

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 20

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LESLIE M. WESTBURY, CARY J. KOOB, ROBERT S. HAMILTON,
LARRY R. PROODIAN, LINDA C. STINSON-ALCINI,
MICHAEL P. NOON, ROBERT M. ALLISON, DOUGLAS S. KALEMBA,
ANNAMALAI KAILAINATHAN and THYAGARAJAN PALANI

Appeal No. 2003-1631
Application No. 09/451,332

ON BRIEF

Before BARRETT, DIXON 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 8-14, which are all of the claims pending in this application. Claims 1-7 have been canceled.

We reverse.

BACKGROUND

Appellants' invention is directed to a method for associating carrier information with supplier information for

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obtaining accurate time estimates of delivery from a supplier to a manufacturer.

Independent claim 8 is illustrative of the invention and reads as follows:

8. In a data processing system for tracking inventory, said data processing system having a processor for processing data and a storage device for storing data, a method for estimating a time of arrival of supplier goods being transferred from a source to a final destination, wherein said supplier goods are transferred to an intermediate location by a first carrier and from said intermediate location to a final destination by a second carrier, said method comprising the steps of:

receiving at the data processing system a first transmission from said source, said transmission indicative of characteristics of said supplier goods;

receiving at the data processing system a second transmission from said first carrier when said first carrier is delivering said supplier goods from said source to said intermediate location, said second transmission indicative of characteristics of said first carrier;

associating, with the data processing system, said first carrier with said supplier goods by comparing at least one of said characteristics of said supplier goods contained in said first transmission with at least one of said characteristics of said carrier contained in said second transmission;

obtaining a first estimated time of arrival for said supplier goods to said final destination, said first estimated time of arrival being obtained from said second transmission;

receiving at the data processing system a third transmission when said second carrier is delivering said supplier goods from said intermediate location to said final destination; said third transmission indicative of characteristics of said second carrier;

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associating, with the data processing system, said second carrier with said supplier goods by comparing at least one of said characteristics of said supplier goods contained in said first transmission with at least one of said characteristics of said second carrier contained in said third transmission; and

determining, with the data processing system, a second estimated time of arrival from a route plan and the third transmission, said second estimated time of arrival being an updated estimated time of arrival of said supplier goods to said final destination.

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

Bush	5,835,377	Nov. 10, 1998
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Claims 8-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bush.

We make reference to the answer (Paper No. 16, mailed January 13, 2003) for the Examiner's reasoning in support of the rejection, and to the appeal brief (Paper No. 15, filed January 3, 2003) and the reply brief (Paper No. 17, filed March 12, 2003) for Appellants' arguments thereagainst.

OPINION

Appellants recognize that Bush discloses a method for optimized material movement in a computer manufacturing system using global positioning system (GPS) and a tracking module which is built into each shipment container (brief, page 6). However, Appellants dispute the Examiner's reliance upon Bush for

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disclosing updating an estimated time of arrival by associating characteristics of the goods with characteristics of a carrier. Appellants argue that characterizing "location" as a characteristic of both the specific goods and the second carrier is inconsistent and does not allow combining information from the source with information from the carrier to update an arrival time estimate (brief, pages 7 & 8). In particular, Appellants assert that Bush only queries a tracking module for a current location which is then compared with a planned location (reply brief, page 3) instead of associating the goods and the carrier information for determining the updated arrival time for those specific goods (reply brief, page 4).

In response to Appellants' arguments, the Examiner asserts that the first estimated arrival time is based only upon information obtained from the second transmission whereas, similarly, the second estimate is based only on the third transmission (answer, page 9). The Examiner argues that the actual location and the itinerary of the respective carrier in Bush is the same as the claimed second and third transmissions which are used to calculate an estimated time of arrival (id.). The Examiner further asserts that the comparison of the actual location of the package and the planned itinerary in Bush is also

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the same as the claimed association steps related to the second and the third transmissions (answer, pages 11 & 12).

In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of presenting a prima facie case of obviousness. See In re Rijckaert, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993). Furthermore, for an invention to be obvious in view of a combination of references, there must be some suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to select the references and combine them in the way that would produce the claimed invention. Karsten Mfg. Corp. v. Cleveland Gulf Co., 242 F.3d 1376, 1385, 58 USPQ2d 1286, 1293 (Fed. Cir. 2001). Even when obviousness is based on a single prior art reference, there must be a showing of a suggestion or motivation to modify the teachings of that reference. In re Kotzab, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1316-17 (Fed. Cir. 2000), citing B.F. Goodrich Co. v. Aircraft Breaking Sys. Corp., 72 F.3d 1577, 1582, 37 USPQ2d 1314, 1318 (Fed. Cir. 1996). The Examiner must also produce a factual basis supported by a teaching in a prior art reference or shown to be common knowledge of unquestionable demonstration, consistent with the holding in Graham v. John Deere Co., 383 U.S. 1 (1966). However, "the Board must not only

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assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency's conclusion." In re Lee, 277 F.3d 1338, 1344, 61 USPQ2d 1430, 1434 (Fed. Cir. 2002).

As the Examiner and Appellants concede, Bush teaches tracking of the shipping containers used for transporting goods and determining alternate manufacturing schedule or shipment partner in response to the location determinations (col. 1, lines 9-18). As shown in Figure 4, the part list and the itinerary for shipment are loaded into a computer system and compared with the actual location of the shipment which is obtained from the GPS tracking module (col. 5, lines 45-51). The query step 48 determines whether or not the remotely shipped goods are on schedule and looks for an alternate shipping method (col. 6, lines 1-15) or an alternate manufacturing schedule (col. 6, lines 37-49) only if the shipment is not on schedule. Thus, Bush attempts to keep the shipment on the schedule or delay the manufacturing if the goods are not on schedule. However, as argued by Appellants (brief, page 7), Bush neither compares a first transmission from the supplier with the second and third transmissions from the first and the second carriers, nor

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determines an updated estimated time of arrival at the final destination.

Based on our findings above, we agree with Appellants that even if the part itinerary is sent by the supplier, the tracking of the part location of Bush cannot simply be used as the transmissions indicative of the characteristics of the first and the second carriers, which are used for determining an estimated time of arrival for the goods. We note that the Examiner's expanded analysis of the reference and the arguments in the answer only partially support the reading of some of the claimed features on the tracking system of Bush, but fails to correspond the prior art to the claimed language as a whole. In that regard, while determining the location of the goods may be suggested, Bush specifically limits the use of such information merely to determining alternate actions if the goods are not on the schedule. Therefore, as the modification to the prior art fails to teach or suggest the recited features, the Examiner has not established a prima facie case of obviousness. Accordingly, we do not sustain the 35 U.S.C. § 103 rejection of claims 8-14 over Bush.

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CONCLUSION

In view of the foregoing, the decision of the Examiner rejecting claims 8-14 under 35 U.S.C. § 103 is reversed.

REVERSED

LEE E. BARRETT)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
JOSEPH L. DIXON)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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MAHSHID D. SAADAT)	
Administrative Patent Judge)	

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