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EXAMINER	
HUQ, OBAIDUL	

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte CHRISTOPHER D. KOCH and DAVID CLEARY

Appeal 2016-002148
Application 13/183,123[1]
Technology Center 2400

Before LARRY J. HUME, JOHN D. HAMANN, and SCOTT E. BAIN, *Administrative Patent Judges*.

HUME, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) of the Final Rejection of claims 21–30 and 32–53. Appellants have canceled claims 1–20. Claim 31 is objected to, but otherwise indicated as being directed to patentable subject matter if rewritten in independent form. Final Act. 29. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

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[1] According to Appellants, the real party in interest is Calix, Inc. App. Br. 3.

STATEMENT OF THE CASE[2]

The Invention

Appellants' disclosed and claimed inventions "relate[] to computer networks and, more particularly, network devices that manage computer networks. Spec. ¶ 2 ("TECHNICAL FIELD").

Exemplary Claim

Claim 53, reproduced below, is representative of the subject matter on appeal (*emphases* added to contested limitations):

> 53. A network system comprising:
>
> a ring network that includes a first network device and a second network device,
>
> wherein the first network device is adjacent to the second network device in the ring network,
>
> wherein the second network device is designated as a master device that manages operation of the ring network, and
>
> wherein the first network device comprises:
>
> an interface module that includes a primary port and a secondary port, wherein the primary port couples to a network link of the ring network that connects the network device directly to the master device; and
>
> a control unit that determines whether a fault has occurred in the ring network,
>
> *wherein the secondary port receives data traffic*, and

[2] Our decision relies upon Appellants' Appeal Brief ("App. Br.," filed May 26, 2015); Reply Brief ("Reply Br.," filed Dec. 7, 2015); Examiner's Answer ("Ans.," mailed Oct. 7, 2015); Final Office Action ("Final Act.," mailed Sept. 18, 2014); and the original Specification ("Spec.," filed July 14, 2011).

> *wherein the interface module drops the received data traffic until the control unit determines that the fault has occurred in the ring network.*

Prior Art

The Examiner relies upon the following prior art as evidence in rejecting the claims on appeal:

Rijhsinghani et al. ("Rijhsinghani")	US 6,301,224 B1	Oct. 9, 2001
Kanekar et al. ("Kanekar")	US 7,006,431 B1	Feb. 28, 2006
Pande et al. ("Pande")	US 2006/0245351 A1	Nov. 2, 2006
Oku et al. ("Oku")	US 2007/0204068 A1	Aug. 30, 2007

Rejections on Appeal

R1. Claims 21–26, 28–30, 33–38, and 40–53 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Oku and Rijhsinghani. Ans. 2.

R2. Claims 27 and 39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Oku, Rijhsinghani, and Kanekar. Ans. 23.

R3. Claim 32 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Oku, Rijhsinghani, and Pande. Ans. 24.

ISSUE

Appellants argue (App. Br. 6–13; Reply Br. 3–8) the Examiner's Rejection R1 of claim 53 under 35 U.S.C. § 103(a) as being obvious over the combination of Oku and Rijhsinghani is in error. These contentions present us with the following issue:

Did the Examiner err in finding the cited prior art combination teaches or suggests a network system that includes, *inter alia*, the limitations of "an interface module that includes a . . . secondary port . . . wherein the secondary port receives data traffic, and *wherein the interface module drops the received data traffic until the control unit determines that the fault has occurred* in the ring network," as recited in claim 53? (Emphasis added).

ANALYSIS

We agree with particular arguments advanced by Appellants with respect to claims 21–30 and 32–53 for the specific reasons discussed below. We highlight and address specific findings and arguments regarding claim 53 for emphasis as follows.

Appellants disagree with the Examiner's finding

> that the disclosure in Rijhsinghani can in any way be considered similar to, much less disclose or suggest, an interface module that drops received data traffic until a control unit determines that a fault has occurred in a ring network, as recited by claim 53, particularly because the Rijhsinghani disclosure is directly and undeniably **opposite** to the subject matter of [the] claim. The Examiner has provided no evidence throughout the entirety of prosecution as to how a switch that receives and **forwards** traffic **until** a fault is detected in any way discloses or even suggests an interface module that **drops** received data traffic **until** a control unit determines that a fault

> has occurred in a ring network, as recited by claim 53. Rather than provide some evidence to show how the cited portions of Rijhsinghani discloses the foregoing subject matter of claim 53, the Examiner has simply insisted that the cited portions of Rijhsinghani, which teach away from the foregoing subject matter of claim 53, are similar to the subject matter of claim 53.

App. Br. 9.

We disagree with the Examiner's findings and legal conclusions (Final Act. 5 *et seq.*), and are persuaded by Appellants' arguments. We disagree with the Examiner because we find the Rijhsinghani reference teaches the exact opposite of what is claimed, i.e., "the interface module drops the received data traffic until the control unit determines that the fault has occurred in the ring network." Specifically, Rijhsinghani teaches, "[i]f the switch detects a failure to receive a first number of successive hello communications, it will preferably drop all of the received data communications." Rijhsinghani col. 3, ll. 62–65.

By way of summary comparison, the following table is provided to highlight the opposite characteristics of the claimed invention and the portion of the cited prior art relied upon by the Examiner:

Claim 53	Rijhsinghani
Data traffic is dropped ***until*** a fault occurs, and ***then*** traffic is forwarded.	Traffic is dropped ***after*** a fault occurs, and then ***no*** further traffic is forwarded

Appellants present other arguments (App. Br. 10 *et seq.*; Reply Br. 5 *et seq.*), but we find the above-identified issue to be dispositive of our Decision on Appeal such that we need not reach a determination concerning Appellants' additional contentions.

Therefore, based upon the findings above, on this record, we are persuaded of at least one error in the Examiner's reliance on the combined teachings and suggestions of the cited prior art combination to teach or suggest the disputed limitations of claim 53, such that we cannot sustain the Examiner's obviousness rejection of independent claim 53.

For essentially the same reasons argued by Appellants as cited above, we reverse the Examiner's Rejection R1 of independent claims 21, 33, 42, and 47 which recite the disputed limitations in commensurate form. For the same reasons, we also reverse Rejection R1 of claims 22–26, 28–30, 34–38, 40, 41, and 43–52 that depend therefrom.

In light of our reversal of the rejections of independent claims 21, 33, 42, 47, and 53, *supra*, we also reverse obviousness Rejections R2 and R3 under § 103 of claims 27, 32, and 39, which variously and ultimately depend from independent claims 21 and 33. On this record, the Examiner has not shown how the additionally cited secondary Kanekar and Pande references overcome the aforementioned deficiencies with the combination of Oku and Rijhsinghani, as discussed above regarding claim 53.

CONCLUSION AND DECISION

The Examiner erred with respect to obviousness Rejections R1 through R3 of claims 21–30 and 32–53 under 35 U.S.C. § 103(a) over the cited prior art combinations of record, and we do not sustain the rejections.

Therefore, we reverse the Examiner's decision rejecting claims 21–30 and 32–53.

REVERSED