The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID W. NESBITT

Appeal No. 2005-2433
Application No. 10/259,789

HEARD: January 11, 2006

Before GARRIS, FRANKFORT, and NASE, Administrative Patent Judges.
FRANKFORT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 through 39, all of the claims pending in the application.

Appellant's invention relates to a system and method for determining a preferred route between an origin location and a destination location using a computer-implemented routing system which utilizes a routing graph that represents a network of roads. As indicated on page 1 of the specification,

"The routing graph includes two or more nodes and one or more links. Each directed link is associated with a direction of travel from a starting node to an ending node. Each

directed link represents a road. Each node represents an intersection that includes at least one road." The invention also addresses a computer-readable medium or propagated signal having embodied thereon a computer program configured to determine a preferred route using a computer-implemented routing system. Independent claims 1, 13 and 25 are representative of the subject matter on appeal and a copy of those claims can be found in the "Appendix of Claims" attached to appellant's brief.

The prior art references relied upon by the examiner in rejecting the appealed claims are:

Fujita et al. (Fujita)	5,513,110	Apr. 30, 1996
Ohmura et al. (Ohmura)	US 2002/0077745 A1	Jun. 20, 2002

Claims 1 through 9, 11, 13 through 21, 23, 25 through 33, 35 and 37 through 39 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Fujita.

Claims 10, 12, 22, 24, 34 and 36 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Fujita in view of Ohmura.

Rather than attempt to reiterate the examiner's full commentary with regard to the above-noted rejections and the conflicting viewpoints advanced by the examiner and appellant regarding those rejections, we make reference to the examiner's answer (mailed August 11, 2004) for the reasoning in support of the rejections, and to appellant's brief (filed May 14, 2002) and reply brief (filed October 12, 2004) for the arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to appellant's specification and claims, to the applied prior art references, and to the respective positions articulated by appellant and the examiner. As a consequence of our review, we have made the determinations which follow.

With respect to the rejection under 35 U.S.C. § 102(b) based on Fujita, the examiner has urged that this patent is anticipatory of the subject matter defined in claims 1 through 9, 11, 13 through 21, 23, 25 through 33, 35 and 37 through 39. See pages 3-10 of the answer for details of the examiner's explanation of this rejection. Appellant's sole argument concerning the § 102(b) rejection is that Fujita does not describe or suggest using a routing graph representing a network of roads in which a directed link of the routing graph is associated with a direction of travel along the directed link from a starting node to an ending node.

More particularly, appellant contends (brief, page 3) that in Fujita a node shows an intersection and a link shows the relationship between two intersections. Thus, in appellant's view, a link in Fujita connects two intersections and is therefore non-directional (or bi-directional), such that the link connects one intersection to the other intersection in each travel direction between the intersections. From this, appellant concludes that the link in Fujita is not a "directed link" that is associated with a direction of travel along the directed link, as recited in the claims on appeal. In the reply brief, appellant contends that the direction of travel disclosed in Fujita is a direction of travel that is an attribute of the vehicle in which the navigation system of Fujita resides and is not a direction of travel that is permitted on a road.

Given the lack of a specific definition of the terminology “directed link” in appellant’s specification and the broad use
of that terminology in the manner set forth in appellant’s specification at, for example, page 1, lines 25-28, page 3,
lines 16-18 and page 7, line 20 through page 9, line 4, the examiner has concluded that a “directed link” is a road represented as a line (or edge) on a routing graph which has or permits a direction of travel and which generally connects two intersections or nodes on the routing graph and is usable to determine a preferred route from an origin to a destination on the routing graph.

Applying this understanding to the navigation system and method of Fujita, the examiner is of the opinion that each road or link between two nodes or intersections on a routing graph therein that has two directions of travel between the connected nodes or intersections represents two directed links, e.g., one from node/intersection A to node/intersection B and another from node/intersection B to node/intersection A, each of which “directed links” (AB) and (BA) is adapted to be used to determine a preferred route from an origin to a destination on the routing graph dependent upon where the destination is relative to the origin and also relative to the intersections A and B. For example, Route 95N and Route 95S extending between two nodes, intersections or

interchanges on a routing graph like that in Fujita would each represent a “directed link,” even though the nodes, intersections or interchanges involved may be connected by only one line (or edge) of Hierarchy #1 representing Route 95 on the routing graph. Thus, in traveling from an origin in Washington, DC to a destination in Baltimore, MD the system and method of Fujita would use at least one “directed link” in a direction of travel along Route 95N in determining a preferred route from the origin to the desired destination. Moreover, the examiner also points to the disclosure in Fujita concerning road data representing “one way” roads or streets, and concludes that a “one way” link or road between two intersections or nodes on a routing graph therein would also represent a “directed link” associated with a direction of travel along the directed link from a starting node/intersection to an ending node/intersection and would be useable to determine a preferred route from an origin to a destination on the routing graph.

We agree with the examiner. For example, in arriving at the highlighted preferred route shown in Figure 11A of Fujita, we are of the view that the system and method therein must of necessity have looked at each road or link of the preferred route between each node/intersection as being a “directed link” associated with a direction of travel along the directed link from a starting node/intersection to an ending node/intersection and utilized such directed links to determine the highlighted overall preferred route from the origin seen therein to the destination shown.

For the reasons noted above, appellant's argument that Fujita lacks any disclosure of a "directed link," and the attempt to argue that the terminology "directed link" used in the claims on appeal has a more limited or special meaning are unavailing.

In light of the foregoing, we will sustain the examiner's rejection of independent claim 1 under 35 U.S.C. § 102(b) as being anticipated by Fujita. Given the indication in the "Grouping of Claims" section on page 2 of the brief that "[t]he claims stand or fall together," we conclude that claims 2 through 9, 11, 13 through 21, 23, 25 through 33, 35 and 37 through 39 will fall with claim 1. Thus, the examiner's rejection of those claims under 35 U.S.C. § 102(b) as being anticipated by Fujita will likewise be sustained.[1]

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[1] In the event of any further prosecution of the present application, the examiner and appellant should review the "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility," published in Volume 1300 of the Official Gazette, November 22, 2005, pages 142-153, particularly ANNEX IV, section (C) "Electro-magnetic Signals," with an eye toward determining if claim 13 of the present application and the claims which depend therefrom are directed to statutory subject matter. In addition, the examiner and appellant should evaluate

Concerning the examiner's rejection of dependent claims 10, 12, 22, 24, 34 and 36 under 35 U.S.C. § 103(a) based on Fujita in view of Ohmura, we note that appellant has not separately argued this rejection with any reasonable degree of specificity, choosing instead to merely argue that the disclosure and teachings of Ohmura do not remedy the above argued failure of Fujita to disclose using a routing system to access an origin and a destination in a routing graph representing a network of roads in which a directed link of the routing graph is associated with a direction of travel along the directed link from a staring node to an ending node, as recited in independent claims 1, 13 and 25. Having already found that argument unpersuasive, it follows that we will sustain the examiner's rejection of dependent claims 10, 12, 22, 24, 34 and 36 under 35 U.S.C. § 103(a).

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whether claim 25 of the present application is, in actuality, a "single means" claim and therefore impermissible.

In summary, we have sustained the examiner's rejection of claims 1 through 9, 11, 13 through 21, 23, 25 through 33, 35 and 37 through 39 under 35 U.S.C. § 102(b) based on Fujita and that of claims 10, 12, 22, 24, 34 and 36 under 35 U.S.C. § 103(a) based on Fujita and Ohmura. Thus, the decision of the examiner to reject claims 1 through 39 of the present application is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

BRADLEY R. GARRIS Administrative Patent Judge	)
CHARLES E. FRANKFORT Administrative Patent Judge	) BOARD OF PATENT) APPEALS) AND) INTERFERENCES
JEFFREY V. NASE Administrative Patent Judge	)

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