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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SJOERD ABEN, ERIK THOMASSEN,
and TEUN DE HAAS

Appeal 2019-002816
Application 12/736,946
Technology Center 2400

Before JOSEPH L. DIXON, LINZY T. McCARTNEY, and MICHAEL T. CYGAN, *Administrative Patent Judges.*

CYGAN, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant[1] appeals from the Examiner's Final decision to reject claims 17, 26, 28, and 38–40. Appeal Br. 3. Claims 1–16, 18, 20–25, 27, 33, 35, 37, and 41 have been cancelled. *Id.* Claims 19, 29–32, 34, and 36 are rejected, but have not been appealed. *Id.* We have jurisdiction under 35 U.S.C. § 6(b).

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[1] We use the word "Appellant" to refer to "applicant" as defined in 37 C.F.R. § 1.42. Appellant identifies TomTom Traffic, B.V., as the real party in interest. Appeal Br. 1.

We AFFIRM.

CLAIMED SUBJECT MATTER

The claimed invention generally relates to a navigation apparatus for a vehicle. Appeal Br. 5. The navigation apparatus is controlled to respond to the occurrence of an incident, such as recognition of a stop sign, a police car, or sharp braking of a vehicle. Spec. 4:1–2, 22–26. The navigation apparatus, upon detecting an incident, transmits an incident signal to a second navigation apparatus. *Id.* 5:6–19. Both the first and the second navigation apparatuses have an image recording device, and in response to receiving an incident signal, performs an image data transmission or recording operation, such as to a server. *Id.* at 4:36–5:5.

Independent claim 17 is illustrative:

17. A navigation apparatus installed in a vehicle, comprising:

detection circuitry configured to detect motion of the vehicle, the detection circuitry detecting a motion of the vehicle indicative of the occurrence of an incident involving the vehicle;

an image recording device configured to continuously or periodically record first image data, wherein continuously or periodically recording the first image data comprises recording image data for a first amount of time before the occurrence of the incident;

a memory configured to store the first image data; and

a processing resource configured to, in response to the detection circuitry detecting the occurrence of the incident, both:

transmit, to a server, the first image data stored in the memory, the first image data comprising the image data recorded before the occurrence of the incident; and

directly transmit, to at least one other navigation apparatus, an incident signal, the incident signal

> configured to cause the at least one other navigation apparatus to transmit, to the server, second image data that was recorded by the at least one other navigation apparatus for a second amount of time before the occurrence of the incident and stored in a memory of the at least one other navigation apparatus.

Appeal Br. 19 (Claims App.). Independent claims 26 and 28 recite a method and a computer-readable medium having limitations similar to that of claim 17. Appeal Br. 20–21. Dependent claims 38–40 each incorporate the limitations of their respective independent claims. *Id.* at 22–23.

REFERENCES

Name	Reference	Date
Wee	US 2004/0088090 A1	May 6, 2004
Paradie	US 2006/0031015 A1	Feb. 9, 2006
Luke	WO 2008/043842 A2	Apr. 17, 2008
Ooga et al. (Ooga)	2009/0015684 A1	Jan. 15, 2009

REJECTIONS

Claims 17, 26, and 28 are rejected under 35 U.S.C. § 103(a) as being obvious over the combination of Wee and Ooga.

Claims 38–40 are rejected under 35 U.S.C. § 103(a) as being obvious over the combination of Wee, Ooga, and Luke.

Claims 19, 30–32, 34, and 36 are rejected under 35 U.S.C. § 103(a) as being obvious over the combination of Wee and Ooga, but have not been appealed. Appeal Br. 3. Further, claim 29 has been rejected under 35 U.S.C. § 103(a) as being obvious over the combination of Wee, Ooga, and

Paradie, but has not been appealed. *Id.* Accordingly, we summarily sustain those rejections. 37 C.F.R. § 41.31(c) ("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"); Rules of Practice Before the Board of Patent Appeals and Interferences in Ex Parte Appeals, 76 Fed. Reg. 72270, 72280-81 ("It has long been USPTO practice that an appellant must either appeal from the rejection of all the rejected claims or cancel those claims not being appealed.") (citing *In re Benjamin*, 1903 Dec. Comm. Pat. 132, 134 (1903); MPEP 1205.02 ("If a ground of rejection stated by the examiner is not addressed in the appellant's brief, appellant has waived any challenge to that ground of rejection and the Board may summarily sustain it.").

OPINION

1. Obviousness

a) Claims 17, 26, and 26

We have reviewed the Examiner's obviousness rejections (Final Act. 2–10, Ans. 15) in light of Appellant's contentions that the Examiner has erred (Appeal Br. 8–13). Appellant contends that the Examiner errs in finding the combination of Wee and Ooga to teach or suggest a navigation apparatus that transmits an incident signal to a second navigation apparatus, where the second navigation apparatus transmits, to a server, image data recorded by the second navigation apparatus.

The Examiner finds Wee to teach or suggest a navigation apparatus having a video camera and a circuit detecting occurrence of a vehicle collision, and transmitting the video images to a service center. Final Act. 3 (citing Wee ¶ 17, Fig. 1), 5 (citing Wee ¶¶ 18–19). The Examiner finds that

Ooga teaches directly transmitting an "accident session ID" as an incident signal to a "drive recorder" of a target vehicle, causing the navigation apparatus of the target vehicle to transmit stored image data to an "accident-information collecting server." Ans. 15 (citing Ooga ¶¶ 104–106, Fig. 8); *see also* Final Act. 5–6. The Examiner further finds Ooga to teach a second vehicle taking an image of an accident involving a first vehicle. Final Act. 3 (citing Ooga ¶ 74).

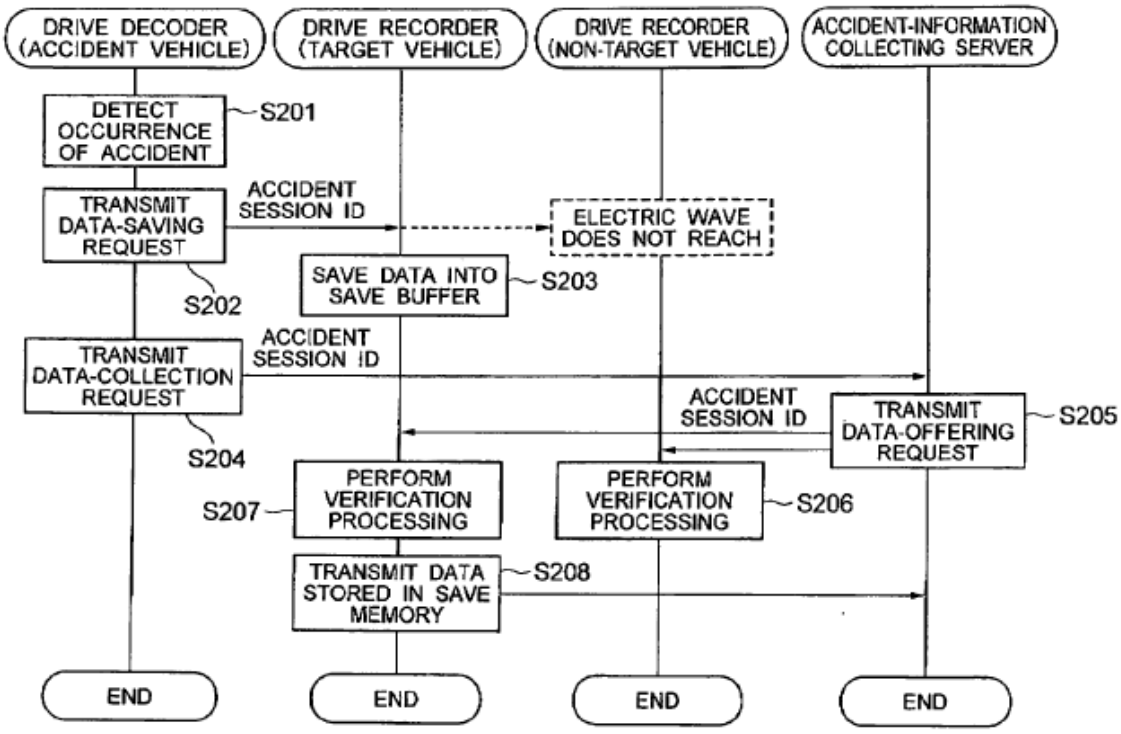
Appellant contends that neither Wee nor Ooga describe or suggest the direct transmission of an incident signal from a navigation apparatus to other navigation apparatuses to cause the other navigation apparatuses to transmit recorded image data to a server. Appeal Br. 14. Appellant first argues that Wee merely describes vehicles exchanging vehicle information, such as vehicle number, model and color, with each other following a vehicle accident. *Id.* at 11. Appellant argues that Wee does not cause the second vehicle to send any image data to a server. *Id.* at 12.

We are not persuaded by Appellant's argument against Wee separately. The Examiner relies on Ooga, not Wee, for causing a second vehicle to transmit image data to a server. Final Act. 3, 5–6 (citing Ooga ¶¶ 74, 104–106). Furthermore, "one cannot show nonobviousness by attacking references individually where, as here, the rejection[] [is] based on combinations of references." *In re Keller*, 642 F.2d 413, 426 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). Consequently, we are not persuaded, by Appellant's arguments solely against Wee, that the Examiner has failed to show the combination of Wee and Ooga teaches or suggests the limitation at issue.

Appellant next argues that Ooga teaches that the server collects information from devices in the vehicles, instead of a vehicle having a navigation apparatus directly transmitting to another apparatus an incident signal causing information to be sent to the server. Appeal Br. 12–13 (citing Ooga ¶¶ 88, 101–105, Fig. 8,).

We are not persuaded by Appellant's contention of Examiner error. Contrary to Appellant's argument, Ooga does show a second (target) vehicle receiving a request from the first vehicle (step S202), and in response, transmitting data to the accident collecting server (step S208). Ooga Figure 8 is reproduced below:

FIG. 8



Ooga's Figure 8 shows steps taken by the drive decoder of an accident vehicle, the drive recorder of a target vehicle, and an accident-information collecting server to transmit requests and data relating to an accident. In

Step 208, Ooga transmits to the server "an image corresponding to the accident session ID . . . among the images saved in the save memory." Ooga ¶ 105; *see also* Ans. 15. Consequently, we are not persuaded, by Appellant's arguments solely against Ooga, that the Examiner has failed to show the combination of Wee and Ooga teaches or suggests the limitation at issue.

Therefore, we are not persuaded by Appellant's arguments against Wee and Ooga separately. Those arguments form the basis of Appellant's arguments against the combination of Wee and Ooga to teach or suggest claim 17. Accordingly, we are not persuaded of error in the Examiner's obviousness rejection of claim 17. Claims 26 and 28 are rejected under the same grounds of rejection as claim 17. Appellant has not argued those claims separately, and they fall with claim 17. 37 C.F.R. § 41.37(c)(1)(iv). Accordingly, we affirm the Examiner's rejection of claims 17, 26, and 28.

b) Claims 38–40

Claims 38–40 are rejected under the combination of Wee and Ooga as applied to claim 17, further in view of Luke. Claims 38–40 each contain the additional limitation of:

> wherein the incident signal transmitted to the at least one other navigation apparatus comprises a vehicle identifier, and wherein the incident signal is further configured to cause the at least one other navigation apparatus to analyze the second image data that was recorded by the at least one other navigation apparatus for the presence of a vehicle or number plate in based on the vehicle identifier, wherein the vehicle identifier is representative of an identified vehicle, vehicle type or number plate.

Appeal Br. 22–23 (Claims App.).

Appellant argues this limitation is not taught by any of Wee, Ooga, or Luke, either individually or in combination. Appellant characterizes Luke as "describing how vehicles search for nearby registered vehicles using image processing." Appeal Br. 17. Appellant argues that "Luke does not describe or suggest a device/vehicle causing a receiving device vehicle to perform" the claimed operations. *Id.* Appellant cites the following passage of Luke:

> The first vehicle (1) transmits the vehicle's own current position, the registration information and further information such as the velocity of the vehicle, the brake signal or the like. . . . The receiving vehicle (2) receives the data. At the same time, the vehicle detects or searches for vehicles in the immediately surrounding area by means of the camera (3) and, if a vehicle has been identified, the license number (4) is acquired and read.

Id. at 16–17 (citing Luke ¶¶ 27, 29).

We are not persuaded by Appellant's arguments solely against Luke, because the rejection was made over Luke in combination with Wee and Ooga. Appellant's argument against the combination of references is that none of the references separately teach or suggest, and that no combination of Wee and Ooga describes or suggests, the entirety of the disputed limitation. Appeal Br. 17. We are not persuaded by this argument because it fails to explain why the combination of Wee, Ooga, and Luke fails to teach or suggest the disputed limitation.

As discussed, *supra* at 5–6, we agree with the Examiner that the combination of Wee and Ooga teaches or suggests a device/vehicle causing another device/vehicle to send image data to a server. We further agree with the Examiner's undisputed characterization of Luke as using a camera to identify a vehicle image and to identify the license number of the vehicle,

and the Examiner's further description of Wee as teaching transmission of information such as a vehicle number to another vehicle. Ans. 16 (citing Wee ¶ 12). Appellants have not provided any persuasive explanation of why the combination of Wee, Ooga, and Luke does not teach or suggest the invention of claims 38–40. Accordingly, we are not persuaded of error in the Examiner's combination of Wee, Ooga, and Luke to teach or suggest the limitations of claims 38–40.

DECISION

For the above-described reasons, we affirm the Examiner's rejection of claims 17, 26, and 28 as being obvious over Wee and Ooga under 35 U.S.C. § 103(a). We also affirm the Examiner's rejection of claims 38–40 as being over Wee, Ooga, and Luke under 35 U.S.C. § 103(a). We summarily affirm the Examiner's rejections of claims 19, 29–32, 34, and 36, rejected under 35 U.S.C. § 103(a) and not appealed by Appellant.

CONCLUSION

In summary:

Claims Rejected	35 U.S.C. §	References/Grounds	Affirmed	Reversed
17, 19, 26, 28, 30–32, 34, 36	103(a)	Wee, Ooga	17, 19, 26, 28, 30–32, 34, 36	
29	103(a)	Wee, Ooga, Paradie	29	
38–40	103(a)	Wee, Ooga, Luke	38–40	
Overall Outcome			**17, 19, 26, 28–32, 34, 36, 38–40**	

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