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EXAMINER
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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte THOMAS EATON CONKLIN, VINAY SAXENA,
and PATRICK CHARLES MCGEER

Appeal 2015-008164
Application 13/625,575
Technology Center 2400

Before JOSEPH L. DIXON, JAMES R. HUGHES, and ERIC S. FRAHM, *Administrative Patent Judges*.

HUGHES, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from a Final Office Action rejecting claims 1, 4–11, 13–15, 18, and 20–23. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

The invention relates to filtering access to network content (Spec. ¶ 20). Claim 1, reproduced below, is illustrative of the claimed subject matter:

> 1. A controller including a processor and a non-transitory storage medium storing machine readable instructions that are executable by the processor to:
>
> receive, from a user, a request to filter access by a particular client device to network content over a network; and
>
> in response to receiving the request to filter access by a particular client device, the controller is to update the forwarding table of a network switch to forward traffic associated with said particular client device along a second path which includes a content filtering device that is to prevent access to undesirable network content and allow access to content which is not determined to be undesirable by the content filtering device; and
>
> in response to receiving a request to un-filter access for a particular client device to update the forwarding table of the network switch to forward traffic associated with said particular client device along a first path which does not include said content filtering device.

REFERENCES

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Rexford	US 6,801,502 B1	Oct. 5, 2004
Meyer	US 2007/0014243 A1	Jan. 18, 2007

Curnyn	US 2008/0077995 A1	Mar. 27, 2008
Ansari	US 2008/0320585 A1	Dec. 25, 2008
Kitamura	US 2009/0328139 A1	Dec. 31, 2009
Reams	US 7,987,493 B1	July 26, 2011
Khatri	US 2011/0211596 A1	Sept. 1, 2011
Kalidindi	US 2012/0079524 A1	Mar. 29, 2012
Pleshek	US 2012/0106354 A1	May 3, 2012
Holloway	US 2012/0117649 A1	May 10, 2012
Kempf	US 2013/0054761 A1	Feb. 28, 2013

REJECTIONS

The Examiner made the following rejections:

Claims 1, 7, 9, 10, 13–15, 21, and 22 stand rejected under 35 U.S.C § 103(a) as being unpatentable over Kalidindi and Khatri.[1]

Claim 4 stands rejected under 35 U.S.C § 103(a) as being unpatentable over Kalidindi, Khatri, and Kitamura.

Claim 5 stands rejected under 35 U.S.C § 103(a) as being unpatentable over Kalidindi, Khatri, Ansari, and Rexford.

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[1] Although claims 1, 7, and 22 were rejected under 35 U.S.C. § 102(e) in the Final Action dated October 23, 2014, the Examiner subsequently entered the Amendment After Final filed December 18, 2014, which amended independent claim 1, from which claims 7 and 22 depend. In the Advisory Action dated January 8, 2015, the Examiner stated that the "amendment disclosed by claim 1 would be reiteration of limitations disclosed by canceled claims 3, and 24, and it would be rejected in a similar manner." Canceled claim 3 was rejected under 35 U.S.C. § 103(a) as being obvious over Kalidindi and Khatri (Final Act. 7–9). Additionally, in the Examiner's Answer, the Examiner addresses Appellants' arguments regarding claim 1, relying on the combination of Kalidindi and Khatri (*see* Ans. 8–9). Therefore, we treat claims 1, 7, and 22 as rejected under 35 U.S.C. § 103(a), and consider Appellants' non-obviousness arguments in deciding the appeal with respect to these claims, as discussed below. Because the Examiner did not restate the rejection in the Examiner's Answer, we clarify the ground of rejection for claims 1, 7, 9, 10, 13–15, 21, and 22 for consistency of the record.

Claim 6 stands rejected under 35 U.S.C § 103(a) as being unpatentable over Kalidindi, Khatri, and Kempf.

Claim 8 stands rejected under 35 U.S.C § 103(a) as being unpatentable over Kalidindi and Holloway.

Claim 11 stands rejected under 35 U.S.C § 103(a) as being unpatentable over Kalidindi, Khatri, and Reams.

Claim 18 stands rejected under 35 U.S.C § 103(a) as being unpatentable over Kalidindi, Khatri, and Pleshek.

Claim 20 stands rejected under 35 U.S.C § 103(a) as being unpatentable over Kalidindi, Khatri, and Meyer.

Claim 23 stands rejected under 35 U.S.C § 103(a) as being unpatentable over Kalidindi, Khatri, and Curnyn.

ANALYSIS

The Examiner relies on Khatri for disclosing the current claim 1 feature of forwarding traffic for a client device over a first path with no content filtering device in response to an un-filter access request, and forwarding traffic for the client device over a second path that includes a content filtering device in response to a filter access request (*see* Final Act. 8–9; Ans. 4–5). Appellants contend "Khatri does not disclose a first path that includes a content filtering device that is to prevent access to undesirable content and a second path that does not include a content filtering device" (App. Br. 7).

As shown in Khatri's Figure 2, data passes through PDSN (packet data service node) 225 and flows to AN (access node) 104a along paths A1, A2, or A3 on its way to AT (access terminal) 106(a) (*see* Khatri, ¶ 36). "The PDSN 225 may check in order whether the data packets meet the

requirements of a filter from index 0 to index 255 until the PDSN 225 finds such a filter. The PDSN 225 may then direct the data packet over the communication path indicated by the filter" (Khatri, ¶ 39). Here, Khatri discloses using filters to decide the path along which to forward data. In other words, Khatri's filters provide a switching function at the PDSN. However, Khatri does not disclose any content filtering devices on the actual paths A1–A3 after data has been forwarded along any of the paths. Accordingly, we find Khatri does not teach the claim 1 limitation "forward traffic associated with said particular client device along a second path which includes a content filtering device."

We are, therefore, constrained by the record to find the Examiner erred in rejecting independent claim 1, independent claim 9 which recites commensurate limitations, and dependent claims 7, 10, 13–15, 21, and 22 for similar reasons.

Further, the Examiner has not shown the additional cited references applied to dependent claims 4, 5, 6, 8, 11, 18, 20, and 23 cure the deficiency of Khatri discussed above. We thus also find the Examiner erred in rejecting dependent claims 4, 5, 6, 8, 11, 18, 20, and 23.

CONCLUSION

The Examiner erred in rejecting claims 1, 4–11, 13–15, 18, and 20–23 under 35 U.S.C. § 103(a).

DECISION

For the above reasons, the Examiner's rejection of claims 1, 4–11, 13–15, 18, and 20–23 is reversed.

<u>REVERSED</u>