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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* AL CHAKRA, DAVID KAMINSKY, and DAVID M. OGLE

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Appeal 2010-008263  
Application 11/415,674  
Technology Center 2100

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Before KALYAN K. DESHPANDE, ERIC B. CHEN, and  
MICHAEL J. STRAUSS, *Administrative Patent Judges*.

CHEN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134(a) from the final rejection of claims 1, 7, 8, 14, 15, 21, 22, 24, 25, 27, and 28. Claims 23, 26, and 29 have been indicated to be allowable if rewritten in independent form and claims 2-6, 9-13, and 16-20 have been cancelled. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

### STATEMENT OF THE CASE

Appellants' invention is related to determining whether predefined data is replicated to a client machine. A request is received for predefined data from a client machine. The requested predefined data is replicated if the client machine is at an acceptable location and replication of the predefined data is prevented if the client machine is at an unacceptable location. (Abstract; Spec. ¶ [0002].)

Claim 1 is exemplary, with disputed limitations in italics:

1. A method of determining whether predefined data controlled by a server is replicated to a client machine comprising:

receiving a request for said predefined data from said client machine;

*tracing a route information packets take to reach said client machine from said server;*

determining if said client machine is at an acceptable location to receive said predefined data using said traced route;

*replicating said requested predefined data to said client machine if said client machine is at an acceptable location and preventing replication of said predefined data to said client machine if said client machine is at an unacceptable location.*

Claims 1, 7, 8, 14, and 15 stand rejected under 35 U.S.C. § 103(a) as being obvious over Bade (U.S. Patent Application Publication No.

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2002/0138632 A1; Sept. 26, 2002) and Silverman (U.S. Patent No. 6,804,624 B2; Oct. 12, 2004).

Claims 21, 24, and 27 stand rejected under 35 U.S.C. § 103(a) as being obvious over Bade, Silverman, and Elbatt (U.S. Patent Application Publication No. 2005/0152318 A1; July 14, 2005).

Claims 22, 25, and 28 stand rejected under 35 U.S.C. § 103(a) as being obvious over Bade, Silverman, and Sprosts (U.S. Patent Application Publication No. 2007/0220607 A1; Sept. 20, 2007).

## ANALYSIS

### *§ 103 Rejection – Bade and Silverman*

We are unpersuaded by Appellants' arguments (Br. 12-17) that the combination of Bade and Silverman would not have rendered obvious independent claim 1, which includes the limitations "tracing a route information packets take to reach said client machine from said server" and "replicating said requested predefined data to said client machine if said client machine is at an acceptable location."

The Examiner found that the remote client 104 of Bade corresponds to the claimed "client machine" and that the host server 106 of Bade corresponds to the claimed "server." (Ans. 3, 8; Bade, fig. 2.) The Examiner also found that the host server 106 that performs positional authentication corresponds to "replicating said requested predefined data to said client machine if said client machine is at an acceptable location." (Ans. 3; Bade, ¶ [0030].) The Examiner acknowledged that Bade does not disclose the limitation "tracing a route information packets take to reach said client machine from said server" and thus, relied upon Silverman for

teaching trace route commands. (Ans. 4; Silverman, col. 7, ll. 1-5.) The Examiner concluded that “[i]t would have been obvious . . . to use trace route as taught by Silverman in Bade’s location identification system, in order to allow determination of a position of a client’s machine even at the very poor weather conditions.” (Ans. 4.) We agree with the Examiner.

Bade relates to “providing positional authentication for client-server systems.” (¶ [0002].) Figure 2 of Bade illustrates an extranet 210 that includes a remote client 104 (i.e., the claimed “client machine”) and a host server 106 (i.e., the claimed “server”) (¶ [0024]) and a receiver module 212 (¶ [0025]), such that “the receiver module 212 receives positional data from the wireless positioning system indicating the remote client’s position” (¶ [0028]). “[T]he host server 106 performs positional authentication to determine whether access should be granted or denied, and if granted, what level of access is allowed and whether an additional or special password is required.” (¶ [0030].) Therefore, Bade teaches the limitation “replicating said requested predefined data to said client machine if said client machine is at an acceptable location.”

Silverman relates to “monitoring and analyzing any communications network . . . for the purpose of determining the location of remote devices.” (Col. 1, ll. 17-22.) In a preferred embodiment, Figure 2 of Silverman illustrates a communications network and network evaluation system (col. 5, ll. 55-57), including “test device 74, 76, 78 [that] employs a trace route command, such as the TCP/IP network Traceroute command, in order to determine the number of routers along the end-to-end path 81, 83, 85, respectively, from itself to the target device 72” (col. 7, ll. 1-5). Silverman further explains that exemplary embodiments “determin[e] the physical

location of a target device which is operable indoors, in poor weather, and in downtown and other areas where there are line of sight obstructions.”

(Col. 12, ll. 15-18.) Therefore, Silverman teaches the limitation “tracing a route information packets take to reach said client machine from said server.”

A person of ordinary skill in the art would have recognized that incorporating the TCP/IP network Traceroute command of Silverman, with the client-server systems of Bade that includes positional authentication, would improve Bade by providing the ability to determine physical location in poor weather conditions. *See KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 417 (2007). Similarly, combining Silverman with Bade is no more than the simple substitution of the TCP/IP network Traceroute command of Silverman for the receiver module 212 of Bade that receives positional data, to yield predictable results. *See id.* Thus, we agree with the Examiner (Ans. 4) that modifying Bade to include the TCP/IP network Traceroute command of Silverman would have been obvious.

Appellants argue that “in *Silverman*, the trace route command is implemented between the test stations 74, 76, 78 and the client station 78, and not from the management station 70 to the client station 72” and accordingly, Silverman does not teach the limitation “tracing a route information packets take to reach said client machine from said server.” (Br. 15.) However, the Examiner cited to Bade, rather than Silverman, for teaching the claimed “client machine” and the claimed “server.” (Ans. 3, 8.)

Appellants also argue that “one skilled in the art, reviewing *Bade* and *Silverman*, would not have recognized that combining these teachings would have resulted in a predictable result of tracing a route information packets

take to reach a client machine from a server.” (Br. 16.) Appellants further argue:

Nor does the office action provide an explanation based on sound technical reasoning that would support a conclusion that those skilled in the art would have considered it obvious to trace a route information packets take to reach a client machine from a server so as to determine if a client machine is at an acceptable location to receive predefined data and then replicating the requested predefined data to the client machine if the client machine is at an acceptable location.

(*Id.* (emphasis omitted).) Similarly, Appellants argue “that Bade and Silverman, either when considered alone or in combination, fail to teach or suggest a subsequent step that utilizes the traced route from the server to the client machine that Bade and Silverman fail to teach or suggest.” (Br. 17.) Contrary to Appellants’ arguments, as discussed previously, the combination of Bade and Silverman is based on the improvement of a similar device in the same way as in the prior art or alternatively, based on the simple substitution of one known element for another. Because both Bade and Silverman are directed toward similar technology related to the location of a client device, such a combination would yield predictable results. Furthermore, as also discussed previously, Bade teaches the limitation “replicating said requested predefined data to said client machine if said client machine is at an acceptable location.”

Thus, we agree with the Examiner that the combination of Bade and Silverman would have rendered obvious independent claim 1, which includes the limitations tracing a route information packets take to reach said client machine from said server” and “replicating said requested predefined data to said client machine if said client machine is at an acceptable location.”

Accordingly, we sustain the rejection of independent claim 1 under 35 U.S.C. § 103(a). Claim 7 depends from claim 1, and Appellants have not presented any substantive arguments with respect to this claim. Therefore, we sustain the rejection of claim 7 under 35 U.S.C. § 103(a), for the same reasons discussed with respect to independent claim 1.

Independent claims 8 and 15 recites limitations similar to those discussed with respect to independent claim 1, and Appellants have not presented any substantive arguments with respect to these claims. We sustain the rejection of claims 8 and 15, as well as dependent claim 14, for the same reasons discussed with respect to claim 1.

*§ 103 Rejection – Bade, Silverman, and Elbatt*

Although Appellants nominally argue the rejection of dependent claims 21, 24, and 27 separately (Br. 17-18), the arguments presented do not point out with particularity or explain why the limitations of these dependent claims are separately patentable. Instead, Appellants argue that claims 21, 24, and 27 are patentable because “*Elbatt* does not fill the voids of *Bade* and *Silverman* discussed above with respect to claims 1, 8, and 15.” (Br. 18.) We are not persuaded by these arguments for the reasons discussed with respect to claims 1, 8, and 15, from which claims 21, 24, and 27 depend. Accordingly, we sustain this rejection.

*§ 103 Rejection – Bade, Silverman, and Sprosts*

Although Appellants nominally argue the rejection of dependent claims 22, 25, and 28 separately (Br. 18-19), the arguments presented do not point out with particularity or explain why the limitations of these dependent

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claims are separately patentable. Instead, Appellants argue that claims 22, 25, and 28 are patentable because “*Sprosts* does not fill the voids of *Bade* and *Silverman* discussed above with respect to claims 1, 8, and 15.”

(Br. 18.) We are not persuaded by these arguments for the reasons discussed with respect to claims 1, 8, and 15, from which claims 22, 25, and 28 depend. Accordingly, we sustain this rejection.

#### DECISION

The Examiner’s decision to reject claims 1, 7, 8, 14, 15, 21, 22, 24, 25, 27, and 28 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

ELD