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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* DORON M. ELLIOTT and YIPING XIA

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Appeal 2015-006542  
Application 13/672,121<sup>1</sup>  
Technology Center 2600

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Before KRISTEN L. DROESCH, CARL L. SILVERMAN, and  
JOYCE CRAIG, *Administrative Patent Judges*.

SILVERMAN, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1, 3–5, 8–11, 13, 15–17, and 19, which constitute all<sup>2</sup> the pending claims. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

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<sup>1</sup> The real party in interest is identified as Ford Global Technologies, LLC. App. Br. 2.

<sup>2</sup> Appellants' pending claims are listed incorrectly in the Appeal Brief and in the Final Action. Claims 2, 6, 7, 12, 14, 18, and 20 are listed in the Claims Appendix as cancelled. The prosecution history is consistent with the Claims Appendix.

## STATEMENT OF THE CASE

Appellants' invention relates to passing voice communications between a mobile device and a vehicle. Abstract; Spec. ¶ 1. Claim 1 is exemplary of the subject matter on appeal (disputed limitation emphasized):

1. A system comprising:

a processor configured to:

*receive a request, sent to an arbitrator application running on a mobile device, the request input at through a vehicle microphone, to activate a mobile-device voice input responsive application, wherein the request includes an indicator that further voice-input will be needed;*

responsive to the indicator included with the request, send, from the arbitrator application, indicia of an incoming call to a vehicle computing system (VCS);

receive access to an open voice channel originating at the VCS as part of a VCS hands-free call handling for a virtual phone call established by sending the indicia;

receive voice input over the hands-free call channel; and

pass the voice input to the mobile-device voice input responsive application.

App. Br. 1 (Claims Appendix).

## REJECTIONS

Claims 1, 3, 5, 8–10, 13, 15, 16, and 19 stand rejected under pre-AIA 35 U.S.C. §103(a) as being unpatentable over Tuerk et al. (US 2012/0015696 A1 published Jan. 19, 2012) (“Tuerk”) in view of Mozer et al. (US 2009/0204410 A1 published Aug. 13, 2009) (Mozer”). Final Act. 3–9.

Claims 4, 11, and 17 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Tuerk, Mozer, and Harada et al. (US 2007/0232335 A1 published Oct. 4, 2007) (“Harada”). Final Act. 9–10.

### ANALYSIS

Appellants argue Tuerk and Mozer do not teach the claim 1 limitation “receive a request, sent to an arbitrator application running on a mobile device, the request input at through a vehicle microphone, to activate a mobile-device voice input responsive application, wherein the request includes an indicator that further voice-input will be needed.” App. Br. 6–7.

Appellants argue Tuerk teaches a call initiator approach based on a request from an announcer module in which the announcer module is also part of the mobile device. App. Br. 6 (citing Tuerk ¶¶ 41, 44; Fig. 3). In particular, Appellants argue:

First, the request in Tuerk comes not from a vehicle microphone, but a mobile application running on the device. (Abstract, claim 24, [0006], [0075]). This application is already running, and further, even though Mozer has been included to introduce a vehicle microphone, the request is a digital request, and it is unclear how a request from an application running on a mobile device would be sent over the microphone connection provided by Mozer.

Second, the request in Tuerk is not the claimed “to activate a mobile-device voice input responsive application,” but rather a request to send an announcement from an *already running* application. (Abstract, claim 24, [0006], [0075]). Thus, in Tuerk, the initiation of a call is based on receipt of a request, from a mobile application executing on the wireless device, to output audio on a remote I/O device. This is wholly different from what

is claimed. Further, in the claims, the request also includes indication that further voice input will be needed, another feature lacking in Tuerk.

App. Br. 7.

In regard to Appellants' first argument, the Examiner finds:

Tuerk does not merely disclose making audio announcements as alleged by the appellant but also receiving voice commands from the user via a hands-free device (See Tuerk Fig. 6, Fig. 7A, [0069] "FIG. 6 depicts hands-free device 170 and headset device 180 as described in FIG. 1, each further comprising microphone (610, 620), and each, according to an embodiment, able to receive an audio stream from user 101. In an embodiment, this received audio stream can be relayed to mobile application 140 via audio gateway 110 and announcer module 130.

As would be appreciated by one having skill in the relevant art, this audio stream can be used by mobile application 140 to perform a variety of functions, including specifying an address to which to navigate and performing an internet search based on search terms spoken." and [0070] "FIG. 7A depicts an embodiment implementing audio capture that is similar to the embodiment described in FIG. 4A, where audio gateway 110 uses a "call initiation" approach to establish an audio channel with I/O device 410. In an embodiment depicted in FIG. 7A, the steps described in FIG. 4A are followed but additionally, after NTAA 436A is where the audio gateway 110 receive an audio stream from user 101 ... ").

Therefore it would be clear to one of ordinary skill in the art to modify Tuerk to include that the request is input on a vehicle microphone, as taught by Mozer, in order to provide user-friendly voice interface between the user, a vehicle embedded simple electronic device, and a mobile device (Mozer [0024]).

Ans. 3.

Additionally, it is well known to convert voice request to digital as taught by Mozer in the paragraph in cited rejection (See Mozer [0078] "An electronic device with a voice user interface may include a microphone, an amplifier, and an analog to digital converter to convert the audible sounds to digital signals. The session may be initiated by a speaking a keyword or phrase such as "turn on" or other audio signal, for example ... "). The examiner further notes that the claim language is broader than alleged by the appellant. The claim merely states "receive a request, sent to an arbitrator application running on a mobile device, the request input at through a vehicle microphone, ... " which does not clearly specify that the arbitrator application receives the request directly from a vehicle microphone.

Ans. 4.

Regarding Appellants' second argument, the Examiner determines the plain meaning and broadest reasonable interpretation of the phrase "to activate" does not require that the application must not be previously running. Ans. 4. The Examiner explains "to activate," within the broadest reasonable interpretation of the phrase, includes "to act" or "to cause an application to perform an action." *Id.* at 5. The Examiner finds:

Tuerk discloses to activate a mobile-device voice input responsive application (See Tuerk Fig. 7 A, [0044], [0070] 11 •• audio gateway 110 is configured to, upon the request of announcer module 130, perform a sequence of steps that are the substantial equivalent of the initiation of a telephone call. .. "), where the cited portions of Tuerk show that the audio gateway application performs actions in response to receiving the request, wherein the audio gateway application is a voice input responsive application as discussed above (See Tuerk Fig. 6, [0069], [0070]).

Ans. 5.

The Examiner finds Tuerk does not lack the indication as alleged by the Appellants because Tuerk discloses the request includes an indicator that further voice input will be needed included with the request. Ans. 5 (citing Tuerk ¶ 44, Fig 7 A). In particular, the Examiner finds “a request to initiate a two-way telephone call in order to receive further user voice is in itself an indicator that further voice input will be needed.” *Id.*

We are not persuaded by Appellants’ arguments and agree, instead, with the Examiner’s findings and claim interpretation. Appellants present insufficient persuasive explanation or evidence that the Examiner’s interpretation of the claim terms “to activate” and “receive a request, sent to an arbitrator application” is unreasonable or overbroad. Claim terms in a patent application are given the broadest reasonable interpretation consistent with the Specification, as understood by one of ordinary skill in the art. *In re Crush*, 393 F.3d 1253, 1256 (Fed. Cir. 2004).

Moreover, Appellants argue the references individually whereas the rejection is based on the combination of the references. *In re Keller*, 642 F.2d 413, 426 (CCPA 1981)(“[O]ne cannot show non-obviousness by attacking references individually where, as here, the rejections are based on combinations of references” (citations omitted)); *In re Merck & Co., Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986).

The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. *See Keller*, 642 F.2d at 425.

As stated by the Supreme Court, the Examiner's obviousness rejection must be based on:

[S]ome articulated reasoning with some rational underpinning to support the legal conclusion of obviousness . . . [H]owever, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.

*KSR Int'l. Co. v. Teleflex, Inc.*, 550 U.S. 398, 418 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)).

The Examiner's findings are reasonable because the skilled artisan would "be able to fit the teachings of multiple patents together like pieces of a puzzle" since the skilled artisan is "a person of ordinary creativity, not an automaton." *KSR*, 550 U.S. at 420–21.

In view of the above, we sustain the rejection of claim 1, and independent claims 9 and 15 which recite the disputed limitation and are argued together with claim 1. App. Br. 7. We also sustain the rejection of dependent claims 2–5, 8, 10, 11, 13, 14, 16, 17, and 19–20 as these claims are not argued separately. *Id*; see 37 C.F.R. § 41.37(c)(1)(iv).

#### DECISION

We affirm the Examiner's decision rejecting claims 1, 3–5, 8–11, 13, 15–17, and 19.

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