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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/149,367	01/07/2014	Kimberly HICKS	40205/05201(MTV-052)	5515
30636	7590	06/19/2020	EXAMINER	
FAY KAPLUN & MARCIN, LLP 150 BROADWAY, SUITE 702 NEW YORK, NY 10038			ALATA, YASSIN	
			ART UNIT	PAPER NUMBER
			2426	
			NOTIFICATION DATE	DELIVERY MODE
			06/19/2020	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte KIMBERLY HICKS and DIANA GERMAN

Appeal 2019-000452
Application 14/149,367
Technology Center 2400

Before ROBERT E. NAPPI, ERIC S. FRAHM, and JASON M. REPKO,
Administrative Patent Judges.

REPKO, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Under 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision to reject claims 1–20. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

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 Viacom International Inc. Appeal Br. 2.

CLAIMED SUBJECT MATTER

The application generally relates to authenticating a user to access multimedia content. *See* Spec. ¶ 3.

Claims 1, 9, and 16 are independent. Claim 1 is reproduced below with our emphasis:

1. A method, comprising:

receiving a user request for a multimedia content service from a first user device over a first application;

receiving an identifier of the first user device;

identifying a service provider of a user associated with the first user device and a second user device;

generating an activation code associating the identifier with the service provider;

transmitting the activation code to the first application on the first user device;

receiving the activation code from the user over a second application on the second user device;

generating an authorization indication based on the received activation code from the second application, the authorization indication allowing the first user device to be provided content from the multimedia content service;

transmitting the authorization indication to the first user device;

activating the multimedia content service for the first user device based on the authorization indication; and

providing the content from the multimedia content service to the first user device over the first application.

Appeal Br. 11.²

REFERENCES

The Examiner relies on the references in the table below.

Name	Reference	Date
Naggar	US 2013/0332838 A1	Dec. 12, 2013
Wood	US 2014/0372464 A1	Dec. 18, 2014
Nesic	US 2015/0180849 A1	June 25, 2015

REJECTIONS

The Examiner rejects claims 1–4, 8–12, and 16–19 under 35 U.S.C. § 103 as unpatentable over Naggar and Nesic. Final 3–15.

The Examiner rejects claims 5–7, 13–15, and 20 under 35 U.S.C. § 103 as unpatentable over Naggar, Nesic, and Wood. Final 16–21.

OPINION

I. Obviousness over Naggar and Nesic

A. The Rejection

In rejecting claim 1, the Examiner finds that Naggar’s service-provider network 210 transmits a code to device-registration client 510. Final 5. The Examiner finds that Naggar’s client 510 is a component of

² Throughout this opinion, we refer to the Final Office Action (“Final”), mailed November 9, 2017; the Advisory Action (“Advisory”), mailed January 29, 2018; the Appeal Brief (“Appeal Br.”), filed March 28, 2018; the Examiner’s Answer (“Ans.”), mailed August 30, 2018; and Reply Brief (“Reply Br.”), filed October 24, 2018.

application 405 (“first application”) on the first user device 260 (“first user device”). *Id.* According to the Examiner, Naggar lacks a second application and device, as recited. *Id.* For the limitations to the second device and code, the Examiner cites Nesic’s process for provisioning a token for an online application. *Id.* at 6 (citing Nesic ¶¶ 95–96, 98); *see also* Advisory 2 (citing Nesic ¶ 88).

B. Appellant’s Arguments

According to Appellant, claim 1 recites an interaction between two user devices, but Naggar’s and Nesic’s processes involve only one. Appeal Br. 4–9. Appellant argues that Nesic’s provisioning procedure uses three components, but only one is a user device. *Id.* at 7–8. In Appellant’s view, Nesic’s account setup is different from provisioning, and whether the setup process involves multiple user devices provides no insight about the provisioning process. *Id.* at 8; Reply Br. 3. Appellant argues that only Nesic’s provisioning process is “arguably relevant” to the claims. Reply Br. 3. Appellant argues that Nesic uses hardware-specific information to ensure that only one device may be used. Appeal Br. 8.

Independent claims 9 and 16 recite substantially similar limitations. *Id.* at 9. Appellant argues the independent claims as a group. *See id.* (“Naggar and Nesic, taken alone or in combination, do not disclose or suggest the recitations of claims 9 and 16 for at least the reasons discussed above with regard to claim 1.”). We select claim 1 as representative of this group. *See* 37 C.F.R. § 41.37(c)(1)(iv).

C. Analysis

According to claim 1, the activation code must be (1) transmitted to a first application on a first device and (2) received from the user over a

code to the first application (mobile application 2') on the first user device (mobile device 2), as recited in claim 1. Nesic ¶ 95. As for the second device and application, user 4 types the activation code on an appropriate page in bank online application 3 using personal computer 2". *Id.* ¶¶ 88, 96. In this way, Nesic teaches receiving the activation code from the user over a second application (online application 3) on the second user device (personal computer 2"), as recited in claim 1.

Appellant argues that Nesic's provisioning involves provisioning server 1 and banking online application 3 (*id.* Fig. 2) or mobile-application server 1 and banking online application 3 (*id.* Fig. 6). Appeal Br. 7. In Appellant's view, none are user devices. *Id.*; *see also* Reply Br. 4 (discussing Nesic Figs. 2 and 6).

To the contrary, Nesic's user 4 accesses banking online application 3 through personal computer 2". Nesic ¶ 88. Specifically, Nesic teaches that user 4 types the code on a page from bank online application 3 using their personal computer 2". *Id.* ¶ 96. That is, user 4 views and interacts with at least a part of bank online application 3 on personal computer 2". *Id.* In this way, banking online application 3 is "on" computer 2", like the recited second application on the second user device. *Id.*

As for Nesic's setup process, Appellant argues,

With regard to setting up an account which may involve two user devices (as interpreted by the Examiner), it is respectfully submitted that the use of two user devices is immaterial to the provisioning procedure which relates only to accessing the account and which always involves only one user device.

Appeal Br. 7. In Appellant's view, Nesic's setup process is "a preliminary step" before the provisioning feature can be implemented. *Id.* at 8. Appellant

further argues that Nestic's setup "is not pertinent to the subject matter and objective of the claims." *Id.*

But Appellant does not persuasively explain which limitations specifically exclude Nestic's setup process. *See id.* at 7–9; Reply Br. 3. Nor does Appellant fully address the objectives of the Naggar-Nestic combination. *See* Appeal Br. 7–9; Reply Br. 3. Here, the Examiner modifies Naggar's method for providing access to content from multiple providers with Nestic's provisioning process, which is described in paragraphs 92 through 98. Final 6 (citing Nestic ¶¶ 95–96, 98); *see also* Advisory 2 (citing Nestic ¶ 88). Thus, Appellant's arguments about the teaching's materiality to the invention's objectives (Appeal Br. 7) are unpersuasive for the additional reason that they discuss Nestic's teachings alone without considering the objectives of Naggar and Nestic in combination.

Appellant further argues that Nestic is configured to prevent a user from receiving an activation code on the mobile device and using a second token application on a desktop terminal. Appeal Br. 8. According to Appellant, Nestic ensures "that only this one device may be used is a token seed generated and encrypted based on 'hardware specific information' of the device on which the token application 2' was installed." *Id.* (citing Nestic ¶¶ 120, 127). Appellant then concludes that "only the single user device on which the token application 2' was installed (the device that was used to request the activation code) may be used in a provisioning procedure." *Id.* at 9.

Nestic, though, does not state that generating the token in this way is contrary to using two devices in the process described in paragraphs 95 through 98. *See* Nestic ¶¶ 120, 127. Rather, Nestic explains that provisioning

server 1 uses hardware security module 5 “to assure good randomness of the token seed.” *Id.* ¶ 120. In particular, Nesic encrypts the token seed in two different ways. *Id.* ¶ 121. The first way encrypts the token seed using a transport key derived from the hardware-specific information. *Id.* ¶ 122. This is used to “safely send” the token seed to the mobile token application. *Id.* ¶ 123. In the embodiment cited by the Examiner, Nesic sends an activation code to mobile application 2' on mobile phone 2, and user 4 sends the activation code using the computer 2". *Id.* ¶¶ 95–96, *cited in* Final 6. On this record, we are unconvinced that Nesic’s token-encryption embodiment (*id.* ¶ 120) undermines the Examiner’s findings about the process described in paragraphs 95 and 96. *See* Final 6.

Thus, we sustain the Examiner’s rejection of independent claims 1, 9, and 16. We also sustain the Examiner’s rejection of dependent claims 2–4, 8, 10–12, and 17–19, which are not argued separately with particularity. *See* Appeal Br. 9 (“Because claims 10–12 and 17–19 depend from and include the limitations of one of these claims, it is submitted that these claims are also allowable.”).

II. Obviousness over Naggar, Nesic, and Wood

The Examiner rejects claims 5–7, 13–15, and 20 over Naggar, Nesic, and Wood. Final 16–21. Appellant does not separately discuss the limitations found in these claims. *See* Appeal Br. 9–10; Reply Br. 6. Rather, Appellant argues that Wood does not cure the deficiencies of Naggar and Nesic as to claim 1’s limitations. Appeal Br. 10; Reply Br. 5. Because Appellant has not shown any deficiencies in the rejection based on Naggar and Nesic, as discussed above, we sustain the rejections of claims 5–7, 13–15, and 20. *Supra* § II.

CONCLUSION

The Examiner's decision to reject claims 1–20 is affirmed.

DECISION SUMMARY

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1–4, 8–12, 16–19	103	Naggar, Nesic	1–4, 8–12, 16–19	
5–7, 13–15, 20	103	Naggar, Nesic, Wood	5–7, 13–15, 20	
Overall Outcome			1–20	

TIME PERIOD FOR RESPONSE

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