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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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12/912,488

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Thomas F. Doyle

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QUALCOMM INCORPORATED
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EXAMINER

D AGOSTA, STEPHEN M

ART UNIT

PAPER NUMBER

2617

NOTIFICATION DATE

DELIVERY MODE

12/15/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

us-docketing@qualcomm.com

Office Action Summary	Application No. 12/912,488	Applicant(s) DOYLE, THOMAS F.	
	Examiner Stephen M. D'Agosta	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3,4 and 7-12 is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 October 2010 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed **terminal disclaimer** in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-12 rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 7.844,258. Although the conflicting claims are not identical, they are not patentably distinct from each other because they both recite alerting a user who is out of range of a call from a dispatch center by using multiple transmission systems.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if 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. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-2 and 5 rejected under 35 U.S.C. 103(a) as being unpatentable over Hays and further in view of Smith, Umstetter and {Moore or Wortham}.

As per **claims 1 and 5**, Hays teaches a system to alert a user of a vehicle when out of network that a communication is desired (Abstract teaches calling device and mobile unit/called device and cellular/paging systems), the system comprising:

a first wireless communication device available to the user of the vehicle (mobile unit in figure 1) comprising a display indicator (figure 1 shows a mobile phone which inherently have display(s) for indicators, eg. incoming call, missed call, email waiting, SMS message waiting, battery level, signal strength level, service provider, wallpaper, etc.);

a second wireless communication device (figure 1 shows calling device #12);

a data link connecting the first communication device and the second communication device (figure 1 shows multiple links connecting to mobile unit via either cellular or paging networks);

a first wireless communication network connecting the first wireless communication device to the "network switching" center (figure 1 shows links connecting to the MTSO and UMS "centers"); and

a second wireless communication network connecting the second wireless communication device to the dispatch center, wherein when the first wireless communication device is outside of the first wireless communication network, the dispatcher can alert the user of the first wireless communication device that the communication is waiting or wanted by causing the second wireless communication

device to send a signal to the first wireless communication device causing the display indicator to indicate said alert (Abstract and pages 2-4 show that a called device can be connected via a first network and/or if out of range, then a second network can be used (eg. paging))

but is silent on a dispatch center being used and forwarding/transmitting a message from one mobile to another for two-way communications (eg. Hays teaches more of a page/data message than voice) AND the first wireless device located in the cab portion and a second wireless device located in the trailer portion of the vehicle connected via wired link AND satellite communications being used.

The use of a manned dispatch center is well known and can also be viewed as a more “manual” automated switching network such as Hays’ MTSO/UMS components. Also the Applicant’s Admitted Prior Art (AAPA) discloses network communications using a manned dispatch center for truck or delivery vehicles (see spec. Para #'s 2-3). Furthermore, the AAPA teaches the communication can be voice or data over the wireless network (Para #2)

The concept of mobile-to-mobile “call relay” is well known in cellular, WLAN and short-range communication.

Since Hays clearly teaches a dual-mode transceiver device (figure 1 #19, also figure 2, paging and cellular supported), the examiner need only put forth art that teaches communicating with a vehicle (trailer), eg. in a relay connection and/or a direct connection. As far as relaying communications as based on a “cab and trailer” configuration, the examiner notes that this is a DESIGN CHOICE since the location of a transmitter/receiver is not novel unto itself (eg. there is no reason why a transceiver must be located in either the cab or trailer or both when a trunk, engine compartment or “other” location would suffice as well). The examiner puts forth the following to show different configurations/design choices:

a. **Moore** shows a relay between a police officer’s transceiver, the police car “relay” and a cell tower which can connect back to the police station (see figures 1-5), note in figure 2 the “wired connection(s)” that exist and would connect to/from the different components be they located proximate or separated in the vehicle.

b. **Wortham ('689 patent)** clearly shows a truck (cab and trailer) with a cellular transceiver located on at least the trailer of the truck (see figure 1). Figure 2 shows the actual cellular transceiver system which can act as a "relay" since it can both receive and transmit data/voice. Note that one skilled can use either WIRED or wireless links between the cab and trailer AND that many different types of communications are supported to include CELLULAR, SATELLITE, etc (C3, L29-46).

Hence the examiner has shown that a design choice exists for both car/truck implementations and the "relay or second communications device" can be located anywhere in a vehicle (trailer, engine, hood/car top, trunk, etc). NOTE that the "relay" capability will allow a connection even when the user roams too far away from the coverage of the "primary/cellular" limit and thusly reads on the applicant's limitation of "if/when losing a connection to the dispatch center".

Smith teaches a similar design as Hays in which a mobile device can be contacted via multiple different wireless/wired networks, especially if the device is out of range of a "first" network (Abstract, figure 1, Para's #10-11).

Clearly the prior art teaches the concepts of relays/repeaters and use of two different wireless network protocols (eg. cellular, bluetooth, WLAN, etc) whereby a relay/repeater (or dual mode device) can receive data from one network and translate/forward it to another network and ultimately on to another end-user.

Umstetter teaches relaying two-way **voice** communications (see Abstract and figure 1b whereby a cordless user connects through the PSTN to another phone user). Hence, the design can utilize one-or-two wireless networks in order to convey data as well as convey voice data (instead of only paging/text messages).

It would have been obvious to one skilled in the art at the time of the invention to modify Hays, such that a dispatch service is supported and call relay/forwarding, to provide means for forwarding a call if a certain mobile unit is out of range when a dispatcher needs to communicate with said certain mobile/user.

As per **claim 2**, the combo teaches claim 1, wherein the display indicator is selected from the group of indicators consisting of: a light, a vibration, a text display, or a ring tone (Hays teaches a "alerting message" being sent to the phone/pager, which reads on at least a vibration and/or display, eg. Missed Page indicator, as is well known in the art. Similarly, mobile phones can ring, vibrate, light up and display a message). 4.

Allowable Subject Matter

1. **Claims 3-4 and 7-12** are allowed and contain novel limitations.

2. **Claim 6** objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

This claim contains novel material that is not found in the other prior art references and should be amended into its base claim to make it allowable.

Claim 6: *"...wherein the second wireless communication device is further configured to supply a communication request confirmation signal to the dispatch center to confirm the communication request signal was received".*

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 571-272-7862. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jinsong Hu can be reached on 571-272-3965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen M. D'Agosta/
Primary Examiner, Art Unit 2617