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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte WAYNE B. SMITH and RYAN E. SHARPE¹

Appeal 2016-002289
Application 13/461,158
Technology Center 2400

Before: BRUCE R. WINSOR, AMBER L. HAGY, and
PHILLIP A. BENNETT, *Administrative Patent Judges*.

BENNETT, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's Non-Final Rejection of claims 1–20, which are all of the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ Appellants' Brief (Br.) identifies the real party in interest as HARRIS CORPORATION.

CLAIMED SUBJECT MATTER

The claims are directed to firewalls for filtering communications in a dynamic computer network. Claim 1, reproduced below with the key limitation in italics, is illustrative of the claimed subject matter:

1. A method of filtering data communications in a dynamic computer network, the method comprising:
receiving a data packet that includes a plurality of identity parameters; and
filtering said data packet by comparing said plurality of identity parameters to a set of filtering rules, wherein said filtering rules comprise allowing said data packet on a condition that a first set of said identity parameters have been transformed using pseudorandom function to specify false identity parameters that are within a set of currently allowed false identity parameters determined based on a mission plan, *where a seed value for said pseudorandom function comprises an occurrence time of a trigger event for triggering identity parameter transformation.*

Br. 16 (Claims Appendix).

REJECTIONS

Claims 1, 2, 4–6, 11, 12, 14–16, and 20 stand rejected under 35 U.S.C. § 103(a) as being obvious over Blaisdell et al. (US 2008/0235755 A1, published Sep. 25, 2008) (“Blaisdell”), Phatak (US 2009/0031042 A1, published Jan. 29, 2009), Burnham et al. (US 2013/0104228 A1, published Apr. 25, 2013) (“Burnham”), and Xiao et al. (US 2010/0246823 A1, published Sep. 30, 2010) (“Xiao”).

Claims 3, 7–10, 13, and 17–19 stand rejected under 35 U.S.C. § 103(a) as being obvious over Blaisdell, Phatak, Burnham, Xiao, and Nakae et al. (US 2004/0172557 A1, published Sep. 2, 2004).

ISSUES FOR DECISION

(1) Has the Examiner erred in finding that the cited combination teaches or suggests the limitation of “where a seed value for said pseudorandom function comprises an occurrence time of a trigger event for triggering identity parameter transformation” as recited in independent claims 1 and 11?

(2) Has the Examiner erred in finding the references are properly combinable under 35 U.S.C. § 103(a)?

ANALYSIS

We have considered Appellants’ arguments and contentions (Br. 10–13) in light of the findings (Non-Final Act.² 4–15), conclusions (*id.*), and explanations (Non-Final Act. 2–3) of the Examiner. We agree with the findings and conclusions of the Examiner and adopt them as our own. We provide the following discussion, findings, and conclusions for emphasis.

First Issue

In rejecting the independent claims as unpatentable under Section 103, the Examiner finds that Appellants provide “no limiting definition of trigger event, and the common use of the phrase is broad enough to encompass a wide range of events, including those suggested by the prior art of record.” Non-Final Act. 3.

The Examiner finds Blaisdell teaches the use of various types of trigger events, including “timer triggers (e.g., time of day, day of week, etc.)” Non-Final Act. 6 (quoting Blaisdell ¶ 33). The Examiner further finds Blaisdell teaches timer triggers are used for the purpose of

² Non-Final Office Action issued September 18, 2014.

transforming identity parameters of data packets in a network. Non-Final Act. 6 (citing Blaisdell ¶¶ 8, 10, 23, Fig. 5). The Examiner recognizes that Blaisdell does not teach using the time of day trigger as a seed value for a pseudorandom function. Non-Final Act. 6–7. The Examiner finds that Phatak (¶ 109), Burnham (¶ 26), and Xiao (¶ 10) suggest the use of time-based seed values for pseudorandom functions. Non-Final Act. 7–15. Thus, as explained by the Examiner, Phatak, Burnham, and Xiao suggest using a time as “a seed value for said pseudorandom function” and Blaisdell teaches the use of “an occurrence time of a trigger event for triggering identity parameter transformation.” Non-Final Act. 2–3, 14–15. Taken together, the combination of references teach or suggest “where a seed value for said pseudorandom function comprises an occurrence of time of a trigger event for triggering identity parameter transformation.” Non-Final Act. 14–15.

Appellants argue the cited references do not teach “where a seed value for said pseudorandom function comprises an occurrence time of a trigger event for triggering identity parameter transformation.” Br. 10–13. In doing so, Appellants address each reference separately. With respect to Blaisdell, Appellants argue that the occurrence times of Blaisdell’s trigger events are not used as seed values for pseudorandom functions. Br. 10. With respect to Phatak, Appellants argue it does not teach any time-based value being the occurrence time of a trigger event. Br. 10–11. Appellants also dispute the relevance of Burnham, arguing it does not mention pseudorandom functions. Br. 11. With respect to Xiao, Appellants acknowledge that it teaches the use of a pseudo-random function with a timestamp as a seed value, but contend it does not meet the disputed limitation because it is silent as to what the timestamp refers. Br. 11–12.

We are unpersuaded by Appellants' arguments, and we conclude that Appellants' argument does not address the actual reasoning of the Examiner's rejection. Appellants attack each reference singly for lacking a teaching that the Examiner relied on the combination of references to show. It is well established that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. *In re Keller*, 642 F.2d 413, 426 (CCPA 1981).

We agree with the Examiner that the phrase "trigger event" is a broad term. The Specification describes a trigger as "an event that causes a change to occur in relation to the dynamic modifications described herein." Spec. ¶ 46. The Specification further notes "[i]n its simplest form a trigger can be user activated or based on a simple timing scheme. . . . For example, a trigger event could be defined as occurring at the expiration of every 60 second time interval." Spec. ¶ 47. We further note the timer triggers taught in Blaisdell are substantially the same as the simple timing scheme described in paragraph 47 of Appellants' Specification. We, therefore, are not persuaded the Examiner erred in finding Blaisdell teaches the use of "an occurrence time of a trigger event for triggering identity parameter transformation."

We are also not persuaded of error in the Examiner's finding that Phatak, Burnham, and Xiao suggest using a time as "a seed value for said pseudorandom function." In particular, Phatak teaches the use of spread-identity network address translation (SI-NAT) for improving network security. Phatak ¶ 10. Phatak specifically describes "making the bindings for outgoing SI-NAT a pseudorandom function of day/time." Phatak ¶ 109. Similarly, Xiao teaches the use of a time stamp as the seed value in a

pseudo-random function in the context of securing network communications. Xiao ¶¶ 8, 10 (“the seed value may be a time stamp”), and 21.

Accordingly, we sustain the Examiner’s finding that the cited prior art teaches or suggests the limitation of “where a seed value for said pseudorandom function comprises an occurrence time of a trigger event for triggering identity parameter transformation.”

Second Issue

Appellants also challenge the Examiner’s conclusion of obviousness as being based on an unsupported combination of references. Appellants argue, “Notably, there is no motivation in any of the cited references for modifying the inventions thereof in view of each other so as to obtain the present invention, as suggested by the Examiner.” Br. 12. The Supreme Court instructs us “[t]he obviousness analysis cannot be confined by a formalistic conception of the words teaching, suggestion, and motivation, or by overemphasis on the importance of published articles and the explicit content of issued patents.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 419 (2007). We recognize the Examiner must articulate “reasoning with some rational underpinning to support the legal conclusion of obviousness.” *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). However, the Examiner’s reasoning need not appear in, or be suggested by, one or more of the references on which the Examiner relies. Instead, a reason to combine teachings from the prior art “may be found in explicit or implicit teachings within the references themselves, from the ordinary knowledge of those skilled in the art, or from the nature of the problem to be solved.” *WMS Gaming Inc. v. Int’l Game Tech.*, 184 F.3d 1339, 1355 (Fed. Cir. 1999) (citing *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998)).

We note that, with respect to each secondary reference, the Examiner provides an articulated rationale for combining the various references. *See, e.g.*, Non-Final Act. 12 (articulating rationale for combining Phatak), 13 (Burnham), and 14 (Xiao). However, Appellants do not address with specificity any articulated rationale provided by the Examiner. The conclusory allegation put forth by Appellants does not apprise us of Examiner error. In particular, Appellants have not provided persuasive evidence or line of reasoning explaining why such rationale is erroneous or why a person of ordinary skill in the art *would not* have reached the conclusions reached by the Examiner.

Summary

Accordingly, we sustain the Examiner's rejection under 35 U.S.C. § 103(a) of independent claims 1 and 11. We also sustain the rejections of claims 2–10 and 12–20, which Appellants do not argue separately.

DECISION

The Examiner's rejection of claims 1–20 under 35 U.S.C. § 103(a) is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED