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EXAMINER

VETTER, DANIEL

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte NAGESH KADABA

Appeal 2017-010471¹
Application 14/200,099²
Technology Center 3600

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 1–24. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ 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 6, 2017) and Final Office Action (“Final Act.,” mailed May 19, 2016).

² 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 tracking a parcel being transported by multiple shipping companies, the method comprising:

receiving, via a second carrier computing system, a notification from a first carrier computing system that a parcel has been delivered by a first carrier to a transfer location for transfer of the parcel to a second carrier, wherein:

(a) delivery of the parcel to a recipient is to be completed by the second carrier in response to determining that the parcel is designated for a delivery destination in a designated geographic area,

(b) the notification is generated by the first carrier computing system after at least a portion of a multi-carrier shipping label affixed to the exterior of the parcel is electronically read by a mobile acquisition device of the first carrier,

(c) the multi-carrier shipping label (i) comprises first machine-readable indicia of a first carrier-specific tracking number, associated with the first carrier, that is to be used by the first carrier in transporting the parcel through the first carrier's transportation and delivery network, and (ii) comprises second machine-readable indicia of a second carrier-specific tracking number, associated with the second carrier, that is to be used by the second carrier in transporting the parcel through the second carrier's transportation and delivery network, the second carrier-specific tracking number differing from said first carrier-specific tracking number, and

(d) the first carrier-specific tracking number is stored, in a tracking database of the second carrier computing system, in association with the second carrier-specific tracking number so as to generate consolidated tracking information associated with the parcel;

updating, via the second carrier computing system, said consolidated tracking information associated with the parcel, stored in the tracking database of the second carrier computing system, to reflect the parcel's presence at the transfer location, said updated consolidated tracking information being independently accessible via each of said first and said second carrier-specific tracking numbers; and

detecting, via the second carrier computing system, a location of the parcel being transported in the second carrier's transportation and delivery network to the delivery destination.

REJECTIONS

Claims 1–21 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 22–24 are rejected under 35 U.S.C. § 103(a) as unpatentable over Morimoto, Hoffman, and Michael A. Crew & Paul R. Kleindorfer (eds.), *Balancing Access and the Universal Service Obligation*, in *POSTAL AND DELIVERY SERVICES: DELIVERING ON COMPETITION 3–32* (Kluwer Academic Publishers 2002) (“Crew”).

ANALYSIS

Independent Claims 1, 8, and 15 and Dependent Claims 2–7, 9–14, and 16–21

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

the multi-carrier shipping label (i) comprises first machine-readable indicia of a first carrier-specific tracking number, associated with the first carrier, that is to be used by the first carrier in transporting the parcel through the first carrier’s transportation and delivery network, and (ii) comprises second machine-readable indicia of a second carrier-specific tracking number, associated with the second carrier, that is to be used by the second carrier in transporting the parcel through the second carrier’s transportation and delivery network, the second carrier-specific tracking number differing from said first carrier-specific tracking number,

as recited in independent claim 1, and similarly recited in independent claims 8 and 15 (App. Br. 10–14).

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. 10–14; *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. 15–17; *see also* Reply Br. 6–10). Appellant asserts that this is so because not only does Morimoto, in fact, 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 them 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.*). 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. 17–19). 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. 4–5). *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. 19–27; *see also* Reply Br. 10–20). 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. 21). 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 22–26), and argues that Hoffmann does not cure the deficiency of Morimoto (*id.* at 26–27).

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 26). 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.*). 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.*; *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. 5). 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., 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 2–7, 9–14, and 16–21, which are not argued separately, except by reference to their dependence from independent claims 1, 8, and 15 (App. Br. 28).

Dependent Claims 22–24

Appellant does not present any argument in support of the patentability of dependent claims 22–24 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 22–24.

DECISION

The Examiner’s rejections of claims 1–24 under 35 U.S.C. § 103(a) are affirmed.

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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