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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MICHAEL F. COULAS and
APOSTOLIS K. SALKINTZIS

Appeal 2015-001848¹
Application 11/617,021
Technology Center 2600

Before BRUCE R. WINSOR, AMBER L. HAGY, and JOHN R. KENNY,
Administrative Patent Judges.

HAGY, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1, 3, 7–11, and 13–16, which are all of the pending claims. We have jurisdiction over these claims under 35 U.S.C. § 6(b).

We reverse.

¹ Appellants identify Motorola Mobility LLC as the real party in interest. (App. Br. 1.)

Introduction

According to Appellants, the present claims are directed to:

[a] system and method in which a notification is received of a call from a first device to a second device in a first domain. A context is created for the first type of call. A notification is received of initiation of a call from the second device to the first device in a second domain. The call context is utilized to notify the first device of the initiation of the call from the second device to the first device.

(Abs.)

Exemplary Claim

Claim 1, reproduced below, is exemplary of the claimed subject matter:

1. A method, comprising:
 - receiving a request in an IP telephony domain from a device to notify the device when a call is established in a CS domain with at least one other device;
 - creating a call context in the IP telephony domain about the call established in the CS domain;
 - sending a notification, based on the call context, in the IP telephony domain to the device when the call is established in the CS domain; and
 - initiating an IP session in the IP telephony domain between the device and the at least one other device in response to the notification.

REFERENCES

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

Eikkula	US 2003/0086410 A1	May 8, 2003
Brown et al.	US 2003/0112928 A1	June 19, 2003
Garcia-Martin et al.	US 2004/0249887 A1	Dec. 9, 2004

Newman et al.	US 2005/0152528 A1	July 14, 2005
Longoni et al.	US 2005/0195762 A1	Sept. 8, 2005
Brass et al.	US 2007/0105569 A1	May 10, 2007

REJECTIONS

Claims 1, 3, and 11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Longoni, Garcia-Martin, and Brown. (Final Act. 3–5.)

Claims 7, 8, 13, and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Longoni, Garcia-Martin, Brown, and Newman. (Final Act. 6–9.)

Claims 9 and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Longoni, Garcia-Martin, Brown, Newman, and Brass. (Final Act. 9.)

Claims 10 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Longoni, Garcia-Martin, Brown, Newman, and Eikkula. (Final Act. 9–10.)

ISSUE²

The dispositive issue on appeal is whether the Examiner erred in finding Garcia-Martin teaches or suggests “receiving a request in an IP telephony domain from *a device to notify the device* when a call is established in a CS domain with at least one other device,” and in also finding Longoni teaches or suggests “*sending a notification*, based on the call context, in the IP telephony domain *to the device* when the call is established in the CS domain,” as recited in independent claim 1 and

² Appellants’ contentions present additional issues. Because the identified issue is dispositive of Appellants’ arguments on appeal, we do not reach the additional issues.

commensurately recited in independent claim 11.

ANALYSIS

Appellants' arguments are premised primarily on the Examiner's construction of the term "device" as recited in all of the independent claims. (App. Br. 11–13.) In particular, in connection with the limitation "sending a notification, based on the call context, in the IP telephony domain *to the device* when the call is established in the CS domain," as recited in independent claim 1, the Examiner maps "the device" to Longoni's circuit-switched media gateway ("CS MGW 406"). (Final Act. 4.) The Examiner finds Longoni teaches either the user equipment ("UE 401") or the IP Multimedia Subsystem ("IMS 405") sends a notification *to the gateway*, as required by claim 1. (Final Act. 4.)

Appellants argue the Examiner's findings are in error because they are premised on an overly broad reading of "the device" as encompassing a "gateway" as disclosed in Longoni. (App. Br. 11–13.) Appellants argue their Specification provides specific examples of a "device" that do not include a gateway, which they characterize as a "network infrastructure entity." (App. Br. 12–13.) The Examiner counters that "[t]he claim states 'device' which is very broad. . . . It is interpreted that a device could be any type of device." (Ans. 5.)

We agree with the Examiner that Appellants' Specification provides a broad description of "[e]xamples of devices" as including "but not limited to" many different types of electronic devices, such as "mobile data terminals" and "laptop computers." (Ans. 5 (citing Spec. 4:1–7).) But even if we were to agree with the Examiner that a "device" as used in the

“sending” limitation of claim 1 may be afforded a broad meaning that could encompass network infrastructure, such as Longoni’s gateway (CS MGW), the Examiner must apply that term consistently throughout the claim. *See, e.g., Rexnord Corp. v. Laitram Corp.*, 274 F.3d 1336, 1342 (Fed. Cir. 2001); *CVI/Beta Ventures, Inc. v. Tura LP*, 112 F.3d 1146, 1159 (Fed. Cir. 1997). In other words, whatever “the device” is in claim 1, it must be mapped consistently throughout the claim. Furthermore,

“there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness” [H]owever, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.

KSR Int’l Co. v. Teleflex Inc., 550 U.S. 398, 418 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)).

The term “device” is introduced in the first limitation of claim 1, which recites “receiving a request in an IP telephony device from *a device to notify the device* when a call is established in a CS domain with at least one other device” (Claims App’x 1 (emphasis added).) The Examiner does not rely on Longoni for the “receiving” limitation, but finds Garcia-Martin teaches or suggests that limitation. (Final Act. 4.) In particular, the Examiner finds Garcia-Martin discloses *user equipment* (“UE 20”) sends a SIP INVITE to a SIP server “*requesting* the setting up of a conversational bearer,” whereupon “the gateway 25 is notified and allocates a ‘call-back’ number to the session,” and then “the UE informs the gateway that CS call is now successfully established by sending the NOTIFY message and . . . the gateway sends a response to the Notify to the terminating user device.”

(Ans. 7–8.) To the extent these findings are based on disclosure by Garcia-Martin that a “request” is received “from a device,” they show the request is received *from the user equipment*. The Examiner does not find Garcia-Martin teaches or suggests a “request” being received *from the gateway*. (See Ans. 7–8.)

In short, we conclude the Examiner’s findings are premised on an inconsistent mapping of a/the “device” in claim 1. In connection with the “sending” and “initiating” limitations, the Examiner maps “the device” to a gateway, as taught in Longoni. (Ans. 6–7.) But, in connection with the “receiving” limitation of claim 1, the Examiner maps the antecedent basis “a device” to user equipment, as taught in Garcia-Martin. (Ans. 7.) The Examiner also makes no findings to support combining the teachings of these references in a manner that maps “device” consistently or to adequately explain a skilled person’s inferences and creative steps.

We, therefore, do not sustain the Examiner’s rejection of claim 1 or the rejection of independent claim 11, which recites limitations commensurate with the above-referenced limitations of claim 1. We also do not sustain the Examiner’s rejections of 3, 7–10, and 13–16, which stand with their respective independent claims.

DECISION

For the above reasons, the Examiner’s rejection of claims 1, 3, 7–11, and 13–16 is reversed.

REVERSED