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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* HUNG TACK KWAN and SHIJU MATHAI

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Appeal 2015-008188  
Application 13/735,002  
Technology Center 2400

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Before MAHSHID D. SAADAT, JOHNNY A. KUMAR, and  
JON M. JURGOVAN, *Administrative Patent Judges*.

JURGOVAN, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants<sup>1</sup> seek review under 35 U.S.C. § 134(a) from the Final Rejection of claims 1–15. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.<sup>2</sup>

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<sup>1</sup> Appellants identify International Business Machines Corporation as the real party in interest. (App. Br. 2.)

<sup>2</sup> Our Decision refers to the Specification filed Jan. 6, 2013 (“Spec.”), the Final Office Action mailed Nov. 28, 2014 (“Final Act.”), the Appeal Brief filed May 4, 2015 (“App. Br.”), the Examiner’s Answer mailed July 16, 2015 (“Ans.”), and the Reply Brief filed Sept. 16, 2015 (“Reply Br.”).

### CLAIMED INVENTION

The claims are directed to real-time, analytics-driven decisioning of edge devices in a wireless sensor network. (Spec. Title.) Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method for real-time analytics driven decisioning of edge devices in a wireless sensor network (WSN);
  - establishing a communicative connection by a controller with a plurality of sensors in a geographically proximate WSN;
  - aggregating data received from the sensors;
  - triggering an action in the controller based upon the aggregated data; and
  - propagating the aggregated data to a different controller communicatively coupled to other sensors of a different WSN geographically proximate to the different controller.

(App. Br. 12, Claims App'x.)

### REJECTIONS

Claims 11–15 were rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter.<sup>3</sup> (Final Act. 5–6.)

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<sup>3</sup> The Examiner has withdrawn the 35 U.S.C. § 101 rejection of claims 11–15. (Ans. 2.) However, Appellants' Specification does not explicitly define "computer readable storage medium" to exclude transitory media. (See Spec. ¶¶ 25–26.) Consequently, claims 11–15 encompass transitory media, which is not patent eligible. (See *Ex parte Mewherter*, 107 USPQ2d 1857 (PTAB 2013) (precedential).) In the event of further prosecution, we leave it to the Examiner to consider whether the rejection of claims 11–15 under 35 U.S.C. § 101 as being directed to non-statutory subject matter should be maintained, unless the claims are restricted to "non-transitory" media. Although the Board is authorized to reject claims under 37 C.F.R. § 41.50(b), no inference should be drawn when the Board elects not to do so. (See *Manual of Patent Examining Procedure* (MPEP) § 1213.02 (9th Ed., Rev. 07.2015, Nov. 2015).)

Claims 1, 3, 4, 6, 8, 9, 11, 13, and 14 stand rejected under 35 U.S.C. § 102(a) based on Li et al. (US 2012/0300632 A1; publ. Nov. 29, 2012). (Final Act. 6–13.)

Claims 2, 5, 7, 10, 12, and 15 stand rejected under 35 U.S.C. § 103(a) based on Li and Eberlein et al. (US 2014/0012799 A1; publ. Jan. 9, 2014). (Final Act. 14–20.)

## ANALYSIS

### *Independent Claims 1, 6, and 11*

Appellants contend Li does not describe propagating data from one evolved Node B (“eNB”) to another eNB, but, rather, the eNB acts as a data collector “sink” that receives data from the local sensor network, not another eNB. (App. Br. 6–10; Reply Br. 2–6). Thus, Appellants argue, Li fails to disclose the controller propagating data to another, different controller as claimed. (*Id.*)

The Examiner finds, and we agree, that Li discloses the claimed method steps of establishing a communicative connection by a controller (i.e., Li, Fig. 3, cluster head 15 having controller 81) with a plurality of networked sensors (i.e., beacon cluster BC-I), and the cluster head controller propagating aggregated sensor data to another, different controller (i.e., eNB sink 50 having controller 51) communicatively coupled to other sensors of a different network (eNB 50 is connected to network BC-II and BC-III). (Ans. 6–15 (citing Li ¶¶ 82–85 and Figs. 3c, 5, and 6).) Although Appellants’ Specification provides an example of one controller (e.g., 300) propagating data to another controller of the same type (e.g., another controller 300 on the network (*see* Spec. ¶¶ 20–21 and Fig. 2)), we find the

Examiner's broadest reasonable interpretation of propagating data from one type of "controller[]" (i.e., Li's cluster head 15) to another, different type of "controller[]" (i.e., Li's eNB 50) is consistent with Appellants' Specification, which also discloses a controller (300) can propagate data to a different type of controller in back-end data server (280 (Spec ¶¶ 20–21)). (*See In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1369 (Fed. Cir. 2004): "[T]he PTO is obligated to give claims their broadest reasonable interpretation during examination.")

Accordingly, we sustain the Examiner's rejection of independent claims 1, 6, and 11 under 35 U.S.C. § 102(a) as anticipated by Li.

#### *Remaining Claims*

No separate arguments are presented for remaining dependent claims 2–5, 7–10, and 12–15. (*See App. Br. 6 and 11.*) Thus, for the reasons stated with respect to independent claims 1, 6, and 11, we sustain the Examiner's rejection of the dependent claims. (*See 37 C.F.R. § 41.37(c)(1)(iv); In re King*, 801 F.2d 1324, 1325 (Fed. Cir. 1986); *In re Sernaker*, 702 F.2d 989, 991 (Fed. Cir. 1983).)

#### DECISION

We affirm the rejection of claims 1, 3, 4, 6, 8, 9, 11, 13, and 14 under 35 U.S.C. § 102(a), and the rejection of claims 2, 5, 7, 10, 12, and 15 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).

Appeal 2015-008188  
Application 13/735,002

AFFIRMED