

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 63

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte STANLEY KUGELL and DAVID SILVER

Appeal No. 2003-1924
Application No. 08/554,533

ON BRIEF

Before McQUADE, NASE, and LEVY, Administrative Patent Judges.
NASE, Administrative Patent Judge.

DECISION ON APPEAL

Stanley Kugell et al. appeal from the final rejection of claims 16, 17, 20, 23, 27, 30, 32 through 39, 42, 45, 49, 52, 54 through 62, 65, 68, 72, 75, and 77 through 81, all of the claims pending in the application.

We AFFIRM.

THE INVENTION

The invention relates to a method of providing collect-call telephone service.

Representative claim 16 reads as follows:

A method of providing collect-call telephone service comprising the steps of:

- providing an access telephone number to customers for accessing a provider of collect-call telephone services, wherein the access telephone number is a toll-free telephone number with an 800 area code and is other than a telephone number which includes a prefix for reaching an operator;
- receiving a call at the access telephone number from a customer at an actual originating telephone number without any customer billing information;
- obtaining a desired destination telephone number without a human operator;
- receiving customer identification information without a human operator;
- calling the desired destination telephone number;
- providing customer identification information to an answering party at the desired destination telephone number without a human operator;
- obtaining from the answering party an affirmative action indicating acceptance of charges for the call without a human operator;
- completing a call from the actual originating telephone number to the desired destination telephone number; and
- billing the completed call to the desired destination telephone number.

THE REFERENCES

The references relied on by the examiner to support the final rejection are:

Michael Murphy et al., *Automation of Alternate Billed Calls Using Speech Recognition*, IEEE Communications Magazine, Jan. 1991, at 25 (Murphy).

John Burgess, *Learning To Make Computers Listen Up; Software That Recognizes Voices Enters Workplace*, Wash. Post, Nov. 11, 1992, at C1 (Burgess).

McLeod et al. (McLeod)

5,222,120

June 22, 1993

THE REJECTIONS

Claims 16, 17, 20, 23, 27, 30, 32 through 39, 42, 45, 49, 52, 54 through 62, 65, 68, 72, 75, and 77 through 81 stand rejected as being unpatentable under 35 U.S.C. § 103(a) over McLeod in view of Murphy.

Claims 16, 17, 37 through 39, and 59 through 62 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over McLeod in view of Burgess.

Attention is directed to the brief (Paper No. 58) and the answer (Paper No. 59) for the respective positions of the appellants and the examiner regarding the merits of these rejections.

DISCUSSION

I. Grouping of Claims.

On page 6 of the brief, the appellants state that "claims 16, 17, 20, 23, 27, 30, 32-39, 42, 45, 49, 52, 54-62, 54, 58, 72, 75, and 77-81 stand and fall together." In accordance with this grouping, and pursuant to 37 CFR § 1.192(c)(7), we shall decide the appeal on the basis of representative claim 16 alone, with claims 17, 20, 23, 27, 30, 32 through 39, 42, 45, 49, 52, 54 through 62, 54, 58, 72, 75, and 77 through 81 standing or falling with claim 16.

II. The 35 U.S.C. § 103(a) rejection of claims 16, 17, 20, 23, 27, 30, 32 through 39, 42, 45, 49, 52, 54 through 62, 65, 68, 72, 75, and 77 through 81

McLeod, the examiner's primary reference, discloses a long distance telephone switching system accessible via a toll-free 800 access number. McLeod teaches that an 800 number be provided by a long-distance company in order to provide automated enhanced services that were previously available only through private exchange network systems or local telephone exchanges (column 2, lines 18 -23). The system is adapted to provide various enhanced subscriber services, such as an audio news and information service, conference calling, voice messaging, message storage and forwarding, and speed-dialing, in addition to conventional long distance calling. Some of the enhanced services can be handled solely by an automatic console (i.e. without a human operator) (see column 17, lines 41-46 and FIGS. 10A-10D). Collect calls, however, are not disclosed as being handled by automatic consoles: "[The switching matrix 140] allows the human operator to converse with the subscriber in order to obtain any necessary instructions or information, and also allows the operator to converse with third parties to whom calls may be placed at the request of the subscriber (e.g., during collect or person-to-person calling)" (column 12, lines 1-6) (emphasis added) (see also FIGS. 8A and 8B).

Murphy, the examiner's secondary reference, recites inter alia, an "Example Call Flow" of a collect call using an Automated Alternate Billing Service:

- The calling subscriber, Glenn, dials 0 + NPA-NXX-XXXX.
- The call is routed to its serving tandem for operator handling.
- The call is relayed to its attached VSN
- . . .
- A prompt is played greeting Glenn and requesting an indication of the call type to be placed, for example . . . "If you'd like to make a collect call, dial 1-1"
- Glenn enters 1-1, indicating a collect call.
- VSN prompts Glenn for his name: "At the tone, please say your name."
- He replies, "Glenn."
- VSN saves Glenn's name, and instructs the switch . . . to dial the billed number. The billed number is dialed and then answers.
- VSN queries the billed party for billing acceptance: ". . . You have a collect call from Glenn, will you pay the call?"
- The billed party replies, "Yes."
- . . .
- . . . [T]he calling and called parties [are] connected.

After the scope and content of the prior art are determined, the differences between the prior art and the claims at issue are to be ascertained. Graham v. John Deere Co., 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966). Based on our analysis and review of Murphy and claim 16, it is our opinion that the sole difference between the two is the lack of the limitation concerning the access number being a toll-free number with an 800 area code and is other than a telephone number which includes a prefix for reaching an operator. This is supported by the appellants' concession that "speech recognition for automating collect calls was known prior to the filing date of applicant's application" (brief, page 15), and the appellants' argument that their invention is not the automation of collect calls per se, but rather, the automation of a non-0+ initiated collect

call, and in particular, as recited in claim 16, an 800 number initiated collect call (brief, pages 15-16). Therefore, the dispositive issue, as framed and argued by the appellants, is whether there is a basis for combining McLeod and Murphy to arrive at the claimed subject matter (see brief, page 16).

The test for obviousness is what the combined teachings of the references would have suggested to one of ordinary skill in the art. See In re Young, 927 F.2d 588, 591, 18 USPQ2d 1089, 1091 (Fed. Cir. 1991) and In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). We reach the conclusion that it would have been obvious at the time the invention was made to a person of ordinary skill in the art to have modified Murphy's "Example Call Flow" by providing a toll-free 800 access number which does not include a prefix for reaching an operator as suggested and taught by McLeod. In that regard, McLeod suggests that an 800 number be provided by a long-distance company in order to provide automated enhanced services that were previously available only through private exchange network systems or local telephone exchanges (column 2, lines 18-23). Murphy's "Example Call Flow" discloses the use of an automated enhanced feature (collect call) and discusses the value of providing such automated services (i.e. the reduction in time spent by human operators) (see Murphy at 25). Therefore, it would have been obvious to one of ordinary skill in the art to provide an 800 access number for the automated collect call system of Murphy in order

to provide such service outside of a local telephone exchange. Likewise, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McLeod's long distance telephone switching system to include an automated collect call service as disclosed in Murphy in order to reduce the time required by human operators. Thus, we find the appellants argument that there is no motivation, suggestion or basis for combining McLeod and Murphy to arrive at the claimed subject matter unpersuasive.

For the reasons set forth above, the decision of the examiner to reject claim 16 under 35 U.S.C. § 103(a), and claims 17, 20, 23, 27, 30, 32 through 39, 42, 45, 49, 52, 54 through 62, 65, 68, 72, 75, and 77 through 81 which fall with claim 16, as being unpatentable over McLeod in view of Murphy is affirmed.

III. The 35 U.S.C. § 103(a) rejection of claims 16, 17, 37 through 39, and 59 through 62

McLeod, the examiner's primary reference, as discussed above, discloses a long distance telephone switching system. The examiner finds the teachings of obtaining a desired destination telephone number, receiving customer identification information, calling the desired destination telephone number, providing customer identification information to an answering party, obtaining from the answering party an affirmative action indicating acceptance of charges, and completing the call, all inherent to collect

calls (see answer, page 4). The examiner concedes that "McLeod does not explicitly teach obtaining information from either the calling party or the called party 'without a human operator'" (answer, page 4). To cure this shortcoming, the examiner turns to Burgess.

Burgess is a newspaper article discussing voice recognition technology.

Burgess provides that:

Union Electric Co., a power company in St. Louis, has installed an AT&T voice recognition system on an 800-line that lets customers get information about their accounts. AT&T is installing the technology on its long-distance phone network to handle customers placing credit card and collect calls.

The examiner further focuses on the disclosure in Burgess that voice recognition systems are being used to improve productivity and replace workers. The examiner then draws the conclusion that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of McLeod to use the automation of an 800 line as disclosed by Burgess so that telephone companies may use an automated collect service for the purpose of saving human labor cost as disclosed in Burgess" (answer, page 5).

Burgess does not, though, disclose that the automation (voice recognition system) be used for each step of making a collect call as set forth in the claims under appeal. After reviewing the differences between the applied references and

independent claims 16, 37, and 59, we see no suggestion in Burgess for a person of ordinary skill in the art to have modified McLeod with a voice recognition system which obtains each and every limitation of claims 16, 37, and 59. Therefore, the decision of the examiner to reject claims 16, 17, 37 through 39, and 59 through 62 under 35 U.S.C. § 103(a) as being unpatentable over McLeod in view of Burgess is reversed.

SUMMARY

The decision of the examiner to reject claims 16, 17, 20, 23, 27, 30, 32 through 39, 42, 45, 49, 52, 54 through 62, 65, 68, 72, 75, and 77 through 81 under 35 U.S.C. § 103(a) is affirmed and the decision of the examiner to reject claims 16, 17, 37 through 39, and 59 through 62 under 35 U.S.C. § 103(a) is reversed.

Since at least one rejection of each of the appealed claims has been affirmed, the decision of the examiner is affirmed.

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

AFFIRMED

JOHN P. McQUADE
Administrative Patent Judge

JEFFREY V. NASE
Administrative Patent Judge

STUART S. LEVY
Administrative Patent Judge

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