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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte WILLIAM O. CAMP, JR. and PHILIP MARC JOHNSON

Appeal 2015-006876
Application 11/550,169
Technology Center 2600

Before ELENI MANTIS MERCADER, JAMES W. DEJMEK, and
ALEX S. YAP, *Administrative Patent Judges*.

YAP, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants¹ appeal under 35 U.S.C. § 134(a) from the final rejection of claims 24–28, 30, and 32–49, which are all the claims pending in this application.² We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ According to Appellants, the real party in interest is Sony Mobile Communications. (App. Br. 1.)

² Claims 1–23, 29, and 31 are cancelled. (App. Br. 2.)

STATEMENT OF THE CASE

Introduction

Appellants' invention "relates to the field of electronic devices in general and, more particularly, to mobile communication terminals."

(Oct. 17, 2006 Specification ("Spec.") ¶ 1.)

Claim 24 is illustrative, and is reproduced below:

24. A mobile communication device comprising:
a close-range communications transceiver, at the mobile communication device, operable to receive a close-range communication signal from a network; and
a short-range wireless communications transceiver, at the mobile communication device, operable to be enabled to communicate with the network responsive to the received close-range communication signals,
wherein the close-range communications transceiver is operable to receive a disable signal from the network, wherein the short-range wireless communications transceiver is disabled responsive to the disable signal, and wherein the disable signal is responsive to a user terminating access to a short-range access point or to the mobile communication device leaving a short-range communications coverage area.

Prior Art and Rejections on Appeal

The following table lists the prior art relied upon by the Examiner in rejecting the claims on appeal:

Xydis	US 2005/0044424 A1	Feb. 24, 2005
Pitchers	US 2006/0111042 A1	May 25, 2006
Hurwitz et al. ("Hurwitz")	US 2006/0128350 A1	June 15, 2006
Dua	US 2006/0165060 A1	July 27, 2006
Chia	US 2006/0223536 A1	Oct. 5, 2006

Claims 24–27 and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Xydis in view of Chia. (Final Office Action (mailed July 15, 2014) (“Final Act.”) 2–5.)

Claim 28 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Xydis in view of Chia, and further in view of Dua. (Final Act. 5.)

Claims 32–34, 36, and 44³–48 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chia in view of Hurwitz. (Final Office Action (mailed July 15, 2014) (“Final Act.”) 6–10.)

Claims 39–41 and 43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rofougaran in view of Chia, and further in view of Pitchers. (Final Act. 10–13.)

Claims 35, 37, 38, and 49 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chia in view of Hurwitz, and further in view of Dua. (Final Act. 13–17.)

Claim 42 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Rofougaran in view of Chia and Pitchers, and further in view of Dua. (Final Act. 17–19.)

³ With regard to dependent claim 44, we note that the Examiner made an inadvertent error in not including the references cited for the rejection of independent claim 39, which claim 44 depends from. Appellants do not raise this issue, but it is apparent that claim 44 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Rofougaran in view of Chia and Pitchers, and further in view of Hurwitz.

ANALYSIS

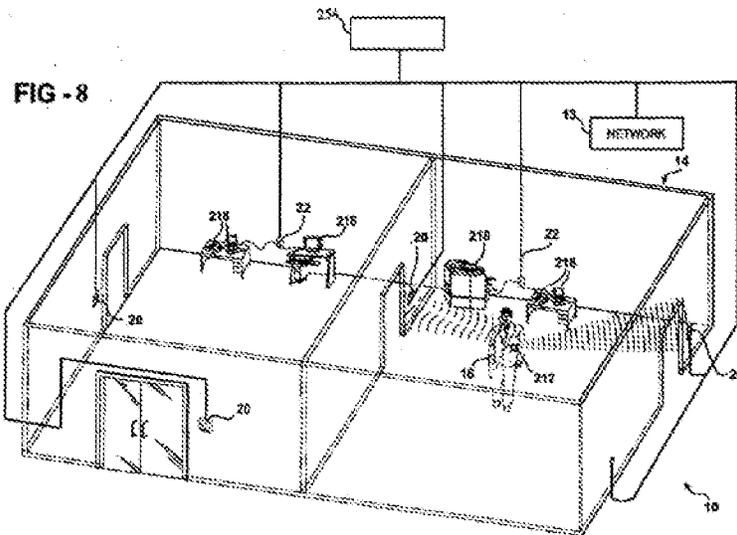
We have reviewed the Examiner's rejections in light of Appellants' arguments that the Examiner has erred. We adopt the Examiner's findings in the Answer and Final Action and we add the following primarily for emphasis.

Claims 24–28 and 30

With respect to claim 24, the Examiner finds:

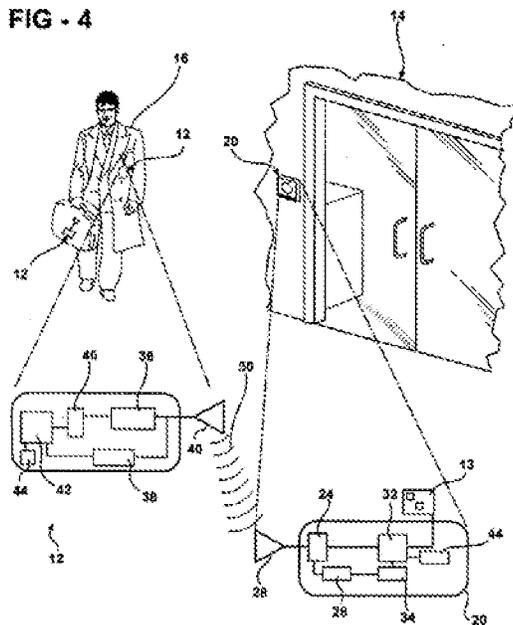
[Although] Xydis fails to disclose the particulars of the first transceiver being a close-range transceiver and the second transceiver being a short-range transceiver both located at the mobile device[,] the examiner maintains that it was well known in the art to provide the first transceiver being a close-range transceiver and the second transceiver being a short-range transceiver both located at the mobile communication device, as taught by Chia.

(Final Act. 3.) Xydis teaches “a method of allowing access to an electronic device (218) disposed in a working space (14) by a user (16) having a remote device (212). An initial signal is transmitted from an access point (20) instructing the remote device (212) to respond after a delay period.” (Xydis, Abstract, emphasis omitted.) Figures 8 and 4 of Xydis are reproduced below.



“FIG. 8 [depicts] a perspective view of the working space having a plurality of access points and a plurality of electronic devices disposed therein.”

(Xydis ¶ 19, emphasis omitted.)



“FIG. 4 [depicts] an exploded view of the user having a second electronic device and an access point for establishing communication between the second electronic device and the access point.” (*Id.* ¶ 15, emphasis omitted.)

Appellants contend that:

a person having ordinary skill in the art would understand that modifying the access point 20 (the alleged “first transceiver”) in FIG. 1 [] of Xydis to be a close-range transceiver using a low-power, close-range protocol at a mobile communication device would **prevent the access point 20 from operating as an access point.**

...

[This is because] a person having ordinary skill in the art would understand, upon viewing FIG. 1 of Xydis, that *low-power, close-range communications would be an **insufficient substitute for the longer-range, higher-power access point 20 communications** of Xydis.* (See Final Action, page 21.) *For example, the present application publication discusses low-power, close-range communications with a range of a few inches.* (Present Application Publication, paragraphs [0042]-[0045].) Appellant respectfully submits that a person having ordinary skill in the art would understand that replacing the communications in FIG. 1 of Xydis with communications using low power and a close range (e.g., a range of a few inches) would prevent the longer-range, higher-power access point 20 communications illustrated in FIG. 1 of Xydis, which **longer-range, higher-power access point 20 communications in FIG. 1 of Xydis appear to require a range of at least several feet and are provided with a plurality of devices 12 and 18.**

(App. Br. 5–6, bold and underline in original, italics added.) In other words, Appellants contend that the “close-range communication signal” of claim 24 is limited to “a range of a few inches” per an embodiment in the Specification. (Spec. ¶ 45 (“As shown in the embodiments of Figure 1, a mobile terminal 100 can include a mobile near-field-communication (NFC)

transceiver 102 that can wirelessly communicate with another NFC transceiver when the two transceivers are in very close proximity, such as within several inches of one another”).) The Examiner responds that “Xydis provides an illustration of [a] close-range embodiment[in F]igure 4 [and] further note[s] that RF tokens, cards, badges, and the like routinely utilize close-range communication protocols.” (Ans. 20.) Appellants reply that Figure “4 of Xydis is merely an **enlarged/expanded view** of Xydis’ user 16 and access point 20, which does **not** disclose or suggest a **different embodiment** from that of FIG. 1 of Xydis.” (Reply 4.)

Appellants’ argument is unpersuasive because it is not commensurate with the scope of the claim. Although claim 24 is *silent* regarding the range of the “close-range communication signal,” we decline to limit the scope of the claim to an embodiment in the Specification. *See In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989) (holding that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims). Appellants have not offered persuasive argument and/or evidence that the Examiner’s interpretation is overly broad or unreasonable.⁴ Further, we observe that the Specification, in discussing NFC, discloses that “[c]lose proximity in some embodiments can be within a range of five feet.” (Spec. ¶ 58.) Therefore, we agree with the Examiner’s finding that:

it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Xydis by specifically providing the first transceiver being a close range transceiver and the second transceiver being a short-range transceiver located at

⁴ Because “applicants may amend claims to narrow their scope, a broad construction during prosecution creates no unfairness to the applicant or patentee.” *In re ICON Health and Fitness, Inc.*, 496 F.3d 1374, 1379 (Fed. Cir. 2007) (citation omitted).

the mobile communication device, as taught by Chia, for the purpose of controlling the second wireless communication using a low power close range protocol.

(Final Act. 4.)

For the foregoing reasons, we are not persuaded the Examiner erred in rejecting claim 24 such that we sustain the 35 U.S.C. § 103(a) rejection of claim 24. Appellants do not make any separate, substantive patentability arguments regarding dependent claims 25–28 and 30, but instead rely solely on the arguments with respect to claim 24. (App. Br. 10.) Therefore, for similar reasons as provided for claim 24, we also sustain the 35 U.S.C. § 103(a) rejections of claims 25–28 and 30.

Claims 32–38 and 45–49

Claim 32 recites, in part, “disabling a short-range wireless transceiver in the mobile terminal responsive to receipt of a near-field termination signal.” The Examiner finds that:

[Although] Chia fails to disclose disabling a short-range wireless transceiver in the mobile terminal responsive to receipt of a near-field termination signal . . . it was well known in the art to provide disabling a short-range wireless transceiver in the mobile terminal responsive to receipt of a near-field termination signal, wherein the termination signal is responsive to a user terminating access to a short-range access point or to the mobile terminal leaving a short-range . . . communications coverage area, as taught by Hurwitz.

(Final Act. 6–7 (citing to Hurwitz ¶ 24).) Appellants disagree and contend that “Hurwitz discusses disabling client transceivers from receiving communications from communication nodes 140 [only] **upon selecting a host**. (See Hurwitz, FIG. 4, Block 410 and paragraphs [0008], [0019], and [0024].)” (App. Br. 8, emphasis in original; Reply 4–5.)

We are not persuaded that Appellants have shown the Examiner erred. Moreover, we agree with the Examiner's finding that Hurwitz, for example in paragraph 24, teaches or suggests that "a short-range wireless transceiver in a mobile terminal [is disabled in] respons[e] to receipt of a near-field termination signal." (Ans. 21; Final Act. 6–7.)

For the foregoing reasons, we are not persuaded the Examiner erred in rejecting claim 32 such that we sustain the 35 U.S.C. § 103(a) rejection of claim 32. Appellants do not make any separate, substantive patentability arguments regarding independent claim 45 and dependent claims 33–38 and 46–49, but instead rely solely on the arguments with respect to claim 32. (App. Br. 8, 10.) Therefore, for similar reasons as provided for claim 32, we also sustain the 35 U.S.C. § 103(a) rejections of claims 33–38 and 46–49.

Claims 39–44

Claim 39 recites, in part, "a second mobile transceiver operable to transmit LAN access data beyond the dual-mode mobile terminal to a second network transceiver in the LAN through a short-range communication link in response to the receipt of the access data." The Examiner finds that:

it was well known in the art to provide a second mobile transceiver that communicates LAN access data through a short-range communication link in response to the receipt of the access data, as taught by Pitchers.

. . . In addition, Pitchers discloses [that] if both wireless transceiver modules include such a controller, the mediator can provide blocking signals to either one of the controllers of a wireless transceiver module in response to an enabled transmission involving the other wireless transceiver module, as disclosed in paragraph [0018].

(Final Act. 12.) Appellants contend that because

Pitchers discusses a "blocking signal" that is generated by a mediator 160 within an electronic device 100 to block

transmissions of a second wireless transceiver module 140 that is also **within** the electronic device 100 . . . [t]he **internal** use of blocking signals between Pitchers' mediator 160 and second wireless transceiver module 140 is **not** synonymous with a dual-mode mobile terminal's mobile transceiver that is operable to communicate LAN access data **beyond** the dual-mode.

(App. Br. 9–10, emphasis in original.) The Examiner disagrees and notes that:

the claims call for *LAN access data* to be transmitted via the second network transceiver in response to the receipt of *access data (which is deemed to be different and distinct from the LAN access data)* at the first network transceiver, because the claim does not give great detail on the specifics of the LAN access data and access data the examiner interprets the transmitted data from the second wireless transceiver and received data by the first transceiver to respectfully read on LAN access data and access data.

(Ans. 22, emphasis added.) Appellants do not directly address the Examiner's response. (See Reply 4(repeating their contention that "Pitchers is still directed toward an internal use of blocking signals between Pitchers' mediator 160 and second wireless transceiver module 140") (emphasis omitted).) We are not persuaded that Appellants have shown the Examiner erred. Appellants have not offered persuasive argument and/or evidence that the Examiner's interpretation is overly broad or unreasonable. Moreover, we agree with the Examiner's findings regarding this limitation.

For the foregoing reasons, we are not persuaded the Examiner erred in rejecting claim 39 such that we sustain the 35 U.S.C. § 103(a) rejection of claim 39. Appellants do not make any separate, substantive patentability arguments regarding dependent claims 40–44, but instead rely solely on the arguments with respect to claim 39. (App. Br. 10.) Therefore, for similar

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reasons as provided for claim 24, we also sustain the 35 U.S.C. § 103(a) rejections of claims 40–44.

DECISION

We affirm the Examiner’s decision rejecting claims 24–28, 30, and 32–49 under 35 U.S.C. § 103(a).

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