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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte GALIA WEIDL and MICHAEL SCHRAUF

Appeal 2018-002980
Application 14/235,907
Technology Center 3700

Before EDWARD A. BROWN, BRETT C. MARTIN, and
ALYSSA A. FINAMORE, *Administrative Patent Judges*.

MARTIN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellants appeal under 35 U.S.C. § 134 from the Examiner's rejection of claims 14–19, 21, 22, 24, and 25, which are the only claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

THE INVENTION

Appellants' claims are directed generally "to a method and device to monitor at least one vehicle passenger and method to control at least one assistance device." Title. Claim 14, reproduced below, is illustrative of the claimed subject matter:

14. A method for monitoring at least one vehicle passenger in a vehicle, the method comprising:

determining, by a first sensor unit, a current vital parameter value of at least one vital parameter of the vehicle passenger;

detecting, by a second sensor unit, a current environmental parameter value of at least one environmental parameter of an outer environment of the vehicle;

storing the current vital parameter value of the vehicle passenger together with the current environmental parameter value;

identifying the vehicle passenger;

comparing the current vital parameter value of the vehicle passenger with at least one older, previously stored vital parameter value of the same vehicle passenger,

wherein the older vital parameter value is previously stored together with an older environmental parameter value, which corresponds to the current environmental parameter value; and

determining a health condition of the vehicle passenger by the comparing.

REFERENCES

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Prokoski	US 7,027,621 B1	Apr. 11, 2006
Wheatley	US 7,609,150 B2	Oct. 27, 2009

Poh, Ming-Zher et al., “Non-contact, automated cardiac pulse measurements using video imaging and blind source separation.” *Optics Express* 18 (May 10, 2010).

REJECTIONS

The Examiner made the following rejections:

Claims 14–16, 21, 22, 24, and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Prokoski and Wheatley. Final Act. 4.

Claims 17–19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Prokoski, Wheatley, and Poh. Final Act. 5.

ANALYSIS

The Examiner finds that Prokoski teaches all aspects of the claims except for detecting environmental parameters and pairing the vital parameter data with the environmental parameters during storage and comparison. Final Act. 4. The Examiner then finds that Wheatley teaches these missing elements and concludes obviousness stating that the combination would “more accurately evaluate a driver/passenger condition by accounting for different driving contexts.” Final Act. 4–5. The Examiner is generally correct regarding the findings, but we agree with Appellants that the conclusion of obviousness is in error.

The Examiner’s statement of what claimed features are missing from Prokoski provides the first hint at the Examiner’s error in this rejection.

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Although we agree that Wheatley detects environmental parameters and has some pairing of the vital parameters of a human with the environmental parameters, this is not done in Prokoski in order to improve the accuracy of the health determination as the Examiner concludes. Wheatley uses vital parameters to assess the driver's response time to the environmental parameters, but is not concerned with utilizing the environmental parameters to in any way aid the assessment of the vital parameters. The two parameters are simply used in conjunction to predict a response time of the driver and thus adjust any automatic intervention accordingly.

We agree with Appellants "that it is only Appellants' invention that utilizes both a current and an older vital parameter of a vehicle passenger, with respect to corresponding environments, to determine the health condition of the vehicle passenger." Reply Br. 2. Appellants are also correct that "[p]airing conditions external to a vehicle would have no bearing on determining the health condition of the operator in Prokoski" and that even if combined this element "is still missing from the references." Reply Br. 2–3. The Examiner has failed to show the necessary link between assessing health in relation to environment at two different times in order to more accurately assess the health of the passenger as claimed. Poh is not applied in a manner that cures this defect. Accordingly, we do not sustain the Examiner's rejections.

DECISION

For the above reasons, we REVERSE the Examiner's decision to reject claims 14–19, 21, 22, 24, and 25.

REVERSED