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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte KEITH ALAN ROTHSCHILD, EDGAR V. SHRUM,
MUHAMMAD ASIF RAZA, JR., and
RICHARD M. THOMAS

Appeal 2018-006670
Application 14/218,965
Technology Center 2400

BEFORE CARL L. SILVERMAN, MELISSA A. HAAPALA, and
JOYCE CRAIG, *Administrative Patent Judges*.

SILVERMAN, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant¹ appeals under 35 U.S.C. § 134(a) from the Examiner's Non-Final Rejection of claims 1–6 and 8–17, which constitute all pending claims.

We affirm.

¹ Throughout this Decision, we use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42 (2018). Appellant identifies Cox Communication, Inc. as the real party in interest. Appeal. Br. 2.

STATEMENT OF THE CASE

The invention relates to managing access to content or service, utilizing tokens for authentication and authorization. Abstract; Spec., ¶¶ 10–16, Figs. 1, 20, 21. Claim 1 reproduced below, is exemplary of the subject matter on appeal (emphasis added):

1. A method, comprising:

receiving a token request for a network token via a computing platform comprising at least one processor functionally coupled to at least one memory device, the token request comprising a logical address of first content;

generating, via the computing platform, the network token in response to receiving the token request, the network token comprising address information representative of the logical address;

receiving a content request for the first content via the computing platform, wherein the content request comprises a second network token; and

validating a second network token.

Appeal Br. 14 (Claims Appendix).

THE REJECTIONS²

Claims 1–3, 5, 6, 8–11, and 13–17³ are rejected under pre-AIA 35 U.S.C. § 102(e) as being anticipated by van Brandenburg et al. (US 2014/0115724 A1; published Apr. 24, 2014) (“van Brandenburg”). Non-Final Act. 4–8.

Claims 4 and 12 are rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over van Brandenburg. Non-Final Act. 8–9.

ANALYSIS

The § 102 rejection

Appellant argues the Examiner errs in finding van Brandenburg teaches the claim 1⁴ limitations (also referred to as disputed limitations) set forth below:

receiving a token request for a network token via a computing platform comprising at least one processor functionally coupled to at least one memory device, the token request comprising a logical address of first content;

generating, via the computing platform, the network token in response to receiving the token request, the network token comprising address information representative of the logical address;

² The 35 U.S.C § 101 rejection is withdrawn. *See* Non-Final Act. 2.

³ Although the Examiner includes claims 7 and 19–21 in the Headings in this rejection, these claims are canceled. *See* Non-Final Act. 2, 4; Appeal Br. 9. We further note that the list of claims pending and rejected on the first page of the Office Action incorrectly does not match the listing of claims currently pending and rejected. *See* Non-Final Act. 1–2; Appeal Br. 9.

⁴ Appellant argue claims 1–3, 5, 6, 8–11, and 13–17 as a group, and we choose claim 1 as representative of the group. *See* 37 C.F.R. § 41.37(c)(1)(iv).

receiving a content request for the first content via the computing platform, wherein the content request comprises a second network token.

Appeal Br. 9–12; Reply Br. 2–3 (Emphasis added).

In particular, Appellant argues the Examiner errs in finding that the van Brandenburg “GET request message including manifest.xml” in Figure 2 teaches “receiving a token request for a network token via a computing platform comprising at least one processor functionally coupled to at least one memory device, the token request comprising a logical address of first content.” Appeal Br. 9–10. According to Appellant, van Brandenburg teaches, at step 204, the delivery node receives a request for information related to a manifest file which does not include the claimed “a token request.” *Id.* at 10 (citing van Brandenburg, Fig. 2).

Regarding the second network token, Appellant argues the Examiner errs in finding that the “segment request message comprising a segment identifier and first validation information, taken together comprises a second network token,” and therefore teaches “receiving a content request for the first content via the computing platform, wherein the content request comprises a second network token.” *Id.* at 10–11 (citing Non-Final Act. 5). Appellant further argues the Examiner’s finding does not comport with the operation of van Brandenburg. *Id.*

In the Non-Final Action, the Examiner initially refers to Appellant’s arguments, filed 02/23/2017, and explains why these arguments are not persuasive:

Applicant argues that that the definition for the term ‘token’ as applied to the claims is incorrect because of the definition of the term in the applied prior art of van

Brandenburg. The Examiner respectfully disagrees. As previously pointed out, the van Brandenburg reference has multiple definitions for the term ‘token’. Van Brandenburg teaches that a string of characters and/or numbers may be used as a token. **(para. 60)**. As applicant points out, van Brandenburg also teaches how its token may be formed through the use of a one-way function wherein timing information and a secret key are used as input parameters []. Applicant’s assertion that the Examiner’s interpretation of “a segment identifier, first validation information, timing information . . . taken together,” cannot read on the “second network token” as recited in the claims since that ‘token’ was not formed in the same manner as van Brandenburg is incorrect. *Applicant’s claims are silent as to how [the] second network token [is] formed and what it is comprised of, only that it is received and validated. The teaching of van Brandenburg reads on the as claimed limitation as shown and described in Fig. 2, step 214, especially in light of van Brandenburg’s teaching that a token may[] be a string of characters and/or numbers. (see para. 60, 68).*

Non-Final Act. 3. (Emphasis added).

The Examiner finds van Brandenburg teaches *receiving a token request for a network token via a computing platform comprising at least one processor functionally coupled to at least one memory device, the token request comprising a logical address of first content.* Non-Final Action 4 (citing van Brandenburg, Fig. 2; ¶ 56). The Examiner finds the van Brandenburg “**GET request message including manifest.xml . . . manifest**” file “**comprises location information e.g.,] URLs, associated with a segment identifier for locating one or more network nodes, which are configured to deliver the segments.**” *Id.* (citing van Brandenburg ¶¶ 47, 48).

The Examiner finds van Brandenburg teaches *receiving a content request for the first content via the computing platform, wherein the content*

request comprises a second network token. Id. at 5 (citing van Brandenburg, Fig. 2, step 212; ¶¶ 65–66). According to the Examiner, van Brandenburg’s “**segment request message comprising a segment identifier and first validation information, taken together comprises a second network token, a string of characters and numbers.**” *Id.*

In the Answer, the Examiner finds van Brandenburg teaches that step 204 may be a request to obtain a manifest file, and para. 16 of van Brandenburg teaches that a manifest file may, in fact, contain a token. **(para. 16-Whenever the segment request message is for retrieving a manifest file, there are large advantages in providing at least part of the validation information (e.g.,] a token) in the manifest file).** Secondly, as shown in Fig. 2, step 20[8], that in response to the request in step 204, the media server responds with a token. Thus, it is reasonable to interpret the request of step 204 as the recited ‘token request’ since the response to the request is indeed ‘a token’.

Ans. 11.

The Examiner additionally finds:

As to Appellant’s arguments regarding the limitation of “receiving a content request for the first content . . . wherein the content request comprises a second network token[.]” Van Brandenburg teaches that a HTTP GET message is a request for video content (para. 5[3]- requests the first segment of the video from the location described in the manifest file by sending a request message, e.g.,] a HTTP GET request message, comprising an segment identifier, e.g.,] the segment file name). Thus, step 212 of Fig. 2 which is a HTTP GET message is indeed a request for content as recited in the claim.

Also disclosed in van Brandenburg is that HTTP GET message is comprised of a segment identifier, first validation information, timing information which taken together may reasonably interpreted as ‘a second network token’. **(para. 66-67 describe various ways in which the segment request message maybe formed).** van Brandenburg teaches that a token can be a

string of characters and/or numbers. (para. 60)[.] Thus, although, this segment request message may contain the first validation information (token 1, i.e.[,] a first token), it also includes timing information and a segment identifier which would necessarily be a different string of characters and/or numbers from the token 1 as can be seen in step 208. The segment request message is used to identify and validate a request for content which is the function of a network token and this token (string of characters and/or numbers) sent in step 212 is different from that received in step 208. Thus, this string of characters and/or numbers (token), different from the first token, reads on the recited ‘second network token’.

Ans. 10–11.

In the Reply Brief, Appellant argues:

van Brandenburg clearly distinguishes between a token and a segment identifier, validation information, and timing information. *van Brandenburg*’s “token . . . may be generated on the basis of a one-way function wherein timing information . . . and a secret key are used as input parameters.” *van Brandenburg*, ¶ [0061]. The “secret key [may be] . . . generated by a pseudorandom number generator.” *Id.*, ¶ [0059]. Thus, the token is based on the output of a pseudorandom number generator, and timing information, not the alleged combination of the segment identifier and first validation information. Furthermore, “[t]he first validation information [(e.g., the first token) may] be inserted into the second segment request message.” *Id.*, ¶ [0065]. As noted above, the token is the output of a function that uses timing information and a secret key as the inputs. The second segment request message does not include a token that is different than the first token, and no portion of *van Brandenburg* indicates that “a segment identifier, first validation information, timing information . . . taken together may reasonably [be] interpreted as ‘a second network token.’” *Examiner’s Answer*, p. 11. The Examiner’s interpretation of “a segment identifier, first validation information, timing information . . . taken together,” constituting “a second network token,” as recited in amended independent claim 1 is incorrect.

The combination of a segment identifier, first validation information, and timing information does not teach or suggest “receiving a content request for the first content via the computing platform, wherein the content request comprises a second network token,” as recited in amended independent claims 1, 9, and 17.

Reply Br. 2–3.

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

During prosecution, claims must be given their broadest reasonable interpretation when reading claim language in light of the Specification as it would be interpreted by one of ordinary skill in the art. *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). Although we interpret claims broadly but reasonably in light of the Specification, we nonetheless must not import limitations from the Specification into the claims. *See In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993). Our reviewing court states that “the words of a claim ‘are generally given their ordinary and customary meaning.’” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc) (citations omitted). However, the broadest *reasonable* interpretation differs from the broadest *possible* interpretation. *In re Smith Int’l, Inc.*, 871 F.3d 1375, 1383 (Fed. Cir. 2017). The correct inquiry in giving a claim term its broadest reasonable interpretation in light of the specification is “an interpretation that corresponds with what and how the inventor describes his invention in the specification, *i.e.*, an interpretation

that is ‘consistent with the specification.’” *Id.* at 1382–83 (*quoting In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997)).

Appellant’s arguments are premised on a claim interpretation of the disputed limitations that is unreasonably narrow. Here, the disputed limitations “the network token” and “the second network token” are broadly recited. We agree with the Examiner’s statement that “Applicant’s claims are silent as to how [the] second network [is] formed and what it is comprised of, only that it is received and validated.” *See Non-Final Act. 3*. Similarly, the Specification broadly employs the term, “token.” *See Spec.*, ¶¶ 15, 16, and ¶¶ 10–16.

Van Brandenburg describes a GET request message that includes a content file name associated with a manifest file (manifest.xml) and the manifest files includes location information, e.g., URLs, associated with a segment identifier for locating one or more network nodes, which are configured to deliver the segments. *See Non-Final Act. 4, van Brandenburg, Fig 2, ¶ 56*. Thus, we agree with the Examiner that under the broadest reasonable interpretation of “network token,” van Brandenburg discloses “receiving a token request for a network token” through its description of a GET request. Van Brandenburg also describes generating “the network token” wherein the media server generates validation information, including a token, and also including location information comprising a reference, e.g., an URL, where the content (the first segment) is stored. *Id., see also van Brandenburg ¶ 65*. As described in van Brandenburg, the request for a manifest file may include a token, and the media server responds with a token. *Id., see also Ans. 11, van Brandenburg Fig. 2, steps 204, 206, 208; ¶ 16*.

Regarding “the second network token,” we agree with the Examiner that van Brandenburg’s GET message includes a segment identifier, first validation information, and timing information. *See* van Brandenburg, Fig. 2, step 212; ¶¶ 65, 66. We also agree that, although this GET message may include the first validation information (first token), it also includes timing information and a segment identifier. *Id.* The GET message (second token) of step 212 is different from the token received in step 208. Van Brandenburg teaches that a token can be a string of characters and/or numbers, and here, the timing information and a segment identifier would be different from the token of step 208. *Id.*, *see* van Brandenburg ¶ 60.

We are not persuaded by Appellant’s argument that van Brandenburg’s token is generated in a specific manner and that van Brandenburg does not describe a second token that is different from the first token. As discussed, *supra*, the claims do not recite the manner in which the tokens are formed and the Specification does not define or use the term “token” narrowly. To the contrary, the term “token” is used broadly, and may, for example, comprise a string of characters and/or numbers may be used as a token. *See* van Brandenburg ¶¶ 60, 47, 48, 50, 51. Applying a broad, but reasonable, interpretation as discussed, *supra*, van Brandenburg’s second network token is different from the (first) network token.

We note much of Appellant’s arguments are unsupported by factual evidence. Mere attorney arguments and conclusory statements that are unsupported by factual evidence are entitled to little probative value. *See In re Geisler*, 116 F.3d 1465, 1470 (Fed. Cir. 1997); *In re De Blauwe*, 736 F.2d 699, 705 (Fed. Cir. 1984); *Ex parte Belinne*, Appeal 2009-004693, 2009 WL 2477843, at *3–4 (BPAI Aug. 10, 2009) (informative).

In view of the above, we sustain the rejection of representative claim 1, independent claims 9 and 17, and dependent claims 2, 3, 5, 6, 8–11, and 13–16 as these claims are not argued separately. *See* 37 C.F.R. § 41.37(c)(1)(iv).

The § 103 rejections

Appellant argues the Examiner errs in rejecting dependent claims 4 and 12 over van Brandenburg because of their dependency from “allowable” claims 1 and 9 and “further due to additional elements recited therein.” Appeal Br. 12; Reply Br. 4.

We are not persuaded by Appellant’s arguments. Appellant’s arguments amount to no more than generally alleging that the cited prior art reference is deficient. Merely asserting that the cited prior art reference does not teach or suggest “additional elements” recited in a claim is not a separate patentability argument. *See* 37 C.F.R. § 41.37(c)(1)(iv) (“A statement which merely points out what a claim recites will not be considered an argument for separate patentability of the claim.”). Our discussion of claim 1, *supra*, is applicable and the Examiner has presented sufficient evidence to support obviousness of dependent claims 4 and 12. *See* Non-Final Act. 8–9. Because Appellant has not sufficiently addressed the Examiner’s findings and conclusions, we sustain the rejection of claims 4 and 12.

CONCLUSION

In summary:

Appeal 2018-006670
Application 14/218,965

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1-3, 5, 6, 8-11, 13-17	102(e)	van Brandenburg	1-3, 5, 6, 8-11, 13-17	
4, 12	103(a)	van Brandenburg	4, 12	
Overall Outcome			1-6, 8-17	

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