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EXAMINER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte OTMAN A. BASIR, WILLIAM BEN MINERS, and
VLADIMIR FILIPPOV

Appeal 2015-001072
Application 12/508,789
Technology Center 3600

Before EDWARD A. BROWN, GEORGE R. HOSKINS, and
ARTHUR M. PESLAK, *Administrative Patent Judges*.

PESLAK, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Otman A. Basir et al. (“Appellants”) appeal under 35 U.S.C. § 134(a) from the Examiner’s decision rejecting claims 1–15 and 21–29.¹ We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

¹ Appellants submit the real party in interest is Intelligent Mechatronic Systems Inc. Appeal Br. 1.

THE CLAIMED SUBJECT MATTER

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

1. A vehicle communication system comprising:
a mobile communication device; and
a control unit in a vehicle, the control unit having an OFF state, an ON state, and a LOW POWER state, the control unit comprising:
a wireless communication module communicating wirelessly with the mobile communication device; and
a power management module commanding the control unit to enter the ON state in response to each of a vehicle ignition event, a vehicle running condition, an incoming wireless command signal, and environmental stimuli.

REJECTIONS

- 1) Claims 1–5, 7, 10, and 21–28 are rejected under 35 U.S.C. § 103(a) as unpatentable over Gillespie (US 6,367,022 B1, iss. Apr. 2, 2002) and Park (US 6,148,212, iss. Nov. 14, 2000).
- 2) Claims 6, 11, and 29 are rejected under 35 U.S.C. § 103(a) as unpatentable over Gillespie, Park, and Basir (US 2007/0042812 A1, pub. Feb. 22, 2007).
- 3) Claim 8 is rejected under 35 U.S.C. § 103(a) as unpatentable over Gillespie, Park, Basir, Ghoneim (US 2007/0032913 A1, pub. Feb. 8, 2007), and Kirkhart (US 6,282,495 B1, iss. Aug. 28, 2001).
- 4) Claim 9 is rejected under 35 U.S.C. § 103(a) as unpatentable over Gillespie, Park, Basir, and Ghoneim.
- 5) Claims 12–15 are rejected under 35 U.S.C. § 103(a) as unpatentable over Gillespie, Park, and Hung (US 2003/0227390 A1, pub. Dec. 11, 2003).

DISCUSSION

Rejection 1

The Examiner finds that Gillespie discloses all the limitations of claim 1 except “the wireless communication module communicating wirelessly with the mobile communication device; or the power management module commanding the control unit to enter the ON state in response to a wireless command signal.” Final Act. 4. The Examiner finds that Park discloses “[a] receiver (220, 230) coupled to the electrical system (202) [that] is configured to link the mobile phone (210) and electrical system (202) such that the electrical system (202) selectively actuates the vehicle car alarm . . . and the like in response to signals from the mobile phone.” *Id.*, citing Park, Fig. 2, col. 3, ll. 23–50. The Examiner concludes that it would have been obvious “to apply the control system linking vehicle system operation and mobile phone commands as per Park to the system of Gillespie since doing so would enhance the system by providing interactivity between a mobile phone and an automobile.” *Id.* at 5.

Appellants contend that Gillespie does not disclose the recited mobile communication device. Appeal Br. 2. Appellants argue that the Examiner’s finding that the recited wireless communication module reads on Gillespie’s chip set 14 is erroneous because Gillespie’s “chip set 14 provides interfaces between the processor and memory, hard drives and CD-Rom.” *Id.*, citing Gillespie, col. 3, ll. 8–16.

The Examiner responds that “Gillespie discloses ‘a mobile communication device’ . . . in that the transceiver powered by the circuitry (10,12) is necessarily configured to wirelessly transmit and/or receive data from signal transmission systems and such signal transmission systems are

not meaningfully distinguishable from the claimed ‘mobile communication device.’” Ans. 4. The Examiner also finds that the recited wireless communication module reads on Gillespie’s transceiver because the “transceiver is configured to wirelessly transmit and/or receive data from wireless communications devices using power from the circuitry.” *Id.* at 5, citing Gillespie, col. 3, ll. 62–68. Appellants reply that Gillespie’s transceiver is not a mobile communication device because it “is installed in the vehicle.” Reply Br. 1. For the following reasons, we do not sustain the rejection of claim 1.

We first construe the phrase “mobile communication device” as recited in claim 1. We give claim terms their broadest reasonable interpretation consistent with the Specification as it would be interpreted by one of ordinary skill in the art. *See In re Suitco Surface, Inc.*, 603 F.3d 1255, 1259–60 (Fed. Cir. 2010); *In re Morris*, 127 F.3d 1048, 1054–55 (Fed. Cir. 1997).

Appellants’ invention relates to “a power management aspect of a system for managing and communicating information while in a vehicle.” Spec. ¶ 2. The Specification describes a control unit 11 “communicat[ing] wirelessly with a cell phone, PDA, or other mobile communication device 12 (hereinafter ‘mobile device’).” Spec. ¶ 12; *see also* Fig. 1. Appellants’ Figure 1 illustrates that mobile communication device 12 is not physically connected to, and communicates wirelessly with, control unit 11 in vehicle 8. *Id.* Wireless communication between control unit 11 and the mobile communication device is effected by “Bluetooth (or other wireless communication) modules 40.” *Id.* ¶ 24. Based on the foregoing, we conclude that one of ordinary skill in the art would reasonably understand

the phrase “mobile communication device,” as used in claim 1, to be a communication device, capable of wireless communication, such as a cellular phone or PDA that is mobile and not installed in the vehicle.

Gillespie discloses a power management strategy for a vehicle multimedia system. Gillespie, Abstract. In order to implement the power management strategy, Gillespie discloses an apparatus with various electronic components mounted to, or otherwise functionally connected to, motherboard 10. *See, e.g., id.* at col. 2, l. 66–col. 3, l. 16, Fig. 1.

The Examiner finds that the recited “mobile communication device” and “wireless communication module” both read on Gillespie’s wireless transceiver. Ans. 3–5. The Examiner, however, does not direct us to any disclosure in Gillespie that the wireless transceiver, or any other element of the apparatus disclosed in Gillespie, constitutes a “mobile communication device” as we have construed that phrase. Further, claim 1 recites “a wireless communication module *communicating wirelessly with the mobile communication device.*” The Examiner’s findings that Gillespie’s wireless transceiver is both a mobile communication device and a wireless communication module results in Gillespie’s wireless transceiver communicating wirelessly with itself, thus, rendering the italicized limitation nugatory. The Examiner’s finding that the recited mobile communication device reads on Gillespie’s wireless transceiver is not supported by the disclosure in Gillespie. As the rejection of claim 1 is based on erroneous factual findings, the conclusion of obviousness cannot stand. *See In re Warner*, 379 F.2d 1011, 1017 (CCPA 1967) (holding that “[t]he legal conclusion of obviousness must be supported by facts. Where the legal conclusion is not supported by facts it cannot stand”). Therefore, we do not

sustain the rejection of claim 1 under 35 U.S.C. § 103(a). Claims 2–5, 7, 10, 21, and 22 all depend from claim 1. Appeal Br. 8–10 (Claims App.). We do not sustain the rejection of claims 2–5, 7, 10, 21, and 22 under 35 U.S.C. § 103(a) for the same reasons as for claim 1.

Independent claim 23 recites, *inter alia*, “a mobile communication device movable by a user in and out of a vehicle” and “a wireless communication module communicating wirelessly with the mobile communication device.” Appeal Br. 10 (Claims App.). As with claim 1, the Examiner finds that Gillespie discloses the recited mobile communication device, but fails to disclose the additional limitation in claim 23 that the mobile communication device is “movable by a user in and out of a vehicle.” Final Act. 10. The Examiner finds that Park discloses a mobile communication device moveable by a user in and out of a vehicle. *Id.*; Ans. 14. Appellants contend that Gillespie does not disclose a “mobile communication device movable by a user in and out of a vehicle.” Appeal Br. 6. The Examiner responds that there is no assertion in the rejection that Gillespie makes such a disclosure. Ans. 14. We determined above, in connection with claim 1, that the Examiner’s findings that the recited mobile communication device reads on Gillespie’s wireless transceiver is not supported by the disclosure in Gillespie. We do not sustain the rejection of claim 23 for the same reason as claim 1 because the Examiner relies on Gillespie for disclosing a mobile communication device, apart from the further limitation “movable by a user in and out of the vehicle.” We also do not sustain the rejection of claims 24–28 which all ultimately depend from claim 23.

Rejections 2–5

The Examiner rejects claims 6, 11, and 29 as unpatentable over Gillespie, Park, and Basir. Final Act. 13. Claims 6 and 11 depend from claim 1 and claim 29 depends from claim 23. Appeal Br. 9, 11 (Claims App.). The Examiner does not rely on Basir to cure the deficiencies in the combination of Gillespie and Park discussed above for claims 1 and 23. Final Act. 14–16. Therefore, we do not sustain the rejection of claims 6, 11, and 29 for the same reasons stated above for claims 1 and 23.

The Examiner rejects claim 8 as unpatentable over Gillespie, Park, Basir, Ghoneim, and Kirkhart. Final Act. 16. Claim 8 is dependent on claim 1. Appeal Br. 9 (Claims App.). The Examiner does not rely on Basir, Ghoneim, or Kirkhart to cure the deficiencies in the combination of Gillespie and Park discussed above for claim 1. Final Act. 17. Therefore, we do not sustain the rejection of claim 8 for the same reasons stated above for claim 1.

The Examiner rejects claim 9 as unpatentable over Gillespie, Park, Basir, and Ghoneim. Final Act. 18. Claim 9 is dependent on claim 1. Appeal Br. 9 (Claims App.). The Examiner does not rely on Basir and Ghoneim to cure the deficiencies in the combination of Gillespie and Park discussed above for claim 1. Therefore, we do not sustain the rejection of claim 9 for the same reasons stated above for claim 1.

The Examiner rejects claims 12–15 as unpatentable over Gillespie, Park, and Hung. Final Act. 19. Claims 12–15 are dependent on claim 1. Appeal Br. 9–10 (Claims App.). The Examiner does not rely on Hung to cure the deficiencies in the combination of Gillespie and Park discussed

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above for claim 1. Therefore, we do not sustain the rejection of claims 12–15 for the same reasons stated above for claim 1.

DECISION

The Examiner's decision rejecting claims 1–15 and 21–29 is reversed.

REVERSED