

EXHIBIT 3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Gene Eggleston et al.)
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Patent No. 6,101,531) Control No.: Unassigned
)
Issue Date: August 8, 2000) Request Filed: March 7, 2010
)
Filing Date: April 15, 1998)
)
Title: System For Communicating User-Selected)
Criteria Filter Prepared At Wireless Client)
To Communication Server For Filtering)
Data Transferred From Host To Said)
Wireless Client)

Mail Stop *Ex Parte* Reexam
Central Reexamination Unit
Office of Patent Legal Administration
United States Patent & Trademark Office
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**REQUEST FOR *EX PARTE* REEXAMINATION PURSUANT TO
35 U.S.C. § 302 AND 37 C.F.R. § 1.510**

Pursuant to 35 U.S.C. § 302 and 37 C.F.R. § 1.510, third party requester hereby requests that reexamination of the above-identified patent be ordered by the U.S. Patent and Trademark Office.

I. Claims for Reexamination

In accordance with 37 C.F.R. § 1.510, reexamination of claims 1-3, 5-6, and 11 of U.S. Patent No. 6,101,531 (“the ‘531 patent”) is requested. A copy of the ‘531 patent is attached as Appendix A in accordance with 37 C.F.R. §1.510(b)(4).

II. Overview

The '531 patent relates primarily to the ability of a user at a mobile device to create, modify, and upload user-selected criteria for filtering messages. The filtering criteria may then be used by a server to filter messages for the mobile device to limit the costs associated with wireless communication. The filtering criteria are communicated to the sever via “a virtual session,” a phrase which the patent describes with little or no detail.

The requester knew there was nothing new or non-obvious about utilizing user-selected criteria to filter messages and thus filed a request for reexamination on December 23, 2008, which was assigned control number 90/010,369. The first request explained that U.S. Patent No. 5,742,905 to Pepe et al. (“Pepe”) described a system that allowed a user to create, modify and upload filtering criteria to a communications server. Consequently, requester urged that Pepe presented substantial new questions of patentability because it anticipated claims 1 and 11 and rendered claims 2 and 3 obvious when combined with general knowledge in the field as described by the examiner of the '531 patent.

The reexamination examiner agreed that Pepe indeed disclosed the filtering limitations of the claims. (Order Granting/Denying Request for Ex Parte Re-examination of February 10, 2009 at 3-4.) Specifically, the reexamination examiner found that Pepe disclosed preparing user-selected criteria, communicating the criteria to a communication server, and filtering subsequent data units, citing to the specific portions of Pepe which disclosed such features (Id.).

However, the examiner denied the request for reexamination, because, in the reexamination examiner’s opinion, the request lacked support as to how or why Pepe managed virtual sessions. The reexamination examiner noted that the word “virtual” or “an identifiable synonym” did not appear in Pepe. Moreover, the reexamination examiner stated that “a mere

wireless transmission is not a teaching of a virtual session.” (Id. at 4, emphasis in original.)

Requester agrees that a virtual session is not merely synonymous with “wireless transmission;” nor is it synonymous with “wireless packetized transmission.” Requester agrees that the term is not that broad.¹

This paper is a second request for reexamination of the ‘531 patent. This request demonstrates that both the filtering limitations and the virtual session limitation are old.

For example, a publication entitled “Trials of Wireless Secure Electronic Mail” to Smith et al. clearly discloses user-selected filtering and communicating those criteria to a server via a virtual session. More specifically, Smith notes users may be concerned with transmission costs associated with long or low priority messages, and thus users can select filters on incoming messages and specify which messages are downloaded to the portable PC. Filter “criteria” could be set for priority, message size, length, and subject among others (Smith at 30). “For example, if a user was limited in time, a filter could be set on the length of the messages. In this case, only short messages would be downloaded to the remote computer.” (Smith at 30.) Moreover, in Smith, TCP sessions are created between the mobile unit and the communication server (e.g., “cc: Mail router”) and thus provide session semantics between the mobile unit and the server. These TCP session are conveyed over the very same wireless, sessionless communication protocols identified in the ‘531 patent (i.e., CDPD, ARDIS and RAM/Mobitex).² Thus, Smith

¹ Requester maintains that Pepe in fact sufficiently discloses the “virtual session” limitation because, though it does not use that particular phrase “virtual session,” it inherently discloses the term in that it uses the same communication protocols as the ‘531 and the same session techniques, such as session timing, as described in the embodiments of the 531. To this end, Requester has filed a Petition to Reconsider that is still pending. Moreover, in a different reexamination matter (90/010,370) for a patent with a highly similar specification, a different examiner concluded that the same Pepe reference disclosed a virtual session manager. Lastly, though the reexamination examiner of the ‘531 correctly noted that “virtual session” is not so broad as to be synonymous with wireless transmissions, the examiner did not provide an interpretation of the term to use in this request.

² See, e.g., ‘531 patent, Col. 6, ll. 17-22; see also ‘531 patent, Col. 4, ll. 39-45.

V. Conclusion

In view of the above, a substantial new question of patentability is raised based upon the reference cited herein. An order of reexamination is respectfully requested. Such action is believed to be in order.

The Commissioner is hereby authorized to charge the Reexamination fee of \$2520.00 to Deposit Account 08-0219. No other fees are believed due, however the Commissioner is hereby authorized to charge any fee deficiencies or credit any overpayments to Deposit Account 08-0219.

Respectfully submitted,

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