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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte STEPHANE FOCANT, DOMINIQUE CHANTRAIN,
NICK MARLY, KOEN HANDEKYN, KOEN DAENEN,
LIEVEN TRAPPENIERS, and CLAUDINE BATSLEER¹

Appeal 2010-012333
Application 10/131,205
Technology Center 2400

Before JOSEPH F. RUGGIERO, DENISE M. POTHIER, and
JAMES B. ARPIN, *Administrative Patent Judges*.

ARPIN, *Administrative Patent Judge*.

DECISION ON APPEAL
STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1-4 and 11. Claims 5-10 and 12-14 are withdrawn from consideration as directed to another invention. App. Br. 4, 12-15; *see also* Final Rej. 2.² We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

¹ Alcatel is the real party in interest.

INVENTION

Appellants' invention relates to gateways for allowing users to contact service systems via access systems that comprise (1) stored service system codes defining and allowing access to the service systems and (2) stored user profiles related to service system codes. *See generally* Abstract; Spec. 1:10-15. In response to download signals, service system codes are downloaded from the access systems to the gateways, and these downloaded service system codes are stored in the gateway's memory. *Id.* As a result, users have these service system codes available in their gateways. *Id.* Claim 1 is illustrative and is reproduced below with disputed limitations emphasized:

1. A gateway to be coupled to a network for allowing at least one user terminal to contact at least one service system via an access server system, said gateway comprising a memory which, in response to a download signal, stores first service system codes that are downloaded,
wherein said access server system comprises stored second service system codes, each defining the service system and allowing access to the service system, and stored user profiles, each being related to at least one service system code.

The Examiner relies on the following as evidence of unpatentability:

Dean

US 6,055,512

Apr. 25, 2000

² Throughout this opinion, we refer to (1) the Appeal Brief (App. Br.) filed November 11, 2009; (2) the Examiner's Answer (Ans.) mailed June 23, 2010; (3) the Reply Brief (Reply Br.) filed August 18, 2010; and (4) the Final Rejection (Final Rej.) mailed January 22, 2009. We note that substitute page 4 and substitute pages 12-15 of the Appeal Brief were submitted in responses filed December 9, 2009, and March 25, 2010, respectively, to Notifications of Non-Compliant Appeal Brief.

THE REJECTION

The Examiner rejected claims 1-4 and 11 under 35 U.S.C. § 102(b) as anticipated by Dean. Ans. 3.

ANTICIPATION REJECTION OVER DEAN

Rather than repeat the arguments of Appellants and the Examiner, we refer to the Appeal Brief (including the responses to the Notifications of Non-Compliant Appeal Brief), the Answer, and the Reply Brief. We have considered in this decision only those arguments that Appellants actually raised in the Briefs. Any other arguments, which Appellants could have made, but chose not to make, in the Briefs, are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(iv).

ISSUE

Under § 102, has the Examiner erred in rejecting independent claim 1 by finding that Dean discloses that “said access server system comprises stored second service system codes, each defining the service system and allowing access to the service system, and stored user profiles, each being related to at least one service system code”?

ANALYSIS

Based on the record before us, we find no error in the Examiner’s rejection of independent claim 1. Appellants argue that the Examiner fails to demonstrate that Dean discloses each and every element of the claimed invention. App. Br. 10-11; Reply Br. 4. Moreover, Appellants argue that the Examiner’s rationale in demonstrating that Dean discloses the elements of claim 1 is confusing. Reply Br. 4. We disagree.

Initially, Appellants argue that Dean's Figure 4 simply illustrates an arrangement of data and a relationship between the data items resident in the database. App. Br. 9. Further, Appellants argue that Deans fails to demonstrate "how an access server system, which is different from the gateway, comprises stored second service system codes . . . and stored user profiles." *Id.* (emphases in original).

Dean's Figure 2 depicts the internal architecture of a service terminal device, such as service terminal device 100, which is depicted in Dean's Figure 1. Dean, col. 4, ll.11-13; col. 5, ll. 2-37. The Examiner finds that the gateway and its associated memory, as recited in claim 1, are disclosed by Dean's internal service device 100, including gateway device controller interface 207 and data storage means 203. Ans. 3; Final Rej. 3. The Examiner finds that, referring to Figure 2, Dean also discloses an access server system. *Id.* In particular, the Examiner finds that the components of the internal architecture of the service terminal device, less gateway device controller interface 207 and data storage means 203, disclose Appellants' access server system. *Id.*

Claim 1 recites that Appellants' access server system comprises *stored* second service system codes, each second service system code defining a service system and allowing access to the service system. App. Br. 12. The Examiner finds that Dean's Figure 4 discloses "Data services/service provider" information that: *is stored* in the internal architecture of the service terminal device; *defines* a service system, e.g., a service provider; and *allows* access to the service system. Ans. 3, 5; Final Rej. 3. In particular, referring to Figure 4, Dean's database 400 may store "a set of service data comprising a list of electronic addresses or dial-up

numbers of remote data sources and service providers, together with data which identifies the type of data and services available for retrieval from those data sources and service providers.” Ans. 5 (citing Dean, col. 6, ll. 43-48).

Claim 1 also recites that Appellants’ access server system comprises *stored* user profiles, each user profile relating to at least one service system code. App. Br. 12. Referring to Figure 3, Dean discloses a database including “User Data,” which relates user profile information to one or more “Remote Access Data” sources. Ans. 3, 5; Final Rej. 3. Further, Dean describes that processor 201 stores user data locally in database 400. Dean, col. 6, ll. 30-34; *see also* Dean, col. 5, ll. 27-28 (describing processor 201 with associated memory 202). Thus, the Examiner adequately demonstrates that Dean discloses an access server system that stores both of the types of data: second service system codes and user profiles, stored in the access server system.

Appellants also argue that Dean is directed to an information service, i.e., to retrieving and displaying information to an end user. App. Br. 9. Appellants contend that, unlike their claimed invention, Dean’s system assumes network connectivity between the terminal and the remote database. *Id.* at 9-10. Consequently, Appellants argue that the claimed invention and Dean’s system confront different problems and operate using different network connectivity. *Id.* at 10. It is well established, however, that a reference need not confront the same problem in order to anticipate a claimed invention. “A reference may be from an entirely different field of endeavor than that of the claimed invention or may be directed to an entirely different problem from the one addressed by the inventor, yet the reference

will still anticipate if it explicitly or inherently discloses every limitation recited in the claims.” *In re Schreiber*, 128 F.3d 1473, 1478 (Fed. Cir. 1997). In addition, to the extent that Appellants’ invention requires specific network connectivity, no such connectivity is specified in claim 1. *Compare* App. Br. 12 *with* the arguments presented regarding claim 1 (App. Br. 10). Thus, Appellants’ argument is not commensurate in scope with the express language of independent claim 1, which merely recites that the gateway is coupled to a network via an access server system and does not recite specific network connectivity. App. Br. 12.

As noted above, Dean’s Figure 2 depicts the internal architecture of service terminal device 100. Dean, col. 4, ll. 11-13. Because the Examiner finds that this internal architecture discloses both Appellants’ gateway and access server system, Appellants argues that Dean fails to disclose the invention of claim 1, which allegedly requires that the access service system is *different* from the gateway. Reply Br. 5. Further, Appellants argue that, if both the gateway and access service system are part of service terminal device 100 and if the data of Dean’s Figure 4, corresponding to the second service system codes, is stored in the access service system, the gateway also must store that data. *Id.* Appellants argue that this would be contrary to the requirements of the claimed invention. We disagree and note that, again, Appellants’ argument is not commensurate in scope with the express language of independent claim 1.

Appellants do not identify any language from claim 1 which would prohibit the gateway and the access server system from being contained within a single device, such as service terminal device 100. *See* Reply Br. 5. Moreover, to the extent that the gateway and access service system must be

different, we note that the Examiner identifies different components of service terminal device 100 to each of these elements. Ans. 3; Final Rej. 3. Moreover, because housing the gateway and access service system in the same device is not prohibited by the claim language and because the components of service terminal device 100, which correspond to the gateway and to the access service system, are different (Ans. 3 (access server system disclosed by Figure 2 “(less 203 and 207);” emphasis added)); the Examiner’s finding that the data of Figure 4 is stored on the components of Dean that are associated with the access service system is not contrary to the claim language.

For the foregoing reasons, Appellants have not persuaded us of error in the rejection of independent claim 1 and of claims 2-4 and 11 not separately argued with particularity. Therefore, we sustain this rejection.

CONCLUSION

The Examiner did not err in rejecting claims 1-4 and 11 under § 102.

DECISION

The Examiner’s decision rejecting claims 1-4 and 11 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