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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
14/574,337 12/17/2014 Gregory Alan Rubin 0097749-370US0 3337

113507 7590 01/18/2019
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IP Docketing Dept.
920 Fifth Ave., Suite 3300
Seattle, WA 98104-1610

Table with 1 column: EXAMINER

SIDDIQI, MOHAMMAD A

Table with 2 columns: ART UNIT, PAPER NUMBER

2493

Table with 2 columns: NOTIFICATION DATE, DELIVERY MODE

01/18/2019

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte GREGORY ALAN RUBIN and GREGORY BRANCHEK ROTH¹

Appeal 2018-003503
Application 14/574,337
Technology Center 2400

Before ROBERT E. NAPPI, LARRY J. HUME, and
JUSTIN BUSCH, *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) from the Examiner's Final Rejection of claims 1 through 22, which constitute all the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

¹ According to Appellants, the real party in interest is Amazon Technologies, Inc. App. Br. 3.

INVENTION

The invention is directed to a cryptography service which allows for management of cryptographic keys and for the evaluation of security expectations when processing incoming requests. Abstract.

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

1. A computer-implemented method, comprising:
 - receiving, from a requestor associated with a customer of a service provider, a web service request whose fulfillment includes performance of a cryptographic operation;
 - selecting, based at least in part on information in the web service request, a cryptographic key from a plurality of cryptographic keys managed by the service provider for a plurality of customers of the service provider;
 - determining a set of security expectations applicable to the web service request, the set of security expectations defining a set of conditions applicable to the selected cryptographic key that, when fulfilled and regardless of whether the selected cryptographic key is usable to perform the cryptographic operation, indicate that a result of the cryptographic operation is trusted;
 - evaluating the set of security expectations against the selected cryptographic key;
 - generating a response to the web service requests based at least in part on evaluation of the set of security expectations; and
 - providing the generated response.

REJECTION AT ISSUE²

The Examiner has rejected claims 1 through 22 under 35 U.S.C. § 103(a) as being unpatentable over Kancharla (US 2015/0358294 A1; Dec. 10, 2015) and Thomas (US 2014/0020072 A1; Jan. 16, 2014).³ Final Act. 3–13.

ANALYSIS

We have reviewed Appellants’ arguments in the Briefs, the Examiner’s rejection, and the Examiner’s response to Appellants’ arguments. Appellants’ arguments have persuaded us of error in the Examiner’s obviousness rejection.

Initially we note that Appellants argue that the Final Office action is premature and that the rejection does not meet the requirements of the *Manual of Patent Examining Procedure* § 707.07(f). App. Br. 7–9. These arguments are directed to issues that are petitionable to the Director and not issues appealable to the Board. *See Manual of Patent Examining Procedure* (MPEP) (9th ed. Rev. 08.2017, Jan. 2018) § 1002.02(c), item 3(g) and § 1201.

Appellants also argue that the Kancharla published application is not prior art and that the provisional application upon which the published application derives priority does not teach the subject matter recited in the

² Throughout this Decision, we refer to the Appeal Brief (“App. Br.”) filed August 28, 2017, the Reply Brief (“Reply Br.”) filed February 12, 2018, the Final Office Action (“Final Act.”) mailed December 16, 2016, and the Examiner’s Answer (“Ans.”) mailed December 13, 2017.

³ The Examiner relies upon Kancharla as prior art based upon the filing data of the provisional patent application 62/008,112 (filed June 5, 2014). Ans. 2–3.

independent claims. App. Br. 9–13. Specifically, Appellants argue that claim 1 recites a set of security expectations applicable to a web service request, that define conditions that indicate the result of the request for cryptographic operations can be trusted. App. Br. 11; Reply Br. 4. Appellants argue that independent claims 6 and 15 similarly recite conditions to determine if a cryptographic operation should be trusted by the client. App. Br. 12, Reply Br. 4. Appellants assert:

Kancharla Provisional discloses using and managing keys associated with a HSM, but does not indicate whether “a set of conditions” are applicable to a selected key, and further does not indicate whether a “result of a cryptographic operation” can be trusted “regardless of whether the selected key is usable to perform the cryptographic operation,” as claimed.

App. Br. 11.

The Examiner finds that Kancharla teaches the disputed limitation, citing to paragraph 24 of the Kancharla published application; also quoting a passage from pages 24–25 of the Kancharla provisional application; and citing to Figure 2, pages 2, 3, 10 through 12, 24, and 36 through 43 of the Kancharla provisional application. Ans. 7.

We have reviewed the cited portions of the Kancharla provisional application, which are markedly different from the cited paragraph of the Kancharla published application. The Examiner has not explained, nor is it apparent to us, that the provisional application provides written description support for the portions of Kancharla on which the Examiner relies for teaching a set of security expectations applicable to a web service request, that define conditions that indicate the result of the request for cryptographic operations can be trusted. *See* 35 U.S.C. § 102(d)(2). Thus, we do not consider the Examiner to have shown that the subject matter in the published

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application, relied upon in the rejection is adequately supported by the disclosure of the provisional application. *See* MPEP § 2154.01(b). Accordingly, we do not sustain the Examiner's rejection of independent claims 1, 6, and 15 or dependent claims 2 through 5, 7 through 14, and 16 through 22.

DECISION

We reverse the decision of the Examiner to reject claims 1 through 22 under 35 U.S.C. § 103(a).

REVERSED