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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JAMES C. KIRK

Appeal 2017-005535
Application 13/888,216¹
Technology Center 2600

Before JUSTIN BUSCH, TERRENCE W. McMILLIN, and
MATTHEW J. McNEILL, *Administrative Patent Judges*.

McNEILL, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1–14, which are all the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

¹ Appellant identifies the Applicant, Honeywell International Inc., as the real party in interest. App. Br. 3.

STATEMENT OF THE CASE

Introduction

Appellant's application relates to providing and receiving warnings of impending collisions between parked or taxiing aircraft vehicles and a host ground vehicle. Spec. ¶ 2. Claims 1 and 6 are illustrative of the appealed subject matter and read as follows:

1. A device comprising:

at least one antenna;

a radio frequency identification (RFID) device in signal communication with the at least one antenna, the RFID device configured to provide identification information via the at least one antenna in response to a read pulse received at the at least one antenna;

a receiver in signal communication with the at least one antenna;

a processor configured to

receive a signal from the at least one antenna;

determine whether identification information included in the received signal matches identification information of the RFID device; and

if the identification information of the received signal matches the identification information of the RFID device, then generate an alert signal; and

an output device configured to provide an alert based on the generated alert signal.

6. A device located on a host vehicle, the device comprising:

a transceiver; and

a processor coupled to the transceiver, the processor configured to

transmit a read pulse via the transceiver;
receive a return signal based on the read pulse;
determine whether a target identified by the return
signal is on a collision course with the host vehicle;
determine whether the return signal includes
identification information; and
generate a warning signal if the target and the host
vehicle are determined to be on a collision course,
wherein the transceiver is configured to transmit the
warning signal,
wherein the warning signal comprises the identification
information if determined to be included in the return signal.

The Examiner's Rejection

Claims 1–14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wietfeld et al. (WO 2011/151291, Dec. 8, 2011; using US 2013/0176144 A1, July 11, 2013 as a translation). Final Act. 2–6.

ANALYSIS

We have reviewed the Examiner's rejections in consideration of Appellant's contentions and the evidence of record. Appellant persuades us the Examiner fails to establish that the claims are unpatentable over the cited reference.

Claim 1

The Examiner finds Wietfeld teaches or suggests “an output device configured to provide an alert based on the generated alert signal” wherein the alert signal is generated “if the identification information of the received

signal matches the identification information of the RFID device.” Final Act. 3 (citing Wietfeld, Fig. 8, ¶¶ 35, 40), 6.

Appellant argues the Examiner erred in finding Wietfeld teaches generating an alert signal because Wietfeld teaches deactivating a warning signal when it is determined that a warning module and marking module in the vicinity have the same identification information. App. Br. 6 (citing Wietfeld ¶ 35). According to Appellant, an ordinarily skilled artisan would have understood Wietfeld’s approach of deactivating a warning signal when identification information matches to be directly contrary to generating an alert signal when “the received signal matches the identification information of the RFID device,” as claimed. *Id.* Appellant also argues Wietfeld does not teach providing “an alert *based on the generated alert signal.*” App. Br. 7–8; Reply Br. 4.

Appellant has persuaded us of Examiner error. The Examiner finds, in the Answer, Wietfeld teaches a “piece of information,” which the Examiner interprets “as an ID” is “exchanged for a comparison by a processor to generate an alarm.” Ans. 3 (citing Wietfeld ¶¶ 23, 26, 34, 35, 40). However, the portions of Wietfeld cited by the Examiner disclose deactivating an approach warning when the “piece of information” matches the identification information. *See* Wietfeld ¶¶ 23, 26, 34, 35, 40.

The purpose of Wietfeld’s approach warning and the context of the cited disclosures are relevant to the Examiner’s findings. Specifically, Wietfeld discloses an object affiliated with a warning module outputting an approach warning in response to detecting the approach by, and potential collision with, an object affiliated with a marking module. Wietfeld ¶ 33. Wietfeld further discloses that “the approach warning can be deactivated”

when the marking module and warning module are associated with the same object. Wietfeld ¶¶ 34–35. Thus, Wietfeld’s deactivation of the approach warning does not teach or suggest providing an alert (i.e., turning on or off some indicator of a collision) based on an alert signal generated in response to matching IDs, as required by the claim. At most, Wietfeld teaches generating a signal indicating the detected condition (i.e., a detected marking module is affiliated with the warning module) should not cause Wietfeld’s output device to provide an approach warning.

Put another way, Wietfeld does not teach activating or deactivating an alert based on Wietfeld’s cited signal and instead suggests maintaining the *status quo*—i.e., the system should ignore the marking module affiliated with the warning module and generate an approach warning (or not) depending on whether *another* marking module is approaching.

Moreover, the Examiner finds Wietfeld’s output device providing “visual, audible and/or haptic output” teaches or suggests the recited “output device configured to provide an alert based on the generated alert signal” and Wietfeld’s output device does not provide any sort of output or “alert” based on the cited signal. *See* Wietfeld ¶ 23. As argued by Appellant, the Examiner has failed to explain how Wietfeld’s teaching of *deactivating* an approach warning constitutes *providing an alert* or, therefore, generating an alert signal on which the provided alert is based, as claimed. *See* Reply Br. 3.

Accordingly, on this record we do not sustain the rejection of independent claim 1 as unpatentable over Wietfeld. We also do not sustain the rejection of independent claim 10, which recites commensurate limitations, and claims 2–5 and 11–14, dependent therefrom.

Claim 6

The Examiner finds Wietfeld teaches a processor configured to “generate a warning signal . . . wherein the warning signal comprises the identification information if determined to be included in the return signal.” Final Act. 4–5 (citing Wietfeld ¶¶ 33–35).

Appellant argues the Examiner erred in finding Wietfeld teaches a warning signal comprising identification information, as claimed. *See* App. Br. 8–11; Reply Br. 5–6. In particular, Appellant argues the Examiner finds Wietfeld’s “presence signal” corresponds to the claimed “return signal,” while Wietfeld’s “trigger signal” corresponds to the claimed “warning signal.” App. Br. 8. Appellant asserts Wietfeld teaches presence signals (the claimed “return signal”) comprising identification information, but Wietfeld does not teach or suggest a trigger signal (the claimed “warning signal”) comprising identification information. *Id.* at 8–9.

The Examiner asserts Wietfeld’s marking module (which transmits presence signals) and warning module (which transmits warning signals) are “each produced so as to be replaceable.” Ans. 4. The Examiner finds “it is therefore possible to equip a plurality of vehicles with warning modules of the same type and to protect each person by means of a marking module such that the person produces an approach warning when he approaches any vehicle in the roadworks.” *Id.* The Examiner reasons that in such a system, both sides (marking and warning module) are “functionally capable of (mutual alerts) identifying each other and generating alerts to each other when needed which is interpreted as being funct[ion]ally no different in concept, than the claimed invention.” *Id.*

Appellant has persuaded us of Examiner error. As argued by Appellant, the Examiner's findings do not establish that Wietfeld teaches a warning signal includes identification information. *See* Reply Br. 6. Instead, the Examiner's findings merely establish that Wietfeld teaches a "return signal" that comprises "identification information." Wietfeld discloses its trigger signal, which the Examiner finds teaches the recited "warning signal," notifies marking modules in range of the trigger signal that a vehicle is nearby and "influence[s] the emission of the presence signals. Wietfeld ¶ 26.

The Examiner provides insufficient explanation and reasoning how such a trigger signal teaches or suggests including identification information. The Examiner's conclusory findings regarding "replaceable" parts that function no differently "in concept" than the claimed invention fail to establish that Wietfeld teaches the claimed "warning signal" that "comprises the identification information if determined to be included in the return signal." Thus, we agree with Appellant that the Examiner has failed to establish that Wietfeld teaches or suggests a processor configured to "generate a warning signal . . . wherein the warning signal comprises the identification information if determined to be included in the return signal."

Accordingly, on this record we do not sustain the rejection of independent claim 6 as unpatentable over Wietfeld.² We also do not sustain the rejection of claims 7–9, dependent therefrom.

² Because we agree with at least one of the dispositive arguments advanced by Appellant with respect to claim 6, we need not reach the merits of Appellant's other arguments.

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Application 13/888,216

DECISION

We reverse the decision of the Examiner rejecting claims 1–14.

REVERSED