

## [2013 Pat. App. LEXIS 7038](#)

Patent Trial and Appeal Board Representative Orders, Decisions and Notices

September 26, 2013, Decided

Appeal 2011-003386; Application 11/718,622 n1; Technology Center 2600n1 The real party in interest is Koninklijke Philips Electronics, N.V.

### Reporter

2013 Pat. App. LEXIS 7038

## **Ex parte MARK L. HITCHIN**

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### Notice:

ROUTINE OPINION. Pursuant to the Patent Trial and Appeal Board Standard Operating Procedure 2, the opinion below has been designated a routine opinion.

## **Core Terms**

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install, sensor, gateway, patent, hardcoded, display

**Panel:** Before CAROLYN D. THOMAS, ELENI MANTIS MERCADER, and MICHAEL J. STRAUSS, Administrative Patent Judges.

**Opinion By:** THOMAS

## **Opinion**

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THOMAS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant seeks our review under 35 U.S.C. § 134(a) of the Examiner's final decision rejecting claims 1-15, which are all the claims pending in the application. We have jurisdiction over the appeal under 35 U.S.C. § 6(b).

We AFFIRM-IN-PART.

The present invention relates generally to a plurality of sensors devices communicating with a central gateway device. See Abstract.

Claim 1 is illustrative:

1. A system of devices comprising a plurality of sensor devices,  
each sensor device comprising communicating means for communicating with a central gateway device, storage means storing a unique identifier, and display means displaying a location identifier, and  
a central gateway device comprising communicating means for communicating with the plurality of sensor devices,

wherein data corresponding to the location identifier of each sensor device is hardcoded on the central gateway device prior to an installation of the system.

[\*2]

Appellant appeals the following rejection:

Claims 1-15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over **Wildman** (US Patent Pub. 2002/0183979 A1, Dec. 5, 2002), **Higgs** (US 5,061,917, Oct. 29, 1991), and **Elliott** (US Patent Pub. 2003/0096629 A1, May 22, 2003).

#### ANALYSIS

##### *Claims 1-11*

**Issue:** Did the Examiner err in finding that Elliott teaches and/or suggests "a location identifier, " as set forth in claim 1?

Appellant contends that Elliott's "GPS signals would be useless in deriving location data prior to installation of a system because the components would not be in their installed location" (App. Br. 5) . . . in the claimed invention "the hardcoding of the location identifier is done before the installation process has even commenced" (*id.*).

The Examiner found that in Elliott "**the server has previously stored device location data**" (Ans. 6) and also found that the argued limitation "is a product by process limitation . . . [and therefore] does not have weight" (*id.* at 13).

Here, the Examiner admits that Wildman in view of Higgs does not explicitly disclose a location identifier being hardcoded prior [\*3] to an installation of the system, but instead relies upon Elliott to disclose such features (Ans. 6). As such, we shall look for error in the Examiner's interpretation of Elliott.

As a preliminary matter of claim construction, Appellant's Specification discloses that "[t]he location identifier 30 informs the installer of the location in the house 10, in which they should install the sensor device" (6:5-7). In other words, Appellant defines "location identifier" as the location in which the sensor device *should be* installed, as opposed to the current location of the sensor device. Thus, we broadly but reasonably construe the claim term "location identifier" as denoting any location that a sensor *should be installed*.<sup>2</sup>

[\*4]

Elliott discloses that a GPS receiver is used to determine a geographic location of the device and that the "[d]evice location 1025 may include a location associated with device identifier 1005 that has been previously stored in server 120" (P [0038]). In other words, the geographic location in Elliott corresponds to a *current location* as detected by a GPS receiver. Furthermore, in Elliott, the device identifier 1005, not device location 1025, is previously stored in the server 120. As such, we find that Elliott's geographic location of the device corresponds to a current location of the device as detected by the GPS and not the location at which the device should be installed.

While Elliott fails to disclose that any *location information* related to an intended installation location being previously stored before the actual installation of the device, we find that the claimed "the location identifier . . . is hardcoded on the central gateway device prior to an installation of the system" is merely non-functional

<sup>2</sup> During *ex parte* prosecution, the Patent & Trademark Office (PTO) determines the scope of the claims by giving the language "the broadest reasonable construction 'in light of the specification as it would be interpreted by one of ordinary skill in the art.'" *Phillips v. AWH Corp.*, 415 F.3d 1303, 1316 (Fed. Cir. 2005) (en banc) (*quoting In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d

descriptive material as the data content, i.e., the location identifier, does not exhibit a functional interrelationship with the sensors and/or [\*5] the central gateway device, as no actual installation is required in claim 1. The Examiner need not give patentable weight to descriptive material absent a new and unobvious functional relationship between the descriptive material and the substrate. See [In re Lowry, 32 F.3d 1579, 1582-1583 \(Fed. Cir. 1994\)](#); [In re Ngai, 367 F.3d 1336, 1339 \(Fed. Cir. 2004\)](#) (nonfunctional descriptive material cannot render nonobvious an invention that would have otherwise been obvious). See also [Ex parte Mathias, 84 USPQ2d 1276 \(BPAI 2005\)](#) (nonprecedential), *aff'd*, [191 Fed.Appx. 959 \(Fed. Cir. 2006\)](#).

In claim 1, the "location identifier" is merely a characterization of a type of "data" and does not affect the communicating with the central gateway device because the "location identifier" is directed to mere content which bears no functional or structural significance to the steps of the claims. Therefore, no patentable weight needs to be given to the "type" of data and/or the hardcoding on the central gateway device prior to an installation of the system.

Furthermore, while claim [\*6] 1 calls for "displaying a location identifier," Appellant's Specification discloses that "a system is labelled with text indicating its location" (Spec., 3:6-8). In other words, a label such as "Kitchen 1" may be used (*id.*). As such, the features in Appellant's claim 1 directed to a location identifier is "useful and intelligible only to the human mind." See [In re Lowry, 32 F.3d 1579, 1583 \(Fed. Cir. 1994\)](#) (quoting [In re Bernhart, 417 F.2d 1395, 1399 \(CCPA 1969\)](#)) (distinguishing such claim limitations from claim limitations defining functional characteristics). The "location identifier" does not exploit or interrelate with any other structural elements of the underlying system. Accordingly, we do not find that the "location identifier" limitation at issue is functionally related to the system so as to patentably distinguish the subject matter of Appellant's claims from the applied prior art. As such, the limitation "displaying a location identifier" will not be given any patentable weight as this is merely printed matter.

Here, the Examiner established that Wildman discloses a system for tracking an activity using sensors [\*7] and a master station (see Abstract), Higgs discloses *displaying* the location of the transmitter (col. 8, ll. 22-31), and Elliott discloses a device location (P [0038]). Therefore, we find no error in the Examiner's obviousness rejection of representative claim 1, for at least the reason noted *supra*, and claims 2-11 for similar reasons.

#### Claims 12-15

Unlike claim 1, claim 12 explicitly includes an installing step (see claim 12). As such, we find that the claimed "the location identifier of each sensor device is hardcoded on the central gateway device prior to installation of the system" carries a functional relationship to the claimed installing step and the location identifier, as defined by Appellant. As noted *supra*, the Examiner has failed to show that Elliott discloses hardcoding the location identifier, i.e., an intended location, prior to installation of the system, as Elliott merely discloses using a GPS for current location and is silent about storing location information prior to any installation of a system.

Therefore, based on the record before us, we find that the Examiner erred in rejecting claim 12 and dependent claims 13-15 for similar reasons. [\*8]

#### DECISION

We affirm the Examiner's § 103(a) rejection of claims 1-11, and

We reverse the Examiner's § 103(a) rejection of claims 12-15.

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-IN-PART**