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Hanley, Flight & Zimmerman, LLC (Nielsen) 150 S. Wacker Dr. Suite 2200 Chicago, IL 60606			BAGGOT, BREFFNI	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte NICHOLAS NAVEEN RAU, RYAN O'HEARN,
THOMAS STURM, and JEREMY BENNETT

Appeal 2019-003129
Application 13/763,333
Technology Center 3600

Before JOSEPH L. DIXON, ELENI MANTIS MERCADER, and
JOYCE CRAIG, *Administrative Patent Judges*.

MANTIS MERCADER, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision to reject claims 1–5, 8–13, 15, 19–23, 33–35, 51, 52, and 54–61.² *See* Final Act. 1. We have jurisdiction under 35 U.S.C. § 6(b).

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 The Nielsen Company, LLC. Appeal Br. 2.

² Claims 7 and 24, listed as pending in the Final Act. and Answer, were cancelled when claims 56–61 were added by the Amendment dated Oct. 13, 2017, *see* pages 4, 7, 11; *see also* Appeal Br. 36–43 (Claims App.) showing claims 7 and 24 as cancelled.

We reverse.

CLAIMED SUBJECT MATTER

The claims are directed to a method and apparatus for efficient execution of modules. *See* Spec. 1.

Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method comprising:
 - loading a first advertisement within a webpage with a processor, the first advertisement including first instructions;
 - loading a first module within the webpage by executing the first instructions on the processor;
 - generating a first module identifier by executing the first module on the processor;
 - communicating the first module identifier to a datastore associated with an application message interface with the processor;
 - loading a toolbox by executing the first module on the processor, the first module to monitor presentation of the first advertisement with the toolbox, the first module communicating with the toolbox through the application message interface;
 - loading a second advertisement on the webpage with the processor, the second advertisement including second instructions;
 - loading a second module on the webpage by executing the second instructions on the processor;
 - generating a second module identifier by executing the second module on the processor;
 - communicating the second module identifier to the application message interface with the processor;
 - storing the second module identifier in the datastore associated with the application message interface with the processor;
 - querying the application message interface with the first module to determine availability of the second module identifier with the processor;

in response to determining the second module identifier is available, retrieving the second module identifier stored in the datastore associated with the application message interface with the first module; and

sharing the toolbox with the second module, the second module to monitor presentation of the second advertisement with the toolbox, the second module communicating with the toolbox through the application message interface, wherein the webpage is presented in an environment that prevents direct communication between the second module and the toolbox.

Appeal Br. 36–37 (Claims App.).

REFERENCES

The prior art relied upon by the Examiner is:

Name	Reference	Date
Allen et al.	US 2009/0094339 A1	Apr. 9, 2009
Allen et al.	US 2010/0100626 A1	Apr. 22, 2010
Bhosle et al.	US 8,505,106 B1	Aug. 6, 2013
Chandi et al.	US 9,037,963 B1	May 19, 2015
Yoo	US 2007/0101340 A1	May 3, 2007
Boningue et al.	US 2009/0117942 A1	May 7, 2009

REJECTIONS³

Claims 1, 3, 8–10, 15, 19, 21, 33, 35, 52, 54, and 55 are rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Allen et al. (US Publication 2009/0094339), hereinafter referred to as Allen ‘339, in view of Allen et al. (US Publication 2010/0100626), hereinafter referred to as Allen ‘626. Final Act. 5–20.

³ The Examiner withdrew the rejection of claims 1–5, 8–13, 15, 19–23, 33–35, 51, 52, and 54–61 under 35 U.S.C. § 101. Ans. 3.

Claims 2, 20, and 34 are rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Allen ‘339 with Allen ‘626 in view of Bhosle et al. (US Patent 8,505,106), hereinafter Bhosle. Final Act. 20–22.

Claims 4, 5, 22, and 23 are rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Allen ‘339 with Allen ‘626 in view of Chandi et al. (US Patent 9,037,963), hereinafter Chandi. Final Act. 22–23.

Claims 11–13 and 56–61 are rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Allen ‘339 with Allen ‘626 in view of Yoo (US Publication 2007/0101340). Final Act. 23–28.

Claim 51 is rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Allen ‘339 with Allen ‘626 in view of Boningue et al. (US Publication 2009/0117942), hereinafter Boningue. Final Act. 28–29.

DISCUSSION

Appellant argues, *inter alia*, that the combination of Allen ‘339 and Allen ‘626 does not teach or suggest the following limitations of claim 1:

querying the application message interface with the first module to determine availability of *the second module identifier* . . .

in response to determining the second module identifier is available, retrieving the second module identifier stored in the *datastore associated with the application message interface* with the first module

See Appeal Br. 26–29 (emphasis added); Reply 6–8.

The Examiner cites Allen ‘339 as disclosing:

querying the application message interface with the first module to determine availability of *the second module* . . .

in response to determining the second module identifier is available, querying the application message interface with the first module to determine availability of the second module identifier . . .

retrieving the second module identifier from the application message interface with the first module

Final Act. 7 (emphasis added).

The Examiner relies upon Figures 2 and 9 and paragraphs 25, 39, 50–56, 58, 70, and 75 of Allen ‘339 as disclosing these limitations. Final Act. 7.

Figure 9 of Allen ‘339 shows widget C configured to access and/or invoke a function associated with widget D. Answer 4–5 (citing Allen ‘339 ¶¶ 100, 105–107). Widget C can access information generated at widget D based on an API 944. Allen ‘339 ¶¶ 105–106. The information generated may include “polling data, a game score.” Answer 5 (citing Allen ‘339 ¶ 106). The Examiner finds the “polling data” generated by widget D and accessed by widget C discloses, that the application message interface is polled to determine availability and if the second widget identifier is available, the identifier is retrieved in association with the application message interface with the first module. *See* Final Act. 7; Answer 5.

The cited portions of Allen ‘339 do not teach or suggest the claimed limitations in that the claim requires, “*querying the application message interface with the first module to determine availability of the second module identifier*” and not merely the *availability* of the second module. *See* Final Act. 7; Appeal Br. 27.

Allen ‘339 discloses the sending of a signal with a widget identifier to facilitate sharing of a widget between network entities. Answer 5 (citing Allen ‘339 ¶ 100); Appeal Br. 27.

The Examiner finds the sending of a widget identifier and the storage of the widget identifier in memory, discloses, “retrieving the second module identifier from the application message interface with the first module.” Final Act. 7 (citing Allen ‘339 ¶¶ 58, 75).

The cited portions of Allen ‘339 do not teach or suggest the claimed limitation, “retrieving the second module identifier stored in the datastore associated with the application message interface with the first module” in at least that there is no showing in Allen ‘339 of the second module identifier stored in “the datastore associated with the application message interface” or the retrieval thereof by the first module, as claimed. Appeal Br. 27–28.

Additionally, the claim requires the retrieval to be “in response to determining the second module identifier is available” from the querying with the first module, and not, as set forth by the Examiner, the querying is in response to the determining, and the retrieval of the second module identifier is unrelated to the querying. See Final Act. 7.

Accordingly, we agree with Appellant that in rejecting claim 1, the Examiner fails to address the emphasized language of the claim as indicated above. See Reply 7–8. There is no showing by the Examiner of the *querying to determine availability of the second module identifier*, and, *in response to the determination of the availability of the second module identifier*, retrieving the identifier *stored in a datastore associated with an application message interface*, as claimed. Appeal Br. 28.

Allen ‘626 fails to cure the deficiency of the rejection of illustrative claim 1, and accordingly, constrained by the record before us, we reverse the Examiner’s rejection of illustrative claim 1 and independent claims 19 and

33 containing similar limitations and, for the same reasons, the rejection of dependent claims 3, 8–10, 15, 21, 35, 52, 54, and 55.

Bhosle, Chandi, Yoo, and Boningue each fail to cure the deficiency of the rejection of independent claims 1, 19, and 33, and therefore the rejections of claims 2, 4, 5, 11–13, 20, 22, 23, 34, 51, and 56–61 fall with the rejection of claims 1, 3, 8–10, 15, 19, 21, 33, 35, 52, 54, and 55.

CONCLUSION

The Examiner's rejection of claims 1–5, 8–13, 15, 19–23, 33–35, 51, 52, and 54–61 are reversed.

More specifically, the Examiner's rejection of claims 1–5, 8–13, 15, 19–23, 33–35, 51, 52, and 54–61 under pre-AIA 35 U.S.C §103(a) is reversed.

DECISION SUMMARY

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1–5, 8–13, 15, 19–23, 33–35, 51, 52, 54–61	103(a)	Allen '339, Allen '626, Bhosle, Chandi, Yoo, Boningue		1–5, 8–13, 15, 19–23, 33–35, 51, 52, 54–61

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). *See* 37 C.F.R. § 1.136(a)(1)(iv).

REVERSED