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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MARC ACHE and WILLIAM E. PENCE

Appeal 2016-002938
Application 13/718,659
Technology Center 2400

Before ELENI MANTIS MERCADER, JOHN D. HAMANN, and
ALEX S. YAP, *Administrative Patent Judges*.

MANTIS MERCADER, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellants appeal under 35 U.S.C. § 134(a) from a rejection of claims 1–9 and 12–22, which constitute all the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

THE INVENTION

The claimed invention is directed to accessing electronic content, including receiving a request to access the electronic content from a user device, accessing a unique ID of the user device, and comparing the unique ID to a list of authorized user devices. The unique ID is used to determine if the user device is an authorized user device. If the user device is authorized, access is provided to the electronic content. If the user device is not authorized, determining if a maximum number of authorized user devices is reached. The user device is converted to an authorized user device, if the maximum number is not reached. If the maximum number of authorized user devices is reached, the user can be denied access to the electronic content or the system can request de-authorization of one of the authorized user devices to convert the user device to an authorized user device.

Abstract.

Claim 1, reproduced below, is illustrative of the claimed subject matter:

Claim 1: A system for allowing access to electronic content, comprising:
a user device configured to render the electronic content;

a unique ID permanently stored on the user device and uniquely identifying the user device;
a licensing server in communication with the user device and resolving requests for the electronic content; and
an authorization database storing a list of authorized unique IDs, wherein the licensing server is configured to access the authorization database to determine whether the user device is an authorized user device based on the unique ID of the user device and to permit the fulfillment of the request for electronic content only to user devices that the authorization database indicates are authorized.

REFERENCES

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

Abburi et al. (“Abburi”)	US 2003/0084306 A1	May 1, 2003
Edmonson et al. (“Edmonson”)	US 2006/0053080 A1	Mar. 9, 2006

REJECTION

The Examiner made the following rejection:
Claims 1–9 and 12–22 stand rejected under 35 U.S.C § 103(a) as being unpatentable over Abburi in view of Edmonson.

ISSUES

The pivotal issues are whether the Examiner erred in finding that the combination of Abburi in view of Edmonson teaches or suggests the limitations of:

“a unique ID permanently stored on the user device and uniquely identifying the user device;” as recited in claim 1, and

“wherein the unique ID includes a canonical name,” as recited in claim 13.

ANALYSIS

We agree with the Examiner’s finding in the Answer and Final Action and we add the following primarily for emphasis.

Claims 1–9, 12, 14, 15, 17–18, and 20–22

Appellants argue that Abburi (paras. 370 and 414) does not disclose, teach, or suggest “a unique ID permanently stored on the user device and uniquely identifying the device,” as recited in claim 1 (App. Br. 12).

Appellants also argue that the Examiner’s allegation that the “machine id number is permanently stored on user device[,] which is well known in the art at the time of invention,” is completely unsupported by record evidence, and in fact, is directly contradicted by the explicit disclosure of Abburi (App. Br. 12, emphasis omitted). Specifically, Appellants argue Abburi’s system does not use a unique ID permanently stored on the user device, but instead, intentionally chooses to take the opposite approach and use non-permanent machine IDs, which are readily alterable (App. Br. 12).

We do not agree. We agree with the Examiner’s finding that Abburi teaches that a Hardware ID (HWID) is an identifier in encrypted form (i.e., unique ID), and that the computer ID/Hardware ID is stored in non-volatile memory on the computing device (i.e., permanent ID) (Ans. 4; paras. 370 and 414). We note, that even with Appellants’ construction of the term “permanent”, Abburi’s *non-volatile memories* include EPROM (electrically programmable *read-only* memory) and EEPROM (electrically erasable

programmable *read-only* memory), which are read-only memories (i.e., permanent). *See* para. 121 of Edmonson for definition.

We further agree, with the Examiner’s interpretation of the claimed term “permanent” because it can be broadly, but reasonably, interpreted as “always stored” because Abburi teaches storing in the “non-volatile memory” and does not necessarily create a requirement that the ID not change (Ans. 4). We further agree with the Examiner’s finding that the term “permanent” does not require that the ID is never changed, but only that is stored permanently (Ans. 5).

Accordingly, we affirm the Examiner’s rejection of claim 1 and for similar reasons the rejections of claims 1, 2–9, 12, 14, 15, 17–18, and 20–22, for which Appellants relied on substantially the same arguments or relied on their dependency from claim 1.

Claims 13, 16, and 19

With respect to claim 13, Appellants argue that Abburi merely discloses various identifiers, such as Abburi’s unique machine identification number, HWID, and/or machine ID. Nothing in Abburi discloses a permanently stored unique ID including a canonical name (App. Br. 19).

We do not agree with Appellants’ argument. We agree with the Examiner’s finding that Appellants’ Specification describes “Canonical Name” as Unique ID or a serial number (Spec. para. 27; Ans. 6). We further agree with Examiner’s finding that Abburi teaches (para. 370) as “Hardware ID or CPU Id” which is comparable to Appellants’ own description of Canonical Name (Ans. 6). Accordingly, the Examiner interpreted the terms “Canonical Name” consistent with Appellants’ own Specification (Ans. 6).

Thus, we affirm the Examiner’s rejection of claims 13, 16, and 19.

Claims 1–9 and 12–22

Appellants argue that the Examiner's reliance on Edmonson appears to be improper because a cited portion does not appear to qualify as prior art to the present application (App. Br. 19). Specifically, according to Appellants, the present application is a continuation application of U.S. Application No. 11/137,347, filed on May 24, 2005, which is the effective filing date for the present application, whereas Edmonson was published on March 9, 2006 (App. Br. 19). Appellants assert that Edmonson qualifies as prior art to the extent that the Office relies upon the disclosure supported by the '284 Application, the '581 Application, and the '045 Application (*see* MPEP § 706.02(f)(1); priority based on continuation), but the rejection cites to a disclosure of Edmonson which was not present within the disclosures of the '284 Application, the '581 Application, and the '045 Application. Specifically, for example, the Office Action citations (para. 7) do not appear to be fully supported by the '284 Application, the '581 Application, or the '045 Application as required by MPEP § 2136.03 (App. Br. 20).

We do not agree. We agree with the Examiner's finding that Edmonson (para. 7) teaches a device/user ID stored in the license server and database (Ans. 7). The parent '284 Application, with a priority date of Dec. 2, 2003 (pg. 10, ll. 6–15), discloses that a user ID is created for each user and stored in a local database of licenses and related permissions held by the user for authorized access to content by an authenticated device/user (Ans. 7). Further, the Examiner has pointed to paragraphs 34 and 42 of Edmonson, wherein paragraph 34 discloses a limitation of database with licenses, user ID and related permissions, which is covered by the Edmonson provisional application '284 (Ans. 7). Also, provisional '284 Application

(pg. 15, ll. 11–24) teaches the same description as in paragraph 42 – of a user device communicating with a central server for access to license information for streaming of licensed digital files (Ans. 7). Therefore, we agree with the Examiner’s findings that Edmonson’s provisional ’284 Application, dated Dec. 2, 2003, covers the claimed limitation and meets the date/priority requirement (Ans. 7).

Accordingly, we affirm the Examiner’s rejections of claims 1–9 and 12–22.

CONCLUSION

The Examiner did not err in finding that the combination of Abburi in view of Edmonson teaches or suggests the limitations of:

“a unique ID permanently stored on the user device and uniquely identifying the user device,” as recited in claim 1, and
“wherein the unique ID includes a canonical name,” as recited in claim 13.

DECISION

For the above reasons, the Examiner’s rejection of claims 1–9 and 12–22 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)(1)(iv).

AFFIRMED