



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.
13/528,682	06/20/2012	Francis Dinha	PrivTunnelNet	8379
41173	7590	12/14/2016	EXAMINER	
PETER JAMES TORMEY 2017 ESPERANZA DRIVE CONCORD, CA 94519			SALEHI, HELAI	
			ART UNIT	PAPER NUMBER
			2433	
			NOTIFICATION DATE	DELIVERY MODE
			12/14/2016	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):

PJTormey@Gmail.com  
PT@AnTLegal.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

*Ex parte* FRANCIS DINHA

---

Appeal 2016-001168  
Application 13/528,682  
Technology Center 2400

---

Before JUSTIN BUSCH, CATHERINE SHIANG, and  
LINZY T. McCARTNEY, *Administrative Patent Judges*.

SHIANG, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1–7, 9–17, and 20, which are all the claims pending and rejected in the application. We have jurisdiction under 35 U.S.C. § 6(b). We affirm-in-part.

STATEMENT OF THE CASE

*Introduction*

According to the Specification, the present invention relates to a private tunnel network. *See generally* Spec. 1. Claim 1 is exemplary:

1. A device comprising:
  - a processor;
  - a memory, coupled to said processor;
  - a private tunnel connector coupled to said processor, said private tunnel connector operable to:
    - receive a network connection request;
    - query a first domain name server (DNS) for a predetermined internet protocol (IP) address associated with the network connection request;
    - query a second domain server for a private tunnel address in response to the predetermined IP address;
    - generate network connection information including the private tunnel address, and
    - respond to the network connection request with the network connection information.

#### *References and Rejections*

Claims 1–7 and 9–14 are rejected under 35 U.S.C. § 102(e) as being anticipated by Sinha (US 8,464,335 B1; issued June 11, 2013).

Claims 15–17 and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Sinha and Chang (US 2013/0283364 A1; published Oct. 24, 2013).

#### ANALYSIS

##### *Anticipation*

We have reviewed the Examiner’s rejection in light of Appellant’s contentions and the evidence of record. We concur with Appellant’s contention that the Examiner erred in finding Sinha discloses “a private tunnel connector coupled to said processor, said private tunnel connector operable to . . . query a *first domain name server (DNS)* for a predetermined

internet protocol (IP) address associated with the network connection request; query *a second domain server* for a private tunnel address in response to the predetermined IP address,” as recited in independent claim 1 (emphases added).<sup>1</sup> See App. Br. 5–9; Reply Br. 4–5.

The Examiner initially cites Sinha’s column 16, lines 14–65 and Figure 6, 606 for disclosing the italicized claim limitations. See Ans. 2–3. Appellant argues, and we agree, the Examiner fails to show the cited Sinha portions disclose “a first domain name server (DNS)” and “a second domain server,” as required by the claim. See App. Br. 5–9.

In response to Appellant’s arguments, the Examiner cites Sinha’s disclosure of *a single* DNS. See Ans. 11. But the claim requires “a first domain name server (DNS)” and “a second domain server.” Claim 1. Sinha’s *single* DNS is insufficient for disclosing both claim terms. See Reply Br. 4–5.

Further, the Examiner asserts “there are Domain Name Servers,” because Sinha discloses the Internet 608. Ans. 11. Even if the Examiner’s assertion is true, the Examiner has not shown Sinha discloses those “Domain Name Servers” are arranged to teach

a private tunnel connector coupled to said processor, said private tunnel connector operable to . . . query a first domain name server (DNS) for a predetermined internet protocol (IP) address associated with the network connection request; query a second domain server for a private tunnel address in response to the predetermined IP address,

---

<sup>1</sup> Appellant raises additional arguments with respect to the anticipation rejection. Because the identified issue is dispositive of the appeal with respect to the anticipation rejection, we do not reach the additional arguments.

as required by the claim. *See Verdegaal Bros., Inc. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987) (“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.”) (citations omitted). *See Reply Br. 4.*

Because the Examiner fails to provide sufficient evidence or explanation to support the anticipation rejection, we are constrained by the record to reverse the Examiner’s rejection of claim 1.

Independent claim 7 recites a claim limitation that is substantively similar to the disputed limitation of claim 1. *See claim 7.* Therefore, for similar reasons, we reverse the Examiner’s rejection of independent claim 7.

We also reverse the Examiner’s rejection of dependent claims 2–6 and 9–14, which depend from claims 1 and 7.

#### *Obviousness*

With respect to claim 15, Appellant argues:

Similarly to claims 1 and 7 above, Sinha makes no mention of querying a first and a second domain server. Sinha would need a second DNS to accomplish this step. As shown above, Sinha’s central authority is not a domain sever and does not provide a second IP address.

App. Br. 14.

Appellant’s argument is not commensurate with the scope of claim 15, as Appellant has not shown claim 15 includes the disputed claim limitations of claims 1 and 7.

Appellant further argues:

Moreover, the text of claim 15 provides for operations on a first and second encapsulated message. Neither Sinha nor Chang disclose multiple encapsulated messages. They both appear to operate on a single secure tunnel (see Chang abstract and Sinha's references to VPN above).

App. Br. 14.

In response to Appellant's arguments, the Examiner provides further findings showing Sinha teaches the disputed claim limitations. *See* Ans. 13. In particular, the Examiner cites Sinha's column 6, lines 34–37 and column 15, lines 62–67 for teaching “a first encapsulated message” and “a second encapsulated message.” *See* Ans. 13. Appellant fails to persuasively respond to such findings, and, therefore, fails to show error in the Examiner's findings. *See In re Baxter Travenol Labs.*, 952 F.2d 388, 391 (Fed. Cir. 1991) (“It is not the function of this court [or this Board] to examine the claims in greater detail than argued by an appellant, looking for [patentable] distinctions over the prior art.”).

Because Appellant has not persuaded us the Examiner erred, we sustain the Examiner's rejection of claim 15, and claims 16, 17, and 20, which Appellant does not separately argue with substantive contentions.

#### DECISION

We reverse the Examiner's decision rejecting claims 1–7 and 9–14.

We affirm the Examiner's decision rejecting claims 15–17 and 20.

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-IN-PART