

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL STUART BRUSCA

Appeal 2009-005713
Application 10/136,961
Technology Center 2400

Decided: March 1, 2010

Before JOSEPH F. RUGGIERO, ELENI MANTIS MERCADER,
and CARL W. WHITEHEAD, JR. *Administrative Patent Judges.*

MANTIS MERCADER, Administrative Patent Judge.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from the Final Rejection of claims 1-32. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

INVENTION

Appellant's claimed invention is directed to a Broadband Network Termination (B-NT) SNMP Manager/Client 110 requesting and receiving configuration information from a Lightweight Directory Access Protocol (LDAP) server 185 which in turn obtains the requested information from an LDAP Directory 180 (Spec. 12:24-13:25; Fig. 1). Middleware 175 converts the SNMP requesting message to LDAP messages and the LDAP response to an SNMP response (Spec. 13:7-9 and Spec. 13:17-20; Fig. 1).

Claim 10, reproduced below, is representative of the subject matter on appeal:

10. An apparatus for facilitating a configuration of a device to access a network service, comprising:
- a module for receiving, in a first protocol format, a request for information for configuring said device;
 - a module for retrieving said information, in a second protocol format, from a directory system;
 - a module for converting said information from said second protocol format to said first protocol format; and
 - a module for transmitting said information, in said first protocol format, in response to said request.

THE REJECTIONS

The Examiner relies upon the following as evidence of unpatentability:

Ma	US 2003/0069948 A1	Apr. 10, 2003 (filed Oct. 5, 2001)
Civanlar	US 2003/0033379 A1	Feb. 13, 2003

(effectively filed Apr.
3, 2002)

The following rejection is before us for review:

The Examiner rejected claims 1-32 under 35 U.S.C. § 103(a) as being unpatentable over Ma in view of Civanlar.

ISSUE

The pivotal issue is whether Ma in view of Civanlar teaches receiving “in a first protocol format, a request for information for configuring” a device, retrieving the information “in a second protocol format” and “converting said information from said second protocol format to said first protocol format” as claimed.

FINDINGS OF FACT (FF)

The following findings of fact are supported by a preponderance of the evidence:

1. Ma teaches that “a request is sent via SNMP” (¶ [0033]) and the response is received (¶ [0034]) through the mediation server.
2. Ma further teaches that the mediation server issues a second request which is an LDAP request and a command in SNMP (¶ [0035]).
3. Nothing is disclosed in Ma about “converting” the LDAP response into an SNMP format as claimed.
4. Civanlar teaches that Gateways are conversant in different formats such as XML, Java, SNMP, and CLI (¶ [0034]).

PRINCIPLES OF LAW

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *See In re Fine*, 837 F.2d 1071, 1073 (Fed. Cir. 1988). The Examiner's articulated reasoning in the rejection must possess a rational underpinning to support the legal conclusion of obviousness. *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006).

ANALYSIS

Appellant argues *inter alia* that in Ma the request to and the response from the directory server have the same protocol format, namely, LDAP, as opposed to having a first and second protocol formats as claimed (App. Br. 10). Appellant further argues that while Civanlar is cited for the proposition that “converting from one type of protocol format to another protocol format was known in the art at the time the invention was made,” Ma does not disclose the need or desirability for any type of translation (App. Br. 11). Appellant asserts that Ma does not teach or suggest that messages formatted in accordance with a first protocol, such as SNMP, are converted, translated, or otherwise reformed into messages formatted in accordance with a second protocol, such as LDAP (App. Br. 11).

Appellant points out that as described by Ma, the mediation server may be conversant in multiple protocol formats, including both SNMP and LDAP, and therefore is not described to have any need to convert there between with respect to a particular request (App. Br. 11). Appellant thus argues that the requisite motivation to combine Ma and Civanlar is lacking (App. Br. 11).

We are persuaded by Appellant's arguments. Ma teaches that "a request is sent via SNMP" (¶ [0033]) and the response is received (¶ [0034]) through the mediation server. However, Ma is silent as to whether the "response" is in the same protocol format or a different protocol format. Ma further teaches that the mediation server issues a second request which is an LDAP request and a command (i.e., not a response) in SNMP (¶ [0035]). Nothing is disclosed in Ma about "converting" the LDAP response (i.e., said second protocol format) into an SNMP format (i.e., said first protocol format) as claimed. Thus, at best, Ma only teaches that the mediation server is conversant in the two protocol formats LDAP and SNMP.

There is no teaching that the request is in a first protocol format (i.e., SNMP) and the response is in a second protocol format (i.e., LDAP) or that the retrieved second protocol format (i.e., LDAP) is converted to a first protocol format (i.e., SNMP). Civanlar does not cure the cited deficiencies but only re-affirms that Gateways (i.e., much like Appellant's Middleware 175 and Ma's mediation server) are conversant in different formats such as XML, Java, SNMP, and CLI (¶ [0034]).

For the foregoing reasons, we will reverse the Examiner's rejections of claim 10 and for similar reasons the rejections of claims 1-9 and 11-32.

CONCLUSION

Ma in view of Civanlar does not teach receiving "in a first protocol format, a request for information for configuring" a device, retrieving the information "in a second protocol format" and "converting said information from said second protocol format to said first protocol format" as claimed.

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ORDER

The decision of the Examiner to reject claims 1-32 is reversed.

REVERSED

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