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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte IGOR FAYNBERG and HUILAN LU

Appeal 2012-005868
Application 12/100,777
Technology Center 2400

Before JAMES T. MOORE, BRADLEY W. BAUMEISTER, and
JEREMY J. CURCURI, *Administrative Patent Judges*.

CURCURI, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1–3, 5–13, and 15–20. Claims 4 and 14 are canceled. App. Br. 1–2. We have jurisdiction under 35 U.S.C. § 6(b).

Claim 20 is rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter. Ans. 5–6.

Claims 1–3, 7, 8, 11–13, 17, 18, and 20 are rejected under 35 U.S.C. § 102(e) as anticipated by Oba (US 2008/0178277 A1; published July 24, 2008). Ans. 6–8.

Claims 5 and 15 are rejected under 35 U.S.C. § 103(a) as obvious over Oba and Srinivas (US 2009/0110200 A1; published Apr. 30, 2009). Ans. 8.

Claims 6 and 16 are rejected under 35 U.S.C. § 103(a) as obvious over Oba and Haverinen (US 2009/0183003 A1; published July 16, 2009).

Ans. 8–9.

Claim 9 is rejected under 35 U.S.C. § 103(a) as obvious over Oba and Sato (US 2005/0289643 A1; published Dec. 29, 2005). Ans. 9.

Claims 10 and 19 are rejected under 35 U.S.C. § 103(a) as obvious over Oba and Guo (US 2009/0204808 A1; published Aug. 13, 2009).

Ans. 9–10.

We affirm.

STATEMENT OF THE CASE

Appellants' invention relates to “authenticated user-access to Kerberos-enabled applications based on an Authentication and Key Agreement mechanism.” Abstract. Claim 1 is illustrative and reproduced below:

1. A method for authenticating a user to one or more Kerberos-enabled applications, comprising:

authenticating said user using an Authentication and Key Agreement mechanism based on a bootstrapping protocol that mutually authenticates said user and one or more servers, wherein said bootstrapping protocol is based on a Generic Bootstrapping Architecture and wherein a ticket is issued to a Ticket Granting Server; and

upon authenticating said user, enabling said user to derive a session key, wherein said Ticket Granting Server provides a ticket to one or more Application Servers that provide one or more Kerberos-enabled applications.

ANALYSIS

THE REJECTION OF CLAIM 20 UNDER 35 U.S.C § 101

The Examiner finds claim 20, reciting “a tangible machine readable recordable storage medium containing one or more programs[,]” is directed to non-statutory subject matter. Ans. 5–6, 11–12.

Appellants argue that the recited tangible machine readable recordable storage medium excludes signals, and does not cover substantially all practical uses of a judicial exception. App. Br. 4–5; *see also* Reply Br. 2–4, 6–7.

We agree with the Examiner that the recited tangible machine readable recordable storage medium encompasses transitory media, where, as here, the Specification does not limit the storage to non-transitory forms. *Accord Ex parte Mewherter*, 107 USPQ2d 1857 (PTAB 2013) (precedential) (holding recited machine-readable storage medium ineligible under § 101 since it encompasses transitory media).

Appellants’ Specification (Spec. 7:7–8:9) describes computer readable media, but does not definitively limit tangible machine readable recordable storage media to non-transitory forms. Thus, the broadest reasonable interpretation of the recited medium includes a propagation medium, which includes a signal. *See In re Nuijten*, 500 F.3d 1346, 1357 (Fed. Cir. 2007).

We, therefore, sustain the Examiner’s rejection of claim 20 under 35 U.S.C. § 101.

THE ANTICIPATION REJECTION OF CLAIMS 1–3, 7, 8, 11–13, 17, 18, AND 20 BY
OBA

The Examiner finds Oba describes all limitations of claim 1. Ans. 6–7. The Examiner maps Oba’s Extensible Authentication Protocol (EAP) and Oba’s generic protocol for bootstrapping credentials to the recited authenticating. Ans. 6 (citing Oba, ¶¶ 23, 64, 176, 225).

Appellants present the following principal arguments:

i.

[T]he term “Generic Bootstrapping Architecture” is a term well known in the art and refers to a specific standard. The Examiner’s interpretation of the cited term is inconsistent with the definition provided in the specification and is *not* how the term would be understood by a person of ordinary skill, based on the specification. Moreover, the EAP method disclosed by Oba is *not* equivalent to the claimed “Generic Bootstrapping Architecture”, as would be apparent to a person of ordinary skill in the art.

App. Br. 6.

ii. “The GBA is generic in that it is not application specific. The Extensible Authentication Protocol (EAP), on the other hand, is a framework for authenticating a device trying to connect to a network access node.”

App. Br. 6.

iii. Oba’s disclosure of a generic protocol for bootstrapping does not include the Generic Bootstrapping Architecture. Reply Br. 4.

iv. “[T]he bootstrapping result disclosed by Oba is a pre-shared key and other parameters required by a full Kerberos system; a bootstrapping result in the claimed invention is the ticket to the Ticket Granting Server.” App. Br. 7.

We have reviewed the record, including Appellants' arguments in the Appeal Brief and the Reply Brief, and are not persuaded of Examiner error.

Regarding Appellants' arguments (i), (ii), and (iii), we find these arguments unpersuasive because Oba (¶ 23 (emphasis added) describes “[a]nother approach to combine EAP and Kerberos is to integrate an EAP-based pre-authentication mechanism into Kerberos. However, using *a generic protocol for bootstrapping credentials can also be used for bootstrapping symmetric keys* for usage Mobile IP[.]” We agree with and adopt as our own the Examiner's explanation that “[s]ince one of ordinary skill in the art could reasonably construe Oba's disclosure of a ‘generic protocol for bootstrapping’ as including the Generic Bootstrapping Architecture and Oba discloses the claimed invention without using terminology identical to the Appellant[s], the rejection under 35 U.S.C. § 102 is proper and should be maintained.” Ans. 14.

Thus, we see no reason why Oba's EAP and generic protocol for bootstrapping credentials does not described the recited “authenticating said user using an Authentication and Key Agreement mechanism based on a bootstrapping protocol that mutually authenticates said user and one or more servers, wherein said bootstrapping protocol is based on a Generic Bootstrapping Architecture[.]”

Regarding Appellants' argument (iv), we also find this argument unpersuasive because we agree with and adopt as our own the Examiner's explanation:

Appellant[s] admit[] on page 6, lines 19-20 of the Specification that transmitting a ticket to a ticket granting server (TGS) is part of the prior art, specifically RFC 4120. *See* MPEP § 2129. RFC 4120 is known as “The Kerberos Network Authentication

Service (V5).” Oba discloses Kerberos. *See* title, abstract, etc. One of ordinary skill in the art could reasonably construe that issuing a ticket to a TGS is inherent to Kerberos based on the Appellant[’s] admission, especially since RFC 4120 obsoletes RFC 1510, which Oba discloses at paragraph 0020.

Ans. 14. Appellants’ argument (*see* App. Br. 7) is not persuasive of error in the Examiner’s findings (Ans. 6-7, 14) regarding issuing a ticket to a TGS because the argument does not point out any error in the Examiner’s reasoning, and we see no error in the Examiner’s reasoning.

Thus, we see no reason why Oba’s combining EAP and Kerberos, including Oba’s generic protocol for bootstrapping credentials, does not describe the recited “ticket is issued to a Ticket Granting Server[.]”

We, therefore, sustain the Examiner’s rejection of claim 1, as well as claims 2, 3, 7, 8, 11–13, 17, 18, and 20, which are not argued separately with particularity.

THE OBVIOUSNESS REJECTION OF CLAIMS 5 AND 15 OVER OBA AND SRINIVAS

The Examiner finds Oba and Srinivas teach all limitations of claims 5 and 15. Ans. 8.

Appellants do not argue claims 5 and 15 with particularity. *See* App. Br. 4–7; *see* Reply Br. 2–9.

We, therefore, sustain the Examiner’s rejection of claims 5 and 15.

THE OBVIOUSNESS REJECTION OF CLAIMS 6 AND 16 OVER OBA AND HAVERINEN

The Examiner finds Oba and Haverinen teach all limitations of claims 6 and 16. Ans. 8–9.

Appellants do not argue claims 6 and 16 with particularity. *See* App. Br. 4–7; *see* Reply Br. 2–9.

We, therefore, sustain the Examiner’s rejection of claims 6 and 16.

THE OBVIOUSNESS REJECTION OF CLAIM 9 OVER OBA AND SATO

The Examiner finds Oba and Sato teach all limitations of claim 9.
Ans. 9.

Appellants do not argue claim 9 with particularity. *See* App. Br. 4–7; *see* Reply Br. 2–9.

We, therefore, sustain the Examiner’s rejection of claims 9.

THE OBVIOUSNESS REJECTION OF CLAIMS 10 AND 19 OVER OBA AND GUO

The Examiner finds Oba and Guo teach all limitations of claims 10 and 19. Ans. 9–10.

Appellants do not argue claims 10 and 19 with particularity. *See* App. Br. 4–7; *see* Reply Br. 2–9.

We, therefore, sustain the Examiner’s rejection of claims 10 and 19.

ORDER

The Examiner’s decision rejecting claims 1–3, 5–13, and 15–20 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

rwk