UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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Ex parte ALEX TSERKOVNY, ATOINETTE F. HERSHEY, THOMAS J.
ANTELL, and MICHAEL A. WEINTRAUB

_____

Appeal 2012-010978
Application 11/754,676[1]
Technology Center 3600

_____

Before, MURRIEL E. CRAWFORD, JOSEPH A. FISCHETTI, and
ROBERT L. KINDER, *Administrative Patent Judges*.

FISCHETTI, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 of the Examiner's
final rejection of claims 1 – 3, 5 – 10, 12 – 19, and 22. We have jurisdiction
under 35 U.S.C. § 6(b).

Claim 1 reproduced below, is representative of the subject matter on
appeal.

1. A system, comprising

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[1] Appellants identify Verizon Communications Inc. as the real party in
interest. Br. 3.

a management device; and

a first proxy device to:

      receive a request from a first subscriber of network services provided by the system, the request being intended for a second subscriber of network services provided by the system, and

      forward control information associated with the request to the management device;

         where the management device is to:
            receive the control information associated with the request from the first proxy device,

            identify requirements associated with communications between the first and second subscribers, and

            forward the requirements to the first proxy device; and

a second proxy device,

where the first proxy device is further to:

      receive the requirements from the management device, process the request in accordance with the identified requirements, wherein the processing comprises performing at least one of first security related processing or first compatibility related processing on the request, and

      forward message data associated with the processed request to the second proxy device, wherein the second proxy device is associated with the second subscriber, and

wherein the second proxy device is to:
      receive the message data from the first proxy device,

      perform at least one of second security related processing or second compatibility related processing on the received message data, and

      forward the message data, subsequent to performing at least one of

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the second security related processing or second compatibility related processing, to the second subscriber.

THE REJECTION

The Examiner relies upon the following as evidence of unpatentability:

Schoen	US 2003/0204741 A1	Oct. 30, 2003
Lev Ran	US 2004/0255048 A1	Dec. 16, 2004
TAM	US 2006/0259957 A1	Nov. 16, 2006

The following rejections are before us for review.

Claims 1 − 3, 5 − 9, and 22 have been rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Claims 1 − 3, 5 − 9, 12, 13, and 22 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Claims 1 − 3, 5 − 8, 10, 12 − 16, 18, 19, and 22 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Lev Ran and Schoen.

Claims 9 and 17 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Lev Ran, Schoen, and Tam.

ANALYSIS

35 U.S.C. § 101 REJECTION

We reverse the rejection of claims 1–3, 5–9, and 22 under 35 U.S.C. § 101.

We disagree with the Examiner that claim 1 is directed to software per se or a transient signal. We find that the system as required by the claims includes system device elements such as, a management device, and first and

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second proxy devices, all of which we find are articles of manufacture constituting statutory subject matter.

35 U.S.C. § 112 2nd PARAGRAPH REJECTION

We will not sustain the rejection of claims 2, 3, 12, and 13 under 35 U.S.C. 112, second paragraph, as being indefinite for the reasons given by Appellants on pages 14 – 16 of the Appeal Brief.

Particularly, we agree with the Appellants that the claim language which is the subject of claim 2 further defines functions performed by the claimed first proxy device. Concerning claim 3, as we found *supra,* the term "device" is definitive of hardware.

We also find reasonable Appellants' reasons given for why claims 5 and 12 are definite in light of the surrounding claim language and supporting disclosure. App. Br. 15–16.

35 U.S.C. § 103 REJECTION

Independent claim 1 requires in pertinent part:

identify requirements associated with communications between the first and second subscribers, and

forward the requirements to the first proxy device; and

a second proxy device,

where the first proxy device is further to:

receive the requirements from the management device,

process the request in accordance with the identified requirements, wherein the processing comprises performing at least one of first security related processing or first compatibility related processing on the request;…

The Examiner found concerning this limitation:

receive the requirements ("directives",

[0188]) from the management device (VFN manager 30)(the feature: where the proxy receiver 48 is further to receive the "directives" from the VFN manager, is shown in [0195]),

process the request ("request", Abstract) in accordance with the identified requirements ("directives", [0188]), wherein the processing comprises performing at least one of first security related processing or first compatibility related processing on the request ("request", Abstract)(the feature: where the proxy receiver 48 is further to process the "request," which is in accordance with the identified "directives," wherein the processing comprises performing compatibility related processing on the "request," is shown in Fig.3, Fig.6, [0031], [0174] and [0243]), ...

(Answer 11).

Appellants argue that:

None of these portions of Lev Ran discloses or suggests that VFN receiver 48 receives any requirements associated with communications between any devices/entities from VFN manager 30, as would be required by claim 1 based on the alleged correspondence of VFN receiver to the claimed first proxy device. These portions of Lev Ran, therefore, cannot further disclose or suggest that VFN receiver 48 processes the request in accordance with the identified requirements, wherein the processing includes performing first security related processing or first compatibility related processing, as would be required by claim 1. In contrast, these portions of Lev Ran merely disclose various disjointed features associated with VFN manager 30 and/or VFN receiver 48. In other words, VFN receiver 48 does not receive any requirements from VFN manager 30, much less process the request in accordance with the

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> identified requirements, wherein the processing
> includes performing first security related
> processing or first compatibility related processing
> on the request, as recited in claim 1.

(App. Br. 20) (emphasis omitted).

We agree with Appellants. Our review of Lev Ran reveals that the disclosed "directives" (which the Examiner finds to be "requirements") are not forwarded to the proxy receiver 48 (which the Examiner found to be the first proxy device). According to Lev Ran, at paragraph 195, once the directive/requirements are received by the VFN receiver, "[t]he VFN receiver then activates the services specified. Generally, most directives are activated on a time schedule by the VFN receiver." The logs in Lev Ran (which the Examiner found to be "control information") "are periodically uploaded to the VFN manager, either at defined intervals or when free-storage capacity in the VFN receiver reaches a defined limit." (¶ 191). Thus, in the case of both the directives/requirement and the logs/control information, forwarding of these items pursuant to a request does not occur. Lev Ran only discloses the controlled uploading or activation of these items, but not the forwarding for example of the directives to the receiver 48 which the Examiner finds to be the first proxy device/receiver 48.

> Independent claim 10 recites in pertinent part

> > *identifying, by the management device, parameters
> > associated with communications to be transmitted
> > between the first and second entities, wherein the
> > parameters include access requirements
> > associated with the second entity, and*

> > *forwarding the parameters to the first proxy
> > device;*

> > *processing, by the first proxy device, the
> > communication in accordance with the*

parameters, wherein the processing includes performing at least one of security related processing or compatibility related processing on the communication;... .

The Examiner found concerning these limitations:

identifying, by the management device (VFN manager 30), parameters ("parameters", [0201]) associated with communications to be transmitted between the first and second entities (client 28 and file server 25), wherein the parameters "parameters", [0200]) include access requirements ("content parameter," [0202]) associated with the second entity (file server 25)(the feature of: identifying, by the VFN manager 30, "parameters" associated with communications between the client 28 and file server 25, wherein the "parameters" include "content parameter" associated with the file server 25, is shown in [0188] and [0200]-[0202]), and forwarding the parameters ("parameters", [0200]) to the first proxy device (proxy receiver 48)(the feature of: forwarding the "parameters" to the proxy receiver 48, is show in [0195]);

processing, by the first proxy device (proxy receiver 48), the communication ("request", Abstract and [0031]) in accordance with the parameters ("parameters", [0200])(the feature of: processing, by the proxy receiver 48, the "request" in accordance with the "parameters," is shown in Fig.6, [0031]-[0035], [0195], and [0247]-[0249]);

(Answer 19).

The Appellants argue:

Lev Ran at paragraphs 200-202 discloses that a directive is a combination of conditions that upon satisfaction, cause a predefined action to be executed in a VFN gateway. This portion of Lev Ran further discloses that directives have three

types of parameters: content, time and HTTP
related directives and that the content parameter
specifies one or more files or directories, specified
as fully qualified URLs.

These portions of Lev Ran do not disclose or
suggest that VFN receiver 48 forwards control
information to VFN manager 30 and that VFN
manager 30 identifies parameters that include
access requirements associated with file server 25,
as would be required by claim 10 based on the
alleged correspondence of VFN receiver 48 to the
claimed first proxy device, VFN manager 30 to the
claimed management device and file server 25 to
the claimed second entity. In contrast, these
portions of Lev Ran merely disclose that VFN
gateways 22 execute various directives.

(Appeal Br. 25-26) (emphasis omitted).

We agree with Appellants for the same reasons given above
concerning claim 1 because paragraph 200 of Lev Ran discloses that the
parameters are part of the directives and again, the "directive" is not
transmitted between the first and second entities, but rather is activated on a
time schedule by the VFN receiver without regard to a corresponding
communication. (¶0195). Each directive is a combination of conditions that,
upon satisfaction, causes a predefined action to be executed in a VFN
gateway. (¶0200). Because this predefined action is not disclosed as
forwarding the parameters to the first proxy device, processing, by the first
proxy device, the communication in accordance with the parameters, the
claim requirements are not met.

Because claims 2, 3, 5–9, 12–19, and 22 depend from one of claims 1
and 10, and since we do not sustain the rejection of claims 1 and 10, the
rejection of dependent claims 2, 3, 5–9, 12–19, and 22 likewise cannot be
sustained.

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CONCLUSIONS OF LAW

We conclude the Examiner did err in rejecting claims 1–3, 5–9, and 22 under 35 U.S.C. § 101.

We conclude the Examiner did err in rejecting claims 1–3, 5–9, 12, 13, and 22 under 35 U.S.C. § 112.

We conclude the Examiner did err in rejecting claims 1–3, 5–10, 12–19, and 22 under 35 U.S.C. § 103.

DECISION

REVERSED.