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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte HANS-JUERGEN AMINGER, DIRK BOLTE, HERWIG ELFERING, and ADOLF MARTENS[1]

Appeal 2014-005313
Application 12/466,148
Technology Center 2600

Before DEBRA K. STEPHENS, JASON V. MORGAN, and JOHN R. KENNY, *Administrative Patent Judges*.

MORGAN, *Administrative Patent Judge*.

DECISION ON APPEAL

Introduction

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1, 2, 4, 5, 7, 8, and 10–18. Claims 3, 6, and 9 are canceled. App. Br. 13–15. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

Invention

Appellants disclose the use of a Radio Frequency Identification (RFID) Controller within the server system transmits a location request to a

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[1] Appellants identify International Business Machines Corporation as the real party in interest. Br. 2.

RFID Sensor. Abstract. The RFID Sensor identifies devices in a server system and returns signal strength and location information of the devices to an Embedded Controller that calculates its own current location. *Id.*

Exemplary Claims

Claims 1, 2, and 10, reproduced below with key limitations emphasized, are representative:

> 1. A method of determining connectionless location identification information of devices within a server system, the method comprising:
>
> at an Embedded Controller, issuing a location request to a Radio Frequency Identification (RFID) Sensor;
>
> *receiving signal strength and location information from the RFID Sensor, wherein the signal strength and location information includes signal strength and location information of one or more nearby RFID tags from a plurality of RFID tags*;
>
> calculating a current physical location of the Embedded Controller from the received signal strength and location information;
>
> in response to calculating the current physical location of the Embedded Controller, locally storing, on the Embedded Controller, the current physical location of the Embedded Controller;
>
> providing, to a support element, the location information and the current physical location of the Embedded Controller; and receiving, at the support element, the signal strength and location information of the one or more RFID tags and the current physical location of the Embedded Controller, wherein the signal strength and location information of the one or more RFID tags and the current physical location of the Embedded Controller in response to being received by the support element enables the support element to perform the functions of:

calculating a unique fixed IP address based on the current physical location of the Embedded Controller;

in response to calculating the unique fixed IP address based on the current physical location of the Embedded Controller, assigning the unique fixed IP address to the Embedded Controller; and

storing, on the support element, the unique fixed IP address of the Embedded Controller for subsequent communications with the Embedded Controller.

2. The method of Claim 1, wherein the location request enables the RFID Sensor to perform the functions of:

at the RFID Sensor, transmitting a radio frequency (RF) ping to nearby RFID tags, wherein a RFID tag corresponds to a connection location within the server system;

receiving a location identification from the nearby RFID tags, wherein the location identification includes a frame location and a position location; and

transmitting signal strength and location information of the nearby RFID tags to the Embedded Controller.

10. The method of claim 1, wherein the current physical location is a first location, the method further comprising:

always assigning a first fixed IP address every time the Embedded Controller is in the first location; and

always assigning a second IP address every time the Embedded Controller is in a second location.

Rejections

The Examiner rejects claim 7 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Final Act. 2.

The Examiner rejects claims 1, 2, 4, 5, 7, 8, 10, and 11–18 under 35 U.S.C. § 103(a) as being unpatentable over Rothman et al. (US 2008/

0114865 A1, published May 15, 2008) and Chen et al. (US 7,929,535 B2, issued Apr. 19, 2011).[2] Final Act. 3–18.

ISSUES

1. Did the Examiner err in rejecting claim 7 as being directed to non-statutory subject matter?

2. Did the Examiner err in finding the combination of Rothman and Chen teaches or suggests "receiving signal strength and location information from the RFID Sensor, wherein the signal strength and location information includes signal strength and location information of one or more nearby RFID tags from a plurality of RFID tags," as recited in claim 1?

3. Did the Examiner err in finding the combination of Rothman and Chen teaches or suggest "receiving a location identification from the nearby RFID tags, wherein the location identification includes a frame location and a position location," as recited in claim 2?

4. Did the Examiner err in finding the combination of Rothman and Chen teaches or suggests "always assigning a first fixed IP address every time the Embedded Controller is in the first location; and always assigning a second IP address every time the Embedded Controller is in a second location," as recited in claim 10?

[2] The Examiner erroneously lists claims 1–11 in the statement of the rejection (Final Act. 3), but properly includes all pending claims in the body of the rejection (*id.* at 3–18). We hold this typographical error harmless.

ANALYSIS

Claim 7

Appellants include in the Claims Appendix, a version of claim 7 directed to a "non-transitory computer-readable storage medium" (App. Br. 14–15 (emphasis added)) that appears to be an attempt to limit the scope of claim 7 to exclude "a transitory storage medium such as a signal" (Final Act. 2). However, the claim 7 amendment with the term "non-transitory" in the preamble (Amend. after Final 5 (May 16, 1013)) was not entered (Adv. Act. 1 (June 6, 2013)). Because claim 7 is still directed to "[a] computer-readable storage medium," and because Appellants do not show error in the Examiner's 35 U.S.C. § 101 rejection, we summarily affirm the Examiner's 35 U.S.C. § 101 rejection of claim 1. In the event of further prosecution, we recommend the Examiner further ascertain whether claims 8 and 16–18, which depend from claim 7, and which are still directed to computer-readable storage media, similarly encompass transitory storage media.

Claims 1, 4, 7, 11, 12, 14, 15, 17, and 18

In rejecting claim 1, the Examiner finds that Rothman's use of transceivers that transmit RFID signals, which have varying strength when received, teaches or suggests *receiving signal strength and location information from the RFID Sensor, wherein the signal strength and location information includes signal strength and location information of one or more nearby RFID tags from a plurality of RFID tags*. Final Act. 3 (citing, e.g., Rothman ¶¶ 18, 21); *see also* Ans. 3–4.

Appellants contend the Examiner erred because Rothman does not disclose receiving both signal strength and *location information* from an RFID sensor. Br. 7. Rather, Appellants argue, "*Rothman* only provides

receiving a unique identifier from a transceiver." *Id.* Appellants argue "unique identifiers as is known in the art are primarily utilized to provide differentiation between different objects. Thus, receiving a 'unique identifier' from a[n] RFID tag is not suggestive of receiving a location identification from a[n] RFID tag." Br. 8.

Appellants' argument is unpersuasive because, as the Examiner correctly finds, an identifier in Rothman "can be correlated to the location of the RFID transceiver." Ans. 3–4 (citing Rothman ¶ 21). We agree with the Examiner that "[b]ecause the unique identifier of the RFID transceiver is correlated to the location of the RFID transceiver . . . the reception by the computing platform of the unique identifier from the RFID transceiver constitutes the reception of 'location information.'" Ans. 4.

We note that the correlation of Rothman's unique identifier to an RFID transceiver location is similar to the use of a unique city/state name (e.g., "Alexandria, Virginia") that correlates with alternative forms of location information (e.g., 38° 48′ 17.4082″ N 77° 2′ 48.917″ W). Because the *unique* identifier can be used to look up *alternative* forms of location information (which, in certain contexts may be more valuable than the unique identifier by itself), the unique identifier *is* location information.

For these reasons, we agree with the Examiner that the combination of Rothman and Chen teaches or suggests "receiving signal strength and location information from the RFID Sensor, wherein the signal strength and location information includes signal strength and location information of one or more nearby RFID tags from a plurality of RFID tags," as recited in claim 1.

Accordingly, we sustain the Examiner's 35 U.S.C. § 103(a) rejection of claim 1, and claims 4, 7, 11, 12, 14, 15, 17, and 18, which Appellants do not argue separately. Br. 7.

Claims 2, 5, and 8

In rejecting claim 2, the Examiner finds Rothman's use of an identification field that represents a site, building, lab, etc., and Rothman's representation of a rack shelf and slot within the rack teaches or suggests *receiving a location identification from the nearby RFID tags, wherein the location identification includes a frame location and a position location.* Final Act. 6 (citing Rothman ¶¶ 19, 37–38).

Appellants contend the Examiner erred because "*Rothman* [is] completely devoid of any device receiving any location information directly from nearby RFID tags." Br. 7. We note that claim 2 does not recite receiving location information *directly* from nearby RFID tags. Moreover, as discussed above, Rothman's use of RFID transmissions that include unique identifiers that can be correlated to locations, teaches or suggests location information. Such identifiers combined with Rothman's use of alternative, more explicit forms of location information (e.g., site, building, etc.) as part of an identifier teaches or suggests receiving location information that contains more explicit details from an RFID tag. Ans. 4–6.

Furthermore, we agree with the Examiner that Rothman's "shelf location is functionally equivalent to a frame location, and the slot location is functionally equivalent to a position location." Ans. 9. Rothman's shelf and slot locations are examples of more forms of detailed location information. Thus, the Examiner's findings show that Rothman teaches or suggests a location identification (e.g., a unique identifier) received from an

RFID tag, wherein the location identification includes a frame location and a position location (i.e., where the unique identifier includes detailed location details such as frame and slot locations). Therefore, we agree with the Examiner that the combination of Rothman and Chen teaches or suggest "receiving a location identification from the nearby RFID tags, wherein the location identification includes a frame location and a position location," as recited in claim 2.

Accordingly, we sustain the Examiner's 35 U.S.C. § 103(a) rejection of claim 2, and claims 5 and 8, which Appellants do not argue separately. Br. 8.

Claims 10, 13, and 16

In rejecting claim 10, the Examiner finds Chen's encoding of geographic information for a network device in a Network ID segment and/or a Host ID segment of an IPv6 address teaches or suggests *always assigning a first fixed IP address every time the Embedded Controller is in the first location and always assigning a second IP address every time the Embedded Controller is in a second location*. Final Act. 12 (citing Chen col. 1, ll. 39–41, col. 6, ll. 28–40, 54–61, and col. 7, ll. 14–22).

Appellants contend the Examiner erred because "*Chen* clearly provides that only a subset portion of bits within an IPv6 address would be the same whenever a device was in a same location." Br. 9. Appellants submit that the selection of which bits (i.e., what constitutes the subset) can vary "depending on availability and other factors." *Id.* Thus, Appellants argue, "*Chen* does not suggest assigning a same exact entire IP address, including non-location information portions, every time a device is in a particular location." *Id.*

Appellants' arguments are unpersuasive because, although Chen notes that different implementations of Chen's method can use different parts of an IPv6 address to encode geographic location (Chen col. 4, ll. 24–27), a particular implementation of Chen's teachings can reserve a subset of bits (*id.* col. 4, ll. 27–35). *See* Ans. 13. Moreover, the Examiner correctly finds that where the non-geographical information (e.g., network ID) of an IPv6 address is fixed, the combination of the fixed information with encoded geographic location information "will always result in the same fixed IP address being assigned to the network device whenever it is connected to that network" at a particular location. Ans. 12 (citing Chen col. 6, ll. 41–45). Therefore, we agree with the Examiner that the combination of Rothman and Chen teaches or suggests "always assigning a first fixed IP address every time the Embedded Controller is in the first location; and always assigning a second IP address every time the Embedded Controller is in a second location," as recited in claim 10.

Accordingly, we sustain the Examiner's 35 U.S.C. § 103(a) rejection of claim 10, and claims 13 and 16, which Appellants do not argue separately. Br. 10.

DECISION

We affirm the Examiner's decision rejecting claim 7 under 35 U.S.C. § 101.

We affirm the Examiner's decision rejecting claims 1, 2, 4, 5, 7, 8, and 10–18 under 35 U.S.C. § 103.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 41.50(f).

AFFIRMED