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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 HOWARD HAYES and SURENDER KUMAR
_____

Appeal 2019-003561
Application 15/247,018
Technology Center 3600
_____

Before MICHAEL C. ASTORINO, CYNTHIA L. MURPHY, and
TARA L. HUTCHINGS, *Administrative Patent Judges*.

ASTORINO, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant[1] appeals from the
Examiner's decision to reject claims 1–20. We have jurisdiction under
35 U.S.C. § 6(b).

We REVERSE.

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[1] We use the word "Appellant" to refer to "applicant" as defined in
37 C.F.R. § 1.42. The Appellant identifies the real party in interest as
Allstate Insurance Company of Northbrook, Illinois. Appeal Br. 2.

STATEMENT OF THE CASE

Claimed Subject Matter

Claims 1, 19, and 20 are the independent claims on appeal. Claim 1, reproduced below, is illustrative of the claimed subject matter.

1. A method of activating and deactivating one or more features of a fleet vehicle of a fleet comprising a plurality of fleet vehicles, the method comprising:

determining, by a computing device comprising a processor and memory, a driving route of the fleet vehicle of the fleet comprising the plurality of fleet vehicles, the driving route being from a starting location to a destination location;

receiving, by the computing device, from a global positioning system in the fleet vehicle, route information of the fleet vehicle indicating that the fleet vehicle is no longer at the starting location and is along the driving route;

determining, by the computing device, that a feature of the fleet vehicle is deactivated; and

after receiving the route information of the fleet vehicle and determining that the feature of the fleet vehicle is deactivated, causing, by the computing device, activation of the feature of the fleet vehicle based on determining that the fleet vehicle is along the driving route.

References

The prior art relied upon by the Examiner is:

Name	Reference	Date
Ibanez-Guzman et al. ("Ibanez-Guzman")	US 2014/0358353 A1	Dec. 4, 2014
Bogovich et al. ("Bogovich")	US 2016/0189308 A1	June 30, 2016
Vij et al. ("Vij")	US 2017/0140293 A1	May 18, 2017
Be et al. ("Be")	US 2017/0267170 A1	Sept. 21, 2017

Rejections

Claims 1, 2, 4, 5, 19, and 20 are rejected under 35 U.S.C. § 102(a)(2) as being anticipated by Be.[2]

Claims 6–12 and 14–18 are rejected under 35 U.S.C. § 103 as being unpatentable over Be and Bogovich.

Claim 13 is rejected under 35 U.S.C. § 103 as being unpatentable over Be, Bogovich, and Vij.

Claim 3 is rejected under 35 U.S.C. § 103 as being unpatentable over Be and Ibanez-Guzman.

ANALYSIS

The Appellant argues that Be fails to disclose "causing[, by the computing device,] activation of the feature of the fleet vehicle <u>based on determining that the fleet vehicle is along the driving route</u>," as recited in claim 1. Reply Br. 2–3; *see* Appeal Br. 10–11. The Appellant's argument is persuasive.

Based on the record before us, we determine that the Examiner's anticipation rejection is based on Be's disclosure of vehicle-based computing system that determines a route, which includes a start location and a destination location, where the route includes a path through a geo-fenced area; and the vehicle-based computing system activates a feature of a

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[2] Claim 3 is included in the statement of the ground of rejection under 35 U.S.C. § 102(a)(2). Final Act. 3. However, a rejection of claim 3 is lacking in the body of the rejection. Further, claim 3 is rejected under 35 U.S.C. § 103. *Id.* at 9. Based on the reasoning provided for the rejection of claim 3 under 35 U.S.C. § 103 we determine that the inclusion of claim 3 for the rejection under § 102(a)(2) is a minor oversight. *See id.*

vehicle — such as, activating a headlight — when the vehicle enters a boundary of a geo-fenced area. *See* Final Act. 2–4, Ans. 3–4. However, the Examiner's rejection does not explain, on the record, how Be discloses that the vehicle-based computing system recognizes that a vehicle is on the driving route.

The Appellant asserts that "determining a route is typically performed before embarking on that route, while determining whether someone is along that route is performed in real-time; the two are not inherently intertwined." Appeal Br. 11. In this regard, the Examiner's rejection properly accounts the former determination, but does not account for the latter determination. Stated otherwise, the Examiner fails to adequately explain on the record how Be discloses, explicitly or inherently, that the vehicle-based computing system determines that the vehicle is on the driving route when the activation of the feature of the vehicle occurs.

Thus, we do not sustain the Examiner's rejection of independent claim 1 and dependent claims 2, 4, and 5 as being anticipated by Be. The rejections of dependent claims 3 and 6–18, based on Be in combination with Bogovich, Vij, or Ibanez-Guzman, are inadequately supported for the same reason as discussed above. Each of the remaining rejections is not cured by the additional findings and/or reasoning associated therewith. Thus, we do not sustain the rejections of claims 3 and 6–18.

Independent claim 19 recites, "[n]on-transitory computer-readable media storing executable instructions that, when executed by at least one processor, cause a system to . . . activate the at least one autonomous or semiautonomous function of the fleet vehicle based on the fleet vehicle not being along the driving route." Appeal Br. 21, Claims App. The Appellant

argues that Be fails to teach the foregoing recitation. *Id.* at 13–14; Reply Br. 3–4. For the rejection of claim 19, the Examiner explains that "if the vehicle crosses into one of the geo-fenced areas that the route set to [sic] for the vehicle to avoid would be an indication that the vehicle is no longer on the route." Final Act. 5 (citing Be ¶¶ 34, 38–40, 52). This explanation only supports the position that the vehicle in the real-world may be located in area that was programmed to be avoided. The Examiner, however, fails to adequately explain on the record how Be's vehicle-based computing system includes executable instructions to account for a vehicle that is not along the claimed driving route. Thus, we do not sustain the Examiner's rejection of claim 19 as being anticipated by Be.

Independent claim 20 includes similar a recitation as the disputed recitation of claim 1. *See* Appeal Br. 21–22, Claims App. The Examiner rejects independent claim 20 on the same basis as claim 1. Final Act. 3. For the reasons discussed above, we do not sustain the Examiner's rejection of claim 20 as being anticipated by Be.

CONCLUSION

In summary:

Claims Rejected	Basis	Affirmed	Reversed
1, 2, 4, 5, 19, 20	§ 102(a)(2) Be		1, 2, 4, 5, 19, 20
6–12, 14–18	§ 103 Be, Bogovich		6–12, 14–18
13	§ 103 Be, Bogovich, Vij		13
3	§ 103 Be, Ibanez-Guzman		3
Overall Outcome			1–20

REVERSED