UNITED STATES PATENT AND TRADEMARK OFFICE

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COATS & BENNETT, PLLC		ZHANG, RUIHUA
1400 Crescent Green, Suite 300		
Cary, NC 27518		

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UNITED STATES PATENT AND TRADEMARK OFFICE
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BEFORE THE PATENT TRIAL AND APPEAL BOARD
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Ex parte PETER GERÖ BALÁZS, JÁNOS FARKAS, LÁSZLÓ MOLNÁR,
PANAGIOTIS SALTSIDIS, and BALÁZS VARGA

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Appeal 2018-007939
Application 14/369,322
Technology Center 2400

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Before CAROLYN D. THOMAS, JEREMY J. CURCURI, and
JOSEPH P. LENTIVECH, *Administrative Patent Judges*.

LENTIVECH, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant[1] appeals from the Examiner's decision to reject claims 50–74. Claims 1–49 have been canceled. *See* Appeal Br. 18–23 (Claims Appendix). We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

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[1] We use the word "Appellant" to refer to "applicant" as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as Telefonaktiebolaget L M Ericsson. Appeal Br. 2.

STATEMENT OF THE CASE

Appellant's Invention

Appellant's invention generally relates to "network interconnection techniques" and, in particular, "a technique for handling a status change in an interconnect node." Spec. 1:7–9. Claim 50, which is illustrative of the claimed invention, reads as follows:

50. A method for status change handling in an interconnect node, wherein the method is performed in the interconnect node and comprises:

receiving, by the interconnect node and from another node, a first indication of a given service for which a change has been or is about to be performed, the given service having a data plane that is active in the interconnect node and passive in the other node as a backup to the active data plane;

exchanging data plane roles with the other node, the exchanging comprising passivating the data plane of the interconnect node, by the interconnect node and in response to receiving the first indication, the passivating comprising selectively changing the data plane of the interconnect node from active status to passive status with respect to the given service;

transmitting, upon completion of the passivating of the data plane of the interconnect node, a second indication of the passive status of the data plane of the interconnect node with respect to the given service from the interconnect node to the other node.

Rejections

Claims 50, 52–62, 64–67, 70, 71, 73, and 74 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Singh et al. (US 2012/0315030 A1; published Dec. 13, 2012) ("Singh") and Maione et

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al. (US 2009/0245496 A1; published Oct. 1, 2009) ("Maione"). Final
Act. 2–19.

Claim 51 stands rejected under 35 U.S.C. § 103(a) as being
unpatentable over the combination of Singh, Maione, and Wray (US
2004/0100971 A1; published May 27, 2004). Final Act. 19–20.

Claims 68 and 72 stand rejected under 35 U.S.C. § 103(a) as being
unpatentable over the combination of Singh, Maione, and Farkas et al. (US
2008/0291822 A1; published Nov. 27, 2008) ("Farkas"). Final Act. 20–21.

Claim 63 stands rejected under 35 U.S.C. § 103(a) as being
unpatentable over the combination of Singh, Maione, and Sajassi et al. (US
2010/0157793 A1; published June 24, 2010) ("Sajassi"). Final Act. 21.

Claim 69 stands rejected under 35 U.S.C. § 103(a) as being
unpatentable over the combination of Singh, Maione, and Hu et al. (US
2013/0114394 A1; published May 9, 2013) ("Hu"). Final Act. 22.

ANALYSIS

Appellant contends the combination of Singh and Maione fails to
teach or suggest "exchanging data plane roles with the other node," as
recited in claim 50. Appeal Br. 8–13; Reply Br. 2–4. Appellant argues
"although Singh teaches a node 102 that can switch which of two paths is
active, the nodes 102 are not taught or suggested to *switch roles with each
other*, and particularly not with respect to a data plane *of a given service*," as
required by claim 50. Appeal Br. 9. Appellant further argues:

> When Singh changes which path is the active path, this putative
> "switching" does nothing with respect to *that node's role,* as
> **both nodes continue to have an active data plane for all
> traffic regardless of the service**. In other words, the fact that

the nodes each use a different path *does not change the role of either of the nodes themselves* (*i.e.,* as active or passive for a given service), *much less* teach or suggest an *exchange* of roles between the two.

Appeal Br. 9.

Appellant argues Singh's network interfaces 106 do not teach or suggest the disputed limitation because:

a.   One of ordinary skill understands the difference between a network node (of which an interconnect node is a special type) and a network interface;

b.   The Singh network interfaces do not perform both the claimed receiving/transmitting and exchanging steps even if they were *(arguendo)* reasonable to construe as the claimed interconnect node (which they are not); and

c.   The Office improperly construes the interconnect node to be either a Singh network interface or a Singh network element depending on whether the exchanging or the receiving/transmitting feature is being discussed.

Appeal Br. 10.

We find Appellant's arguments persuasive. With respect to the claimed "receiving," the Examiner initially relied upon Singh's network elements for teaching the claimed "interconnect node" and "another node." Final Act. 2 ("[S]ee Fig. 1, wherein one of network elements 102 can be the interconnect node and other [network element] is another node." (emphasis omitted)). We agree with Appellant (Appeal Br. 9) that although Singh teaches that a network element can switch which of two paths is active (Singh ¶ 24), Singh does not teach that the network elements switch roles with each other, as required by claim 50. Instead, Singh teaches "network elements 102 may be communicatively coupled to each other through a

linearly protected switching connection" and "[t]he linearly protected switching connection may comprise a working path 118 and a protection path 120." Singh ¶ 23.

With respect to the claimed "exchanging," the Examiner relies upon Singh's network interfaces for teaching the claimed "interconnect node" and "another node." Final Act. 3 ("[S]ee Fig. 1, wherein each interface 106 is considered a node facing to another node of another network element." (emphasis omitted)); Ans. 3–4. The Examiner finds Singh's interfaces perform the claimed "receiving" and "transmitting" because "Singh's transmission path is bi-directional, wherein the working path (as active data plane) and the protection path (as passive data plane or backup) are inter-switchable to change the status or roles." Ans. 5 (citing Singh ¶ 24) (internal citation omitted). We disagree.

Singh teaches "[i]n the event of a failure in working path 118, each network element 102 may switch traffic to protection path 120 after a period of time defined by the hold off time." Singh ¶ 31. As such, Singh teaches or suggests that upon a failure in the working path, interfaces associated with the working path exchange roles with interfaces associated with the protection path. However, Singh does not teach that an interface associated with the protection path receives an indication from an interface associated with the working path. Instead, Singh teaches that "protection switching synchronization between network elements 102 may be maintained via communication of suitable messages . . . communicated between network elements 102 via protection path 120." Singh ¶ 25. As such, we agree with Appellant (Appeal Br. 12) that Singh fails to teach that the interfaces perform the claimed "receiving" and "transmitting."

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Accordingly, we do not sustain the Examiner's rejection of claim 50; independent claims 70, 71, 73, and 74, which recite corresponding limitations; and claims 52–62 and 64–67, which depend from claim 50.

Claims 51, 63, 68, 69, and 72 depend, directly or indirectly, from claims 50 and 71. These claims stand rejected under 35 U.S.C. § 103(a) based on Singh, Maione, and various additional references. *See* Final Act. 19–22. The Examiner does not find that these additional references cure the deficiencies noted above with respect to claim 50. Accordingly, we also do not sustain the Examiner's rejection of claims 51, 63, 68, 69, and 72.

We do not reach Appellant's further allegations of error because we find the issue discussed above to be dispositive of the rejection of all the pending claims.

CONCLUSION

We reverse the Examiner's rejection of claims 50–74 under 35 U.S.C. § 103(a).

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Basis	Affirmed	Reversed
50, 52–62, 64–67, 70, 71, 73, 74	103(a)	Singh, Maione		50, 52–62, 64–67, 70, 71, 73, 74
51	103(a)	Singh, Maione, Wray		51
68, 72	103(a)	Singh, Maione, Farkas		68, 72
63	103(a)	Singh, Maione, Sajassi		63
69	103(a)	Singh, Maione, Hu		69

Claims Rejected	35 U.S.C. §	Basis	Affirmed	Reversed
Overall Outcome				50–74

REVERSED