UNITED STATES PATENT AND TRADEMARK OFFICE

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PTOL-90A (Rev. 04/07)

UNITED STATES PATENT AND TRADEMARK OFFICE
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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
_____

Ex parte CHRISTOPH STURM
_____

Appeal 2010-006679
Application 11/926,244
Technology Center 2600
_____

Before DEBRA K. STEPHENS, DENISE M. POTHIER,
and BRUCE R. WINSOR, *Administrative Patent Judges*.

WINSOR, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from a Final Rejection of claims 1-19, which constitute all the claims pending in this application.[1] We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

STATEMENT OF THE CASE

Appellant's invention relates to:

> [a] driver assistance system and method [that] outputs, as a function of certain conditions, at least one piece of information, in particular a warning, to the driver of a motor vehicle. The driver assistance system can be transferred into a demonstration and/or learning mode, in which the conditions applied for outputting the piece of information are different from the normal mode of operation.

(Abstract). For example, if the piece of information is a collision warning (Spec. ¶¶ [0029] – [0030]), in the normal mode the warning may output if the probability of collision is 90 percent within 2 seconds (Spec. ¶ [0031]). In the demonstration mode, however, the collision warning may be output if the probability of collision is 10 percent within 2 seconds (Spec. ¶ [0033]). This allows the driver to become familiar with the warning without putting himself or others into a safety critical situation (Spec. ¶ [0034]).

Claim 1, which is illustrative of the invention, reads as follows:

> 1.   A system for a driver of a motor vehicle, comprising:
>
> a driver assistance system that outputs, as a function of certain conditions, at least one piece of information to the driver of the motor vehicle;

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[1] An oral hearing for this appeal, scheduled for Jan. 10, 2012, has been waived.

      wherein the driver assistance system has a normal mode of operation and at least one of a demonstration and learning mode of operation, the driver assistance system being transferable into the at least one of the demonstration and learning mode of operation in which the conditions applied for outputting the at least one piece of information to the driver are different from the conditions applied for outputting the at least one piece of information to the driver in the normal mode of operation.

Claims 1-19 stand rejected under 35 U.S.C. § 102(b) as anticipated by Naboulsi (US 2004/0209594 A1, Oct. 21, 2004).

Rather than repeat the arguments here, we make reference to the Briefs (App. Br. filed Sept. 22, 2009; Reply Br. filed Jan. 20, 2010) and the Answer (mailed Dec. 4, 2009) for the respective positions of Appellant and the Examiner.

ISSUE

The pivotal issue presented by Appellant's contentions is: Does Naboulsi disclose a driver assistance system having "at least one of [a] demonstration and [a] learning mode of operation in which the conditions applied for outputting . . . at least one piece of information to [a] driver are different from the conditions applied for outputting the at least one piece of information to the driver in [a] normal mode of operation" (hereinafter "the disputed limitation"), as recited in claim 1?

ANALYSIS

Claim construction is an issue of law that we review *de novo*. *Cordis Corp. v. Boston Scientific Corp*., 561 F.3d 1319, 1331 (Fed. Cir. 2009). Claims are not to be read in a vacuum, but must be given their broadest

reasonable interpretation in light of the Specification as it would be interpreted by ordinary artisans. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1316 (Fed. Cir. 2005) (en banc). We find that the broadest reasonable interpretation of the disputed limitation of claim 1 encompasses a driver assistance system that outputs a piece of information to a driver of a motor vehicle. The system has at least two operating modes, both of which are capable, under appropriate conditions, of outputting the at least one piece of information to the driver. In a first (designated "normal" in the claim) mode the condition that causes the output to occur is different in some way from the condition that causes the output to occur in the second (designated "demonstration" or "learning" in the claim) mode.

The Examiner cites Naboulsi at ¶¶ [0110]-[0111] as disclosing the disputed limitation (Ans. 4, 7-8). The cited paragraphs disclose a "learning" mode (¶ [0110]) and a "training" mode (¶ [0111]), which are separate modes and are both separate from Naboulsi's normal mode (Naboulsi ¶ [0058]). Naboulsi's learning mode is a mode in which Naboulsi's system learns information, while Naboulsi's training mode is a mode in which the driver is trained in the operation of the system.

Appellant contends, *inter alia,* that Naboulsi does not disclose the disputed limitation because: (1) Naboulsi's learning mode outputs the same information under the same conditions as Naboulsi's normal mode (App. Br. 6-7); and (2) Naboulsi's training mode outputs additional information to that output in the normal mode, but does not output the at least one piece of information in both modes under conditions that differ between the modes (*see* Reply Br. 2). We agree. We do not find in the cited paragraphs of

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Naboulsi, or readily find elsewhere in Naboulsi, a disclosure of the disputed limitation.

Accordingly, we do not sustain the rejection of claim 1. Independent claim 14 contains a limitation substantially similar to the disputed limitation, which we find to be absent from Naboulsi's disclosure. Claims 2-13 and 15-19 depend from claims 1 and 14 respectively. Accordingly, for the reasons set forth *supra* regarding claim 1, we do not sustain the rejection of claims 2-19.

DECISION

The decision of the Examiner to reject claims 1-19 under 35 U.S.C. § 102(b) as anticipated by Naboulsi is reversed.

REVERSED

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