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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte PAYAM TORAB JAHROMI

Appeal 2018-009032
Application 15/213,284
Technology Center 2600

BEFORE JAMES B. ARPIN, KARA L. SZPONDOWSKI, and
DAVID J. CUTITTA II, *Administrative Patent Judges.*

CUTITTA, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant[1] appeals from the
Examiner's decision to reject claims 1–20, all of the pending claims. 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(a). Appellant identifies the real party in interest as Avago
Technologies General IP (Singapore) PTE. LTD. Appeal Br. 3.

CLAIMED SUBJECT MATTER

The claims are directed to "[a] device seeking to access a combination of services" by way of "a pre-association discovery procedure to identify [another] device in [a] network that can provide the combination of the services of interest." Spec. ¶ 3.[2]

Claims 1, 10, and 16 are independent. Claims 1 and 10, reproduced below with limitations at issue emphasized, are illustrative of the claimed subject matter:

1. A device comprising:

at least one processor configured to:

determine at least one combination of services of interest;

encode the at least one combination of the services of interest;

generate a pre-association request message that includes identifiers of the services of interest, wherein the pre-association request message further includes the encoded at least one combination of the services of interest separate from the identifiers of the services of interest; and

transmit the pre-association request message.

10.   A method comprising:

identifying services of interest;

determining a plurality of combinations of the services of interest;

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[2] Throughout this Decision, we refer to: (1) Appellant's Specification filed July 18, 2016 ("Spec."); (2) the Final Office Action ("Final Act.") mailed November 13, 2017; (3) the Appeal Brief filed May 14, 2018 ("Appeal Br."); (4) the Examiner's Answer ("Ans.") mailed July 20, 2018; and the Reply Brief filed September 20, 2018 ("Reply Br.").

> *generating a pre-association request message that identifies the services of interest and the plurality of combinations of the services of interest*; and

> transmitting the pre-association request message.

Appeal Br. 26, 27 (Claims Appendix).

REFERENCES

The references[3] relied upon by the Examiner are:

Name	Reference	Date
Kyung et al.	US 2009/0279472 A1	Nov. 12, 2009
Vimpari	US 2012/0066767 A1	Mar. 15, 2012
Chen et al.	US 2014/0126563 A1	May 8, 2014
Yang et al.	US 2014/0293978 A1	Oct. 2, 2014
Venkata Naga Ravi	US 2015/0106499 A1	Apr. 16, 2015
Cicchino et al.	US 2015/0117442 A1	Apr. 30, 2015

REJECTIONS

The Examiner rejects claims 1–4 under 35 U.S.C. § 103 as unpatentable over Vimpari, Cicchino, and Chen. Final Act. 13–19.

The Examiner rejects claim 5 under 35 U.S.C. § 103 as unpatentable over Vimpari, Cicchino, Chen, and Yang. *Id.* at 19–21.

The Examiner rejects claims 6–8 under 35 U.S.C. § 103 as unpatentable over Vimpari, Cicchino, Chen, and Venkata Naga Ravi. *Id.* at 21–24.

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[3] All citations to the references use the first-named inventor only.

The Examiner rejects claim 9 under 35 U.S.C. § 103 as unpatentable over Vimpari, Cicchino, Chen, Venkata Naga Ravi, and Kyung. *Id.* at 24–26.

The Examiner rejects claims 10–12 and 16–18 under 35 U.S.C. § 103 as unpatentable over Vimpari and Cicchino. *Id.* at 26–35.

The Examiner rejects claim 13 under 35 U.S.C. § 103 as unpatentable over Vimpari, Cicchino, and Yang. *Id.* at 35–37.

The Examiner rejects claims 14 and 19 under 35 U.S.C. § 103 as unpatentable over Vimpari, Cicchino, and Venkata Naga Ravi. *Id.* at 37–39.

The Examiner rejects claims 15 and 20 under 35 U.S.C. § 103 as unpatentable over Vimpari, Cicchino, Venkata Naga Ravi, and Kyung. *Id.* at 39–42.

ANALYSIS

We review the appealed rejections for error based upon the issues identified by Appellant and in light of Appellant's arguments and evidence. *Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential). Arguments not made are waived. *See* 37 C.F.R. § 41.37(c)(1)(iv).

Claim 1

The Examiner relies on Cicchino to teach "encode the at least one combination of the services of interest" and "generate a pre-association request message that includes identifiers of the services of interest," as recited in claim 1. Final Act. 13–14 (citing Cicchino ¶ 54). Specifically, the Examiner relies on Cicchino's encrypting of data to teach encoding of data, as claimed. *Id.; see also* Cicchino ¶ 48 ("the encryption unit 406 of the telephony communication setup unit 402 uses the obtained items of data or

4

information to create an encrypted code."). Cicchino discloses the obtained items of data that may be encrypted include "a media access control (MAC) address" or "a telephone number that is associated with or assigned to the IP telephony device 400." Cicchino ¶ 45. Cicchino further discloses an embodiment in which a SIP (Session Initiation Protocol) invite message includes (1) a unique Call-ID (2) a device telephone number and (3) an encrypted portion including an encrypted version of one of the obtained items of data such as the device telephone number. *See* Cicchino ¶ 54 ("In other embodiments, both the telephone number associated with or assigned to the user telephony device and the encrypted code are combined with a call ID generated in the normal manner, and the combination is inserted into the call-ID field of a SIP Invite message"). The Examiner relies on Cicchino's telephone number and Call-ID to teach the encoded at least one combination of the services of interest. *See* Ans. 4 ("There's combinations of two services provided by the service provider. One is the phone number and the other one is the caller ID [sic]. Those two combinations are encoded as claimed by applicant in claim 1.").

Appellant argues "there is only a single service of interest represented by the 'telephone number' combined with the 'unique Call-ID' in Cicchino, and that single service is the 'telephony communication' being requested." Appellant continues "[t]here is no disclosure or suggestion in Cicchino that the 'unique Call-ID' has any implicit or explicit relation to any additional service beyond the telephony communication itself." Appeal Br. 11. We find Appellant's argument persuasive because the Examiner has not demonstrated that Cicchino's call-ID and telephone number relate to two different services, as required by claim 1.

Appellant next argues "there is no disclosure or suggestion in Cicchino of encrypting the 'call ID.' Instead, Cicchino discloses that 'a call ID is generated for a new telephony communication setup request in the normal manner, meaning a unique call-ID value is generated, and the encrypted code is appended to that unique call-ID value.'" Reply Br. 3 (citing Cicchino ¶ 54).

We also find this argument persuasive. Cicchino discloses that encryption unit 506 encrypts either a MAC address or a telephone number to create an encrypted code and then appends the encrypted code to the call-ID value. Cicchino ¶¶ 45, 48, 54. The Examiner has not shown where Cicchino discusses encrypting the call-ID, as required by claim 1.

Because we agree with at least one of the dispositive arguments advanced by Appellant for claim 1, we need not reach the merits of Appellant's other arguments. Accordingly, based on the record before us, we do not sustain the Examiner's 35 U.S.C. § 103 rejection of independent claim 1, and, for the same reasons, of dependent claims 2–9.

Claim 10

The Examiner finds Cicchino teaches "generating a pre-association request message that identifies the services of interest and the plurality of combinations of the services of interest," as recited in claim 10. Final Act. 28 (citing Cicchino ¶ 54).

Appellant argues the Examiner's finding "is clearly in error as there is only a single service of interest represented by the 'telephone number' combined with the 'unique Call-ID' in Cicchino, and that single service is the 'telephony communication' being requested." Appeal Br. 15.

6

The Examiner determines

> [s]ince Applicant defines "pre-association request" as a "request" to identify a device that can provide the services in paragraph 14 of the specification, hence the setup request that includes combination of phone number associated to the user and the call ID of interest identifying a user of a device of Cicchino et al reads on this broad interpretation.

Ans. 14 (emphasis omitted). Appellant further argues the Examiner

> also fails to show how multiple combinations (i.e., "plurality of combinations") can be formed from two services. To the extent that the Examiner's Answer is asserting that the multiple combinations can be the two services in different orders (of which only two are possible), then Appellant asserts that there is no disclosure or suggestion in Cicchino of a message that includes any such multiple combinations of the same two services.

Reply Br. 5.

We find that, in view of Appellant's Specification, the claimed "plurality of combinations of the services of interest" requires the Examiner demonstrate that at least three services are taught in the applied references and that the three services are arranged in at least two different combinations. The Examiner has not shown this. The Examiner cannot ignore or broadly interpret the "the plurality of combinations" limitation out of the claim.

Because we agree with at least one of the dispositive arguments advanced by Appellant for claim 10, we need not reach the merits of Appellant's other arguments. Accordingly, based on the record before us, we do not sustain the Examiner's 35 U.S.C. § 103 rejection of independent claim 10. Independent claim 16 similarly recites "code to generate a pre-association message that includes the encoded plurality of combinations of

the plurality of available services" and, consequently, we also do not sustain the rejection of independent claim 16. We also do not sustain, for the same reasons, the rejections of claims 11–15 and 17–20, which depend from independent claims 10 and 16, respectively.

CONCLUSION

The Examiner's rejections of claims 1–20 are reversed.

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1–4	103	Vimpari, Cicchino, Chen		1–4
5	103	Vimpari, Cicchino, Chen, Yang		5
6–8	103	Vimpari, Cicchino, Chen, Venkata Naga Ravi		6–8
9	103	Vimpari, Cicchino, Chen, Venkata Naga Ravi, Kyung		9
10–12 16–18	103	Vimpari and Cicchino		10–12 16–18
13	103	Vimpari, Cicchino, Yang		13
14, 19	103	Vimpari, Cicchino, Venkata Naga Ravi		14, 19
15, 20	103	Vimpari, Cicchino, Venkata Naga Ravi, Kyung		15, 20
Overall Outcome				1–10

REVERSED