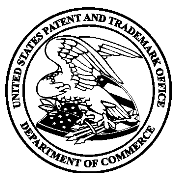

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte KATHERINE H. GUO and KRISHAN K. SABNANI

Appeal 2019-003022
Application 14/713,525
Technology Center 2400

Before JOSEPH L. DIXON, MAHSHID D. SAADAT, and
DONNA M. PRAISS, *Administrative Patent Judges*.

PRAISS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant[1] appeals under 35 U.S.C. § 134(a) from a non-final rejection of claims 1–20, which constitute all the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

The claims are directed to a non-transitory machine-readable storage medium including an enterprise file system to end user devices via a virtual private network (VPN) with instructions for obfuscating metadata and

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[1] We use the word "Appellant" to refer to "applicant(s)" as defined in 37 C.F.R. § 1.42. The real party in interest is not identified in the Appeal Brief, however, Alcatel-Lucent USA, Inc. is the recorded assignee of Application 14/713,525.

encrypting at least a portion of the enterprise file system. Independent claim 1, reproduced below, is illustrative (disputed limitation italicized).

> 1. A non-transitory machine-readable storage medium encoded with instructions for execution by an enterprise server, the non-transitory machine-readable storage medium comprising:
>
> instructions for providing access to an enterprise file system to end user devices via a virtual private network (VPN);
>
> instructions for *obfuscating metadata and encrypting at least a portion of the enterprise file system* to produce an encrypted file system, wherein an encrypted file from the encrypted file system is capable of being decrypted using a decryption key;
>
> instructions for transmitting the encrypted file system to a content distribution network (CDN) server for storage and access, wherein the CDN server is located outside the VPN and *both data and metadata are kept secret from a CDN operator*; and
>
> instructions for transmitting the decryption key to an end user device via the VPN.

Appeal Br. 14 (Claims Appendix). Claims 8 and 15, directed to an enterprise server and a method performed by an enterprise server, respectively, are also independent and, similar to claim 1, require "obfuscating metadata and encrypting at least a portion of the enterprise file system" and "both data and metadata are kept secret from a CDN operator." *Id.* at 16, 18.

REFERENCES

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Name	Reference	Date
Davis et al. ("Davis")	US 2014/0006465 A1	Jan. 2. 2014
Hook et al. ("Hook")	US 2014/0164776 A1	June 12, 2014
Taylor et al. "(Taylor")	US 2015/0023501 A1	Jan. 22, 2015

REJECTIONS

The Examiner maintains the following rejections:

Claim(s)	35 U.S.C. §	Reference(s)
1–4, 8–11, 15–17	102(a)(1)	Hook evidenced by Taylor
5–7, 12–14, 18–20	103	Hook, Davis

ANALYSIS

§ 102 Rejection of Claims 1–4, 8–11, and 15–17

Appellant argues independent claims 1, 8, and 15 together as a group and relies on the dependency of claims 2, 9, and 16 from claims 1, 8, and 15, respectively. Appeal Br. 6–7, 10. We select claim 1 as representative of the grouped claims. Claims 2, 8, 9, 15, and 16 stand or fall with claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv).

Appellant contends the Examiner erred in finding Hook discloses every element of claim 1 "because 'obfuscated' has been mistakenly equated to be *identical* to 'encrypted.'" Appeal Br. 6 (emphasis added). Appellant directs us to the Specification's paragraph 34 as separately disclosing encryption and metadata obfuscation techniques that are used to keep data and metadata secret from the CDN operator. *Id.* Appellant also directs us to

Specification paragraphs 44 and 46 regarding “transformation” of filenames, and paragraph 49 regarding “additional metadata protection” by splitting “files into multiple blocks.” *Id.*

The Examiner provides dictionary definitions for the term “obfuscate” and concludes “obfuscating metadata” recited in claim 1 “would broadly encompass the idea of obscuring or concealing metadata.” Ans. 4. The Examiner finds “encryption” is a specific technique for obscuring or concealing information, therefore, “encryption” is a form of obfuscation. *Id.* The Examiner cites a number of patent publications, including Taylor, as evidence that a person having ordinary skill in the art would understand “encryption” is a form of obfuscation. *Id.* at 5–6. Regarding Appellant’s Specification, the Examiner directs us to paragraph 23 which refers to encryption or other obfuscation techniques. *Id.* at 6. Because the Examiner finds obfuscation is a broad genus of which encryption is a species, the Examiner notes that the terms are not treated as being identical. *Id.* at 10–12.

We disagree with Appellant that the Examiner’s anticipation rejection is based on an interpretation of “obfuscating” and “encrypting” being identical. The Examiner finds that “encrypting” is one technique for “obfuscating” metadata. Thus, the Examiner’s broadest reasonable interpretation of “obfuscating” is that it has a broader meaning than “encrypting” and overlaps “encrypting” rather than having an identical meaning as Appellant argues. The Examiner’s finding is supported by a preponderance of the evidence cited in this Appeal record and is consistent with the Specification. Ans. 6; Spec. ¶ 23.

In the Reply Brief, Appellant asserts the Examiner “mistakenly assumed” the terms “obfuscating” and “encrypting” overlap (Reply Br. 3),

however, Appellant does not adequately explain why "obfuscating" does not encompass the technique of "encrypting" nor does Appellant direct us to any requirement in the claim itself that the obfuscating technique of encrypting is precluded for the recited "obfuscating metadata" function. Appellant further contends that "the Examiner failed to address separate obfuscating of metadata and encrypting of at least a portion of the enterprise file system." *Id.* at 3–4 (emphasis omitted). According to Appellant, "Hook does not respectively refer to 'metadata' in the context of obfuscating and the enterprise file system in the context of 'encrypting.'" *Id.* at 4 (emphasis omitted). Appellant's arguments are not persuasive of error because the Examiner provides separate citations to Hook for each of the "obfuscating metadata" (Hook ¶¶ 328, 329, 226, 2468, 359, 363, 502) and "encrypting . . . an enterprise file system" (Hook ¶¶ 997, 998). Non-Final Act. 5. Moreover, there is no *ipsissimis verbis* test for determining whether a reference discloses a claim element, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 832 (Fed. Cir. 1990). Thus, for the above reasons and those provided in the Examiner's Answer and the Non-Final Office Action, we sustain the Examiner's anticipation rejection of independent claims 1, 8, and 15, as well as dependent claims 2, 9, and 16, argued for their dependency on claim 1, 8, or 15. Appeal Br. 10.

Claims 3, 4, 10, 11, and 17 depend directly or indirectly from claims 1, 8, or 15 and require application of "a filename transformation to at least one of the enterprise file system and the encrypted file system." Appeal Br. 15, 17, 19 (Claims Appendix). Appellant separately argues the rejection of claims 3, 4, 10, 11, and 17 on the basis that "the broadest reasonable interpretation of the application of a 'filename transformation' cannot

encompass Hook's encrypted meta-data." Appeal Br. 8 (emphasis omitted); *id.* at 9 ("file name transformation is not the same as encryption"). Appellant's position is predicated on the assertion that "the Examiner has unreasonably broadened the scope of the claim language by equating obfuscation with encryption." *Id.* at 8. Appellant acknowledges that Hook discloses encrypted meta-data. *Id.* at 8–9 (citing Hook ¶¶ 362, 365). Appellant contends that the file name transformation function disclosed in the Specification's paragraph 46 results in "transformed file names" such that "at least one file in the encrypted file system has a file name that is different from a file name of a corresponding file in the enterprise file system." *Id.* (emphasis omitted).

Appellant's arguments are not persuasive of error because the Examiner does not equate obfuscation with encryption as discussed above in connection with claim 1. Appellant's arguments are also not persuasive of error because Appellant does not adequately support Appellant's argument that "filename transformation" cannot encompass encrypted meta-data as taught by Hook. Appellant does not adequately explain why an encrypted file name would not be understood by a person having ordinary skill in the art as a transformed file name.

In sum, for the above reasons and those provided in the Examiner's Answer and the Non-Final Office Action, we sustain the Examiner's anticipation rejection of claims 1–4, 8–11, and 15–17.

§ 103 Rejection of Claims 5–7, 12–14, and 18–20

Appellant contends claims 5–7, 12–14, and 19 are not rendered obvious because "Davis fails to remedy the deficiencies of Hook for

independent claims 1, 8, and 15." Appeal Br. 11. Appellant's arguments do not persuade us of error in the Examiner's obviousness rejection for the reasons discussed above in connection with the anticipation rejection of claims 1, 8, and 15 over Hook. Accordingly, we likewise sustain the rejection of claims 5–7, 12–14, and 19.

Appellant additionally contends that the rejection of claim 20 should be reversed because the Examiner "did not present an actual rejection for claim 20." We are not persuaded by Appellant's argument because the Examiner notes that claims 12–14 and 18–20 are system and method claims that essentially correspond to claims 5, 6, and 7 for which the Examiner provides a detailed explanation with citations to Hook and Davis. Non-Final Act. 7–9. Appellant provides no basis in this record to establish that the Examiner's findings with respect to claims 5, 6, and 7 are insufficient to also apply to claim 20. "It is not the function of [the U.S. Court of Appeals for the Federal Circuit] to examine the claims in greater detail than argued by an appellant, looking for nonobvious distinctions over the prior art." *In re Baxter Travenol Labs.*, 952 F.2d 388, 391 (Fed. Cir. 1991). "Similarly, it is not the function of this Board to examine claims in greater detail than argued by an appellant, looking for distinctions over the prior art." *Ex Parte Shen*, No. 2008-0418, 2008 WL 4105791 at * 9 (BPAI Sept. 4, 2008). Thus, Appellant has not identified error in the Examiner's rejection of 20. Accordingly, we likewise sustain the obviousness rejection of claim 20 under 35 U.S.C. § 103.

CONCLUSION

The Examiner did not err in rejecting claims 1–4, 8–11, and 15–17 as anticipated under 35 U.S.C. § 102(a)(1).

The Examiner did not err in rejecting claims 5–7, 12–14, and 18–20 based upon obviousness under 35 U.S.C. § 103.

DECISION

For the above reasons, we AFFIRM the Examiner's anticipation rejection of claims 1–4, 8–11, and 15–17 under 35 U.S.C. § 102(a)(1), and we AFFIRM the Examiner's obviousness rejection of claims 5–7, 12–14, and 18–20 under 35 U.S.C. § 103.

In summary:

Claim(s) Rejected	35 U.S.C. §	Basis/Reference(s)	Affirmed	Reversed
1–4, 8–11, 15–17	102(a)(1)	Hook evidenced by Taylor	1–4, 8–11, 15–17	
5–7, 12–14, 18–20	103	Hook, Davis	5–7, 12–14, 18–20	
Overall Outcome			1–20	

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED