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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte EUGENE M. FEINBERG, BEREND OZCERI, BRUCE SMITH,
and YUVAL KOREN

Appeal 2014-0092755
Application 12/985,264
Technology Center 2400

Before THU A. DANG, ERIC S. FRAHM, and NATHAN A. ENGELS,
Administrative Patent Judges.

FRAHM, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF CASE

Introduction

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–12. Claims 13–18 have been canceled. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

Exemplary Claim

Exemplary independent claim 1, under appeal, with emphases added to the key/disputed portions of the claim, reads as follows:

1. A method, comprising:
 associating, at a server, a user account established by *an owner of a removable media card* with information sufficient to permit a client device of the owner to join a wireless local area network (WLAN) of which an access point (AP) hosted by the removable media card is a part; and
 upon receipt of *account credentials of the owner*, providing the client device, via an out of band (OOB) network different from the WLAN, with the information sufficient to permit the client device to join the WLAN of which the AP is a part.

Examiner's Rejection

The Examiner rejected claims 1–12 as being unpatentable under 35 U.S.C. § 103(a) over McRae (US 2006/0221917 A1; published Oct. 5, 2006), Manchester (US 2005/0198233 A1; published Sept. 8, 2005), and Shin (US 2011/0099598 A1; published Apr. 28, 2011 and filed Oct. 26, 1999). Final Act. 3–30; Ans. 3–30.

*Issues on Appeal*¹

Based on Appellants' arguments in the Appeal Brief (App. Br. 8–10) and the Reply Brief (Reply Br. 5–9), the following issues are presented on appeal:

Did the Examiner err in rejecting claims 1–12 as being obvious over the combination of McRae, Manchester, and Shin because McRae, and thus the combination, fails to teach or suggest “account credentials” associated with “a user account established by an owner of a removable media card,” as recited in representative independent claim 1?

ANALYSIS

We have reviewed the Examiner's rejections (Final Act. 3–30; Ans. 3–30) in light of Appellants' contentions in the Appeal Brief (App. Br. 8–10) and the Reply Brief (Reply Br. 5–9) that the Examiner has erred, as well as the Advisory Action mailed April 8, 2014, and the Examiner's response (Ans. 31–35) to Appellants' arguments in the Appeal Brief. We disagree with Appellants' arguments.

With regard to representative claim 1, we concur with the conclusions reached by the Examiner, and adopt as our own (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken (Final Act. 3–8; Ans. 3–7), and (2) the reasons set forth by the Examiner in the

¹ Appellants argue both independent claims 1 and 7 as a group and present detailed arguments on the merits only with respect to independent claim 1 (App. Br. 8–9; Reply Br. 5–9). Appellants rely on the arguments presented for claim 1 as to the patentability of remaining dependent claims 2–6 and 8–12 which contain similar features. Accordingly, we select independent claim 1 as representative of the group of claims (claims 1–12) rejected for obviousness over the combination of McRae, Manchester, and Shin.

Examiner's Answer in response to Appellants' Appeal Brief (Ans. 31–35). We highlight and amplify certain teachings and suggestions of the references, as well as certain ones of Appellants' arguments as follows.

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis (*see In re Fine*, 837 F.2d 1071, 1073 (Fed. Cir. 1988)), and provide articulated reasoning in the rejection possessing a rational underpinning to support the legal conclusion of obviousness (*KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398, 418 (2007) (citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006))). An improved product in the art is obvious if that “product [is] not [one] of innovation but of ordinary skill and common sense.” *KSR*, 550 U.S. at 421.

We find that it would have been obvious to one of ordinary skill in the art at the time of Appellants' invention to combine (1) McRae's Access Point (AP) provisioning system and Dual Mode Device, system and method, (2) Manchester's network connectivity, transfer, and configuration procedures, (3) Shin's removable card for hosting APs, and (3) the knowledge and common sense of the ordinarily skilled artisan in the field of communications and security in order to provide better security when connecting and updating connections over networks, including DMDs operating over OOB networks and WLANs. *See In re Graves*, 69 F.3d 1147, 1152 (Fed. Cir. 1995) (citing *In re LeGrice*, 301 F.2d 929, 936 (CCPA 1962)) (confirming the longstanding interpretation that the teachings of a reference may be taken in combination with knowledge of the skilled artisan to put the artisan in possession of the claimed invention even though the patent does not specifically disclose certain features.). An ordinarily skilled artisan at the time of Appellants' invention recited in representative claim 1

employing common sense would have recognized that in combining McRae's DMD device/system/method using an Out-Of-Band network to update Access Points (APs) with Manchester's AP information for use in a Wireless Local Area Network (WLAN) to transfer/configure network settings using Shin's removable media card that hosts an AP, it would have been advantageous to utilize authentication information (e.g., user name, password, SSID, login information) *from the owner of the removable card* of Shin for security purposes. To allow for a more secured network connection and configuration process (such as using WEP, an encrypted protocol) is obvious and is not the product of innovation, but of ordinary skill and common sense. *KSR*, 550 U.S. at 421. It would also be common sense that the authentication information used for setting up or updating a secured connection, when using a removable card, should be the information relating *to the owner of the card*, and not a random and/or unauthorized user of the card.

We agree with the Examiner as to representative claim 1 (Final Act. 3–8; Ans. 3–7, 32–34) that McRae (¶¶ 21–34) teaches or suggests “account credentials” associated with “a user account established by an owner of a removable media card,” as required by representative claim 1. Specifically, McRae discloses the use of login information (para. 26), security information (para. 17), Service Set Identifiers (SSIDs) (para. 29; *see also* para. 46), and user name and password (para. 33) in an authentication process (Fig. 2, especially step 225). We also agree with the Examiner that McRae discloses (i) a Dual Mode Device (DMD) 102 and 302 for use with a Wireless Local Area Network (WLAN) (Ans. 32–34 citing McRae, Figs. 1–4, paras. 17, 21–37; *see also* paras. 13–15), as well as (ii) an Out-Of-Band

(OOB) network 104 (*see* Advisory Action mailed April 8, 2014, p. 2 citing McRae, para. 16; *see also* paras. 21, 39, 43–44, 46). Furthermore, Appellants have not responded to or refuted the Examiner’s additional citation to Appellants’ Specification (Spec. 12, paras. 4–5, 14 admitting pre-shared keys (PSKs) and network identifiers such as SSIDs for use in user authentication, removable cards, and OOB networks were all known at the time of Appellants’ invention). Therefore, Appellants have not shown error in the Examiner’s conclusion that the combination of McRae, Manchester, and Shin teaches or suggests the disputed limitation. Finally, we note that both Appellants (Spec. para. 3) and McRae (para. 34), discussing use of the same security protocol, namely Wired Equivalent Privacy (WEP).

In view of the foregoing, we sustain the obviousness rejection of representative claim 1, along with claims 2–12 grouped therewith, under 35 U.S.C. § 103(a).

CONCLUSION

The Examiner has not erred in rejecting claims 1–12 as being obvious over the combination of McRae, Manchester, and Shin because McRae, and thus the combination, teaches or suggests “account credentials” associated with “a user account established by an owner of a removable media card,” as recited in representative independent claim 1.

DECISION

The Examiner’s rejection of claims 1–12 under 35 U.S.C. § 103(a) is affirmed.

Appeal 2014-009255
Application 12/985,264

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