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Row 1: 14/469,238, 08/26/2014, Houtao Deng, 37202/586001; 1408019US, 6996
Row 2: 57956, 7590, 06/26/2020, [EXAMINER: SNIDER, SCOTT]
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte HOUTAO DENG

Appeal 2020-001713
Application 14/469,238
Technology Center 3600

Before JOSEPH L. DIXON, ELENI MANTIS MERCADER, 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, 3, 6–9, 11, 14–17, 19, and 22–24. 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). According to Appellant, the real party in interest is Intuit Inc. Appeal Br. 4.

CLAIMED SUBJECT MATTER

Appellant's invention delivers targeted advertisements to selected consumers. Abstract.

Claims 1, 9, and 17 are independent. Claim 1 is reproduced below.

1. A system for targeted communication, comprising:

a computer processor;

a commerce platform configured to perform a plurality of financial transactions, wherein the plurality of financial transactions comprises payments from a plurality of consumers in exchange for goods and services provided by a plurality of businesses;

a financial management server separate from the commerce platform and comprising:

a personal financial management application (PFMA) used by the plurality of consumers, when executed causing the computer processor to:

generate a consumer user profile for each of the plurality of consumers,

access, based on a consumer user input from a consumer of the plurality of consumers, consumer transaction records representing a portion of the financial transactions associated with the consumer, and

display, to the consumer, a business-initiated message received from a targeted communication application (TCA);

a business financial management application (BFMA) used by the plurality of businesses, when executed causing the computer processor to:

generate a business user profile for each of the plurality of businesses, access, based on a business user input from a business of the plurality of businesses, business transaction records representing a portion of the financial transactions associated with the business, and

display, to the business, a consumer-initiated message received from the TCA,

wherein the PFMA communicates with the BFMA through the TCA;

wherein the TCA when executed causing the computer processor to enable targeted communication between the PFMA and the BFMA on the financial management server by causing the computer processor to:

receive, from the business, the business-initiated message that is generated by the business to selectively target the plurality of consumers;

determine a first match by comparing the business-initiated message with respect to the consumer user profile of the consumer and the consumer transaction records of the consumer, wherein this comparing includes tallying occurrences of frequently-found merchant categories in the consumer transaction records over a first pre-determined time window;

send the business-initiated message to the consumer via the PFMA based on the first match, wherein the business-initiated message invites the consumer to engage in a first additional financial transaction with the business using the commerce platform;

receive, from the consumer, the consumer-initiated message that is generated by the consumer to selectively target the plurality of businesses;

determine a second match by comparing the consumer-initiated message with respect to the business user profile of the business and the business transaction records of the business, wherein this comparing includes tallying spending amounts in the frequently-found merchant categories in the business transaction records over a second predetermined time window;

send the consumer-initiated message to the business via the BFMA based on the second match, wherein the consumer-initiated message invites the business to engage in a second additional financial transaction with the consumer using the commerce platform,

wherein sending the consumer-initiated message to the business via the BFMA is further based on a reputation score of the consumer multiplied by a maximal number of matched businesses and wherein the reputation score is a number between 0 and 1 resulting from a click-through rate associated with one or more previous consumer-initiated messages;

and

a repository for storing:

a plurality of business-initiated messages from the plurality of businesses,

and

a plurality of consumer-initiated messages from the plurality of consumers.

Appeal Br. 39–41.²

² Throughout this opinion, we refer to the Final Office Action (“Final”), mailed March 7, 2019; the Advisory Action (“Advisory”), mailed June 27, 2019; the Appeal Brief (“Appeal Br.”), filed July 29, 2019; the Examiner’s

REFERENCES

The Examiner relies on the references in the table below.

Name	Reference	Date
Tomlin	US 2009/0063249 A1	Mar. 5, 2009
Schmitt	US 2012/0066045 A1	Mar. 15, 2012
Hochstatter	US 2012/0158500 A1	June 21, 2012
Brelig	US 2013/0151345 A1	June 13, 2013

REJECTION³

The Examiner rejects claims 1, 3, 6–9, 11, 14–17, 19, and 22–24 under 35 U.S.C. § 103 as unpatentable over Hochstatter, Tomlin, Brelig, and Schmitt. Final 4–12.

OPINION

The Rejection

The Examiner rejects claim 1 as obvious over Hochstatter, Tomlin, Brelig, and Schmitt. Final 4–9. As for the consumers and businesses recited in claim 1, the Examiner finds that businesses can be consumers, such as sellers acting as purchasers on eBay. Ans. 7. So, according to the Examiner, the users of Hochstatter’s software can be both the businesses and the consumers recited in claim 1. *Id.* Under this interpretation, the Examiner finds that Hochstatter’s merchant-offering database 218 and profiling module 204 relate to the functions of the recited personal financial management application (PFMA), which is used by consumers, and the

Answer (“Ans.”), mailed November 19, 2019; and Reply Brief (“Reply Br.”), filed January 3, 2020.

³ The Examiner withdrew the rejection under 35 U.S.C. § 112 found in the Final mailed March 7, 2019. Ans. 3.

recited business financial management application (BFMA), which is used by businesses. *See id.* at 12. The Examiner finds that Hochstatter’s matching module 206 corresponds to the target communication application (TCA), which the PFMA and BFMA communicate through. *Id.*

Appellant’s Arguments

Appellant argues that Hochstatter does not teach or suggest a PFMA that communicates with the BFMA through a TCA. Appeal Br. 34–35; Reply Br. 5. According to Appellant, Hochstatter’s merchant-offering database does not communicate with the profiling module, much less through the matching module. Reply Br. 5. In Appellant’s view, the claimed TCA is a transaction moderator between the BFMA and PFMA, unlike Hochstatter’s matching module 206. *Id.* at 13.

Appellant makes other arguments, but we find this argument dispositive of all issues on appeal.

Issue

Under § 103, has the Examiner erred in finding that Hochstatter teaches or suggests communication between the PFMA and BFMA through the TCA, as recited in claim 1?

Analysis

Claim 1 recites, in part “wherein the PFMA communicates with the BFMA through the TCA; wherein the TCA when executed causing the computer processor to enable targeted communication between the PFMA and the BFMA on the financial management server.” Appeal Br. 40. The claim further recites the details of the various communications between the applications. *Id.* at 40–41.

The Examiner asserts that the claim does not require the TCA to perform the recited communication functions that follow the phrase “cause the computer processor to.” Ans. 11. We disagree. Claim 1 expressly recites that the “PFMA communicates with the BFMA through the TCA.” Claim 1 also requires that the PFMA is used by consumers and that the BFMA is used by the business. So the step of sending consumer- and business-initiated messages via the PFMA and BFMA must be interpreted as being performed through the TCA to be consistent with the rest of claim 1.⁴

We agree with Appellant that, following the Examiner’s mapping as best understood (*id.* at 12), Hochstatter’s merchant-offering database 218 (PFMA) does not communicate with the profiling module 204 (BFMA) through the matching module 206 (TCA) in the claimed manner. Reply Br. 5. Hochstatter’s Figure 2, below, shows the transaction-account-holder-matching system. Hochstatter ¶ 11.

⁴ We note that independent claims 9 and 17 expressly recite similar functions with the limitation “by the TCA.” The Examiner rejects these claims under the same reasoning as claim 1. *See* Final 4–9.

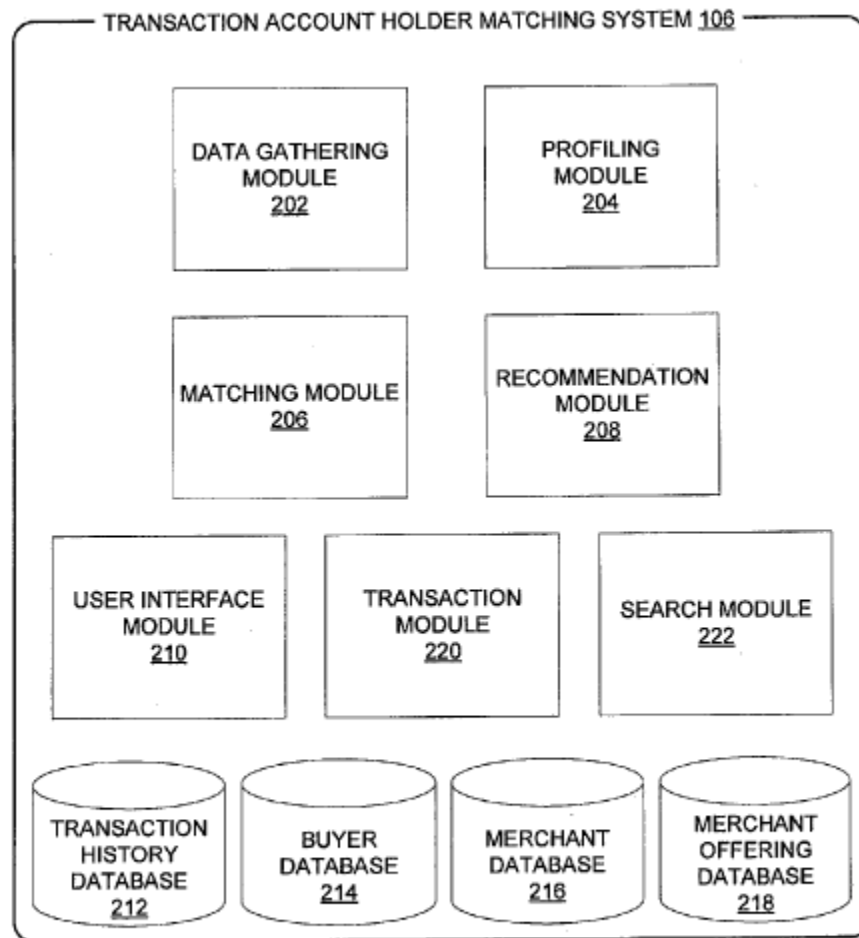


Figure 2

Figure 2, above, shows a block diagram with the modules and databases of Hochstatter's system. *Id.* The system matches merchants with buyers using the buyer's transaction history and other data. *Id.* ¶ 17.

In this system, data-gathering module 202 obtains data about merchants and buyers and stores the data in various databases. *See id.* ¶¶ 35–37. One of those databases is merchant-offering database 218, which stores information about a merchant's products and services. *Id.* ¶ 36. The stored information includes pricing, discounts, location information, among other things from the merchant's website. *Id.* ¶¶ 36, 70, *cited in* Final 8.

Unlike the recited PFMA, merchant-offering database 218 does not “send the business-initiated message to the consumer” based on matches. Rather, merchant-offering database 218 is simply a repository for data. *See id.* ¶¶ 36–37. A separate entity—matching module 206—handles matching. *Id.* ¶¶ 38, 40.

Matching module 206 analyzes the profiles so that other modules can create custom-proposed merchant offerings. *See id.* ¶¶ 38, 40. Specifically, recommendation module 208 invokes matching module 206 to find a merchant. *Id.* ¶ 38. Matching module 206 then matches the buyer’s profile with those of other buyers. *Id.* For example, matching module 206 may find two buyers with similar purchasing behavior. *Id.* ¶ 40. Recommendation module 208 then organizes offerings to the buyer using the other buyer’s selections. *Id.* A user interface presents those offers to the buyer. *Id.* ¶ 41. In this way, Hochstatter’s system communicates offers from businesses to consumers. *See id.* ¶¶ 17, 23, 41, 70, *cited in* Final 8.

Even so, the Examiner has not shown that Hochstatter’s merchant-offering database 218 or some other module communicates with the profiling module 204 through the matching module 206 (TCA) as claimed. Appeal Br. 34–35; Reply Br. 5, 13. That is, in claim 1, the recited TCA moderates communications sent by consumers and the business via the PFMA and the BFMA, respectively. *See* Reply Br. 13. By contrast, Hochstatter’s matching module 206 merely analyzes the information stored in database 218 or stored by profiling module 204. *See* Hochstatter ¶¶ 38–41. In fact, a separate module, recommendation module 208, handles actually organizing the offers and communicating them to the buyer. *Id.* ¶¶ 40–41.

Thus, the Examiner erred in finding that Hochstatter teaches or suggests targeted communication between the PFMA and BFMA through the TCA, as recited in claim 1. Because this issue is dispositive of the error in the rejection, we need not address Appellant's other arguments.

On this record, we do not sustain the rejection of claim 1. For the same reasons, we also do not sustain the rejection of independent claims 9 and 17, which recite similar limitations, and dependent claims 3, 6–8, 11, 14–16, 19, and 22–24, which incorporate the limitation at issue.

CONCLUSION

The Examiner's decision to reject claims 1, 3, 6–9, 11, 14–17, 19, and 22–24 is reversed.

DECISION SUMMARY

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1, 3, 6–9, 11, 14–17, 19, 22–24	103	Hochstatter, Tomlin, Brelig, Schmitt		1, 3, 6–9, 11, 14–17, 19, 22–24

REVERSED