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Shook, Hardy & Bacon L.L.P. (United Parcel Service, Inc.) 2555 Grand Blvd. Kansas City, MO 64108-2613			VETTER, DANIEL	
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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* NAGESH KADABA

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Appeal 2017-010469<sup>1</sup>  
Application 14/198,676<sup>2</sup>  
Technology Center 3600

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Before MURRIEL E. CRAWFORD, NINA L. MEDLOCK, and  
KENNETH G. SCHOPFER, *Administrative Patent Judges*.

MEDLOCK, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner’s final rejection of claims 1–21. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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<sup>1</sup> Our decision references Appellant’s Supplemental Appeal Brief (“App. Br.,” filed April 11, 2017) and Reply Brief (“Reply Br.,” filed August 3, 2017), and the Examiner’s Answer (“Ans.,” mailed June 5, 2017) and Final Office Action (“Final Act.,” mailed May 20, 2016).

<sup>2</sup> Appellant identifies United Parcel Service of America, Inc. as the real party in interest. App. Br. 3.

## CLAIMED INVENTION

Appellant's claimed invention relates to "systems for coordinating the efforts of multiple carriers to ship packages, and in particular relates to electronic systems for coordinating such shipments using tracking, billing and other information" (Spec. 1).

Claims 1, 8, and 15 are the independent claims on appeal. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method for generating a multi-carrier shipping label, the method comprising:

identifying, via one or more processors, a first carrier-specific tracking number associated with a first carrier, wherein the first carrier-specific tracking number is to be used by the first carrier in transporting a parcel through the first carrier's delivery network;

identifying, via the one or more processors, a second carrier-specific tracking number associated with a second carrier, wherein the second carrier-specific tracking number is to be used by the second carrier in transporting the parcel through the second carrier's delivery network;

storing, via the one or more processors, the first carrier-specific tracking number in association with the second carrier-specific tracking number;

in response to determining that the parcel is designated for a delivery destination in a designated geographic area, generating, via the one or more processors, a multi-carrier shipping label that is to be affixed to the exterior of the parcel and that comprises (a) first machine-readable indicia of the first carrier-specific tracking number scanned by a mobile acquisition device to obtain tracking information, the first carrier-specific tracking number associated with the first carrier and (b) second machine-readable indicia of the second carrier-specific tracking number scanned by the mobile acquisition device to obtain additional tracking information, the second carrier-specific tracking number associated with the second carrier; and

detecting a location of the parcel being transported through the first carrier's delivery network or the second carrier's delivery network, in part, in response to the mobile acquisition device scanning the first or second carrier-specific tracking numbers.

#### REJECTIONS

Claims 1, 5–8, 12–15, and 19–21 are rejected under 35 U.S.C. § 103(a) as unpatentable over Morimoto (US 7,035,856 B1, iss. Apr. 25, 2006) and Hoffman et al. (WO 01/59697 A1, pub. December 22, 2000) (“Hoffman”) (paragraph citations to Hoffman refer to the English language translation in corresponding US 2003/0014375 A1, pub. Jan. 16, 2003).

Claims 2–4, 9–11, and 16–18 are rejected under 35 U.S.C. § 103(a) as unpatentable over Morimoto, Hoffman, and Pintsov (US 6,959,292 B1, iss. Oct. 25, 2005).

#### ANALYSIS

*Independent Claims 1, 8, and 15 and Dependent Claims 5–7, 12–14, and 19–21*

We are not persuaded, as an initial matter, by Appellant's argument that Morimoto teaches away from:

a multi-carrier shipping label that is to be affixed to the exterior of the parcel and that comprises (a) first machine-readable indicia of the first carrier-specific tracking number scanned by a mobile acquisition device to obtain tracking information, the first carrier-specific tracking number associated with the first carrier and (b) second machine-readable indicia of the second carrier-specific tracking number scanned by the mobile acquisition device to obtain additional tracking information, the second carrier-specific tracking number associated with the second carrier[.]

as recited in independent claim 1, and similarly recited in independent claims 8 and 15 (App. Br. 9–14).

Morimoto is directed to a system and method for tracking and routing shipping items, and discloses that to increase the efficiency of the process at transfer points or intermediate destinations, the shipping containers may be configured with attached memory devices, e.g., barcode stickers, for storing information about the item(s) being shipped, e.g., including a unique identifier (Morimoto, col. 2, ll. 50–67; col. 5, ll. 41–47). Morimoto discloses that this unique identification number may be shared with one or more shipping companies that handle the package from its origination to its final destination, and that the unique identifier also may be used to control billing receipts and customs records for the shipped items (*id.* at col. 15, ll. 1–20).

Appellant ostensibly maintains that, in describing the purported advantages of a single tracking number for use by multiple shipping companies, Morimoto teaches away from a multi-carrier shipping label, as called for in independent claims 1, 8, and 15 (App. Br. 9–14; *see also* Reply Br. 1–6). A teaching away, however, requires discouragement, and Appellant has not pointed to any passage in Morimoto that criticizes, discredits, or otherwise discourages providing a multi-carrier shipping label, as recited in the independent claims. *See In re Gurley*, 27 F.3d 551, 553 (Fed. Cir. 1994) (“A reference may be said to teach away when a person of ordinary skill, upon [examining] the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant.”); *see also In re Fulton*, 391 F.3d 1195, 1201 (Fed. Cir. 2004) (The prior art’s mere

disclosure of more than one alternative does not constitute a teaching away from any of the alternatives when the disclosure does not criticize, discredit, or otherwise discourage the solution claimed).

Appellant further argues that the Examiner's proposed modification of Morimoto (i.e., to include package labelling identifying first and second carrier specific tracking numbers) would render Morimoto unsatisfactory for its intended purpose and change its principle of operation (App. Br. 14–17; *see also* Reply Br. 6–10). Appellant asserts that this is so because not only does Morimoto teach away from independent claims 1, 8, and 15, but the proposed modification would change the basic principles under which Morimoto was designed to operate (*id.*).

The Examiner maintains that “[t]he only change needed to Morimoto is the ability to recognize another tracking symbol and associate [its] information in a database for updating as Hoffman does” (Ans. 4). The Examiner, thus, explains that after modifying Morimoto to include Hoffmann's distinct carrier tracking indicia, i.e., replacing Morimoto's shared carrier indicia with Hoffman's separate carrier tracking symbols, the basic principles of tracking and delivery would still be accomplished (*id.*).

We agree with the Examiner that modifying Morimoto's system to recognize different carrier indicia on a tracking label and use these different indicia for storing and updating tracking information would not render Morimoto unsatisfactory for its intended purpose or otherwise change its principle of operation (*id.* at 4–5). The separate carrier tracking symbols would serve the same purpose as Morimoto's shared carrier indicia, i.e., to track the location of the package.

We also are not persuaded that the Examiner relied on improper hindsight reconstruction (App. Br. 17–18). The Examiner provided “some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness” based on factual findings supported by the record (*see* Final Act. 5–6). *KSR Int’l v. Teleflex, Inc.*, 550 U.S. 398, 417–18 (2007).

Appellant further argues that the combination of Morimoto and Hoffman does not disclose each and every feature of independent claims 1, 8, and 15 (App. Br. 18–26; *see also* Reply Br. 10–19). Appellant points to Figure 13 of the present application as showing an exemplary multi-carrier shipping label (in this example, the label carries a 1Z tracking number for UPS together with a 30-digit tracking number for USPS), and argues that this feature is not disclosed or suggested by the combination of Morimoto and Hoffman (App. Br. 20). Appellant observes that Morimoto discloses a single, global tracking number for use by multiple shipping companies, rather than “a multi-carrier shipping label” (*id.* at 21–24), and argues that Hoffmann does not cure the deficiency of Morimoto (*id.* at 24–25).

More particularly, Appellant notes that the Examiner has acknowledged that Hoffmann does not specifically require that multiple carrier symbols are carried on the same label (*id.* at 24). And Appellant argues that the Examiner’s suggestion that “they could be on the same label” runs counter to the disclosure of Hoffmann which, at most, “discloses sending any ‘symbols’ to a next distribution center that the postal item is expected to be delivered to next on the route such that the next distribution center can confirm the symbols” (*id.* at 24–25). Appellant also maintains that, by suggesting that multiple carrier symbols “could be on the same

label,” the Examiner is improperly citing Hoffman for what it could disclose or is capable of disclosing rather than what it expressly or inherently discloses (*id.* at 24–25; *see also* Reply Br. 18–19 (arguing that even if Hoffman discloses the use of multiple keys, the keys would not be generated on the same label inasmuch as any subsequent application of an identification key in country B would necessarily mean that the codes were not generated on the same label, but a subsequent key would be applied after the fact)).

We do not agree, as an initial matter, that the Examiner has mischaracterized the Hoffman disclosure; instead, we agree with the Examiner that Hoffman discloses using multiple indicia, i.e., identification keys, affixed to the exterior of a postal item (Ans. 5–6; *see also* Final Act. 5). The Examiner acknowledges that Hoffman “does not specifically require that the symbols are on the same label” (Final Act. 6). The Supreme Court, however, has made clear that, when considering obviousness, “the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *KSR*, 550 U.S. at 418. That is particularly relevant here where, as the Examiner observes, the individual carrier tracking symbols would serve the exact same purpose whether the symbols are provided on two barcode stickers, i.e., two labels, or one — a barcode scanner would read them in exactly the same way (Ans. 6).

In view of the foregoing, we sustain the Examiner’s rejection of independent claims 1, 8, and 15 under 35 U.S.C. § 103(a). We also sustain the rejection of dependent claims 5–7, 12–14, and 19–21, which are not



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argued separately, except based on their dependence from independent claims 1, 8, and 15 (App. Br. 26).

*Dependent Claims 2–4, 9–11, and 16–18*

Appellant does not present any argument in support of the patentability of dependent claims 2–4, 9–11, and 16–18, except to argue that the claims are allowable based on their dependence from independent claims 1, 8, and 15 (*id.*). We are not persuaded, for the reasons set forth above, that the Examiner erred in rejecting independent claims 1, 8, and 15 under 35 U.S.C. § 103(a). Therefore, we sustain the rejection of dependent claims 2–4, 9–11, and 16–18.

DECISION

The Examiner’s rejections of claims 1–20 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