UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/970,350	01/07/2008	Gabor Bajko	042933/338302	2842

10949   7590   02/23/2018
Nokia Corporation and Alston & Bird LLP
c/o Alston & Bird LLP
Bank of America Plaza, 101 South Tryon Street
Suite 4000
Charlotte, NC 28280-4000

EXAMINER
OBAYANJU, OMONIYI

ART UNIT	PAPER NUMBER
2646	

NOTIFICATION DATE	DELIVERY MODE
02/23/2018	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):

usptomail@alston.com

PTOL-90A (Rev. 04/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

_____

BEFORE THE PATENT TRIAL AND APPEAL BOARD

_____

Ex parte GABOR BAJKO[1]

_____

Appeal 2016-008131
Application 11/970,350
Technology Center 2600

_____

Before JASON V. MORGAN, DAVID J. CUTITTA II, and
PHILLIP A. BENNETT, *Administrative Patent Judges.*

CUTITTA, *Administrative Patent Judge.*

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final
rejection of claims 1–28. We have jurisdiction over this appeal under
35 U.S.C. § 6(b).

We AFFIRM-IN-PART.

STATEMENT OF THE CASE

Introduction

According to Appellant, the claimed invention relates to a mobile apparatus that ensures emergency calls are not dropped as a result of movement of the mobile apparatus. *See* Spec. ¶ 6.[2] The mobile apparatus updates its network location, as well as its network address, each time a handover is performed so that the call center can re-establish the connection with the emergency caller in the event that the connection is lost. *Id.* In another aspect, the apparatus may transmit a location update request to an address included with the request, regardless of whether the server receiving the request resides outside of a boundary associated with the emergency call center corresponding to that address. *See* Spec. ¶ 28.

Exemplary Claims

Claims 1, 14, 21, 27, and 28 are independent. Claims 1 and 28 are exemplary of the claimed subject matter and are reproduced with disputed limitations emphasized below:

> 1.   An apparatus comprising:
>
> at least one processor; and
>
> at least one memory including computer program code, the at least one memory and the computer program code configured to, with the at least one processor, cause the apparatus to perform at least the following:

---

[2] Throughout this Decision, we refer to the following: (1) Appellant's Specification, filed January 7, 2008 ("Spec."); (2) the Final Office Action ("Final Act."), mailed March 5, 2015; (3) the Appeal Brief ("Appeal Br."), filed March 2, 2016; (4) the Examiner's Answer ("Ans."), mailed June 28, 2016; and (5) the Reply Brief ("Reply Br."), filed August 25, 2016.

cause initiation of an emergency call via a computing device;

cause a handover to be performed; and

provide for transmission of a Session Initiation Protocol update request from the apparatus comprising a different location of the apparatus and a network address of the apparatus in response to performing the handover.

28. An apparatus comprising:

at least one processor; and

at least one memory including computer program code, the at least one memory and the computer program code configured to, with the at least one processor, cause the apparatus to perform at least the following:

receive a request to update a location associated with a mobile device, said request including an address associated with an emergency call center; and

provide for transmission of the request to the address, wherein the apparatus is outside of a boundary associated with the emergency call center.

Appeal Br. 14, 19–20.

REFERENCES

The Examiner relies upon the following prior art in rejecting the claims on appeal:

Bugnon et al. ("Bugnon")	US 6,240,284 B1	May 29, 2001
Zhu et al. ("Zhu '716")	US 2005/0213716 A1	Sept. 29, 2005
Fuller, JR. et al. ("Fuller")	US 2006/0276168 A1	Dec. 7, 2006
Rudolf et al. ("Rudolf")	US 2007/0032219 A1	Feb. 8, 2007
Lamb et al. ("Lamb")	US 7,245,900 B1	July 17, 2007
Zhu et al. ("Zhu '999")	US 2009/0004999 A1	Jan. 1, 2009

REJECTIONS

Claims 1–10, 14–19, 21–25, and 27 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Fuller, Lamb, and Zhu '999. Final Act. 8–16.

Claims 11–13, 20, and 26 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Fuller, Lamb, Zhu '999, and Rudolph. Final Act. 16–20.

Claim 28 stands rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Zhu '716 and Bugnon. Final Act. 20–21.

Our review in this appeal is limited only to the above rejections and issues raised by Appellant. We have not considered other possible issues that have not been raised by Appellant and which are, therefore, not before us. *See* 37 C.F.R. § 41.37(c)(1)(iv) (2015).

ISSUES

1. Whether the Examiner errs in finding the combination of Fuller, Lamb, and Zhu '999 teaches or suggests "transmission of a Session Initiation Protocol update request from the apparatus comprising a different location of the apparatus and a network address of the apparatus in response to performing the handover," as recited in claim 1.

2. Whether the Examiner errs in finding the combination of Zhu '716 and Bugnon teaches or suggests "receive a request to update a location associated with a mobile device, said request including an address associated with an emergency call center" and "provide for transmission of the request to the address, wherein the apparatus is outside of a boundary associated with the emergency call center," as recited in claim 28.

ANALYSIS

Issue 1 – Claims 1–10, 14–19, 21–25, and 27

The Examiner finds claim 1 is obvious over the combination of Fuller, Lamb, and Zhu '999. Final Act. 8–10.

Appellant disputes the Examiner's factual findings. Appellant argues "Lamb fails to disclose, teach, or suggest transmission of a Session Initiation Protocol update request from the apparatus comprising a different location of the apparatus and a network address of the apparatus." Appeal Br. 8.

We find Appellant's argument unpersuasive because we agree with the Examiner's finding that Lamb discloses "the mobile node moves from one location to another and communicate[s] with different network[s], and that the mobile node transmits its' BSSID [Basic Service Sets Identifier] and its' position" in a SIP request. Ans. 5 (citing Lamb abstract, col. 2, ll. 7–8, col. 6, ll. 40–48, Fig. 1). Appellant notes Lamb "transmits a SIP INVITE message to the wireless access point including the BSSID of the wireless access point (previously stored in the node) and the determined position" but Appellant does not explain why Lamb's location information and BSSID fail to suggest the claimed SIP request comprising a "different location of the apparatus and a network address of the apparatus." Appeal Br. 8. Instead, Appellant argues:

> The cited portion of Lamb at column 4 does not pertain to the originating of a [emergency services] call by the wireless node, as disclosed in column 2. Instead, at column 4 Lamb discloses that an access point database stored the locations of wireless access points such that the locations are keyed to the BSSID of the wireless access points.

Appeal Br. 8. We are unpersuaded. This argument is not responsive to the Examiner's findings because the Examiner relies on Fuller rather than Lamb

to teach "initiation of an emergency call via a computing device," as required by claim 1. Appellant's argument, thus, fail to take into account what the collective teachings of the prior art would have suggested to one of ordinary skill in the art. *See In re Keller*, 642 F.2d 413, 425 (CCPA 1981).

Appellant further argues Lamb does not teach "providing for transmission of a Session Initiation Protocol update request from the apparatus . . . *in response to performing the handover*." Appeal Br. 8 (emphasis added). "Instead, Lamb merely discloses a wireless node transmitting a SIP INVITE message to the wireless access point in response to a user request to originate an emergency services call." Appeal Br. 8.

We are unpersuaded because this argument is not responsive to the Examiner's findings. Appellant's argument only disputes the Examiner's findings from Lamb but the rejection relies on the teachings of Lamb and Fuller in combination. That is, the Examiner finds, and we agree, that Fuller teaches providing an update request in response to a handover (Final Act. 9 (citing Fuller ¶ 10)) and Lamb teaches the update request is a SIP request including a location and network address (Final Act. 10 (citing Lamb Abstract and col. 4, ll. 16–32)).

Appellant has not shown error in the Examiner's factual findings or conclusion of obviousness from the proffered combination. Accordingly, we sustain the Examiner's 35 U.S.C. § 103(a) rejection of independent claim 1 as well as the rejection of independent claims 14, 21, and 27, which are argued for similar reasons as independent claim 1. *See* Appeal Br. 7. Dependent claims 2–10, 15–19, and 22–25, are not argued separately and so the rejection of these claims are sustained for the reasons given for their respective independent claims. *See* Appeal Br. 13.

Claims 11–13, 20, and 26

Claims 11–13, 20, and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Fuller, Lamb, Zhu '999, and Rudolph. Final Act. 25–26. Appellant does not argue claims 11–13, 20, and 26 separately, other than to contend that Rudolph "fails to remedy the discussed deficiencies of Fuller, Jr., Lamb, and Zhu '999" in the rejection of claim 1. Appeal Br. 13. Because we do not determine the rejection of claim 1 to be deficient, we affirm the rejection of these claims.

Issue 2 – Claim 28

The Examiner relies on Zhu '716 to teach "provide for transmission of the [location update] request to the address [associated with an emergency call center]" as claimed. Final Act. 21 (citing Zhu '716 Fig. 9, #9). Figure 9 of Zhu '716 is reproduced below.
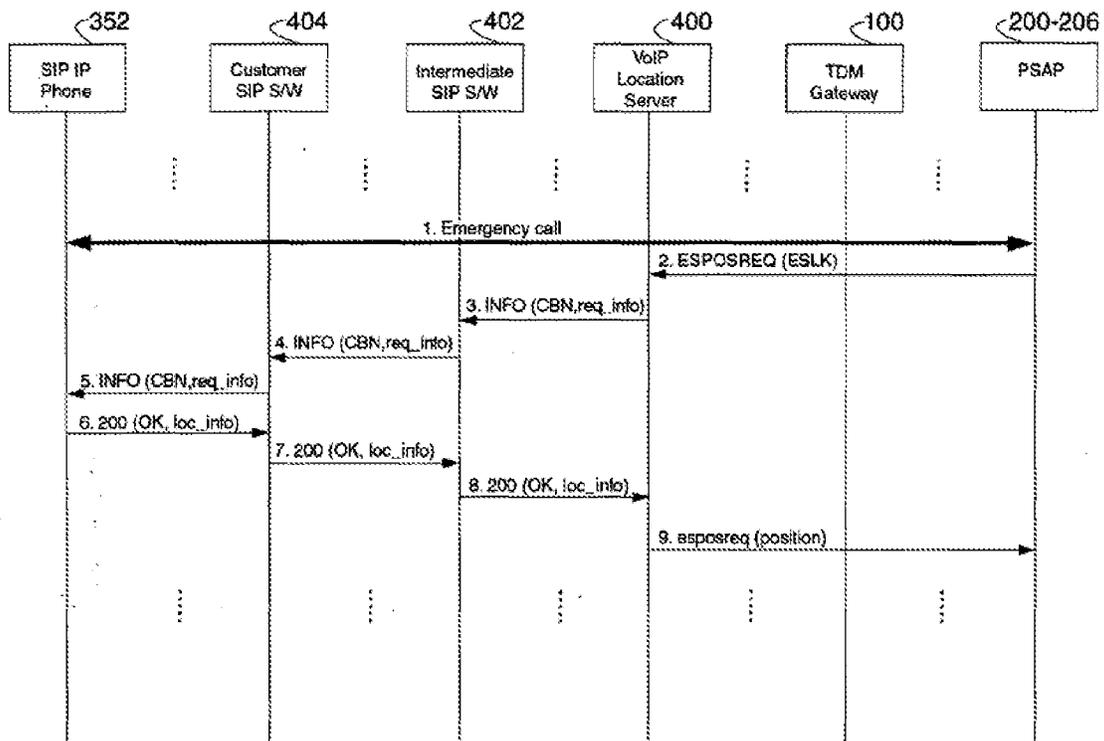

FIG. 9

Figure 9 of Zhu '716 above shows a routing path after an
emergency call has been placed.

Zhu '716 Figure 9 depicts a scenario of a 911 location service with
call routing via SIP redirect signaling, where the figure depicts the location
update steps that take place after an emergency call is made.

Appellant argues the Examiner's cited portion of Zhu '716 does not
teach "the apparatus (proxy server) transmitting the received request to
update the location, but instead discloses the VoIP location server sending a
different message (different from the original PSAP query message cited in
the rejection) containing the current location of the VoIP terminal." Appeal
Br. 12. That is, Appellant argues the esporeq (position) message sent from
server 400 to appropriate PSAP 200–206 (emergency call center) at step 9 is
not the same as the ESPOSREQ with Emergency Services Location Key
(ESLK) signal sent by emergency call center 200–206 in step 2 of Fig. 9.
Appellant further argues "[f]ollowing the logic provided in the Final Office
Action, would require that Zhu's VoIP location server receives the query
request from the PSAP and then returns that same query request to the
PSAP, which is clearly not what is disclosed in Zhu." Appeal Br. 12.

We agree with Appellant that the Examiner has not demonstrated the
esporeq (position) message discussed at Figure 9, step 2 of Zhu '716 is
identical to the ESPOSREQ (ELSK) message discussed at Figure 9, step 9.
To the contrary, Figure 9 of Zhu '716 shows that after the appropriate PSAP
200–206 receives an emergency call from IP phone 352 at step 1 and, at step
2, sends a location request (ESPOSREQ (ELSK)) to Server 400, Server 400
sends its own location update request (CBN, req_info) to IP phone 352 at
steps 3–5. Zhu '716 Figure 9. IP phone 352 then sends back an updated IP

8

phone 352 position to Server 400 at steps 6–8. The server forwards the updated IP phone 352 position (esporeq (position)) to appropriate PSAP 200–206 at step 9. *See id.* ¶¶ 294–304 and Fig. 9. We agree with Appellant that the response message (esposreq (position), step 9) depicted in Figure 9 of Zhu '716 is not the same message as the query message (ESPOSREQ (ELSK), step 2) that led to the response message. Because we agree with at least one dispositive argument advanced by Appellant for claim 28, we need not reach the merits of Appellant's other arguments for claim 28.

Accordingly, we are persuaded of Examiner error and do not sustain the rejection of claim 28 under 35 U.S.C. § 103(a) as being unpatentable over Zhu '716 and Bugnon.

DECISION

We affirm the Examiner's decision rejecting claims 1–27 under 35 U.S.C. § 103(a).

We reverse the Examiner's decision rejecting claim 28 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-IN-PART