

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HAVISH KOORAPATY and PETER D. KARABINIS

Appeal No. 2002-1153
Application No. 09/063,720¹

ON BRIEF

Before JERRY SMITH, BLANKENSHIP and SAADAT, Administrative Patent Judges.

SAADAT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the Examiner's final rejection of claims 8-25. Claims 1-7 have been canceled.

We reverse.

BACKGROUND

Appellants' invention is directed to mobile radiotelephone terminals having a satellite radiotelephone and a Global Positioning System (GPS) receiver. A coarse position of the

¹ Application for patent filed April 21, 1998.

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mobile radiotelephone terminal is obtained from the satellite radiotelephone system communications which is then used by the GPS to determine an accurate position of the mobile radiotelephone terminal (specification, page 4). According to Appellants, by obtaining a coarse position from the satellite radiotelephone systems communications, the time for the GPS receiver to compute an accurate position of the mobile terminal may be reduced (id.).

Representative independent claims 8 and 24 are reproduced below:

8. A mobile radiotelephone terminal comprising:

a satellite radiotelephone that obtains a coarse position of the mobile radiotelephone terminal from satellite radiotelephone system communications; and

a global positioning system (GPS) receiver that uses the coarse position to determine an accurate position of the mobile radiotelephone terminal.

24. A mobile radiotelephone terminal comprising:

means for obtaining a coarse position of the mobile radiotelephone terminal from mobile radiotelephone system communications; and

means for using the coarse position to determine an accurate position of the mobile radiotelephone terminal.

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The Examiner relies on the following references in rejecting the claims:

Dent	5,631,898	May 20, 1997
Cisneros et al (Cisneros)	5,774,829	Jun. 30, 1998 (filed Dec. 12, 1995)

Claims 20-25 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Cisneros.

Claims 8-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dent in view of Cisneros.²

We make reference to the answer (Paper No. 15, mailed May 11, 2001) for the Examiner's reasoning in support of the rejection, and to the appeal brief (Paper No. 14, filed March 12, 2001) and the reply brief (Paper No. 16, filed June 11, 2001) for Appellants' arguments thereagainst.

OPINION

At the outset, we note that Appellants indicate that the claims stand or fall together in three groups: claims 8, 15 and 24 as one group, claims 11, 12, 18, 19, 20 and 22 as the second group and claims 9, 10, 13, 14, 16, 17, 21, 23 and 25 as the third group (brief, page 3). However, Appellants present

² The 35 U.S.C. § 102 rejection of the claims 20-24 over Lewis (U.S. Patent No. 5,796,365) is withdrawn by the Examiner (answer, page 2).

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arguments only for claims 8 and 24 and rely on the same reasoning for the other claims (brief, pages 11-15). Therefore, we address each ground of rejection separately to the extent that is argued by Appellants and select claims 8 and 24 as the representative claims. See 37 CFR § 1.192(c)(7).

With respect to the 35 U.S.C. § 102 rejection of the claims, Appellants point out that Cisneros discloses the use of an uncoordinated beacon system in conjunction with an absolute positioning system (brief, page 6). Appellants further argue that even if the Uncoordinated Broadcast Signal (UBS) may be equated with a satellite radiotelephone system, the UBS signals are actually clock error signals used, at the best, for correcting the timing of the relatively coarse position signals of the GPS system (id.).

In response to Appellants' arguments, the Examiner merely repeats the statement of the rejection which equates the compensation of the timing errors of the GPS local clock with the claimed determining an accurate position based on the coarse position (answer, pages 4-7 and 13-16). In particular, the Examiner relies on Figures 17 and 18 of Cisneros and concludes that the pseudorange estimate of the GPS is the accurate position

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determination which is based on the UBS pseudorange residual (answer, page 6).

A rejection for anticipation under section 102 requires that the four corners of a single prior art document describe every element of the claimed invention, either expressly or inherently, such that a person of ordinary skill in the art could practice the invention without undue experimentation. See Atlas Powder Co. v. Ireco Inc., 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1947 (Fed. Cir. 1999); In re Paulsen, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

After a review of Cisneros, we agree with Appellants' assertion that the claimed using a coarse position of the mobile terminal in a GPS for obtaining an accurate position of the terminal is absent in the reference. Cisneros relates to a positioning system which uses Uncoordinated Beacon Signals (UBS) from commercial radio broadcasts with synchronized signals from an absolute positioning system (col. 1, lines 11-16). The differential GPS corrections relied on by the Examiner are actually timing corrections that compensate for timing differences between the local clock of the GPS and the standard UTC time (col. 32, lines 6-15). Furthermore, the term "pseudorange" refers to a distance measurement which has not been

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corrected for timing synchronization errors (col. 31, lines 65-68).

We find Appellants' arguments distinguishing the claimed using a coarse position in a GPS to determine an accurate position over Cisneros' clock error correction to be persuasive. As discussed above, what the Examiner characterizes in Cisneros as the use of the coarse position is actually the correction of the synchronization of the GPS clock with that of the UBS. Although the clock error correction signal improves the GPS accuracy, it is not a coarse position signal that may be used by the GPS for accurate position of the mobile terminal. Additionally, the Examiner neither points to any specific portion of Cicneros for obtaining a coarse position that may be used by GPS for accurate positioning, nor do we find that the clock error correction signal of Cicneros reads on the recited features.

We also note that although the Examiner apparently expects that this panel rely on additional portions of the reference to buttress the Examiner's position (answer, page 19), we remind the Examiner that as a general principle, the initial burden of establishing reasons for unpatentability rests on the examiner.

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See In re Oetiker, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992); In re King, 801 F.2d 1324, 1327, 231 USPQ 136, 138-9 (Fed. Cir. 1986). Only if that burden is met, does the burden of going forward shift to the applicant. Id. at 1327, 231 USPQ at 138-39. Once a prima facie case is established and rebuttal evidence is submitted, the ultimate question becomes whether, based on the totality of the record, the examiner carried his burden of proof by a preponderance. See Oetiker, 977 F.2d at 1445, 24 USPQ2d at 1444. In this case, after carefully reviewing all the evidence before us, it is our conclusion that the evidence offered by the examiner is insufficient to establish a prima facie case of anticipation. Thus, Cisneros does not anticipate claim 24, nor the other independent claims, which recite repeatedly obtaining coarse positions of increasing accuracy. Accordingly, the 35 U.S.C. § 102 rejection of claims 20-25 over Cisneros cannot be sustained.

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Turning to the 35 U.S.C. § 103 rejection of claims 8-25 over Dent and Cisneros, we note that each of the independent claims 8 and 15, similar to claims 20-25, recites using a coarse position by a GPS to determine an accurate position of the mobile terminal. The Examiner, in relying on Dent, has not provided any additional factual evidence to overcome the deficiencies of Cisneros above with respect to the rejection of claims 20-25, and therefore, has failed to establish a prima facie case of obviousness. Accordingly, the rejection of claims 8-25 under 35 U.S.C. § 103 over Dent and Cisneros is not sustained.

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CONCLUSION

In view of the foregoing, the decision of the Examiner rejecting claims 20-25 under 35 U.S.C. § 102 and rejecting claims 8-25 under 35 U.S.C. § 103 is reversed.

REVERSED

JERRY SMITH)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
HOWARD B. BLANKENSHIP)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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