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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte BEN TUCKER and JAN ELLIGER

Appeal 2010-007461
Application 11/179,338
Technology Center 2400

Before: JEAN R. HOMERE, BRYAN F. MOORE, and
TREVOR M. JEFFERSON, *Administrative Patent Judges*.

JEFFERSON, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellants appeal under 35 U.S.C. § 134 from a rejection of claims 1-25. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm the Examiner's rejections.

Introduction

The claims are directed to system and method for accessing and communicating with a plurality of devices with a console server where information is displayed on the console server user interface. Spec. 2:21-28. Claims 1 and 11, reproduced below with disputed limitations in italics, are illustrative of the claimed subject matter:

1. In a console server having a user interface, a network connection and a plurality of ports, a method of accessing a plurality of devices, including one or more first devices and one or more second devices, wherein each first device includes a console port and wherein each second device includes a network connection, the method comprising:

directly connecting a port of the console server to the console port of each of the one or more first devices;

communicatively coupling the network connection of the console server to the network connection of each of the one or more of the second devices across a network;

accessing device management processes on the connected first and second devices via the console server as if the devices were directly connected to a port of the console server, wherein accessing includes communicating with a device management process on the second device via the console server's network connection; and

displaying information regarding each of the connected first and second devices on the console server user interface.

11. In a console server having a user interface, a network connection and a plurality of ports, a method of accessing a

plurality of devices including a first device and a second device, wherein each device includes a console port, the method comprising:

providing an intermediate device, wherein the intermediate device includes a network connection and one or more ports;

directly connecting a port of the console server to the console port of the first device;

communicatively coupling the network connection of the console server to the network connection of the intermediate device across a network;

directly connecting one of the ports of the intermediate device to the console port of the second device;

accessing device management processes on the connected first and second devices via the console server; and

displaying information regarding each of the connected devices on the console server user interface.

References

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

Nagao	US 2004/0153571 A1	Aug. 5, 2004
McGuire	US 6,816,897	Nov. 9, 2004

Rejection

The Examiner rejected claims 1-25 under 35 U.S.C §103(a) as being unpatentable over the combination of McGuire and Nagao. Ans. 3-19.

ANALYSIS

Independent Claims 1 and 11 – 35 U.S.C. § 103(a)

Issue: Did the Examiner err in finding that McGuire teaches or suggests “displaying information regarding each of the connected first and second devices on the console server user interface” as recited in claims 1 and 11?

Appellants contend that the console server taught in McGuire “can only display, if ever, information regarding the directly connected devices and not the indirectly connected devices.” App. Br. 13. Moreover, Appellants contend that the graphical environment tools in McGuire cannot “display the device settings for multiple devices at the *same time*.” *Id.* (emphasis added). Similarly, Appellants argue that Nagao admittedly teaches remote access to server groups via a console server but also fails to display information regarding multiple server groups at the same time. App. Br. 13-14.

The Examiner found that McGuire teaches tools providing a graphical display and adjustment of device settings via a single console server for an entire data center or via multiple console servers at each remote location. Ans. 19 (citing McGuire, col. 8, ll. 56-67; col. 11, ll. 45-51). The Examiner found that McGuire teaches or suggests displaying information for directly connected and indirectly connected devices via the single console server. Ans. 20. The Examiner also notes that Nagao was relied upon to teach or suggest “the [well known in the art] feature of controlling indirectly connected devices through a console server.” Ans. 22.

On the record before us, we are not persuaded that the Examiner erred in finding that the combination of McGuire and Nagao teaches or suggests the displaying information limitation of claims 1 and 11. We agree with the

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Examiner that Appellants' arguments requiring that McGuire and Nagao teach displaying information on the console server for multiple devices *at the same time* is not commensurate with the scope of claims 1 and 11. *See In re Self*, 671 F.2d 1344, 1348 (CCPA 1982) (limitations not appearing in the claims cannot be relied upon for patentability). There is no indication in the claims themselves that the display must show multiple devices at the same time. We also agree with the Examiner that the console server in McGuire works with multiple devices that are both directly and indirectly connected. Ans. 22.

Appellants' contention that there is no rationale to combine the console servers of McGuire and the switch of Nagao, because they teach two separate graphical tools and would not yield a streamlined display interface for remotely and directly connected network devices at the same time is equally unpersuasive. App. Br. 14, 15. The Examiner has provided a rational basis for the combination of McGuire and Nagao as both "are directed toward controlling network devices through a console server." Ans. 14. "[I]t is not necessary that the inventions of the references be physically combinable to render obvious the invention under review." *In re Sneed*, 710 F.2d 1544, 1550 (Fed. Cir. 1983). The relevant inquiry is whether the claimed subject matter would have been obvious to those of ordinary skill in the art in light of the combined teachings of those references. *See In re Keller*, 642 F.2d 413, 425 (CCPA 1981). Thus, it is the combination of McGuire and Nagao that teaches or suggests direct and indirect coupling.

We find that the Examiner did not err in finding that proffered combination teaches or suggests "displaying information regarding each of the connected first and second devices on the console server user interface" as recited in claim 1 and similarly in claim 11. We sustain the Examiner's

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rejection of independent claims 1 and 11 under 35 U.S.C. § 103(a) and the dependent claims 2-10 and 12-19 that depend therefrom.

Independent Claims 20 and 23 – 35 U.S.C. § 103(a)

Issue: Did the Examiner err in finding that the combination of McGuire or Nagao teaches or suggests the elements recited in independent claims 20 and 23 when McGuire only shows directly coupling devices to a console server and Nagao only shows indirectly connecting a server to a console switch?

With respect to claims 20 and 23, Appellants merely recite the claim limitation and assert that it is not found in the McGuire and Nagao. App. Br. 15, 16. The Board's rule, 37 C.F.R. § 41.37(c)(1)(vii), requires more substantive argument in an appeal brief than a mere recitation of the claim elements and a naked assertion that the corresponding elements were not found in the prior art. *See In re Lovin*, 652 F.3d 1349, 1357 (Fed. Cir. 2011).

With respect to independent claims 20 and 23, to the extent that Appellants contend that neither McGuire nor Nagao teaches or suggests a console server directly connected to devices as recited in the claims because McGuire only shows devices directly coupled to a console server and Nagao only shows connecting servers to a console switch (App. Br. 15, 16.), we disagree. One cannot establish nonobviousness by attacking the references individually. *See In re Merck & Co. Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). As discussed above with respect to claims 1 and 11, we agree with the Examiner that McGuire teaches a single console server for an entire data center that can work with devices both inside of and outside of the console server's compartment. Ans. 28. We also find that Nagao teaches controlling indirectly devices connected through the console server. *Id.* Thus, the

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combination of McGuire and Nagao teaches or suggests connection with and control of devices indirectly and directly connected to a console server.

Accordingly, we find that the Examiner did not err in finding that the combination of McGuire and Nagao teaches or suggests the limitations of independent claims 20 and 23. We sustain the Examiner's rejection of claims 20-24 under 35 U.S.C. § 103(a) and their respective dependent claims 21, 22 and 24.

Dependent Claim 25 – 35 U.S.C. § 103(a)

Appellants contend that neither McGuire nor Nagao teaches or suggests “means for writing information to a device communicatively coupled to one of the remote ports” as recited in dependent claim 25. We disagree. As the Examiner found, McGuire teaches that a command can be issued to configure the connected devices. Ans. 31 (citing McGuire col. 11, ll. 10-15). Thus, the Examiner did not err in finding that the combination of McGuire and Nagao teaches or suggests “means for writing information to a device communicatively coupled to one of the remote ports.” We sustain the Examiner's rejection of dependent claim 25 under 35 U.S.C. § 103(a).

DECISION

For the above reasons, the Examiner's rejection of claims 1-25 is AFFIRMED.

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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