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107193	7590	06/11/2020	EXAMINER	
Keller Jolley Preece/Facebook 1010 North 500 East Suite 210 North Salt Lake, UT 84054			OSMAN BILAL AHME, AFAF	
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* DALE MALIK, ROBERT A. KOCH, PETER HILL, and  
RICHARD A. ANDERSON

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Appeal 2020-002551  
Application 14/448,725  
Technology Center 3600

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Before JOSEPH L. DIXON, JOHN A. JEFFERY, and JOHN D. HAMANN,  
*Administrative Patent Judges.*

DIXON, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant<sup>1</sup> appeals from the Examiner's decision to reject Claims 1–20. Non-Final Act. 1. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

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<sup>1</sup> We use the word Appellant to refer to “applicant” as defined in 37 C.F.R. § 1.42 (2017). Appellant identifies the real party in interest as Facebook, Inc. Appeal Br. 1.

### CLAIMED SUBJECT MATTER

The claims are directed to facilitating a communication between users.

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

1. A method comprising:
  - detecting an ongoing voice communication between a first participant and one or more additional participants;
  - presenting, to the first participant and in association with the ongoing voice communication including the first participant and the one or more additional participants, a call in progress interface comprising identification information associated with the one or more additional participants of the ongoing voice communication and further comprising communication options associated with the ongoing voice communication;
  - receiving an incoming voice communication intended for the first participant during the ongoing voice communication;
  - presenting, to the first participant and without interrupting the ongoing voice communication, an incoming voice communication interface, the incoming voice communication interface comprising multiple selectable actions related to the incoming voice communication;
  - detecting, during the ongoing voice communication, a selection of an action from among the multiple selectable actions of the incoming voice communication interface; and
  - performing, using at least one processor and in response to the detected selection, the selected action with respect to the incoming voice communication.

## REFERENCES

The prior art relied upon by the Examiner is:

Cannon et al. (“Cannon”)	US 5,703,571	Dec. 30, 1997
Bajzath et al. (“Bajzath”)	US 6,144,644	Nov. 7, 2000
Henderson	US 6,339,639 B1	Jan. 15, 2002

## REJECTIONS<sup>2</sup>

Claims 1, 8–12, and 16–18 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Bajzath.

Claims 2–7, 19, and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bajzath in view of Henderson.

Claims 13–15 stand rejection under 35 U.S.C. § 103(a) as being unpatentable over Bajzath in view of Cannon.

## OPINION

Appellant argues Claims 1–4 and 8–19 as a group and does not separately argue Claims 5–7 and 20. Appeal Br. 21. We select Claim 1 as illustrative of the group and decide the appeal with respect to Claim 1 as the illustrative claim. Independent Claims 12 and 18 contain limitations that are similar to those of Claim 1.

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<sup>2</sup> First, we note that these Grounds of Rejections have been corrected to shift claims to their appropriate grounds of rejection based on their respective dependencies (*e.g.*, Claims 13–15). These errors are considered harmless. Second, we note that, in the Non-Final Action, Claims 1–20 stood rejected under 35 U.S.C. §§ 101 and 112, first paragraph, but these rejections were withdrawn by the Examiner. Non-Final Act. 5, 7; Ans. 3. Therefore, these Grounds of Rejection are not before us.

Appellant argues, “Bajzath does not describe the telephone network or call-waiting service as handling one call and then receiving another call, but merely a conventional modem and telephone connected to a ‘public switch telephone network.’” Appeal Br. 20 (emphasis omitted). Appellant further argues, “Bajzath fails to consider an ‘ongoing voice communication’ or disclose the limitations of the independent claims that include the ‘ongoing voice communication.’” Appeal Br. 20 (emphasis omitted). Appellant contends that “Bajzath’s disclosure of an active Internet session and call-waiting service for Internet users fundamentally differs from the limitations of the pending independent claims” and “[d]etecting an Internet session simply differs from detecting an ongoing voice communication between a first participant and one or more additional participants.” Appeal Br. 20 (emphasis omitted).

The Examiner responds by finding that Bajzath’s connection between the end user and the Internet Service Provider (ISP) is an “active connection” and an “ongoing voice communication.” Ans. 3 (emphases omitted). The Examiner further finds, “[i]f the user is actively connected to the Internet, a call waiting Internet server can be used to provide the incoming call information to the user’s computer terminal.” Ans. 3. The Examiner further finds that the call made by a third party to the end user while the end user is connected to the ISP corresponds to the claimed “ongoing voice communication.” Ans. 5.

We find Appellant’s arguments persuasive. Specifically, we agree that Bajzath does not disclose or fairly suggest “detecting an ongoing voice communication between a first participant and one or more additional participants” or “receiving an incoming voice communication intended for

the first participant during the ongoing voice communication,” as is required by Claim 1 and as Appellant contends (Appeal Br. 20). Based on our review of Bajzath, we find that Bajzath discloses a process for allowing an end user to be notified of an incoming voice communication during a period when the end user is connected to an ISP through a call made from the end user’s modem to the ISP. *See* Bajzath, Figure 2, reference elements 120, 135. For example, Bajzath states,

[t]he call waiting Internet application software residing in the PC of the user, then displays the caller’s information on the display screen of the PC (step 660). At this time, the user is able to review the caller’s information in real-time and decide whether to answer the call or wait until after their Internet session.

*See* Bajzath, col. 6, lines 36–41; *also see* Figure 6B, step 660.

“[T]he examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a *prima facie* case of unpatentability.” *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992).

“[A]nticipation is a question of fact.” *In re Hyatt*, 211 F.3d 1367, 1371–72, (citing *Bischoff v. Wethered*, 76 U.S. (9 Wall.) 812, 814–15 (1869); *In re Schreiber*, 128 F.3d 1473, 1477 (Fed. Cir. 1997)).

[U]nless a reference discloses within the four corners of the document not only all of the limitations claimed but also all of the limitations arranged or combined in the same way as recited in the claim, it cannot be said to prove prior invention of the thing claimed and, thus, cannot anticipate under 35 U.S.C. § 102.

*Net MoneyIn, Inc. v. VeriSign, Inc.*, 545 F.3d 1359, 1371 (Fed. Cir. 2008).

Thus, it is not enough that the prior art reference discloses part of the claimed invention, which an ordinary artisan might

supplement to make the whole, or that it includes multiple, distinct teachings that the artisan might somehow combine to achieve the claimed invention.

*Net MoneyIn, Inc. v. VeriSign, Inc.*, 545 F.3d 1359, 1371 (Fed. Cir. 2008) (citation omitted).

The Examiner has not identified how Bajzath’s connection between the end user and the ISP corresponds to the claimed “an ongoing voice communication between a first participant and one or more additional participants.” Furthermore, the Examiner has not identified how, in Bajzath, the call received during the end user’s Internet session corresponds to claimed “receiving an incoming voice communication intended for the first participant during the ongoing voice communication.” Therefore, we reverse the Examiner’s rejections of Claims 1, 8–12, and 16–18 under 35 U.S.C. § 102(b) based on Bajzath and of Claims 2–7, 13–15, 19, and 20 under 35 U.S.C. § 103(a) for similar reasons.

#### DECISION SUMMARY

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Reference(s)/ Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1, 8–12, 16–18	102(b)	Bajzath		1, 8–12, 16–18
2–7, 19, 20	103(a)	Bajzath, Henderson		2–7, 19, 20
13–15	103(a)	Bajzath, Cannon		13–15
<b>Overall Outcome</b>				1–20

REVERSED