

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 36

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HIROAKI KIKUCHI, YASUTSUGU KURODA,
and HIDEYUKI AIKAWA

Appeal No. 1999-2645
Application No. 08/805,090

HEARD: JULY 10, 2001

Before KRASS, LALL , and BLANKENSHIP, Administrative Patent Judges.

BLANKENSHIP, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1-10, 14-16, and 20-31.

We affirm-in-part.

BACKGROUND

The invention is directed to cryptographic communications in computer network systems utilizing keys for enciphering and deciphering. Claim 10 is reproduced below.

10. Terminal equipment for cryptographic communication in a network system in which a first system and a second system are connected via an external network, said terminal equipment comprising:

an enciphering unit, provided in the first system, enciphering a communication text which includes an address of said enciphering unit and is to be output to a terminal equipment destination having a deciphering unit address on the external network, said enciphering unit comprising:

a first receiver receiving the communication text which is made in the first system and is to be transmitted via the external network;

a first key storage storing keys necessary for a cryptographic communication, the keys each associated with one of a user and a group of users;

a first key retrieving part retrieving a one of the keys associated with the user from said first key storage based on a destination of the communication text;

an enciphering part enciphering the communication text into an enciphered communication text using the key retrieved by said key retrieving part; and

a first transmitter transmitting the enciphered communication text from said enciphering part to the terminal equipment destination on the external network.

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Claims 10, 14, 15, 16, 20, and 26-31 stand rejected under 35 U.S.C. § 102 as being anticipated by Barnes.

Claims 21, 23, 24, and 25 stand rejected under 35 U.S.C. § 102 as being anticipated by Adams.

Claims 1-3, 9, and 22 stand rejected under 35 U.S.C. § 103 as being unpatentable over Adams and Barnes.

Claims 4-8 stand rejected under 35 U.S.C. § 103 as being unpatentable over Adams, Barnes, and the APA.

We refer to the Final Rejection (Paper No. 23) and the Examiner's Answer (Paper No. 30) for a statement of the examiner's position and to the Brief (Paper No. 29) and the Reply Brief (Paper No. 31) for appellants' position with respect to the claims which stand rejected.

OPINION

The examiner has rejected claims 10, 14, 15, 16, 20, and 26-31 as being anticipated by Barnes. With respect to independent claim 10, appellants contend that Barnes lacks "the first key storage, the first key retrieving part, and the enciphering

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However, Barnes, in the Abstract, and at column 3, lines 12-16 reveals that the key is entered by the user. Barnes describes a keyloading device 9-10 (Fig. 9 and column 16, lines 29-32; column 17, lines 1-14; column 18, lines 32-39), and further describes key variable loading at column 18, line 62 through column 19, line 3.¹

The keys are thus, at the least, “each associated with one of a user and a group of users.” The keys may also be, as argued by appellants, associated with terminal addresses. However, claim 10 does not exclude association of keys with terminal addresses. Moreover, the broad language of “associated with” does not demand the multiple requirements alleged by appellants on pages 11 and 12 of the Brief.

Claims are to be given their broadest reasonable interpretation during prosecution, and the scope of a claim cannot be narrowed by reading disclosed limitations into the claim. See In re Morris, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997); In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989); In re Prater, 415 F.2d 1393, 1404, 162 USPQ 541, 550 (CCPA 1969). We decline to follow appellants’ urged interpretation of “associated with,” and find appellants’ arguments with respect to instant claim 10 to be untenable. We sustain the rejection.

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common key that is used in common within the first system.” The examiner has not pointed out where the limitation is disclosed in Barnes. The Final Rejection (page 2) refers to column 8, lines 47-55 and column 20, line 58 through column 21, line 3. The sections do not appear to disclose a “common key” as claimed.

In the Answer’s response to appellants’ arguments (page 9), the examiner refers to sections of Barnes and speaks of “the destination address” and “the origination address,” but does not answer appellants’ arguments with respect to claim 14. We do not sustain the rejection of claim 14.

Nor do we sustain the rejection of dependent claim 15. Appellants argue (Brief, page 13) that Barnes fails to teach or suggest the “deciphered communication text extracting part” set forth in claim 15. The examiner fails to explain how Barnes might be viewed as disclosing an “extracting part” as claimed.

Appellants further argue (Brief, pages 13-14) that Barnes “lacks the address determining part of claim 16,” adding that, according to the claim, “the address determining part determines whether an address in an enciphered communication text is the address of the deciphering unit.” While the argument misquotes claim 16,² which recites “an address determining part determining whether the address is an address of

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argued by appellants. The examiner's response (Answer, page 9) refers to the "destination address" and the "origination address" in the Barnes reference, but does not explain how the argued limitations of claim 16 may be anticipated by Barnes. We do not sustain the rejection of claim 16, nor claim 20, dependent on 16.

Appellants also present arguments for independent claims 26, 29, 30, and 31 which remain unanswered. We do not sustain the section 102 rejection of claims 26-31 as being anticipated by Barnes.

As pointed out by appellants, independent claims 21 and 25 require more than the generalities of encryption and the "encryption identifier" alleged to be disclosed by Adams. Because the rejection fails to address the specific requirements of the claims, and there remain unanswered arguments with respect to those claims, we do not sustain the section 102 rejection of claims 21 and 23-25 as being anticipated by Adams.

In response to the section 103 rejection of claims 1-3, 9, and 22 over Adams and Barnes, appellants argue, inter alia, that the references "neither teach nor suggest a device comprising control means for starting a deciphering means when an address of the communication text matches the address of the device." (Brief, page 25.) The

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sustain the rejection of claims 1-3 and 9 over Barnes and Adams, at least for the reason that the "control means" of claim 1 has not been shown to be disclosed or suggested by the teachings of the references. Nor do we sustain the rejection of claim 22, depending from claim 21. We have noted the deficiencies of Adams as applied to claim 21. Moreover, appellants' arguments with respect to claim 22 remain unanswered.

Finally, we do not sustain the rejection of dependent claims 4-8 under section 103 as being obvious over Adams, Barnes, and the APA. On pages 29 through 32 of the Brief, appellants point out limitations in each of claims 4-8 that are argued to render the claims nonobvious over the combined teachings of the prior art.

The allocation of burdens requires that the USPTO produce the factual basis for its rejection of an application under 35 U.S.C. §§ 102 and 103. In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984) (citing In re Warner, 379 F.2d 1011, 1016, 154 USPQ 173, 177 (CCPA 1967)). The one who bears the initial burden of presenting a prima facie case of unpatentability is the examiner. In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). Since neither the Final Rejection nor the Answer point out, or explain, how the argued limitations of claims 4-8

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CONCLUSION

We have affirmed the rejection of claim 10, but have reversed the rejection of each of the other claims on appeal. The examiner's rejection of claims 1-10, 14-16, and 20-31 is thus affirmed-in-part.

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

AFFIRMED-IN-PART

ERROL A. KRASS)	
Administrative Patent Judge)	
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