

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 13

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte TIMOTHY DARLAND, DONALD A. TURNER, RICHARD G. MOORE,  
PATRICK J. DOLPHIN, and CORY LENGER

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Appeal No. 1999-0154  
Application 08/553,201

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ON BRIEF

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Before RUGGIERO, HECKER, and LALL, Administrative Patent Judges.

RUGGIERO, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal from the final rejection of claims 1-12, all of the claims pending in the present application.

The disclosed invention relates to telecommunication systems and involves a method and apparatus for generating

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call disposition messages. In response to validation of a calling card call by a card issuing network, a billing detail record is generated. After the call is completed, an operator service record is generated which is then merged with the billing detail record to form a merged operator service record to which pricing information is added. The merged operator service record is sent to a gateway coupled to the card issuing network where it is reformatted to create a call disposition message.

Claim 1 is illustrative of the invention and reads as follows:

1. In a telecommunications system having a card issuing network, a card accepting network and a call disposition messaging system, a method of generating call disposition messages comprising the steps of:

a) generating a billing detail record in the call disposition messaging system when a call is validated by the card issuing network;

b) generating an operator service record in the call disposition messaging system when the call is terminated in the card accepting network;

c) matching the billing detail record with the operator service record in the call disposition messaging system; and

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d) generating a call disposition message from the matched billing detail record and operator service record in the call disposition messaging system.

The Examiner relies on the following prior art:

Olsen et al. (Olsen)	5,008,929	Apr. 16, 1991
Ahearn et al. (Ahearn)	5,163,086	Nov. 10, 1992

Claims 1-12 stand finally rejected under 35 U.S.C. § 103. As evidence of obviousness, the Examiner offers Olsen alone with respect to claims 1-5 and 7-11, and adds Ahearn to Olsen with respect to claims 6 and 12.

Rather than reiterate the arguments of Appellants and the Examiner, reference is made to the Briefs<sup>1</sup> and Answer for the respective details.

#### OPINION

We have carefully considered the subject matter on

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<sup>1</sup> The Appeal Brief was filed March 4, 1998. In response to the Examiner's Answer dated April 15, 1998, a Reply Brief was filed June 12, 1998 which was acknowledged and entered by the Examiner without further comment as indicated in the communication dated July 2, 1998.

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appeal, the rejection advanced by the Examiner and the evidence of obviousness relied upon by the Examiner as support for the rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, Appellants' arguments set forth in the Briefs along with the Examiner's rationale in support of the rejections and arguments in rebuttal set forth in the Examiner's Answer.

It is our view, after consideration of the record before us, that the evidence relied upon and the level of skill in the particular art would not have suggested to one of ordinary skill in the art the invention set forth in claims 1-12. Accordingly, we reverse.

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. See In re Fine, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the Examiner is expected to make the factual determinations set forth in Graham v. John Deere Co., 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966), and to provide a reason why

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one

having ordinary skill in the pertinent art would have been led  
to

modify the prior art or to combine prior art references to  
arrive

at the claimed invention. Such reason must stem from some  
teaching, suggestion or implication in the prior art as a  
whole

or knowledge generally available to one having ordinary skill  
in

the art. Uniroyal Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044,  
1051, 5 USPQ2d 1434, 1438 (Fed. Cir.), cert. denied, 488 U.S.  
825

(1988); Ashland Oil, Inc. v. Delta Resins & Refractories,  
Inc.,

776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985), cert.  
denied, 475 U.S. 1017 (1986); ACS Hospital Systems, Inc. v.

Montefiore Hospital, 732 F.2d 1572, 1577, 221 USPQ 929, 933  
(Fed.

Cir. 1984). These showings by the Examiner are an essential  
part

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of complying with the burden of presenting a prima facie case  
of

obviousness. Note In re Oetiker, 977 F.2d 1443, 1445, 24

USPQ2d

1443, 1444 (Fed. Cir. 1992).

With respect to the obviousness rejection of all of the  
appealed independent claims 1, 5, 7, and 11 based on Olsen,  
Appellants assert the Examiner's failure to establish a prima  
facie case of obviousness since all of the claim limitations  
are not taught or suggested by the applied Olsen reference.  
In particular, Appellants contend (Brief, page 12) that Olsen,  
which generates a billing invoice to a requestor for services  
related to validation of credit card information, at best  
discloses only one feature of the appealed claims, i.e. the  
generation of a billing detail record.

After careful review of the Olsen reference, we are in  
agreement with Appellants' position as stated in the Briefs.  
Our interpretation of the disclosure of Olsen coincides with  
that of Appellants, i.e. while Olsen arguably discloses  
generation of a billing detail record, we find no disclosure  
of the generation of an operator services record which is then

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match/merged with the

billing detail record to produce a call disposition record, all features present in each of the appealed independent claims.

We take note of the fact that the Examiner at page 13 of the Answer attempts to establish equivalence between the various claimed features and alleged corresponding disclosed features in Olsen. We can find no basis on the record, however, for the Examiner's interpretation of the appealed claims, nor for the interpretation of the disclosure of Olsen, expressed in the Answer. The Examiner attempts (Answer, page 14) to show equivalence of the billing information in the TCAP MSU message in Olsen with that of Appellants by referring to various passages in Olsen. We find no such disclosure, however, of any such billing information such as calling numbers, account information, etc. in these cited passages, or elsewhere in Olsen. Similarly, we find no disclosure in the excerpt from Olsen cited by the Examiner (col. 9, lines 49-59) of the merging of TCAP and ISDN-UP message units, nor any suggestion that this description could be reasonably

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interpreted as producing a matched or merged operator service record as claimed. It is also apparent from the Examiner's line of reasoning in the Answer that, since the Examiner has mistakenly interpreted the disclosure of Olsen as

disclosing the generation of a merged billing operator services record with the subsequent generation of a call disposition message based on this record, the issue of the obviousness of these features has not been addressed.

We are further in agreement with Appellants' arguments (Reply Brief, page 6) that even assuming, arguendo, that Olsen's ITC and RBOC systems are equivalent to the claimed card issuing and card accepting networks, there is no suggestion in Olsen that billing detail and operator services records are generated in the manner specified in Appellants' claims. Although the Examiner (Answer, page 14) suggests that Olsen discloses that records are produced on generation of a Release Message when a subscriber terminates a call, we find no such teaching or suggestion in Olsen.

Since all of the claim limitations are not taught or suggested by the applied prior art, it is our opinion that the

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Examiner has not established a prima facie case of obviousness with respect to independent claims 1, 5, 7, and 11.

Accordingly, we do not sustain the Examiner's 35 U.S.C. § 103 rejection of independent claims 1, 5, 7, and 11, nor of claims 2-4 and 8-10 dependent thereon, based on Olsen.

Turning to a consideration of the Examiner's 35 U.S.C. § 103 rejection of dependent claims 6 and 12 in which the Ahearn reference is added to Olsen, we do not sustain this rejection as well. It is apparent from the Examiner's analysis (Answer, page 12) that Ahearn is relied on solely to address the claimed routing and authorization features. We find nothing, however, in the disclosure of Ahearn which would overcome the innate deficiencies of Olsen discussed supra.

In conclusion, since the Examiner has not established a prima facie case of obviousness, the 35 U.S.C. § 103 rejection of independent claims 1, 5, 7, and 11 and claims 2-4, 6, 8-10, and 12 dependent thereon, cannot be sustained. Therefore, the decision of the Examiner rejecting claims 1-12 is reversed.

REVERSED

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JOSEPH F. RUGGIERO	)	
Administrative Patent Judge	)	
	)	
	)	
	)	
STUART N. HECKER	)	BOARD OF PATENT
Administrative Patent Judge	)	APPEALS AND
	)	INTERFERENCES
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	)	
PARSHOTAM S. LALL	)	
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