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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ALLAN CHAN, NEESHANT D. DESAI, and ADRIAN COWHAM

Appeal 2013-000200
Application 11/580,459
Technology Center 2400

Before ST. JOHN COURTENAY III, THU A. DANG, and LARRY J. HUME, *Administrative Patent Judges*.

DANG, *Administrative Patent Judge*.

DECISION ON APPEAL

I. STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1–21. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

A. INVENTION

According to Appellants, the invention relates to port security states (Spec. 1, ll. 5–7).

B. ILLUSTRATIVE CLAIM

Claim 1 is exemplary:

1 . A method for graphically displaying a port security state of a network device, said method comprising:

receiving data associated with said port security state of said network device, wherein said data comprises textual information;

converting said data into an icon, wherein said icon corresponds to said port security state of said network device, and wherein said icon conveys at least a subset of said textual information contained in said data; and

displaying said icon to a user.

C. REJECTION

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

Ho	US 2005/0027703 A1	Feb. 3, 2005
Chen	US 7,342,891 B2	Mar. 11, 2008
Shah	US 7,478,333 B2	Jan. 13, 2009

Claims 1–3, and 6–15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chen and Ho.

Claims 16–21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Shah and Chen.

Claims 4 and 5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chen, Ho and Shah.

II. ISSUE

The principal issue before us is whether the Examiner erred in finding that Chen, in view of Ho, teaches or would have suggested a "method for graphically displaying a port security state" comprising "receiving *data associated with said port security state* of said network device" (claim 1, emphasis added).

III. FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence.

Chen

Chen discloses displaying port performances of networking devices (Abst.), wherein Figure 2C is reproduced below:

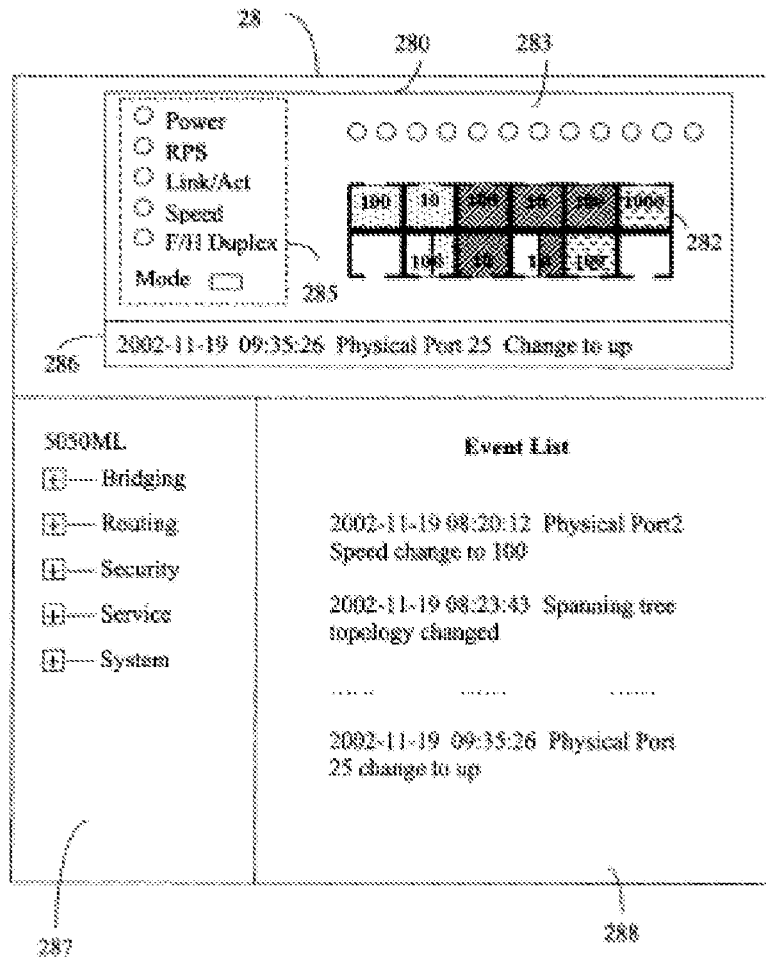

FIG. 2C

Figure 2C discloses a port information page 28, comprising operation selection column 287 to configure basic data on bridging, routing, security, service and other system settings for the network device (col. 3, ll. 60–66).

IV. ANALYSIS

As to claim 1, Appellants contend "the traffic volume status and port performance disclosed in Chen do not indicate the security state at the port" (App. Br. 8). Although Appellants concede Chen discloses "security" data which "may indicate the security status of the network device…,"

Appellants contend the data "does not indicate the security status of any particular port of the network device" (App. Br. 9).

However, the Examiner finds Chen discloses and suggests that "administrative workstation 2 can simultaneously provide a plurality of port information pages 28, each of which corresponds to a respective one of the network devices 6" wherein "[e]ach port information page 28 is used for conveniently displaying information on ports of the respective network device (Ans. 14). The Examiner also finds, in Chen, "[t]hrough the operation selection column 287, the administrator can configure basic data on bridging routing, security, service and other system setting for the network device 6" (Ans. 11). Thus, the Examiner finds "the Chen reference teaches the concept of port security state" (Ans. 14).

We find no error with the Examiner's underlying factual findings and ultimate legal conclusion of obviousness.

We give the claims their broadest reasonable interpretation consistent with the Specification. *See In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997).

Although Appellants contend "the traffic volume status and port performance disclosed in Chen do not indicate the security state at the port" (App. Br. 8), and that Chen's "security" data "does not indicate the security status of any particular port of the network device" (App. Br. 9), such contentions are not commensurate in scope with the recited language of claim 1. In particular, claim 1 does not require any "data" that "*indicate* the security status of any *particular* port" nor preclude "data" that pertain to "traffic volume status and port performance" as Appellants contend (*id.*,

emphasis added). That is, claim 1 merely requires that the "data" be "associated with" the "port security state."

Further, we note claim 1 provides no definition for "data associated with said port security state" and that the Specification does not provide any clear definition for the term. Thus, we give "data associated with said port security state" is broadest reasonable interpretation consistent with the Specification as data that is related to (associated with) the security state of a port.[1]

Chen discloses displaying port performances of networking devices, wherein a port information page comprises an operation selection column to configure the security for the network device (FF). That is, Chen discloses receiving data associated with the state of a port, wherein the data includes

[1] To the extent Appellant contends Chen's received security "data" differ from the claimed "data associated with said port security state" (App. Br. 9), we note such contention urging patentability is predicated on the type or content of the data that received to be displayed. Thus, a question arises as to whether such type or content of the data should be given patentable weight. See *In re Ngai*, 367 F.3d 1336, 1338 (Fed. Cir. 2004); *Ex parte Nehls*, 88 USPQ2d 1883, 1887–90 (BPAI 2008) (precedential); *Ex parte Curry*, 84 USPQ2d 1272 (BPAI 2005) (informative) (Fed. Cir. Appeal No. 2006-1003), *aff'd*, (Rule 36) (June 12, 2006)); *Ex parte Mathias*, 84 USPQ2d 1276 (BPAI 2005) (informative), *aff'd*, 191 Fed. Appx. 959 (Fed. Cir. 2006). Here, the data is intended to be presented to an enduser/human viewer, but the informational content is not positively recited as actually being used to: (1) change or affect any machine or computer function, or (2) alter how the information will be received or displayed. See also MPEP § 2111.05 8th ed., Rev. 9, Aug. 2012 ("[W]here the claim as a whole is directed conveying a message or meaning to a human reader independent of the intended computer system, and/or the computer-readable medium merely serves as a support for information or data, no functional relationship exists.").

data associated with the security of the network device that comprises the particular port (*id.*). We find no error with the Examiner's finding that Chen teaches or would have suggested "receiving data *associated with* said port security state of said network device" (claim 1, emphasis added).

Furthermore, since the Examiner rejects the claims as *obvious* over the combined teachings of Chen and a secondary reference under 35 U.S.C. § 103(a), the test for obviousness what the Chen in combination with the references *would have suggested to one of ordinary skill in the art*. *See In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). Thus, even assuming, *arguendo*, our reviewing court were to adopt a more narrow construction and find Chen does not expressly teach "data associated with said port security state," we find it would have been well within the level of skill of one skilled in the art to display data associated with the port security state instead of or in addition to displaying the data associated with the security state of the network device comprising the port.

The Supreme Court has determined the conclusion of obviousness can be based on the interrelated teachings of multiple patents, the effects of demands known to the design community or present in the marketplace, and the background knowledge possessed by a person having ordinary skill in the art. *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007). The skilled artisan is "a person of ordinary creativity, not an automaton." *Id.* at 420-21.

Appellants have presented no evidence that displaying data associated with port security state instead of or in addition to data associated with the security state of the network device comprising the particular port would have been "uniquely challenging or difficult for one of ordinary skill in the

art." *Leapfrog Enters., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007) (citing *KSR*, 550 U.S. at 418).

On this record, we find no error in the Examiner's rejection of claim 1, and of claims 2, 3, 6, and 9–15, depending therefrom but not argued separately (App. Br. 10), over Chen in further view of Ho.

As for claims 7 and 8, Appellants add "the port performance, traffic volume status, and event information disclosed in Chen do not indicate the security status of the port much less the authentication status of the port" (*id.*). However, we agree with the Examiner's finding Chen discloses displaying a "working status" which "may be link down, link up, port active or port blocked" (Ans. 17). That is, we find no error with the Examiner's finding that Chen would have suggested data *associated with* port security state which comprises authentication status of the device, as required in claim 7 and 8. Furthermore, we conclude it would have been well within the skill of one skilled in the art to display data associated with the authentication status instead of or in addition to displaying the data associated with the security state of the network device. Thus, we also find no error with the Examiner's rejection of claims 7 and 8 over Chen and Ho.

As for independent claim 16, Appellants repeat the arguments that Chen does not disclose displaying "the state of security of that port" (App. Br. 11), and that "the port information disclosed in Chen is not the same as or equivalent to the security status and authentication status of the port" (App. Br. 12). However, as discussed above with respect to claim 1, we find no error with the Examiner's finding that Chen at least suggests such features. Thus, we also find no error with the Examiner's rejection of claim 16 over Shah in view of Chen. Appellants do not provide substantive

arguments for claims 17–21 depending from claim 16 (App. Br. 13), and thus, claims 17–21 fall with claim 16 over Shah and Chen.

As for claims 4 and 5, Appellants merely contend "the proposed combination of Chen in view of Ho fails to disclose all of the features of independent claim 1" from which claims 4 and 5 depend (*id.*). However, as discussed above, we find no error with the Examiner's finding that Chen and Ho at least suggests the limitations of claim 1. Thus, we also find no error with the Examiner's rejection of claims 4 and 5 over Chen and Ho in view of Shah.

V. CONCLUSION AND DECISION

We affirm the Examiner's rejection of claims 1–21 under 35 U.S.C. § 103(a). [2]

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).

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[2] In the event of further prosecution of this application, we direct the Examiner's attention to the question of whether the claims are patent-eligible under 35 U.S.C. § 101 in light of the recently issued preliminary examination instructions on patent eligible subject matter. *See* "2014 Interim Guidance on Patent Subject Matter Eligibility," Dec. 16, 2014. . Abstract ideas have been identified by the courts by way of example, including fundamental economic practices, certain methods of organizing human activities, an idea 'of itself,' and mathematical relationships/formulas. *Alice Corp*., 134 S. Ct. at 2355–56. All claims on appeal appear to be merely directed to displaying data of a particular type or content, even though several of Appellants' claims nominally recite otherwise an "interface" comprising a "display" for displaying such data. Although the Board is authorized to reject claims under 37 C.F.R. § 41.50(b), no inference should be drawn when the Board elects not to do so. See Manual of Patent Examining Procedure (MPEP) 1213.02.

AFFIRMED

Ssc