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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SAMARJIT ADHIKARI

Appeal 2014-009356
Application 13/220,238
Technology Center 2400

Before CAROLYN D. THOMAS, KARA L. SZPONDOWSKI, and
SHARON FENICK, *Administrative Patent Judges*.

SZPONDOWSKI, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1–11 and 13–20. Claim 12 has been cancelled. (App. Br. 19). We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

STATEMENT OF THE CASE

Appellant's invention is directed to determining a communications path between a source device and a destination device. (Spec. ¶ 1001). Claim 1, reproduced below with the disputed limitations in *italics*, is representative of the claimed subject matter:

1. A processor-readable medium storing code representing instructions that when executed at a processor cause the processor to:

identify a plurality of candidate output addresses from an address range for an *intermediate entity located between computing devices*;

provide a data packet to a candidate output address from the plurality of candidate output addresses;

determine whether a response to the data packet was provided from an input address of that intermediate entity; and

define the candidate output address as an output address of the intermediate entity if the response to the data packet was provided from the input address of the intermediate entity.

REJECTIONS

Claims 1, 3–5, 8–11, 13–17, and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Lu et al. (US 2007/0266125 A1; published Nov. 15, 2007) and Papadimitriou (US 2007/0076725 A1; published Apr. 5, 2007).

Claim 2 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Lu, Papadimitriou, and Zheng et al. (US 2008/0002610 A1; published Jan. 3, 2008).

Claims 6, 7, 18, and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Lu, Papadimitriou, and Jorgenson et al. (US. 2005/0232227 A1; published Oct. 20, 2005).

ANALYSIS

Issue: Did the Examiner err in finding the combination of Lu and Papadimitriou teaches or suggests an “intermediate entity located between computing devices,” and “define the candidate output address as an output address of the intermediate entity if the response to the data packet was provided from the input address of the intermediate entity,” as recited in independent claim 1?

Appellant contends Lu’s responsive requests are limited to end devices, not intermediate entities. (App. Br. 11–12; Reply Br. 2). Specifically, Appellant contends Lu merely describes responsively querying various end devices, such as computer 120a, at known addresses. (App. Br. 12, citing Lu ¶¶ 97–98). Appellant further argues Lu’s responsive requests sent to such end devices “do not imply that ‘an address in the response request packet indicated the address of the node (i.e., intermediate node)’.” (App. Br. 11). Appellant also contends that although Papadimitrou mentions intermediate nodes, it is silent regarding “candidate output addresses.” (App. Br. 13).

We are not persuaded by Appellant’s arguments and agree with the Examiner’s findings. (Final Act. 2–11; Ans. 10–17). Initially, we agree with the Examiner that the network address (i.e., candidate output address) described in Lu can be used for end nodes or intermediate nodes. (*See* Ans. 10–11). For example, Lu describes “[t]he devices **110, 120, 130** found at

various locations around the network **100** may be referred to as *network nodes*.” (Lu ¶ 40, emphasis added). Device **130** is described as a router. (Lu ¶ 39). Appellants’ Specification describes that a router may be an intermediate entity. (Spec. ¶ 1014). Lu repeatedly refers to these “network nodes,” which includes intermediate entities, such as routers, throughout the specification, including in paragraph 17, which describes “[t]he responsive request causes the network nodes to correct the address tables of the network nodes to include an address for the node which is identified in the responsive request from the node.” (Lu ¶ 17). Paragraphs 97 and 98, relied upon by Appellant, merely describe one embodiment, or example, of a device. (See Lu ¶ 97 (“ . . .the determined IP address device (e.g., computer 120a, which for the purposes of this discussion will be used as the so-called ‘determined IP address device,’ ip_A”). Accordingly, we are not persuaded Lu is limited to end devices, as Appellant argues.

However, as noted by the Examiner, Lu does not *explicitly* describe the identification of an address for an intermediate nodes, and the Examiner relies on Papadimitriou to teach or suggest intermediate entities and the determination of their network addresses. (Final Act. 3; Ans. 3, 11). While Appellant admits Papadimitriou describes “intermediate nodes,” Appellant contends Papadimitriou is silent regarding the “candidate output address.” (App. Br. 13). However, we agree with the Examiner that Lu teaches or suggests the “candidate output address,” and that Papadimitriou discloses the determination of network addresses for an intermediate node along a communication path. (See Ans. 10–11).

For the foregoing reasons, we sustain the Examiner’s rejection of independent claim 1, as well as the rejections of independent claims 10 and

Appeal 2014-009356
Application 13/220,238

13, which recite substantially similar limitations, and dependent claims 2–9, 11, 14–20, which were not argued separately.

DECISION

For the above reasons, the Examiner’s rejection of claims 1–11 and 13–20 is affirmed.¹

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

¹ In the event of further prosecution, we leave it to the Examiner to consider whether claims 1 and 13 should be rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter, due to their recital of a “processor-readable medium.” *See Ex parte Mewherter*, 107 USPQ2d 1857, (PTAB May 8, 2013) (precedential).