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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SANCHAITA DATTA and RAGULA BHASKAR

Appeal 2011-010799
Application 10/034,197
Technology Center 2400

Before LANCE LEONARD BARRY, JEAN R. HOMERE, and STEPHEN
C. SIU, *Administrative Patent Judges*.

SIU, *Administrative Patent Judge*.

DECISION ON APPEAL
STATEMENT OF THE CASE

This is a decision on appeal under 35 U.S.C. § 134(a) from the
Examiner's rejection of claims 22-40. Claims 1-21 have been cancelled.
We have jurisdiction under 35 U.S.C. § 6(b).

The disclosed invention relates generally to routing information over
multiple independent parallel private networks (Spec. 1).

Independent claim 22 reads as follows:

22. A controller which controls access to multiple independent networks in a parallel network configuration, the controller comprising:

a site interface connecting the controller to a site by a single logical connection;

at least two network interfaces connecting the controller to respective independent parallel networks; and

a packet path selector which selects between the network interfaces to split a message from the site between the networks by concurrently sending different packets of the message over different network interfaces without requiring firewall usage;

whereby the controller uses multiple networks to concurrently carry different pieces of a given message so that unauthorized interception of message packets on fewer than all of the networks used to carry the message will not provide the total content of the message.

The Examiner relies upon the following references as evidence in support of the rejections:

Pearce	US 5,910,951	Jun. 8, 1999
Kitai	US 5,948,069	Sep. 7, 1999
Goldszmidt	US 6,195,680 B1	Feb. 27, 2001
Albright	US 6,209,039 B1	Mar. 27, 2001
Dutta	US 6,546,423 B1	Apr. 8, 2003

Under 35 U.S.C. § 102(e), the Examiner rejects claims 33, 35, and 40 as being anticipated by Kitai.

Under 35 U.S.C. § 103(a), the Examiner rejects as unpatentable:

- a) claims 22, 24, 25, and 29 over Kitai and Dutta;
- b) claims 23, 28, and 30-32 over Kitai, Dutta, and Albright;

- c) claims 26 and 27 over Kitai, Dutta, and Goldszmidt;
- d) claim 34 over Kitai and Albright;
- e) claims 36, 37 and 39 over Kitai and Pearce; and
- f) claim 38 over Kitai, Pearce, and Albright.

ISSUE

Did the Examiner err in rejecting claims 22-40?

FINDING OF FACT

Kitai discloses “parallel communication” in which “data in the buffer **6030** is divided into three blocks of data for every segment length” (col. 14, ll. 36-37) and distributed over multiple communication paths “to the buffers **6031**, **6032**, and **6033**” (col. 14, l. 38 and Fig. 17) and further sent on “communication path **6110** respectively through the communication paths **6012**, **6013**, and **6014**” (col. 14, ll. 48-50 and Fig. 17).

PRINCIPLES OF LAW

In rejecting claims under 35 U.S.C. § 102, “[a] single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation.” *Perricone v. Medicis Pharm. Corp.*, 432 F.3d 1368, 1375 (Fed. Cir. 2005) (citation omitted).

The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art,

(2) any differences between the claimed subject matter and the prior art, and
(3) the level of skill in the art. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966).

“The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398, 416 (2007).

ANALYSIS

Claim 33 recites multiple parallel networks and a selector that splits a message between the parallel networks by concurrently sending different packets of the message over different network interfaces. Appellants argue that Kitai fails to disclose this feature.

As stated above, Kitai discloses splitting a message into segments and sending the segments over respective (and parallel) communication paths (FF). We agree with the Examiner that this disclosure is the same as splitting a message between parallel networks by concurrently sending different packets of the message over different network interfaces, as recited in claim 33.

Appellants argue that the Examiner “treats ‘concurrently’ and ‘parallel’ as if they mean the same thing” (App. Br. 5) but that the term “concurrently” is actually used by Appellant “to describe a *use* of networks” (App. Br. 6). Even assuming that the term “concurrently” and “parallel” have different meanings and that “concurrently” refers to “a *use* of

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