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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SCOTT STILWELL, DMITRY BARABLIN, and
SERGEY KOZLOV¹

Appeal 2018-008696
Application 15/130,542
Technology Center 2400

Before ROBERT E. NAPPI, JAMES W. DEJMEK, and
STEPHEN E. BELISLE, *Administrative Patent Judges*.

NAPPI, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) of the Final Rejection of claims 1 through 18. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

INVENTION

The invention is directed to a method to notify an individual of an emergency alert signal when the individual is not near a conventional

¹ We use the word Appellant to refer to “applicant” as defined in 37 C.F.R. § 1.42(a) (2017). Appellant identifies the real party in interest as ARRIS Enterprises. App. Br. 3.

notification device. Spec. ¶ 10. Claim 1 is representative of the invention and is reproduced below:

1. A device for use with a wireless communication device and for use with a video display operable to display a video, said device comprising:
 - a receiver operable to receive input data including image data and emergency alert system data;
 - an image decoder operable to decode the image data into image display data;
 - an emergency alert decoder operable to generate emergency alert data by one or more of:
 - decoding the emergency alert system data into the emergency alert data, and
 - receiving data from a networked device or sensor for generating the emergency alert data;
 - an output port operable to output the image display data to the video display to display a video image;
 - a memory operable to store contact information associated with the wireless communication device;
 - a warning generator operable to generate a warning signal comprising audio data or textual data based on the emergency alert data; and
 - a transmitter operable to transmit a warning transmission to the wireless communication device over a cellular network, the warning transmission being based on the warning signal and the contact information.

REJECTIONS AT ISSUE

The Examiner has rejected claims 1, 7, and 13 under 35 U.S.C. § 102(a)(1) as anticipated by Walter (U.S. 2008/0120639 A1, May 22, 2008). Final Act. 3–5.²

The Examiner has rejected claims 2, 3, 8, 9, 14, and 15 under 35 U.S.C. § 103 as being unpatentable over Walter and Alman (U.S. 2016/0295300 A1, Oct. 6, 2016). Final Act. 5–6.

The Examiner has rejected claims 4, 10, and 16 under 35 U.S.C. § 103 as being unpatentable over Walter and Tully (U.S. 2005/0166222 A1, July 28, 2005). Final Act. 6–7.

The Examiner has rejected claims 5, 11, and 17 under 35 U.S.C. § 103 as being unpatentable over Walter, Tully and Alman. Final Act. 7–8.

The Examiner has rejected claims 6, 12, and 18 under 35 U.S.C. § 103 as being unpatentable over Walter, Tully and Schofield (U.S. 2015/0160635 A1, June 11, 2015). Final Act. 8–9.

ANALYSIS

We have reviewed Appellant’s arguments in the Briefs, the Examiner’s rejections, and the Examiner’s response to Appellant’s arguments. Appellant’s arguments have not persuaded us of error in the Examiner’s rejection of claims 1 through 18.

Appellant argues that Walter does not disclose the claimed warning generator, which generates a signal comprising audio data or textual data

² Throughout this Opinion, we refer to the Appeal Brief, filed March 6, 2018 (“App. Br.”); the Reply Brief, filed August 29, 2018 (Reply Br.); the Examiner’s Answer, mailed June 29, 2018 (“Answer”); and the Final Office Action, mailed October 5, 2017 (“Final Act.”).

based on the emergency alert data or the claimed transmitter operable to transmit the warning transmission to a wireless device over a cellular network. App. Br. 7–9; Reply Br. 2–5. Specifically, Appellant argues that the video alert module sends content to a set top box and there is no discussion of generating warning of audio or textual data based upon the emergency alert. App. Br. 8 (citing Walter ¶¶ 40–41). Further, Appellant argues that the discussion of contacting a cellular phone, cited by the Examiner, is merely bridging a two-way communication between a phone and an emergency access center and not a warning transmission as claimed. App. Br. 8 (citing ¶¶ 20, 39); Reply Br. 2, 3.

The Examiner responds to Appellant’s arguments finding that two aspects of Walter disclose the disputed feature. Answer 3–4. First the Examiner states “[t]o a reasonable person, a call from an emergency monitoring service would be considered a warning.” Answer 3 (citing Walter ¶¶ 29, 30, 39, and 40). Second the Examiner finds that Walter “describe[s] a process of retrieving information related to the emergency and transmitting it to a cellular phone.” Answer 4 (citing Walter ¶¶ 28, 30). We concur with the Examiner that this second teaching of Walter, which Appellant does not address, meets the disputed limitations and, as such, we do not reach the issue as to whether we concur with the first.

Representative claim 1 recites a warning generator that generates a warning signal of audio or text based upon the emergency alert data and transmitting the warning signal over a cellular network. Walter teaches that an emergency alert received by the set top box can result in a request for

additional information, e.g. radar image. Walter ¶ 28.³ Further, Walter identifies that the set top box can request that this information be sent to another device such as e-mail or text at the user's cellular phone. Walter ¶ 30. We consider sending a text to a cellular phone to require implicitly use of a cellular network, and the information of the text is a warning. Thus, we consider the teachings in paragraphs 28 and 30 of Walter to disclose the disputed limitation of generating a warning signal of audio or text based upon the emergency alert data and transmitting the warning signal over a cellular network. Although claim 1 does not recite a limitation that precludes the user identifying that the information is sent to the cellular phone after receipt of the emergency alert data, Walter further discloses that user preferences can result in the request for information automatically be requested based upon type of emergency alert. *See* Walter ¶¶ 47–51, which discusses user preferences to determine the type of emergency alerts to display, whether to open an interactive action session, and identify whether that information should be sent to another device. Accordingly, Appellant's arguments have not persuaded us of error in the Examiner's anticipation rejection of claims 1, 7, and 13.

Appellant's arguments directed to claims 2 through 6, 8 through 12, and 14 through 18, assert the obviousness rejections of these claims is in error for the reasons discussed with respect to independent claims 1, 7, and 13. App. Br. 9–10. As we are not persuaded of error in the Examiner's rejection of claims 1, 7, and 13, we sustain the Examiner's obviousness

³ We note that the information requested can also be audio or text. *See* Walter ¶ 29.

Appeal 2018-008696
Application 15/130,542

rejections of claims 2 through 6, 8 through 12, and 14 through 18 for the same reasons discussed with respect to claim 1.

CONCLUSION

The Examiner's decision rejecting claims 1 through 18 is affirmed.

Claims Rejected	35 U.S.C. §	Basis	Affirmed	Reversed
1, 7, and 13	102 (a)(1)	Walter	1, 7, and 13	
2, 3, 8, 9, 14 and 15	103(a)	Walter and Alman	2, 3, 8, 9, 14, and 15	
4, 10, and 16	103(a)	Walter and Tully	4, 10, and 16	
5, 11, and 17	103(a)	Walter, Tully, Alman	5, 11, and 17	
6, 12, and 18	103(a)	Walter, Tully, Schofield	6, 12, and 18	
Outcome			1-18	

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