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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/956,874	10/02/2004	Mikio Hagiwara	JP920040155US1	7306
23441	7590	01/18/2013	EXAMINER	
Dryja Patents 550 W Baseline Rd #102-275 Mesa, AZ 85210			SU, SARAH	
			ART UNIT	PAPER NUMBER
			2431	
			NOTIFICATION DATE	DELIVERY MODE
			01/18/2013	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MIIO HAGIWARA, KISHIKO ITOH, KENJI OKA,
AKIRA HINO, and MASAKI OBINATA

Appeal 2010-008221
Application 10/956,874
Technology Center 2400

Before ALLEN R. MacDONALD, DEBRA K. STEPHENS, and
MIRIAM L. QUINN, *Administrative Patent Judges*.

QUINN, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) (2002) from a final rejection of claims 1, 2, and 5-9. We have jurisdiction under 35 U.S.C. § 6(b). Claims 3, 4, and 10-20 have been cancelled.

We AFFIRM.

STATEMENT OF THE CASE

Appellants' Invention

The Appellants' invention relates to using biometric information to secure access within computer systems, and more particularly to using such biometric information by associating it with passwords. (Spec. 1, ll. 3-5.)

Exemplary Claim

Independent claim 1 is representative of the invention, and reads as follows:

1. A method comprising:
 - receiving biometric information from a user;
 - in response to determining that the biometric information matches stored biometric information and that one or more stored passwords are present,
 - retrieving the one or more stored passwords associated with the biometric information;
 - in response to determining that the one or more stored passwords are identical to one or more access-enabling passwords,
 - permitting the user to gain access to a computer system associated with the one or more access-enabling passwords without having to load any computer program into the computer system;
 - in response to determining that the biometric information matches the stored biometric information and in response to determining that the one or more stored passwords are not present,

requesting the user to manually enter one or more passwords so that the user is subsequently not required to manually enter the one or more passwords where the biometric information received from the user matches the stored biometric information when the method is performed again;

in response to determining that the one or more passwords are identical to the one or more access-enabling passwords,

storing the one or more passwords as the one or more stored passwords associated with the biometric information;

permitting the user to gain the access associated with the one or more access-enabling passwords;

in response to determining that the biometric information has not been received or that the biometric information is not present, requesting the user to manually enter one or more passwords;

in response to determining that the biometric information does not match the stored biometric information,

requesting the user to manually enter one or more passwords; and,

in response to determining that the one or more passwords are identical to the one or more access-enabling passwords,

permitting the user to gain the access associated with the one or more access-enabling passwords.

References

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

Angelo	US 5,953,422	Sep. 14, 1999
Charbonneau	US 2003/0074585 A1	Apr. 17, 2003
Shigematsu	US 2002/0095588 A1	Jul. 18, 2002
Mercredi	WO 03/029938 A1	Apr. 10, 2003

Rejections¹

- (1) Claims 1 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Charbonneau in view of Shigematsu. (Ans. 4-6.)
- (2) Claim 2 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Charbonneau in view of Shigematsu and further in view of Mercredi. (Ans. 7-8.)
- (3) Claims 5-8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Charbonneau in view of Shigematsu and further in view of Angelo. (Ans. 8-12.)

ISSUE

Based on Appellants' arguments, the dispositive issue on appeal is whether the Examiner has erred in rejecting claim 1 as being unpatentable over Charbonneau in view of Shigematsu, under 35 U.S.C. § 103(a). (Reply 1-3.) In particular, the issue turns on whether the Examiner's construction

¹ The Examiner's rejections are taken from the New Grounds of Rejection raised in the Examiner's Answer. (Ans. 3-12.)

of method claim 1 is reasonable because the Examiner concluded that only one condition in the claim's plural conditional limitations must be met by the prior art to show obviousness.

ANALYSIS

We have reviewed the Examiner's rejections in light of Appellants' contentions that the Examiner has erred. Further, we have reviewed the Examiner's findings and conclusions as set forth in the Examiner's Answer. We decide the issue presented based on the arguments actually raised.

The sole task before us is to decide a claim construction issue, which is a legal issue. *Cybor Corp. v. FAS Tech., Inc.*, 138 F.3d 1448, 1451 (Fed. Cir. 1998) (en banc). Appellants argue that the Examiner has no legal or authoritative basis for maintaining the rejection of claim 1 based on the conclusion that the Examiner need only show that one claimed condition is met by the prior art. (Reply 1-2.) Appellants further argue that *all* words of the claim must be considered, and that the Examiner's basis for maintaining the rejection of claim 1 is illogical. (Reply 2-3.)

We first interpret the claims to determine whether the Examiner's conclusion regarding the scope of claim 1 is unreasonable. The claimed method recites a *first condition* where "in response to determining that the biometric information matches stored biometric information and that one or more stored passwords are present," further steps are performed. The Examiner finds, and Appellants do not dispute, that this *first condition* (and its corresponding steps) is found in the prior art combination of Charbonneau and Shigematsu. (Ans. 13.) The Examiner supports the rejection of claim 1, based on the prior art meeting only the first condition,

by asserting that “only one of the conditions ever actually occurs at any given time.” (Ans. 4.) We find that the Examiner’s interpretation of the scope of claim 1 is not unreasonable.

During examination of a patent application, a pending claim is given the broadest reasonable construction consistent with the specification. *In re Am. Acad. Of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). We agree with the Examiner’s assertion that independent claim 1, which is a method claim, “recites multiple conditions, where all conditions cannot be accomplished in any variation of the method.” (Ans. 13.)

Interpreting claim 1 by giving it the broadest reasonable construction, we find that when the *first condition* is satisfied, none of the other remaining claimed conditions can be satisfied. Under this broadest scenario, the Examiner was not required to find the disclosure of the steps corresponding to the unsatisfied conditions in the prior art in order to reject the claims under 35 U.S.C. § 103(a). *See Ex Parte Katz*, 2011 WL 514314, *4 (BPAI 2011).

Further, we agree with Appellants that all the words in a claim must be considered. And in this case, all the words have been considered. Comparing the method recited in claim 1 to the combination of Charbonneau and Shigematsu, the Examiner concluded that the prior art discloses the first condition. (Ans. 4-6.) Appellants contend that considering all the words in the claim, the *second condition* – “*in response* to determining that the biometric information matches the stored biometric information and in response to determining that the stored passwords are not present” – is not described in Shigematsu. (App. Br. 5). However, under the broadest

scenario we just discussed, after meeting the first condition, the *second condition* would not be invoked. It follows that neither the steps dependent on meeting the second condition nor any of the other additional conditional steps recited in claim 1 would be performed. Accordingly, we find no error in the Examiner's rejection of method claim 1 based on the assertion that Charbonneau and Shigematsu disclose only the *first condition* and its corresponding steps.

CONCLUSION

On the record before us, we conclude that the Examiner did not err in rejecting independent claim 1, and dependent claims 2 and 5-9, not separately argued, under 35 U.S.C. § 103(a).

We adopt as our own the findings and reasons set forth by the Examiner in the Examiner's Answer in response to Appellants' Appeal Brief.

DECISION

We affirm the rejections of claims 1, 2, and 5-9.

No time for taking any action connected with this appeal may be extended under 37 C.F.R. § 1.136(a)(1). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2011).

AFFIRMED