

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* RAMIN SAMADANI and MICHAEL HARVILLE

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Appeal 2007-3950  
Application 10/427,614  
Technology Center 2100

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Decided: March 14, 2008

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Before JEAN R. HOMERE, ST. JOHN COURTENAY III, and STEPHEN  
C. SIU, *Administrative Patent Judges*.

SIU, *Administrative Patent Judge*.

DECISION ON APPEAL

I. STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's  
Final Rejection of claims 1-44. We have jurisdiction under 35 U.S.C.  
§ 6(b). We affirm in part.

#### A. INVENTION

The invention at issue involves recording multimedia data at various locations with corresponding path information describing time and location of the various locations (Spec. 4). In particular, a user records multimedia data at locations along a path traveled by the user. The recorder also determines path information (i.e., time of recording of the multimedia data and location) and associates the path information with the corresponding multimedia data. (*id.*).

#### B. ILLUSTRATIVE CLAIM

Claim 1, which further illustrates the invention, follows:

1. A recorder comprising:

a path information determining subsystem, for determining and recording path information associated with a path traversed by the recorder at a plurality of moments in time, the path information having associated path time and location data; and

a multimedia recording subsystem for recording selected multimedia data while traversing the path and associating at least a portion of the multimedia data with said path information to generate “path-enhanced” multimedia data.

#### C. REJECTION

Claims 1-44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,945,985 (“Babin”), U.S. Publication

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No. 2002/0011951 (“Pepin”), and <http://www.redhensystems.com> (2002) (“MediaMapper”).

## II. CLAIM GROUPING

“When multiple claims subject to the same ground of rejection are argued as a group by appellant, the Board may select a single claim from the group of claims that are argued together to decide the appeal with respect to the group of claims as to the ground of rejection on the basis of the selected claim alone. Notwithstanding any other provision of this paragraph, the failure of appellant to separately argue claims which Appellants have grouped together shall constitute a waiver of any argument that the Board must consider the patentability of any grouped claim separately.” 37 C.F.R. § 41.37(c)(1)(vii) (2005).<sup>1</sup>

Appellants argue claims 1, 2, 4-16, 18-23, 25, 27-35, 37, and 39-44 as a group (App. Br. 3-11).<sup>2</sup> We select claim 1 as the sole claim on which to decide the appeal of the group. We decide the appeal of claims 3, 17, 24, 26, 36, and 38 separately.

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<sup>1</sup> We cite to the version of the Code of Federal Regulations in effect at the time of the Appeal Brief. The current version includes the same rules.

<sup>2</sup> Appellants place claims 2-44 in additional headings in the Appeal Brief but rely on the same arguments with respect to claim 1.

### III. CLAIMS 1-44

Section 103 within title 35 of the U.S. Code “forbids issuance of a patent when ‘the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.’” *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1734 (2007); (quoting 35 U.S.C. § 103). “Determination of obviousness under 35 U.S.C. § 103 is a legal conclusion based on underlying facts.” *In re Kumar*, 418 F.3d 1361, 1365 (Fed. Cir. 2005).

In the present case, MediaMapper discloses mapping software (page 4) on a recorder device such as a video camera (page 3) that can “record video at locations of interest or along a continuous path” (page 5). While a user “take[s] pictures or record[s] video” (page 4), the “software can create media maps” by collecting “mapping information” and merging “the information about video time codes and digital still image files with GPS locations in a central GIS database file” (page 4). We agree with the Examiner that recording video or images “along a continuous path” and merging the collected or recorded video with “information about video time codes and . . . GPS locations” is equivalent to determining and recording path information with associated path time and location data (e.g., time codes or GPS locations) and generating “path-enhanced” multimedia data by associating recorded multimedia data (e.g., video) with the path information.

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“[T]he PTO gives claims their ‘broadest reasonable interpretation.’” *In re Bigio*, 381 F.3d 1320, 1324 (Fed. Cir. 2004) (quoting *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000)).

Pepin further supports the disclosure of MediaMapper by disclosing a GPS position module in a portable computer (§[0012]) that also provides information (e.g., path information) on points of interest for “persons walking in a high-density urban environment” (§[0020]) which includes location information from a “positioning module 14” (§[0027]). Thus, as described above for MediaMapper, Pepin’s device also provides media data and corresponding location information of points of interest visited by a user moving along a path.

Likewise, Babin also supports MediaMapper (and Pepin) by disclosing a system in which “video scenes may be displayed . . . showing specific clips about an area of interest” (col. 12, ll. 15-17). Thus, like Pepin, Babin demonstrates that one of ordinary skill in the art at the time of the present invention would have provided media data (e.g., video scenes) for corresponding locations of interest to a user.

Appellants argue that “Babin refers to a workstation *which operates in a fixed location*” (App. Br. 5), “Pepin is directed to a *portable* interactive system” (App. Br. 6), and MediaMapper provides “recording a customized path” (App. Br. 8). Based on these observations, Appellants conclude that “there is no . . . result . . . to motivate one to combine the reference teachings” of Babin and Pepin (App. Br. 7), the modification of Babin with

Pepin “would change the principal operation of Babin” (*id.* 7), and “any modification to the combination of Babin and Pepin to provide recording . . . would change the principle of operation from playback devices of Babin and Pepin to recording devices of MediaMapper” (App. Br. 8).

As set forth above, Appellants assert that because MediaMapper discloses a recording device and Babin and Pepin both disclose a device that plays data, providing the device of either Babin or Pepin with recording capabilities would “change the principle of operation” of playback devices. We disagree. Although Appellants assert that the principle of operation of a playback device would be changed if recording capabilities are added, Appellants have nevertheless failed to establish that the playback operation of a device would be impeded or otherwise impacted if the device has an additional feature of recording. Nor have Appellants demonstrated that the addition of recording capabilities would somehow render the playback features of the device inoperable or undesirable. We therefore find that, contrary to the Appellants’ assertion, the playback operation of the devices of Babin or Pepin would not be substantially negatively impacted if the devices also had recording capability.

Likewise, Appellants argue that modifying Babin’s stationary device to be portable would “change the principle of operation” of Babin’s device. “The prior art’s mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution

claimed . . .” *In re Fulton*, 391 F.3d 1195, 1201 (Fed. Cir. 2004). Babin discloses one alternative of a stationary computer but does not criticize, discredit, or otherwise discourage the use of a portable computer.

Furthermore, Babin’s “principle of operation” is the provision of media data corresponding to locations of interest. Appellants have failed to establish that Babin’s device would be incapable of providing media data of locations of interest if the Babin’s device had been modified to be a portable device. In the absence of such a showing, we find that the ability of Babin’s device to provide media data of locations of interest would not be substantially impacted whether the device was portable or stationary. Therefore, we find Appellants’ argument unavailing.

As set forth above, Appellants also argue that there would have been no adequate rationale to combine Babin and Pepin because Babin discloses a device that “*operates in a fixed location*” (App. Br. 5) and Pepin discloses “a *portable* interactive system” (App. Br. 6). We disagree.

“The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results. . . . [W]hen a patent 'simply arranges old elements with each performing the same function it had been known to perform' and yields no more than one would expect from such an arrangement, the combination is obvious.” *KSR* at 1739-40 (citing *Sakraida v. AG Pro, Inc.*, 425 U.S. 273, 282 (1976)).

In the present case, there are a finite number of ways in which one of ordinary skill in the art would have operated a device. For example, one of ordinary skill in the art would have utilized either of two main predictable

solutions by using either a stationary device or a portable device. Using either of these types of devices would have produced expectedly predictable results – for example, the successful display of media data and location data corresponding to a location of interest. Such anticipated success of using known methods to achieve expected results would be obvious to one of ordinary skill in the art.

“When there is a design need or market pressure to solve a problem and there are a finite number of identified, predictable solutions, a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense.” *KSR* at 1742 (2007).

It follows that Appellants have failed to demonstrate that the Examiner erred in rejecting claim 1. Therefore, we affirm the rejection of claim 1 and of claims 2, 4-16, 18-23, 25, 27-35, 37, and 39-44 which fall therewith.

#### IV. CLAIM 3

Appellants argue that Babin, Pepin and MediaMapper fail to disclose “disabling one of the path information determining subsystem and the multimedia recording subsystem to allow one of path information and multimedia data to be recorded while the other is not” as recited in claim 3. The Examiner states that “MediaMapper can ‘link as many multimedia files to a map location as you need’ (MediaMapper page 7, right column, bullet

3), providing at least the suggestion that a user can adjust the multimedia recording while the path information recording is stopped” (Ans. 23).

We find that although MediaMapper discloses that a user can “link as many multimedia files to a map location as you need” (page 7), MediaMapper nevertheless does not disclose that one of the path information and multimedia data is recorded while the other is not. Based on the record before us, we do not find, and the Examiner has not shown, a nexus between the ability to link as many multimedia files as needed with the capability of disabling one of the recording of path information or recording of multimedia data but not the other.

Therefore, we reverse the rejection of independent claim 3.

#### V. CLAIM 17

Appellants argue that Pepin fails to disclose that “the *path information is determined by interpolation when path-determining information is unreliable*” (App. Br. 12). In response, the Examiner states that Pepin discloses “interpolation of path movement during periods of GPS signal loss (see Pepin paragraph [0091])” (Ans. 24).

Pepin discloses “an electronic compass . . . which allows the interpolation of movement during GPS-signal loss” (¶[0091]). We find this disclosure to be equivalent to the limitations of claim 17. Although Appellants have asserted that Pepin fails to disclose limitations of claim 17,

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Appellants have nevertheless failed to provide logical reasoning as to any specific differences between Pepin's disclosure and claim 17.

It follows that Appellants have failed to demonstrate that the Examiner erred in rejecting claim 17.

## VI. CLAIM 24

Appellants assert that the cited references do not disclose "selecting a rate at which to sample the path information dependent on the movement of the recorder" (App. Br. 13).

In response, the Examiner states that Pepin discloses a subsystem that "allows the interpolation of movement during GPS-signal loss" (see Pepin paragraph [0091])" (Ans. 24) and that such a subsystem "makes up for [loss of data] via interpolation, facilitating the perceived effect of a GPS sampling rate increase" (Ans. 25).

Based on the record before us, we do not find that interpolation of movement during signal loss is equivalent to selecting a sampling rate. The Examiner asserts a "perceived effect" of a sampling rate increase. Even assuming that such a "perceived effect" exists, the Examiner has not demonstrated that this "perceived effect" is equivalent or suggestive of selecting a sampling rate at which to sample path information dependent on the movement of the recorder as recited in claim 24.

Therefore, we reverse the rejection of independent claim 24.

## VII. CLAIM 26

Appellants assert that the cited references do not disclose auxiliary data “used to estimate ‘field-of-view’ of an image sensor” (App. Br. 13).

In response, the Examiner states that MediaMapper discloses “using a laser rangefinder (MediaMapper page 3, at top) . . . ultimately allowing the position of a camera to be calculated” and that a “distance calculation has an obvious bearing on field of view” (Ans. 25).

We agree with the Examiner that MediaMapper suggests estimating a field-of-view of an image sensor as recited in claim 26. MediaMapper discloses calculating an “object’s GPS location” (page 3) and “the position of the camera when the data was collected” (*id.*). Thus, MediaMapper discloses calculating a distance between the camera and the object, which we find implicitly teaches and/or suggests estimating the field-of-view of the camera.

It follows that Appellants have failed to demonstrate that the Examiner erred in rejecting claim 26.

## VIII. CLAIMS 36 AND 38

Appellants assert that the cited references do not disclose recording “path information at moments in time comprising moments in time of a sequence and at moments in time determined according to movement of the recorder” (App. Br. 14).

In response, the Examiner states that MediaMapper discloses “various intermediate locations of a video path, or continuous monitoring (MediaMapper page 5, section 4 ‘Video’)” (Ans. 26) and that “the multimedia data is mapped to these points of time in said video accordingly” (*id.*).

We agree with the Examiner that MediaMapper discloses recording video at locations along a path (page 5). We also find that a path and path information are implicitly taught by a plurality of sampling points of differing locations. MediaMapper discloses collecting “mapping information while you’re taking pictures or video” (page 4). Hence, the mapping information of MediaMapper is collected at moments in time (i.e., “while you’re taking pictures or video”) along a path of sampling points of differing locations. Because the MediaMapper device has moved to create a path (and corresponding path information), the MediaMapper device has also collected path information at moments in time that are determined “according to movement of the recorder” as recited in claims 36 and 38.

It follows that Appellants have failed to demonstrate that the Examiner erred in rejecting claims 36 and 38.

#### IX. ORDER

In summary, we affirm the rejection of claims 1, 2, 4-23, 25-44 under § 103(a). We reverse the rejection of claims 3 and 24 under § 103(a).

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No time for taking any action connected with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

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