



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/415,272	05/02/2006	Mitchell Scott Wills	206683	3648
91959	7590	01/30/2013	EXAMINER	
GE GPO- Transportation- The Small Patent Law Group			TO, TUAN C	
PO Box 861			ART UNIT	PAPER NUMBER
2 Corporate Drive, Suite 648			3662	
Shelton, CT 06484			MAIL DATE	DELIVERY MODE
			01/30/2013	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MITCHELL SCOTT WILLS, JOANNE MACEO,
RANDALL MARKLEY, JOEL KICKBUSCH,
and ERDEM TELATAR

Appeal 2011-000446
Application 11/415,272
Technology Center 3600

Before: LINDA E. HORNER, JOHN W. MORRISON, and
SCOTT E. KAMHOLZ, *Administrative Patent Judges*.

KAMHOLZ, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellants appeal under 35 U.S.C. § 134(a) from the decision of the Examiner to reject claims 1-13 under 35 U.S.C. § 103(a) as being unpatentable over Morariu (US 2006/0074544 A1; pub. Apr. 6, 2006). We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

THE CLAIMED SUBJECT MATTER

The claimed subject matter is directed to methods of planning the movement of trains using route protection to prevent thrashing during route optimization. Spec., para. [0014]. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method of planning the movement of plural trains over a rail network comprising:
 - (a) providing a first movement plan for a train, said first movement plan including a plurality of portions;
 - (b) monitoring the actual movement of the train;
 - (c) evaluating the actual movement of the train in a computer system against the planned movement;
 - (d) providing a second movement plan for the train to account for deviations of the actual train movement from the first movement plan;
 - (e) evaluating the first movement plan against the second movement plan;
 - (f) preventing modification to a first portion of the first movement plan if the difference between the first and second movement plan is less than a predetermined threshold; and
 - (g) modifying a second portion of the first movement plan to account for the deviations.

ANALYSIS

The Examiner found that Morariu discloses all limitations of claim 1 except “preventing modification to a first portion of the first movement plan if the difference between the first and second movement plan is less than a predetermined threshold.” Ans. 3-4. The Examiner further found and concluded:

However, Morariu et al teaches “computer software [that] generates a plurality of train movement plans, modifies those plans to account for unexpected changes to expected railroad train operation[s], and selects an optimized train movement plan. This software-based method and system thus re-plans the movement of trains in a dynamic environment, such as a dynamically changing railroad network” (see Morariu et al’s summary, paragraph 0027). Morariu et al. further discloses in paragraph 0091 that the plan monitor (58) compares the current state (68) of the railroad (12) against the movement plan (70) that is currently executing in order to determine if re-planning is necessary.

It would have been obvious to one having ordinary skill the art at the time the invention was made to modify the dynamic optimized traffic planning method, system, and computer software as provided by Morariu et al. to limit the change for the current executing plan if the second plan is nearly similar to the first traffic movement plan in order to meet the planning schedule.

Ans. 4-5.

The Examiner’s conclusion of obviousness is not supported by identification of a preponderance of evidence in the record tending to show that it would have been obvious to prevent modification of a first portion of a first movement plan in view of Morariu’s teachings. Even if it would have been obvious to modify Morariu “to limit the change for the current executing plan if the second plan is nearly similar to the first traffic

movement plan,” the Examiner’s reasoning does not explain how the evidence of record establishes that it would have been obvious to *prevent* modification to a *particular portion* of a first movement plan when the first and second movement plans differ from one another by less than a threshold amount. We do not hold that the Examiner’s conclusion is in error, but simply that it is not supported by sufficient articulated reasoning and rational underpinning. As such, we are constrained to reverse the rejection of claim 1 and its dependent claims.

The Examiner’s grounds for rejecting claims 5 and 10 are insufficient for analogous reasons. We therefore must reverse the rejection as to these claims and their dependent claims as well.

DECISION

For the above reasons, the Examiner’s decision to reject claims 1-13 is REVERSED.

REVERSED

hh