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15/047,999	02/19/2016	Surendra N. Naidoo	102005.022840	6442
71581	7590	09/23/2020	EXAMINER	
BakerHostetler / Comcast Cira Centre, 12th Floor 2929 Arch Street Philadelphia, PA 19104-2891			VO, TUNG T	
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* SURENDRA N. NAIDOO, WILLIAM P. GLASGOW, and  
GREGORY E. FELDKAMP

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Appeal 2019-002391  
Application 15/047,999<sup>1</sup>  
Technology Center 2400

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Before JOHN A. JEFFERY, MARC S. HOFF, and ELENI MANTIS-  
MERCADER, *Administrative Patent Judges*.

HOFF, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from a final rejection of claims 1–39. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM IN PART.

Appellants' invention is a system and method for verification and monitoring of conditions surrounding an alarm signal. A security gateway can be configured to cause transfer of alarm information, comprising at least a portion of received video of a portion of the premises relating to the alarm

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<sup>1</sup> Appellants state the real party in interest is Comcast Cable Communications, LLC. App. Br. 1.

condition and a first notification of the alarm condition, in substantially real time through a first network. A second notification of the alarm condition is transferred through a second network substantially simultaneously with transfer of the alarm information through the first network. Abstract.

Claim 1 is exemplary of the claims on appeal:

1. A method comprising:

receiving, by a computing device in communication with a first network, a first notification of an alarm condition; wherein one or more of the receiving the first notification or the receiving the video is in substantially real time and via the first network; and

receiving, via a second network, a second notification of the alarm condition, wherein a transmission of the second notification is substantially simultaneous with a transmission of the first notification

The Examiner relies upon the following prior art in rejecting the claims on appeal:

<b>Name</b>	<b>Reference</b>	<b>Date</b>
Natale et al.	US 4,818,970	Apr. 4, 1989
Kogane et al.	US 7,028,328 B2	Apr. 11, 2006

Claims 1–39 stand rejected under 35 U.S.C. § 103 as being unpatentable over Natale and Kogane.

Throughout this decision, we make reference to the Appeal Brief (“App. Br.,” filed Sept. 17, 2018), the Reply Brief (“Reply Br.,” filed Jan. 28, 2019), and the Examiner’s Answer (“Ans.,” mailed Nov. 28, 2018) for their respective details.

## ISSUES

Appellants' arguments present us with the following issues:

1. Does Kogane qualify as prior art?
2. Does the combination of Natale and Kogane teach or suggest that one or more of receiving a first notification of an alarm condition, or receiving a video, is substantially in real time and via a first network?
3. Does the combination of Natale and Kogane teach or suggest receiving, by software executing on a first device, a first notification of an alarm condition, and receiving, by software executing on a second device, a second notification of the alarm condition?
4. Does the combination of Natale and Kogane teach or suggest allowing, by a remote device, remote access to the video of at least the portion of the premises associated with the alarm condition?

## PRINCIPLES OF LAW

The Examiner's articulated reasoning in the rejection must possess a rational underpinning to support the legal conclusion of obviousness. *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006).

## ANALYSIS

### Effective filing date

Appellant argues that Kogane is not prior art. Appeal Br. 4. Kogane was filed August 22, 2001, with priority to September 3, 1999. The invention under appeal is a continuation of Application 13/769,343, filed February 15, 2013, which is a continuation of Application 09/954,976, filed September 18, 2001, which is a continuation-in-part of Application 09/357,196, filed July 20, 1999 (now US Patent No. 6,690,411; hereinafter "the '196 application"). *Id.* Appellant contends that the '411 patent supports

the features of claims 1-39. Appeal Br. 5; 2:27-54, 5:40-54, 7:47-63, 9:25-29, Figs. 1-3 of '196 application.

We are not persuaded by Appellant's argument. We have reviewed the '196 application and we agree with the Examiner's finding that the '196 application does not provide support for "**wherein a transmission of the second notification via the second network is substantially simultaneous with a transmission of the first notification via the first network.**" Ans. 3.<sup>2</sup> Despite the fact that the Examiner found this specific lack of support in the Examiner's Answer, Appellant makes no effort to rebut this specific finding in the Reply Brief by identifying disclosure in the '196 application.

Accordingly, we determine that Appellant's claimed invention is entitled to an effective filing date of September 18, 2001. Kogane was filed on August 22, 2001 and whose parent application was filed on September 3, 1999, and, therefore, qualifies as prior art to the invention under appeal.

Obviousness rejection

Claims 1-6 and 33-39

Appellant contends that Natale and Kogane fail to teach or suggest "one or more of the receiving the first notification or the receiving the video is **substantially real time**," and via the first network. Appeal Br. 6. Appellant argues that the Examiner does not identify a real time characteristic in Natale. *Id.* According to Appellant Kogane (e.g., Fig. 3, col.

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<sup>2</sup> The Examiner clearly meant to refer to Figure 7 of the application under appeal, rather than the nonexistent Figure 7 of the '196 application, as an illustration of the claimed invention. Ans. 4.

4) teaches a video camera but does not disclose video being received in real time. Appeal Br. 6–7.

We are not persuaded by Appellant’s argument. The Examiner finds, and we agree, that Natale teaches control circuitry 53, which includes logic circuit 112 and input 114, to receive signals indicative of an alarm condition as received by the receiver 51 within the air moving and filtering device 13, or directly from the remote fire condition detection unit 17 via transmission line 31. Ans. 4; Natale Fig. 3, 5; col. 7:4–24. Appellant’s Reply argues that even if the Examiner’s characterization of Natale is accurate, the Examiner still fails to identify a teaching of “receiving a **video is substantially in real time** and via first network.” Reply Br. 2. Appellant’s argument is not relevant to the Examiner’s rejection, because the claim limitation under appeal is phrased in the alternative. The claim requires “wherein one or more of the receiving the first notification or the receiving the video is in substantially real time and via the first network.” We agree with the Examiner’s finding that the first alternative limitation, “receiving the first notification . . . is in substantially real time and via the first network,” is taught by Natale. Ans. 4.

Appellant further contends that the Examiner did not provide a reason it would have been obvious to modify Natale in view of Kogane to achieve this limitation. Appeal Br. 7. Appellant argues that the Examiner has provided no rationale to modify Natale “to include video that is ‘in substantially real time and via the first network.’” Reply Br. 3. Appellant’s further argument is not persuasive. As discussed *supra*, the Examiner has cited a teaching corresponding to the alternative limitation contested. We do not agree with Appellant that the Examiner did not provide a reason to

combine the references. The Examiner's reasoning for the combination was that "provid[ing] the video image to the user at the end with the alarm condition and alarm signal for further determination" would allow the user "to see and know where the image with alarm condition and alarm signal faster." Final Act. 3-4. We determine that the Examiner provided a rationale to combine Natale and Kogane having a rational underpinning to support the legal conclusion of obviousness. *Kahn*, 441 F.3d at 988.

Claims 7–12 and 21–32

With respect to independent claim 7, (as well as independent claims 21 and 27 of commensurate scope), Appellant argues that Natale fails to teach receiving, by software executing on a first device in communication with a first network, a first notification of an alarm condition; and receiving, by software executing on a second device in communication with a second network, a second notification of the alarm condition, as the claim requires. Appeal Br. 8. Appellant contends that even if Natale teaches an RF signal indicative of an alarm condition transmitted by an RF transmitter, and the same device sending an alarm signal over cable 31, Natale does not teach the RF signal being sent to or received by a first device and the alarm signal being sent to or received by a second device. Appeal Br. 8.

We agree with Appellant. The Examiner cites to Figure 5 of Natale, which shows remote detector 17 connected by cable 31 to CPU 53, and receiver 51 also connected to CPU 53. The Examiner has not pointed to a

teaching in Natale or Kogane of receipt of notification of an alarm signal by *two devices* over *two* respective networks.

Claims 13–20

With respect to independent claim 13, Appellant asserts that Kogane fails to teach its control server or keyboard “allowing . . . remote access to the video of at least the portion of the premises associated with the alarm condition.” Appeal Br. 9–10. Appellant argues that the Examiner’s cited teaching, in Kogane, that “the control server receives a keyword from a keyboard 46 to search the corresponding set of data in the data base 47,” and “if the operator judges an alarm is in error, the operator operates the keyboard 46 to store mark data” does not disclose allowing remote access to the video of at least the portion of the premises associated with the alarm condition. Appeal Br. 9–10.

Appellant’s argument is not persuasive. The Examiner identifies a teaching in Kogane that an operator “can command which image is to be displayed . . . . The operator operates the keyboard 46 to display the image from one of the camera units 1 by inputting the domain name of the camera unit 1.” We agree that Kogane’s teaching that an operator can choose what video of alarm conditions to display suggests allowing remote access to the video of the portion of the premises associated with the alarm condition. Ans. 7.

Appellant further argues that the Examiner did not provide a reason to combine the references. The Examiner determined that modifying Natale to include the teachings of Kogane, to “provide the video image to the user at the end with the alarm condition and alarm signal,” would allow the user to “see and know where the image with alarm condition and alarm signal

faster.” We determine that the Examiner provided a rationale to combine Natale and Kogane having a rational underpinning to support the legal conclusion of obviousness. *Kahn*, 441 F.3d at 988.

#### Obviousness - Conclusion

We sustain the Examiner’s § 103 rejection of claims 1–6, 13–20, and 33–39 over Natale and Kogane.

We do not sustain the Examiner’s § 103 rejection of claims 7–12 and 21–32.

#### CONCLUSIONS

1. Kogane qualifies as prior art.
2. The combination of Natale and Kogane teaches that one or more of receiving a first notification of an alarm condition, or receiving a video, is substantially in real time and via a first network.
3. The combination of Natale and Kogane does not teach or suggest receiving, by software executing on a first device, a first notification of an alarm condition, and receiving, by software executing on a second device, a second notification of the alarm condition.
4. The combination of Natale and Kogane suggests allowing, by a remote device, remote access to the video of at least the portion of the premises associated with the alarm condition.

DECISION SUMMARY

In summary:

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Reference(s)/ Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1-39	103	Natale, Kogane	1-6, 13-20, 33-39	7-12, 21-32
<b>Overall Outcome</b>			<b>1-6, 13-20, 33-39</b>	<b>7-12, 21-32</b>

ORDER

The Examiner's decision to reject claims 1-6, 13-20, and 33-39 is affirmed. The Examiner's decision to reject claims 7-12 and 21-32 is reversed.

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