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is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TEDDY CHRISTIAN JOHNSON

Appeal 2007-0349
Application 09/862,355¹
Technology Center 2100

Decided: July 25, 2007

Before LEE E. BARRETT, ALLEN R. MacDONALD, and JAY P. LUCAS,
Administrative Patent Judges.

BARRETT, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) from the Final Rejection of claims 1-16. We have jurisdiction pursuant to 35 U.S.C. § 6(b). We reverse.

¹ Application for patent filed May 21, 2001, entitled "Methods and Structure for Reducing Resource Hogging."

BACKGROUND

The invention is related to preventing resource hogging by limiting a number of sessions active between a server process and a client process to a predetermined threshold value. The client process may be identified by the IP address of the computing node from which the client process is operating.

Claim 1 is illustrative:

1. A method operable within a server process for reducing resource hogging of said server process comprising the steps of:

receiving a request from a client process to establish a session with said server process;

determining a source identity attribute associated with said client process from said request;

determining whether a new session may be established between said client process and said server process based on said source identity; and

rejecting said request in response to a determination based on said source identity attribute that no new session may be established between said client process and said server process to limit a number of sessions active between the server process and the client process to a predetermined threshold value.

THE REFERENCES

Sitaraman	US 6,529,955 B1	Mar. 4, 2003
Lin	US 6,751,668 B1	(filed May 6, 1999) Jun. 15, 2004 (filed Mar. 14, 2000)

Appeal 2007-0349
Application 09/862,355

THE REJECTIONS

Claims 1-8 and 14-16 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Sitaraman at column 3, lines 21-37.

Claims 9-13 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Sitaraman and Lin.

DISCUSSION

Content of Sitaraman

Large corporations have a need to provide PoPs (Points of Presence) (a PoP is an access point to the Internet) in a number of different cities to service its clients, customers, and/or employees. If they let them dial in directly to a server the telephone network charges might be relatively high for the long distance connection. The corporation could establish PoPs in these cities but the cost is usually relatively high. Instead, it would be ideal to contract with an ISP (Internet Service Provider) Wholesaler having a presence in the various cities which, in turn, can provide proxied access to the corporation employees without a large capital outlay.

This mechanism raises some problems in that employees could overwhelm a PoP and prevent the wholesale customers from the service that they paid for. Similarly, a large number of employees spread over many regions could potentially overwhelm the network maintained by the Wholesaler. Accordingly, the Wholesaler would like to enter into an arrangement with the corporation whereby the corporation pays a fee for a

Appeal 2007-0349
Application 09/862,355

specific number of proxied sessions to occur at any one time. When the corporation exceeds this number it is either cut off or charged a higher fee.

The invention in Sitaraman involves keeping track of the number of proxied sessions corresponding to a group of users (col. 3, ll. 21-37):

The local database contains a group identification such as a domain identification corresponding to a group of users, a maximum number of proxied sessions to provide the group of users at the PoP and a dynamic proxy session count corresponding to active proxied sessions currently provided to the group of users at the PoP. . . . Actions are taken when the group attempts to exceed either the local maximum number of sessions or the network-wide maximum number of sessions by more than a predetermined number. The actions may include assessing extra charges, denying access, and sending warning messages to appropriate recipients.

Claims 1-8 and 14-16

Arguments and rejection

Appellant argues that "the proxy session count limitation of the Sitaraman et al. patent is not described as limiting a maximum number of sessions with respect to a particular client process (identified for example, based on a source identity or IP address)" (Br. 6). Appellant argues that Sitaraman "specifically recites using 'a group identification such as a domain identification corresponding to a group of users' to limit a maximum number of proxied sessions provided to the group of users at the PoP" (*id.*) and "does not teach or suggest limiting a maximum number of sessions with respect to a particular client process as identified, for example, based on a source

Appeal 2007-0349
Application 09/862,355

identity attribute, an IP address or a client based log" (*id.*). Thus, "[a]ccording to the Sitaraman et al. patent, a first time user in a group may be count limited from a proxy session just because other members of the group reached the group count limit" (Br. 7), whereas "Appellant's invention can avoid this drawback of the Sitaraman system using a predetermined threshold value that relates to a particular client process based on a source identity associated with a client process, an IP address or a client process log to limit the number of sessions between a server and a particular client process, rather than limiting sessions within a given domain" (*id.*).

The Examiner finds (Answer 11) that the claimed "source identity attribute associated with said client process" in claim 1 it taught by the statement "[t]he local database contains a group identification such as a domain identification corresponding to a group of users" (Sitaraman, col. 3, ll. 21-23). The Examiner finds (*id.*) that the claimed "client process" corresponds to a "user of Corp_A" and the claimed "server process" corresponds to a "proxy session," referring to column 5, lines 14-26. The Examiner finds that Sitaraman describes a source identity attribute, an IP address, or a client based log at column 1, line 59 through column 2, line 20, and column 5, lines 28-35 (Answer 12-14).

Claims 1-8

Issue

The issue is whether determining whether to establish a new session between a user and a proxy server based on a "group identification such as a

Appeal 2007-0349
Application 09/862,355

domain identification corresponding to a group of users" in Sitaraman anticipates the limitation of determining whether to establish a new session between a client process and a server process based on a "source identity attribute associated with said client process" in claim 1.

Analysis

Sitaraman discloses establishing a session between a user and a proxy server (a proxy session) in which the system maintains a count of the number of proxied sessions for a "group of users," e.g., the employees of a corporation. Membership in a "group of users" is *not* the same thing as a "source identity attribute associated with said client process." Membership in a "group of users" is an external criterion that has nothing to do with the client process. As Appellant notes, a first time user in Sitaraman could be precluded from establishing a session if other members of the group of users have used up the available sessions, whereas the method of claim 1 limits the number of sessions from a certain client process. Moreover, once a user (which the Examiner finds to be the client process) establishes a session with the proxy service, the user does not go on to establish other sessions--it is only client processes that spawn multiple sessions that are the problem. While Sitaraman is analogous in that it limits the establishment of new sessions, it does so based on a different criterion than the claimed "source identity attribute associated with said client process." Accordingly, we find that claim 1 is not anticipated. The rejection of claims 1-8 is reversed.

Appeal 2007-0349
Application 09/862,355

Claims 14-16

Issue

The issue is whether determining whether to grant a request to establish a new session between a user and a proxy server in Sitaraman based on a "group identification such as a domain identification corresponding to a group of users" anticipates the following limitations of claim 14:

a log memory . . . relating to sessions between said server process and any client process; and a session monitor associated with said server process to determine from said log information whether to grant a request to establish a new session from said client process and limit a number of sessions active between the server process and the client process to a predetermined threshold value.

Analysis

Sitaraman maintains a log of the number of sessions for members of a "group of users." It does not maintain a log "relating to sessions between said server process and any client process" and does not "determine from said log information whether to grant a request to establish a new session from said client process and limit a number of sessions active between the server process and the client process to a predetermined threshold value." Even if we accept the Examiner's interpretation that a "user" is a "client process," which we do not, Sitaraman does not limit the number of sessions between the user and the server: it limits the number of sessions for a "group

Appeal 2007-0349
Application 09/862,355

of users." Thus, while Sitaraman is relevant, it does not anticipate claim 14. The rejection of claims 14-16 is reversed.

Claims 9-13

Arguments and rejection

The Examiner finds that Sitaraman teaches the claimed invention except for "receiving within said FTP server process a request to establish a new session from an FTP client process" and "determining, using the IP address of the computing device, the number of presently active sessions within said FTP server process previously established with FTP client processes operating on said computing device." The Examiner finds that Lin teaches a filter 106 which records the total number of existing sessions and measures the rate of session requests of each stream, where "an abnormally high number of session establishment attempts is usually an indication that a denial of service (DoS) attack is occurring" (col. 2, ll. 12-14). The Examiner concludes that it would have been obvious to incorporate the teachings of Lin into Sitaraman wherein the number of session requests within each server process would be controlled.

Appellant argues that Lin uses a rate limiting mechanism to limit the rate of session establishment packet submission (Br. 8). It is argued that neither Lin nor Sitaraman teaches "determining, using the IP address of the computing device, the number of presently active sessions within said FTP server process previously established with FTP client processes operating on said computing device" or "comparing said number of presently active

Appeal 2007-0349
Application 09/862,355

sessions with a predetermined threshold value." Therefore, it is argued, neither Lin nor Sitaraman teaches limiting the number of sessions active between a server process and a client process to a predetermined threshold value (Br. 8).

The Examiner responds that the filter in Lin limits the number of active sessions between a server process and a client process (Answer 15).

Issue

The issue is whether Lin or Sitaraman teaches "determining, using the IP address of the computing device, the number of presently active sessions within said FTP server process previously established with FTP client processes operating on said computing device" and "comparing said number of presently active sessions with a predetermined threshold value." If not, the combination does not teach the limitations.

Analysis

The Examiner acknowledges that Sitaraman does not teach "determining, using the IP address of the computing device, the number of presently active sessions within said FTP server process previously established with FTP client processes operating on said computing device." We agree. Sitaraman determines the number of active sessions for a "group of users," which is not based on the IP address or the number of active sessions with a client process.

Appeal 2007-0349
Application 09/862,355

In Lin, "the filter 106 employs a 'rate limiting' mechanism to limit the rate of session establishment packet submission" (col. 2, ll. 26-28). Lin does not limit based on the number of active sessions with a client process and does not track any information about the client process. Lin does not teach "determining, using the IP address of the computing device, the number of presently active sessions within said FTP server process previously established with FTP client processes operating on said computing device." Nor does Lin teach "comparing said number of presently active sessions with a predetermined threshold value" where the active sessions are the ones with a client process. While there is some comparing going on, it is not the comparing of the claims. The Examiner has failed to establish a *prima facie* case of obviousness. The obviousness rejection of claims 9-13 is reversed.

CONCLUSION

The rejections of claims 1-16 are reversed.

REVERSED

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