

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* CSB-SYSTEM INTERNATIONAL, INC.  
Patent Owner and Appellant

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Appeal 2014-003666  
Reexamination Control 90/012,210  
Patent 5,631,953  
Technology Center 3900

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Before MAHSHID D. SAADAT, MICHAEL J. STRAUSS, and  
ROBERT J. WEINSCHENK, *Administrative Patent Judges*.

WEINSCHENK, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant CSB-System International, Inc. (“Appellant”) appeals under 35 U.S.C. §§ 134(b) and 306 from a final rejection of claims 1-8. We have jurisdiction under 35 U.S.C. §§ 134(b) and 306. We heard oral arguments on June 11, 2014.

We affirm.

STATEMENT OF THE CASE

*Introduction*

We review the Examiner’s rejections in light of Appellant’s contentions the Examiner erred. We refer herein to Appellant’s Appeal

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Brief filed August 5, 2013 (“App. Br.”), the Examiner’s Answer mailed September 18, 2013 (“Ans.”), and Appellant’s Reply Brief filed November 18, 2013 (“Reply Br.”).

U.S. Patent No. 5,631,953 (“the ’953 Patent”) relates to integrating electronic data processing (“EDP”) systems with telephone systems connected to a public telephone network (the ’953 Patent 1:7-10).

Claim 1, which is illustrative, reads as follows:

1. A circuit arrangement for integration of EDP systems in utilization of telephone systems connected to a public ISDN or Euro ISDN telephone network, the circuit arrangement comprising a plurality of telephone extensions which are directly connectable to a telephone network selected from the group consisting of a public ISDN telephone network and Euro ISDN telephone network; a first line; an intelligent telephone system arranged so that said telephone extensions are connectable with said at least one telephone network through said first line and said intelligent telephone system; a plurality of personal computers; an integration element arranged between said intelligent telephone system and said personal computers, said integration element receiving signals via at least one connection element selected from the group consisting of an SDLC connection element and an ISDN connection element via a second line from said at least one telephone network via said intelligent telephone system and sending back signals to said at least one telephone network, said integration element also sending a data record assigned an appropriate information via a third line, via a LAN connected to a LAN server by a fourth line and via a fifth line to said personal computers and receiving a data record from said personal computers again; a computing system; and a software layer arranged so that a conversion of the signals into a data record and vice versa is carried by said integration element, by said computing system, by said software layer and by said at least one connection element with an internal software.

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Henrik D. Parker (“Third Party Requester”) filed a request for *ex parte* reexamination of claims 1-8 of the ’953 Patent on April 24, 2012 (“Request”).<sup>1</sup> The real party in interest in this reexamination is Appellant (App. Br. 1). The ’953 Patent was the subject of litigation styled *CSB-Sys. Int’l, Inc. v. SAP Am., Inc.*, No. 2:10-cv-2156-RB (E.D. Pa.) (App. Br. 1). In that litigation, the U.S. District Court for the Eastern District of Pennsylvania (“District Court”) issued an opinion construing certain claim terms in the ’953 Patent. *See CSB-Sys. Int’l, Inc. v. SAP Am., Inc.*, No. 2:10-cv-2156-RB, 2011 WL 3240838 (E.D. Pa. July 28, 2011). The ’953 Patent expired on May 20, 2014.

#### *Rejections on Appeal*

Claim 1 stands rejected under 35 U.S.C. § 102(e) as being anticipated by Heinzelmann (US 4,866,758; issued Sept. 12, 1989) (*see* Final Rej. 70-77).<sup>2</sup>

Claims 1-6 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Gursahaney (US 5,097,528; issued Mar. 17, 1992) (*see* Final Rej. 77-93).

Claims 1-6 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gursahaney and Dorst (US 5,046,183; issued Sept. 3, 1991) (*see* Final Rej. 94-95).

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<sup>1</sup> We do not consider the original request for *ex parte* reexamination filed by the Third Party Requester on March 27, 2012, because the replacement request filed April 24, 2012, supersedes the original request.

<sup>2</sup> We note the Final Rejection (Final Rej. 70), Appeal Brief (App. Br. 16), and Reply Brief (Reply Br. 2) refer to Heinzelmann as U.S. Patent 5,821,877.

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Claims 7 and 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gursahaney, Dorst, and Okata (US 4,995,073; issued Feb. 19, 1991) (*see* Final Rej. 96).

Claims 7 and 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gursahaney, Dorst, and Koshiishi (US 4,652,933; issued Mar. 24, 1987) (*see* Final Rej. 96).

Claims 1-8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over IBM CallPath CallCoordinator/2 System Administrator's Guide (2d ed. Mar. 1992) (hereinafter "Administrator's Guide"), IBM CallPath CallCoordinator/2 User's Guide (1st ed. July 1992), IBM CallPath Services Reference for Northern Telecom Meridian 1 PBX Release 1 (1st ed. Mar. 1992), IBM CallPath Coordinator/2 Server System Administrator's Guide (1st ed. July 1992), IBM CallPath Coordinator/2 Archive System Administrator's Guide (1st ed. July 1992) (collectively "IBM"), and Gursahaney (*see* Final Rej. 96-98).

#### CLAIM CONSTRUCTION

In reexamination, claims typically are given their broadest reasonable interpretation consistent with the specification. *In re NTP, Inc.*, 654 F.3d 1279, 1287 (Fed. Cir. 2011). However, in reexamination of an expired patent, a policy of liberal claim construction favoring validity may be warranted because the claims of an expired patent cannot be amended. *Ex parte Papst-Motoren*, 1 USPQ2d 1655, 1656 (BPAI 1986). Here, the '953 Patent expired during this appeal, and Appellant had ample opportunity to amend the claims during the proceedings before the Examiner. Therefore,

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the policy of *Papst-Motoren* favoring a liberal claim construction of expired patents did not apply during the proceedings before the Examiner, and Appellant does not argue such a policy should apply during this appeal (App. Br. 17 (acknowledging claims are given broadest reasonable interpretation consistent with the specification)).

*Construction of "Directly Connectable"*

Appellant argues the term "directly connectable" in claim 1 should be construed to mean capable of connecting *without* any intermediary devices (App. Br. 25). The Examiner finds the term "directly connectable" in claim 1 encompasses devices capable of connecting *through* an intermediary device (Ans. 5-7). We note the District Court construed the term "directly connectable" to mean "can be directly connected," and thus did not separately construe the term "directly" in claim 1. *CSB-Sys.*, 2011WL 3240838, at \*9.

We agree with the Examiner the phrase "directly connectable" in claim 1 encompasses devices capable of connecting through an intermediary device. This construction is supported by the Specification of the '953 Patent. In particular, the Specification states: "the telephone sets . . . are *directly* connected to the public ISDN or Euro ISDN telephone system (1) *via* a line (a) and an intelligent telephone installation (3)" (Spec. Abstract (emphasis added)). The Specification also states: "[w]hen a caller dials a competent party . . . the connection is made *directly through* an intelligent telephone system 3 and a line a to telephone extension 2" (Spec. 4:33-37 (emphasis added)). Thus, the Specification consistently uses the term "directly" to refer to connections made through an intermediary device,

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thereby indicating the Examiner correctly interpreted the term “directly connectable” in claim 1. *See Phillips v. AWH Corp.*, 415 F.3d 1303, 1316 (Fed. Cir. 2005) (“The construction that stays true to the claim language and most naturally aligns with the patent’s description of the invention will be, in the end, the correct construction.”).

Appellant argues the above-referenced portions of the Specification are not relevant because they discuss direct *connections* and claim 1 recites directly *connectable* (Reply Br. 18). Appellant’s argument is not persuasive. Appellant admits the term “directly connectable” in claim 1 refers to the capability of a direct connection (App. Br. 23). Therefore, the above-referenced portions of the Specification discussing direct connections are relevant to construing the term “directly connectable” in claim 1.

Appellant also argues the Examiner’s construction improperly gives the same meaning to the two different terms, “connectable” and “directly connectable,” in claim 1 and reads the term “directly” out of the claim (App. Br. 25). Appellant’s argument is not persuasive. Although different claim terms are presumed to have different meanings, the presumption can be overcome based on the written description. *See Nystrom v. Trex Co.*, 424 F.3d 1136, 1143 (Fed. Cir. 2005) (“Different terms or phrases in separate claims may be construed to cover the same subject matter where the written description and prosecution history indicate that such a reading of the terms or phrases is proper.”). Here, the portions of the written description of the ’953 Patent discussed above indicate the Examiner’s construction is reasonable. Moreover, as the Examiner explains and Appellant does not persuasively rebut, construing “directly connectable” in claim 1 to

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encompass devices capable of connecting through an intermediary device does not necessarily result in the terms “directly connectable” and “connectable” in claim 1 having the same meaning (Ans. 8 (explaining the term “directly connectable” in claim 1 may require a defined path for the connection, whereas the term “connectable” in claim 1 may not)).

*Construction of “Personal Computer”*

Appellant argues the term “personal computer” in claim 1 should be construed so as to exclude a personal computer operating as a terminal (App. Br. 27-29). The Examiner finds there is no support for construing the term “personal computer” in claim 1 to exclude a personal computer operating as a terminal (Ans. 9-11). We note the District Court construed the term “personal computer” in claim 1 as follows: “[a] desktop, floor-standing, or portable microcomputer that usually consists of a system unit, a display monitor, a keyboard, one or more diskette drives, internal fixed storage, and an optional printer. A PC is designed to give independent computing power to a single user.” *CSB-Sys.*, 2011WL 3240838, at \*11. The District Court did not state whether its construction excludes a personal computer operating as a terminal. *Id.*

We agree with the Examiner the term “personal computer” in claim 1 encompasses a personal computer operating as a terminal. We conclude there is no persuasive evidence of record for construing the term “personal computer” in claim 1 as proposed by Appellant. Appellant argues the language of claim 1 requires the personal computer to send and receive data records, and therefore the personal computer cannot be operating as a terminal (App. Br. 28). However, Appellant points to no evidence indicating

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a personal computer operating as a terminal cannot send and receive data records. In fact, the prior art of record teaches that a personal computer operating as a terminal can send and receive data records (*see, e.g.,* Gursahaney 6:44-49 (“The gateway 118 will *send data* from the PBX 120 to the service representative workstations 100 and 100’ via the local area network 116. The gateway 118 will *receive transfer and conferencing requests from service representative workstations* 100 and 100’ . . . ” (emphasis added)). Further, the portions of the written description of the ’953 Patent cited by Appellant (App. Br. 28) do not indicate the term “personal computer” in claim 1 excludes a personal computer operating as a terminal.

#### *Construction of “LAN Server”*

Appellant argues the term “LAN server” in claim 1 should be construed to mean a computer providing shared services to other components on the Local Area Network (“LAN”) and responding to requests from clients (App. Br. 30). The Examiner finds there is no support for construing the term “LAN server” in claim 1 to include such limitations (Ans. 11-12). We note the District Court construed the term “server” in claim 1 as follows: “a computer on the Local Area Network (LAN) that responds to requests from telephone software and provides shared services to the personal computers/workstations in response to queries from clients.” *CSB-Sys.*, 2011WL 3240838, at \*14.

For purposes of this appeal, we need not decide whether the term “LAN server” in claim 1 includes the limitations proposed by Appellant. Appellant admits the limitations in its proposed construction are all inherent

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features of a server on a LAN (App. Br. 32; Reply Br. 21-22). As such, Appellant admitted during the oral hearing, if a prior art reference teaches a server on a LAN, it necessarily teaches all the limitations in Appellant's proposed construction (Tr. 12:19-23). As discussed below, we find the Heinzlmann and Administrator's Guide references expressly teach a server on a LAN and thus, by Appellant's admission, teach the "LAN server" recited in claim 1. Further, as discussed below, we find Gursahaney teaches the "LAN server" in claim 1 even under Appellant's proposed construction, because the host computer in Gursahaney provides shared services to other components on the LAN and responds to requests from clients.

#### *Construction of "Data Record"*

Appellant argues the term "data record" in claim 1 should be construed to mean a set of data by which information is electronically sent from the integration element to the personal computer and back, and by which information is queried from a database by a client using a personal computer (App. Br. 33). The Examiner finds the term "data record" in claim 1 means a set of data by which information is electronically sent (Ans. 13), and identifies where each of the references (i.e., Heinzlmann, Gursahaney, and the Administrator's Guide) teach the data record under that construction (Final Rej. 75, 76, 83, 84, 96). We note Appellant's proposed construction is the same as the District Court's construction of the term "data record" in claim 1. *CSB-Sys.*, 2011WL 3240838, at \*16.

For purposes of this appeal, we need not decide whether the term "data record" in claim 1 includes the limitations proposed by Appellant. Appellant does not explain why any of the references relied on by the

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Examiner (i.e., Heinzelmann, Gursahaney, and the Administrator's Guide) do not teach the "data record" in claim 1 under the Examiner's or Appellant's proposed construction. Appellant suggests the menu image taught by Gursahaney is not the "data record" recited in claim 1, but fails to provide any reasoning or evidence to support that argument (App. Br. 55). Therefore, we are not persuaded the Examiner erred in finding the Heinzelmann, Gursahaney, and Administrator's Guide references teach the "data record" in claim 1, even under Appellant's proposed construction.

#### PRIOR ART REJECTIONS

##### *Anticipation of Claim 1 by Heinzelmann*

Appellant argues Heinzelmann does not teach a plurality of telephone extensions which are directly connectable to a telephone network because Heinzelmann teaches telephones connected to a telephone network through a private branch exchange ("PBX") (App. Br. 37). Appellant's argument is not persuasive. As discussed above, we agree with the Examiner the term "directly connectable" in claim 1 encompasses devices capable of a connection through an intermediary device. Appellant does not dispute Heinzelmann teaches the claim limitation at issue under the Examiner's construction of "directly connectable" in claim 1.

Appellant argues Heinzelmann does not teach at least one connection element selected from the group consisting of an SLDC connection element and an ISDN connection element because Heinzelmann does not teach an ISDN signaling protocol between the PBX and the phone management server (App. Br. 44). Appellant's argument is not persuasive. As the

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Examiner explains (Ans. 18), Heinzelmann teaches, in an ISDN, the Digital Communications Protocol (“DCP”) signaling protocol is the CCITT-defined Q.931 protocol (Heinzelmann 6:3-8). As the Examiner also explains (Final Rej. 74), Heinzelmann teaches the phone management server communicates with the PBX using the appropriate DCP (Heinzelmann 5:2-4). Therefore, we agree with the Examiner (Ans. 20) the phone management server includes an ISDN connection element because Heinzelmann teaches the phone management server will communicate with the PBX using the appropriate DCP signaling protocol for an ISDN.

Appellant argues Heinzelmann does not teach a LAN server because Heinzelmann teaches away from using a LAN server to integrate an EDP system and a telephone system (App. Br. 47-48). Appellant’s argument is not persuasive. Heinzelmann indicates a LAN server alone does not integrate voice transmission capabilities (Heinzelmann 2:4-6). However, as the Examiner explains (Ans. 24), Heinzelmann explicitly teaches a LAN server is part of the invention. For example, Heinzelmann states:

The description of the present invention which follows is directed to the technique of locally associating a telephone connected to an AT&T System . . . and a personal computer (PC) or minicomputer connected to a separate AT&T STARLAN PC Local Area Network (PC-LAN) in order to provide a phone management server application.

(Heinzelmann 2:59-68). Therefore, we agree with the Examiner that Heinzelmann teaches a LAN server.<sup>3</sup>

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<sup>3</sup> We note, contrary to Appellant’s argument (App. Br. 48), claim 1 does not require the LAN server to be arranged between the integration element and the personal computers.

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Appellant argues Heinzelmann does not teach an EDP system because Heinzelmann does not show a shared database associated with the LAN server (App. Br. 49). Appellant's argument is not persuasive. The Examiner explains (Ans. 26) Heinzelmann teaches an AT&T STARLAN PC Local Area Network (PC-LAN) allowing personal computers to access "shared" directories and files (Heinzelmann 1:63-68). As discussed above, this LAN is part of the invention disclosed in Heinzelmann. Therefore, we agree with the Examiner that Heinzelmann teaches a shared database associated with a LAN server.<sup>4</sup>

Accordingly, we sustain the Examiner's rejection of claim 1 as being anticipated by Heinzelmann.

*Anticipation of Claims 1-6 by Gursahaney*

Appellant argues Gursahaney does not teach a plurality of telephone extensions which are directly connectable to a telephone network because Gursahaney teaches telephones connected to a telephone network through a PBX (App. Br. 51). Appellant's argument is not persuasive. As discussed above, we agree with the Examiner the term "directly connectable" in claim 1 encompasses devices capable of a connection through an intermediary device. Appellant does not dispute Gursahaney teaches the limitation at issue under the Examiner's construction of "directly connectable" in claim 1.

Appellant argues Gursahaney does not teach a plurality of personal computers because the personal computers in Gursahaney are operating as

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<sup>4</sup> As a result, we need not decide whether the "EDP system" recited in the preamble of claim 1 is a substantive limitation to be afforded patentable weight.

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terminals (App. Br. 53-54). Appellant's argument is not persuasive. As discussed above, we agree with the Examiner the term "personal computer" in claim 1 encompasses personal computers operating as terminals. Appellant does not dispute Gursahaney teaches the claim limitation at issue under the Examiner's construction of "personal computer" in claim 1.

Appellant argues Gursahaney does not teach a LAN server because the host computer in Gursahaney cited by the Examiner is not a server (App. Br. 64). Appellant's argument is not persuasive. Although Gursahaney does not expressly contain the word "server," Gursahaney teaches a host computer that performs all the functions Appellant contends are necessary for a computer to be a server. As the Examiner explains (Final Rej. 84), the workstations (or clients) on the LAN can request shared services, in the form of caller-specific information, from the host computer via the LAN (Gursahaney 4:45-48 ("The workstation 100, under program control, automatically accesses host applications running on the host 200, to provide caller-specific information to the service representative."); *id.* at Fig. 26A). Therefore, we agree with the Examiner that Gursahaney teaches the "LAN server" in claim 1, even under Appellant's proposed construction.

Accordingly, we sustain the Examiner's rejection of claims 1-6 as being anticipated by Gursahaney.

*Obviousness of Claims 1-6 over Gursahaney and Dorst*

The Examiner cites to Dorst as teaching a telephone capable of connecting to a telephone network without any intermediary devices (Final Rej. 95), as required by Appellant's proposed construction of "directly connectable" in claim 1. As discussed above, we disagree with Appellant's

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proposed construction of “directly connectable” in claim 1, and we sustain the Examiner’s rejection of claims 1-6 as anticipated by Gursahaney. Nonetheless, we agree with the Examiner’s finding Dorst teaches a telephone capable of connecting to a telephone network without any intermediary devices.

Appellant argues Dorst teaches an enhanced telephone, whereas the “telephone extensions” recited in claim 1 of the ’953 Patent must be simple telephone extensions without multi-functions (App. Br. 70). Appellant’s argument is not persuasive. Claim 1 recites “telephone extensions,” and we are not persuaded the portion of the written description of the ’953 Patent cited by Appellant (App. Br. 70) requires limiting the term “telephone extensions” in claim 1 to simple telephone extensions without multi-functions. Moreover, Appellant’s argument only addresses the references individually, not the combination cited by the Examiner. *See In re Keller*, 642 F.2d 413, 426 (CCPA 1981) (“[O]ne cannot show non-obviousness by attacking references individually where, as here, the rejections are based on combinations of references.”). The Examiner cites to Gursahaney as teaching the “telephone extensions” recited in claim 1 of the ’953 Patent (Ans. 36-37). The Examiner cites to Dorst only to show it would have been well-known to one of ordinary skill in the art at the time of the invention that telephone extensions are capable of being connected to a telephone network without intermediary devices (Ans. 36-37). Therefore, Appellant’s argument does not address the combined teachings of the references as they apply to the disputed claim limitation.

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Appellant argues the Examiner does not show one of ordinary skill in the art could use the enhanced telephone taught by Dorst in the system taught by Gursahaney (App. Br. 70-71). However, “[t]o justify combining reference teachings in support of a rejection it is not necessary that a device shown in one reference can be physically inserted into the device shown in the other.” *In re Keller*, 642 F.2d at 425. “[T]he test is what the combined teachings of the references would have suggested to those of ordinary skill in the art.” *Id.* For at least this reason, Appellant’s argument is not persuasive.

Accordingly, we sustain the Examiner’s rejection of claims 1-6 as being unpatentable over Gursahaney and Dorst.

*Obviousness of Claims 7-8 over Gursahaney, Dorst, and Okata*

Appellant argues the Examiner erred procedurally by not making the necessary factual findings to support an obviousness rejection (App. Br. 72-74). Specifically, Appellant argues the Examiner adopted the reasons set forth by the Third Party Requestor, which are mere conclusions (App. Br. 73). Appellant’s argument is not persuasive. The Examiner adopted the reasoning of the Third Party Requestor (Ans. 38-39), which explains the scope and content of Gursahaney, Dorst, and Okata, identifies the teachings of Okata that compensate for the deficiencies in Gursahaney and Dorst, and provides support for the conclusion that incorporating the known fax capabilities of Okata into the system of Gursahaney would yield predictable results (Request 135-137). Therefore, we find the Examiner provided articulated reasoning with some rational underpinning that the cited

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combination would have been obvious to one of ordinary skill in the art. *See KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007).

Accordingly, we sustain the Examiner's rejection of claims 7 and 8 as being unpatentable over Gursahaney, Dorst, and Okata.

*Obviousness of Claims 7-8 over Gursahaney, Dorst, and Koshiishi*

With respect to the combination of Gursahaney, Dorst, and Koshiishi, Appellant presents the same argument addressed above regarding the combination of Gursahaney, Dorst, and Okata (App. Br. 72-74). For the reasons discussed above, Appellant's argument is not persuasive.

Accordingly, we sustain the Examiner's rejection of claims 7 and 8 as being unpatentable over Gursahaney, Dorst, and Koshiishi.

*Obviousness of Claims 1-8 over IBM and Gursahaney*

Appellant argues there is a lack of foundation for the Administrator's Guide because the Third Party Requester does not explain where the document was found or who provided the document and because it is an incomplete photocopy (App. Br. 75-77). The Administrator's Guide indicates it is an IBM document intended to provide information to assist the person responsible for installing and configuring the CallCoordinator/2 system (Administrator's Guide iii). Appellant does not provide any persuasive evidence indicating the Administrator's Guide is not what it purports to be on its face. *See NTP*, 654 F.3d at 1296 ("NTP had the burden to prove the document was not authentic."). The copy of the Administrator's Guide provided by the Third Party Requestor includes pages i-xii and 1-10 in their entirety, but lacks the remaining pages (*see*

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Administrator's Guide). However, Appellant does not explain why the missing pages are necessary to understand the available portions of the reference, nor does Appellant suggest the missing pages contradict the available portions of the reference. *See In re Enhanced Sec. Research, LLC*, 739 F.3d 1347, 1356 (Fed. Cir. 2014). Therefore, Appellant's argument is not persuasive.

Appellant argues the Examiner does not establish the Administrator's Guide is a printed publication because there is no evidence it could have been accessed by one of ordinary skill in the art (App. Br. 78-81). Appellant points to electronic searches performed by Appellant purportedly showing the document could not be located in the IBM Publication Center, the Library of Congress, or the Public Catalog of the U.S. Copyright Office (App. Br. 81). Appellant's argument is not persuasive. As the Examiner explains (Ans. 40-41), the Administrator's Guide indicates it was completed in March 1992, and it would have been available for order through an IBM representative or local IBM branch (Administrator's Guide ii). Thus, the Administrator's Guide, on its face, indicates one of ordinary skill in the art in this field would have been able to access a copy by ordering it from IBM. The Administrator's Guide also appears to be a bound document, indicating it was a final version available for ordering, not a draft (*see* Administrator's Guide). Appellant's evidence that the document could not be located using three electronic searches performed in 2012 (*see* App. Br. Ex. 12-14) does not persuade us that one of ordinary skill in the art could not access the document, such as by ordering it from IBM, in March 1992.

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Appellant argues the Examiner does not establish when the Administrator's Guide was accessible by the public because the March 1992 date on the document may indicate when the document was written, not when it was available to the public (App. Br. 82). Appellant's argument is not persuasive. As discussed above, on its face, the Administrator's Guide is a final version marked with the date March 1992, and could have been ordered from IBM. Appellant's argument that the document may not have been publicly available in March 1992 is based on speculation (*see, e.g.*, App. Br. 82 ("Beta-testing of the software *may have been* ongoing or the software *could have been* held up for debugging." (emphasis added)), not evidence. *Cf. In re Geisler*, 116 F.3d 1465, 1470 (Fed. Cir. 1997) ("An assertion of what seems to follow from common experience is just attorney argument and not the kind of factual evidence that is required to rebut a prima facie case of obviousness." (citations omitted)).

Appellant argues the Administrator's Guide does not teach a plurality of personal computers because the personal computers in the Administrator's Guide are operating as terminals (App. Br. 87-88). Appellant's argument is not persuasive. As discussed above, we agree with the Examiner the term "personal computer" in claim 1 encompasses personal computers operating as terminals. Appellant does not dispute the Administrator's Guide teaches the claim limitation at issue under the Examiner's construction of "personal computer" in claim 1.

Appellant argues the Administrator's Guide does not teach a LAN server because a host application may reside on the LAN server disclosed in the Administrator's Guide (App. Br. 90-91). According to Appellant, the

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claims make clear the LAN server in the claimed integrated system plays no part in the control of information (App. Br. 91). Appellant's argument is not persuasive. Claim 1 simply recites "a LAN connected to a LAN server." Claim 1 does not limit the types of applications that can reside on the LAN server. As such, we agree with the Examiner (Ans. 47-48) that the Administrator's Guide teaches the "LAN server" recited in claim 1 (Administrator's Guide Fig. 1).

Accordingly, we sustain the Examiner's rejection of claims 1-8 as being unpatentable over IBM and Gursahaney.

#### *Proposed Claim Amendments*

Appellant explains the Examiner refused to enter certain claim amendments and argues the claim amendments should be considered on appeal (App. Br. 92). The issue of whether the Examiner's refusal to enter an amendment after final rejection constitutes an abuse of discretion is a matter remedied by petition, and thus is not before this panel on appeal. *In re Mindick*, 371 F.2d 892, 894 (CCPA 1967).

#### DECISION

The Examiner's rejection of claim 1 as being anticipated by Heinzelmann is affirmed.

The Examiner's rejection of claims 1-6 as being anticipated by Gursahaney is affirmed.

The Examiner's rejection of claims 1-6 as being unpatentable over Gursahaney and Dorst is affirmed.

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The Examiner's rejection of claims 7 and 8 as being unpatentable over Gursahaney, Dorst, and Okata is affirmed.

The Examiner's rejection of claims 7 and 8 as being unpatentable over Gursahaney, Dorst, and Koshiishi is affirmed.

The Examiner's rejection of claims 1-8 as being unpatentable over IBM and Gursahaney is affirmed.

**TIME PERIOD FOR RESPONSE**

Requests for extensions of time in this *ex parte* reexamination proceeding are governed by 37 C.F.R. § 1.550(c). *See* 37 C.F.R. § 41.50(f).

**AFFIRMED**

msc

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