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Seed IP Law Group LLP/EchoStar (290110)
701 FIFTH AVENUE
SUITE 5400
SEATTLE, WA 98104

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LEWIS-TAYLOR, DAYTON A.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SHIQIANG CHU, KAN MAN WONG,
KEITH GERHARDS, and MICHAEL STEINERT

Appeal 2015-002521
Application 12/846,052¹
Technology Center 2100

Before BRUCE R. WINSOR, AARON W. MOORE, and
MICHAEL J. ENGLE, *Administrative Patent Judges*.

ENGLE, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1–9, 11, 15, and 16.² We have jurisdiction over the rejected claims under 35 U.S.C. § 6(b).

We REVERSE.

Technology

The application relates to “switching of operating modes within an electronic device,” such as switching between a normal mode and a firmware update mode. Spec. Abstract, ¶ 5.

¹ According to Appellants, the real party in interest is EchoStar Technologies L.L.C. App. Br. 1.

² The Examiner indicated dependent claims 10, 12–14, and 17–20 would be allowable if rewritten to independent form. Final Act. 9.

Illustrative Claim

Claim 1 is illustrative and reproduced below with certain limitations at issue emphasized:

1. A method of process management for facilitating switching of operating modes within an electronic device, the method comprising:

in the electronic device, initiating a first process associated, in a configuration file stored in the electronic device, with a first operating mode of the electronic device, the configuration file including;^{3]}

a plurality of processes associated with the first operating mode;

a plurality of processes associated with a second operating mode;

for each of the first operating mode and the second operating mode, an indication as to whether the operating mode is a default operating mode;

for each of the first operating mode and the second operating mode, a start up sequence of the plurality of processes associated with the operating mode; and

for each process, an indication as to whether the process is authorized to request switching of operating mode of the electronic device;

in the electronic device, receiving a request from the first process to switch to the second operating mode;

in the electronic device, accessing configuration data to *determine if the first process is authorized to issue the request*, the configuration data having been derived from the configuration file and stored in the electronic device; and

in response to the request, in the electronic device, if the first process is authorized to issue the request, initiating a second process associated in the configuration file with the second operating mode of the electronic device.

³ In the event of further prosecution, Appellants may wish to amend to either delete this semi-colon or alternately replace it with a colon.

Rejections

Claims 1, 2, 4, 5, 7–9, 15, and 16 stand rejected under 35 U.S.C. § 102(b) as anticipated by Cammarata et al. (US 2008/0104354 A1; May 1, 2008). Final Act. 2.

Claims 3, 6, and 11 stand rejected under 35 U.S.C. § 103(a) as obvious over the combination of Cammarata and Numata et al. (US 6,931,525 B2; Aug. 16, 2005). Final Act. 7.

ISSUE

Did the Examiner err in finding Cammarata discloses accessing configuration data “to determine if the first process is authorized to issue the request,” as recited in claim 1 and similarly recited in independent claims 15 and 16?

ANALYSIS

Claim 1 recites receiving a request from a first process to switch operating modes and accessing configuration data “to determine if the first process is authorized to issue the request.” Independent claims 15 and 16 recite commensurate limitations.

The Examiner relies on Cammarata for disclosing the claimed determination of authorization, pointing to “stage 86 of Fig. 6” of Cammarata. Ans. 3; Final Act. 4.

Appellants contend “Cammarata teaches that when an operation mode transition request is received, *the source of the request is not taken into consideration when determining whether to make the transition.* Instead, Cammarata checks to see if the host and affected storage subsystems are *capable of operating in the requested mode.*” App. Br. 10 (emphasis added).

We agree with Appellants. Cammarata discloses:

Upon receiving an OMT [operation mode transition] request, DOMT manager 13 proceeds to a stage S86 of flowchart 80 [in Fig. 6] to ascertain whether host 10 is *capable* of operating in the target operation mode *irrespective of the source of the request*.

Cammarata ¶ 23 (emphasis added). Thus, upon receiving a request to switch modes, Cammarata teaches checking the capability of the hardware (i.e., the host) regardless of which *process* made the request. For example, a process run on a capable host may be allowed to switch modes, but the same process run on an incapable host would not be allowed to switch modes. Therefore, Cammarata's determination of whether to switch modes is "irrespective of whether it was the first process or any other source that issued the request." Reply Br. 2. This fails to disclose "to determine if the first *process* is authorized to issue the request," as recited in claim 1 and similarly recited in the other independent claims. *See also* claim 1 ("the configuration file including . . . for each process, an indication as to whether the process is authorized to request switching of operating mode").

Accordingly, we do not sustain the Examiner's anticipation rejection of independent claims 1, 15, and 16, and dependent claims 2, 4, 5, and 7–9.

Regarding the obviousness of dependent claims 3, 6, and 11, we also agree with Appellants that "Numata does not cure the deficiencies of Cammarata explained above." App. Br. 13. Accordingly, we do not sustain the Examiner's obviousness rejection of claims 3, 6, and 11.

DECISION

For the reasons above, we reverse the Examiner's rejection of claims 1, 2, 4, 5, 7–9, 15, and 16 as anticipated and claims 3, 6, and 11 as obvious.

REVERSED