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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
15/724,918	10/04/2017	Raynold M. Kahn	DTV205040CON1	5113
83811	7590	10/05/2020	EXAMINER	
AT&T LEGAL DEPARTMENT - TRBK PATENT DOCKETING ROOM 2A-212, ONE AT&T WAY BEDMINSTER, NJ 07921			COPPOLA, JACOB C	
			ART UNIT	PAPER NUMBER
			3685	
			NOTIFICATION DATE	DELIVERY MODE
			10/05/2020	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte RAYNOLD M. KAHN, PETER M. KLAUSS,
STEPHEN P. DULAC, DAVID N. SCHLACHT, HANNO BASSE, and
THOMAS H. JAMES

Appeal 2020-001076
Application 15/724,918
Technology Center 3600

Before JOHN A. JEFFERY, LINZY T. McCARTNEY, and
MATTHEW J. McNEILL, *Administrative Patent Judges*.

McCARTNEY, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant¹ seeks review under 35 U.S.C. § 134(a) of the Examiner's final rejection of claims 1–7. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

¹ Appellant identifies the real party in interest as The DirecTV Group, Inc. Appeal Brief 2, filed September 4, 2019 (Appeal Br.).

BACKGROUND

This patent application concerns “secure content transfer systems and methods to operate the same.” Specification ¶ 2, filed October 4, 2017 (Spec.). Claim 1 illustrates the claimed subject matter:

1. A system comprising:
 - a client device for use at a first physical location and a second physical location; and
 - a media server for use at the first physical location, the media server including:
 - a receiver to receive encrypted content for requested content;
 - a first security device, including a first processor, to determine a first encryption secret based on a first encryption key received from a headend and to determine a second encryption secret based on a second encryption key received from the headend;
 - a first decrypter to decrypt received encrypted content for requested content based on the first encryption secret to determine decrypted content data for the requested content;
 - an encrypter to re-encrypt the decrypted content data for the requested content based on the second encryption secret to determine re-encrypted content data; and
 - an interface to send the re-encrypted content data to the client device,
 - wherein the client device includes:
 - a second security device, including a second processor, to determine the first encryption secret based on the first encryption key received from the headend and to determine the second encryption secret based on the second encryption key received from the headend; and
 - a second decrypter to decrypt the re-encrypted content data based on the first encryption secret and the second encryption secret to access the requested content.

Appeal Brief, Claims Appendix A1 (Claims App'x).

REJECTION

Claims	35 U.S.C. §	References/Basis
1–7	112	Written Description

DISCUSSION

The Examiner found that the written description lacks adequate support for the “client device” that includes “a second decrypter to decrypt the re-encrypted content data based on the first encryption secret and the second encryption secret to access the requested content” recited in claim 1. *See* Final Action 3–4, mailed April 30, 2019 (Final Act.); Examiner’s Answer 3–7, mailed October 2, 2019 (Ans.). The Examiner acknowledged that the written description describes a client device that uses first and second encryption secrets (a codeword and a copy protection codeword) to decrypt encrypted content data to access requested content. *See* Ans. 4, 6. But the Examiner found that the written description does not disclose that the client device decrypts the recited *re-encrypted* content data. *See* Ans. 4–6; *see also* Final Act. 3–4. According to the Examiner, the written description discloses that the client device decrypts “super-encrypted” video data (that is, video data that has been encrypted twice), not data decrypted based on a first encryption secret and then re-encrypted based on a second encryption secret as required by claim 1. *See* Ans. 4–6.

Appellant contends that, contrary to the Examiner’s findings, the written description discloses a media server that decrypts and re-encrypts the super-encrypted video data in the claimed manner. *See* Reply Brief 3–6, filed November 25, 2019 (Reply Br.). Appellant argues that the written

description also discloses that the media server transmits the super-encrypted video data to a client device that includes a decrypter that decrypts the super-encrypted video data in the manner required by claim 1. *See* Reply Br. 4–6, 8.

Appellant has persuaded us that the Examiner erred. As argued by Appellant, the written description expressly discloses that “previous[ly] super-encrypted content may be decrypted and re-super encrypted” by a media server, Spec. ¶ 35 (reference number omitted), and that the media server transmits super-encrypted content to a client device for decryption, *see, e.g.*, Spec. ¶¶ 44, 78, Fig. 27. The written description discloses that the media server includes a decrypter that uses a codeword (a first encryption secret) to decrypt encrypted content and an encrypter that uses a copy protection codeword (a second encryption secret) to encrypt content. *See* Spec. ¶¶ 213–217, Fig. 27. The written description thus teaches that the super-encrypted data sent to the client device has been, at least in some cases, decrypted based on a first encryption secret and then re-encrypted based on a second encryption secret. And as acknowledged by the Examiner, the written description teaches that a client device uses the codeword and the copy protection codeword to decrypt the super-encoded video to access the requested content. *See* Ans. 4, 6; *see also* Spec. ¶¶ 83, 214–217, 229, Fig. 27. We thus agree with Appellant that the Examiner erred.

The Examiner also found that it would be impossible for the claimed client device to decrypt re-encrypted data based on the first *and* second encryption secrets. *See* Ans. 4. In the Examiner’s view, “the claimed ‘re-encrypted content data’ is formed by the media server through encryption using *only the second secret*” and “the first encryption secret is *only* used by

the media server to decrypt the received ‘encrypted content.’” Ans. 4.

Therefore, according to the Examiner, the claimed system cannot decrypt re-encrypted data based on both secrets. *See* Ans. 4.

Appellant contends that the Examiner erroneously read the word “only” into claim 1. *See* Reply Br. 3. Appellant points out that claim 1 “does not recite that the first decrypter decrypts received encrypted content for requested content based ‘only’ on the first encryption secret, nor does the claim state that the encrypter re-encrypts the decrypted content data for the requested content based ‘only’ on the second encryption secret.” Reply Br. 3.

Appellant has persuaded us that the Examiner erred. Claim 1 does not recite that the claimed system uses the first encryption secret only to decrypt content or forms re-encrypted content data using only the second encryption secret as determined by the Examiner. Instead, claim 1 recites a “system comprising” a media server that includes a first decrypter that decrypts received encrypted content “based on” the first encryption secret and an encrypter that re-encrypts the decrypted content “based on” the second encryption secret. Claims App’x A1. We thus agree with Appellant that claim 1 does not limit use of the recited first and second encryption secrets in the way proposed by the Examiner.

For at least the above reasons, we agree with Appellant that the Examiner erred. We therefore do not sustain the Examiner’s rejection of claim 1 and its dependent claims for lack of written description.

Appeal 2020-001076
Application 15/724,918

CONCLUSION

Claims Rejected	35 U.S.C. §	References/Basis	Affirmed	Reversed
1-7	112	Written Description		1-7

REVERSED