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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JEAN-FRANCOIS GAULT

Appeal 2019-003096
Application 15/305,064
Technology Center 2400

Before JASON V. MORGAN, DEBORAH KATZ, and JOHN A. EVANS,
Administrative Patent Judges.

MORGAN, *Administrative Patent Judge.*

DECISION ON APPEAL
STATEMENT OF THE CASE

Introduction

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner’s decision to reject claims 14–26. Claims 1–13 are canceled. Appeal Br. 15 (Claims App’x). 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. Appellant identifies the real party in interest as Honeywell International, Inc. Appeal Br. 2.

Summary of the Disclosure

Appellant's claimed subject matter relates to indicating or invoking a service code in a communication system by entering the number of a called party between at least two "*" characters or at least two "#" characters.

Illustrative claim (key limitations emphasized and bracketing added)

14. A communication system with service selection by dialing, in which at least a calling terminal is connected by a specified link to communication resources of a communication access provider, the communication resources capable of transmitting communication data to at least one called party designated by a calling party by means of a telephone number, the communication system comprising:

means for generating and dialing a complex call number, the complex call number being a concatenation of a service code that identifies a specific service and a called number selected by a calling party; and

processing and decoding means for (i) carrying out at least one service identified by said service code over at least a part of a communication path between the calling party and the called party, and (ii) decoding the service code inserted in the complex call number during the ongoing call and to apply the selected service using said processing means,

wherein:

[1] *the service code is indicated or invoked by entering the number of the called party between a first and a second "*" character or between a first and a second "#" character,*

[2] *when the number of the called party is between the first and the second "*" character, there are no numbers or characters before the first "*" character and no numbers or characters after the second "*" character, and*

[3] *when the number of the called party is between the first and the second "#" character, there are no numbers*

or characters before the first “#” character and no numbers or characters after the second “#” character.

The Examiner’s rejections and cited references

The Examiner rejects claims 14 and 23–26 under 35 U.S.C. § 103 as being unpatentable over Shen (US 2013/0329877 A1; published Dec. 12, 2013) and Gavita et al. (US 2011/0081011 A1; published Apr. 7, 2011). Final Act. 2–5.

The Examiner rejects claims 15 and 20–22 under 35 U.S.C. § 103 as being unpatentable over Shen, Gavita, and Yamamoto (US 2002/0031229 A1; published Mar. 14, 2002). Final Act. 5–7.

The Examiner rejects claims 16 and 17 under 35 U.S.C. § 103 as being unpatentable over Shen, Gavita, Yamamoto, and Chiniwala et al. (US 6,175,622 B1; issued Jan. 16, 2001) (“Chiniwala”). Final Act. 7–8.

The Examiner rejects claims 18 and 19 under 35 U.S.C. § 103 as being unpatentable over Shen, Gavita, Yamamoto, Chiniwala, and Nakatsugawa et al. (US 2009/0307491 A1; published Dec. 10, 2009) (“Nakatsugawa”). Final Act. 8–9.

ANALYSIS

In rejecting claim 14 as obvious, the Examiner finds that Shen illustrates indicating or invoking a service code by providing the code followed by a called number between “*” characters, and that Shen also discloses use of the “#” character. Final Act. 3 (citing Shen ¶¶ 37, 72); *see* Ans. 11 (further citing Shen ¶¶ 38, 73). This findings accords with Shen’s teaching of setting a service operation code before called numbers using the format “Access Code*TN1*TN2*TN3 . . . #,” where TN1, TN2, and TN3, refer to the called numbers. Shen ¶ 37. The Examiner finds, however, that

Shen “does not expressly show the use of the first and second ‘*’ or ‘#’ characters with no numbers or characters before the first character or after the second character.” Final Act. 3. This finding accords with Shen’s explicit disclosure that the access code is added before the first “*” character. Shen ¶ 37. It is also apparent that Shen’s format includes additional numbers added after the second “*” character, unless only one telephone number is called, in which case the phone number (TN1) would have a “*” before it and a “#” character after it instead of both beginning and ending with either a “*” or a “#” character. *Id.*

The Examiner finds that Gavita discloses designating “a service code by use of first and second ‘*’ or ‘#’ characters with no numbers or characters before or after the second character.” Final Act. 3–4 (citing Gavita ¶¶ 4, 25, 26, 34, 55–64, Abstract, Figs. 2, 4, 6, 7, Tab. 1); Ans. 11. The Examiner’s finding accords with Gavita’s disclosure of invoking Call Forwarding Unconditional deactivation with the characters and numbers “#21#.” *See* Gavita ¶¶ 41, 57.

The Examiner concludes

[i]t would have been obvious to one of ordinary skill in the art . . . to modify Shen by enabling different coding schemes for service codes, including the use of first and second “*” or “#” characters with no numbers or characters before the first character or after the second character, as shown by Gavita, thereby enabling recognition of service concierge services compatible with different networks and associated coding schemes.

Final Act. 4; *see* Ans. 12.

Appellant contends the Examiner erred because Gavita “fails to disclose or suggest that the service code is indicated or invoked by entering the number of the called party between a first and a second ‘*’ character or

between a first and a second ‘#’ character” with “no numbers or characters before” and after, respectively, the first and last “*” or “#” characters.

Appeal Br. 11. Appellant argues the Examiner relies on hindsight reasoning in concluding the claimed recitations would have been obvious in light of the teachings and suggestions of Shen and Gavita. *See* Reply Br. 5–6.

Appellant’s arguments are persuasive of error. Neither Shen nor Gavita, even in combination, teaches or suggests indicating or invoking a service without including a service or access code that includes digits (i.e., not just a “*” or a “#” character). *See, e.g.*, Shen ¶ 37; Gavita ¶¶ 48–79, Tab. 1. Although Gavita provides an example of indicating or invoking a service with just “#” characters around the service code (Gavita ¶ 57), the Examiner does not show that Shen or Gavita teaches or suggests that a called number can also be a service code. Thus, both Shen and Gavita teach or suggest that when a telephone number is used *and* a service is indicated or invoked, the digits of the service or access code are included as well—*outside* characters that may surround the telephone number itself. Therefore, the Examiner’s findings fail to show persuasively that the combination of Shen and Gavita teaches or suggests recitations [1]–[3].

Furthermore, the Examiner does not show that Yamaoto, Chiniwala, and Nakatsugawa cure the noted deficiency of Shen and Gavita. *See* Final Act. 5–9. Accordingly, we do not sustain the Examiner’s 35 U.S.C. § 103 rejection of claim 14, and claims 15–26, which contain the disputed recitations.

CONCLUSION

Claims Rejected	35 U.S.C. §	References	Affirmed	Reversed
14, 23–26	103	Shen, Gavita		14, 23–26
15, 20–22	103	Shen, Gavita, Yamamoto		15, 20–22
16, 17	103	Shen, Gavita, Yamamoto, Chiniwala		16, 17
18, 19	103	Shen, Gavita, Yamamoto, Chiniwala, Nakatsugawa		18, 19
Overall Outcome				14–26

REVERSED