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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte CYNTHIA M. NEUBECKER
and OMAR MAKKE

Appeal 2020-002636
Application 14/976,249
Technology Center 3600

Before CARL W. WHITEHEAD JR., DAVID M. KOHUT, and IRVIN E. BRANCH, *Administrative Patent Judges*.

KOHUT, *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. *See* Appeal Br. Front Page. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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[1] We use "Appellant" to reference the applicant as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as "Ford Global Technologies, LLC." Appeal Br. 2.

STATEMENT OF THE CASE

Appellant's Invention

Appellant's invention relates to a "wireless parking meter payment." Spec. ¶ 1. Independent claims 1, 7, and 14, reproduced below, are illustrative of argued subject matter.

> l. A system comprising:
>
> a processor, included in a parking meter system, configured to:
>
> add time to a parking meter in response to wirelessly receiving a request to add additional time from a vehicle computer, including charging a payment method, included with the request, for the added time, the request being received in response to a notification sent by the processor to the vehicle computer a predetermined amount of time before time on the parking meter expires.
>
> 7. A system comprising:
>
> a vehicle-based processor configured to:
>
> wirelessly request addition of a specified time amount to a parking meter, in response to a wireless instruction having been received from a mobile device, the instruction including the specified time amount.
>
> 14. A computer-implemented method comprising:
>
> receiving a wireless notification at a vehicle computer from a parking meter that time is about to expire;
>
> sending a first request from the vehicle computer to a mobile device requesting an amount of time to add to the parking meter; and
>
> sending a second request to the parking meter from the vehicle computer to add a specified amount of time, included in an instruction received responsive to the first request.

Appeal Br., Claims Appendix.

Rejections

Claims 1, 2, 7–10, 12, 13 and 14–17 stand rejected under 35 U.S.C. § 102(a)(2) as anticipated by Gupta (US 2017/0120846 A1; May 4, 2017).[2] Final Act. 5–8.

Claims 3 and 4 stand rejected under 35 U.S.C. § 103 as unpatentable over Gupta and Kim (US 9,390,567 B2; July 12, 2016). Final Act. 8–10.

Claim 11 stands rejected under 35 U.S.C. § 103 as unpatentable over Gupta and Shangguan (US 2016/0071172 A1; Mar. 10, 2016). Final Act. 10–11.

Claim 5 stands rejected under 35 U.S.C. § 103 as unpatentable over Gupta and Moran (US 2017/0032584 A1; Feb. 2, 2017). Final Act. 11–12.

Claim 6 stands rejected under 35 U.S.C. § 103 as unpatentable over Gupta and Levy (US 2016/0284137 A1; Sept. 29, 2016). Final Act. 12–13.

Claims 18 and 19 stand rejected under 35 U.S.C. § 103 as unpatentable over Gupta and Tziperman (US 2013/0124270 A1; May 16, 2013). Final Act. 13–14.

Claim 20 stands rejected under 35 U.S.C. § 103 as unpatentable over Gupta and Levy. Final Act. 14–15.

[2] The Examiner did not clarify the status of claim 13, however both the Examiner (*see* PTOL-326 mailed May 15, 2019) and Appellant (*see* Appeal Brief Front Page filed October 15, 2019) acknowledges the rejection of claim 13. For purposes of this appeal, we treat dependent claim 13 as rejected based upon its dependency on rejected claim 7.

OPINION

Claims 1 and 2

For the following reasons, we are unpersuaded of error in the rejection of claim 1. Dependent claim 2 is not separately argued. Appeal Br. 7. We accordingly sustain the rejections of claims 1 and 2.

Gupta's invention is a vehicle computer that facilitates parking enforcement. Gupta Abst. In the at-issue process (Final Act. 6; Ans. 7–9), a vehicle owner (computer 104) pays for an electronic parking receipt by an undisclosed manner and stores the parking receipt to the vehicle (computer 110). Gupta ¶ 76. The parking meter (computer 102) wirelessly communicates with the vehicle to request and read the parking receipt. *Id.* ¶¶ 25–26, 72–73, 107, 117; Figs. 6A(prong C), D. The request causes the vehicle to remind the vehicle owner that parking time needs to be extended. *Id.* ¶ 76; Fig. 6D. The vehicle owner may, in response to the reminder, pay for a new parking receipt (i.e., an updated receipt) and store the new receipt in the vehicle. *Id.*

Appellant agrees with the above description of Gupta's invention. *See* Appeal Br. 6. Appellant contends, however, Gupta's above features do not teach the following limitation of claim 1 (paragraphing omitted): "a processor, included in a parking meter system, configured to[] add time to a parking meter in response to wirelessly receiving a request to add additional time from a vehicle computer, including charging a payment method, included with the request, for the added time." Appeal Br. 4–5; Reply Br. 3–5. Specifically, Appellant contends this limitation requires the claimed

parking meter[3] to add parking time: in response to a request from a vehicle computer; and via a payment method identified in the received request. *Id.* Appellant further contends that Gupta's parking meter does not accept payment for parking time in response to and per a request from a vehicle. *Id.* For example Appellant contends:

> The Examiner cites [Gupta] paragraph [0076], wherein the *phone, not the meter*, "perform[s] a monetary transaction to extend the time[.]" [However], the claim requires that the processor (meter) "charge" the "payment method" included in the "request to add time." If the "payment method" is simply the receipt[,] as indicated by the Examiner[] . . . , then it is utterly unclear how the meter would charge the receipt. Notwithstanding the fact that the prior art actually tells us . . . the charging . . . is [done by] the mobile device, not the meter.

Reply Br. 4 (addressing Gupta ¶ 76 for "the prior art actually tells us").

We are unpersuaded of Examiner error because the Examiner finds the claimed "add time . . . , including charging a payment method, included with the request," reads on a meter that allots more parking time by accepting an electronic receipt's confirmation of payment as both a request and form of payment to the meter. Ans. 4–5, 10. Appellant ***merely*** alleges

[3] Claim 1's processor—i.e., the "processor . . . included in a parking meter system [and] configured to[] add time to a parking meter"—is not necessarily comprised by the parking meter. However, the Examiner reads the processor and parking meter on Gupta's parking meter. *See* Ans. 4–5 (discussion of Gupta's "first electronic device 102 (i.e., the parking meter)"); Reply Br. 4 (recognizing the rejection conflates the claimed "processor (meter)" when reading the claim on Gupta). Therefore, to simplify our discussion of the issues, we herein reference claim 1's processor and parking meter as a same device and namely as "the claimed parking meter." We do not thereby construe claim 1 as restricting the processor and parking meter to a same device.

(i.e., contends without presenting an accompanying reason) the claimed "add time . . . , including charging a payment method, included with the request," does not read on Gupta's meter allotment of more parking time in exchange for the parking receipt. Appellant does not provide a meaning of the claimed "charging a payment method," much less identify a required feature that distinguishes Gupta's meter over accepting a receipt as a form of payment. *See In re Jung*, 637 F.3d 1356, 1363 (Fed. Cir. 2011) (Applicants must "articulate what gaps, in fact, exist" between an argued claim feature and applied prior art.); *In re Baxter Travenol Labs.*, 952 F.2d 388, 391 (Fed. Cir. 1991) ("It is not the function of this court to examine the claims in greater detail than argued by an appellant, looking for nonobvious distinctions over the prior art."). The Specification also does not describe such "charging" and, rather, uses the term only in the same nondescript manner as claimed. Spec., Abst.; ¶¶ 4, 33; claim 1.

Appellant contends that Gupta provides a meaning of "charging" in the art by "tell[ing] us . . . the [cited] charging . . . is [done] by the mobile device [and] not the meter." Reply Br. 4 (above block quote). However, we note that Gupta never uses the term "charging" (or a like term, e.g., "charge") in regards to a payment. Moreover, this contention actually supports the rejection by equating the claimed "charging" to a "monetary transaction" (Gupta ¶ 76). Reply Br. 4 (above block quote). Even assuming (arguendo) the claimed "charging" is a monetary transaction, the confirmation of a prior monetary payment to one entity or agent thereof (e.g., a receipt, token, voucher, postage stamp, traveler's check) can be provided as a subsequent monetary payment to another entity or agent; and, Gupta's parking receipt is used in this manner.

Another disputed limitation recited in claim 1 is: "the request [to add time] being received [by the parking meter] in response to a notification sent by the [meter] to the vehicle computer." Appeal Br. 4–5; Reply Br. 2–5. The Examiner finds Gupta's cited process (*supra* 3–4) teaches the limitation because the parking meter receives the parking receipt from the vehicle (i.e., receives a request to add time) as a consequence of (i.e., in response to) sending the vehicle a request to check the parking receipt (i.e., sending a notification that time will expire). Ans. 4–5. Appellant contends Gupta's vehicle provides the parking receipt in response to the vehicle owner's actions and, therefore, not "in response to a notification sent by the [parking meter] to the vehicle computer," as is claimed. Appeal Br. 4–5; Reply Br. 2–5.

We are unpersuaded of error because Appellant's arguments are not commensurate with the scope of the claim. The disputed claim limitation does not recite that the vehicle computer provides the request to add time in response to the notification. Rather, the limitation recites that the claimed parking meter (and particularly the "processor" thereof) "receive[s]" the request to add time "in response to [the] notification." Even assuming (arguendo) this "receive[s] in response" language implies a corresponding action by the recited but unclaimed vehicle computer, the language constitutes merely an intended use of the claimed meter and particularly its sending of the notification—to elicit a request to add time. Because Gupta's request to check the parking receipt (notification) is sent by the parking meter and capable of eliciting the parking receipt (request to add time), Gupta teaches the claimed "receive[s] in response" restriction and thus the disputed claim limitation. *See In re Schreiber*, 128 F.3d 1473, 1477–79

(Fed. Cir. 1997) (explaining why a claim feature's "intended use" is taught by prior art capable of the same use); *see also In re Pearson*, 494 F.2d 1399, 1405 (CCPA 1974).[4]

Thus, for the reasons indicated *supra*, we sustain the Examiner's rejection of claim 1 and dependent claim 2.

Claims 3 and 4

Appellant argues that claims 3 and 4 should be allowable for the same reasons as independent claim 1, from which the claims depend. Appeal Br. 7. Because we sustain the Examiner's rejection of claim 1, we also sustain the Examiner's rejection of claims 3 and 4.

Claim 5

Appellant argues that claim 5 should be allowable for the same reasons as independent claim 1, from which the claim depends. Appeal Br. 7. Because we sustain the Examiner's rejection of claim 1, we also sustain the Examiner's rejection of claim 5.

Claim 6

[4] We add that, even assuming (arguendo) the disputed claim limitation conveys a structural or functional relationship of the claimed invention (i.e., of the claimed system or processor) to the unclaimed vehicle computer, the limitation is indefinite unless the relationship defines a scope (i.e., metes and bounds) of structure or functionality of the claimed invention itself. *See e.g.*, *Ex parte Miyazaki*, 89 USPQ2d 1207, 1212 (BPAI 2008) (precedential) ("[C]laim 1 attempts to claim the height of the [printer's] paper feeding unit in relation to a user . . . [but] fails to specify . . . a positional relationship of the user and the printer to each other. . . . [Because a]n infinite number of combinations of printer and user positions could be envisioned[,] . . . claim 1 does not . . . impose a structural limitation on the height of the paper feeding unit[.]").

Appellant argues that claim 6 should be allowable for the same reasons as independent claim 1, from which the claim depends. Appeal Br. 7. Because we sustain the Examiner's rejection of claim 1, we also sustain the Examiner's rejection of claim 6.

Claims 7–10 and 12–17

For the following reasons, we are unpersuaded of error in the rejection of claims 7 and 14. Respectively dependent claims 8–10, 12, 13, and 15–17 are not separately argued. Appeal Br. 4–7. We accordingly sustain the rejections of claim 7–10 and 12–17.

The disputed limitations of claims 7 and 14 are: "wirelessly request addition of a specified time amount to a parking meter, in response to a wireless instruction having been received from a mobile device, the instruction including the specified time amount" (claim 7); and "sending a second request to the parking meter from the vehicle computer to add a specified amount of time" (claim 14). Appellant contends these limitations do not read on Gupta's vehicle providing a parking receipt to the parking meter because Gupta's "vehicle . . . is not . . . adding time," but rather the vehicle owner's "device 104 is always adding the time." Appeal Br. 6. Appellant further contends that "at best [Gupta's] vehicle can simply inform the meter of a newly stored receipt that reflects time already added by the mobile device." *Id.*

We are unpersuaded because Appellant merely shows that Gupta's vehicle owner adds parking time to the parking receipt via a payment to the parking system's server 116. This transaction of the vehicle owner is immaterial to the Examiner's finding that the vehicle requests and pays the

parking meter to add parking time—i.e., adds parking time to the meter via a payment to the meter—by providing the parking receipt to the meter.

Thus, for the reasons stated *supra*, we sustain the rejections of claim 7–10 and 12–20.

Claim 11

Appellant argues that claim 11 should be allowable for the same reasons as independent claim 7, from which the claim depends. Appeal Br. 8. Because we sustain the Examiner's rejection of claim 7, we also sustain the Examiner's rejection of claim 11.

Claims 18 and 19

Appellant argues that claims 18 and 19 should be allowable for the same reasons as independent claim 14, from which the claims depend. Appeal Br. 8. Because we sustain the Examiner's rejection of claim 14, we also sustain the Examiner's rejection of claims 18 and 19.

Claim 20

Appellant argues that claim 20 should be allowable for the same reasons as independent claim 14, from which the claim depends. Appeal Br. 8. Because we sustain the Examiner's rejection of claim 14, we also sustain the Examiner's rejection of claim 20.

OVERALL CONCLUSION

We affirm the Examiner's decision to reject claims 1–20.

DECISION SUMMARY

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1, 2, 7–10, 12, 14–17	102(a)(1)	Gupta	1, 2, 7–10, 12, 14–17	
3, 4	103	Gupta, Kim	3, 4	
11	103	Gupta, Shangguan	11	
5	103	Gupta, Moran	5	
6	103	Gupta, Levy	6	
18, 19	103	Gupta, Tziperman	18, 19	
20	103	Gupta, Levy	20	
Overall Outcome			1–20	

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