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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte OLIVER LEI and ALLEN R. MURRAY

Appeal 2018-004844
Application 15/047,709¹
Technology Center 2600

Before CARLA M. KRIVAK, HUNG H. BUI, and JON M. JURGOVAN,
Administrative Patent Judges.

JURGOVAN, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellants seek review under 35 U.S.C. § 134(a) from a Final Rejection of claims 1–17, 19, and 20, which are all the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.²

¹ Appellants identify Ford Global Technologies, LLC as the real party in interest. (App. Br. 1.)

² Our Decision refers to the Specification (“Spec.”) filed February 19, 2016, the Final Office Action (“Final Act.”) mailed May 4, 2017, the Appeal Brief (“Br.”) filed October 3, 2017, the Examiner’s Answer (“Ans.”) mailed February 9, 2018, and the Reply Brief (“Reply Br.”) filed April 6, 2018.

CLAIMED INVENTION

The claims are directed to systems for “geo-fencing using wireless point sources” such as dedicated short range communication transceivers, the systems “configured to associate a plurality of existing dedicated short range communication (DSRC) transceivers with [a] boundary and send [a] vehicle identifier to each of the associated DSRC transceivers.” (Spec. ¶ 1; Abstract.)

Claims 1, 7, and 15 are independent. Claims 1 and 7, reproduced below, are illustrative of the claimed subject matter:

1. A system comprising:
 - a transceiver; and
 - a processor in communication with the transceiver configured to:
 - send an alert message when a wirelessly received vehicle identification, received by the transceiver from a proximate vehicle, matches a vehicle identification previously provided for tracking.

7. A system comprising:
 - a processor configured to:
 - receive both a boundary defining a geo-fence and a vehicle identifier;
 - associate a plurality of existing dedicated short range communication (DSRC) transceivers with the boundary;
 - send the vehicle identifier to each of the associated DSRC transceivers; and
 - instruct each of the DSRC transceivers to report communication with a vehicle having the vehicle identifier.

(App. Br. 1–4 (Claims App’x.))³

³ The page numbering in Appellants’ Claims Appendix starts at 1.

REJECTION & REFERENCE

Claims 1–17, 19, and 20 stand rejected under 35 U.S.C. § 102(a)(2) based on Sauerbrey et al. (US 2015/0095156 A1, published Apr. 2, 2015, “Sauerbrey”). (Final Act. 3–6.)

ANALYSIS

Claims 1–6

The Examiner finds Sauerbrey teaches all the limitations of claim 1. (Final Act. 2–4.) Particularly, the Examiner finds Sauerbrey discloses a transceiver enabling wireless communication with a proximate vehicle, as claimed. (Final Act. 2, 4 (citing Sauerbrey ¶¶ 3, 11, 14, Figs. 1–2); Ans. 7 (citing Sauerbrey ¶¶ 15, 37).) The Examiner also finds Sauerbrey discloses a processor/server affiliated with a telematics service provider/call center and with a car dealership, the processor sending an alert message when a wirelessly received vehicle identification matches a vehicle identification previously provided for tracking, as claimed. (Ans. 7 (citing Sauerbrey ¶¶ 29, 31, 38–41); Final Act. 3–4.)

Appellants argue Sauerbrey does not teach a processor in communication with a transceiver, the processor configured to “send an alert message when a wirelessly received vehicle identification, received by the transceiver from a proximate vehicle, matches a vehicle identification previously provided for tracking.” (App. Br. 4–5; Reply Br. 2–3.) Particularly, Appellants argue Sauerbrey’s *call center server* does not teach the claimed processor because “the server location bears absolutely *no* relation to the vehicle location,” thus “the server . . . ha[s] no defined proximate relationship to the vehicle”; in contrast, claim 1 requires the

“processor wirelessly being informed of the vehicle identity (*the vehicle being within proximity to the processor*).” (App. Br. 4–5 (emphasis added).) Appellants’ arguments are not commensurate with the scope of claim 1, which does not require the *processor* to be *proximate* to the vehicle. (Ans. 6.) Claim 1 recites a wirelessly received vehicle identification is “received by the transceiver from a proximate vehicle,” which merely requires the *transceiver* to be *proximate* to the vehicle. (Ans. 6.)

We therefore agree with the Examiner that Sauerbrey’s *call center server* (38) teaches a processor sending an alert message when a wirelessly received vehicle identification matches a vehicle identification previously provided for tracking. (Ans. 7.) Particularly, Sauerbrey’s server 38 sends an alert message (message 86 targeted to a vehicle subscribed to the call center’s services) when a wirelessly received vehicle identification (vehicle’s identification number (VIN) 84) signals the vehicle’s crossing of a geo-fence. (Ans. 7–8 (citing Sauerbrey ¶¶ 7, 38–41).)

Appellants contend Sauerbrey’s call center server (38) “does not ‘report’ based on receiving an ID provided for tracking, the server reports based on a vehicle location matching a geo-fence location” in contrast to Appellants’ “claimed processor and transceiver . . . [that] can report based on receiving the ID from the *proximate* vehicle, without any need to reference vehicle GPS coordinates.” (App. Br. 5.) Appellants’ argument is not commensurate with the scope of claim 1, which does not preclude the processor from using vehicle GPS coordinates to determine when to send the alert. (Ans. 6–7.)

Additionally, Sauerbrey’s dealership has a wireless access point (WAP) establishing a short-range wireless connection with the approaching

vehicle, and “[t]he dealership 42 may also generate messages that it wants transmitted to the vehicle 12 upon its arrival.” (See Sauerbrey ¶¶ 15, 25, 29, 37, 47.) The dealership’s computing equipment, which generates messages tailored to the vehicle’s user, also teaches a processor as recited in claim 1. (See ¶¶ 25, 28–29, 47.)

Appellants next argue Sauerbrey’s messages are not an alert message *based on a transceiver receiving a vehicle identification from a proximate vehicle*, as claim 1 requires. (Reply Br. 3.)

We disagree. Message 86 is sent by server 38 when the server receives the *wirelessly transmitted* VIN from the vehicle, over the “wireless carrier/communication system 14” that “may be GSM (global system for mobile telecommunications).” (See Sauerbrey ¶¶ 11–14, 38–40, 57, Fig. 1; Final Act. 2.) As in claim 1, the VIN sent by Sauerbrey’s vehicle is *wirelessly received by a transceiver proximate to the vehicle*—the GSM network’s *transceiver* located closest to the vehicle.

With respect to the dealership’s “messages that it wants transmitted to the vehicle 12 upon its arrival,” those messages are based on the *arrival of the vehicle* that is also connected to the proximate WAP (*a transceiver*). (See Sauerbrey ¶¶ 25, 29, 37, 47.) The arriving vehicle provides the WAP with a “vehicle identification” (an identification code, security code, or pre-shared wireless connection key identifying the vehicle to the WAP and to the dealership), as claimed. (See Sauerbrey ¶ 19.)

Appellants further argue “[t]here is no indication that the VIN [received by Sauerbrey’s server 38 from the vehicle] was ‘previously provided for tracking’” or that a match between VINs prompts an alert message, as claim 1 requires. (Reply Br. 5.) Appellants’ argument is not

persuasive. Appellants' Specification broadly describes *vehicle identifications previously provided for tracking* as “a list of vehicles to ‘look for’” or “a list of VINs for which to look.” (See Spec. ¶¶ 48, 51.) The VIN of a subscriber vehicle in Sauerbrey subscriber database 68 is commensurate with the broad description of a *vehicle identification previously provided for tracking* in Appellants' Specification. (Ans. 7; see Spec. ¶¶ 48, 51; Sauerbrey ¶¶ 33, 39, 54.) Appellants' Specification further explains a *match* between vehicle identifications is found by “check[ing] to see if a received VIN is on the list of tracked VINs” and determining “[i]f the VIN or other ID is on the list.” (See Spec. ¶ 51.) Sauerbrey's “interrogat[ing] the database 68 . . . for any records associated with the VIN” and “identify[ing] the in-vehicle infotainment capabilities” based on the VIN, is commensurate with the broad description of *matching* a vehicle identification to an identification previously provided for tracking in Appellants' Specification. (Ans. 7; see Spec. ¶ 51; Sauerbrey ¶¶ 39–40.)

Accordingly, Appellants' arguments directed to the Examiner's rejection of claim 1 have not persuaded us of error in the Examiner's findings. We therefore sustain the rejection of claim 1 as anticipated by Sauerbrey.

No separate arguments are presented for dependent claims 2–6. (App. Br. 5.) Accordingly, for the reasons stated with respect to independent claim 1, we sustain the rejection of claims 2–6. See 37 C.F.R. § 41.37(c)(1)(iv).

Claims 7–17, 19, and 20

The Examiner, among other things, finds Sauerbrey teaches a processor configured to “receive . . . a boundary defining a geo-fence . . . [and] associate a plurality of existing dedicated short range communication

(DSRC) transceivers with the boundary” as recited in independent claim 7. (Final Act. 4–5 (citing Sauerbrey ¶ 35, Figs. 1 and 2).) The Examiner also finds Sauerbrey teaches a processor configured to instruct reporting “detection of communication between a vehicle and one of a plurality of predesignated dedicated short range communication (DSRC) transceivers, the plurality of DSRC transceivers corresponding to a predefined geo-fence” as recited in independent claim 15. (Final Act. 6.) Particularly, the Examiner finds Sauerbrey’s “electronic device (item 40) and a wireless access point (WAP) . . . both operate using dedicated short range communication (DSRC) transceivers” that “are associated with the geo-fence (boundary 82) surrounding the dealership.” (Ans. 8, 10 (citing Sauerbrey ¶¶ 35, 38).) We do not agree.

We agree with Appellants that Sauerbrey does not associate a plurality of existing dedicated short range communication (DSRC) transceivers with a boundary defining a geo-fence, as required by claims 7 and 15. (App. Br. 5–6.) As Appellants explain, Sauerbrey defines its geo-fence 82 “in terms of geographic coordinates without any use of [DSRC] transceivers associated with the fence.” (App. Br. 6.) Particularly, geo-fence 82 “may include a boundary defined by GPS [(Global Position System)] coordinates” and “may also be defined using a radius and the dealership 42 as a center point, where the center point is a latitude and longitude coordinate.” (*See* Sauerbrey ¶ 35.) Thus, Sauerbrey defines its geo-fence 82 using a *GPS* receiver, which is not a *short range communication* transceiver as required by the claims. (App. Br. 6.) Sauerbrey also does not associate the geo-fence with the dealership’s short range transceiver (WAP).

As the Examiner has not shown, nor have we found, that Sauerbrey associates dedicated short range communication (DSRC) transceivers with a predefined geo-fence as required by claims 7 and 15, we do not sustain the Examiner's rejection of claims 7 and 15 as anticipated by Sauerbrey. We also do not sustain the Examiner's anticipation rejection of claims 8–14, 16, 17, 19, and 20 dependent from one of claims 7 and 15.⁴

DECISION

The Examiner's rejection of claims 1–6 is affirmed.

The Examiner's rejection of claims 7–17, 19, and 20 is reversed.

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-IN-PART

⁴ Claim 15 recites two instances of “a vehicle,” and it is unclear if there is any relationship between them. Particularly, claim 15 is unclear as to any relationship between the claimed “a vehicle” instructed “to wirelessly report,” and the claimed “a vehicle” whose communication with “one of a plurality of predesignated dedicated short range communication (DSRC) transceivers” is to be reported. Appellants are advised to correct this error by providing proper antecedent basis for the second claimed instance of “a vehicle.”