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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ELIZABETH PROFITT-BROWN,
KELLY LEE ZECHEL, JOSEPH PAUL RORK,
BRIAN PETERSEN, and EDWARD ANDREW PLEET

Appeal 2015-002044
Application 12/985,492
Technology Center 3600

Before BRETT C. MARTIN, LYNNE H. BROWNE, and
JEFFREY A. STEPHENS, *Administrative Patent Judges*.

BROWNE, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Elizabeth Profitt-Brown et al. (Appellants) appeal under 35 U.S.C. § 134 from the rejection of claims 1–4, 6–12, and 14–16. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

CLAIMED SUBJECT MATTER

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

1. A computer-implemented method, executable by a vehicle associated computing system, comprising:
 - receiving a request for display of local refueling points;
 - determining current coordinates of vehicle;
 - determining one or more fuel point locations within a defined map range, including identification of at least one non-commercial charging point location; and
 - displaying a map display containing the current vehicle location and the location of the one or more fuel point locations.

REFERENCES

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Geelen	US 2004/0243307 A1	Dec. 2, 2004
Cox	US 2010/0106514 A1	Apr. 29, 2010
Lowenthal	US 2010/0211643 A1	Aug. 19, 2010

REJECTIONS

- I. Claims 1, 2, 9, and 10 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Geelen and Lowenthal.
- II. Claims 3, 4, 6–8, 11, 12, and 14–16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Geelen, Lowenthal, and Cox.

DISCUSSION

Rejection I

Appellants argue claims 1, 2, 9, and 10 together. *See* Br. 5–6. We select independent claim 1 as the illustrative claim, and claims 2, 9, and 10 stand or fall with claim 1.

The Examiner finds that Geelen discloses all of the limitations of claim 1 except for “identification of at least one non-commercial charging point location.” The Examiner further finds that “Lowenthal teaches this feature.” *Id.* at 3 (citing Lowenthal ¶¶ 4, 20). Based on these findings, the Examiner determines that it would have been obvious “to incorporate Lowenthal’s teaching into the system and method of Geelen to allow vehicle to be charged at a private charging station to improve system flexibility.” *Id.*

Appellants argue that:

in the cited portions of Lowenthal, the disclosure discusses that the charging station may be owned and operated by utility companies or owned and operated by private persons/companies. Mere ownership by a private entity does not make a station “noncommercial.” Many gas stations are owned by private companies and/or persons, and yet, they are all still commercial gas stations.

Br. 5.

Although we agree that Lowenthal does not explicitly state that its privately owned charging point locations are non-commercial, we understand Lowenthal’s teachings to implicitly encompass both commercial and non-commercial private charging point locations. Further, the Examiner finds that “there are charging stations installed around the world that are owned by private companies and/or persons and are not for commercial purposes.” Ans. 2. Thus, we understand the rejection to rely on Lowenthal’s implicit disclosure of non-commercial charging point locations and the

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Examiner's finding that such charging stations were known. Appellants do not contest the Examiner's finding or explain why Lowenthal's disclosure does not encompass non-commercial charging point locations. Accordingly, Appellants do not apprise us of error.

Appellants further argue that "there is no teaching or suggestion in Lowenthal of any identification of these stations within a defined map range." Br. 5. Appellants' argument is not responsive to the rejection as articulated by the Examiner, which relies upon Geelen, not Lowenthal for identification of locations within a defined map range. *See* Final Act. 3. Moreover, this argument attacks Lowenthal separately, rather than address the combined teachings of Geelen and Lowenthal. Nonobviousness cannot be established by attacking the references individually when the rejection is predicated upon a combination of prior art disclosures. *See In re Merck & Co., Inc.*, 800 F.2d 1091, 1097, (Fed. Cir. 1986). Thus, Appellants do not apprise us of error.

For these reasons, we sustain the Examiner's decision rejecting claim 1, and claims 2, 9, and 10 which fall therewith.

Rejection II

Appellants do not present separate arguments for the patentability of claims 3, 4, 6–8, 11, 12, and 14–16. *See* Br. 6. Rather, Appellants argue that Cox "does not cure the noted deficiencies of the Geelen/Lowenthal combination." *Id.* As we find no such deficiencies, we sustain the Examiner's decision rejecting claims 3, 4, 6–8, 11, 12, and 14–16.

DECISION

The Examiner's rejections of claims 1–4, 6–12, and 14–16 are
AFFIRMED.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED