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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte LORI BARER INGBER

Appeal 2013-009315[1]
Application 12/416,078[2]
Technology Center 3600

Before MICHAEL W. KIM, MICHAEL C. ASTORINO,
NINA L. MEDLOCK, *Administrative Patent Judges*.

MEDLOCK, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1–14, 18–35, 37, and 38. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

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[1] Our decision references Appellant's Appeal Brief ("App. Br.," filed January 30, 2013) and Reply Brief ("Reply Br.," filed July 16, 2013), and the Examiner's Answer ("Ans.," mailed May 24, 2013) and Final Office Action ("Final Act.," mailed October 26, 2011).

[2] Appellant identifies Parent Match, a division of Temba, LLC, as the real party in interest. App. Br. 3.

CLAIMED INVENTION

Appellant's claimed invention "relates to improved computer systems and methods for facilitating adoption" (Spec. 1, ll. 4–5).

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

> 1. A computer based processing method for organizing, maintaining and processing a data store on a tangible computer readable media, the data store for use by a first class of adoption participants or a second class of adoption participants that are each associated with an agency that has been granted an access privilege to the data store, the computer based processing method comprising:
>
> (A) initiating an electronic query of the data store on behalf of a first member of the first class of adoption participants or a second member of the second class of adoption participants upon verification that an agency that represents said first member or an agency that represents said second member has an access privilege to the data store, wherein
>
> (i) when the electronic query is on behalf of the first member, the electronic query includes a first plurality of request parameters that collectively define a first plurality of characteristics of a qualifying family that may adopt an unborn or newly born child from the first member;
>
> (ii) when the electronic query is on behalf of the second member, the electronic query includes a second plurality of request parameters that collectively define a second plurality of characteristics of (i) a qualifying unborn child or newly born child that may be adopted by the second member and (ii) optionally a birth parent of the unborn child or newly born child;
>
> (iii) the data store comprises or has access to a plurality of records, wherein each respective record in the plurality of records is either associated with (i) a member of the first class of adoption participants or (ii) a member of the second class of adoption participants; and

(iv) the plurality of records comprises a first set of records from a first adoption agency and a second set of records from a second adoption agency;

(B) searching the data store with the electronic query using a computer, thereby obtaining a search result comprising one or more records in the plurality of records that match the electronic query, wherein

when the electronic query is on behalf of the first member, each record in the search result is of a member in the second class of adoption participants, and

when the electronic query is on behalf of the second member, each record in the search result is of a member in the first class of adoption participants; and

(C) optionally, outputting the search result to a display, a tangible computer readable data storage product, a computer, or a tangible random access memory, wherein

said first member and said second member do not have an access privilege to the data store.

REJECTION

Claims 1–14, 18–35, 37, and 38 are rejected under 35 U.S.C. § 103(a) as unpatentable over MacDaniel (US 2009/0070126 A1, pub. Mar. 12, 2009), Springett (US 2007/0265965 A1, pub. Nov. 15, 2007), Appellant's Admitted Prior Art (hereinafter "AAPA"), and webpage retrieved from internet archive, Way Back Machine, www.AdoptionExchange.com (hereinafter "Document 1").

ANALYSIS

Independent claim 1 and dependent claims 2–14 and 18–35

Appellant argues that the Examiner erred in rejecting claim 1 under 35 U.S.C. § 103(a), *inter alia*, because the combination of MacDaniel, Springett, AAPA, and Document 1 does not disclose or suggest that a first class of adoption participants and a second class of adoption participants are

"each associated with an agency that has been granted an access privilege to the data store" and initiates a query of the data store on behalf of a first member of the first class of adoption participants or a second member of the second class of adoption participants, where "said first member and said second member do not have an access privilege to the data store," as called for in claim 1 (App. Br. 14, 17–18). More particularly, Appellant asserts that MacDaniel, on which the Examiner relies, does not disclose or suggest an agency associated with a first and second class of participants, but instead discloses an approach to employee services where agencies and recruiters are replaced by online services with the first class of participants (e.g., employers) and the second class of participants (e.g., job seekers) accessing the system themselves via the Internet (*id.* at 14).

MacDaniel is directed to a system and method for bringing together employers and job seekers (MacDaniel ¶ 42), and discloses that both employers and job seekers are able to remotely access the system "via the internet and a local terminal as known in the modern computer arts" (*id.*). The MacDaniel system, as shown in Figure 1, comprises a job seeker interface 12, an employer interface 14, and a remote system 16 (*id.* ¶ 44). MacDaniel discloses that remote system 16 is preferably maintained by a service provider, and "provides storage for a multiplicity of databases" comprising job seeker and employer information (*id.*). Remote system 16 also provides software interaction between job seeker interface 12 and employer interface 14, "allowing . . . a job seeker to access the database for employer information, and . . . an employer to access the database for job seeker information" (*id.*).

The Examiner takes the position that remote system 16, as disclosed in MacDaniel, is an "agency," as called for in claim 1, which searches the system databases "on behalf" of members of the first, e.g., employers, and a second, e.g., job seekers, classes of participants (Ans. 3 (citing MacDaniel ¶¶ 44, 56, 62, 66, and 71)). Yet, rather than making use of an agency, MacDaniel explicitly discloses that employers and job seekers access the data store directly — a result that runs afoul of claim 1, which expressly recites that "said first member and said second member do not have an access privilege to the data store."

The Examiner cites paragraph 56 of MacDaniel as support for the proposition that remote system 16 acts as an agency to initiate a data store query on behalf of the first and second participants. Yet, that paragraph describes that an employer "after logging into the system" inputs "specific keywords that match the type of job seeker" he or she wants for an available job. Thus, rather than the remote system querying the system on behalf of the employer, MacDaniel discloses, in paragraph 56, that the employer accesses the system and performs the query for him or herself. We fail to see how the ability to perform a query of a data store can be considered anything other than access to the data store itself. Indeed, as Appellant points out, the Examiner's interpretation "would require that the remote server — acting as an agent on behalf of the first/second member — send an electronic query over the Internet or wide area network to itself — acting as the tangible computer readable media hosting the data store" (Reply Br. 8).

For the reasons set forth above, we are persuaded that the Examiner erred in rejecting claim 1 as obvious over the combination of MacDaniel, Springett, AAPA, and Document 1. Therefore, we do not sustain the

Examiner's rejection of claim 1 under 35 U.S.C. § 103(a). For the same reasons, we also do not sustain the Examiner's rejection of claims 2–14 and 18–35, each of which depends, directly or indirectly, from claim 1. *Cf. In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992) ("dependent claims are nonobvious if the independent claims from which they depend are nonobvious").

Independent claims 37 and 38

Independent claims 37 and 38 include language substantially similar to the language of claim 1. Therefore, we do not sustain the Examiner's rejection of claims 37 and 38 under 35 U.S.C. § 103(a) for the same reasons set forth above with respect to claim 1.

DECISION

The Examiner's rejection of claims 1–14, 18–35, 37, and 38 under 35 U.S.C. § 103(a) is reversed.

REVERSED