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Lockheed Martin and Withrow & Terranova 100 Regency Forest Drive Suite 160 Cary, NC 27518			ALGAHAIM, HELAL A	
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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* STEVEN GORDON PRESTON, THOMAS HANS PENNER,  
and EDWARD STEVE KAPROCKI

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Appeal 2010-006487  
Application 11/340,264  
Technology Center 3600

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Before NEAL E. ABRAMS, JAMES P. CALVE,  
and BRADFORD E. KILE, *Administrative Patent Judges*.

ABRAMS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Steven Gordon Preston et al. (Appellants) seek our review under 35 U.S.C. § 134 from the Examiner's decision rejecting claims 1-3 and 5-10. We have jurisdiction over the appeal under 35 U.S.C. § 6(b).

We REVERSE.

## THE INVENTION

The claimed invention is directed to a method on a computer unit for calculating and transmitting position data in order to conserve battery power.

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

1. A method on a computer unit for calculating and transmitting position data, comprising:
  - monitoring motion of the unit;
  - if motion of the unit is detected,
    - initiating a start sequence of the unit, comprising:
      - initiating a cold start sequence of the unit if an amount of time that has passed since a previous step of calculating position data is greater than a first threshold value;
      - initiating a warm start sequence of the unit if the amount of time is less than the first threshold value but greater than a second threshold value;
      - initiating a hot start sequence of the unit if the amount of time is less than a the second threshold value;
    - calculating current position data of the unit using the Global Positioning System (GPS);
    - calculating a difference between the current position data of the unit and a previous position data of the unit; and
    - transmitting the current position data of the unit if the difference is greater than a threshold value.

## THE PRIOR ART

The Examiner relied upon the following as evidence of unpatentability:

Yoldi	US 2002/0142783 A1	Oct. 3, 2002
Flick	US 6,798,356 B2	Sep. 28, 2004

### THE REJECTION

Claims 1-3 and 5-10 stand rejected as under 35 U.S.C. § 103(a) as being unpatentable over Flick in view of Yoldi.

### OPINION

A key step in the method recited in independent claim 1 is “initiating a start sequence” of a computer unit if motion of the computer unit has been detected, with choices of a “cold start sequence,” a “warm start sequence,” and a “hot start sequence” to do so, depending upon the amount of time that has passed since a previous step of calculating position data as compared to certain threshold values. It is the Examiner’s opinion that all of the subject matter set forth in independent claim 1 is taught by Flick, except that **“Flick does not explicitly disclose** initiating a start-sequence of the unit.” Ans. 3. The Examiner then refers to paragraphs [0001] and [0019] of Yoldi in support of the conclusion Yoldi “discloses this limitation” and it would have been obvious to one of ordinary skill in the art to **“incorporate the teaching of Yoldi in [the] Flick invention to determined [sic] the position of the GPS receive[d] at a reduced acquisition time.”** Ans. 3-4. In response to Appellants’ arguments, the Examiner has set forth the definitions of the three starting sequences as presented in Yoldi’s paragraphs [0001] and [0019], followed by the conclusion that “[t]herefore, Yoldi meets the scope of the limitations as currently claimed.” Ans. 6-7.

For each of the claimed start sequences, Appellants argue that neither Flick nor Yoldi provide a disclosure of the elements considered in selecting which start sequence to initiate, and that the Examiner merely refers to

paragraphs [0001] and [0019] of Yoldi but fails to explain where these elements are found in Yoldi, or to provide a comparison of elements in Yoldi with those recited in the claim. Thus, Appellants conclude, Yoldi does not support the Examiner's conclusion that the combined teachings of Flick and Yoldi render the subject matter of claim 1 obvious. Br. 4-8.

According to Yoldi, “[a] cold start” is utilized “when the receiver has no almanac data and lacks ephemeris and time and/or location information,” a “warm start” when “a GPS unit has valid almanac and reasonably accurate time and location information, but lacks ephemeris data,” and a “hot start” when “the receiver has valid ephemeris data and reasonably accurate position and time data.” Para. [0019]. Yoldi has further stated that a “cold start” is a situation in which the GPS receiver “does not have much information,” which “happens the first time that a user turns on a GPS receiver, or when the user has traveled a long distance (more than 1000Km) from the previous position of operation of the GPS receiver.” Para. [0001].

Appellants have defined “cold start mode” as “wherein the GPS device has not been turned on for a long period of time, or the GPS device has moved a great distance from the last position calculation of the device,” “hot start mode” as “wherein the GPS device has been turned off for a very short period of time and the GPS device is in the same or near the last position calculation of the device,” and “warm start mode” as “between cold start and hot start and refers to a mode wherein the GPS device has not been turned off for a long period of time, and the GPS device has not moved a great distance from the last position calculation of the device.” Spec. [0045].

However, the dispositive issue in evaluating the Examiner's rejection is not whether the definitions of the various "starts" in Yoldi are the same as those disclosed by Appellants, but the criteria by which a particular one of the three "start sequences" is selected to be initiated. Appellants' claim 1 first requires the steps of monitoring motion of the computer unit and, if motion of the unit is detected, initiating a "start sequence." A "cold start sequence" is initiated "if an amount of time that has passed since the previous step of calculating position data is greater than a first threshold value," a "warm start sequence" is initiated "if the amount of time is less than the first threshold value but greater than a second threshold value," and a "hot start sequence" is initiated "if the amount of time is less than the second threshold value." Thus, the method of claim 1 bases the selection of the appropriate start sequence upon the amount of time that has passed since a previous step of calculating position data was performed when compared to first and second threshold values. This is not the case in the method disclosed in Yoldi, where the selection of a "start sequence" is governed by the presence or absence in the computer unit of almanac data, ephemeris data, time data, and location data, as is shown in a chart (fig. 3) and explained in paragraph [0019]. Yoldi does not explicitly teach establishing first and second time threshold values and then basing the selection of the "start sequence" to be initiated on time comparisons with those values, and the Examiner has failed to explain why, notwithstanding the different "start sequence" selection criteria disclosed in Yoldi, the reference nevertheless renders obvious the time-based manner required by Appellants' claim 1.

Therefore, the combined teachings of Flick and Yoldi do not establish that the subject matter recited in independent claim 1 would have been

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obvious to one of ordinary skill in the art. This being the case, the rejection of independent claim 1 is reversed, as is the rejection of claims 2, 3, and 5-10, which depend from claim 1.

**DECISION**

The rejection of claims 1-3 and 5-10 under 35 U.S.C. § 103(a) as being unpatentable over Flick in view of Yoldi is reversed.

**REVERSED**

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