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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ADISESHU HARI and TIRUNELL V. LAKSHMAN

Appeal 2019-002038
Application 15/145,460
Technology Center 2400

Before ADAM J. PYONIN, DAVID J. CUTITTA II, and
PHILLIP A. BENNETT, *Administrative Patent Judges*.

CUTITTA, *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 1–20, all the claims under consideration. 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 Alcatel-Lucent USA Inc. Appeal Br. 3.

CLAIMED SUBJECT MATTER

Invention

Appellant’s claimed subject matter relates to “provid[ing] security for Internet resources of the Internet by supporting various types of verification related to Internet resources of the Internet, which may include verification of Internet resource ownership, verification of Internet resource transactions, or the like.” Spec. 4:13–17.²

Exemplary Claim

Claims 1, 19, and 20 are independent. Claim 1, reproduced below with certain limitations at issue italicized, exemplifies the claimed subject matter:

1. An apparatus, comprising:
 - a processor and a memory communicatively connected to the processor, the processor configured to:
 - generate an Internet resource transaction for an Internet resource, the Internet resource transaction indicating an allocation of the Internet resource from a first Internet participant to a second Internet participant;*
 - broadcast the Internet resource transaction via a peer-to-peer system;
 - receive, via the peer-to-peer system, an Internet resource block including the Internet resource transaction; and*
 - associate the Internet resource block with an Internet blockchain.

Appeal Br. 35 (Claims Appendix).

² We refer to: (1) the originally filed Specification filed May 3, 2016 (“Spec.”); (2) the Final Office Action mailed May 15, 2018 (“Final Act.”); (3) the Appeal Brief filed September 17, 2018 (“Appeal Br.”); (4) the Examiner’s Answer mailed November 15, 2018 (“Ans.”); and (5) the Reply Brief filed January 11, 2019 (“Reply Br.”).

REFERENCES

The Examiner relies on the following prior art references:

Name	Number / Title	Date
Angel	US 2006/0265508 A1	Nov. 23, 2006
Tang	US 7,834,652 B1	Nov. 16, 2010
Haldenby	US 2017/0046792 A1	Feb. 16, 2017
Kurian	US 2017/0243025 A1	Aug. 24, 2017

REJECTIONS

The Examiner rejects claims 1–11 and 16–20 under 35 U.S.C. § 103 as unpatentable over the teachings of Kurian and Haldenby.³ Final Act. 13–23.

The Examiner rejects claim 12–15 under 35 U.S.C. § 103 as unpatentable over the combined teachings of Kurian, Haldenby, and Angel. Final Act. 23–25.

OPINION

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) (2018). We disagree with Appellant that the Examiner erred and adopt as our own the findings and reasons set forth by the Examiner to the extent consistent with our analysis herein. Final Act. 13–14; Ans. 3–8. We add the following primarily for emphasis.

³ Although the Examiner indicates that the claims are rejected over the teachings of Kurian, Haldenby, and Tang, Tang is not discussed in the rejection of any of claims 1–11 or 16–20. Final Act. 13.

Claim 1 recites a processor configured to “generate an Internet resource transaction for an Internet resource, the Internet resource transaction indicating an allocation of the Internet resource from a first Internet participant to a second Internet participant.” Appeal Br. 35. The Examiner relies on Kurian to teach or suggest this limitation. Final Act. 13; Ans. 4. Kurian relates generally to using block chain to verify and track in a distributed ledger the availability of portions of a divisible resource that can be distributed amongst users. Kurian ¶ 4. In particular, the Examiner finds “Kurian teaches managing [a] user **account** and the account balance associated with the account” and that a “‘resource’ includes accounts and/or other property available to the user,’ (e.g. online/internet resource).” Ans. 4 (citing Kurian ¶¶ 4, 9, 23–26, 39, Figs. 3–5).

Appellant argues that Kurian’s online resources are not Internet resources, as claimed, because “Kurian primarily describe the ‘resource’ as being monetary resources or goods.” Appeal Br. 27; Reply Br. 4–6.

This argument is unpersuasive because Appellant fails to establish that the Examiner’s interpretation of “Internet resource,” as recited in claim 1, is not the broadest reasonable interpretation consistent with Appellant’s Specification. *In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). The Specification does not define expressly “Internet resource.” Rather, the Specification describes “Internet resource” in non-limiting language as including “e.g., Internet Protocol (IP) addresses, AS numbers, IP prefixes, DNS domain names, or the like.” Spec. 1:12–13. In view of this open-ended description, Appellant fails to set forth any disclosure of an Internet resource in the Specification that is inconsistent with the Examiner’s interpretation. *In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997).

Appellant, therefore, fails to demonstrate that the Examiner's broad but reasonable interpretation of Internet resource as encompassing Kurian's online resources is inconsistent with Appellant's Specification or is otherwise unreasonable. *In re Smith Int'l, Inc.*, 871 F.3d 1375, 1382–83 (Fed. Cir. 2017).

Appellant further argues “the Examiner improperly confuses a non-Internet resource that happens to be accessible to a user via the Internet (namely, the ‘account’ of Kurian) with an ‘Internet resource’ that is a resource of the Internet.” Reply Br. 3 (emphasis omitted); *Id.* at 6.

However, as the Examiner notes (Ans. 4), Kurian's online resource transactions include “initiating an automated teller machine (ATM) or online banking session” (Kurian ¶ 24).

This argument is unpersuasive because Appellant fails to show why a resource that is accessible via the Internet, such as an ATM or online bank account, cannot be construed as an internet resource, using the Examiner's broad but reasonable interpretation of an internet resource discussed directly above. Accordingly, Appellant fails to show why Kurian's online resource fails to teach or suggest an Internet resource, as recited in claim 1.

Next, Appellant argues, “even assuming *arguendo* that the ‘resource’ of Kurian may be interpreted as teaching the ‘Internet resource’ as claimed,” Kurian's

teaching of receiving an indication that a first user has assigned a first portion of a finite divisible resource to a second user, as disclosed in the cited portions of Kurian, is different than generating a resource transaction for a resource (much less an Internet resource transaction for an Internet resource).

Appeal Br. 28.

The Examiner relies on Kurian’s disclosure of “receiving an indication that the first user has assigned the first portion of the finite divisible resource to a second user from among the plurality of the users.” Final Act. 13 (citing Kurian ¶ 9, emphasis omitted). The Examiner finds, that “[b]roadly interpreted, assigning a portion of the resource by one entity to another entity over internet network is ‘generating an Internet resource transaction.’” Ans. 5–6.

In response, Appellant merely asserts, without further explanation, that the cited portion of Kurian is different than generating a resource transaction as claimed. Although Appellant underlines “generating” and “resource transaction” from the claim, Appellant does not provide any evidence—much less persuasively rebut—why the limitation at issue is not taught by Kurian’s allocating a portion of an Internet resource, such as an online bank account, from a first user to a second user. Mere speculation unsupported by factual evidence is entitled to little probative value. *Cf. In re Geisler*, 116 F.3d 1465, 1470 (Fed. Cir. 1997).

Next, Appellant argues,

even assuming *arguendo* that the “resource” of Kurian may be interpreted as teaching the “Internet resource” as claimed . . . , the cited portions of Kurian still would fail to teach or suggest the feature of “an Internet resource transaction indicating an allocation of the Internet resource from a first Internet participant to a second Internet participant” as claimed . . . [because] the Examiner fails to cite any part of the cited portions of Kurian that teaches or suggests an Internet participant.

Appeal Br. 29; Reply Br. 7.

Appellant’s argument that the Examiner fails to cite any part of Kurian that teaches or suggests an Internet participant is unpersuasive because Appellant fails to specifically address all the Examiner’s findings. For example, Appellant does not sufficiently address the finding that “Kurian discloses ‘receiving indication that the first user has assigned the first portion of the finite divisible resource to a second user from among the plurality of the users,’” and that Kurian’s first and second users teaches the claimed first and second Internet participant. Ans. 7 (citing Kurian ¶ 9, Figs. 3–5). Appellant further argues that “the fact that the resource has been assigned from the first user to the second user in Kurian, even if the assignment is achieved via the Internet, does not establish that the users themselves are Internet participants.” Reply Br. 7.

Although Appellant underlines certain portions of the argument, Appellant does not provide sufficient evidence or persuasive reasoning that Kurian’s use of blockchain to track the distribution of a resource over the internet from a first to a second user, “does not establish that the users themselves are Internet participants.” *Id.* Accordingly, Appellant fails to persuasively rebut the Examiner’s finding that Kurian’s allocating a portion of an Internet resource, such as an online bank account, from a first user to a second user teaches the limitation at issue.

Claim 1 further recites a processor configured to “receive, via the peer-to-peer system, an Internet resource block including the Internet resource transaction.” Appeal Br. 35. The Examiner relies on Haldenby to teach or suggest this limitation. Final Act. 14; Ans. 8. Haldenby relates generally to tracking shared ownership and usage of assets, like Internet-connected devices, using block-chain-based ledger data structures.

Haldenby, Abstract. The Examiner finds “Haldenby teaches an event triggering based on a sale or a transfer of an ownership interest [i.e. resource transaction], with in multiple owners or/and joint owners network [i.e. peer-to-peer system].” Final Act. 14; Ans. 8 (citing Haldenby ¶¶ 171-174).

Appellant first argues the combination of references cited by the Examiner “loses the fact that the Internet resource transaction that is included in the Internet resource block that is received via the peer-to-peer system is the Internet resource transaction that was broadcast via the peer-to-peer system.” Appeal Br. 29–30; Reply Br. 8.

This argument is unpersuasive because Appellant provides insufficient evidence or persuasive reasoning to demonstrate why the cited combination loses the fact alleged by Appellant.

Second, Appellant argues that Haldenby’s disclosure of applying an updated version of ledger data does not teach or suggest “receipt of an Internet resource block via a peer-to-peer system, much less receipt of an Internet resource block via a peer-to-peer system where the Internet resource block that is received via the peer-to-peer system includes an Internet resource transaction . . . that was broadcast via the peer-to-peer system.” Appeal Br. 30.

Appellant’s seven word summary of Haldenby, followed by a conclusion that Haldenby “does not teach or suggest” the recited claim language (in this instance with underlined claim language), is not a substantive argument that persuasively and specifically addresses why the Examiner erred. *See In re Lovin*, 652 F.3d 1349, 1357 (Fed. Cir. 2011) (“[W]e hold that the Board reasonably interpreted Rule 41.37 to require more substantive arguments in an appeal brief than a mere recitation of the

claim elements and a naked assertion that the corresponding elements were not found in the prior art.”).

In the Reply, Appellant argues that the Examiner “fails to establish (1) that the sale or transfer of an ownership interest (asserted to be the resource transaction) was broadcast via the multiple owners and/or joint owners network (asserted to be the peer-to-peer system).” Reply Br. 9. Thus, Appellant argues for the first time that the cited combination fails to teach *broadcasting* “the Internet resource transaction via a peer-to-peer system,” as recited in claim 1.

We decline to consider arguments raised for the first time in the Reply Brief. These arguments are waived in the absence of a showing of good cause by Appellant, because the Examiner has not been provided a chance to respond. *See* 37 C.F.R. § 41.41(b)(2); *In re Hyatt*, 211 F.3d 1367, 1373 (Fed. Cir. 2000) (noting that an argument not first raised in the brief to the Board is waived on appeal).

For the reasons discussed, Appellant has not persuaded us of error in the Examiner’s obviousness rejection of independent claim 1. Accordingly, we sustain the Examiner’s rejection of that claim, as well as the rejection of independent claims 19 and 20, and dependent claims 2–17, which Appellant does not argue separately with particularity. Appeal Br. 31–33.

CONCLUSION

We affirm the Examiner’s decision to reject claims 1–20 under 35 U.S.C. § 103.

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1-11, 16-20	103	Kurian, Haldenby	1-11, 16-20	
12-15	103	Kurian, Haldenby, Angel	12-15	
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