

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte JAMES E. WICKS and EDUARDO SCIAMMARELLA

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Appeal No. 2000-1722  
Application No. 08/802,578

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ON BRIEF

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Before DIXON, GROSS, and LEVY, Administrative Patent Judges.  
GROSS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 5 through 18, which are all of the claims pending in this application.

Appellants' invention relates to a paging system and method to provide musical event information from a musical event database to a pager user according to the user's preferences stored in a user profile database. Claim 5 is illustrative of

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compiling a subscriber profile database comprising at least one profile for at least one subscriber, wherein said at least one profile comprises at least information regarding a type of musical event preferred by said at least one subscriber;

matching musical events listed in said musical event database with a subscriber profile from said subscriber profile database; and

transmitting radio signals carrying musical event information which matches a subscriber profile to that subscriber's pager with said paging system.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Champion, III et al. (Champion)	4,812,843	Mar. 14, 1989
Wang et al. (Wang)	5,649,289	Jul. 15, 1997
		(filed Jul. 10, 1995)

Claims 5 through 8 and 13 through 18 stand rejected under 35 U.S.C. § 103 as being unpatentable over Wang.

Claims 5 through 12 and 14 through 17 stand rejected under 35 U.S.C. § 103 as being unpatentable over Champion.

Reference is made to the Examiner's Answer (Paper No. 15, mailed September 28, 1999) for the examiner's complete reasoning in support of the rejections, and to appellants' Brief (Paper No. 14, filed January 6, 1999) and Reply Brief (Paper No. 16, filed November 12, 1999) for appellants' arguments thereagainst.

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together. In particular, appellants group the claims and provide arguments for each group in accordance with 37 C.F.R.

§ 1.192(c)(7) and (8) as follows: (1) claims 5 and 11 to 14, (2) claims 6, 7, 15, 16, and 18, (3) claims 8 and 17, (4) claim 9, and (5) claim 10.

We have carefully considered the claims, the applied prior art references, and the respective positions articulated by appellants and the examiner. As a consequence of our review, we will reverse the obviousness rejection of claims 5 through 8 and 13 through 18 over Wang and of claims 9 and 10 over Champion. We reach the opposite conclusion for the obviousness rejection of claims 5 through 8, 11, 12, and 14 through 17 over Champion.

Regarding Wang, appellants argue (Brief, page 6) that Wang does not teach a method of compiling an informational database nor a subscriber profile database that specifies the type of information each subscriber wishes to receive based on message content. We agree. Wang discloses a customer paging area memory 320 which stores information as to a customer's location registration and a message memory 310 for storing the message

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examiner has failed to establish a *prima facie* case of obviousness, and we cannot sustain the obviousness rejection of independent claims 5 and 14 nor their dependents, claims 6 through 8, 13, and 15 through 18 over Wang.

As to the rejection the claims of group 1 over Champion, we find appellants' arguments to be unpersuasive. For example, appellants argue (Brief, pages 7 and 8) that Champion is limited to a traffic information system, with no suggestion of compiling musical event information. Champion, however, discloses (column 1, lines 32-36, column 3, lines 61-66, column 6, lines 33-41, column 7, lines 27-34, and column 9, lines 59-62) that the information system described is applicable to any type of information which may be of interest to the subscriber. Champion specifies long range travel routings, updated news, commodity and stock reports, and airline, train and bus scheduling as possible types of information, but also suggests that any type of information of interest to the subscriber would apply. Therefore, Champion is not limited to traffic information. Furthermore, as any information of interest to the subscriber

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profiles." We disagree. Champion states (column 5, lines 22-28) that designated routings that have been requested by the user are "continuously monitored over a predetermined period of time with updates being automatically transmitted to the subscriber." Champion does not indicate how long the "predetermined period of time" is, but for such time, Champion must include a database of various users' requests or preferences for callback. Therefore, we will sustain the rejection of the group 1 claims under rejection, claims 5, 11, 12, and 14.

Regarding the rejection of claims 6, 7, 15, and 16, the group 2 claims, appellants contend (Brief, pages 9-10) that all requests in Champion are made by phone rather than by pager, as required by the claims. However, Champion discloses that information may be provided to the user by phone, computer, or pager. If a subscriber wishes to receive information by pager, the skilled artisan would have found it obvious for the subscriber likewise to be able to request the information by pager. Therefore, we will sustain the rejection of claims 6, 7, 15, and 16.

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the subscriber profile is generated from the request, and then information matching that profile is periodically, automatically sent. There must be an identification of the profile of the pager requesting information and matching of information from the database to that of the subscriber profile to determine what information is to be sent to the pager. Therefore, we will sustain the rejection of claims 8 and 17 over Champion.

Claim 9 recites the step of having subscribers contact the service provider for supplying information for the musical event database. Claim 10 adds the step of rewarding the subscriber who calls in information. Appellants argue (Brief, page 10) that neither of these steps is taught or suggested by Champion. We agree. Champion discusses (column 7, lines 22-27) that the information is to come from local government sources, police, rescue and fire transmission as well as from commercially available sources including radio and television broadcasts and commuter information services. Nowhere does Champion suggest that the subscribers should call in information. Therefore, we cannot sustain the rejection of claims 9 and 10.

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over Champion under 35 U.S.C. § 103 is reversed. On the other hand, the decision of the examiner rejecting claims 5 through 8, 11, 12, and 14 through 17 over Champion under 35 U.S.C. § 103 is affirmed. Accordingly, the examiner's decision is affirmed-in-part.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED-IN-PART

JOSEPH L. DIXON	)	
Administrative Patent Judge	)	
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	)	
	)	BOARD OF PATENT
ANITA PELLMAN GROSS	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
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	)	
	)	
STUART S. LEVY	)	
Administrative Patent Judge	)	

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RONALD P KANANEN ESQ.  
RADER FISHMAN & GRAVER P.L.L.C.  
SUITE 501  
1233 20TH STREET, NW  
WASHINGTON, DC 20036