner finds Brewer discloses that limitation. *See* Final Act. 4 (citing Brewer ¶ 12, Fig. 2). Brewer’s Fig 2 illustrates a set of alternative search terms that may be generated, and is reproduced below:



The Examiner finds Brewer’s alternative search terms 110 teach the claim limitations of “a first term” and “a second term.” Final Act. 4 (citing Brewer ¶ 12, Fig. 2); Brewer ¶ 13. The Examiner further finds search input 108 identifies the claimed “product domain.” Final Act. 4. (“Fig. 2 shows the product (ford)”). Brewer’s Figure 2 depicts the alternative search terms “FORD MUSTANG” and “FORD, GERALD R.” *See* Brewer, Fig. 2; ¶ 13. Because “FORD, GERALD R.” is the name of a former U.S. president and “FORD MUSTANG” is a vehicle make and model, the Examiner has not adequately explained why Figure 2 teaches associating the “product domain”

“FORD” with a first term “FORD, GERALD R.” and a second term “FORD MUSTANG.” As a result, the Examiner has not established Brewer teaches “associating the first term and the second term included in the query to a particular product domain associated with the query,” as required by claim 1.

Because the Examiner fails to provide sufficient evidence or explanation to support the rejection, we are constrained by the record to reverse the Examiner’s rejection of independent claim 1.

Each of independent claims 10 and 21 recites a claim limitation that is substantively similar to the disputed limitation of claim 1. *See* claims 10 and 21. The Examiner applies the same findings (discussed above) to claims 1, 10, and 21. *See* Final Act. 2, 3, 12. Therefore, for similar reasons, we reverse the Examiner’s rejection of independent claims 10 and 21.

We also reverse the Examiner’s rejection of corresponding dependent claims 2–5, 8, 11–15, 20, 22, and 24–29.

CONCLUSION

We reverse the Examiner’s decision rejecting claims 1–5, 8, 10–15, 20–22, and 24–29 under 35 U.S.C. § 103(a).

In summary:

Claims Rejected	35 U.S.C. §	References	Affirmed	Reversed
1–5, 8, 10–15, 20–22, 24–29	103(a)	Brewer, Li		1–5, 8, 10–15, 20–22, 24–29

REVERSED