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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte KEVIN CHERVENY, AARON CRANE,
LAWRENCE M. KAPLAN, JOHN JASPER, and RUSSELL SHIELDS

Appeal 2018-008622
Application 11/044,139
Technology Center 3600

Before MICHAEL C. ASTORINO, JEREMY M. PLENZLER, and
KEVIN W. CHERRY, *Administrative Patent Judges*.

CHERRY, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), the Appellant¹ appeals from the Examiner's decision to reject claims 26, 27, 36, 38–40, 42, 43, 46, 48, 58, 59, and 61.² We have jurisdiction under 35 U.S.C. § 6(b).

¹ We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. The Appellant identifies the real party in interest as Here Global B.V., an organization having a place of business in Veldhoven, Netherlands. Appeal Br. 2.

² “An appeal, when taken, is presumed to be taken from the rejection of all claims under rejection unless cancelled by an amendment filed by the applicant and entered by the Office.” 37 C.F.R. § 41.31(c); *see infra*.

We AFFIRM.

STATEMENT OF THE CASE

Subject Matter on Appeal

Appellant's claimed invention relates to a system and method for updating and enhancing a geographic database. Spec. 1, ll. 11–14.

Claim 26, which is reproduced below, is illustrative of the subject matter on appeal.

26. A method of collecting data representing physical features in a geographic region to update a central geographic database comprising:

receiving a navigation related feature from a map database associated with the central geographic database;

sensing, using sensor equipment in each of a plurality of end users' vehicles, a physical feature in an environment around each of said end users' vehicles while said end users' vehicles are being driven along roads;

collecting, using data collection equipment in each of said plurality of end users' vehicles, data from said sensor equipment while said end users' vehicles are being driven along said roads;

sending, with a wireless communication link, at least a portion of the data collected by said data collection equipment to the central geographic database;

wherein, based on comparing the portion of data collected to data already stored in the central geographic database, the central geographic database is updated using the portion of data collected to provide navigation related features.

Appeal Br. 17, Claims App.

*Rejections*³

Claims 26, 27, 36, 38, 39, 42, 43, 46, and 48 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lanckton (US 5,517,419, iss. May 14, 1996) and Mannings (US 6,169,515 B1, iss. Jan. 2, 2001).

Claim 40 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Lanckton, Mannings, Zarmer (US 5,625,818, iss. Apr. 29, 1997), and Herz (US 5,835,087, iss. Nov. 10, 1998).

Claims 58, 59, and 61 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lanckton, Mannings, Poelstra (US 4,994,971, iss. Feb. 19, 1991), and Peterson (US 5,332,180, iss. July 26, 1994).

ANALYSIS

Claims 26, 27, 36, and 46

Appellant argues that neither Lanckton nor Mannings disclose the limitation “based on comparing the portion of data collected to data already stored in the central geographic database, the central geographic database is updated using the portion of data collected to provide navigation related features” (Appeal Br. 8). The Examiner concedes that neither Lanckton nor Mannings expressly disclose this limitation (Final Act. 5). However, the Examiner submits that “using ‘filtered data’/‘a portion of data’ are obviously a task while/of collecting data; this teaching is not new to one of ordinary skill in the art because one only collecting ‘related’/‘a portion data,’” and that “this claimed language only indicates a comparison of related data to a stored data in a central database (see Mannings et al., claim 13, and

³ The Examiner withdrew the rejection of claims 38, 42, and 59 under 35 U.S.C. § 112 (Ans. 3).

Mannings et al., clearly disclose ‘a central database’, in col. 8 lines 60–67 wherein data are collected and processed/stored in a central database)”

(Final Act. 5). The Examiner further submits that

[w]hile Mannings et al., do not disclose about updating a central data using a portion of collected data to provide navigation related features; however, Mannings teaches about using “filtered data” (that is clearly “a portion of data”) while/of collecting certain data; because only collecting “related”/a portion of data would save time and effort while performing this collecting task (see Mannings, col. 1 lines 41–43, and col. 2 lines 43–44)

(Ans. 4).

The Examiner further explains that the disputed limitation

only indicates a comparison of related data to a stored data in a central database (e.g., to obtain valid/better data, see Mannings et al., col. 9 lines 2–6, claim 13, and Mannings et al., clearly disclose “a central database”, in col. 8 lines 60–67 wherein data are collected and processed/stored/updated in a central database)

(Ans. 5).

Appellant contends that the Examiner is improperly relying on personal knowledge and “mere knowledge of a general use of a portion of data does not suggest updating a central database using the portion of data. . . . to provide navigation related features” (Appeal Br. 10). Appellant submits that the cited portions of Mannings (claim 13 and column 8, lines 60–67) merely disclose the mobile part comparing movement information with an expected range received from the fixed part, and automatically reporting the movement measurements if the measurements are outside of the expected range (claim 13), and using a central database to monitor vehicle movements using traffic models to optimize traffic flows and

journey times of the monitored vehicles (col. 8, ll. 60–67) (Appeal Br. 11). Appellant contends that “[a]ll discussion by Mannings, et al. of using a central database to monitor vehicle movements and to provide navigational instructions fails to suggest comparing data collected to data already stored in the central geographic database” (*Id.*). Thus, Appellant argues that Mannings, does “not teach or suggest updating a central database based on comparing a portion of data collected to data already stored in the central geographic database, or that a central database is updated based on the comparison” (*Id.*).

We are not persuaded by Appellant’s arguments that the Examiner erred. To begin with, we disagree with Appellant that the Examiner improperly relies on personal knowledge (Appeal Br. 10). As the Examiner explains, although Mannings does not expressly teach the comparing limitation, Mannings does teach collecting vehicle movement information and that “[u]sing the data collected by this method, it is possible for the central system to derive a digital map of valid routes,” and that “[t]he following data could be derived automatically: valid travel lanes; permitted directions) of flow; allowable turns; average travel times; trends in travel times according to time of day” (Mannings, col. 8, l. 60–col. 9, l. 7). We agree with Examiner that “because ‘only related features are compared to see a difference—this has been practiced by one with ordinary skill in the art—the motivation has been expected for: a quicker time, requiring less use of computer data/space, and saving users’ effort” (Ans. 11). We agree with the Examiner’s reasoning that Mannings’s disclosure suggests to a person of ordinary skill that data are compared in order to enable the updates that Mannings discloses. *See In re Burckel*, 592 F.2d 1175, 1179 (CCPA 1979)

(“Under 35 U.S.C. § 103, a reference must be considered not only for what it expressly teaches, but also for what it fairly suggests.”).

Appellant responds with several arguments. First, Appellant argues that there is no citation for the Examiner’s conclusion as to what Mannings suggests (Reply Br. 2). We disagree. As detailed above, the Examiner does cite to evidence—the disclosure of Mannings—and provides articulated reasoning with rational underpinnings to support the conclusion that Mannings’s disclosure of collecting vehicle movement data and then using those data to automatically derive such things as valid travel lanes; permitted directions of flow; allowable turns; average travel times; trends in travel times according to time of day, would suggest to a person of ordinary skill in the art comparing data in order to update other data stored in a database.

Second, Appellant argues that

[e]ven if the data in Mannings is
“reviewed/compared/processed before updating/releasing
current data,” Mannings cannot teach or suggest comparing the
portion of data collected, for the physical feature in the
environment around each of said end users’ vehicles while said
end users’ vehicles are being driven along roads, to data already
stored in the central geographic database, and the central
geographic database is updated using the portion of data
collected to provide navigation related features

(Reply Br. 3). However, the Examiner relies on Lanckton in the combination for teaching collecting data about physical features and Mannings is relied on for its teachings and suggestions regarding a central database and data processing. Thus, this argument improperly addresses the references individually and not in combination, and is not persuasive. *See Soft Gel Techs., Inc. v. Jarrow Formulas, Inc.*, 864 F.3d 1334, 1341 (Fed. Cir. 2017).

Finally, Appellant contends that the Examiner's interpretation of "at least a portion of the data" as "any/all data collected" is unreasonable (Reply Br. 3–4). We disagree. Claim 26 recites "sending, with a wireless communication link, at least a portion of the data collected by said data collection equipment to the central geographic database" and then recites, with added emphasis, "based on comparing *the portion of data collected* to data already stored in the central geographic database, the central geographic database is updated using *the portion of data collected* to provide navigation related features." From the quoted claim language, it is apparent that the antecedent basis for the "portion of data collected" lies in the "sending" limitation of claim 26. The "sending" limitation makes clear that what is sent is "*at least* a portion" of the data collected. Based on this claim language, we agree with the Examiner (Ans. 12–13) that the "portion" could be up to all of the data collected. Appellant does not apprise us of any portion of the Specification, nor are we aware of any, that would suggest a narrower construction.

In sum, we are not persuaded that the Examiner erred in rejecting claim 26. Appellant does not raise any other arguments regarding claims 27, 36, and 46, which depend from claim 26. Thus, we sustain the rejection of claims 26, 27, 36, and 46.

Claim 38

Claim 38 depends from claim 26 and further recites that "comparing the portion of data collected to data already stored in said central geographic database comprises identifying variances in the portion of data collected based on historical data in said central geographic database." Appellant argues that, in addition to the arguments regarding claim 26, the references

fail to teach or suggest “identifying variances . . . based on historical data in said central geographic database” (Appeal Br. 12). Appellant asserts that the cited portion of Lanckton, column 9, lines 17–22, “only discuss[es] confirming a located feature by additional camera data collected from the opposite side of a vehicle” and “[c]onfirming data with an additional camera fails to suggest identifying variances in the portion of data collected based on historical data in said central geographic database” (Appeal Br. 12).

Appellant’s arguments are not persuasive for several reasons. First, we disagree with Appellant that the cited portion “only discuss[es] confirming a located feature by additional camera data collected from the opposite side of a vehicle” (Appeal Br. 12). Instead, as the Examiner explains, in order to confirm a feature as disclosed, differences—or variances—must be determined (Ans. 5). Second, Appellant’s arguments regarding the lack of a central database are not persuasive because the Examiner relies on Mannings, not Lanckton, to teach that feature. Thus, we sustain the rejection of claim 38.

Claim 39

Claim 39 depends from claim 38 and further recites that a “confidence level” is associated with “data contained in said central geographic database.” Appellant argues that “the cited references are completely silent regarding confidence levels associated with data, and no art citations were provided for this feature,” so “the rejection of claim 39 is unsupported and based on purely conclusory statements” (Appeal Br. 13). We disagree. The Examiner does cite Lanckton, column 9, lines 17–22, and while this passage does not recite the words “confidence level,” the Examiner explains why this passage would suggest to a person of ordinary skill the claimed “confidence

level.” Appellant fails to address this reasoning. We find the Examiner’s reasoning to be rational and supported (Ans. 5). Thus, we sustain the rejection of claim 39.

Claim 40

Claim 40 depends from claim 26. Appellant does not raise any separate argument other than those considered above with respect to claim 40. As discussed above with respect to claim 26, we did not find Appellant’s arguments persuasive. Thus, we sustain the rejection of claim 40.

Claims 42, 43, and 48

Claim 42 recites

a central geographic data manager that receives the portion of the data collected by said data collection equipment and updates the central geographic database using the portion of the data collected and a confidence level for the portion of the data collected, wherein the confidence level is indicative of a certainty that the portion of data collected matches the physical feature in the environment.

Appellant repeats its arguments for claims 26 and 39 regarding “comparing” and “confidence level.” As we explained above, we were not persuaded by these arguments. Thus, for the reasons explained above, we sustain the rejection of claim 42.

Claims 43 and 48 depend from claim 42. Appellant raises no separate arguments for those claims. Thus, we also sustain the rejection of claims 43 and 48.

Claims 58, 59, and 61

Independent claim 58 recites, in relevant part,

a central geographic data manager that receives the portion of the data collected by said software programming,

performs a comparison of data previously stored in the central database to the data collected by said software programming, and updates the central database using the portion of the data collected based on the comparison and a confidence level for the portion of the data collected, wherein the confidence level is indicative of a frequency that the positions of said roads are collected by the plurality of end users' vehicles.

Independent claim 59 recites, in relevant part,

using a computer-implemented method to compare the information about the physical feature to data previously stored in the central database and, based on the comparison, to update the central database with the information about the physical features that had been sent thereto to the central database, wherein comparing the information about the physical feature to data previously stored in the central database identifies a variance in the information about the physical feature.

Independent claim 61 recites, in relevant part, "sending, with a wireless communication link, at least a portion of the data collected by said data collection equipment to the central geographic database based on the comparison with the local map database and a confidence level for the portion of the data collected."

Appellant argues that none of the references disclose these features (Appeal Br. 15). Appellant argues that the Examiner concedes that Lanckton, Mannings, and Poelstra do not disclose this limitation (*Id.*). Appellant submits that the Examiner looks to reference numeral 112 in Figure 7 of Peterson for this feature, but Peterson merely discloses that railway traffic is monitored and does not teach or suggest a central geographic database (*Id.*). However, the Examiner relies on Mannings for the central database (Ans. 8). Thus, Appellant's attack on Peterson individually does not persuade us that the Examiner's findings are incorrect. Moreover, the Examiner expressly incorporates the analysis from claim 26,

which we discussed above (Ans. 8). As we found above, the Examiner has shown that the combination of Lanckton and Mannings teaches and suggests the comparing limitation. As for “confidence level,” the Examiner repeats the analysis we discussed above with respect to claim 39. Accordingly, for these reasons and for the reasons expressed above with respect to claims 26 and 39, we sustain the Examiner’s rejection of claims 58, 59, and 61.

DECISION

The rejections of claims 26, 27, 36, 38–40, 42, 43, 46, 48, 58, 59, and 61 are affirmed.

CONCLUSION

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
26, 27, 36, 38, 39, 42, 43, 46, 48	103(a)	Lanckton, Mannings	26, 27, 36, 38, 39, 42, 43, 46, 48	
40	103(a)	Lanckton, Mannings, Zarmer, Herz	40	
58, 59, 61	103(a)	Lanckton, Mannings, Poelstra, Peterson	58, 59, 61	
Overall Outcome			26, 27, 36, 38–40, 42, 43, 46, 48, 58, 59, 61	

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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). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2011).

AFFIRMED