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GRIFFITHS & SEATON PLLC (IBM)			DOAN, HAN V	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ITZHACK GOLDBERG

Appeal 2015-002830
Application 13/355,773
Technology Center 2100

Before JEAN R. HOMERE, JEFFREY S. SMITH, and
MICHAEL J. STRAUSS, *Administrative Patent Judges*.

SMITH, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the rejection of claims 10–19 and 21–26, which are all the claims remaining in the application. Claims App’x. We have jurisdiction under 35 U.S.C. § 6(b).
We affirm.

Illustrative Claim

10. An apparatus, comprising:

a local storage system having a local processor and a local storage device with a plurality of local regions; and

a remote storage system having a plurality of remote storage devices each with remote regions in a one-to-one correspondence with the local regions, and a remote processor configured to detect an initial remote region not matching a corresponding local region, to identify a subsequent remote region included in one of the remote storage devices of the plurality of remote storage devices matching the initial remote region by searching a target subset of each of the remote regions, and to replace data in the initial remote region with data from the identified subsequent remote region.

Prior Art

Yamagami	US 2003/0126107 A1	July 3, 2003
Fujibayashi	US 2003/0131278 A1	July 10, 2003
Hesselink	US 2005/0149481 A1	July 7, 2005
Reynolds	US 2008/0021936 A1	Jan. 24, 2008
Vaikar	US 8,055,614 B1	Nov. 8, 2011
Natanzon	US 8,108,634 B1	Jan. 31, 2012

Examiner's Rejections

Claims 10–13, 16, 17, 19, 21–23, 25, and 26 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Fujibayashi, Natanzon, and Vaikar.

Claims 14 and 24 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Fujibayashi, Natanzon, Vaikar, and Reynolds.

Claim 15 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Fujibayashi, Natanzon, Vaikar, and Yamagami.

Claim 18 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Fujibayashi, Natanzon, Vaikar, and Hesselink.

ANALYSIS

We adopt the Examiner's findings made in the Final Action and Examiner's Answer as our own. We concur with the conclusions reached by the Examiner for the reasons given in the Answer. We highlight the following for emphasis.

Appellant contends “a remote processor configured . . . to identify a subsequent remote region” as recited in claim 10 is not taught by Vaikar, because Vaikar teaches identifying locally available data files. Br. 14–15. Appellant's contention is based on the premise that the locally available data files identified in Vaikar are not “a subsequent remote region” within the meaning of claim 10. However, the Examiner finds that the broadest reasonable interpretation of the claimed “remote” and “local” storage systems are storage systems remote relative to each other. Ans. 5. The Examiner finds that the system of Vaikar shown in Figure 1 and discussed in Column 4 includes server 102 and client 104 where each is remote relative

to the other and local relative to itself. Ans. 5–7. Appellant does not persuasively rebut the Examiner’s finding.

Appellant further contends Vaikar does not teach “matching the initial remote region by searching a target subset of each of the remote regions¹” as recited in claim 10. Br. 15–16. The Examiner finds that Vaikar teaches a data recovery module comparing a modification time of a file with a signature calculation time to determine whether the local file on client 104 is up to date. Ans. 8. If the file is up to date, the file is restored from the client device when the data recovery module finds a match in the locally available data files, which teaches “matching the initial remote region by searching a target subset of each of the remote regions.” Ans. 9. Appellant does not persuasively rebut the Examiner’s finding.

We sustain the rejection of claim 10 under 35 U.S.C. § 103. Appellant does not present arguments for separate patentability of claims 11–13, 16, 17, 19, 21–23, 25, and 26, which fall with claim 10. Appellant presents arguments for the patentability of claims 14, 15, 18, and 24 similar to those presented for claim 10 which we find unpersuasive.

¹ Appellant finds support for “matching the initial remote region by searching a target subset of each of the remote regions” on Page 20, lines 6–8 of Appellant’s Specification (Br. 6), which discloses “remote processor 66B searches memory 68B for a subsequent remote signature 72B that *matches the retrieved local signature.*” In the event of further prosecution, the Examiner should consider whether this claim limitation satisfies the requirements of 35 U.S.C. § 112, first and second paragraphs. For example, if “an initial remote region [does not match] a corresponding local region” and “a subsequent remote region . . . match[es] the initial remote region,” then “replac[ing] data in the initial remote region with data from the identified subsequent remote region” as claimed makes little sense, because the end result is the same as before replacing data, namely, an initial remote region not matching *the corresponding local region.*

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DECISION

The Examiner's rejections of claims 10–19 and 21–26 are affirmed.

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