The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte EDWARD L. KOCH, JEFFREY WARREN SCOTT,
and THOMAS IAN ARMITAGE

Appeal No. 2001-1876
Application No. 09/271,410

ON BRIEF

Before THOMAS, HAIRSTON, and BLANKENSHIP, Administrative Patent Judges.

BLANKENSHIP, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1-15, which are all the claims in the application.

We reverse.

BACKGROUND

The invention relates to acknowledgment of receipt of messages in network protocols. Claim 1 is reproduced below.

> 1. A method for acknowledgment of receipt of a message in a network, the network including a plurality of nodes, comprising the steps of:
>
> (a) sending a message from a first node of the plurality of nodes destined for a second node of the plurality of nodes;
>
> (b) setting a timer for the first node for receipt of an acknowledgment packet from the second node;
>
> (c) determining if a wait acknowledge packet is received by the first node, wherein the wait acknowledge packet notifies the first node that the message has been sent to a next hop; and
>
> (d) resetting the timer if the wait acknowledge packet is received by the first node.

The examiner relies on the following references:

Chen et al. (Chen)	4,970,714	Nov. 13, 1990
Ohsawa	5,519,699	May 21, 1996

Claims 1-15 stand rejected under 35 U.S.C. § 103 as being unpatentable over Chen and Ohsawa.

We refer to the Final Rejection (Paper No. 10) and the Examiner's Answer (Paper No. 16) for a statement of the examiner's position and to the Brief (Paper No. 15) and the Reply Brief (Paper No. 17) for appellants' position with respect to the claims which stand rejected.

OPINION

In response to the section 103 rejection, appellants argue, inter alia, that Ohsawa does not teach the limitations attributed to the reference. Appellants contend that the sending terminal is not notified that data has been forwarded to the next hop.[1] (Brief at 6-7.)

The examiner responds (Answer at 10-11) by pointing to Figure 2 of Ohsawa and portions of columns 4, 5, and 6 of the reference. According to the examiner, the reference shows that a notification is sent from one router to a previous router that data has been forwarded to the next router because, at each of the routers, "data that had been stored on its memory was erased in response to an ACK from the following node." (Id. at ¶ bridging pp. 10-11.) We note that the referenced sections of Ohsawa describe a first, second, and third embodiment of the invention. The Answer appears to rely in particular on the second embodiment (e.g., col. 4, ll. 20-33).

In any event, Ohsawa describes sending an acknowledgment signal indicating confirmation of reception of data or that data has been transferred. One might infer, in retrospect, that data had been forwarded to a "next hop" at some point in transfer. However, we do not find any teaching in Ohsawa having the specificity required by the claims before us. See, e.g., In re Kotzab, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000) ("[P]articular findings must be made as to the reason the skilled

[1] According to appellants' disclosure (page 2), a "hop" is the route from a subnet to a router.

artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed.”).

Moreover, even if Ohsawa were to teach a “wait acknowledge packet” as claimed, we agree with appellants that the rejection fails to show how the combination of Chen and Ohsawa would result in the invention. The rejection (Answer at 4) appears to attribute a “wait acknowledge packet” to Chen, but then asserts that the reference does not disclose a wait acknowledge packet, or at least the details of the packet as claimed. The claims, however, require (as set forth by claim 1) “setting a timer for the first node for receipt of an acknowledgment packet from the second node” and “resetting the timer if the wait acknowledge packet is received by the first node.” In the statement of the rejection, however, the “resetting” of the timer is deemed to be taught by Chen, although the rejection apparently turns to Ohsawa for teaching the details of the “wait acknowledge packet.” We thus do not see how the references may be combined such that a timer is set for receipt of an acknowledgment packet from a second node, but reset upon reception of a packet having claimed functions distinct from the acknowledgment packet -- i.e., reception of a wait acknowledge packet.

We thus conclude that the rejection fails to establish a prima facie case of obviousness for the claimed subject matter. We do not sustain the rejection of claims 1-15 under 35 U.S.C. § 103 as being unpatentable over Chen and Ohsawa.

CONCLUSION

The rejection of claims 1-15 under 35 U.S.C. § 103 is reversed.

REVERSED

JAMES D. THOMAS Administrative Patent Judge	)
KENNETH W. HAIRSTON Administrative Patent Judge	) BOARD OF PATENT) APPEALS) AND) INTERFERENCES
HOWARD B. BLANKENSHIP Administrative Patent Judge	)

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