

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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 HAMID BACHA, ROBERT BURNS, ROBERT B. CARROLL,
and MARK FISK

Appeal No. 2003-1225
Application No. 09/223,765

ON BRIEF

Before HAIRSTON, KRASS, 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 1-4, 7, and 8.

We affirm-in-part.

BACKGROUND

The invention is directed to a vault controller that manages resources in a secure environment (e.g., in an electronic business system). Vaults are personalized storage areas on a disk to which only the owner has access, using a vault access certificate.

Claim 1 is reproduced below.

1. In an electronic business system, a vault controller supervisor managing the interaction in a secure manner using PKI between end users and applications running in the system, comprising:
 - a) a web server; and
 - b) a shared object library coupled to the server and including a supervisor performing vsSupervisor Initialize and vsSupervisor Service functions for handling user independent, multi-threaded, persistent and stateful vault processes running in a secure environment linked to the user.

The examiner relies on the following references:

Carroll	6,105,131	Aug. 15, 2000 (filed Nov. 26, 1997)
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Claims 1-4, 7, and 8 stand rejected under 35 U.S.C. § 102 as being anticipated by Carroll.

Claims 9-12 and 20-24 stand allowed. The examiner has withdrawn the rejection of claims 5, 6, and 13-19.

We refer to the Final Rejection (Paper No. 9) and the Examiner's Answer (Paper No. 16) for a statement of the examiner's position and to the Brief (Paper No. 15) for appellants' position with respect to the claims which stand rejected.

OPINION

Appellants allege that differences exist between the instant disclosure and the disclosure of Carroll. (Brief at 10-12.) As for what is claimed,¹ appellants quote three lines from instant claim 1, then allege there is no disclosure or suggestion in Carroll regarding the “vs Supervisor Init and Service functions” or “their allegedly inherent characteristic flowing from Carroll.” (Id. at 12-13.)

The arguments are unhelpful in identifying any distinguishing features that may reside in claim 1. We acknowledge, as does the examiner, that Carroll does not use all the terminology found in the claim. That finding, however, is not the end of the inquiry. For a prior art reference to anticipate in terms of 35 U.S.C. § 102, every element of the claimed invention must be identically shown in a single reference, but this is not an “ipsissimis verbis” test. In re Bond, 910 F.2d 831, 832, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990).

The claim recites “a supervisor performing vsSupervisor Initialize and vsSupervisor Service functions” for handling a number of process types. Appellants do not tell us what requirements of the claimed “functions” might be thought missing from the reference.

Appellants’ specification (pages 4-5) describes the related application which issued as the Carroll patent. The specification notes a need for a vault controller which

¹ The claims measure the invention. SRI Int’l v. Matsushita Elec. Corp., 775 F.2d 1107, 1121, 227 USPQ 577, 585 (Fed. Cir. 1985) (en banc).

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can manage browser requests to “user-independent, multi-threaded, persistent and stateful secure processes....” Appellants’ position, as set out in the Brief, does not appear to be based on the proposition that Carroll fails to describe a vault controller, or fails to disclose the types of processes recited in instant claim 1. In any event, Carroll teaches that the vault controller supports “secure end-to-end communication,” “persistent vault programming” (col. 2, ll. 21-23), and “multi-threaded application[s]” (col. 6, ll. 17-18). “Stateful” refers to “[p]rotocols that maintain information about a user’s session.” Newton’s Telecom Dictionary at 650 (2001). Carroll teaches that each web browser session accesses its own storage area in the vault deposit server (col. 6, ll. 23-25), which is a form of maintaining information about a user’s session. Further, the vault controller is user independent, at least in the sense that it performs functions independent of user commands.

On June 23, 2004 we performed a search for the term “vsSupervisor” using the Google™ search engine (available at www.google.com). Surprisingly, the only hit for the search term occurred in published (Feb. 19, 2004) U.S. Patent Application No. 2004/0034769, which purports to be a continuation of the instant application. We compare that single hit with the number of hits for the search term “multi-threaded” -- “about 433,000.” A search of the U.S. Patent database (available at www.uspto.gov) confirmed that the term “vsSupervisor” appears in none of the available issued patents. A search of the published U.S. patent applications database confirmed that only the above-noted published application contains the relevant term.

Apparently, “vsSupervisor” has some secret meaning to appellants that is somehow believed to distinguish over the Carroll reference. The word appears to have no recognized meaning in the art. Appellants’ disclosure does not set forth any particular definition for the word. Instead, the disclosure (e.g., page 12 as originally filed) uses the term in the description of the preferred embodiment. We conclude that the “vsSupervisor” functions merely relate to arbitrary names denoting the functions.

The actual requirements of the claims thus are limited to what the functions do, as those functions are set forth in the claims, rather than how those functions are named. Our reading of unclaimed features relating to the “vsSupervisor” functions into the claims would be, simply, the prohibited exercise of reading disclosed limitations into the claims. Claims are to be given their broadest reasonable interpretation during prosecution, and the scope of a claim cannot be narrowed by reading disclosed limitations into the claim. See In re Morris, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997); In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989); In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550 (CCPA 1969).

Appellants suggest that the rejection does not comport with the principles of “inherency.” However, under a proper interpretation of the instant claims, one does not arrive at a consideration of potential “inherency.” Appellants have not shown that the rejection is deficient in showing any aspect of instant claim 1, other than the literal term that appears to have been coined by appellants. Since we conclude that Carroll describes what is claimed, we sustain the Section 102 rejection of claim 1.

Appellants' arguments for dependent claims 2, 3, and 4 also appear to rely on the reference's failure to contain an "ipsissimis verbis" description of the invention. Appellants do not persuade us of any difference in substance between what may be required by the claims and the disclosure of Carroll. In particular, pointing out unclaimed features in the disclosure does nothing to show error in the rejection.

With respect to claim 2, appellants do not explain why a multi-threaded service supervisor that is "launched by the vsSupervisor Service function" should be considered any different from the multi-threaded service supervisor described by Carroll. We do not see any reason, on this record, why it would be relevant that the specification describes the "service functions" as also performing other, unclaimed, functions.

We can agree, with respect to the arguments regarding claim 3, that Carroll does not expressly describe opening a socket connection on a TCP/IP port. The claim requires, however, a communications supervisor running as a thread for conducting communications between user dedicated vault processes and the user. The rejection relies, in part, on column 6, lines 26 through 30 of Carroll, which discloses that vault process supervisor (VPS) 52 (Fig. 2) communicates with the connection secure server 54, starts the vault processes 50, and maintains communications between the vault processes 50 and the user's browsers 58. We agree with appellants to the extent that Carroll does not contain the literal string "vsSupervisor Initialize function," but we agree with the examiner that VPS 52 does what claim 3 requires of the communication supervisor.

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Claim 4 recites a request supervisor running as a thread for processing user requests without a vault access certificate. Carroll describes processing transmissions from uncertified users (e.g., col. 6, ll. 15-16). The element of Carroll's system that processes user requests not having a vault access certificate is "initialized," "started," "awakened," "began," or "launched" by some other element. That Carroll does not call the launching element "vsSupervisor Initialize" is of no consequence.

We agree with appellants, however, that the reference does not disclose subject matter required by instant claims 7 and 8. The rejection relies on material in columns 2 and 3 of Carroll for mapping a vault access certificate into a user Id. Carroll describes mapping a vault certificate to a personal vault using the supervisor private key (col. 2, ll. 61-67), but not mapping a vault access certificate into a user Id. Carroll describes generating keys that are associated with a particular user with a unique password (col. 3, ll. 22-33), but not generating a vault password for a user Id.

For the foregoing reasons, we sustain the Section 102 rejection of claims 1-4, but not the rejection of claims 7 and 8.

CONCLUSION

The rejection of claims 1-4 under 35 U.S.C. § 102 as being anticipated by Carroll is affirmed. The rejection of claims 7 and 8 under 35 U.S.C. § 102 as being anticipated by Carroll is reversed.

The examiner's decision to reject claims 1-4, 7, and 8 is thus affirmed-in-part.

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No time period for taking any subsequent action in connection with this appeal
may be extended under 37 CFR § 1.136(a).

AFFIRMED-IN-PART

KENNETH W. HAIRSTON)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
ERROL A. KRASS)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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