

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

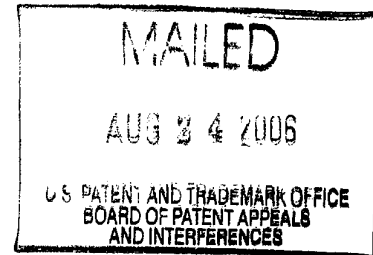
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JED MARGOLIN

Appeal No. 2006-2005
Application No. 09/947,801

ON BRIEF



Before THOMAS, HAIRSTON, 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 1-5, which are all the claims in the application.

We affirm.

BACKGROUND

The disclosed invention relates to a distributed computing system using the computing resources of Home Network Servers connected through the Internet, where the owners of the Home Network Servers receive something of value in return for access to the Home Network Servers' otherwise unused computing resources.

(Abstract.) Claim 1 is reproduced below.

1. A distributed computing system comprising:
 - (a) a home network server in a subscriber's home;
 - (b) one or more home network client devices;
 - (c) an Internet connection;

whereby the subscriber receives something of value in return for access to the resources of said home network server that would otherwise be unused.

The examiner relies on the following reference:

Ellis	6,167,428	Dec. 26, 2000 (filed May 27, 1999)
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Claims 1-5 stand rejected under 35 U.S.C. § 102 as being anticipated by Ellis.

We refer to the Final Rejection (mailed Jun. 15, 2005) and the Examiner's Answer (mailed Jan. 24, 2006) for a statement of the examiner's position and to the Brief (filed Nov. 17, 2005) and the Reply Brief (filed Mar. 16, 2006) for appellant's position with respect to the claims which stand rejected.

OPINION

Based on appellant's remarks in the Brief, we select claim 1 as representative in this appeal. We will decide the appeal on the basis of claim 1. See 37 CFR § 41.37(c)(1)(vii).

Ellis describes networked computers whereby PC (personal computer) users' connections to the Internet may be obtained at no cost, in exchange for making the PCs available for shared processing when otherwise idle. See, e.g., Ellis at col. 11, l. 55 - col. 12, l. 4. There can be no substantive dispute that Ellis discloses that a PC user (i.e., a subscriber to a service that provides Internet access) may receive something of value in return for access to the resources of the PC that would otherwise be unused.

Instant claim 1 recites, however, that the subscriber receives something of value in return for access to the resources of "said home network server" that would otherwise be unused. Claim 1 further recites, inter alia, "a home network server in a subscriber's home. . . ." Appellant argues that the terms in view of their most common meanings in the art, or at least how the terms are to be interpreted in light of the instant specification, distinguish over Ellis.

The examiner contends that the instant specification does not set forth any particular definition for "server" or "home network server." The examiner submits (Answer at 6-7), with reference to a technical dictionary definition, that "server" is understood by the artisan to include a computer or program, on the Internet or another network, that responds to commands from a client. For example, a "file server" may

contain an archive of data or program files such that when a client submits a request for a file, the server transfers a copy of the file to the client. As such, the examiner finds that the artisan would have appreciated that the PCs described by Ellis function as clients with respect to the servers on the Internet, but function as servers when providing resources to other entities on the Internet.

Appellant responds (Reply Brief at 6) that the term “server” is defined differently in the specification, which describes a “Home Network Server” (e.g., spec. ¶ 14). We find that the specification at paragraph 2 sets forth certain definitions, but not for the terms in dispute. Upon review of the entire disclosure, we conclude that the “Home Network Server” described embodiment does not convey a limiting definition for the term “server,” nor that the invention is to be limited to the disclosed embodiment. Moreover, the specification teaches (¶ 22) that the invention may be practiced without the specific details that are disclosed.

With respect to the examiner’s proffered definition of “server,” appellant notes that the examiner relied on the second listed definition, rather than the first. Appellant submits, without citation to any authority, that dictionaries list the definitions of words in the order in which they are most commonly used. The first listed definition for “server” is, according to appellant (Reply Brief at 5): “1. On a local area network (LAN), a computer running administrative software that controls access to the network and its resources, such as printers and disk drives, and provides resources to computers functioning as workstations on the network.”

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First, we note that appellant's definition of "server" appears to be limited to local area networks and how a server may be implemented on that particular network type. Ellis provides evidence, however, that the artisan did not consider the term "server" to be limited to local area networks. See, e.g., Ellis at col. 22, ll. 30-37 (servers operated by Internet Service Providers).

Second, and more important, the present inquiry relates to the broadest reasonable interpretation of "server" consistent with the specification, rather than how the term might be more commonly used in the art. Both the broader definition offered by the examiner and the narrower definition offered by appellant appear to be consistent with appellant's specification. We cannot discard the broader meaning in favor of the narrower. 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). Our reviewing court has repeatedly warned against confining the claims to specific embodiments described in the specification. Phillips v. AWH Corp., 415 F.3d 1303, 1323, 75 USPQ2d 1321, 1334 (Fed. Cir. 2005) (en banc).

Instant claim 1 does not recite the functions of the home network server, but only its location (i.e., in a subscriber's home). The claim is thus broad enough to cover either of a server for a home network and a server on a home network. Appellant could

have amended the claim consistent with how appellant wants the claim to be interpreted. “An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.” In re Zletz, F.2d 893 at 322, 13 USPQ2d at 1322.

Ellis teaches that the PCs that provide processing power may reside on home network systems (e.g., col. 17, ll. 22-40). Given the examiner’s broad but reasonable interpretation of instant claim 1, Ellis provides support for the examiner’s finding of anticipation.

Moreover, Ellis at column 8, line 59 through column 9, line 20 describes the types of computers that may be considered PCs in the context of the disclosure. The personal computers are described as including “network computers,” which would seem to include both of conventional server and client computers on the home network systems described elsewhere in Ellis. In this regard, we note that appellant’s disclosed Home Network Server 101 is “of conventional design.” (Spec. ¶ 23.)

While Ellis is not purported to teach providing the processing services of PC servers for home network systems to the exclusion of PC clients on the systems, we observe that instant claim 1 does not preclude access to the resources of client PCs on a home network.

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