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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/561,792	07/30/2012	BARUCH STERMAN	JCE-5524-110	1503
96355	7590	12/06/2016	EXAMINER	
NIXON & VANDERHYE, P.C. / Vonage 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			ANDREWS, HOYET H	
			ART UNIT	PAPER NUMBER
			2411	
			NOTIFICATION DATE	DELIVERY MODE
			12/06/2016	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte BARUCH STERMAN and CHAKRAPANI GORREPATI

Appeal 2016-000482
Application 13/561,792
Technology Center 2400

Before ROBERT E. NAPPI, CATHERINE SHIANG, and
JOHN D. HAMANN, *Administrative Patent Judges*.

NAPPI, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

This is a decision on appeal under 35 U.S.C. § 134(a) of the Examiner's Final Rejection of claims 1 through 29, which constitute all the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

INVENTION

The invention is directed to a method of establishing multiple communications channels between a telephony device and elements of an IP telephony system. *See* Abstract of Appellants' Specification.

CLAIMED SUBJECT MATTER

Claim 1 is illustrative of the invention and is reproduced below:

A method of communicating data packets bearing the media of a telephony communication, comprising:

establishing a first communications channel through a network of a service provider between an element of an Internet protocol (IP) telephony system and a telephony device;

establishing a second communications channel through the network of the service provider between an element of the IP telephony system and the telephony device,

wherein at least one or more of a first endpoint and a second endpoint of the first communication channel has at least one or more of an IP address and port number that differs from a corresponding endpoint of the second communication channel;

receiving a first sub-stream of a stream of data packets bearing the media of a telephony communication from the telephony device over the first communications channel; and

receiving a second sub-stream of the stream of data packets bearing the media of the telephony communication from the telephony device over the second communications channel.

REFERENCES AND REJECTIONS AT ISSUE

The Examiner rejected claims 1 through 29 on the ground of nonstatutory obviousness type double patenting as being unpatentable over claim 1 through 33 of copending Application 13/561486. Answer 6–9.¹

The Examiner rejected claims 1 through 29 under 35 U.S.C. § 103(a) as being unpatentable over Knapp et al. (US 2006/0218298 A1; Sept. 28, 2006) (“Knapp”), Riggert et al. (2011/0320625 A1; Dec. 29, 2011) (“Riggert”), and Manapragada (2009/0100495 A1; Apr. 16, 2009) (“Manapragada”). Answer 9–26.

ISSUES

Double Patenting Rejection

Appellants argue on page 2 of the Reply Brief that the Examiner’s double patenting rejection is not ripe for decision. We concur and decline to reach the provisional rejection. *See Ex parte Moncla*, 95 USPQ2d 1884, 1885 (BPAI 2010) (precedential).

Obviousness Rejection

Appellants argue, on pages 24 through 30 of the Appeal Brief and pages 2 through 3 of the Reply Brief, that the Examiner’s rejection of independent claim 1 is in error. These arguments present us with the following issues:

¹ Throughout this Opinion we refer to the Appeal Brief dated July 28, 2015, Reply Brief dated October 12, 2015, and the Examiner’s Answer mailed on August 13, 2015.

- 1) Did the Examiner err in finding the combination of Knapp, Riggert, and Manapragada teaches establishing a first and second communication channel between an Internet protocol telephone system and a device through a network of a service provider, and receiving a first and second sub-streams through the respective first and second channels, as recited in representative claim 1?
- 2) Did the Examiner err in finding the skilled artisan would have combined the teachings of Knapp and Riggert?

ANALYSIS

We have reviewed Appellants' arguments in the Briefs, the Examiner's rejection, and the Examiner's response to the Appellants' arguments. Appellants' arguments have not persuaded us of error in the Examiner's rejection of claims 1 through 29.

Appellants' arguments directed to the first issue address each reference individually, asserting that Knapp does not teach a channel for an IP telephony system or using two communication streams for the same application. App. Br. 26; Reply Br. Appellants argue Riggert uses dissimilar networks and does not teach different sub-streams of a data stream over different channels of the same network. App. Br. 27; Reply Br. 3. Appellants argue that Manapragada is "silent regarding IP addresses that differ[] from a corresponding endpoint of the second communication channel," App. Br. 28. Thus, Appellants conclude the references do not teach establishing a first and second communication channel between an Internet Protocol telephone system and a device through a network of a

service provider, and receiving a first and second sub-streams through the respective first and second channels as recited in representative claim 1.

The Examiner has provided a comprehensive response to Appellants' arguments on pages 26 through 32 of the Answer. We have reviewed the Examiner's response and the evidence cited by the Examiner. We concur with the Examiner's findings and conclusions and adopt them as our own. We add the following for emphasis. As identified by the Examiner, and acknowledged by Appellants on page 3 of the Reply Brief, Knapp teaches the mobile devices can use voice over internet protocol (VOIP), and thus teaches an IP telephony system. *See e.g.*, Knapp para. 23. Also, we note Riggert teaches using multiple connections, using multiple physical interfaces for a single application, where there may be multiple physical interfaces for a network. *See* Riggert paras. 32–33. Thus, contrary to Appellants' argument, Riggert teaches using multiple connections on the same network. Accordingly, Appellants' arguments directed to the first issue have not persuaded us of error in the Examiner's rejection of representative claim 1.

Appellants' arguments directed to the second issue assert that the references do not provide a suggestion that data for one application be split into sub streams for communication as claimed. App. Br. 29. The Examiner provides a reasoned rationale as to why the skilled artisan would have combined the teaching of the references. Final Rejection 11–12; Answer 33. Appellants' arguments have not persuaded us of error in these findings by the Examiner. Accordingly, we sustain the Examiner's rejection of representative claim 1, and claims 2 through 29 similarly rejected under 35 U.S.C. § 103(a).

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DECISION

We sustain the Examiner's rejections of claims 1 through 29 under 35 U.S.C. § 103(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