

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DANIEL A. MUNTZ, ZHENG ZHANG, and
BAILA NDIAYE

Appeal 2008-0696
Application 10/138,644¹
Technology Center 2100

Decided: August 26, 2008

Before ALLEN R. MACDONALD, JAY P. LUCAS, and STEPHEN C.
SIU, *Administrative Patent Judges*.

LUCAS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellants appeal from a final rejection of claims 1 to 7, 9, 10, 12 to 15, 17 to 20, and 22 to 30 under authority of 35 U.S.C. § 134. Claims 8, 11,

¹ Application filed May 6, 2002. The real party in interest is Hewlett-Packard Development Co.

Appeal 2008-0696
Application 10/138,644

16, and 21 are cancelled. In the Examiner's Answer, page 2, the Examiner indicated that the following claims would be found allowable if put into independent form: 2 to 6, 14, 15, 18, and 24 to 30. Thus, the following claims remain under appeal: 1, 7, 9 to 10, 12, 13, 17, 19, 20, 22, and 23. The Board of Patent Appeals and Interferences (BPAI) has jurisdiction under 35 U.S.C. § 6(b).

Appellants' invention relates to a method and system for securely accessing data on a network storage system. In the words of the Appellants:

In this approach, a client may access data by first obtaining a block list from a metadata server, and then using this block list to read and write data directly to a storage server. A client is a computer that is allowed to access networked file services provided by the storage node. Existing implementations, including the above-outlined approach, rely on trusted networks, trusted clients and trusted metadata servers. Thus, there is no verification of a client's authority to use a given block list, no validation that the block list was issued by an authorized metadata server, and block lists are transmitted over a network in plain text.

According to embodiments of the invention, a method and system of enforcing file authorization access is described. The method may include generating an authorization combination at a metadata server and encrypting the authorization combination. The authorization combination may include a block combination including a block list for accessing user requested data from a storage server system and an authorization prefix. The authorization prefix may indicate at least one operation which the user requesting data access is authorized to perform. The method may further include receiving the encrypted authorization combination at the storage server, and

Appeal 2008-0696
Application 10/138,644

decrypting the encrypted authorization combination to recover the block list for retrieving the user requested data.
(Spec., 1-2).

Claim 1 is exemplary:

1. A method of enforcing file authorization access, comprising:

receiving, at a client, an encrypted authorization combination from a metadata server, the authorization combination comprising a block combination including a block list for accessing client requested data from a storage server system and an authorization prefix, the authorization prefix indicating at least one operation which the client is authorized to perform;

transmitting, by the client, the encrypted authorization combination the storage server system; and

receiving the client requested data from the storage server system in response to the storage server system decrypting the encrypted authorization combination to recover the block list for retrieving the client requested data.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Berbec	US 6,122,631	Sep. 19, 2000
Brew	US 2003/0196114 A1	Oct. 16, 2003 (filed Apr. 10, 2002)

Appeal 2008-0696
Application 10/138,644

REJECTIONS

Claims 1, 7, 9 to 10, 12, 13, 17, 19, 20, 22, and 23 stand rejected under 35 U.S.C. § 103(a) for being obvious over Berbec in view of Brew.

Groups of Claims:

The remaining claims on appeal will be treated in the following groups.

Group I: Claims 1, 7, 19, and 23

Group II: Clams 9, 10, 12, 13, 20, and 22

Group III (Corresponds to Appellants' Group 4): Claim 17

Appellants contend that the claimed subject matter is not rendered obvious by Berbec alone, or in combination with Brew, for failure of the references to be properly combinable, and for the combination to fail to teach claimed limitations. The Examiner contends that each of the three groups of claims is properly rejected.

Rather than repeat the arguments of Appellants or the Examiner, we make reference to the Briefs and the Answer for their respective details. Only those arguments actually made by Appellants have been considered in this opinion. Arguments which Appellants could have made but chose not to make in the Brief have not been considered and are deemed to be waived.

We affirm the rejections.

ISSUE

The issue is whether Appellants have shown that the Examiner erred in rejecting the claims under 35 U.S.C. § 103(a). The issue turns on whether there is a legally sufficient justification for combining the disclosures of Berbec and Brew, and whether the combination teaches all of the claimed limitations.

PRINCIPLES OF LAW

Appellants have the burden on appeal to the Board to demonstrate error in the Examiner’s position. See *In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006) (“On appeal to the Board, an applicant can overcome a rejection [under § 103] by showing insufficient evidence of *prima facie* obviousness or by rebutting the *prima facie* case with evidence of secondary indicia of nonobviousness.”) (quoting *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998)).

“What matters is the objective reach of the claim. If the claim extends to what is obvious, it is invalid under § 103.” *KSR Int’l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1742 (2007). To be nonobvious, an improvement must be “more than the predictable use of prior art elements according to their established functions.” *Id.* at 1740.

“It is common sense that familiar items may have obvious uses beyond their primary purposes, and a person of ordinary skill often will be

able to fit the teachings of multiple patents together like pieces of a puzzle.”

KSR Int'l Co. v. Teleflex, Inc., 127 S. Ct. at 1732 (2007).

References within the statutory terms of 35 U.S.C. § 103 qualify as prior art for an obviousness determination only when analogous to the claimed invention. *In re Clay*, 966 F.2d 656, 658 (Fed. Cir. 1992). Two separate tests define the scope of analogous prior art: (1) whether the art is from the same field of endeavor, regardless of the problem addressed and, (2) if the reference is not within the field of the inventor's endeavor, whether the reference still is reasonably pertinent to the particular problem with which the inventor is involved. *In re Deminski*, 796 F.2d 436, 442 (Fed. Cir. 1986); see also *In re Wood*, 599 F.2d 1032, 1036 (CCPA 1979) and *In re Bigio*, 381 F.3d 1320, 1325 (Fed. Cir. 2004). Furthermore,

‘there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness’ . . .

[H]owever, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.

KSR Int'l v. Teleflex Inc., 127 S. Ct. at 1741 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)).

ANALYSIS

From our review of the administrative record, we find that Examiner has presented a *prima facie* case for the rejections of Appellants' claims under 35 U.S.C. § 103. The *prima facie* case is presented on pages 3 to 10

of the Examiner's Answer. In opposition, Appellants present a number of arguments.

*Arguments with respect to the rejection
under 35 U.S.C. § 103(a)
Group I*

Appellants first contend that Examiner erred in rejecting claims 1, 7, 19, and 23 as there is no motivation to combine the two references, Berbec and Brew. (App. Br., 7, middle). We find both references are addressed to methods and systems for controlling access to a database using authentication techniques in a client-server environment. Thus, in accordance with the teachings of *In re Clay* (cited above) and *KSR Int'l v. Teleflex Inc.* (cited above) as both references are from the same field of endeavor they can be properly combined in a rejection under 35 U.S.C. § 103(a). Further evidence of motivation to combine is not required.

Appellants next contend that the combination of references fails to teach all of the claimed limitations. (App. Br., 7, middle). More specifically, Appellants allege that Berbec fails to disclose the receiving of the encrypted authorization combination at the client. (App. Br., 8, middle). The Examiner refers to Berbec, column 4, lines 35 to 50, where it is taught that the client receives the encrypted token and resource name and path. (Answer, 11, bottom). As the token in Berbec is the key to authorization, we find that the Examiner has not erred in making this rejection on this point.

The Appellants next contend that the transmitted combination in Berbec is not encrypted. We note that in Berbec a secure communications channel is recommended. (Col. 4, l. 58). The Examiner turns to Brew to specify the type of secure communications, where it is taught that encryption of a combination key is a proper method for securing the combination. (Col. 5, top). The transmission of the combination from the client to the server is taught in Berbec. (Col. 5, ll. 52 to 63). In summary, we agree with the Examiner's application of the art in this respect.

*Arguments with respect to the rejection
under 35 U.S.C. § 103(a)
Groups II and III*

Appellants first suggest that no motivation exists to combine the references in the rejection of the claims (9, 10, 12, 13, 20, and 22) of Group II. We refer to the discussion in Group I with respect to this argument.

Appellants next allege that the references fail to teach “the metadata server *negotiating* with the storage server system to provide a key to the storage server system to enable the storage server system to decrypt at least a portion of the encrypted authorization combination …” as claimed. (App. Br., 14, top). Berbec teaches the communication of the token and other file identification information (read on the block list) between the object server 106 and the file system 108 (col. 4, ll. 35 to 50). As mentioned above, Berbec suggests that the communications should be secure, and Brew

Appeal 2008-0696
Application 10/138,644

teaches securing similar communications by encryption. We do not find error with this rejection.

The arguments of the Appellants for Group III (Claim 17) are similar to those for Group II. (App. Br., 17, bottom and 18, top).

CONCLUSION OF LAW

Based on the findings of facts and analysis above, we conclude that the Examiner did not err in rejecting claims 1, 7, 9 to 10, 12, 13, 17, 19, 20, 22, and 23 under 35 U.S.C. § 103(a).

DECISION

The Examiner's rejection of claims 1, 7, 9 to 10, 12, 13, 17, 19, 20, 22, and 23 is Affirmed.

Appeal 2008-0696
Application 10/138,644

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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