

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ex parte HOWARD JUSTIN GLASER, DANIEL EDWARD HOUSE,
CONSTANCE JANE NELIN, REBECCA BRAUN NIN, and BRIAN JOSEPH OWINGS

Appeal No. 2002-0068
Application No. 09/102,038

ON BRIEF

Before HAIRSTON, BARRY, and BLANKENSHIP, *Administrative Patent Judges*.
BARRY, *Administrative Patent Judge*.

DECISION ON APPEAL

A patent examiner rejected claims 1-16. The appellants appeal therefrom under 35 U.S.C. § 134(a). We reverse.

BACKGROUND

The invention at issue on appeal switches between pages of the Word Wide Web ("Web"). To host the Web, the Internet employs HyperText Markup Language ("HTML") and HyperText Transfer Protocol ("HTTP"). HTML is a programming language used to create and connect documents containing "hyperlinks." Hyperlinks are network addresses embedded in a word, phrase, icon, or picture. A user activates

a hyperlink by selecting a highlighted item displayed in a Web page. HTTP is a protocol used by Web clients and Web servers to communicate using the hyperlinks. (Spec. at 3.)

Switching a page presented to a user from a user-selected page to another HTML page can be desirable. Although such a switch can be implemented by prompting the user to enter a different HTML page, the appellants assert, "it is more desirable for this process to occur programmatically." (*Id.* at 4.) Programmatic switching allows logic running in a Web server to determine that the HTML page being viewed in a Web browser should change. "The logic decides which page to go to, and causes the browser to show the new page without user intervention. The user typically invokes programmatic switching by selecting a browser-displayed element, for example, by clicking a button." (*Id.*)

Accordingly, upon receipt of control information from a client computer, the appellants' application server executes a script to generate a map that relates HTML files with commands to show pages related to the HTML files. When a control event is received from the client computer, the mapping provides a basis for commanding the client computer's browser to switch to a second HTML page. (*Id.* at 21.)

A further understanding of the invention can be achieved by reading the following claim.

5. A method of switching a browser implemented on a client computer from a first HTML file to a second HTML file, comprising the steps of:

receiving control information from the browser, the control information derived from execution of an applet in the first HTML file and comprising data relating a file name for the second HTML file with a command to show the second HTML file; and

switching the browser to the second HTML file when a control event invoking the command to show the second HTML file is received from the browser.

Claims 1, 2, 7, 8, and 10-12 stand rejected under 35 U.S.C. § 103(a) as obvious over Oliver *et. al.*, *Netscape 3 Unleashed* 353-54 and 566-67(1996) ("Oliver"); Steven Holzner, *Java 1.1* 348-51 and 362-65 (1997) ("Holzner"); and U.S. Patent No. 5,960,429 ("Percy"). Claims 3, 4, 9, 13, and 14 stand rejected under § 103(a) as obvious over Netscape, Holzner, Percy, and U.S. Patent No. 5,953,731, ("Glaser"). Claim 5 stands rejected under 35 U.S.C. § 102(a) as anticipated by Dick Oliver and Molly Holzschlag, *Sams' Teach Yourself HTML 4 in 24 Hours* 32-34 (2d ed. 1997) ("HTML 4"). Claim 6 stands rejected under § 103(a) as obvious over HTML 4 and U.S. Patent No. 5,960,429 ("Percy"). Claims 15 and 16 stand rejected under § 103(a) as obvious over Percy and Holzner.

OPINION

Our opinion addresses the rejection of the claims in the following order:

- claims 1-4 and 7-16
- claims 5 and 6.

Claims 1-4 and 7-16

Rather than reiterate the positions of the examiner or the appellants *in toto*, we address the main point of contention therebetween. The examiner makes the following assertions.

Oliver [Netscape 3] discloses the receiving of control information from the execution of an applet in the first HTML file in the code listing 29.4 on page 566. However, Oliver [Netscape 3] does not specifically state that the control information comprises data relating to a second HTML file and command associated with the second HTML file (i.e., a URL) or the generation of a map.

Holzner, however, discloses that applets can be used to access web pages in the `imap.java` code listing on pages 364-365. Specifically refer to the line:

```
getAppletContext().showDocument(newURL);
```

in which the command and control information is reflected in the value of the `newURL` variable.

And Peercy discloses the executing of a script (or computer program) on the application server using the control information to generate a map relating the second HTML file and the command to show the second HTML page in Figure 2 and in column 3 lines 54-63.

Oliver [Netscape 3], Holzner and Peercy are analogous art because they are from the same field of endeavor, that is the Internet programming art.

It would have been obvious to one of ordinary skill in the art at the time of the invention to apply the teachings of Peercy and Holzner to Oliver [Netscape 3], because this solved a need to expedite and clarify the path from the web site to a given web page, as taught by Peercy in

column 1 lines 40-41, and it also allowed a web browser to navigate to the corresponding URL upon opening an applet in the browser, as taught by Holzner in the last paragraph on page 363.

(Examiner's Answer at 5-6.) The appellants argue, "Percy does not disclose *using control information received from an applet to execute a script to generate a map relating a second HTML file with a command to show a second HTML page.*" (Reply Br. at 3.)

"Analysis begins with a key legal question -- *what is the invention claimed?*" *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1567, 1 USPQ2d 1593, 1597 (Fed. Cir. 1987). In answering the question, "the Board must give claims their broadest reasonable construction. . . ." *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1668 (Fed. Cir. 2000).

Here, independent claim 15 specifies in pertinent part the following limitations: "a map relating a second HTML file with a command to show a second HTML page, the command invokable by activating a control on a first HTML page, the map generated from control information derived from execution of an applet in the first HTML page." Independent claims 1, 7, and 11 specify similar limitations. Giving claims 1, 7, 11, and 15 their broadest, reasonable construction, the limitations require using control

information derived from an execution of an applet in a first HTML page to generate a map relating a second HTML file with a command to show a second HTML page.

Having determined what subject matter is being claimed, the next inquiry is whether the subject matter would have been obvious. "In rejecting claims under 35 U.S.C. Section 103, the examiner bears the initial burden of presenting a *prima facie* case of obviousness." *In re Rijckaert*, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993) (citing *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992)). "A *prima facie* case of obviousness is established when the teachings from the prior art itself would . . . have suggested the claimed subject matter to a person of ordinary skill in the art." *In re Bell*, 991 F.2d 781, 783, 26 USPQ2d 1529, 1531 (Fed. Cir. 1993) (quoting *In re Rinehart*, 531 F.2d 1048, 1051, 189 USPQ 143, 147 (CCPA 1976)).

Here, the listing of Oliver cited by the examiner "shows a simple HTML document for embedding the Marquee applet." P. 566. The line of Holzner cited by the examiner is used to "navigate [a] Web browser to [a Uniform Resource Locator ('URL')]." P. 362. More specifically, it "uses the *Applet* class's *getAppletContext()* method to reach [a] Web browser and the context's *showDocument()* method to open [a] new URL. . . ." P. 362. The Figure of Peercy cited by the examiner "shows one possible structure of

the history log database 24 according to the present invention." Col. 4, ll. 30-31. More specifically, "[i]n the database 24 . . . each row of the table typically includes a name or title for the web page 26, an HTTP URL 28 for the web page, and a counter 30 that is incremented every time the web page is accessed." *Id.* at ll. 33-37.

We are unpersuaded that a combination of Oliver's teaching of an HTML document for embedding the Marquee applet, Holzner's teaching of navigating a Web browser to a URL, and Percy's teaching of history log database would have suggested using control information derived from execution of an applet in a first HTML page to generate a map relating a second HTML file with a command to show a second HTML page. Therefore, we reverse the obviousness rejection of claim 1; of claim 2, which depends therefrom; of claim 7; of claims 8 and 10, which depends therefrom; of claim 11; of claim 12, which depends therefrom; of claim 15; and of claim 16, which depends therefrom.

The examiner does not allege, let alone show, that the addition of Glaser cures the aforementioned deficiency of Oliver, Holzner, and Percy. Therefore, we also reverse the obviousness rejection of claims 3, 4, 9, 13, and 14.

Claims 5 and 6

The examiner asserts, "(HTML 4) discloses receiving control information and switching the browser accordingly upon a control event (here, a mouse click) in the last line of page 32, the first line of page 33, and Figures 3.5 and 3.6 on pages 33 and 34, respectively (wherein said figures illustrate the result of the switching of the browser)." (Examiner's Answer at 3.) The appellants argue, "[t]he [HTML 4] reference does not teach the step of receiving control information *from* a browser, as the claim requires; and . . . does not teach that the control information is derived from the execution of an applet in the first HTML file. . . ." (Reply Br. at 2.)

Claim 5 specifies in pertinent part the following limitations: "receiving control information from the browser, the control information derived from execution of an applet in the first HTML file and comprising data relating a file name for the second HTML file with a command to show the second HTML file. . . ." Giving the claim its broadest, reasonable construction, the limitations require receiving control information from a browser wherein the control information is derived from execution of an applet in a first HTML page and relates a file name for a second HTML file with a command to show the second HTML file.

"Having construed the claim limitations at issue, we now compare the claims to the prior art to determine if the prior art anticipates those claims." *In re Cruciferous*

Sprout Litig., 301 F.3d 1343, 1349, 64 USPQ2d 1202, 1206 (Fed. Cir. 2002). "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (citing *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 715, 223 USPQ 1264, 1270 (Fed. Cir. 1984); *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548, 220 USPQ 193, 198 (Fed. Cir. 1983); *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 771, 218 USPQ 781, 789 (Fed. Cir. 1983)). "[A]bsence from the reference of any claimed element negates anticipation." *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565, 1571, 230 USPQ 81, 84 (Fed. Cir. 1986).

Here, HTML 4 discloses that "[a]bsolute linking is the solution for any link that will take you from a page on your site, to a page somewhere else on the Internet." P. 32. By way of example, Figure 3.5 of the reference shows that an "absolute link in [an] article on Microsoft's site is hotlinked to Molly's site." P. 33. "Click on the link, and Molly's home page appears." P. 34. Figure 3.6 of HTML 4 shows Molly's home page within a window of a browser. The examiner does not allege, let alone show, that control information is received from the browser in the Figures. Nor does the examiner allege, let alone show, that control information is derived from execution of an applet in a first HTML page and relates a file name for a second HTML file with a command to

show the second HTML file. We will not "resort to speculation," *In re Warner*, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967), as to such teachings. Therefore, we reverse the anticipation rejection of claim 5.

The examiner does not allege, let alone show, that the addition of Peercy cures the aforementioned deficiency of HTML 4. Absent a teaching or suggestion of receiving control information from a browser, the control information being derived from execution of an applet in a first HTML page and relating a file name for a second HTML file with a command to show the second HTML file, we are unpersuaded of a *prima facie* case of obviousness. Therefore, we reverse the obviousness rejection of claims 6.

CONCLUSION

In summary, the rejection of claim 5 under § 102(a) is reversed. The rejections of claims 1-4 and 6-16 under § 103(a) are also reversed.

REVERSED

KENNETH W. HAIRSTON
Administrative Patent Judge

LANCE LEONARD BARRY
Administrative Patent Judge

HOWARD B. BLANKENSHIP
Administrative Patent Judge

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