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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte EDWARD D. IOLI

Appeal 2014-006875
Application 13/679,854¹
Technology Center 3600

Before ANTON W. FETTING, NINA L. MEDLOCK, and
ROBERT J. SILVERMAN, *Administrative Patent Judges*.

SILVERMAN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

The Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's decision rejecting claims 21–40. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

¹ “The real party in interest in this appeal is EDWARD D. IOLI TRUST.”
Appeal Br. 2.

ILLUSTRATIVE CLAIM

21. A method of processing a transaction for a parking session between a parking system and a payment provider on behalf of a user, wherein the user facilitates the transaction through a mobile computing device connected to a remote server, the method comprising:

on the mobile computing device of the user, storing a user identifier;

first receiving a parking identifier, then sending the user identifier and the parking identifier to the server;

on the server, receiving the user identifier and the parking identifier;

retrieving parking system information based on the parking identifier;

retrieving payment provider information based on the user identifier;

processing a transaction between the payment provider and parking system, wherein the transaction amount is based on a duration of the parking session;

wherein the parking session has a start time and an end time, wherein the start time is determined from the time a start condition is met, the end time is determined from the time an end condition is met, and the parking session duration is the difference between the end time and start time.

CITED REFERENCES

The Examiner relies upon the following references:

Husemann et al. (hereinafter "Husemann")	US 2001/0037264 A1	Nov. 1, 2001
Admasu et al. (hereinafter "Admasu")	US 2002/0032601 A1	Mar. 14, 2002
Odinak	US 2002/0143611 A1	Oct. 3, 2002
Levy	US 6,493,676 B1	Dec. 10, 2002

Hjelmvik	US 6,519,329 B1	Feb. 11, 2003
Han et al. (hereinafter “Han”)	US 2004/0039632 A1	Feb. 26, 2004
Chatterjee et al. (hereinafter “Chatterjee”)	US 2004/0068433 A1	Apr. 8, 2004
Brusseaux	US 7,319,974 B1	Jan. 15, 2008

REJECTIONS

- I. Claims 21, 24, 27, 28, 36, 38, and 40 are rejected under 35 U.S.C. § 102(e) as anticipated by Han.
- II. Claims 22 and 23 are rejected under 35 U.S.C. § 103(a) as unpatentable over Han and Hjelmvik.
- III. Claim 25 is rejected under 35 U.S.C. § 103(a) as unpatentable over Han and Admasu.
- IV. Claims 26 and 39 are rejected under 35 U.S.C. § 103(a) as unpatentable over Han and Odinak.
- V. Claims 29 and 31–35 are rejected under 35 U.S.C. § 103(a) as unpatentable over Han, Husemann, Odinak, and Brusseaux.
- VI. Claim 30 is rejected under 35 U.S.C. § 103(a) as unpatentable over Han, Husemann, Odinak, Brusseaux, and Chatterjee.
- VII. Claim 37 is rejected under 35 U.S.C. § 103(a) as unpatentable over Han and Levy.

FINDINGS OF FACT

The findings of fact relied upon, which are supported by a preponderance of the evidence, appear in the following Analysis.

ANALYSIS

Independent Claim 21 and Dependent Claims 22–28

The Appellant contends that Han fails to disclose “retrieving parking system information based on the parking identifier,” as recited in claim 21. Appeal Br. 7–8.

The Examiner’s position is that Han meets this limitation, through a disclosure of retrieving parking fee information (i.e., the claimed “retrieving parking system information”) that depends upon the information corresponding to the location where the user parks (i.e., the claimed “parking identifier”). Final Action 7 (citing Han ¶¶ 25, 39–40); Answer 5 (citing Han ¶¶ 25, 39–40).

But, as the Appellant correctly points out (Appeal Br. 7–8, 12) Han does not disclose different rates for different parking areas or retrieving rate information based upon where the user parks.

Accordingly, the Examiner erred in determining that Han teaches the identified limitation of claim 21.

Therefore, the rejection of claim 21 under 35 U.S.C. § 102(e) is not sustained.

For the same reason, we do not sustain the rejection of claims dependent from claim 21, as the Examiner’s rejections of these dependent claims do not cure the deficiency in the Examiner’s rejection of claim 21. Specifically, the rejection of claims 24, 27, and 28 under 35 U.S.C. § 102(e) is not sustained and the rejection of claims 22, 23, 25, and 26 under 35 U.S.C. § 103(a) is not sustained.

Independent Claim 29 and Dependent Claims 30–35

The Appellant contends that cited references do not teach “determining a parking provider based on the parking identifier using a processor,” as recited in independent claim 29. Appeal Br. 12. Further, the Appellant contends that the Examiner failed to provide an adequate reason for combining references to arrive at the limitation. *Id.*

The Examiner finds that Brusseau teaches this limitation. Final Action 14 (citing Brusseau, col. 3, ll. 47–55, col. 4, ll. 27–34). In addition, the Examiner determines:

It would have been obvious to one of ordinary skill in the art at the time of the invention to include determining a parking provider based on the parking identifier using a processor as taught by Brusseau in the method of Han in view of [the other references relied upon], since . . . one of ordinary skill in the art would have recognized that the results of the combination were predictable in order to account for different parking prices for different areas in a parking lot of Han.

Id. See also Answer 8 (“Brusseau was combined with Han in order to allow differentiated pricing of the parking areas of Han.”)

The Appellant contends that the reason for combining the teachings of Brusseau and the other references is lacking because, as discussed above (in regard to claim 21), the Examiner’s pivotal finding — i.e., that Han teaches different pricing for different parking areas — is erroneous and, therefore, cannot support the Examiner’s reason for combining Brusseau with Han.

We agree with the Appellant that the absence of any disclosure in Han for different parking rates undermines the Examiner’s reason for combining Brusseau with Han and the other references.

Accordingly, the Examiner erred in determining that Han teaches the identified limitation of claim 29, such that the rejection of claim 29 under 35 U.S.C. § 103(a) is not sustained.

For the same reason, we do not sustain the rejection of claims dependent from claim 29, as the Examiner's rejections of these dependent claims do not cure the deficiency in the Examiner's rejection of claim 29. Specifically, the rejection of claims 30–35 under 35 U.S.C. § 103(a) is not sustained.

Independent Claim 36 and Dependent Claims 37–40

The Appellant contends that Han fails to disclose “electronically retrieving parking supplier information based on the parking identifier,” as recited in claim 36. Appeal Br. 9.

The Examiner cites the same portions of Han discussed above (in regard to claim 21) as satisfying this limitation. Final Action 8 (citing Han ¶¶ 25, 39–40). The Examiner's Answer relies upon its discussion of claim 21, as articulating the Examiner's position regarding claim 36. Answer 6.

For the same reasons presented above (regarding whether Han teaches “retrieving parking system information based on the parking identifier,” per claim 21), we find that Han also does not teach “retrieving parking supplier information based on the parking identifier,” as required by claim 36.

Accordingly, the Examiner erred in determining that Han teaches the identified limitation of claim 36, such that the rejection of claim 36 under 35 U.S.C. § 102(e) is not sustained.

For the same reason, we do not sustain the rejection of claims dependent from claim 36, as the Examiner's rejections of these dependent

Appeal 2014-006875
Application 13/679,854

claims do not cure the deficiency in the Examiner's rejection of claim 36. Specifically, the rejection of claims 38 and 40 under 35 U.S.C. § 102(e) is not sustained and the rejection of claims 37 and 39 under 35 U.S.C. § 103(a) is not sustained.

DECISION

We REVERSE the Examiner's decision rejecting claims 21, 24, 27, 28, 36, 38, and 40 under 35 U.S.C. § 102(e).

We REVERSE the Examiner's decision rejecting claims 22, 23, 25, 26, 29–35, 37, and 39 under 35 U.S.C. § 103(a).

REVERSED