

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ex parte MARK LINUS BAUMAN, PATRICK S. BOTZ, and WILLIAM CRAIG RAPP

Appeal No. 2003-1729
Application No. 09/229,733

ON BRIEF

Before JERRY SMITH, BARRY, and SAADAT, *Administrative Patent Judges*.
BARRY, *Administrative Patent Judge*.

DECISION ON APPEAL

A patent examiner rejected claims 1-30. The appellants appeal therefrom under 35 U.S.C. § 134(a). We reverse.

BACKGROUND

The invention at issue on appeal concerns user authentication in a distributed computing environment. (Appeal Br. at 4.) Usage of distributed computing environments such as the Internet is increasing at a prodigious rate. In particular, conducting commerce ("e-business") in such environments continues to gain in popularity. (Spec. at 1.)

"User authentication" is a procedure whereby a user demonstrates to a process executing in a computing environment that the user is who he purports to be. A common form of authentication employs a user identification and a password. (Appeal Br. at 4-5.) User authentication is typically required for e-business applications. When such an application operates within an environment comprising multiple processes, moreover, each process involved in each transaction must authenticate the user. (Spec. at 1.) According to the appellants, such redundant authentication "negatively impacts transaction speeds." (*Id.* at 2.)

In contrast, the appellants' invention initially authenticates a user by verifying his identification and password. Responsive to the authentication, a first process (e.g., a client in a client/server environment) receives a profile token representing the user. The profile token includes at least one usage limitation (e.g., a time-out period) that restricts processes receiving the token. (*Id.* at 4.)

The profile token is transferred from the first process to a second process (e.g., a server) having no direct interface to the user. Subject to the usage limitation, the second process may perform tasks for the user represented by the token. (*Id.*)

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

1. A method of authenticating a user within a multiple process environment, comprising:

 authenticating the user;

 receiving, by a first process requesting a profile token, the profile token representative of the user in response to successfully authenticating the user, the profile token having one or more associated usage limitations;

 transferring the profile token to a second process;

 changing a user under which the second process is running to the authenticated user represented by the profile token within the usage limitations associated with the profile token; and

 performing, by the second process, one or more tasks on behalf of the authenticated user represented by the profile token.

Claims 1, 3, 5-7, 10, 12, 14, 15, 17-19, 21, 23, 25, and 29 stand rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,226,744 ("Murphy"). Claims 2 and 24 stand rejected under 35 U.S.C. § 103(a) as obvious over Murphy; U.S. Patent No. 5,761,309 ("Ohashi"); and U.S. Patent No. 6,213,391 ("Lewis"). Claims 4, 16, and 26 stand rejected under § 103(a) as obvious over Murphy and U.S. Patent No.

6,038,551 ("Barlow"). Claims 8, 9, 11, 13, 20, 22, 27, 28, and 30 stand rejected under § 103(a) as obvious over Murphy and U.S. Patent No. 5,774,551 ("Wu").¹

OPINION

Rather than reiterate the positions of the examiner or the appellants *in toto*, we focus on the main point of contention therebetween. The examiner asserts, "Murphy et al. disclose . . . receiving, by a first process requesting a profile token, the profile token having associated usage limitations (see column 3, lines 43-45 and column 7, lines 26-29) representative of the user in response to successfully authenticating the user (see column 6, lines 28-49 and figure 3, steps 64 and 66). . . ." (Examiner's Answer at 5.) The appellants argue, "[a]ny fair reading of claim 1 would conclude that the step of 'authenticating the user' covers virtually the whole of *Murphy's* disclosure, and that the remaining steps of claim 1 are simply not shown. " (Appeal Br. at 9.)

¹The abstract of the disclosure stands objected to because it is not limited to a single separate sheet. (Examiner's Answer at 14.) The appellants argue that the abstract "was not objectionable under the applicable Rules." (Appeal Br. at 13.) Rather than by appeal to the Board of Patent Appeals and Interferences, however, such an objection is to be settled by petition to the Director of the U.S. Patent and Trademark Office. See *In re Hengehold*, 440 F.2d 1395, 1403, 169 USPQ 473, 479 (CCPA 1971). Therefore, neither the examiner's statement of the objection nor the appellants' argument attacking the objection were considered in deciding this appeal.

In addressing the point of contention, the Board conducts a two-step analysis. First, we construe claims at issue to determine their scope. Second, we determine whether the construed claims are anticipated or would have been obvious.

1. CLAIM CONSTRUCTION

"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). Here, independent claim 1 recites in pertinent part the following limitations: "receiving, by a first process requesting a profile token, the profile token representative of the user in response to successfully authenticating the user, the profile token having one or more associated usage limitations. . . ." Independent claims 14 and 23 include similar limitations. Accordingly, the independent claims require that a process receive a profile token **in response to successful authentication of a user.**

2. ANTICIPATION DETERMINATION

"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, Murphy "authenticat[es] a user over a network, with the network having a client computer and a server computer, and the client computer having a smart card and a smart card reader." Col. 3, ll. 31-34. More specifically, "[t]he client sends a request to the server to access restricted information stored by the server. The server sends [a] smart card interface module . . . to the client," *id.* at ll. 35-37, and then "requests an access code from the user to access the smart card." *Id.* at ll. 37-38. "Once the server receives the access code, the server accesses user information stored on the smart card utilizing the program and the access code. The server compares the user information with authentication information available to the server but not the client. If the user information matches the authentication information, the server grants the client access to the restricted information." *Id.* at ll. 38-45.

We are uncertain to which element of the reference the examiner equates the claimed "profile token." According to the appellants, "[t]he Examiner appears to regard information in the smart card as the 'token'." (Appeal Br. at 9.) If so, the examiner is likely referring to the "user information stored on the smart card," col. 3, ll. 39-40, that the server retrieves. We are unpersuaded, however, that the server retrieves the user information in response to successful authentication of a user. To the contrary, the server retrieves the user information to employ the information to authenticate the user. *Id.* at ll. 41-45.

The absence of receiving a profile token in response to successful authentication of a user negates anticipation. Therefore, we reverse the anticipation rejection of claim 1; of claims 3, 5-7, 10, and 12, which depend therefrom; of claim 14; of claims 15, 17-19, and 21, which depend therefrom; of claim 23; and of claims 25 and 29, which depend therefrom.

3. OBVIOUSNESS DETERMINATION

"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 examiner does not allege, let alone show, that the addition of Ohashi, Lewis, Barlow, or Wu cures the aforementioned deficiency of Murphy. Absent a teaching or suggestion of a process that receives a profile token in response to successful authentication of a user, we are unpersuaded of a *prima facie* case of obviousness. Therefore, we reverse the obviousness rejections of claims 2, 4, 8, 9, 11, 13, 16, 20, 22, 24, 26, 27, 28, and 30.

CONCLUSION

In summary, the rejection of claims 1, 3, 5-7, 10, 12, 14, 15, 17-19, 21, 23, 25, and 29 under § 102(e) is reversed. The rejections of claims 2, 4, 8, 9, 11, 13, 16, 20, 22, 24, 26, 27, 28, and 30 under § 103(a) are also reversed.

REVERSED

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| JERRY SMITH |) | |
| Administrative Patent Judge |) | |
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| LANCE LEONARD BARRY |) | APPEALS |
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