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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JOHN NICHOLAS GROSS

Appeal 2011-004811
Application 11/565,411
Technology Center 2400

Before ELENI MANTIS MERCADER, JOHN A. EVANS, and MICHAEL J. STRAUSS, *Administrative Patent Judges*.

MANTIS MERCADER, *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 1-24. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

THE INVENTION

Appellant's claimed invention is directed to presenting relevant advertising to user search queries. The ads are based on content which is derived from a set of documents/pages from websites forming a collective. *See* Abstract.

Independent claim 1, reproduced below, is illustrative of the subject matter on appeal.

1. A method of identifying appropriate electronic advertising information for a search engine implemented using computer software instructions embodied in a computer usable medium executing on one or more computing machines and comprising:

forming a website collective whose members include a plurality of different websites characterized by a common parameter including at least one of a common content topic and/or a common contractual arrangement;

further wherein said website collective members are treated as a single aggregate content entity by the search engine for responding to searches related to at least said common content topic;

compiling content taken from webpages in the website collective to generate a synthetic document representing aggregated content from said different websites for said single aggregate content entity;

identifying an advertisement to be associated with said aggregated content and said single aggregate content entity by

comparing content of said advertisement and said synthetic document.

REFERENCES and REJECTION

1. The Examiner rejected claims 1-15, 19, and 21-24 as indefinite under 35 U.S.C.§ 112, second paragraph.
2. The Examiner rejected claims 1-5 and 10-23 under 35 U.S.C.§ 103(a) as unpatentable over Poremsky (Diane Poremsky, *Google and Other Search Engines: Visual Quickstart Guide* (2004)), Dean (U.S. Pub. No. 2004/0059708, Mar. 25, 2004), Chang (U.S. Pub. No. 2002/0052674 A1; May 2, 2002), Applicant Admitted Prior Art (AAPA) AdSense and Giguere (Eric Giguere, *Make Easy Money with Google: Using the AdSense Advertising Program* (2005)) (collectively referred to as the "Primary References").
3. The Examiner rejected claims 8-9 under 35 U.S.C. § 103(a) as unpatentable the above Primary References and Calishain (Tara Calishain, *Web Search Garage* (2004)).
4. The Examiner rejected claims 6-7 under 35 U.S.C. § 103(a) as unpatentable under the above Primary References and Appleman (U.S. Patent No. 6,081,788, Jun. 27, 2000);
5. The Examiner rejected claim 24 under 35 U.S.C. § 103(a) as unpatentable under the above Primary References and Johnson (US Patent No. 6,574,624 B1, Jun. 3, 2003);

ISSUES

The issues are whether the Examiner erred in finding that the:

1. recitation of "and/or" renders the claims indefinite; and

2. combination of Poremsky, Dean, Chang, AAPA, and Giguere teaches the limitation of a website collective members "treated as a single aggregate content entity by the search engine for responding to searches" as recited in claim 1.

ANALYSIS

Claims 1-15, 19, and 21-24 under 35 U.S.C.§ 112

The Examiner rejected claims 1-15, 19, and 21-24 as indefinite based on the use of the term "and/or" (Ans. 4). We agree with Appellant that "and/or" covers embodiments having element A alone, element B alone, or elements A and B taken together (App. Br. 16).[1]

Accordingly, we reverse the Examiner's rejections of claims 1-15, 19 and 21 -24 as being indefinite.

Claims 1-24 under 35 U.S.C.§ 103(a)

Appellant argues, *inter alia*, that the combination of the prior art references does not teach the limitation of a website collective members "treated as a single aggregate content entity by the search engine for responding to searches" as recited in claim 1 (App. Br. 18-21).

We agree with Appellant. The Examiner relies on Chang's teaching of a search result being stored and used to determine changes, the search result itself being the single entity made from a collective (Ans. 7). We agree with Appellant that Chang teaches that as the user moves, *different* results can be retrieved based on their respective position (App. Br. 15 and

[1] Should there be further prosecution, we note that the preferred verbiage to claim "at least" clauses of elements A and B would be "at least one of A *and* B" and not "at least one of A and/or B."

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