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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* BARRY PAUL PERSHAN, ELIZABETH A.  
GEDDES, and KEVIN V. BOHN

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Appeal 2010-009863  
Application 11/215,247  
Technology Center 2600

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Before KALYAN K. DESHPANDE, BRYAN F. MOORE, and  
MICHAEL J. STRAUSS, *Administrative Patent Judges*.

STRAUSS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 23-42. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

According to Appellants the claims are directed to methods and apparatus for authenticating and authorizing people to register information corresponding to a telephone number, e.g., in an ENUM database. A trigger is set on an ENUM registration line causing LIDB (line information database) information corresponding to the calling party number to be retrieved. The retrieved information, e.g. name, address and/or phone number, is supplied to an ENUM registration service which returns a password to be used when updating or supplying ENUM registration information corresponding to the phone number from which the registration call is placed at some future time, e.g. via the Internet. Abst. Claim 23, reproduced below, is illustrative of the claimed subject matter:

23: A method comprising:

operating a first network element to detect a communication including an initiating party number and directed to a network number corresponding to a service provider;

retrieving from a first database of service subscriber information, information corresponding to said initiating party number;

supplying at least some of the retrieved service subscriber information to said service provider; and

operating a second network element to provide the initiating party with a password to be used when obtaining access to a service provided by said service provider, wherein the service associates said initiating party number with an Internet address.

## REFERENCES

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

Malik	US 6,188,757 B1	Feb. 13, 2001
Ueshima	US 6,731,731 B1	May 4, 2004
Hyllander	US 7,065,199 B1	Jun. 20, 2006

## REJECTIONS<sup>1</sup>

The Examiner rejected claims 23-42 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Malik, Ueshima, and Hyllander. Ans. 3.

## APPELLANTS' CONTENTIONS

- 1) With respect to independent claim 23:
  - a) The "Password" Issue:
    - i) There is no motivation for incorporating a "password" into the system disclosed by Malik. App. Br. 12. *Inter alia*, "there is no teaching or suggestion in either [Malik or Ueshima] of the need to identify an individual over and above the identification of the calling line." *Id.*
    - ii) "[T]here is . . . no teaching or suggestion in either [Malik or Ueshima] as to how either or both systems would be modified to accomplish this added functionality." App. Br. 16.

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<sup>1</sup> Based on Appellants' arguments, we will decide the appeal of claims 23-26, 28, 32-34, and 42 based on claim 23, the appeal of claims 30 and 31 based on claim 30, the appeal of claims 35-37 and 40-41 based on claim 35 and claims 27, 29, 38 and 39 separately. See 37 C.F.R. § 41.37(c)(1)(vii).

- b) The “Internet” Issue:
- i) “[T]here would be no reason to incorporate the Hyllander et al. patent into either the Malik patent or the Ueshima patent.” App. Br. 19.
  - ii) “Hyllander . . . doesn't teach or suggest assigning a new Internet Address to the calling party [but, instead, to the contacted party].” *Id.*
  - iii) “[N]one of the references teach or suggest how such an Internet Address would be assigned to the caller in the Malik patent, either alone or combined with the Ueshima patent.” *Id* at 20.
- 2) With respect to claims 27, 29, 30, 38, and 39, “[t]he Examiner does not point to any teaching or suggestion in any of the references of [highlighted language of the respective claims.]” App. Br. 20-24.
- 3) With respect to claim 35, the claim is patentable “[f]or at least the reasons stated above in relation to claim 23.” App. Br. 23.

#### ISSUES ON APPEAL

Based on Appellant’s arguments in the Appeal Brief (App. Br. 10-24) and Reply Brief (Reply 5-12) the issues presented on appeal are whether the Examiner erred in combining the disclosures of Malik, Ueshima, and Hyllander and whether the asserted combinations of references teaches or suggests the invention as recited in the disputed claims.

#### ANALYSIS

We have reviewed the Examiner’s rejections in light of Appellants’ arguments that the Examiner has erred.

We disagree with Appellants' conclusions as to all rejections. We adopt as our own (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken and (2) the reasons set forth by the Examiner in the Examiner's Answer in response to Appellants' Appeal Brief. We concur with the conclusions reached by the Examiner. For emphasis, we consider and highlight the following arguments *seriatim* as they are presented in the Appeal Brief pages 10-24.

#### Claim 23: The "Password" Issue

In connection with contention 1(a)(i), Appellants argue there is no motivation for incorporating a "password" into the system disclosed by Malik since "there is no teaching or suggestion in either [Malik or Ueshima] of the need to identify an individual over and above the identification of the calling line." App. Br. 12. That is, because "provided services in the Malik patent are for the calling line, not any individual" (App. Br. 6), a person using a particular line would be considered an authorized person such that it would be of no benefit to issue a password to that person (App. Br. 7.) The Examiner responds that providing an initiating party with a password to be used when requesting a service would "enhance the system's efficiency by providing the desired information to authorized individuals only. Providing a password will ensure that only the authorized users can access or request certain services or information." Ans. 4.

We agree with the Examiner and find Appellants' argument against combining Malik and Ueshima unpersuasive. While Malik may initially authorize a user based on receiving a call using a particular line, that does not exclude issuance of a password to add a level of security as reasoned by

the Examiner. We find that the Examiner has provided sufficient articulated reasoning with rational underpinning to support the legal conclusion of obviousness. Since Appellants have failed to provide sufficient evidence or argument that the combination of Malik and Ueshima is improper, we find Appellants' contention 1(a)(i) to be unpersuasive of Examiner error.

In connection with contention 1(a)(ii), Appellants argue "there is . . . no teaching or suggestion in either [Malik or Ueshima] as to how either or both systems would be modified to accomplish this added functionality."

App. Br. 16. Appellants further argue:

[s]ince the Malik patent doesn't use passwords at all, and the Ueshima patent only uses passwords to identify whatever party happened to use the incoming line to the CTI, there is no help from either reference as to why or how one would further identify a particular individual utilizing the incoming line.

*Id.*

Appellants' arguments are unpersuasive because they provide insufficient evidence or analysis as to why a person of ordinary skill in the art could not apply the teachings of Ueshima to modify the teachings of Malik. Moreover, "[a] person of ordinary skill is also a person of ordinary creativity, not an automaton." *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 421 (2007). As such, "a person of ordinary skill will be able to fit the teachings of multiple patents together like pieces of a puzzle." *Id.* at 420. Thus, in our view, a person having ordinary skill in the art would be readily able to combine the teachings of Malik and Ueshima to arrive at the disputed claim limitations.

For the reasons discussed *supra*, we find Appellants' arguments directed to the "Password Issue" and contentions 1(a)(i) and 1(a)(ii) to lack sufficient evidence or argument to persuade us of Examiner error.

#### Claim 23: The "Internet" Issue

In connection with contention 1(b)(i), Appellants argue "there would be no reason to incorporate the Hyllander et al. patent into either the Malik patent or the Ueshima patent." App. Br. 19. We disagree for the reasons presented by the Examiner. In particular, the Examiner argues that the reason to associate an Internet Address with the initiating party is "in order to provide the initiating party with special and new IP address that is assigned to that calling party only" and thereby enhance security. Ans. 5. The Examiner further argues that providing an Internet Address would provide other advantages including cost savings in making long distance calls. Ans. 11. In the absence of sufficient evidence or argument to the contrary, we find that the Examiner's explanation constitutes a sufficient articulated reasoning with rational underpinning to support the legal conclusion of obviousness.

In connection with contention 1(b)(ii), Appellants argue "Hyllander . . . doesn't teach or suggest assigning a new Internet Address to the *calling party* [but, instead, to the contacted party]." App. Br. 19 (emphasis added.) The Examiner responds that Hyllander "teaches a telephony internet server adapted to identify the mobile subscriber station (*calling party*) by associating the telephone instated of the mobile subscriber station with an internet address." Ans. 11 citing Hyllander col. 3, ll. 8-14 (emphasis added). We agree with the Examiner and find that the combination of Malik,

Ueshima, and Hyllander teaches or suggests associating an initiating party number with an Internet address. For these reasons and in the absence of sufficient evidence or argument to the contrary, contention 1(b)(ii) is not persuasive of Examiner error.

In connection with contention 1(b)(iii), Appellants argue “none of the references teach or suggest how such an Internet Address would be assigned to the caller in the Malik patent, either alone or combined with the Ueshima patent.” App. Br. 20. However Appellants’ argument is not commensurate in scope with claim 23 which only requires that “the service associates said initiating party number with an Internet address” with no mention “assigning.” Accordingly contention 1(b)(iii) is also unpersuasive of Examiner error.

For the reasons discussed *supra*, we sustain the rejection of claim 23 under 35 U.S.C. § 103(a) as being unpatentable over Malik , Ueshima, and Hyllander together with the rejections of claims 24-26, 28, 32-34, and 42 not separately argued.

Claims 27, 29, 30, 38, and 39

In connection with contention 2, Appellants argue “the Examiner does not point to any teaching or suggestion in any of the references of [highlighted language of the respective claims.]” App. Br. 20-24. We disagree. In connection with claim 27, the Examiner indicates that it is “rejected for the same reasons as discussed above with respect to claims 23-25” (Ans. 6) and claims 29, 30, 38, and 39 “for the same reasons as discussed . . . with respect to claims 28 and 23” (*id.*) Furthermore, in

connection with those claims, Appellants' arguments are not persuasive of error as they are no more than general allegations that the disputed limitations are not disclosed by the applied references. See 37 C.F.R. § 41.37(c)(1)(vii) ("A statement which merely points out what a claim recites will not be considered an argument for separate patentability of the claim."); *In re Lovin*, 652 F.3d 1349, 1357 (Fed. Cir. 2011) ("[W]e hold that the Board reasonably interpreted Rule 41.37 to require more substantive arguments 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."). Therefore we sustain the rejections of claims 27, 29, 30, 38, and 39 under 35 U.S.C. § 103(a) as being unpatentable over Malik, Ueshima, and Hyllander together with the rejection of claim 31 not separately argued.

#### Claim 35

In connection with contention 3, Appellants argue that claim 35 is patentable "[f]or at least the reasons stated above in relation to claim 23." App. Br. 23. Having found contentions 1(a)(i) – (b)(iii) lacking sufficient evidence or argument to persuade us of Examiner error, for the same reasons we sustain the rejection of claim 35 under 35 U.S.C. § 103(a) as being unpatentable over Malik, Ueshima, and Hyllander together with the rejections of claims 36, 37, and 40-41 not separately argued.

Appeal 2010-009863  
Application 11/215,247

### CONCLUSION

On the record before us, we conclude that the Examiner did not err in rejecting claims 23-42 under 35 U.S.C. § 103(a) as being unpatentable over Malik, Ueshima, and Hyllander.

### DECISION

The decision of the Examiner to reject claims 23-42 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