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CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300			MISHRA, RICHA	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ALBRECHT NEFF

Appeal 2019-001539
Application 15/378,842
Technology Center 2600

Before KALYAN K. DESHPANDE, CHARLES J. BOUDREAU,
and SHARON FENICK, *Administrative Patent Judges*.

BOUDREAU, *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 and 7–11, which are all of the pending claims. We have jurisdiction under 35 U.S.C. § 6(b)(1).

We AFFIRM.²

¹ We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies Bayerische Motoren Werke Aktiengesellschaft as the real party in interest. Appeal Br. 1.

² This Decision refers to Appellant’s Appeal Brief (“Appeal Br.,” filed Aug. 21, 2018) and Reply Brief (“Reply Br.,” filed Dec. 10, 2018), the

CLAIMED SUBJECT MATTER

Appellant's invention relates to voice control of motor vehicle functions. *See Spec.* ¶¶ 2, 15.

Claims 1, 9, and 11 are independent. Claim 1, reproduced below, is illustrative of the subject matter on appeal (emphasis added):

1. A method for voice control of a motor vehicle, the method comprising the acts of:

acquiring a voice command from a user via an on-vehicle voice input unit, the voice command implicating a vehicle function to be controlled via the voice command;

transmitting a voice file that represents the voice command by an on-vehicle communication unit to an off-vehicle server;

acquiring vehicle-specific data by an on-vehicle data acquisition unit from an on-vehicle source, ***wherein the vehicle specific data includes indicating whether control of the vehicle function via the voice command is permitted,***

transmitting the vehicle-specific data by the communication unit to the server;

accessing non-vehicle specific data by the se[r]ver from an off-vehicle source; and

processing the voice command by the server using the voice file, the vehicle specific data and the non-vehicle specific data, so as to generate a response message that includes a control command that controls the vehicle function in accordance with the voice command.

Appeal Br. 9 (Claims App.).

Examiner's Final Office Action ("Final Act.," mailed Jan. 31, 2018) and Answer ("Ans.," mailed Nov. 8, 2018), and the original Specification filed Dec. 14, 2016 ("Spec.").

REJECTION

The Examiner rejects claims 1–5 and 7–11 under 35 U.S.C. § 103 as being obvious over Burke et al. (US 2014/0066132 A1; pub. Mar. 6, 2014) in view of Berndt et al. (US 2015/0170653 A1; pub. June 18, 2015). Final Act. 6–9.

OPINION

Independent claims 1, 9, and 11 recite “acquiring vehicle-specific data . . . wherein the vehicle specific data includes indicating whether control of the vehicle function via the voice command is permitted.” For this limitation, the Examiner relies on Burke’s teaching of “vehicle-specific vocabulary.” Final Act. 6 (citing Burke ¶¶ 73–75). Specifically, Burke teaches receiving speech input in a vehicle, identifying vehicle-specific vocabulary in the received speech input, and, “when vehicle-specific vocabulary exists, identifying one or more vehicle-specific vocabulary terms that affect at least one vehicle function.” Burke ¶ 73. “[O]ne or more vehicle functions . . . are audibly controlled based on the identified vehicle-specific vocabulary included in the received speech.” *Id.* ¶ 75. The Examiner finds that the vehicle-specific vocabulary indicates whether control of the vehicle function via the voice command is “permitted” in that Burke uses the vehicle-specific vocabulary to determine whether “action can be taken” in response to the received speech. Ans. 11 (emphasis omitted) (citing Burke ¶¶ 73–75).

Appellant acknowledges that “Burke processes a voice command by referring to vehicle specific vocabulary, so it can recognize the command.” Reply Br. 3. Appellant argues, however, that Burke’s vehicle-specific

vocabulary does not “indicat[e] whether control of the vehicle function via the voice command is permitted,” as recited in the claims. Appeal Br. 5; Reply Br. 2. According to Appellant, Burke “suggest[s] only that vehicle-specific vocabulary may be used to determine whether the received speech is a control command. Whether or not the received speech is a control command has no bearing on whether the control implicated by the command is permitted or not.” Appeal Br. 6.

We agree with the Examiner that the claim limitation “wherein the vehicle specific data includes indicating whether control of the vehicle function via the voice command is permitted” encompasses Burke’s teaching of vehicle-specific vocabulary that is used to determine whether a vehicle function may be controlled by the received speech input, i.e., voice command. *See* Ans. 11; Burke ¶¶ 73–75. In other words, we agree with the Examiner’s interpretation that “permitted” control of a vehicle function via a voice command encompasses control of a vehicle function via a received speech input/voice command including vehicle-specific vocabulary, as taught by Burke. *See* Ans. 12–13. For example, as the Examiner points out, if the received speech input/voice command in Burke does not include vehicle-specific vocabulary, then the vehicle function control implicated by the speech input/voice command is not “permitted” and the implicated control does not occur. *See id.* at 12–13.

Appellant argues (without reference to the Specification) that performance of a “permitted” command might require a determination that the passenger providing the voice command is authorized or that the components necessary to execute the command are available and not broken. Appeal Br. 5–6. The Specification, however, contains no definition of

“permitted” control that limits the term as in these examples or affirmatively requires more than recognized, vehicle-specific vocabulary terms. The Specification discusses that a vehicle may inform the server “what voice commands are possible and/or permissible” (Spec. ¶ 30) or that the server might determine, based on vehicle-specific data, “what voice commands are possible and/or permissible” (Spec. ¶ 31). But there is no disclosure of how the permissibility of a command is determined or how it differs from “possible” voice commands. *See* Spec. ¶¶ 30–32, 53. Appellant’s suggestion that vehicle specific data must “indicate whether the user is permitted to control any vehicle function”—based, for example, on whether a passenger is “authorized” to issue a command or whether components necessary to execute the command are available or in working order (*see, e.g.,* Appeal Br. 6–7; Reply Br. 2–3)—is not commensurate with the claim language.

For the foregoing reasons, we sustain the Examiner’s rejection of independent claims 1, 9, and 11, as well as dependent claims 2–5, 7, 8, and 10 not separately argued by Appellant, under 35 U.S.C. § 103 as being unpatentable over Burke in view of Berndt.

CONCLUSION

The Examiner's rejection of claims 1–5 and 7–11 under 35 U.S.C. § 103 is affirmed.

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	References	Affirmed	Reversed
1–5, 7–11	103	Burke, Berndt	1–5, 7–11	

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)(1)(iv).

AFFIRMED