



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/993.021	12/19/2007	Viswanath Somasekhar	82189352	2805
56436	7590	10/31/2016	EXAMINER	
Hewlett Packard Enterprise 3404 E. Harmony Road Mail Stop 79 Fort Collins, CO 80528			MIAH, RAZU A	
			ART UNIT	PAPER NUMBER
			2441	
			NOTIFICATION DATE	DELIVERY MODE
			10/31/2016	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

hpe.ip.mail@hpe.com
mkraft@hpe.com
chris.mania@hpe.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte VISWANATH SOMASEKHAR

Appeal 2015-003848
Application 11/993,021
Technology Center 2400

Before BRUCE R. WINSOR, JOHN R. KENNY, and
MICHAEL J. ENGLE, *Administrative Patent Judges*.

WINSOR, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant¹ appeals under 35 U.S.C. § 134(a) from the final rejection of claims 1–7, 19, 20, and 26–28.² Final Act. 1. We have jurisdiction under 35 U.S.C. § 6(b). Claims 8–10, 21–23, and 29–31 are objected to, but are indicated to be directed to allowable subject matter. Final Act. 16. Claims 11–18, 24, 25, and 32 are cancelled.³ Final Act. 2.

¹ The real party in interest identified by Appellant is Hewlett-Packard Development Company, LP, a wholly-owned affiliate of Hewlett-Packard Company. App. Br. 1.

² We find Appellant's statement that claims 1–18 are pending and under appeal (App. Br. 1; *see also* Notice of Appeal (Aug. 22, 2014)) to be an error that is clerical in nature.

³ Although included in the Claims Appendix, claims 24, 25, and 32 are cancelled. *Compare* Final Act. 2 *and* Amendment Filed with RCE (filed

We affirm.

STATEMENT OF THE CASE

Appellant's disclosed invention "relates to device management across a firewall, and more particularly relates to managing a device within a local area network (LAN) coupled to a firewall from a host located outside the firewall." Spec. 1:4–6. Claim 1, which is illustrative, reads as follows:

1. A method for managing one or more devices via an agent located within a firewall and a local area network (LAN) by a remote host located outside the firewall comprising:

creating an email device management protocol (EDMP) at the remote host, the EDMP defining a first manner by which a command to manage the one or more devices is sent by the remote host to the agent and a second manner by which a response to the command is sent by the agent to the remote host, the EDMP specifying one of a simple mail transport protocol (SMTP), a post office protocol 3 (POP3), and an Internet message access protocol (IMAP) as a transport mechanism to send the command and to send the response;

generating an Email at the remote host, the Email including the EDMP and a payload data unit (PDU), the PDU including the command and data related to the command; and,

transmitting the Email from the remote host to the agent through the firewall.

Claims 1, 19, and 26 stand rejected under 35 U.S.C. § 103(a)⁴ as being unpatentable over Huang et al. (US 2004/0093383 A1; May 13, 2004)

Jan. 26, 2012) 7, 9, *with* App. Br. 13, 15. Accordingly, they are not before us.

⁴ All rejections are under the provisions of 35 U.S.C. in effect prior to the effective date of the America Invents Act of 2011. Final Act 2.

(hereinafter “Huang”) and Pearson et al. (US 2006/0090195 A1; Apr. 27, 2006) (hereinafter “Pearson”). *See* Final Act. 3–9.

Claims 2–7, 20, 27, and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Huang, Pearson, and Siddiqui (US 2002/0002581 A1; Jan. 3, 2002). *See* Final Act. 10–16.

Rather than repeat the arguments here, we refer to the Briefs (“App. Br.” filed Aug. 29, 2014; “Reply Br.” filed Feb. 4, 2015) and the Specification⁵ (“Spec.” filed Dec. 19, 2007) for the positions of Appellant and the Final Office Action (“Final Act.” mailed May 22, 2014) and Answer (“Ans.” mailed Dec. 4, 2014) for the reasoning, findings, and conclusions of the Examiner. Only those arguments actually made by Appellant have been considered in this decision. Arguments that Appellant did not make in the Briefs have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(iv) (2014).

ISSUE

The issue presented by Appellant’s contentions is whether the Examiner errs in finding the combination of Huang and Pearson teaches or suggests “creating an email device management protocol (EDMP) at the remote host,” as recited in claims 1, 19, and 26.⁶ We discuss the appeal by reference to exemplary claim 1.

⁵ The record includes references both to the Specification as filed and to the paragraphs of the corresponding published patent application, US 2010/0070582 A1. We refer herein only to the pages and line numbers of the Specification as filed.

⁶ Appellant also presents arguments traversing a rejection for indefiniteness under 35 U.S.C. § 112, second paragraph, that does not appear in the Final

ANALYSIS

We have reviewed Appellant’s arguments and contentions (App. Br. 6–7; Reply Br. 1–2) in light of the Examiner’s findings, conclusions, and explanations (Final Act. 3–5; Ans. 5–7) regarding claim 1. We agree with the Examiner’s findings, conclusions, and explanations and, except as set forth below, we adopt them as our own. The following discussion, findings, and conclusions are for emphasis.

The Examiner finds Pearson, when combined with Huang, teaches “creating an email device management protocol (EDMP) at [a] remote host” (herein “creating an EDMP”) as recited in claim 1. Final Act, 4–5 (citing Pearson, Abstract, ¶¶ 15, 28); *see also* Ans. 5–7 (additionally citing Pearson ¶¶ 29, 34–35, 45–47). The Examiner explains that in view of Appellant’s Specification, the broadest reasonable interpretation of “creating an EDMP” encompasses Pearson’s teaching of generating a message with command control information and transporting it using a standard messaging transport protocol. Ans. 5–7 (quoting Spec. 2:11–19, 3:17–4:5, 12:7–9⁷).

Appellant contends as follows:

The claim language recites *creating* an email device management protocol (EDMP, or “protocol”). By comparison, Huang in view of Pearson suggests that a message in accordance with a *standard* (not a *created*) protocol is generated (see Pearson, abstract, paras. [0015] & [0028], as relied upon on p. 5 of the final office action). As such, the prior art in combination does not suggest a tenet of the claimed invention — that a protocol is *created*.

Office Action. *See* App. Br. 5–6. As pointed out by the Examiner, this argument is moot. *See* Ans. 4. Therefore, it merits no further discussion in this Decision.

⁷ *See* n. 5 *supra*.

In this respect, the Examiner appears to have considered the gist or thrust of the invention, without considering the claimed invention as a whole, and thus without considering all the words of the claim language, which is improper. Specifically, the Examiner appears to have given short thrift to the claim language that a protocol is *created*. This is because the prior art in combination merely suggests that a *standard* and thus *preexisting* protocol is merely *used*.

App. Br. 6–7. Appellant elaborates as follows:

[T]he Examiner’s interpretation of the claim language *creating a protocol* is not the broadest *reasonable* interpretation consistent with the [S]pecification. Per representative claim 1, the claim language *as a whole* recites creating a protocol, generating an email (i.e., a message) including the protocol, and transmitting the email. Under the Examiner’s interpretation, claim 1 would be distilled to generating a message (which the Examiner concludes “creating a protocol” per the explicit claim language means), generating a message including the message, and transmitting the message.

Reply Br. 1.

We are not persuaded of error. Appellant’s Specification differentiates between a message, which it equates to an EDMP (*see* Spec. 3:28–4:3 (“[T]he term ‘message’ here refers to an EDMP (Email device management protocol) created either by a remote host or an agent located across a firewall for communication between the remote host and the agent via the firewall.”)), and an Email which transports the message (*see* Spec. 3:27–28 (“[T]he term ‘Email’ refers to electronic mail, which is the transmission of a message over communication networks.”)) using a standard Email protocol (Spec. 3:25–26, 8:2–7). The only passages of the Specification Appellant points us to as describing “creating an EDMP” read as follows (*see* App. Br. 2): “Remote Host to Build a Desired Command

and Attach a Payload.” Spec., Fig. 1 (item 110). “At step 110, this example method 100 begins by building a desired command and attaching an EDMP-PDU to communicate with a device located across a firewall by a remote host.” Spec. 4:7–9. Accordingly, when read in light of Appellant’s Specification, “creating an EDMP” encompasses creating or formulating a message containing a desired command. The message may then be included in an Email to transport the message across the firewall using a standard Email transport protocol. In other words, the broadest reasonable interpretation of “creating an EDMP” encompasses creating the command content of a message to be transported as an Email across the firewall. Appellant does not direct our attention to, nor do we find, any passage of the Specification or other evidence that would lead us to a different construction of “creating an EDMP.”

Pearson teaches creating the command content of a message. Pearson ¶ 45 (“Method 300 also includes an act of automatically generating 310 a message that includes the command/control information.”). Pearson further teaches that the message is included in an Email and transported using a standard transport protocol, such as SMTP. Pearson ¶ 47.

For the foregoing reasons, we find the Examiner does not err in finding that Pearson, when combined with Huang, teaches “creating an email device management protocol (EDMP) at the remote host,” as recited in claim 1. Therefore, Appellant fails to establish error in the rejection of claim 1. Accordingly, we sustain the rejections of (1) independent claim 1; (2) independent claims 19 and 26, which are argued together with claim 1

Appeal 2015-003848
Application 11/993,021

(*see* App. Br. 6–7); and (3) dependent claims 2–7, 20, 27, and 28,⁸ which variously depend from claims 1, 19, and 26, and are not separately argued with particularity (*see* App. Br. 7).

DECISION

The decision of the Examiner to reject claims 1–7, 19, 20, and 26–28 is 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)(1). *See* 37 C.F.R. §§ 41.50(f), 41.52(b).

AFFIRMED

⁸ We note that Appellant incorrectly identifies claims 8–11, 21–25, and 29–32 as rejected. *Compare* App. Br. 7 with Final Act. 2, 16.