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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte THOMAS BENJAMIN GRANGER and
THOMAS GRANGER

Appeal 2017-006814
Application 13/613,617
Technology Center 2400

Before ALLEN R. MacDONALD, BETH Z. SHAW, and
PHILLIP A. BENNETT, *Administrative Patent Judges*.

MacDONALD, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellants appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 1–30. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

Representative Claims

Representative claims 1 and 28 under appeal reads as follows
(bracketing and emphasis added):

1. A personal safety communications system comprising a plurality of user terminals belonging to a plurality of individual users and being interconnected via one or more networks, the system including the user terminals including an alert management apparatus, the alert management apparatus comprising:

[A.] a relationship database for storing a set of dependant-guardian relationships among users of said user terminals, wherein the set of dependant-guardian relationships is user-defined and ***designates at least one other user as a guardian of the user;***

[B.] an alert initiation interface by which a first user having one or more designated guardians can use their user terminal to initiate an alert situation and to indicate their location;

[C.] a guardian response interface responsive to initiation of said alert situation for providing to the one or more user-defined guardians via their user terminals, notification of the alert including an indication of the location of the first user and for receiving, from the one or more user-defined guardians, an indication whether they will attend or not attend to assist the first user;

[D.] in the event that they will attend, receiving from the user-defined guardian's user terminal, an indication of the user-defined guardian's location; and

[E.] a situation monitoring interface for informing the first user of the identity and location of the one or more user-defined guardians who have indicated they will attend.

28. A ***computer program product*** for configuring a programmable user terminal device to implement the user terminal functions of the alert management apparatus in a personal safety communication system as claimed in claim 19.

Rejections

The Examiner rejected claims 28 and 30 under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.¹

The Examiner rejected claims 1–8, 10, 11, and 13–30 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Haney (US 7,353,034 B2; Apr. 1, 2008) and Barash et al. (US 2011/0117878 A1; May 19, 2011).²

The Examiner rejected claims 9 and 12 under 35 U.S.C. § 103(a) as being unpatentable over various combinations of Haney, Barash, and other prior art references.³

¹ Arguments are not presented for the § 101 rejection of claims 28 and 30. We affirm *pro forma* the Examiner's § 101. Except for our ultimate decision, this rejection is not discussed further herein.

² We select claim 1 as representative. Separate patentability is not argued for claims 2–8, 10, 11, and 13–30. Except for our ultimate decision, the § 103(a) rejection of claims 2–8, 10, 11, and 13–30 is not discussed further herein.

³ Separate patentability is not argued for claims 9 and 12. Appellants merely reference the arguments for claim 1. App. Br. 9. Therefore, our decision as to these rejections turn on our decision as to claim 1. Except for our ultimate decision, these rejections of these claims are not discussed further herein.

Issue on Appeal

Did the Examiner err in rejecting claim 1 as being obvious?

ANALYSIS

We have reviewed the Examiner's rejections in light of Appellants' Appeal Brief arguments (Appeal Brief) that the Examiner has erred.

A

Appellants contend that the Examiner erred in rejecting claim 1 under 35 U.S.C. § 103 because:

While Haney discloses location sharing, there is no disclosure in Haney of contacting at least one individual that has been selected by the user to be contacted in an emergency situation.

App. Br. 6.

The Examiner responds:

[T]he embodiment relied upon by the examiner in the rejection dated 4/8/2015 is substantially different from the embodiment argued by applicant, in the sense that in the embodiment relied upon by the examiner a user can designate guardians that respond to alert messages (Haney, col. 24, lines 46-47 "each user . . . can define a profile of buddies to which an SOS message is to be sent[?]), whereas the embodiment argued by the applicant, and not relied upon by the examiner, the system, and not a user, designates the guardians (Haney, col. 15, lines 45-57, the system designates who to send an alert message to).

Ans. 4 (emphasis omitted).

As to Appellants' contention, we disagree. We agree with the Examiner that Haney's teaching of "[e]ach user of Buddy Watch can define a profile of buddies to which an SOS alert is to be sent in the case of emergency" (Haney, col. 24:46-47), renders obvious "the set of dependent-

guardian relationships is user defined and designates at least one other user as a guardian of the user” as claimed. Final Act. 4.

B

Appellants contend that the Examiner erred in rejecting claim 1 under 35 U.S.C. § 103 because:

While Barash discloses contacting lay responders who are in the vicinity of the emergency call, there is no disclosure in Barash of contacting at least one individual that has been selected by a user to be contacted in an emergency situation.

App. Br. 8. (Emphasis omitted).

As to Appellants’ contention, we disagree. Appellants argue there is no disclosure in Barash of an emergency contact. App. Br. 8. However, the Examiner did not cite Barash for the emergency contact limitation. Rather, the Examiner cited Haney. Final Act. 4. The Examiner relied on Barash to show (a) an indication whether a guardian will attend or not attend to assist a first user, (b) receiving from the guardian’s user terminal an indication of the guardian’s location in the event that they will attend, and (c) wherein the identity and location of the guardians is informed to the first user when the guardians indicating they will attend. Final Act. 5.

We conclude that Appellants’ argument does not address the actual reasoning of the Examiner’s rejections. Instead, Appellants attack the Barash reference singly for lacking the teachings that the Examiner relied on a combination of references to show. It is well established that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. *See In re Keller*, 642 F.2d 413, 426 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). This form of argument is inherently unpersuasive to show

Examiner error. Our reviewing court requires that references must be read, not in isolation, but for what they fairly teach in combination with the prior art as a whole. *Id.*

C

Appellants contend that the Examiner erred in rejecting claim 1 under 35 U.S.C. § 103 because:

The cited combination, singularly or in combination, fails to disclose at least the features of independent claim 1 listed below:

a relationship database for storing a set of dependant-guardian relationships among users of said user terminals, wherein the set of dependant-guardian relationships is user-defined and designates at least one other user as a guardian of the user . . . a guardian response interface responsive to initiation of said alert situation for providing to the one or more user-defined guardians via their user terminals, notification of the alert including an indication of the location of the first user and for receiving, from the one or more user-defined guardians, an indication whether they will attend or not attend to assist the first user . . . in the event that they will attend, receiving from the user-defined guardian's user terminal, an indication of the user-defined guardian's location.

The Applicant-Initiated interview Summary dated April 17, 2015 states the following:

During the interview, the examiner submitted that the argued limitations that are not disclosed by the secondary reference are disclosed by the primary reference (for example, page 4 of the Office Action . . . responders are user defined (Fig. 22, element 252)). [Footnote omitted].

Appellant respectfully disagrees, and respectfully submits that Haney does not disclose the features of independent claim 1 listed above.

App. Br. 5.

As to Appellants' contention, we disagree. Appellants merely recite a lengthy portion of claim 1 and assert the cited prior art reference does not disclose the claim features. Without more, this fails to constitute an argument on the merits. *See* 37 C.F.R. § 41.37(c)(1)(iv); *In re Lovin*, 652 F.3d 1349, 1357 (Fed. Cir. 2011).

CONCLUSIONS

(1) The Examiner did not err in rejecting claims 28 and 30 under 35 U.S.C. § 101, as being directed to non-statutory subject matter.

(2) The Examiner did not err in rejecting claims 1–30 as being unpatentable under 35 U.S.C. § 103(a).

(3) Claims 1–30 are not patentable.

DECISION

The Examiner's rejection of claims 28 and 30 under 35 U.S.C. § 101, as being directed to non-statutory subject matter, is affirmed.

The Examiner's rejections of claims 1–30 as being unpatentable under 35 U.S.C. § 103(a) are affirmed.

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