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BROOKS KUSHMAN P.C./FGTL 1000 TOWN CENTER 22ND FLOOR SOUTHFIELD, MI 48075-1238			SMITH, ISAAC G	
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* ANTHONY MARK PHILLIPS,  
GEORGIA-EVANGELIA KATSARGYRI, MING LANG KUANG,  
ILYA VLADIMIR KOLMANOVSKY, JOHN OTTAVIO MICHELINI,  
MUNTHERR ABDULLAH DAHLEH, and MICHAEL DAVID RINEHART

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Appeal 2015-001179  
Application 13/157,533  
Technology Center 3600

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Before JOHN C. KERINS, AMANDA F. WIEKER, and  
SEAN P. O'HANLON, *Administrative Patent Judges*.

O'HANLON, *Administrative Patent Judge*.

DECISION ON APPEAL

### STATEMENT OF THE CASE

Anthony Mark Phillips et al. (Appellants)<sup>1</sup> appeal under 35 U.S.C. § 134 from the Examiner’s December 13, 2013 final decision (“Final Act.”) rejecting claims 1, 4, 5, 9, 11, 14, 15, and 19.<sup>2</sup> We have jurisdiction over this appeal under 35 U.S.C. § 6(b).

We AFFIRM.

### SUMMARY OF INVENTION

Appellants’ claimed invention “relates to path-dependent control of hybrid electric vehicles.” Spec. ¶ 2. Claim 1, reproduced below from the Claims Appendix of the Appeal Brief, is illustrative of the claimed subject matter:

1. A method comprising:
  - segmenting a route into segments corresponding to a change in vehicle speed and road grade;
  - generating battery state-of-charge (SoC) set-points for the segments based on length, vehicle speed, and road grade of the segments individually and such that each segment has sufficient length enabling vehicle control so that battery SoC at the end of each segment equals the segment’s set-point; and
  - controlling a vehicle traveling along the route according to the set-points.

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<sup>1</sup> According to Appellants, the real party in interest is Ford Global Technologies, LLC. App. Br. 2. References to the Appeal Brief (“App. Br.”) herein are to the brief filed on May 13, 2014.

<sup>2</sup> Claims 2, 3, 6–8, 10, 12, 13, 16–18, and 20 are canceled. October 3, 2013 Amendment.

## REFERENCES

The Examiner relies on the following prior art references in rejecting the claims on appeal:

Tryon	US 2005/0228553 A1	Oct. 13, 2005
Koebler	US 2007/0112475 A1	May 17, 2007
Li	US 2009/0259363 A1	Oct. 15, 2009
Yamada	US 8,433,466 B2	Apr. 30, 2013

## REJECTIONS

Claims 1, 4, 5, 11, 14, and 15 are rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Yamada, Li, and Koebler.

Claims 9 and 19 are rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Yamada, Li, Koebler, and Tryon.

## ANALYSIS

### *Rejection Based on Yamada, Li, and Koebler*

Appellants argue claims 1, 4, 5, 11, 14, and 15 together. App. Br. 3–5. We select claim 1 as representative, treating claims 4, 5, 11, 14, and 15 as standing or falling with representative claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv).

The Examiner finds that Yamada discloses the invention substantially as claimed, including, *inter alia*, segmenting a route into segments and determining battery state-of-charge (“SoC”) values for each segment, but “does not explicitly teach ‘set-points’” or “‘segmenting a route into segments corresponding to a change in vehicle speed and road grade . . . .’”

Final Act. 6–10 (bold font omitted). The Examiner finds that Li teaches determining a battery SoC for the end of each segment of a route and using such SoCs as reference points, and that Koebler “teaches segmenting a route by speed changes and road grade.” *Id.* at 10. The Examiner reasons that it would have been obvious to a skilled artisan to modify the invention of Yamada with the teachings of Li and Koebler “so that ‘the state of charge reaches a defined threshold at the end of the trip route’ ([Li ¶ 4]) and for ‘optimizing the power consumption of the vehicle’ ([Koebler, Abstract]).” *Id.*

Appellants traverse, arguing that

none of Yamada, Li, and Koebler, alone or in combination, teach or suggest the generation of the set-points being based on length, vehicle speed, and road grade of the segments individually and such that each segment has sufficient length enabling vehicle control so that battery SoC at the end of each segment equals the segment’s set-point pursuant to independent claim 1.

App. Br. 5; *see also* Reply Br. 2.

Appellants merely recite language of claim 1 and summarily state that the limitations therein are not found in the cited references. Therefore, Appellants do not apprise us of error in the Examiner’s findings or reasoning. *See* 37 C.F.R. § 41.37(c)(1)(iv); *In re Lovin*, 652 F.3d 1349, 1357 (Fed. Cir. 2011) (“[T]he Board reasonably interpreted Rule 41.37 to require more substantive arguments in an appeal brief than a mere recitation of the claim elements and a naked assertion that the corresponding elements were not found in the prior art.”). To the extent that Appellants argue the cited references do not disclose segmenting the route into segments having a

“sufficient length” (*see* Reply Br. 2), we note that the Examiner sets forth an interpretation of the “sufficient length” recitation and explains how each of Yamada, Li, and Koebler satisfies the segmenting and generating requirements of claim 1. Final Act. 2–6. Appellants have not addressed these (or any of the Examiner’s other) findings, and Appellants’ naked assertion fails to apprise us of any error.

Accordingly, we sustain the rejection of claim 1, as well as of claims 4, 5, 11, 14, and 15, which fall with claim 1.

*Rejection Based on Yamada, Li, Koebler, and Tryon*

With respect to the rejection of claims 9 and 19, Appellants rely only on the arguments presented above in regards to the rejection of claim 1. App. Br. 6. Accordingly, for the same reasons as discussed above, we also sustain the rejection of claims 9 and 19.

DECISION

The Examiner’s decision to reject claims 1, 4, 5, 9, 11, 14, 15, and 19 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