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Datasheet for the decision of 26 March 2019

Case Number: T 1563/12 - 3.5.01

Application Number: 05815046.7

Publication Number: 1812896

IPC: G06Q10/00

Language of the proceedings: EN

Title of invention:
SYSTEM AND METHOD FOR TRACKING ITEMS USING WIRELESSLY-ENABLED DEVICES

Applicant:
UNITED PARCEL SERVICE OF AMERICA, INC.

Headword:
Two types of tracking data/UPS

Relevant legal provisions:
EPC Art. 54, 56

Keyword:
Novelty - (no)
Inventive step - use of wifi instead of cellular tracking at fixed location (no - obvious alternative)

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Case Number: T 1563/12 - 3.5.01

D E C I S I O N
of Technical Board of Appeal 3.5.01
of 26 March 2019

Appellant: (Applicant)	UNITED PARCEL SERVICE OF AMERICA, INC. 55 Glenlake Parkway, N.E. Atlanta, GA 30328 (US)
Representative:	Black, Diego Withers & Rogers LLP 4 More London Riverside London SE1 2AU (GB)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 8 February 2012 refusing European patent application No. 05815046.7 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman	W. Chandler
Members:	A. Wahrenberg
	P. Schmitz

Summary of Facts and Submissions

I. This is an appeal against the decision of the examining division to refuse the European patent application No. 05815046.7, published as WO 2006/050143 A1.

II. In the decision under appeal, the examining division found that the subject-matter of claims 1 and 6 of the main request filed on 30 December 2011 lacked novelty (Article 54(1) and (2) EPC) over the disclosure of D1 (US 2004/124977 A1). The first and second auxiliary requests filed on 26 January 2012 were not admitted into the proceedings under Rule 137(3) EPC, because they were filed close before scheduled oral proceedings, and because, *prima facie,* the amendments failed to overcome the objection of lack of novelty, or to add anything inventive (Article 56 EPC).

III. In the statement setting out the grounds of appeal, the appellant requested that the decision of the examining division be set aside and that a patent be granted on the basis of the refused main request, or one of the two refused auxiliary requests. The appellant requested oral proceedings as a precaution in the event that the Board contemplated dismissing the appeal.

IV. In the communication accompanying the summons to oral proceedings, the Board set out its preliminary view, agreeing with the examining division's conclusion that the claimed subject-matter in at least the main request lacked novelty over D1. Insofar as the claims contained novel subject-matter, it appeared to be just a choice of convenient (i.e. known) technology.

V. The appellant did not attend the oral proceedings before the Board as announced by letter of 22 March 2019.

VI. Claim 1 of the main request reads:

A system for providing two types of tracking data for monitoring objects moving through a carrier's logistics network, said system comprising:

at least one scanning device at a fixed location within a carrier's logistics network for generating a first type of tracking data indicating that an object is at the fixed location within said carrier's logistics network by scanning a bundle/container label associated with said object, wherein the bundle/container label is affixed to a bundle/container used for holding a plurality of objects destined for (a) a common location within said carrier's logistics network and (b) a plurality of delivery locations

a wireless device physically associated with said object, said wireless device configured to transmit a signal comprising a device identifier for uniquely identifying said wireless device, said wireless device being contained within said object

a wireless access point at the fixed location within said carrier's logistics network for (a) receiving said signal from said wireless device and (b) generating a second type of tracking data indicating that the object is at the fixed location within said carrier's logistics network;

a database for storing data associated with the movement of said object through said carrier's

logistics network; and

a central processing unit in communication with said at least one scanning device, said wireless access point, and said database, said central processing unit configured to:

receive said first type of tracking data from said at least one scanning device indicating that the object is at the fixed location within said carrier's logistics network;

receive said second type of tracking data from said wireless access point indicating that the object is at the fixed location within said carrier's logistics network; and

store said first type of tracking data and said second type of tracking data in said database in association with at least one of said device identifier and a tracking number to provide two types of tracking data.

VII. The first auxiliary request differs from the main request in that all occurrences of *"fixed location"* in claim 1 have been replaced by *"transportation hub"*, and in that the feature beginning with *"a wireless access point"* includes the following definition at the end: *"based in part on the fact that the wireless access point is at the transportation hub, in order to independently verify the location of the object at the time when the signal is received"*.

VIII. The second auxiliary request differs from the first auxiliary request by the replacement of "wireless device" with "WiFi-enabled device" in all occurrences.

IX. The appellant's arguments were as follows:

D1 disclosed that an object or container could be scanned at several points along the route. D1 thus disclosed the first type of tracking data in claim 1. However, D1 did not disclose the second type of tracking data.

The data obtained from the RF transponder in D1 did not correspond to the second type of tracking data, since it was not generated in addition to the scans.

Nor did the the cellular tracking data, because it was not generated at a wireless access point located at a fixed location. A wireless access point was a known term of art, referring to a device that allowed devices to connect to a wired network through Wi-Fi, Bluetooth, or similar. It was not a cellular base station or tower, which related to mobile communications. At any rate, such a base station or tower would not have been located at a fixed location, e.g. at a transportation hub.
D1 applied logic rules to the tracking data, giving some data more weight than other data. This was different from the claimed invention, which provided two types of tracking data which allowed for an independent verification whether an object was at a fixed location.

Generating the data at the transportation hub had the advantage that the scanning location was known. In D1, it was possible to get an approximate location using cellular tracking, but the detected location was not a precise, fixed location that was intentionally selected. The invention thus allowed the location of an

object to be more accurately verified without unnecessary expense and disruption.

Furthermore, cellular signals had limited capabilities in terms of where they could track an object. In particular, cellular tracking was ineffective indoors.

Reasons for the Decision

1. *Background*

1.1 The invention concerns the tracking of objects during transportation.

1.2 The main idea of the invention is to provide two types of tracking data for tracking an object:

a first type of tracking data generated by scanning a label of the bundle or container holding the object; and

a second type of tracking data generated by receiving, at a wireless access point, a signal from a wireless device contained within the object.

1.3 In other words, the invention provides two independent tracking mechanisms, one for the bundle, and one for the individual objects within the bundle. This makes it possible to detect if an object disappears from the bundle. The invention is particularly suitable for high-value objects that are prone to theft.

1.4 Claim 1 (all requests) is directed to a system for providing the two types of tracking data. The system comprises:

a scanning device at a fixed location within the transportation network (a transportation hub in the first and second auxiliary requests), that generates the first type of tracking data;

a wireless device (a WiFi-enabled device in the

second auxiliary request), contained within the object, that transmits a signal comprising a device identifier;

a wireless access point at the (same) fixed location that receives the signal from the wireless device and generates the second type of tracking data;

a database for storing the tracking data; and

a central processing unit that receives the two types of tracking data and stores them in the database in association with the device identifier or a tracking number.

2. *Main request*

2.1 The examining division found that the subject-matter of claim 1 of the main request lacked novelty over D1.

D1 discloses a tracking system that provides several types of tracking data generated using different technologies, including barcode/RIFD scanning and cellular tracking (Figure 1; paragraphs [0024], [0026], [0032], and [0035]). The different types of data are provided at both container level and object level (paragraph [0044]). Thus, by comparing the container data and the object data, it is possible to detect whether or not an object is in the container. Furthermore, by collecting tracking data from multiple, independent sources, the tracking data is more reliable (paragraphs [0029] and [0032]).

2.2 It is not disputed that D1 discloses the first type of tracking data generated by scanning the bundle/ container label in claim 1. The point of dispute concerns the second type of tracking data.

The examining division argued that it was anticipated by either the RFID data, or the cellular tracking data in D1.

The appellant argued that neither the RFID data, nor the cellular tracking data provided a second type of tracking data that was generated in addition to the first type of tracking data at a wireless access point located at the same fixed location as the scanning device. In the appellant's view, the RFID data in D1 rather corresponded to the first type of tracking data in claim 1. Furthermore, the term "wireless access point" in claim 1 did not include a cellular base station or tower. In any case, the cellular base station or tower in D1 was not located at the same fixed location as the scanning device.

2.3 The Board is of the view that the terms "wireless device" and "wireless access point" used in claim 1 are broad and not limited to any specific type of radio-frequency communication. Moreover, the location of the wireless access point in claim 1 is not defined in a clearly limiting manner. The term "fixed location" covers a logical location, or a geographical location that spans over a large area. Thus, in the Board's view, the cellular tracking data in D1 reads onto the second tracking data in claim 1. The Board therefore agrees with the examining division's assessment that the subject-matter of claim 1 of the main request lacks novelty over D1 (Article 54(1) and (2) EPC).

2.4 Even giving the most favourable interpretation to the subject-matter of claim 1, i.e. that the second type of tracking data is generated using Wi-Fi technology, the

Board comes to the conclusion that it does not involve an inventive step (Article 56 EPC).

2.5 Although Wi-Fi might, in certain circumstances, provide advantages over cellular tracking, there are also circumstances where cellular technology works better.

The skilled person would have chosen a suitable tracking means depending on the requirements that the tracking system had to meet. If, as in the present invention, it had to detect whether an object was present at a known location such as a transportation hub, the skilled person would have considered Wi-Fi a suitable option.

3. *The first and second auxiliary requests*

3.1 The first and second auxiliary requests are not allowable for lack of inventive step (Article 56 EPC). The reasons why the subject-matter of claim 1 of the main request lacks an inventive step already take into account the additional features of the first and second auxiliary requests, and are, therefore, applicable.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

M. Schalow W. Chandler

Decision electronically authenticated