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EXAMINER

REINHARDT, RICHARD G

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ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte GARY STEVEN STRUMOLO

Appeal 2014-008802
Application 12/981,719¹
Technology Center 3600

Before HUBERT C. LORIN, KENNETH G. SCHOPFER, and
MATTHEW S. MEYERS, Administrative Patent Judges.

LORIN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Gary Steven Strumolo (Appellant) seeks our review under 35 U.S.C. § 134 of the final rejection of claims 1–3 and 6–21. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

SUMMARY OF DECISION

We AFFIRM.

¹ The Appellant identifies Ford Global Technologies, LLC as the real party in interest. Br. 2.

THE INVENTION

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

1. A computer-implemented method for providing health information in a vehicle, the computer-implemented method comprising:

receiving at a vehicle computer geographic location information of a vehicle;

receiving at the vehicle computer health information for one or more vehicle occupants;

determining that the vehicle is en route to a destination based on the geographic location information;

identifying one or more dining establishments on the destination route, from which to receive information pertaining to menu items of the dining establishment including nutritional information for the menu items;

receiving at the vehicle computer the menu item information including the nutritional information for the menu items; and

presenting at the vehicle computer dining suggestions based on the health information, the menu item information, and the nutritional information for the menu items.

THE REJECTIONS

The Examiner relies upon the following as evidence of unpatentability:

Nixon	US 6,128,482	Oct. 3, 2000
Mault	US 2003/0208409 A1	Nov. 6, 2003

The following rejections are before us for review:

1. Claims 1–3, 6–13, and 15–21 are rejected under 35 U.S.C. § 102(b) as being anticipated by Mault.²
2. Claim 14 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Mault and Nixon.

ISSUES

Did the Examiner err in rejecting claims 1–3, 6–13, and 15–21 under 35 U.S.C. § 102(b) as being anticipated by Mault?

Did the Examiner err in rejecting claim 14 under 35 U.S.C. § 103(a) as being unpatentable over Mault and Nixon?

FINDINGS OF FACT

We rely on the Examiner’s factual findings stated in the Answer. Additional findings of fact may appear in the Analysis below.

ANALYSIS

The rejection of claims 1–3, 6–13, and 15–21 under 35 U.S.C. § 102(b) as being anticipated by Mault.

The Appellant argued these claims as a group. *See* Br. 6–7. We select claim 1 as the representative claim for this group, and the remaining claims 2, 3, 6–13, and 15–21 stand or fall with claim 1. 37 C.F.R. § 41.37(c)(1)(iv).

² The statements of the rejection in both the Brief and the Answer include claims 4 and 5. However, those claims were cancelled. *See* Final Act. 2.

The Appellant argues that Mault does not describe the claim limitation “identifying one or more dining establishments on the destination route.”

Br. 6.

Relying on para. 89 and Figure 12, the Examiner finds that Mault describes generating directions to a restaurant and showing “a map display having directions to a chosen restaurant.” Final Act. 6.

The Appellant argues that

[i]n the claims, the process determines that a user is en-route to a destination. Then, restaurants along the route are determined. The restaurants are determined based on an already existing route, according to the claims.

Br. 6.

The Appellant’s argument is unpersuasive as to error in said finding. As the Examiner has pointed out (*see* Ans. 3), claim 1 is not so limited. Claim 1 does not require determining a *user* is en-route to a destination and *then* “identifying one or more dining establishments on the destination route” (claim 1). The Appellant’s argument is not commensurate in scope with what is claimed and for that reason cannot be persuasive as to error in the rejection.

The Appellant makes the same point in discussing claim 19. The Appellant argues that, with respect to Mault, “the information defining the venue would presumably be received (according to the prior art) before the route ever existed” (Br. 7), implying that the claimed process operates differently. In fact, when reasonably broadly construed, claim 1 is sufficiently broad to read on “identifying one or more dining establishments on the destination route” where said one or more dining establishments on the destination route were “received . . . before the route ever existed.” The

Appellant's argument is not commensurate in scope with what is claimed and for that reason cannot be persuasive as to error in the rejection.

There being no other persuasive arguments, for the foregoing reasons, the rejection is sustained.

The rejection of claim 14 under 35 U.S.C. § 103(a) as being unpatentable over Mault and Nixon.

There is no substantive argument challenging this rejection except to rely on the argument challenging the rejection under § 102. Br. 8. That argument having been found unpersuasive as to error in that rejection, it is unpersuasive as to this rejection as well. The rejection is sustained.

CONCLUSIONS

The rejection of claims 1–3, 6–13, and 15–21 under 35 U.S.C. § 102(b) as being anticipated by Mault is affirmed.

The rejection of claim 14 under 35 U.S.C. § 103(a) as being unpatentable over Mault and Nixon is affirmed.

DECISION

The decision of the Examiner to reject claims 1–3 and 6–21 is affirmed.

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