

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 30

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte THOMAS A. NOLTING, RICHARD LAPEARL,
SHEILA NOONAN,
KAREN DION and RAYMOND X. LEUNG

Appeal No. 2002-1687
Application No. 09/188,712

ON BRIEF

Before FLEMING, DIXON and SAADAT, Administrative Patent Judges.

FLEMING, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1 through 18 and 20 through 31. Claim 19 stands objected to due to its dependency from rejected claim 18.

INVENTION

The present invention relates to a method and system for accumulating call specific data for network communication and analyzing that data for a variety of purposes, for example to identify network traffic patterns, to identify specific types of users, etc. See page 1 of Appellants' specification. Fig. 1 provides a high level illustration of the function involved for traffic tracking. See page 15 of Appellants' specification. The called details 5 are supplied through a database input procedure 50. The procedure serves to format the data and load the called details into appropriate tables into one or more relational databases 60. However, still further processing is needed to allow analysis and output of the results in desired aggregate form. Data from the relational database 60 is prepared and uploaded in a process 70 for input for On-Line Analytical Processing (OLAP), which preferably takes the form of a multi-dimensional database (MDDDB) in an integrated presentation layer. See page 16 of Appellants' specification. The OLAP process 80 analyzes the prepared call details and compiles data into reports, for output to a user's terminal 9. The OLAP process provides certain study management tools as well as the user interface. The OLAP system 80 receives inputs and presents outputs via the user terminal 9, to set up study models, to set-up specific studies using established models and to present study

results. See page 17 of Appellants' specification. Appellants' independent claim 1 illustrates the Appellants' claimed invention and is reproduced as follows:

1. A method of conducting a study for analyzing traffic through a telecommunication network, comprising the steps of:

compiling detail records for a predetermined set of calls processed through the telecommunication network, wherein calls of the predetermined set are identified by parameters of the study;
loading the detail records into files in a database;

processing the files in the database to enrich the information of the detail records in a manner facilitating the study;

uploading the enriched information to an on-line analytical processing routine supporting interactive analysis for one or more users;
and

executing an application corresponding to the study, to present study results, the application including said interactive analysis based at least in part on the enriched information.

REFERENCES

The references relied on by the Examiner are as follows:

Brockman et al. (Brockman)	5,592,530	Jan. 07, 1997
Peters et al. (Peters)	5,724,584	Mar. 03, 1998 (filed Aug. 15, 1996)
Elliott et al. (Elliott)	5,768,352	Jun. 16, 1998 (filed May 10, 1995)
Malloy et al. (Malloy)	5,905,985	May 18, 1999 (filed Jun. 30, 1997)

Rejections at Issue

Claims 1, 5, 7 through 11, 14 through 18, 20, 21, 26 through 28 and 31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Elliott in view of Peters.

Claims 2 through 4, 12, 13 and 22 through 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Elliott in view of Peters and additionally in view of Brockman.

Claims 6, 25, 29 and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Elliott in view of Peters and additionally in view of Malloy.

Throughout our opinion, we will make reference to the briefs and to the answer for the respective details thereof.¹

OPINION

With full consideration being given to the subject matter on appeal, the Examiner's rejections, and the arguments of Appellants and the Examiner, for the reasons stated *infra* we reverse the Examiner's rejection of claims 1 through 18 and 20 through 31 under 35 U.S.C. § 103.

In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of establishing a *prima facie* case of obviousness. *In re Oetiker*, 977 F.2d 1443,

¹ Appellants filed an appeal brief on April 20, 2001. Appellants filed a reply brief on August 3, 2001. The Examiner mailed an Office communication on September 5, 2001 stating that the reply had been entered and considered.

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1445, 24 USPQ 1443, 1444 (Fed. Cir. 1992). **See also *In re Piasecki***, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). The Examiner can satisfy this burden by showing that some objective teaching in the prior art or knowledge generally available to one of ordinary skill in the art suggests the claimed subject matter. ***In re Fine***, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). only if this initial burden is met does the burden of coming forward with evidence or argument shift to the Appellants. ***Oetiker***, 977 F.2d at 1445, 24 USPQ at 1444. **See also *Piasecki***, 745 F.2d at 1472, 223 USPQ at 788.

An obviousness analysis commences with a review and consideration of all the pertinent evidence and arguments. "In reviewing the [E]xaminer's decision on appeal, the Board must necessarily weigh all of the evidence and arguments." ***In re Oetiker***, 977 F.2d at 1445, 24 USPQ2d at 1444. "[T]he Board must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency's conclusion." ***In re Lee***, 277 F.3d 1338, 1344, 61 USPQ2d 1430, 1434 (Fed. Cir. 2002). With these principles in mind, we commence review of the pertinent evidence and arguments of Appellants and Examiner.

Appellants point out that the Examiner has conceded that Elliott does not teach loading “enriched information on to [sic] an on-line analytical processing routine.” See page 8 of Appellants’ brief. Appellants argue that Peters does not teach uploading an on-line analytical processing routine and executing interactive analysis as required in each of Appellants’ independent claims. Appellants argue that the reference teachings, even if combined, would not have led artisans to the invention claimed. See page 9 of Appellants’ brief.

In response, the Examiner states that Peters does teach in column 9, lines 9 through 33 uploading an on-line analytical processing routine and executing interactive analysis as required by each of the independent claims. The Examiner points out that Peters teaches in column 9, lines 9 thorough 13, elements that permit establishing a data link over which information can be transferred. The Examiner argues that this teaching reads directly on Appellants’ claimed limitation of uploading an on-line analytical routine and executing interactive analysis as required in each of the independent claims. See pages 10 and 11 of the Examiner’s answer.

In response, Appellants argue that Peters does not teach analytical processing and management tool provisions that are required for the on-line analytical processing routine. Appellants argue that the Examiner has improperly interpreted the “on-line

analytical processing” requirement of the claim. Appellants argue that it is well settled that claim terminology is to be interpreted in accordance with the means attributed thereto and thus defined by the specification. Appellants argue that the term “on-line analytical processing” is defined to provide on-line user interaction to preform analysis that can be tailored as the user may dictate during interactive sessions. Appellants point to portions of the specification that define the term “on-line analytical processing.” In particular, Appellants point to page 17, lines 11 through 13 which define on-line analytical processing to require, analysis and compilations into reports for output to users terminals which can provide certain study management tools as well as user interface. Appellants also point to the specification on page 57, lines 11 through 19 that state that the on-line analytical processing is defined to allow the operator set up models for different types of studies to go in and generate his own tables for presentation to enable customized visual development. Appellants further point to the specification on page 68, lines 11 through 18 that state that the on-line analytical processing is defined to allow users of the system to create detailed interactive reports or perform on the fly analysis with scaleable user group. Appellants also argue that the term “on-line analytical processing” as defined by the specification is processing that provides on-line user interaction to perform analysis that can be tailored as the user

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may dictate during interactive sessions. Appellants argue that the Examiner's reliance on the Peters teaching which provides stored data in a filtered form cannot read on Appellants' claimed, on-line analytical processing. See pages 3 through 4 of Appellants' reply brief.

As pointed out by our reviewing court, we must first determine the scope of claims 12 and 18. "[T]he name of the game is the claim." *In re Hiniker Co.*, 150 F.3d 1362, 1369, 47 USPQ2d 1523, 1529 (Fed. Cir. 1998). Claims will be given their broadest reasonable interpretation consistent with the specification, and limitation appearing in the specification are not to be read into the claims. *In re Etter*, 756 F.2d 852, 858, 225 USPQ 1, 5 (Fed. Cir. 1985). Our reviewing court also states in *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) that "claims must be interpreted as broadly as their terms reasonably allow." As our reviewing court states, "The terms used in the claims bear a 'heavy presumption' that they mean what they say and have the ordinary meaning that would be attributed to those words by persons skilled in the relevant art." *Texas Digital Sys., Inc. v. Telegenix, Inc.*, 308 F.3d 1193, 1202, 64 USPQ2d 1812, 1817 (Fed. Cir. 2002). "Moreover, the intrinsic record also must be examined in every case to determine whether the presumption of ordinary and customary meaning is rebutted." (citation omitted). "Indeed, the intrinsic record may

show that the specification uses the words in a manner clearly inconsistent with the ordinary meaning reflected, for example, in a dictionary definition.

In such a case, the inconsistent dictionary definition must be rejected.” **Texas Digital Systems, Inc. v. Telegenix, Inc.**, 308 F.3d at 1204, 64 USPQ2d at 1819. (“[A] common meaning, such as one expressed in a relevant dictionary, that flies in the face of the patent disclosure is undeserving of fealty.”); **Texas Digital Systems, Inc. v. Telegenix, Inc.**, 308 F.3d at 1204, 64 USPQ2d at 1819, (citing **Liebscher v. Boothroyd**, 258 F.2d 948, 951, 119 USPQ 133, 135 (CCPA 1958) (“Indiscriminate reliance on definitions found in dictionaries can often produce absurd results.”)). “In short, the presumption in favor of a dictionary definition will be overcome where the patentee, acting as his or her own lexicographer, has clearly set forth an explicit definition of the term different from its ordinary meaning.” **Id.** “Further, the presumption also will be rebutted if the inventor has disavowed or disclaimed scope of coverage, by using words or expressions of manifest exclusion or restriction, representing a clear disavowal of claim scope.” **Id.** Upon our review of Appellants’ specification, we agree with Appellants that the term, “on-line analytical processing” as set forth in Appellants claims is defined to provide analytical processing to provide an

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on-line user interaction to perform analysis that can be tailored as the user may dictate during the interactive session. We agree with the Appellants that the Peters teaching of providing elements that permit establishing a data link over which information can be transferred does not read on Appellants' claimed on-line analytical processing as recited in Appellants' claims. Therefore, we will not sustain the Examiner's rejection of claims 1, 5, 7 through 11, 14 through 18, 20, 21, 26 through 28 and 31 under 35 U.S.C. § 103 as being unpatentable over Elliott in view of Peters.

In regard to the rejection of claims 2 through 4, 12, 13 and 22 through 24 under 35 U.S.C. § 103 as being unpatentable over Elliott in view of Peters and Brockman, we find that the Examiner has relied on Peters for teaching, on-line analytical processing as recited in these claims. Similarly, for the rejection of claims 6, 25, 29 and 30 under 35 U.S.C. § 103 as being unpatentable over Elliott in view of Peters and Malloy, we find that the Examiner has also relied on Peters for the teaching of "on-line analytical processing" and required by these claims as well. Therefore, we will not sustain the Examiner's rejection of these claims for the reasons stated above.

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In view of the foregoing, we have not sustained the Examiner's rejection of claims 1 through 18 and 20 through 31 under 35 U.S.C. § 103.

REVERSED

MICHAEL R. FLEMING)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
JOSEPH L. DIXON)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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