

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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COMMERCE BANCSHARES, INC., COMPASS BANK, and FIRST  
NATIONAL BANK OF OMAHA,  
Petitioner,

v.

INTELLECTUAL VENTURES II LLC,  
Patent Owner.

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Case IPR2014-00801  
Patent 6,715,084 B2

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Before KRISTEN L. DROESCH, JENNIFER S. BISK, and  
JUSTIN BUSCH, *Administrative Patent Judges*.

BISK, *Administrative Patent Judge*.

FINAL WRITTEN DECISION  
*35 U.S.C. § 318(a) and 37 C.F.R. § 42.73*

## INTRODUCTION

### *A. Background*

Petitioner, Commerce Bancshares, Inc., Compass Bank, and First National Bank of Omaha, filed a Petition (Paper 1, “Pet.”) requesting an *inter partes* review of claims 1–33 of U.S. Patent No. 6,715,084 B2 (Ex. 1001, “the ’084 patent”). On December 1, 2014, we instituted a review (Paper 7, “Decision to Institute” or “Dec.”) based upon Petitioner’s assertion that claims 26, 28, and 30–33 are unpatentable, under 35 U.S.C. § 102(b), as anticipated by Aucsmith.<sup>1</sup> Dec. 18. Petitioner provides a Declaration from Dr. George Kesidis (Ex. 1003), and Patent Owner provides a Declaration from Dr. David Goldschlag (Ex. 2011).

This is a Final Written Decision under 35 U.S.C. § 318(a). Based on the record presented, we are persuaded that Petitioner has shown by a preponderance of the evidence that claims 26, 28, and 30–32 are unpatentable. We are not persuaded that Petitioner has shown by a preponderance of the evidence that claim 33 is unpatentable.

### *B. Related Matters*

At the time of filing the Petition in this proceeding, Petitioner filed another petition for *inter partes* review in IPR2014-00793 challenging claims 1–10 and 12–33 of the ’084 patent. We denied institution in that proceeding and denied Petitioner’s subsequent request for rehearing. *See* IPR2014-00793, Papers 7, 9.

Another petitioner also filed two petitions challenging claims of the ’084 patent in IPR2014-00681 and IPR2014-00682. We denied institution and a subsequent request for rehearing in IPR2014-00681. *See* IPR2014-

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<sup>1</sup> U.S. Patent Publication No. 2003/0110392 A1 (Ex. 1004) (“Aucsmith”).

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00681, Papers 11, 14. We instituted *inter partes* review in IPR2014-00682 on October 30, 2015. IPR2014-00682, Paper 11 (final written decision being issued concurrently).

Petitioner indicates that the '084 patent is the subject of concurrent proceedings in various district courts, at least one of which names Petitioner as a defendant. *See* Pet. 1–2.

### *C. The '084 Patent*

The '084 patent relates to network-based intrusion detection systems. Ex. 1001, 1:7–10. Intrusion detection systems are used to determine that a breach of computer security—access to computer resources by an unauthorized outsider—has occurred, is underway, or is beginning. *Id.* at 3:38–49. Conventional intrusion detection products and services are based on specialized equipment located on a customer's premises and are directed to the analysis of a single customer's data. *Id.* at 4:51–67. These systems may produce false alarms and are often unable to detect the earliest stages of network attacks. *Id.* In contrast, the broad-scope intrusion detection system disclosed in the '084 patent analyzes the traffic coming into multiple hosts or other customers' computers or sites, providing additional data for analysis, and, consequently, the ability to recognize intrusions that would otherwise be difficult or impossible to diagnose. *Id.* at 5:44–56. Because the data collection and processing center gathers information from multiple network devices, including potentially multiple customers, it has access to a broader scope of network activity. *Id.* at 8:13–21. This additional data allows for the recognition of additional patterns of suspicious activity beyond those detectable with conventional systems. *Id.* at 8:21–22.

Figure 2 of the '084 patent is reproduced below.

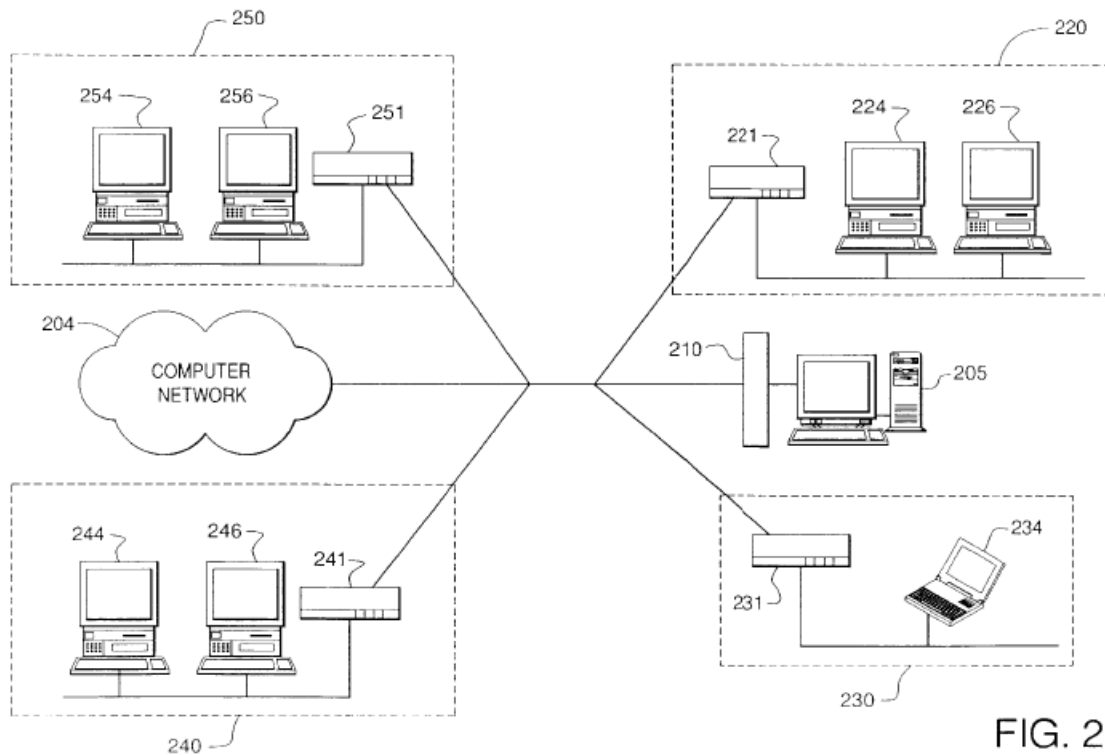


FIG. 2

Figure 2 shows a broad-scope intrusion detection system as described by the '084 patent. *Id.* at 6:50–52. A separately maintained data collection and processing center, comprising computer or server 205 and firewall 210, is coupled to network 204. *Id.* at 7:18–20. The data collection and processing center receives information from the various network devices coupled to network 204. *Id.* at 7:33–36. “For example, all communications sent to each host 220, 230, 240, 250 are forwarded to, or otherwise captured by, the data collection and processing center.” *Id.* at 7:36–39. The '084 patent also discloses that “certain devices can be used as sensors to sense data traffic and pass their findings on to the data collection and processing center.” *Id.* at 7:45–47.

To detect intrusions, the '084 patent describes a “multi-stage technique” of collecting suspicious network traffic events, forwarding those

events to a central database and analysis engine, and then using pattern correlations to determine suspected intrusion-oriented activity. Ex. 1001, 8:23–31. Upon detection of suspected malicious activity, adjustments to devices such as firewalls can be made to focus sensitivity on attacks from suspected sources or against suspected targets. *Id.* at 8:31–35, 10:49–67. In addition, if any intrusions or attempted intrusions have been detected, appropriate alerts or notifications can be transmitted to pertinent devices. *Id.* at 10:62–65.

*D. Claims at Issue*

Of the claims at issue, claim 26 is independent. Claims 28, 30, 31, and 33 depend from claim 26. Claim 32 depends from claim 31. Claim 26 recites:

26. A data collection and processing center comprising a computer with a firewall coupled to a computer network, the data collection and processing center monitoring data communicated to the network, and detecting an anomaly in the network using network-based intrusion detection techniques comprising analyzing data entering into a plurality of hosts, servers, and computer sites in the networked computer system.

ANALYSIS

*A. Claim Construction*

For purposes of the Decision to Institute we expressly construed the terms “anomaly” and “determining which . . . are anticipated to be affected by the anomaly.” Dec. 7–9. In its response, Patent Owner does not address explicitly the construction of any claim terms, including the two discussed in the Decision to Institute. Paper 13 (“PO Resp.”). Petitioner also does not address explicitly the constructions adopted by the Decision to Institute.

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