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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte GREG DHUSE, VANCE THORNTON, JASON RESCH,
ILYA VOLVOVSKI, DUSTY HENDRICKSON, and JOHN QUIGLEY

Appeal 2015-005539
Application 11/973,542¹
Technology Center 2100

Before CATHERINE SHIANG, JOYCE CRAIG, and
MATTHEW J. McNEILL, *Administrative Patent Judges*.

McNEILL, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1, 3–11, and 13–16, which are all the claims pending in this application.² We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ According to Appellants, the real party in interest is Cleversafe, Inc. Br. 2.

² Claims 2 and 12 have been cancelled. Br. 17, 21 (Claims App'x).

STATEMENT OF THE CASE

Introduction

Appellants' application relates to distributed data storage using an information dispersal algorithm such that no single location stores an entire copy of particular data. Spec. ¶ 1. Claim 1 is illustrative of the subject matter on appeal and reads as follows:

1. A method of ensuring data integrity in a dispersed data storage network comprising the steps of:
 - i) calculating a first checksum for a data segment to be written to said dispersed data storage network;
 - ii) appending said first checksum to said data segment, thereby forming a certified data segment;
 - iii) performing an error correcting information dispersal algorithm on said certified data segment, thereby forming a plurality of data slices;
 - iv) calculating a plurality of second checksums for said plurality of data slices;
 - v) appending said plurality of second checksums to said plurality of data slices, so that the appropriate second checksum is appended to the appropriate data slice, thereby forming a plurality of certified data slices; and
 - vi) transmitting said certified data slices to a plurality of slice servers.

The Examiner's Rejection

Claims 1, 3–11, and 13–16 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Shu (US 2003/0084020 A1; May 1, 2003) and Lin (US 5,832,000; Nov. 3, 1998). Final Act. 2–10.

ANALYSIS

We have reviewed the Examiner's rejections in light of Appellants' contentions that the Examiner has erred. We disagree with Appellants' contentions. Except as noted below, we adopt as our own: (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken and (2) the reasons set forth by the Examiner in the Examiner's Answer in response to Appellants' Appeal Brief. We concur with the conclusions reached by the Examiner. We highlight the following additional points.

Claim 1

Appellants argue the Examiner erred in rejecting claim 1 because Lin does not teach or suggest a "data segment" and a "data slice," as recited in claim 1. Br. 6–12. In particular, Appellants argue Lin teaches applying an information dispersal algorithm (IDA) to a message to produce an error tolerant message. Br. 7. Appellants argue Lin teaches error detection data is added to the groups of by-products, which are made only after performing an IDA. *Id.* Appellants further argue Lin "clearly differentiates" between a data message before applying an IDA (a claimed "data segment") and after applying an IDA (a claimed "data slice"). Br. 8. Appellants contend Lin does not teach applying error detection data to messages before applying an IDA and, therefore, only teaches applying error correction data to a "data slice," not to a "data segment" as claimed. *Id.*

The Examiner finds Lin teaches a first byproduct 404 (a "data segment") that includes a CRC. Ans. 3 (citing Fig. 4). The Examiner finds Lin further teaches applying IDA to the first byproduct to create a second set of byproducts 410 ("data slices"). *Id.*; Lin 4:6–19.

Appellants have not persuaded us of Examiner error. Appellants' argument relies on an interpretation of "data segment" that excludes messages upon which an IDA has been performed. Br. 9. Appellants' interpretation is overly narrow. First, nothing in claim 1 precludes a "data segment" from being the result of performing an IDA on a message. Second, as noted by the Examiner, Appellants' Specification does not define the term "data segment" to preclude a "data segment" from being the result of performing an IDA. Ans. 3–4. Accordingly, the broadest reasonable interpretation of "data segment" includes a message upon which an IDA has already been performed. Applying this broadest reasonable interpretation, we agree with the Examiner that Lin teaches or suggests both the "data segment" and "data slice" limitations. *Id.* We, therefore, sustain the Examiner's rejection of claim 1.

Claim 4

Appellants argue the Examiner erred in rejecting claim 4 because the Examiner's rejection is conclusory and provides insufficient reasoning to support the rejection. Br. 12–14.

Appellants have not persuaded us of Examiner error. The Examiner identified portions of Shu and Lin that correspond to each limitation of claim 4 with pinpoint citations. Final Act. 5. Although the Examiner did not set forth explicit reasoning for combining Shu and Lin in the rejection of claim 4, the Examiner explained why an ordinarily skilled artisan would combine Shu and Lin in the rejection of claim 1 and stated in the rejection of claim 4 that "modified Shu" discloses various claim limitations, thus incorporating the rejection of claim 1 into the rejection of claim 4. *Id.* at 2–5.

CONCLUSIONS

On the record before us and in view of the analysis above, Appellants have not persuaded us the Examiner erred in rejecting claim 1 as unpatentable over Shu and Lin. Therefore, we sustain the rejection of claim 1. We also sustain the rejections of claims 3, 5–11, 13, 15, and 16, which were not argued separately with particularity. *See* Br. 12, 14, 15.

On the record before us and in view of the analysis above, Appellants have not persuaded us the Examiner erred in rejecting claim 4 as unpatentable over Shu and Lin. Therefore, we sustain the rejection of claim 4. Appellants argue the Examiner erred in rejecting claim 14 for the same reasons as claim 4. *See* Br. 15. Accordingly, we also sustain the rejection of claim 14.

DECISION

We affirm the decision of the Examiner to reject claims 1, 3–11, and 13–16.

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. § 1.136(a)(1)(iv).

AFFIRMED