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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* ROBERT K. VATERLAUS, MATTHEW J. PAUKER, and  
GUIDO APPENZELLER

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Appeal 2015-007982  
Application 12/014,681  
Technology Center 2400

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Before ROBERT E. NAPPI, MARC S. HOFF, and  
SCOTT B. HOWARD, *Administrative Patent Judges*.

NAPPI, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) of the Examiner's Final Rejection of claims 1 through 22, which constitute all the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

INVENTION

The disclosed and claimed invention is directed to a system that provides cryptographic web services. *See* Abstract.

CLAIMED SUBJECT MATTER

Claim 1 is illustrative of the invention and reproduced below:

1. A method in which a program uses a cryptographic web service remotely over a communications network, comprising:

at program computing equipment on which the program is implemented, calling a local cryptographic function from the program;

in response to calling the local cryptographic function, calling a remote cryptographic function at the cryptographic web service that corresponds to the called local cryptographic function by sending information from a web services interface at the program computing equipment to a web services interface at the cryptographic web service over the communications network, wherein the information includes at least one data parameter;

at the cryptographic web service, requesting a key from a key server over the communications network; at the cryptographic web service, receiving the requested key from the key server over the communications network;

at the cryptographic web service, producing results for the called remote cryptographic function using a cryptographic engine, wherein the results are produced by the cryptographic engine using the key from the key server, wherein the remote cryptographic function comprises encrypting the at least one data parameter to produce encrypted data; and

at the program computing equipment, receiving the results for the called remote cryptographic function from the cryptographic web service, wherein the results include the encrypted data.

## REJECTIONS AT ISSUE

The Examiner has rejected claims 18 through 20 under 35 U.S.C. § 102(a) as anticipated by Fountain (US 2006/0149962 A1; July 6, 2006). Final Act. 4–6.<sup>1</sup>

The Examiner has rejected claims 1, 2, 8 through 10, 21, and 22 under 35 U.S.C. § 103(a) as unpatentable over Fountain and Pauker (US 2005/0071632 A1; Mar. 31, 2005). Final Act 7–14.

The Examiner has rejected claims 3 through 7 and 11 through 17 under 35 U.S.C. § 103(a) as unpatentable over Fountain, Pauker, and Campbell (US 2005/0086298 A1; Apr. 21, 2005). Final Act 14–22.

## ISSUES

### Claims 1 through 9

Appellants present several arguments, on pages 13 through 27 of the Appeal Brief and pages 2 through 8 of the Reply Brief, directed to the Examiner's rejection these claims. These arguments present us with the following issue: Did the Examiner err in finding that Fountain teaches program computing equipment at which a local cryptographic function is called and which receives the encrypted data that is encrypted by the remote cryptographic function as is recited in representative claim 1?

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<sup>1</sup> Throughout this Decision, we refer to the Appeal Brief dated January 20, 2015; the Reply Brief dated August 31, 2015; the Final Office Action mailed June 19, 2014; and the Examiner's Answer mailed June 30, 2015.

## ANALYSIS

We have reviewed Appellants' arguments in the Appeal Brief and the Reply Brief, the Examiner's rejections, and the Examiner's response to Appellants' arguments. Appellants' arguments have not persuaded us of error in the Examiner's rejection of claims 1 through 9.

The Examiner has provided a comprehensive response to Appellants' arguments on pages 2 through 6 of the Answer. Specifically, the Examiner equates Fountain's application server with the computing equipment, and application (item 60) and API (item 62) with the claimed program on the computing equipment which calls the local cryptographic function. Answer 5. Further, the Examiner equates Fountain's cryptographic server and cryptographic engine (item 70) with the claimed cryptographic web service. Answer 5. We have reviewed the Examiner's findings and the cited teachings of Fountain and concur with the Examiner.

Appellants' argue that Fountain's application server does not meet the claimed program computing equipment as the application server does not call a cryptographic function, but instead relays such requests from remote clients. App. Br. 17–19, Reply Br 3–4. We disagree with the Appellants' arguments. In addition to the Examiner's findings directed to this limitation, we note that Fountain states that the applications on application server “may provide services to local users of the application server 52 and may provide network services to remote clients.” Fountain ¶ 22. This teaching further demonstrates that the applications and their cryptographic requests are called from the application server (via local users and not remotely called).

Appellants further argue the use of SSL/TLS between the client and the server of Fountain does not meet the claim. App. Br 19–27. We do not

find these arguments persuasive. These arguments are premised upon equating the claimed program computing equipment on which the program is implemented which calls a local cryptographic function with the clients.. As discussed above, we concur with the Examiner's finding that the application sever meets the claimed program computing equipment. Further, the arguments rely upon speculation, and evidence not of record.

We note that Appellants assert, for the first time in the Reply Brief, that the Examiner's rejection is in error as it relies upon Fountain's key server to teach two elements of the claim 1, and that the skilled artisan would not combine Fountain and Pauker. Reply Br. 5–8. Appellants have not shown good cause as to why these arguments could not be presented earlier. As such, this argument has not been considered, and is waived. *See Ex parte Borden*, 93 USPQ2d 1473, 1473–74 (BPAI 2010) (informative) (absent a showing of good cause, the Board is not required to address arguments in Reply Brief that could have been presented in the principal Appeal Brief); 37 C.F.R. §41.41(b)(2).

Accordingly, we sustain the Examiner's rejection of representative claim 1 and claims 2 through 9 grouped with claim 1.

Claim 10 through 22.

With respect to claims 10 through 22, Appellants' arguments on pages 27 through 30 of the Appeal Brief, similarly present us with the issue of whether the Examiner erred in finding Fountain teaches program computing equipment at which a local cryptographic function is called and which receives the encrypted data that is encrypted by the remote cryptographic function. As discussed above with respect to claim 1, Appellants' arguments

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have not persuaded us of error. Accordingly, we similarly sustain the Examiner's rejection of claims 10 through 22.

#### DECISION

We sustain the Examiner's rejections of claims 1 through 17, 21, and 22 under 35 U.S.C. § 103(a).

We sustain the Examiner's rejections of claims 18 through 20 under 35 U.S.C. § 102(a).

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)(iv).

AFFIRMED