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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JEFFREY EID, SHOICHI ENDO,
and DANNY A. GRANT

Appeal 2018-005373
Application 11/226,893
Technology Center 2600

BEFORE STACEY G. WHITE, BETH Z. SHAW, and
SCOTT B. HOWARD, *Administrative Patent Judges*.

HOWARD, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision to reject claims 1, 5, 10–12, 28–40, 42, and 45–48. Claims 2–4, 6–9, 13–27, 41, 43, and 44 have been cancelled. Appeal Br. 10, 12, 14, 18. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM-IN-PART.

¹ We use the word Appellant to refer to “applicant” as defined in 37 C.F.R. § 1.42(a). Appellant identifies the real party in interest as Immersion Corporation. Appeal Br. 2.

CLAIMED SUBJECT MATTER

The claims are directed “to methods and systems for providing customized ‘haptic messaging’ to users of handheld communication devices in a variety of applications.” Abstract. Claim 1, reproduced below with emphases added, is illustrative of the claimed subject matter:

1. A method, comprising:
 - receiving, by a handheld communication device, an input signal, wherein the input signal is associated with a service carrier event that is specific to a wireless service carrier of the handheld communication device;
 - extracting a haptic code from the input signal;*
 - determining a control signal based at least in part on the extracted haptic code, wherein the control signal is configured to cause an actuator of the handheld communication device to output a haptic effect, wherein the haptic effect is particular to the wireless service carrier; and
 - outputting the control signal to the actuator, thereby causing the haptic effect to be output at the handheld communication device;
 - wherein the determining the control signal comprises mapping the haptic code to one of a plurality of different control signals and then retrieving the mapped control signal from memory, wherein each different control signal is associated with a distinct haptic effect;*
 - wherein the mapping to one of the different control signals is based at least on a geographic location of the handheld communication device, and each of the different control signals corresponds to a different geographic location out of a plurality of possible geographic locations;
 - wherein a first geographic location causes the haptic code to be mapped to a first control signal, and a second geographic location that is different than the first geographic location causes the haptic code to be mapped to a second control signal that is different than the first control signal;
 - wherein the first control signal is associated with a haptic logo of a first wireless service carrier that provides service to a*

first base station in the first geographic location and is in response to a powering on or a powering off of the handheld communication device and is specific to the wireless service carrier, and the second control signal is associated with a second wireless service carrier different than the first wireless service carrier that provides service to a second base station in the second geographic location.

REFERENCES

The prior art relied upon by the Examiner is:

Name	Reference	Date
Mizikovsky	US 5,255,307	Oct. 19, 1993
Alberth	US 6,094,565	July 25, 2000

REJECTION

Claim 1, 5, 10–12, 28–40, 42, and 45–48 are rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Alberth in view of Mizikovsky. Final Act. 2–8.

OPINION

We have reviewed the Examiner’s rejection in light of Appellant’s arguments that the Examiner erred. In reaching this decision, we have considered all evidence presented and all arguments made by Appellant. We are not persuaded by Appellant’s arguments regarding claims 1, 5, 10–12, 28, 30, 31, 33–40, 42, and 45–48. We, however, are persuaded by Appellant’s arguments that the Examiner erred in rejecting claims 29 and 32.

Claims 1, 5, 10–12, 28, 30, 31, 37–40, 42, and 45–48

Haptic Code Limitations

Appellant argues the Examiner erred in finding Alberth teaches “extracting a haptic code from the input signal” and “mapping the haptic code to one of a plurality of different control signals and then retrieving the mapped control signal from memory” as recited in claim 1. *See* Appeal Br. 3–5; Reply Br. 2–3. Specifically, Appellant argues that although Alberth teaches “a handheld device that provides status indicators depending on whether the device is in service or roaming, . . . the status indicators are **predetermined** so that if using an indicator light, the light is always green if in service, and yellow if roaming.” Appeal Br. 4. Appellant further argues if a vibrator is used as a status indicator, then “the vibration patterns are **predetermined depending on whether the device is in service or roaming.**” *Id.* at 4–5. Therefore, according to Appellant, “in Alberth, any type of input signal is merely used to indicate whether the device is in service or roaming. The status indicator itself is pre-defined on the device itself, and does not use a code or any type of mapping.” *Id.* at 5; *see also* Reply 3 (“Appellants respectfully submit that Alberth clearly teaches that his status information includes a status and not a haptic code, and, importantly, that Alberth’s status is mapped to a ‘distinctive vibration pattern.’”).

The Examiner finds Alberth teaches “extracting a haptic code from the input signal.” Final Act. 2. Specifically, the Examiner finds Alberth teaches that “the control information or the status information is extracted from the receive signals” and that “the status information is mapped to a predetermined vibration pattern.” *Id.* (citing Alberth 4:7–30, 6:34–55); *see also* Ans. 10 (“Alberth teaches receiving an input signal (signal 104 in

Fig. 1) from a base station (i.e., a first wireless service carrier). The input signal contains codes that are to be demodulated to provide a control signal out of a plurality of control signals to control the vibrator 310 to indicate ‘in service’, ‘roaming’ or ‘out of service’ distinctive vibration pattern.

Therefore, based on the broadest reasonable interpretation, the input signal includes haptic code and the haptic code is mapped to a particular control signal to provide a distinctive vibration pattern.”).

The Examiner further finds Alberth teaches “mapping the haptic code to one of a plurality of different control signals and then retrieving the mapped control signal from memory.” Final Act. 3. Specifically, the Examiner finds Alberth teaches that “the memory 305 permanently stores operating instructions and user definable information [and that] the user definable information can be vibration patterns, which corresponds to a plurality of different control signals, each provides a distinct vibration pattern.” *Id.* (citing Alberth 4:54–5:5); *see also* Ans. 10–11.

We are not persuaded by Appellant’s arguments that the Examiner erred in finding Alberth teaches the disputed limitations. First, we agree with the Examiner that “haptic code” as recited in claim 1 is broad enough to encompass the status information in the received signal. Although the Specification does not provide a definition of the term “haptic code,” it uses the term broadly to encompass information that is used either directly *or indirectly* to determine a haptic effect. *See* Spec. ¶ 52. For example, the Specification describes how “the extracted haptic code may be directly applied to the actuator for rendering the desired haptic effect.” *Id.* Alternatively, the Specification describes how a table of haptic codes can be used indirectly to look-up a control signal that causes a haptic effect:

In another embodiment, the haptic code may be configured according to a predetermined scheme or protocol that includes, for example, a table of haptic codes (some of which may be associated with one or more haptic logos) versus control signals for rendering the corresponding haptic effects. In this way, a processor in the handheld communication device can look up the corresponding control signal from the table based on the extracted haptic code, and output the selected control signal to the actuator for rendering the desired haptic effect.

Id. Thus, the broadest reasonable interpretation of a “haptic code” is a code that, either directly or indirectly, is used to generate a haptic effect.

Second, we agree with the Examiner that Alberth teaches the disputed limitations. Alberth teaches how the transceiver of the mobile phone receives RF signals, which includes control information such as status information—whether the network is “in service, “roaming,” or “out of service.” Alberth 4:7–30, 6:34–55. Alberth further teaches that instead of displaying the status information, the controller could use a vibrator to provide a status check by using a different vibration pattern for the different statuses. *Id.* at 6:34–55. Alberth also teaches using a memory to store the operating instructions and vibration patterns. *Id.* at 4:54–67. Accordingly, Alberth teaches “extracting a haptic code from the input signal”—that is extracting RF status information from the received RF signal—and “mapping the haptic code to one of a plurality of different control signals and then retrieving the mapped control signal from memory”—that is matching the status information with a stored vibration pattern in the phone’s memory and using the specific vibration pattern to indicate the status.

Haptic Logo Limitation

Appellant also argues the Examiner erred in finding Alberth and Mizikovsky teach “the first control signal is associated with a haptic logo of

a first wireless service carrier” as recited in claim 1. *See* Appeal Br. 5–6; Reply Br. 3. According to Appellant, a haptic logo requires a distinct vibration pattern. Appeal Br. 5. Appellant argues Alberth uses distinct vibration patterns to distinguish between home and roaming services, not to identify a particular wireless service carrier:

In contrast, the status indicator in Alberth is solely based on whether the device is in service or roaming, and has nothing to do with the particular wireless service carrier. The vibratory status indicator in Alberth is “distinct” in order to distinguish between home and roaming states, and has nothing to do with identifying a particular wireless service carrier. Instead, any type of home system indicator in Alberth (e.g., a green light or predetermined vibration pattern) is **identical no matter which service carrier is servicing the device in its home system.**

Id.

Appellant further argues that Mizikovsky does not cure the deficiencies in Alberth. Appeal Br. 6. Specifically, Appellant argues that “Mizikovsky discloses a control message related to a service provider that is used merely to determine whether a mobile device in its home system or roaming” and “as with Alberth, any type of home system indicator in Mizikovsky is **identical no matter which service carrier is servicing the device in its home system.**” *Id.*

The Examiner finds Alberth teaches using a specific vibration pattern—such as 500ms on/500ms off—to indicate the home wireless service carrier. Final Act. 4. The Examiner also finds Alberth teaches a distinct separate vibration pattern associated with a second wireless service carrier when the device is roaming. *Id.*; *see also* Ans. 10–11 (discussing the different vibration patterns for different wireless service carriers). The

Examiner further concludes that “the claim does not include limitation specifying ‘a different indicator no matter which service carrier is servicing the device in its home system.’” Ans. 11.

We are not persuaded by Appellant’s arguments that the Examiner erred. First, we agree with the Examiner that the broadest reasonable interpretation of claim 1 does not require a distinct haptic logo for every wireless service carrier. Claim 1 does not recite the word distinct, but rather merely recites “a haptic logo” without a qualifier that would require the logo to be distinct. Although the Specification (Spec. ¶ 50) discusses distinct haptic logos, we do not read limitations from the Specification into the claims. *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993). Regardless of the general contentions and imputed intended meanings articulated by Appellant in the Appeal Brief, “[i]t is the *claims* that measure the invention.” *See SRI Int’l v. Matsushita Elec. Corp. of Am.*, 775 F.2d 1107, 1121 (Fed. Cir. 1985) (en banc) (citations omitted).

Though understanding the claim language may be aided by the explanations contained in the written description, it is important not to import into a claim limitations that are not a part of the claim. For example, a particular embodiment appearing in the written description may not be read into a claim when the claim language is broader than the embodiment.

SuperGuide Corp. v. DirecTV Enters, Inc., 358 F.3d 870, 875 (Fed. Cir. 2004) (citing *Electro Med. Sys. S.A. v. Cooper Life Sci., Inc.*, 34 F.3d 1048, 1054 (Fed. Cir. 1994)). “[A]lthough the specification often describes very specific embodiments of the invention, [the Federal Circuit has] repeatedly warned against confining the claims to those embodiments.” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1323 (Fed. Cir. 2005) (en banc) (citations

omitted). Because Appellant’s arguments are not commensurate with the scope of the claims, they are unpersuasive. *See In re Self*, 671 F.2d 1344, 1348 (CCPA 1982).

Second, we agree with the Examiner that Alberth teaches the disputed limitation. Specifically, Alberth teaches using a specific vibration pattern—that is a haptic logo—to identify the home service (a first wireless carrier service) while at the same teach teaching a different vibration pattern when a second wireless service carrier (roaming) is used. Alberth 6:34–55.

Accordingly, we sustain the rejection of independent claim 1 along with independent claims 5, 10, and 30—which contain commensurate limitations and are argued as a group (Appeal Br. 6)—and dependent claims 11, 12, 28, 31, 37–40, 42, and 45–48, which are not argued separately.

Claims 33–36

Appellant argues the Examiner erred in finding Alberth teaches that the “haptic code is further associated with a haptic logo that corresponds to the wireless service carrier that is operative in the geographic location” as recited in claims 33–36. Appeal Br. 6–7. Specifically, Appellant argues that “the status information in Alberth (and similar disclosure in Mizikovsky) at most merely indicates whether the device is roaming or not. There is no information within the status code that could be considered the claimed ‘haptic logo.’” *Id.* at 7.

The Examiner finds that, for the reasons discussed above with claim 1, Alberth teaches that “the haptic code is further associated with a haptic logo that corresponds to the wireless service carrier that is operative in the geographic location.” Final Act. 7 (citing Alberth 6:9–53); *see also*

Ans. 12 (“As described above, based on the broadest reasonable interpretation, the distinctive vibration pattern for in service is a ‘haptic logo’ of the first wireless carrier.”).

For the reasons discussed above in the preceding section, we are not persuaded by Appellant’s argument that the Examiner erred. Specifically, Alberth teaches using a specific vibration pattern—that is a haptic logo—to identify the home service (a first wireless service) while at the same time teaching a different vibration pattern when a second wireless service carrier (roaming) is used. Alberth 6:34–55.

Claims 29 and 32

Appellant argues the Examiner erred in finding Alberth teaches “wherein the haptic code includes a prescribed time at which to provide the haptic effect; and wherein the method further comprises: determining the prescribed time based on the extracted haptic code, wherein the haptic effect is to be output at the prescribed time” as recited in claims 29 and 32. Appeal Br. 7. Specifically, Appellant argues that “the status information in Alberth and in Mizikovsky at most merely indicates whether the device is roaming or not” and does not include “timing information in any of the received signal that indicates a ‘prescribed time’ to output a haptic effect.” *Id.*

The Examiner finds Alberth teaches the disputed limitation. *See* Final Act. 6–7; Ans. 12. The Examiner concludes that “the claim limitation does not specifically say ‘extracting timing information from the received signal’. Instead, the claim limits ‘determining the prescribed time based on the extracted haptic code.’” Ans. 12. Based on that claim construction, the Examiner finds that “Alberth’s determination of the distinctive vibration pattern (with a prescribed timing of on/off time) meets the claim limitation

in claim 29 and 32.” *Id.*; *see also* Final Act 7 (finding Alberth teaches that “the vibrating on/off time is the prescribed time” (citing Alberth 6:45–53)).

We are persuaded by Appellant’s arguments as the Examiner has not identified sufficient evidence or provided sufficient explanation as to how Alberth teaches “determining the prescribed time based on the extracted haptic code, wherein the haptic effect is to be output at the prescribed time,” as recited in claims 29 and 32. Although Alberth teaches how long the vibrator should vibrate, the cited section does not teach or suggest a specific prescribed time for the haptic effect or obtaining that timing information based on the extracted haptic code. *See* Alberth 6:45–53. Accordingly, we agree with Appellant the Examiner’s finding that Alberth teaches the disputed limitation is in error because it is not supported by a preponderance of the evidence. *See In re Caveney*, 761 F.2d 671, 674 (Fed. Cir. 1985) (Examiner’s burden of proving non-patentability is by a preponderance of the evidence).

Accordingly, we are constrained on this record to reverse the Examiner’s rejection of claims 29 and 32.

CONCLUSION

The Examiner’s rejection of claims 1, 5, 10–12, 28, 30, 31, 33–40, 42, and 45–48 is affirmed.

The Examiner’s rejection of claims 29 and 32 is reversed.

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1, 5, 10–12, 28–40, 42, 45–48	103(a)	Alberth, Mizikovsky	1, 5, 10–12, 28, 30, 31, 33–40, 42, 45–48	29, 32

TIME PERIOD FOR RESPONSE

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART