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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte RANIER FALK
and FLORIAN KOHLMAYER

Appeal 2018-009022
Application 15/398,019
Technology Center 2400

Before JAMES R. HUGHES, STEVEN M. AMUNDSON, and
MICHAEL T. CYGAN, *Administrative Patent Judges*.

CYGAN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision to reject claims 16–35. Appeal Br. 33–40 (Claims App.). We have jurisdiction under 35 U.S.C. § 6(b). On February 25, 2020, Appellant's counsel presented arguments at an oral hearing.

We REVERSE.

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 Unify GmbH & Co. KG, which is an affiliate of Atos SE. Appeal Br. 1.

CLAIMED SUBJECT MATTER

The claimed invention generally relates to assigning an authenticator role to a communication device in a local area network. Independent claim 16 is illustrative (indicators 16[a]–[f] have been added to aid identification of individual clauses):

16. A method for providing a local area network comprising a plurality of communication devices, the method comprising:

16[a] attempting to establish a first link from a first communication device of the communication devices to a second communication device of the communication devices, at least one of the first and second communication devices having a connection to at least one authentication communication device;

16[b] testing at least one property correlating to connections that the first and second communication devices have to any of the at least one authentication communication device for fulfillment of at least one criterion for assigning an authenticator role to be assigned as part of authentication to one of the first communication device and the second communication device by a process comprising:

16[c] upon a determination that there is no authentication communication device that has a connection with each of the first and second communication devices:

16[d] the first communication device comparing the at least one authentication communication device to which the second communication device is connected with the at least one authentication communication device connected to the first communication device, the at least one authentication communication device to which the second communication device is connected being made known to the first communication device prior to the comparing of the at least one authentication communication device performed by the first communication device; and

16[e] the second communication device comparing the at least one authentication communication device to which the

first communication device is connected to the at least one authentication communication device connected to the second communication device, the at least one authentication communication device to which the first communication device is connected being made known to the second communication device prior to the comparing of the at least one authentication communication device performed by the second communication device; and

16[f] assigning the authenticator role to the first communication device or the second communication device based upon which of (i) a first connection of the first communication device to one of the at least one authentication communication device and (ii) a second connection of the second communication device to a different one of the at least one authentication communication device that has the at least one property that best fulfills the at least one criterion.

Appeal Br. 33–34 (Claims App.).

Independent claim 32 recites a communication apparatus, and claim 35 a network, similar in scope to claim 16. Appeal Br. 37–39 (Claims App.) Dependent claims 17–31 and 33–34 each incorporate the limitations of their respective independent claims. *Id.* at 33–39.

REFERENCES

Name	Reference	Date
Morrow et al. (Morrow)	US 2002/0124196 A1	Sept. 5, 2002
Takeda et al. (Takeda)	US 2003/0125067 A1	July 3, 2003
Ono et al. (Ono)	US 2004/0172527 A1	Sept. 2, 2004
Yamada et al. (Yamada)	US 2006/0200678 A1	Sept. 7, 2006
Cam-Winget et al. (Cam-Winget)	US 2008/0034207 A1	Feb. 7, 2008

Swain	US 2008/0155126 A1	June 26, 2008
Annic et al. (Annic)	US 7,823,188 B2	Oct. 26, 2010

REJECTIONS

Claims 16, 18, 19, 21, 25, 27, 29, and 31–35 are rejected under pre-AIA 35 U.S.C. § 103(a) as being obvious over the combined teachings and suggestions of Yamada and Annic.

Claims 17 and 20 are rejected under pre-AIA 35 U.S.C. § 103(a) as being obvious over the combined teachings and suggestions of Yamada, Annic, and Takeda.

Claim 23 is rejected under pre-AIA 35 U.S.C. § 103(a) as being obvious over the combined teachings and suggestions of Yamada, Annic, and Ono.

Claims 26 and 28 are rejected under pre-AIA 35 U.S.C. § 103(a) as being obvious over the combined teachings and suggestions of Yamada, Annic, and Swain.

Claim 30 is rejected under pre-AIA 35 U.S.C. § 103(a) as being obvious over the combined teachings and suggestions of Yamada, Annic, and Cam-Winget.

OPINION

Appellant argues that the combination of Yamada and Annic is erroneous because it does not teach every limitation of claims 16–31, and because the Examiner has not presented an appropriate reason to combine the references. We find these arguments persuasive.

With respect to claim 16, the Examiner finds Yamada teaches clauses 16[a], 16[b], and 16[f], and Annic teaches the remaining clauses 16[c]–[e]. Final Act. 9–14. Specifically, the Examiner relies upon Yamada’s pair of access points in a mesh network, in which the distance (in terms of number of links) from each point to an authentication device is used to determine which of the access points will be the authenticator and which will be the supplicant. *Id.* at 9–10, 13–14; Ans. 4–9. The Examiner finds Yamada lacks authentication devices connected to the access points (but not in common to both access points), wherein the connections between access points and their respective authentication devices are compared to each other as per 16[c]–[e]. Final Act. 13. The Examiner finds Annic teaches limitations 16[c]–[e] through Annic’s network of a plurality of service providers, including an authentication server selected by comparing lists 34 and 56, in which there may be no common servers to both lists, and in which the server interrogates the user to identify and authenticate the user with desired authentication server and level. Final Act. 12–13; Ans. 9–11.

Appellant argues, *inter alia*, that Annic does not teach any comparison of different authentication devices upon determining that communication devices are not each connected to the same authentication device. Appeal Br. 18–19. The Examiner, although pointing out that Annic envisions a situation in which two lists may have no common servers, does not specifically find that Annic provides a comparison of different authentication devices in response to that situation. The Examiner merely notes that an “incompatibility notification [is] transmitted” in such a situation. Ans. 9. However, the Examiner relies on Yamada, not Annic, for the comparison of authentication devices to the access points to determine

which of two access points is to serve as an authenticator role. *Id.* at 10. Consequently, Appellant’s argument against Annic is not persuasive because the Examiner has relied upon the combination of Annic and Yamada for this disputed limitation of claim 16.

We turn next to the issue of the rationale for combining Annic with Yamada. The Examiner’s rationale for combining Annic is to obtain the benefits achieved from a system with the convenience of SSO [single sign-on] and an implementation in which the server modifications are minor and the load processing consequences are minor. Final Act. 13 (citing Annic 1:65–2:3).

As noted above, the Examiner is relying on Annic for “search[ing] a listing [lists 34 and 56] of authentication devices to determine that there is no authentication communication device that has a connection with each of the first and second communication devices.” Ans. 10. The Examiner relies solely on Yamada for the other claim limitations, pertaining to determining which communication device should bear the authenticator role because of its proximity to an authentication device. *Id.* at 10, 13 (“Annic is not used to disclose a selection of an authentication role or a supplicant role”).

Appellant argues that the single sign-on process is user-specific, not communication device-specific, and is unrelated to assessment of connections to different authentication devices. Appeal Br. 24. Appellant further argues that Annic fails to disclose first and second communication terminals seeking to establish an authenticated connection, in which neither is connected to a common authentication device. Reply Br. 8. Appellant further argues that the incompatibility message, relied upon by the Examiner to teach a determination of no common authentication device, is used by

Annic for indicating that a single sign on feature is not usable for a user at a particular service provider, and has “nothing to do with selection of an authenticator role for establishment of a link.” *Id.* at 8–9.

Obviousness can be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so. *In re Kahn*, 441 F.3d 977, 986 (Fed. Cir. 2006). “[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.* at 988.

The relied-upon teaching of Annic does not appear to provide the advantages that the Examiner relies upon for the motivation to combine Annic with Yamada. The Examiner relies on Annic solely for determining that authentication devices are not common to two communication devices, as part of Annic’s single sign-on process. Final Act. 11–13. The Examiner has not provided any rationale for combining this determining into the process taught by Yamada except for the purported advantages of SSO [single sign-on]. *Id.* at 13. In order to retain those advantages of SSO, Annic’s determination that authentication devices are not common to two communication devices would need to remain part of an SSO process. Yet the Examiner would instead use that determination as part of Yamada’s method of assigning an authenticator role and a supplicant role. The Examiner has not articulated reasoning to explain how such would predictably result in a combination that uses the determination of non-common authentication devices for both (1) an unclaimed single sign-on process being incorporated from Annic to gain its desired advantages, and at

the same time, (2) the claimed determination of which communication device should be given the authentication role as taught by Yamada. The Examiner's mere conclusory statements as to the proposed modification are insufficient to show obviousness of the claimed invention over the teachings of Annic and Yamada.

All of the Examiner's rejections rely on the flawed combination of Yamada and Annic, and the Examiner has not made any findings that would show the other applied references to teach or suggest those limitations missing from Yamada and Annic. Accordingly, we reverse the Examiner's rejections of claims 16–35.

CONCLUSION

For the above-described reasons, we reverse the Examiner's rejection of claims 16–35 as being obvious under pre-AIA 35 U.S.C. § 103(a).

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	References/Grounds	Affirmed	Reversed
16, 18, 19, 21, 25, 27, 29, 31–35	103(a)	Yamada, Annic		16, 18, 19, 21, 25, 27, 29, 31–35
17, 20	103(a)	Yamada, Annic, Takeda		17, 20
22, 24	103(a)	Yamada, Annic, Morrow		22, 24
23	103(a)	Yamada, Annic, Ono		23
26, 28	103(a)	Yamada, Annic, Swain		26, 28

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30	103(a)	Yamada, Annic, Cam-Winget		30
Overall Outcome				16–35

REVERSED