

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 21

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DONALD M. GERTH, YOGEEESH H. KAMATH,
and TIMOTHY J. ROONEY

Appeal No. 1998-2986
Application No. 08/344,390

ON BRIEF

Before THOMAS, DIXON, and GROSS, Administrative Patent Judges.
GROSS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 through 20, which are all of the claims pending in this application.

Appellants' invention relates to a method and system for detecting cloning fraud in a mobile cellular telephone environment. Specifically, a plurality of registration notification (REGNOT) records each including a mobile

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identification number (MIN), a time stamp of the REGNOT, and originating indicia identifying a cell where the REGNOT originated are collected. First and second REGNOT records are compared to determine if a time difference between the time stamps of the two REGNOT records is less than the time needed to travel between the cells identified by the originating indicias contained in the two REGNOT records. Claim 13 is illustrative of the claimed invention, and it reads as follows:

13. A method for detecting cloning fraud in a mobile telephone environment, comprising the steps of:

receiving a plurality of registration notification each identifying a same particular mobile user; and

determining, as a function of a time of creation of each of said plurality of registration notifications and a location identified as the location of a mobile telephone that caused the creation of each of said plurality of registration notifications, whether an instance of cloning fraud has occurred.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Teare et al. (Teare)	5,243,652	Sep. 07, 1993
Cooper et al. (Cooper)	5,335,265	Aug. 02, 1994
		(filed Jun. 30, 1993)

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Claims 1 through 20 stand rejected under 35 U.S.C. § 103 as being unpatentable over Cooper in view of Teare.

Reference is made to the Examiner's Answer (Paper No. 18, mailed March 11, 1998) for the examiner's complete reasoning in support of the rejection, and to appellants' Brief (Paper No. 17, filed December 19, 1997) and Reply Brief (Paper No. 19, filed May 11, 1998) for appellants' arguments thereagainst.

OPINION

We have carefully considered the claims, the applied prior art references, and the respective positions articulated by appellants and the examiner. As a consequence of our review, we will reverse the obviousness rejection of claims 1 through 20.

Claim 13, which appears to be the broadest claim, requires receiving plural registration notifications for a particular mobile user and determining from the times of creating the registration notifications whether cloning fraud has occurred. As admitted by the examiner (Answer, page 4), Cooper does not disclose that registration notifications are used to determine the existence of cloning fraud. Cooper, rather, compares the time of a call's origination with the time of a previous call's origination. The examiner, nonetheless, asserts (Answer, page 4) that "it is well known in the art to utilize registration notifications for authentication and fraud purposes."

The examiner cites Teare as evidence to support his statement that registration notifications have been used for authentication. In particular, the examiner contends (Answer,

page 4) that Teare teaches sending position and time information at regular intervals for authentication.

Therefore, the examiner concludes that it would have been obvious to use registration notifications in the method of Cooper "to prevent unnecessary charges to the user."

Appellants argue (Brief, page 8) that Teare fails to provide the missing limitations of Cooper. Appellants point out (Brief, page 8) that Teare sends periodic position and time records to a central facility where it is compared against previously stored, preset position and time profiles. If the information matches, then authorization is granted. Even if one considers the information sent by Teare to be registration notification, Teare still does not disclose or suggest comparing such registration notification against previously sent registration notification records, as Teare compares the information with preset records. Accordingly, we find no motivation in the prior art of record to take Cooper's method of comparing the time of a call with the time of a previous call by the same mobile phone and to modify it to compare a registration notification record for a particular phone with other registration notification records for the

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same phone. The only rationale we can find is in appellants' specification. Therefore, the examiner has failed to establish a *prima facie* case of obviousness. Accordingly, we cannot sustain the rejection of claim 13. Further, since all of the remaining claims include limitations similar to the ones we have found lacking from the combination of Cooper and Teare, we likewise cannot sustain the rejection of claims 1 through 12 and 14 through 20.

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CONCLUSION

The decision of the examiner rejecting claims 1 through
20 under 35 U.S.C. § 103 is reversed.

REVERSED

JAMES D. THOMAS)	
Administrative Patent Judge)	
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)	
)	
)	BOARD OF PATENT
JOSEPH L. DIXON)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
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ANITA PELLMAN GROSS)	
Administrative Patent Judge)	

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