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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

EXAMINER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte BARRETT MORRIS KREINER and
JOSEPH E. PAGE JR.

Appeal 2015-003104
Application 12/632,943
Technology Center 2400

Before DEBRA K. STEPHENS, HUNG H. BUI, and
AARON W. MOORE, *Administrative Patent Judges*.

STEPHENS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from a Non-Final Rejection of claims 2–21. We have jurisdiction under 35 U.S.C. § 6(b). Claim 1 has been cancelled.

We AFFIRM.

STATEMENT OF THE INVENTION

According to Appellants, the claims are directed to a video recorder for producing surveillance data (Abstract; Spec. ¶ 6). Claim 2, reproduced below, is representative of the claimed subject matter:

2. A video recorder, comprising:

a processor;

a buffer in communication with the processor; and

a memory device in communication with the processor;

wherein the processor is configured to:

store video data in the buffer; and

in response to an occurrence of a first event and a nonoccurrence of a second event, transfer at least a portion of the video data from the buffer to the memory device.

REFERENCES

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Murphy	US 6,225,890 B1	May 1, 2001
Basir	US 2003/0154009 A1	Aug. 14, 2003
Langfahl	US 6,741,165 B1	May 25, 2004
Kreiner	US 7,667,731 B2	Feb. 23, 2010

REJECTIONS¹

Claims 2, 3, and 5–21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Langfahl and Basir (Non-Final Act. 7–17).

Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Langfahl, Basir, and Murphy (Non-Final Act. 17–18).

ISSUES

We disagree with Appellants’ conclusions and adopt as our own: (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken; and (2) the reasons set forth by the Examiner in the Answer in response to the Appeal Brief. With respect to the claims argued by Appellants, we highlight and address specific findings and arguments for emphasis as follows.

35 U.S.C. § 103(a): Claims 2, 3, and 5–21

Appellants assert their claimed invention, as recited in claim 2, is not obvious over Langfahl and Basir (App. Br. 8–13). The issues presented by the arguments are:

Issue 1a: Has the Examiner erred in finding the combination of Langfahl and Basir teaches or suggests “in response to an occurrence of a first event and a nonoccurrence of a second event, transfer at least a portion of the video data from the buffer to the memory device,” as recited in independent claim 1 and similarly recited in independent claims 9 and 16?

¹ The rejection of claims 2, 7, 9, 14, 16, and 21 on the ground of non-statutory obviousness-type double patenting, as being unpatentable over claims 1 and 12 of Kreiner, has been withdrawn by the Examiner (Ans. 9–10).

Issue 1b: Has the Examiner erred in finding the combination of Langfahl and Basir teaches or suggests “wherein the second event is an authorization event,” as recited in dependent claim 11?

ANALYSIS

Appellants argue Langfahl does not teach “nonoccurrence of a second event,” rather, Langfahl only teaches capturing video data in response to occurrence of a first event (App. Br. 10). More specifically, Appellants contend Langfahl teaches some action to be taken when an event occurs, but does not describe the action is taken in response to a nonoccurrence of a second event (*id.* at 10–11). According to Appellants, even in Langfahl’s “failsafe mode,” Langfahl teaches the camera captures images at various intervals and indeed, Langfahl always capture images without determination of an “occurrence of a first event **and a nonoccurrence of a second event**” (*id.* at 11). Appellants assert the security response and the emergency response are not the claimed two events because both involve capturing and sending the video data (*id.*).

Appellants argue the Examiner is reading the limitation “and a nonoccurrence of a second event” out of the claim (Reply Br. 4). Appellants additionally argue although where the camera is pointed may change between security responses and emergency response, video data is stored regardless (*id.*). Specifically, Appellants assert, as shown in Langfahl’s Figures 5 and 6, regardless of whether a security or emergency response is triggered, Langfahl’s system receives and transmits images regardless of which response is triggered (*id.*).

We are not persuaded by Appellants' arguments. Initially, we note the term "event" is not defined explicitly in Appellants' Specification. Claim 2 recites transferring at least a portion of the video data upon occurrence of a first event and a nonoccurrence of a second event — not that video data is *only* recorded or transferred upon occurrence of a first event and a nonoccurrence of a second event. Indeed, claim 2 does not preclude recording or transferring video even if both events occur.

Thus, in light of the broad, but reasonable, interpretation of "event," we are not persuaded Langfahl fails to teach the disputed limitation. Rather, we find, as set forth by the Examiner, Langfahl discloses two events: a security event and an emergency event (Ans. 10; Langfahl 3:30–47, 5:60–6:4). Langfahl further teaches a motion sensor, door sensors, a hood sensor, and a trunk sensor are used in triggering an alarm to indicate a security event, turning the imaging device toward the security event, and recording the event (Langfahl 3:30–52). Langfahl additionally teaches a frontal sensor, a rear sensor, and an airbag sensor are used to indicate an emergency event, turning the imaging device toward the emergency event, and recording the event (*id.* at 3:53–4:12). The security event sensors are connected to an alarm which is connected to a control unit, and the emergency sensors are connected to the control unit (*id.* at 3:30–33, 3:53–61, Fig. 3). The control unit distinguishes the type of response by determining which sensor has been triggered (*id.* at 4:21–24).

We further agree with the Examiner that Langfahl teaches "in response to an occurrence of a first event and a nonoccurrence of a second event transfer at least a portion of the video data" because Langfahl discloses when the alarm is triggered by one of the sensors, the triggered

alarm is detected by the control unit which determines if a false trigger has occurred (Ans. 13; Langfahl 5:60–61). Thus, we determine Langfahl teaches, or at least suggests, if the control unit determines a false trigger has not occurred, then a second event has not occurred and the first event (security event) has occurred.

Accordingly, we are not persuaded by Appellants' arguments and determine the combination of Langfahl and Basir teaches "in response to an occurrence of a first event and a nonoccurrence of a second event, transferring at least a portion of the video data," as recited in claim 2.

We further note the claim language is broad enough to cover, for example, occurrence of a security event (first event) and nonoccurrence of the camera system or computer system failing (second event).

Similarly, claim 9 recites "determining that the first event has occurred" and "determining that a second event has not occurred." For the reasons set forth with respect to claim 2, we also find the combination of Langfahl and Basir teaches the disputed limitation. Specifically, Langfahl teaches a first event occurring and determining whether a false trigger has occurred (Ans. 13; Langfahl 5:60–61). Thus, if a false trigger is determined to not have occurred, at least a portion of the video data is transferred.

Lastly, claim 16 recites "determining that the first event has occurred and that a second event associated with the first event has not occurred." For the reasons set forth with respect to claims 2 and 9, we are not persuaded of error in the Examiner's findings or reasoning.

With respect to claim 11, Appellants argue Langfahl does not disclose "wherein the second event is an authorization event" (App. Br. 15). According to Appellants, Langfahl's emergency event is triggered by a

bumper or airbag sensor; however, Appellants argue the “emergency event” is not an “authorization event” (*id.*).

Appellants have not persuaded us of error in the Examiner’s findings and reasoning (Ans. 18; Final Act. 12). Initially, as a matter of claim construction, we determine the term “authorization event” is not defined explicitly in Appellants’ Specification. The Examiner finds Langfahl’s security breach teaches a first event and an emergency event (an authorized event) teaches a second event (Ans. 18). Taking a broad, but reasonable interpretation of the term “authorization event,” we agree with the Examiner that an emergency event is an authorization event. Therefore, it follows, we are not persuaded the Examiner erred in finding the combination of Langfahl and Basir teaches the disputed limitation.

Accordingly, we are not persuaded the Examiner erred in finding the combination of Langfahl and Basir teaches or suggests the limitations as recited in independent claims 2, 9, and 16, dependent claim 11, and dependent claims 3, 5–8, 10, 12–15, and 17–21, not separately argued. Therefore, we sustain the rejection of claims 2, 3, and 5–21 under 35 U.S.C. § 103(a) for obviousness over Langfahl and Basir.

35 U.S.C. § 103(a): Claim 4

Appellants assert the claimed invention as recited in claim 4, is not obvious over Langfahl, Basir, and Murphy (App. Br. 17–18). The issue presented by the arguments is:

Issue 2: Has the Examiner erred in concluding the combination of Langfahl, Basir, and Murphy teaches or suggests “wherein the second event

is a presence of a token indicating that the attempted vehicle entry is authorized,” as recited in claim 4?

ANALYSIS

With respect to claim 4, Appellants contend the combination of Langfahl, Basir, and Murphy fails to teach “wherein the second event is a presence of a token indicating that the attempted vehicle entry is authorized” (App. Br. 13–15). Appellants admit Murphy teaches “the use of ‘a token, presented by a would-be vehicle driver, containing personal information’ which can be used to identify the driver and determine whether or not he/she is authorized” (App. Br. 14 (citing Murphy 14:46–65)). However, according to Appellants, the Examiner has not shown the relevance of Murphy’s token to a nonoccurrence of a second event, wherein the second event is a presence of a token, as recited in claim 4 (App. Br. 14; Reply Br. 6). Additionally, Appellants assert the Examiner has not shown why it would have been obvious to combine the teachings of Murphy with those of Langfahl (App. Br. 14; Reply Br. 6).

We are not persuaded by Appellants’ arguments. The Examiner has articulated reasoning with some rational underpinning – “[by] permitting the determination of whether the person attempting to gain access to the vehicle is authorized or permitted to access and drive the vehicle so as to prevent unauthorized personnel from accessing the vehicle” (Ans. 16; Non-Final Act. 17–18). Appellants have not persuaded us this reasoning is in error.

In the Reply Brief, Appellants, for the first time, present an argument that the Examiner used improper hindsight (Reply Br. 6); however, Appellants have not explained why, nor is it apparent that, these arguments

were necessitated by a new point in the Examiner's Answer or any other circumstance constituting "good cause" for its belated presentation. Therefore, Appellants have not shown that we should consider the new argument.

Accordingly, we are not persuaded the Examiner erred in finding the combination of Langfahl, Basir, and Murphy teaches or suggests the limitations as recited in claim 4. Therefore, we sustain the rejection of claim 4 under 35 U.S.C. § 103(a) for obviousness over Langfahl, Basir, and Murphy.

DECISION

The Examiner's rejection of claims 2, 3, and 5–21 under 35 U.S.C. § 103(a) as being unpatentable over Langfahl and Basir is affirmed.

The Examiner's rejection of claim 4 under 35 U.S.C. § 103(a) as being unpatentable over Langfahl, Basir, and Murphy is affirmed.

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