



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/857,145	08/16/2010	Mark Schunder	83142493	3462

28395 7590 12/02/2016
BROOKS KUSHMAN P.C./FGTL
1000 TOWN CENTER
22ND FLOOR
SOUTHFIELD, MI 48075-1238

EXAMINER

MCCULLOUGH, MICHAEL C

ART UNIT	PAPER NUMBER
----------	--------------

3653

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

12/02/2016

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docteting@brookskushman.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MARK SCHUNDER and JULIUS MARCHWICKI

Appeal 2015-001188
Application 12/857,145
Technology Center 3600

Before WILLIAM A. CAPP, LEE L. STEPINA, and SEAN P. O'HANLON,
Administrative Patent Judges.

O'HANLON, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Mark Schunder and Julius Marchwicki (Appellants)¹ appeal under 35 U.S.C. § 134 from the Examiner's December 24, 2013 final decision ("Final Act.") rejecting claims 1–20. We have jurisdiction over this appeal under 35 U.S.C. § 6(b).

SUMMARY OF DECISION

We AFFIRM.

¹ According to Appellants, the real party in interest is Ford Global Technologies, LLC. Br. 1.

SUMMARY OF INVENTION

Appellants' claimed invention "relate[s] to the use and control of a vehicle computing system." Spec. 1:8–9. Claim 1, reproduced below from the Claims Appendix of the Appeal Brief with paragraph structure modified, is illustrative of the claimed subject matter:

1. A vehicle computing system (VCS) comprising:
 - a user interface comprising one or more output components and one or more input components; and
 - software executing in a VCS memory, programmed with rules to reduce driver distraction by preventing input or output during vehicle operation under certain rule-defined conditions, the software being configured to:
 - intercept input from at least one input component;
 - intercept output to at least one output component;
 - evaluate the intercepted input or output in conjunction with current driving conditions for one or more rule violations; and
 - prevent input processing or output if one or more rule violations are detected.

REJECTIONS²

Claims 1–3, 6, and 8–15 are rejected under pre-AIA 35 U.S.C. § 102(b) as being anticipated by Goudy (US 2006/0142917 A1, pub. June 29, 2006).

Claims 4, 5, 7, and 17–20 are rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Goudy and Irani (US 2007/0072616 A1, pub. Mar. 29, 2007).

² The rejection of claims 1–9 under pre-AIA 35 U.S.C. § 112, second paragraph, is withdrawn. Ans. 3; Adv. Act. 1.

Claim 16 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Goudy.

ANALYSIS

Anticipation Rejections

Claims 1–3, 6, 8, and 9

The Examiner finds that Goudy discloses all of the elements of independent claim 1, including, *inter alia*, a vehicle computing system comprising software configured to intercept inputs to or outputs from the vehicle computing system, and to evaluate the intercepted input or output in conjunction with current driving conditions for one or more rule violations. Final Act. 3 (citing Goudy ¶¶ 22, 26, 27, 34, Fig. 1). The Examiner cites Goudy paragraphs 26 and 34 as disclosing the interception of inputs/outputs. *Id.* Goudy paragraph 26 discloses that information interface 16 allows operation of infotainment devices 20 when risk level information received from information task manager 14 is less than the priority level information of such devices, and disables operation of infotainment devices 20 when the risk level information is greater than the device priority level. Goudy ¶ 26. Goudy paragraph 34 discloses that when the applicable risk and priority level information dictate that a phone call is not permitted, the system may nonetheless allow a call to be placed/received if it is to/from a predefined “critical number.” *Id.* ¶ 34. Thus, Goudy discloses that if the circumstances warrant, operation of an infotainment device is prevented unless such operation is excepted as being critical.

Appellants traverse, arguing that with the Goudy system, “[t]here is no interception of input or output, [and] there is no evaluation of input or

output.” Br. 5. Rather, Appellants continue, “the [Goudy] system is simply disabled, and it is disabled on the basis of an evaluation . . . of the priority of the system compared to a current risk level.” *Id.* Appellants further argue that the Goudy system lacks “any evaluation of the call ‘in conjunction with current driving conditions’ ‘for one or more rule violations.’” *Id.* at 6. We are not persuaded by these arguments.

Appellants acknowledge that Goudy discloses “when the risk level is above the infotainment system priority level, the infotainment system is disabled,” but argue that this disabling of infotainment devices does not constitute interception and evaluation of inputs or outputs. *Id.* at 5. Appellants do not offer an explanation as to why Goudy’s disabling of infotainment devices does not amount to an interception, evaluation, and prevention of the use of such devices. However, in their Specification, Appellants describe “intercept” to indicate that an incoming or outgoing signal is passed through the vehicle computer system where it is evaluated for a rule violation prior to being processed. Spec. 2:15–30. As the Examiner correctly notes, the Goudy system calculates priority level information for an incoming/outgoing call, evaluates the priority information relative to risk level information, and, if the risk level is greater than the priority level, prevents further processing of the incoming/outgoing call. Final Act. 3; *see also* Goudy ¶ 26. Appellants’ summary arguments fail to apprise us of why Goudy’s process does not constitute intercepting the incoming/outgoing call, evaluating the intercepted call, and preventing further processing of such call as required by claim 1. Thus, Appellants have failed to apprise us of any error in the Examiner’s findings or reasoning.

We are also unpersuaded by Appellants' argument that Goudy's evaluation is not "in conjunction with current driving conditions." Br. 6. As correctly noted by the Examiner, Goudy's risk level information (which, as explained above, is part of the evaluating step) is based on driving conditions such as external driving environment, vehicle position, driver actions, and vehicle dynamics. Ans. 4; *see also* Goudy ¶ 19.

Accordingly, for the foregoing reasons, we sustain the Examiner's rejection of independent claim 1 as being anticipated by Goudy. Appellants do not make any other substantive argument regarding the rejection of dependent claims 2, 3, 6, 8, and 9. *See* Br. 7. Therefore, we likewise sustain the rejection of dependent claims 2, 3, 6, 8, and 9.

Claims 10–15

The Examiner finds that Goudy discloses all of the elements of independent claim 10, including, *inter alia*, a computer-implemented method of controlling operation of a vehicle computing system comprising receiving, at the vehicle computing system, one or more limits associated with inputs to or outputs from the vehicle computing system. Final Act. 4–5 (citing Goudy ¶¶ 19, 20, 26, 27, 34, Fig. 1). The Examiner cites Goudy paragraphs 19 and 20 as disclosing receiving, at a vehicle computing system, one or more predefined limits associated with inputs to or outputs from the vehicle computing system. *Id.* at 4. These paragraphs disclose that Goudy's task manager system assigns a risk level to sensed driving conditions, compares the risk level to a priority level associated with an infotainment device, and disables the device if the priority level is less than or equal to the risk level. Goudy ¶¶ 19–20. The Examiner clarifies that "the predefined

limits associated with inputs/outputs is the priority level of the device.”

Ans. 4.

Appellants traverse, arguing that the recited limit “is an active limit, not a threshold level, which is more akin to what is described in Goudy.”

Br. 8. Appellants cite their Specification at page 18, lines 1–12 as

supporting their contention that claim 10 requires “active” limits. *Id.*

Continuing, Appellants allege that the Examiner’s interpretation of Goudy’s priority level as being the recited limit is improper because it is inconsistent with the additional recitation of claim 10 that “if limited, executing the one or more predefined limits.” *Id.* We are not persuaded by these arguments.

The Specification at page 18, lines 1–12 discusses the number of “clicks” required to reach a music menu, restarting the number of allowed “clicks,” and the services being either device-based or cloud-based.

However, we discern no support for Appellants’ contention that the recited “predefined limits” are active limits as opposed to threshold limits. We further agree with the Examiner (*see* Ans. 4) that Appellants’ arguments are directed to limitations not appearing in the claims, which cannot be relied upon for patentability. *In re Self*, 671 F.2d 1344, 1348 (CCPA 1982).

Regarding Appellants’ contention regarding the “if limited, executing the one or more predefined limits” recitation, Appellants’ summary argument does not apprise us why the Examiner’s interpretation that Goudy’s disabling of the infotainment device if the risk level is greater than the priority level does not constitute such executing.

Accordingly, for the foregoing reasons, we sustain the Examiner’s rejection of independent claim 10 as being anticipated by Goudy.

Appellants do not make any other substantive argument regarding the

rejection of dependent claims 11–15. *See* Br. 8. Therefore, we likewise sustain the rejection of dependent claims 11–15.

Obviousness Rejections Based on Goudy and Irani

Claims 4, 5, and 7

With respect to the rejection of claims 4, 5, and 7, Appellants rely on the arguments presented above in regard to the rejection of claim 1. Br. 8. Accordingly, for the same reasons as discussed above, we also sustain the rejection of claims 4, 5, and 7 as being unpatentable over Goudy and Irani.

Claims 17–20

The Examiner finds that Goudy teaches the invention substantially as claimed in independent claim 17, but does not disclose counting inputs to or outputs from a vehicle computer. Final Act. 7–8. The Examiner finds that Irani “discloses a similar device that includes counting the inputs or outputs for detecting a rule violation.” *Id.* at 8 (citing Irani ¶ 33, Table 1). According to the Examiner, “an incoming call can be construed as an input and an outgoing call can be construed as an output.” *Id.* at 10. The Examiner elaborates that “in order to place or a [sic] receive a call an input or output would need to be made.” Ans. 4.

Appellants traverse, arguing that Irani teaches “counting the number of calls made/received,” and “[c]alls are not inputs or outputs.” Br. 9. Continuing, Appellants assert that “[i]ntroducing call counting into [Goudy’s] system would not . . . result in counting inputs and/or outputs as claimed.” *Id.* We are not persuaded by Appellants’ arguments.

As noted by the Examiner, Irani discloses limiting the number of calls that can be made during operation of a vehicle to a predetermined number,

counting the number of calls made and received, and preventing any calls in excess of that predetermined number. Final Act. 8; *see also* Irani ¶ 33, Table 1. Appellants offer no support for their contention that “[c]alls are not inputs or outputs,” or for their intimation that such an exclusion is in keeping with the common usage of the terms “input” and “output.” Br. 9–10. Appellants’ summary arguments fail to apprise us of any error in the Examiner’s findings or reasoning.

Accordingly, for the foregoing reasons, we sustain the Examiner’s rejection of independent claim 17 as being unpatentable over Goudy and Irani. Appellants do not make any other substantive argument regarding the rejection of dependent claims 18–20. *See* Br. 10. Therefore, we likewise sustain the rejection of dependent claims 18–20.

Obviousness Rejection Based on Goudy

With respect to the rejection of claim 16, Appellants rely on the arguments presented above in regards to the rejection of claim 10. Br. 8–9. Accordingly, for the same reasons as discussed above, we also sustain the rejection of claim 16 as being unpatentable over Goudy.

DECISION

The Examiner’s decision to reject claims 1–20 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