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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/748,808	03/29/2010	Jayanta Basak	IN920100003US1 (790.055)	5962
89885	7590	11/30/2016	EXAMINER	
FERENCE & ASSOCIATES LLC 409 BROAD STREET PITTSBURGH, PA 15143			MISIASZEK, MICHAEL	
			ART UNIT	PAPER NUMBER
			3625	
			MAIL DATE	DELIVERY MODE
			11/30/2016	PAPER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JAYANTA BASAK and
DEVASENAPATHI P. SEETHARAMAKRISHNAN

Appeal 2014-006870
Application 12/748,808
Technology Center 3600

Before JOSEPH A. FISCHETTI, BIBHU R. MOHANTY, and KENNETH
G. SCHOPFER, *Administrative Patent Judges*.

MOHANTY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

The Appellants seek our review under 35 U.S.C. § 134 of the final rejection of claims 1-20 which are all the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

SUMMARY OF THE DECISION

We AFFIRM.

THE INVENTION

The Appellants' claimed invention is directed to a method for electric vehicles to buy and sell energy from each other directly (Spec., para. 7).

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

1. A method comprising:
 - utilizing a processor to execute computer code configured to perform the steps of:
 - ascertaining an electric energy imbalance in a vehicle at least partly powered by electric power; and
 - performing the following steps directly with respect to one or more other vehicles at least partly powered by electric power:
 - broadcasting the imbalance to one or more other vehicles;
 - said broadcasting comprising broadcasting an opening price for energy to redress the imbalance;
 - listening for one or more bids from the one or more other vehicles;
 - deciding on whether to accept a bid from another vehicle; and
 - collecting identifying information from a vehicle from which a bid is accepted.

THE REJECTIONS

The following rejections are before us for review:

1. Claims 1-9 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.
2. Claims 1-7, 10-16, 19, and 20 are rejected under 35 U.S.C. § 102(e) as anticipated by Kamen et al. (US 2011/0025267 A1; Feb. 3, 2011).
3. Claims 8, 9, 17, and 18 are rejected under 35 U.S.C. § 103(a) as unpatentable over Kamen and Haller et al. (US 2009/0030828 A1; Jan. 29, 2009).

FINDINGS OF FACT

We have determined that the findings of fact in the Analysis section below are supported at least by a preponderance of the evidence¹.

ANALYSIS

Rejection under 35 U.S.C. § 101

The rejection under 35 U.S.C. § 101 has been maintained (Ans. 2, 3). The Appellants have not provided any arguments in regards to this rejection in the Appeal Brief and therefore, accordingly, this rejection is summarily affirmed.

Rejections under 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a)

The Appellants have argued that the rejection of claim 1 is improper because the rejection does not disclose a “vehicle-to-vehicle” market for providing electric charges to vehicles and instead uses third party specially designated charging vehicles for that purpose (App. Br. 14, 15).

In contrast, the Examiner has determined that the rejection is proper (Ans. 3, 4, 7, 8).

We agree with the Examiner. Here, despite the Appellants arguments, the claims do not specifically exclude a third party “charging vehicle” from being used as the “vehicle[s] at least partly powered by electric power”. Thus, Kamen’s charging vehicle 104 at para. 33 meets the argued claim limitation. Regardless, Kamen at Figures 6, 12, and paragraphs 60-64 and

¹ See *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Patent Office).

114 describe other embodiments in which a charging vehicle does not have to be used and instead other sources including a different “electric vehicle” may be used (see para. 114 and Fig. 12). For this reason the rejection of claim 1 under 35 U.S.C. § 102(e) is sustained. The Appellants have provided the same arguments for the rejected claims 2-19 and the rejection of these claims is sustained for the same reasons given above.

With regards to claim 20 the Appellants argue that the rejection fails to disclose the claim limitation for “a localization system to assist in locating the vehicle for which an electric energy imbalance is ascertained with respect to a least one of the one or more other vehicles” (App. Br. 15).

Here, the Appellants has provided what the claim recites without any additional argument. A statement that merely points out what a claim recites will not be considered an argument for separate patentability of the claim. 37 C.F.R. 41.37(o)(1). Regardless, the rejection cites to Kamen at para. 36 to disclose this claimed feature and this portion discloses the use of a GPS receiver to determine vehicle location which would serve as the claimed “localization system to assist in locating the vehicle” and meet the cited claim limitation. Accordingly, the rejection of claim 20 is affirmed.

CONCLUSIONS OF LAW

We conclude that Appellants have not shown that the Examiner erred in rejecting the claims as listed in the Rejections section above.

DECISION

The Examiner’s rejection of claims 1-20 affirmed.

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Application 12/748,808

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED