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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte KERRY WOOLSEY and PETER HAMMERQUIST

Appeal 2018-008807
Application 14/482,880[1]
Technology Center 2600

Before ERIC B. CHEN, IRVIN E. BRANCH, and
JOSEPH P. LENTIVECH, *Administrative Patent Judges*.

BRANCH, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1–20. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

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[1] According to Appellants, the real party in interest is "Microsoft Technology Licensing, LLC." Br. 3.

STATEMENT OF THE CASE

The invention relates to improving coordination of "[t]ime and location . . . for a successful meet-up." Spec. ¶ 1. Claim 1, reproduced below, is illustrative of the claimed subject matter.

> 1. One or more computer-readable memories storing instructions which, when executed by one or more processors disposed in a device, implement real-time sharing of location during a phone call between a local party and a remote party using respective local and remote devices, comprising:
>
> during the phone call, exposing a user interface (UI) for initiating the real-time sharing of a current location of the local device with the remote device;
>
> exposing one or more controls for selecting an expiration for the location sharing, in which location sharing is discontinued at the expiration, the expiration being expressed using time or the expiration being expressed using an occurrence of an event in which the occurrence is indefinite with respect to time;
>
> displaying a map that graphically shows one of a location of the local device, a location of the remote device, or the locations of both the local and remote devices;
>
> monitoring context data associated with one or more of the local or remote devices, wherein the monitored context data includes that an estimated meet-up time between the local and remote devices will occur after the expiration of a time period for the location sharing;
>
> determining that one or both of the local or remote devices will be late based on the monitored context data, wherein the determination is based on a probability that satisfies a predetermined threshold; and
>
> in response to the late determination, providing a notification and an option to extend location sharing.

REFERENCES AND REJECTIONS

Claims 1–7 stand rejected under 35 U.S.C. § 103 as obvious over Tysowski (US 2012/0100875 A1; April 26, 2012), Bocking (US 2010/0262915 A1; Oct. 14, 2010), and Aaron (US 2008/0195312 A1; Aug. 14, 2008). Final 3–7.

Claim 8 stands rejected under 35 U.S.C. § 103 as obvious over Tysowski, Bocking, Aaron, and Van Os (US 2009/0325603 A1; Dec. 31, 2009). Final 7–8.

Claim 9 stands rejected under 35 U.S.C. § 103 as obvious over Tysowski, Bocking, Aaron, and Trussel (US 2013/0226453 A1; Aug. 29, 2013). Final 8–9.

Claim 10 stands rejected under 35 U.S.C. § 103 as obvious over Tysowski, Bocking, Aaron, and Kim (US 2012/0284789 A1; Nov. 8, 2012). Final 9–10.

Claims 11–20 stand rejected under 35 U.S.C. § 103 as obvious over Tysowski, Bocking, Aaron, and Adamczyk (US 7,328,029 B1; Feb. 5, 2008). Final 10–12.

ANALYSIS

Claims 1–4, 6–10, and 17–20

Claims 1–4, 6–10, and 17–20 are argued collectively. Br. 6–9. We address the arguments with reference to claim 1.

Appellants contend the Examiner errs by finding Bocking and Aaron suggest the claimed determination that an estimated meet-up time will occur after the expiration of a time period for location sharing (claimed "monitoring" and "determining" steps). Br. 6–8; Reply Br. 3–4. Specifically, Appellants contend that neither reference "disclose[s] an

interdependence between location sharing and . . . an estimated meet-up time." Reply 3. Appellants contend Bocking discloses to set a time limit for how long location sharing is enabled. Br. 7–8. Appellants contend Aaron discloses a determination that a user will be late to a meeting. *Id.* at 7.

We are unpersuaded of error.

The Examiner finds Tysowski teaches the claimed location sharing (Final 3; Ans. 5), which tracks the locations of multiple cellphones and displays those locations on each cellphone (i.e., such that two cellphone users can monitor each other's location). We agree because Tysowski teaches the claimed hardware (Tysowski Fig. 2), real-time determination and sharing of cellphone locations (*id.* at Fig. 1), and displaying of all shared locations on the display of each sharing cellphone (*id.* at Fig. 12).

The Examiner finds Bocking teaches the claimed expiration of location sharing (Final 3–4; Ans. 5–6), which discontinues location sharing as a function of time. We agree because Bocking teaches "allowing the user to choose exactly when to share location information" (Bocking ¶ 5), e.g., "[s]etting a time limit for how long location sharing is enabled" (*id.* ¶ 27).

The Examiner finds Aaron teaches the claimed time extension (Final 4–5; Ans. 6–7), which estimates the cellphones will 'meet-up' after a set time limit (i.e., meeting time) and accordingly prompts the users to reset the time limit (i.e., delay the meeting). We agree because Aaron teaches that, if the system estimates a user will be late (based on the user's current location, meeting location, and meeting time), the system may prompt all users to reschedule the meeting. Aaron ¶¶ 51–53.

The Examiner finds it would have been obvious, in view of Bocking and Aaron, to coincide Bocking's location-sharing expiration and Aaron's

meeting time—i.e., such that location sharing occurs until the start of a meeting and is thus extended if the meeting is delayed. Final Act. 4–5. We agree because Bocking teaches to share locations amongst people that meet at scheduled times, e.g., a golf foursome (Bocking ¶ 17), and Aaron teaches that shared location information can indicate whether someone will be late (Aaron ¶¶ 51–53). Thus, the combination of Bocking and Aaron teach sharing location information to monitor whether someone will be late for a meeting and, in turn, extending the sharing of location information if the meeting is delayed because someone will be late. The combination of Bocking and Aaron also teach performing Bocking's location sharing until the start of a meeting and providing an option to extend the location sharing, beyond the originally-set meeting time, as taught by Aaron's option to delay a meeting (because someone will be late).

Appellants do not persuasively rebut the above findings. *See In re Piasecki*, 745 F.2d 1468, 1472 (Fed. Cir. 1984) ("After a *prima facie* case . . . has been established, the burden of . . . [r]ebuttal is . . . a showing of facts supporting the opposite conclusion." (internal quotation marks and citation omitted)); SHOW, Black's Law Dictionary (10th ed. 2014) ("To make (facts, etc.) apparent or clear by evidence; to prove"). Rather, Appellants contend that none of the references (i.e., no single reference) teaches an interdependence between location sharing and an estimated meet-up time. Even assuming that is correct, the claimed interdependence is reached by combining the prior art as proposed. *In re Keller*, 642 F.2d 413, 425 (CCPA 1981) ("The test for obviousness is not . . . that the claimed invention must be expressly suggested in any one or all of the references[,

but rather] what the combined teachings of the references would have suggested.").

For the foregoing reasons, we are unpersuaded the Examiner erred in rejecting claims 1–4, 6–10, and 17–20. Accordingly, we sustain their rejections.

Claims 5 and 11–16

Remaining claims 5 and 11–16 are argued collectively. Br. 9–10; Reply 4–5. We address the arguments with reference to claim 5, which depends from claim 1 and adds a step of "providing a notification when the local and remote devices are within a predetermined distance of each other."

The Examiner cites Aaron as teaching this feature. Final 6 (citing Aaron ¶¶ 50–51); Ans. 16–17. Specifically, the Examiner finds Aaron's system prompts a cellphone user to depart for a meeting (to ensure they will be on time) and, as part thereof, determines the cellphone will soon exceed an achievable distance from the meeting location (achievable via an estimated speed of travel). *Id.* The Examiner further finds that, at times, the second tracked cellphone user (i.e., other meeting invitee of the proposed combination) will already be at the meeting location, such that the prompt occurs when the cellphones are within the foregoing distance of each other. Ans. 16–17.

Appellants contend: "Aaron . . . pertains to comparing users' locations to a particular location, such as for a meeting[.] . . . [C]laim 5 recites utilizing information for when "the local and remote devices are within a predetermined distance *of each other*" (Emphasis added)." Br. 9. Appellants further contend "[t]here is a distinct difference between the

. . . claimed . . . distance between two devices and [a] distance between a user and a geographical location." Reply 5.

We are unpersuaded. A statement of "when" an action occurs will not alone convey an if/then-type instruction for performing the action; "when" can mean the action occurs ***while or if*** something else occurs. *See* WHEN (entry 2). *Merriam Webster Dictionary*, https://www.merriam-webster.com/dictionary/when (last visited Sept. 14, 2019) ("1a : at or during the time that : WHILE[;] . . . 2 : in the event that : IF"). Accordingly, a broadest reasonable interpretation of claim 5 is that the notification occurs ***while*** two devices are within a predetermined distance of each other. This interpretation reads on Aaron's notification occurring at a time one device is within that distance of a location occupied by the other device. Aaron ¶¶ 50–51.

For the foregoing reasons, we are unpersuaded the Examiner erred in rejecting claims 5 and 11–16. Accordingly, we sustain the rejections.

CONCLUSION

Claim(s) Rejected	35 U.S.C. §	Basis	Affirmed	Reversed
1–7	103	Tysowski, Bocking, and Aaron	1–7	
8	103	Tysowski, Bocking, Aaron, and Van Os	8	
9	103	Tysowski, Bocking, Aaron, and Trussel	9	
10	103	Tysowski, Bocking, Aaron, and Kim	10	

11–20	103	Tysowski, Bocking, Aaron, and Kim	11–20	
Overall Outcome			1–20	

DECISION

We affirm the Examiner's rejections of claims 1–20 under 35 U.S.C. § 103(a).

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