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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ROD WIDEMAN

Appeal 2019-004193
Application 14/244,935
Technology Center 2100

Before ST. JOHN COURTENAY III, LARRY J. HUME, and PHILLIP A. BENNETT, *Administrative Patent Judges*.

COURTENAY, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant[1] appeals under 35 U.S.C. § 134(a) from a Final rejection of claims 1, 2, 5–16, and 18–21. Claims 3, 4, and 17 are canceled. We have jurisdiction over the pending claims under 35 U.S.C. § 6(b).

We affirm.

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[1] We use the word "Appellant" to refer to "applicant" as defined in 37 C.F.R. § 1.42(a). According to Appellant, the real party in interest is Quantum Corporation. *See* Appeal Br. 1.

STATEMENT OF THE CASE [2]

Introduction

Appellant's claimed invention relates generally to "data classification aware object storage." (Spec. Title, emphasis and capitalization omitted).

Representative Independent Claim 1

> 1. A non-transitory computer-readable storage medium storing computer-executable instructions that when executed by a computer cause the computer to perform a method, the method comprising:
>
> accessing data that is to be stored in an object store, where the object store is configured with two or more data destinations, where each data destination of the two or more data destinations has an associated data storage policy of two or more data storage policies;
>
> classifying the data by identifying a value for a member of a plurality of attributes of the data, where the plurality of attributes includes a velocity of the data, and at least one of an origin of the data, a file type, a file size, a file owner, or an age of the data;
>
> selecting a data storage policy of the two or more data storage policies, wherein the selected data storage policy is associated with a member of the two or more data destinations based, at least in part, on the value of the member of the plurality of attributes, and

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[2] We herein refer to the Final Office Action, mailed July 10, 2018 ("Final Act."); Appeal Brief, filed Nov. 12, 2018 ("Appeal Br."); the Examiner's Answer, mailed Mar. 8, 2019 ("Ans."), and the Reply Brief, filed May 8, 2019 ("Reply Br.").

providing the data to a member of the two or more data destinations that is associated with the selected data storage policy,

wherein each associated data storage policy of the ***two or more*** *data storage policies* ***differs*** *from other data storage policies of the* ***two or more*** *data storage policies* ***based on at least one of****: a number of copies to be made of data stored in the data destination associated with that data storage policy, whether the data stored in the data destination associated with that data storage policy is to be stored onsite, whether the data stored in the data destination associated with that data storage policy is to be stored offsite, whether the data stored in the data destination associated with that data storage policy is to be compressed, a type of compression to be performed on the data stored in the data destination associated with that data storage policy, whether the data stored in the data destination associated with that data storage policy is to be encrypted, or a type of encryption to be performed on the data stored in the data destination associated with that data storage policy*.

Appeal Br. 10–11, "CLAIMS APPENDIX." (disputed limitations emphasized).

References

The prior art relied upon by the Examiner as evidence is:

Name	Reference	Date
Yano et al.	US 2003/0163457 A1	Aug. 28, 2003
Mazzitelli et al.	US 2006/0026552 A1	Feb. 2, 2006
Akelbein et al.	US 2008/0183642 A1	July 31, 2008
Wires et al.	US 2013/0282994 A1	Oct. 24, 2013
Warfield et al.	US 2014/0025770 A1	Jan. 23, 2014
Kavuri et al.	US 8,832,031 B2	Sept. 9, 2014

Rejections

A. Claims 1, 2, 10–16, and 18–20 are rejected as being obvious under 35 U.S.C. § 103 over Yano at al. ("Yano"), Kavuri et al. ("Kavuri"), and Akelbein et al. ("Akelbein"). Final Act. 6.

B. Claim 5 is rejected as being obvious under 35 U.S.C. § 103 over Yano, Kavuri, Akelbein, and Wires et al. ("Wires"). Final Act. 19.

C. Claim 6 is rejected as being obvious under 35 U.S.C. § 103 over Yano, Kavuri, Akelbein, Wires, and Warfield et al. ("Warfield"). Final Act. 20.

D. Claims 7–9 and 21 are rejected as being obvious under 35 U.S.C. § 103 over Yano, Kavuri, Akelbein, and Mazzitelli et al. ("Mazzitelli"). Final Act. 21.

ANALYSIS

We have considered all of Appellant's arguments and any evidence presented. In our analysis below, we highlight and address specific findings and arguments for emphasis.

Rejection A of Independent Claim 1 under § 103

Issues: Under 35 U.S.C. § 103, we focus our analysis on the following argued limitations that we find are dispositive regarding Rejection A of claims 1, 2, 10–16, and 18–20: [3]

[3] Based upon Appellant's arguments (Appeal Br. 4–7), we consider Rejection A of claims 1, 2, 10–16, and 18–20 as a group. *See* 37 C.F.R.

Did the Examiner err by finding that the cited references teach or suggest the disputed limitations:

> *wherein each associated data storage policy of the* ***two or more*** *data storage policies* ***differs*** *from other data storage policies of the* ***two or more*** *data storage policies* ***based on at least one of****: a number of copies to be made of data stored in the data destination associated with that data storage policy, whether the data stored in the data destination associated with that data storage policy is to be stored onsite, whether the data stored in the data destination associated with that data storage policy is to be stored offsite,* ***whether the data stored in the data destination associated with that data storage policy is to be compressed****, a type of compression to be performed on the data stored in the data destination associated with that data storage policy,* ***whether the data stored in the data destination associated with that data storage policy is to be encrypted****, or a type of encryption to be performed on the data stored in the data destination associated with that data storage policy,*

within the meaning of representative claim 1?[4] (emphasis added). *See* Final Act. 6–10.

Appellant contends that Kavuri "does not explicitly disclose that each associated data storage policy of the two or more data storage policies differs from other data storage policies of the two or more data storage

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§ 41.37(c)(1)(iv). Based upon Appellant's arguments (Appeal Br. 7–8), we address separately: dependent claim 5 rejected under Rejection B, dependent claim 6 rejected under Rejection C, and dependent claims 7–9 and 21, rejected under Rejection D.

[4] We give the contested claim limitations the broadest reasonable interpretation consistent with the Specification. *See In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997).

policies based on at least one of the properties recited in claims 1 or 16." Appeal Br. 6 (emphasis omitted).

However, based upon our review of Kavuri, we find a preponderance of the evidence supports the Examiner's finding that Kavuri's different compression and encryption storage policies teach the disputed limitation: "*each associated data storage policy of the* ***two or more*** *data storage policies* ***differs*** *from other data storage policies of the* ***two or more*** *data storage policies.*" Final Act. 9–10, Ans. 6 (emphasis added).

Turning to the evidence, Kavuri expressly discloses:

> In some examples, the system performs storage operations based on *storage policies*. A *storage policy* may be, for example, a data structure that includes a set of preferences or other criteria considered during storage operations. *The storage policy* may determine or define a storage location, a relationship between components, network pathways, accessible datapipes, retention schemes, ***compression or encryption requirements***, preferred components, preferred storage devices or media, and so on. Storage policies may be stored in storage manager 310, 221, 231, or may be stored in global manager 261 as discussed above.

Kavuri, col. 4, ll. 37–47 (emphasis added).

As an initial matter of claim construction, we conclude the disputed "wherein" clause of claim 1 recites a list of differences between data storage policies in which at least one data policy must differ from at least a second data storage policy "based on at least one of" a list of claimed differences.

We emphasize that, because "applicants may amend claims to narrow their scope, a broad construction during prosecution creates no unfairness to the applicant or patentee." *In re ICON Health and Fitness, Inc.*, 496 F.3d 1374, 1379 (Fed. Cir. 2007) (citation omitted).

Given the evidence cited by the Examiner (Kavuri, col. 4, ll. 37–47), we agree with the Examiner's finding that Kavuri's storage policies including "compression or encryption requirements" teach, or at least suggest, the disputed "wherein" clause limitations. *See* Ans. 6–7 (citing Kavuri, col. 4, ll. 37–47).

We are not persuaded by Appellant's arguments, because we conclude the scope of the claim 1 language ("whether the data stored in the data destination associated with that data storage policy is to be **compressed** . . . [and] whether the data stored in the data destination associated with that data storage policy is to be **encrypted**") broadly encompasses Kavuri's storage policies, which are expressly described as including **compression** or **encryption** requirements. Kavuri, col. 4, ll. 37–47 (emphasis added).

On this record, and based upon a preponderance of the evidence, we are not persuaded of error regarding the Examiner's underlying factual findings and ultimate legal conclusion of obviousness regarding Rejection A of independent representative claim 1.

Therefore, we sustain the Examiner's Rejection A of representative independent claim 1, and also Rejection A of independent claims 16 and 21, which recite similar limitations of commensurate scope. The remaining grouped dependent claims also rejected under Rejection A (and not argued separately) fall with representative independent claim 1. Accordingly, we sustain the Examiner's obviousness Rejection A of claims 1, 2, 10–16 and 18–20.

Rejection B of Claim 5, Rejection C of Claim 6, and Rejection D of Claims 7–9 and 21

Appellant does not present substantive, separate arguments regarding Rejections B, C, and D of dependent claims 5–9 and 21. For each of Rejections B, C, and D, Appellant merely argues that the additionally cited secondary reference (or references) "does not overcome the deficiencies of the other cited art." Appeal Br. 7–8. However, we see no deficiencies with the base combination of Yano, Kavuri, and Akelbein, for the same reasons discussed above regarding Rejection A of claim 1. Accordingly, we sustain the Examiner's Rejections B, C, and D of dependent claims 5–9 and 21.

CONCLUSION

Appellant has not shown the Examiner erred with respect to obviousness Rejections A, B, C, and D of claims 1, 2, 5–16, and 18–21, over the cited prior art of record, and we sustain the rejections.

DECISION SUMMARY

Claims Rejected	**35 U.S.C. §**	**Reference(s)/Basis**	**Affirmed**	**Reversed**
1, 2, 10–16, 18–20	103	Yano, Kavuri, Akelbein	1, 2, 10–16, 18–20	
5	103	Yano, Kavuri, Akelbein, Wires	5	
6	103	Yano, Kavuri, Akelbein, Wires, Warfield	6	
7–9, 21	103	Yano, Kavuri, Akelbein, Mazzitelli	7–9, 21	
Overall outcome			1, 2, 5–16, 18–21	

FINALITY AND 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)(1)(iv). *See* 37 C.F.R. § 41.50(f).

AFFIRMED