

EXHIBIT H

EXHIBIT A-3

Kubala in View of Hammond and Haney For U.S. Patent No. 8,213,970

Exhibit A-3 – Kubala in View of Hammond and Haney

U.S. Pat. Pub. No. 2006/0218232 (“Kubala”) in combination with U.S. Pat. No. 6,854,007 (“Hammond”) and U.S. Pat. Pub. No. 2006/0223518 (“Haney”) renders obvious claims 10-13 of the ‘970 patent.

Kubala published on September 28, 2006 and is prior art to the ‘970 patent under at least pre-AIA 35 U.S.C. § 102(b).

Hammond published on February 8, 2005 and is prior art to the ‘970 patent under at least pre-AIA 35 U.S.C. § 102(b).

Haney published on October 5, 2006 and is prior art to the ‘970 patent under at least pre-AIA 35 U.S.C. § 102(b).

It would have been obvious to combine *Hammond*’s teachings with *Kubala* as both *Kubala* and *Hammond* relate to exchanging and tracking recipient-device acknowledgements for electronic messages. A person having ordinary skill in the art would have been motivated to modify *Kubala* with the teachings of *Hammond* in order to increase the chances that a recipient responds to an electronic message that requires response by using the message tracking techniques described in *Hammond*.

It would have been obvious to combine *Haney*’s teachings with *Kubala* as both *Kubala* and *Haney* relate to messaging other individuals using the communications capability of a mobile device. *See e.g., Haney* at FIG. 15, step 132 (“Receive or place a call from a Buddy Watch enabled wireless device to another wireless Buddy Watch enabled device.”). *See e.g., Haney* at ¶ 64 (“Each of the phones in FIG. 2 is coupled to the cellular carrier infrastructure in a conventional manner and can send phone calls or short text messages or email messages to any other phone including the cell phones represented by lettered circles in FIG. 2.”). *Haney* at FIG. 26 illustrates the ability to send voice (4) or text (2) messages to other users displayed on a geographical map display. A person having ordinary skill in the art would have been motivated to modify *Kubala* with the location-based communication techniques described in *Haney* in order to facilitate interaction among users based on relative position in addition to user identity by enabling a user to send and receive messages to nearby devices as shown on a geographical map displayed by a mobile device.

Additional reasons to combine *Kubala*, *Hammond*, and *Haney* are discussed in the accompanying contentions.

Further, a person of ordinary skill in the art would have had a reasonable expectation of success in combining Haney with Kubala (and/or Kubala-Hammond) as Kubala and Haney both involve PDA/cell phones running software. *See Haney* at ¶ 9.

Claim	'970 Patent	Prior Art
10[pre]	<p>A method of receiving, acknowledging and responding to a forced message alert from a sender PDA/cell phone to a recipient PDA/cell phone, wherein the receipt, acknowledgment, and response to said forced message alert is forced by a forced message alert software application program, said method comprising the steps of:</p>	<p><i>Kubala</i> discloses a method of receiving, acknowledging and responding to a forced message alert from a sender PDA/cell phone to a recipient PDA/cell phone, wherein the receipt, acknowledgment, and response to said forced message alert is forced by a forced message alert software application program.</p> <p><i>See e.g., Kubala</i> at Abstract (“A method, system, apparatus, or computer program product is presented for processing electronic messages. An electronic message is received for a recipient from a sender, and a data field is detected in the received electronic message that indicates a request by the sender for a response from the recipient for the received electronic message.”).</p> <p><i>Kubala</i> also discloses a plurality of PDA/cell phones that communicate with each other. <i>See id.</i> at ¶¶ 27, 32-33, FIG. 1. In other words, one PDA/cell phone sends an electronic message (i.e. “a sender PDA/cell phone”) and another PDA/cell phone receives it (i.e., a “recipient PDA/cell phone”).</p> <p><i>Kubala</i> also discloses that the communication system was known to “generate return receipts to the sender when the sender’s e-mail message is received at its intended destination or when the recipient opens the e-mail message, thereby providing an acknowledgement that a particular message has been received and/or opened.” <i>See also, e.g., id.</i> at ¶ 6 (“Other prior art solutions have provided the ability to generate return receipts to the sender when the sender’s e-mail message is received at its intended destination or when the recipient opens the e-mail message, thereby providing an acknowledgement that a particular message has been received and/or opened.”). A person of ordinary skill in the art at the time of the invention would have understood that return receipts could be implemented with the enhanced email application described in <i>Kubala</i>, for example, to provide the enhanced e-mail application of <i>Kubala</i> with additional “[p]roductivity-enhancing features.”</p> <p><i>See also, e.g., id.</i> at FIGS. 5-6, 9.</p>

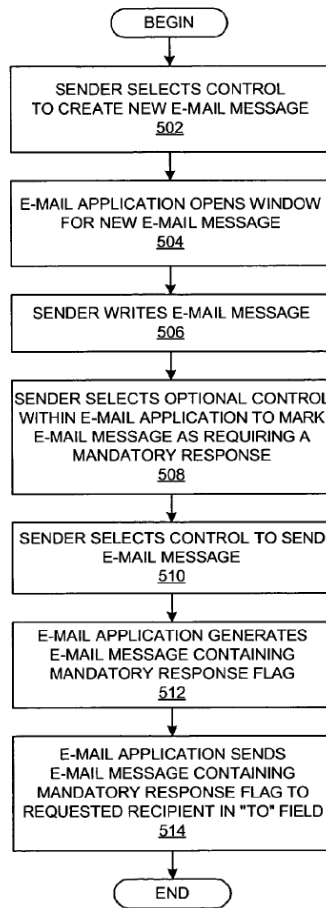


FIG. 5

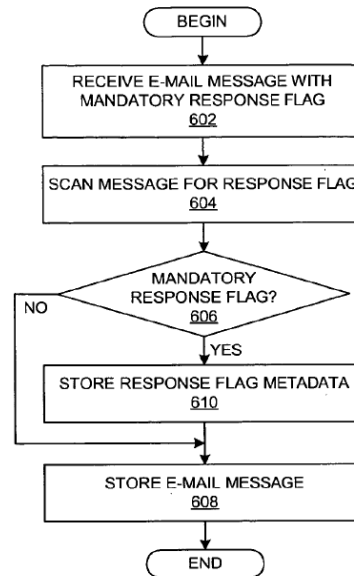


FIG. 6

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