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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte CLIVE MOREL FOURMAN

Appeal 2019-002651
Application 13/706,201
Technology Center 2400

Before JUSTIN BUSCH, JAMES W. DEJMEK, and JASON M. REPKO,
Administrative Patent Judges.

REPKO, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Under 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision to reject claims 1–5 and 8–27. Claims 6 and 7 are canceled. We have jurisdiction under 35 U.S.C. § 6(b). We reverse.

¹ We use the word *Appellant* to refer to *applicant* as defined in 37 C.F.R. § 1.42(a) (2018). According to Appellant, the real party is “GAIASOFT IP Limited.” Appeal Br. 3.

CLAIMED SUBJECT MATTER

Appellant's invention delivers online content. Spec. ¶ 1. According to the Specification, a user must disclose more information to "get the most out of the Internet," but in doing so, the user risks compromising their privacy. *Id.* ¶ 2. The invention sets out to maximize relevance and usefulness of content retrieval while maintaining the user's privacy. *Id.*

Specifically, the invention collects information about a person including identity, location, observations, definitions, recommendations, intentions, objectives, projects, actions, maturity levels, risks, blog entries, wiki entries, documents, and many other things. *See id.* ¶¶ 22–26. The invention uses a central profile database (CPD) to store a person's identity-context-location (ICL) data. *Id.* ¶ 63. The CPD can be used, for example, to improve the quality of information that an employee receives from their employer's communications department and generally from a corporate portal. *Id.* ¶ 67. But the employee's ICL may be kept private—i.e., the employer does not have access to the ICL itself. *Id.* ¶ 68. In this way, content delivery is purportedly improved by using confidential information while the employee's privacy is maintained. *Id.*

Claims 1, 18, and 20 are independent. Claim 1 is reproduced below with emphasis on the limitation at issue.

1. An online content delivery system comprising:

at least one processor; and

a memory storing instructions executed by the at least one processor to:

store user information, wherein the stored user information includes profile information;

transmit a token to a first device for use in a content delivery requirement software application running on the first device in response to an online request for content;

and

simultaneously with transmitting the token, communicate, over an electronic network to a content intermediary device distinct from the first device, the token and the stored user information,

wherein the content intermediary device is configured to match the token,

wherein the request for content identifies a user to a trusted holder of profile data, and

wherein the stored user information is formed from a profile analysis resulting in one or more profile elements consisting of a continuous or discrete rating in one or more dimensions and enables the content intermediary device to source dynamically constructed content from a source of content and deliver, based on the one or more profile elements, the dynamically constructed content to the user via a communications device.

Appeal Br. 39 (emphasis added).²

² Throughout this opinion, we refer to the Final Office Action (“Final”), mailed October 11, 2018; the Appeal Brief (“Appeal Br.”), filed December 21, 2018; the Examiner’s Answer (“Ans.”), mailed January 14, 2019; and Reply Brief (“Reply Br.”), filed February 15, 2019.

REFERENCES

The Examiner relies on the references in the table below.

Name	Reference	Date
Hagan	US 2001/0054155 A1	Dec. 20, 2001
Bindler	US 2003/0059750 A1	Mar. 27, 2003
Cahill	US 2005/0076248 A1	April 7, 2005
La Rotonda	US 2006/0184997 A1	Aug. 17, 2006
Brubaker	US 2007/0112762 A1	May 17, 2007

REJECTIONS³

The Examiner rejects claims 1–4 and 8–26⁴ under 35 U.S.C. § 103 as unpatentable over Cahill, Brubaker, and La Rotonda. Final 12–23.

The Examiner rejects claim 5 under 35 U.S.C. § 103 as unpatentable over Cahill, Brubaker, La Rotonda, and Bindler. Final 23–24.

The Examiner rejects claim 27 under 35 U.S.C. § 103 as unpatentable over Cahill, Brubaker, La Rotonda, and Hagan. Final 24–25.

OPINION

Obviousness over Cahill, Brubaker, and La Rotonda

In rejecting independent claim 1, the Examiner finds that Cahill teaches or suggests all limitations except for (1) the recited dynamically constructed content and (2) the limitations to transmitting the token. Final 12–16. As for the recited token, the Examiner turns to La Rotonda.

³ In the Answer, the Examiner withdrew the rejection under 35 U.S.C. § 101. Ans. 3.

⁴ The Examiner omits claim 26 from the rejection's heading but analyzes that claim in the substantive part of the rejection. Final 12 (heading), 23 (substantive rejection).

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Id. at 15. In particular, the Examiner finds that La Rotonda’s encrypted URL corresponds to the recited token. *Id.*

Appellant’s Argument

Appellant argues that La Rotonda does not teach or suggest transmitting a token to two devices simultaneously. Appeal Br. 30. Appellant makes other arguments, but we do not reach them because we find this argument persuasive.

Analysis

Claim 1 recites, in part, “simultaneously with transmitting the token, communicate, over an electronic network to a content intermediary device distinct from the first device, the token and the stored user information.” Appeal Br. 39. Under the Examiner’s construction, this limitation does not require “a device transmitting the same token to two devices.” Ans. 5. We disagree.

Claim 1 recites two devices that receive the token: “a first device” and “a content intermediary device.” Appeal Br. 39. Claim 1 requires that the processor “transmit *a token* to a first device.” *Id.* (emphasis added). Claim 1 further recites transmitting the same token to the second device—i.e., “simultaneously with transmitting the token, communicate . . . to a content intermediary device . . . *the token.*” *Id.* (emphasis added). Here, the token transmitted to the first device is the antecedent basis for “the token” communicated to the content intermediary device. So the second transmission is simultaneous with the first and involves the same token sent to a different device.⁵

⁵ Claim 1 recites a transmission and a communication over a network. Here, communication over a network must involve at least some form

Appellant asserts that the Examiner has not shown that La Rotonda simultaneously transmits the same token to two devices. *Id.* at 30. We agree. La Rotonda's Figure 5, reproduced below, shows a system for an inviter to send an invitation for sharing content to an invitee. La Rotonda ¶ 44.

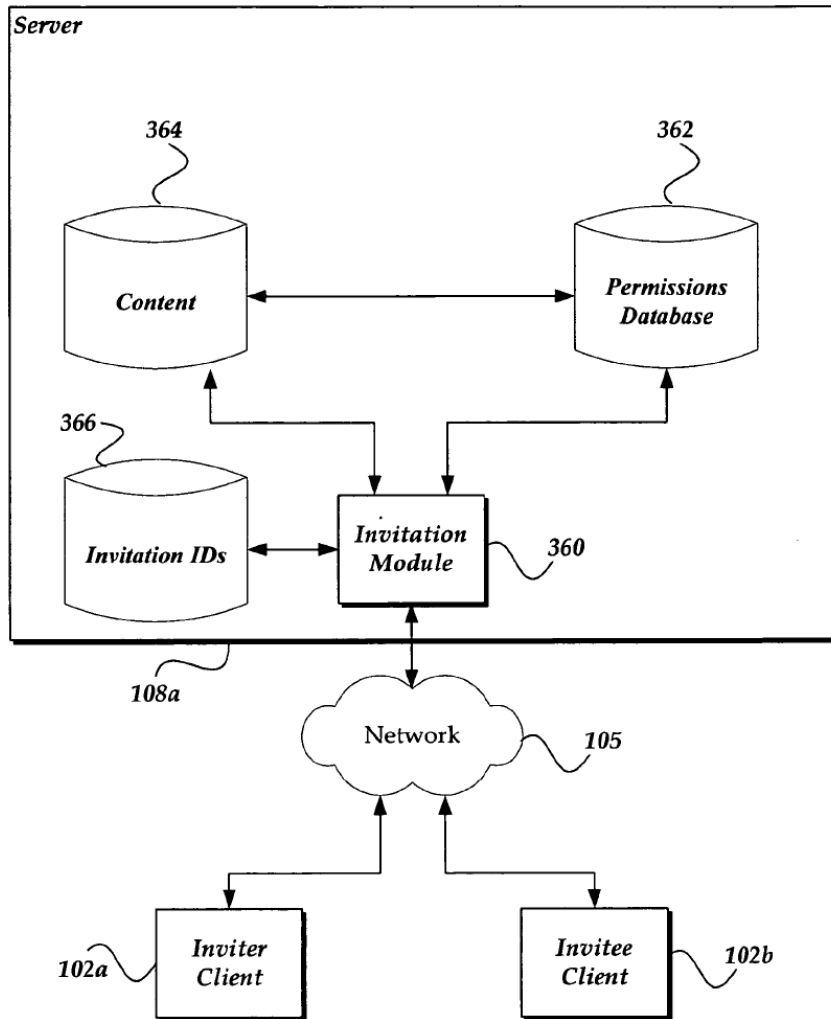


FIG. 5

Figure 5, above, shows inviter client 102a and invitee client 102b communicating through network 105 to server 108a. *Id.* Server 108a manages authentication. *Id.*

transmission. *See, e.g.,* Spec. ¶ 61 (discussing network communications via the Internet).

La Rotonda uses tokens to identify an invitation from an authenticated inviter. *Id.* ¶ 40. The token can be a URL. *Id.* The invitee can access the content with the URL even if the invitee is not authenticated. *Id.* Some embodiments decrypt an encrypted URL to determine whether the invitation is still valid. *Id.* ¶ 46.

The Examiner finds that invitee client 102b corresponds to the recited first device and server 108a corresponds to the content intermediary device. Final 14–15 (citing La Rotonda ¶¶ 40, 46, 47). But the Examiner has not shown that La Rotonda transmits the same token simultaneously to invitee client 102b and server 108a. *See* Appeal Br. 30.

Rather, server 108a sends a token to the invitee, and the invitee later sends a token to server 108a. *See* La Rotonda ¶ 47. In particular, to send an invitation to the invitee, the inviter sends a request to server 108a. *Id.* Server 108a generates a token. *Id.* The token allows access to the inviter’s content. *Id.* Server 108a then sends the invitation, including the token, to the invitee—i.e., a first token transmission. *Id.* ¶¶ 47, 50. After receiving the invitation, the invitee selects a preview link to view the inviter’s content. *Id.* ¶ 47. This selection sends the token to server 108a—i.e., a second token transmission. *Id.* ¶¶ 46, 47. Thus, La Rotonda’s two token transmissions are sequential, not simultaneous as required by claim 1.

In this way, the Examiner erred in finding that La Rotonda teaches or suggests “simultaneously with transmitting the token, communicate, over an electronic network to a content intermediary device distinct from the first device, the token and the stored user information.” Because this issue is dispositive of the rejection’s error, we need not address Appellant’s other arguments.

Thus, we do not sustain the rejection of claim 1 and independent claims 18 and 20, which also recite the simultaneous token transmission. For the same reasons, we do not sustain the rejection of dependent claims 2–4, 8–17, 19, and 21–26.

Obviousness over Cahill, Brubaker, La Rotonda, and Bindler

In rejecting claim 5, the Examiner cites Bindler for the limited purpose of showing that the recited compiled information was known. Final 23–24. Because the Examiner has not shown that Bindler cures the above-noted deficiencies, we also do not sustain the obviousness rejection of claim 5.

Obviousness over Cahill, Brubaker, La Rotonda, and Hagan

In rejecting claim 27, the Examiner cites Hagan for the limited purpose of showing that the recited random-valued token was known. Final 24–25. Because the Examiner has not shown that Hagan cures the above-noted deficiencies, we also do not sustain the obviousness rejection of claim 27.

CONCLUSION

The Examiner's decision to reject claims 1–5 and 8–27 is reversed.

DECISION SUMMARY

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1-4, 8-25	103	Cahill, Brubaker, La Rotonda		1-4, 8-26
5	103	Cahill, Brubaker, La Rotonda, Bindler		5
27	103	Cahill, Brubaker, La Rotonda, Hagan		27
Overall Outcome				1-5, 8-27

REVERSED