

PATENT

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GARMIN INTERNATIONAL, INC. ET AL.
Petitioner

v.

Patent of CUOZZO SPEED TECHNOLOGIES LLC
Patent Owner

Case: IPR2012-00001

Patent No.: 6,778,074

Filed: March 18, 2002

Issued: August 17, 2004

Inventors: Giuseppe A. Cuzzo

Title: Speed Limit Indicator and Method for Displaying Speed and
the Relevant Speed Limit

Docket No.: CUO0001-RE

PATENT OWNER'S MOTION TO AMEND

Cuzzo Speed Technologies LLC ("Patent Owner") hereby moves pursuant to the Board's March 4 Order, Paper 27, and 37 C.F.R. § 42.121 to cancel claims 10, 14 and 17 of U.S. Patent No. 6,778,074 (the "'074 Patent") and submit proposed

substitute claims 21-23 in their place. Substitute claims 21-23 are fully supported by the '074 Patent and are patentable over the references at issue.

In addition, should the Board confirm the patentability of claims 10, 14 and 17, Patent Owner respectfully submits that good cause exists for entry of proposed claims 21-23, because such claims are necessary to further define the invention.

I. BACKGROUND

On September 16, 2012, Garmin International, Inc., *et al.* ("Petitioner") filed a Petition for *Inter Partes* Review under 37 C.F.R. § 42.100 ("Petition"), requesting *inter partes* review of claims 1-20 of the '074 Patent. On January 9, 2013, the Patent Trial and Appeal Board (the "Board") issued a Decision to Initiate Trial for *Inter Partes* Review ("Order") solely as to claims 10, 14 and 17 of the '074 Patent under 35 U.S.C. § 103(a) in view of (1) U.S. Patent No. 6,633,811 ("Aumayer"), U.S. Patent No. 3,980,041 ("Evans"), and U.S. Patent No. 2,711,153 ("Wendt"), and DE 19755470 A1 ("Tegethoff"), U.S. Patent No. 6,515,596 ("Awada"), Evans, and Wendt. Paper 15 at 26.

II. SUMMARY OF MOTION TO AMEND

By this motion to amend, Patent Owner requests to cancel claims 10, 14 and 17, and replace these cancelled claims with proposed substitute claims 21-23. Proposed substitute claim 21 incorporates all of the limitations of claims 10, 12 and 18. Proposed substitute claims 22 and 23 depend from proposed claim 21 and

further define the invention. As explained below, the subject matters of proposed substitute claims 21-23 are supported by the original disclosure of the '074 Patent and are patentable in view of the references cited in the Order.

This motion responds to the alleged grounds of unpatentability set forth in the Order and does not seek to enlarge the scope of the claims of the '074 Patent or introduce new subject matter. Because none of the references at issue in this proceeding disclose or suggest, either alone or in combination, the subject matter of proposed substitute claims 21-23, Patent Owner respectfully requests that the Board confirm the patentability of proposed substitute claims 21-23.

III. CLAIM LISTING

10. (Replaced by proposed substitute claim 21)
14. (Replaced by proposed substitute claim 22)
17. (Replaced by proposed substitute claim 23)
21. (Proposed substitute for original claim 10): A speed limit indicator comprising:

a global positioning system receiver determining a vehicle's present location, a vehicle's present speed and a speed limit at the vehicle's present location;

a display controller connected to said global positioning system receiver, wherein said display controller adjusts a colored display in response to signals

indicative of the speed limit at the vehicle's present location from said global positioning system receiver to continuously update the delineation of which speed readings determined by the global positioning system receiver are in violation of the speed limit at [[a]] the vehicle's present location; and

a speedometer integrally attached to said colored display,
wherein the speedometer comprises a liquid crystal display, and
wherein the colored display is the liquid crystal display.

22. (Proposed substitute for original claim 14): The speed limit indicator as defined in claim 21, wherein said global positioning system receiver compares the vehicle's present speed and the speed limit.

23. (Proposed substitute for original claim 17): The speed limit indicator as defined in claim 21, wherein the display controller continuously adjusts the liquid crystal display to show speed readings in a first color or colored region when the vehicle's present speed exceeds the speed limit at the vehicle's present location and a color or colored region different from the first color when the vehicle's present speed is less than the speed limit at the vehicle's present location.

IV. DISCUSSION OF PROPOSED SUBSTITUTE CLAIMS

Proposed substitute claim 21 includes all of the limitations of claim 10, and the limitations of claims 12 and 18 (underlined above) and additional features of the invention (underlined above). Such additional features require that the global

positioning system receiver determines a vehicle's present location, a vehicle's present speed and a speed limit at the vehicle's present location. The additional features further require that the display controller adjusts a colored display in response to signals indicative of the speed limit at the vehicle's present location from said global positioning system receiver to continuously update the delineation of which speed readings determined by the global positioning system receiver are in violation of the speed limit at the vehicle's present location.

Proposed substitute claim 22 further defines the invention of proposed new claim 21 by requiring that the global positioning system receiver performs a comparison of the vehicle's present speed and the speed limit.

Proposed substitute claim 23 further defines the invention of proposed new claim 21 by requiring that the display controller continuously adjusts the liquid crystal display to show speed readings in a first color or colored region when the vehicle's present speed exceeds the speed limit at the vehicle's present location and a color or colored region different from the first color when the vehicle's present speed is less than the speed limit at the vehicle's present location.

V. SUPPORT FOR CLAIMED SUBJECT MATTER

A. Support for Subject Matter of Proposed Substitute Claim 21.

Proposed substitute claim 21 is based on original claim 10. The added, underlined limitation requiring "a global positioning system receiver determining a

vehicle's present location, a vehicle's present speed and a speed limit at the vehicle's present location," is described in the original disclosure of the application which issued as the '074 Patent. For example, col. 2, lines 58-61, describe an exemplary embodiment of the invention in which the vehicle's location and speed are determined using a global positioning system receiver, and the speed limit for the vehicle's current location is obtained from a database. Further, col. 5, lines 27-29 and Figure 2, describe an exemplary embodiment of the invention in which the global positioning receiver tracks the vehicle's location and speed, and identifies the relevant speed limit from the database for that location.

The added, underlined limitation requiring "a display controller connected to said global positioning system receiver, wherein said display controller adjusts a colored display in response to signals indicative of the speed limit at the vehicle's present location from said global positioning system receiver to continuously update the delineation of which speed readings determined by the global positioning system receiver are in violation of the speed limit at [[a]] the vehicle's present location," is described in the original disclosure of the application which issued as the '074 Patent. In addition to the support for the limitations identified above, col. 2, lines 62-63, for example, describes an exemplary embodiment of the invention in which the global positioning system receiver sends the speed limit to the display control unit. Further, col. 5, lines 33-34 and Figure 2, describe an

exemplary embodiment of the invention in which the speed limit information is sent from the global positioning system receiver to a filter control unit.

The added, underlined limitation requiring “wherein the speedometer comprises a liquid crystal display,” is described in the original disclosure of the application which issued as the ‘074 Patent. For example, original claim 18 depended directly from independent claim 10 and was directed to an exemplary embodiment of the invention which required, “wherein the speedometer comprises a liquid crystal display.”

The added, underlined limitation requiring “wherein the colored display is the liquid crystal display” is described in the original disclosure of the application which issued as the ‘074 Patent. For example, original claim 12 depended directly from independent claim 10 and was directed to an exemplary embodiment of the invention which required, “wherein the colored display is a liquid crystal display.” Further, col. 3, lines 3-6 and col. 6, lines 11-14, describe an embodiment of the invention in which the color display may take the form of a liquid crystal display.

B. Support for Subject Matter of Proposed Substitute Claim 22.

Proposed substitute claim 22 further defines the invention claimed in proposed substitute claim 21 by requiring that the global positioning system receiver compares the vehicle's present speed and the speed limit, which is described in the original disclosure of the application which issued as the ‘074

Patent. For example, col. 5, lines 35-39 describes an exemplary embodiment of the invention in which, “[t]he global positioning system receiver compares the vehicle's speed and the relevant speed limit 44.”

C. Support for Subject Matter of Proposed Substitute Claim 23.

Proposed substitute claim 23 further defines the invention claimed in new claim 21 by requiring that the display controller continuously adjusts the liquid crystal display to show speed readings in a first color or colored region when the vehicle's present speed exceeds the speed limit at the vehicle's present location and a color or colored region different from the first color when the vehicle's present speed is less than the speed limit at the vehicle's present location, which is described in the original disclosure of the application which issued as the '074 Patent. For example, col. 5, lines 35-39 describe an exemplary embodiment of the invention in which “speeds above the legal speed limit are displayed in red 50 while the legal speeds are displayed in white 52.” Figure 2 shows an exemplary embodiment of the invention in which “vehicle speed up to speed limit is displayed on white speedometer region” and “vehicle speed above posted speed limit is displayed on red speedometer region.”

VI. PROPOSED SUBSTITUTE CLAIMS 21-23 ARE ALLOWABLE OVER ALL GROUNDS OF UNPATENTABILITY

The Board granted the Petition with respect to claim 10 on the alleged ground of obviousness under 35 U.S.C. § 103(a) in view of (1) the combination of

Aumayer, Evans and Wendt, and (2) the combination of Tegethoff, Awada, Evans and Wendt. Paper 15 at 26. Proposed substitute claims 21-23 include all of the limitations of original claim 10, and thus, even if original claim 10 is confirmed, proposed substitute claims 21-23 should also be entered and allowed for good cause. The proposed substitute claims further define the invention and are, without reference to the limitations of original claim 10, patentable over the cited references. Patent Owner respectfully submits that proposed substitute claims 21-23 are also allowable for the reasons set forth below.

Initially, it is noted that the Aumayer and Awada references do not qualify as prior art under 35 USC § 102, because the invention of the '074 Patent was conceived prior to the effective date of each reference and was diligently reduced practice by the filing of the application which issued as the '074 Patent. See Declaration of Giuseppe Cuzzo under 37 CFR 1.1.31 (Exhibit 4001).

A. Proposed Substitute Claim 21 is Patentable Over Cited References

Proposed substitute claim 21 requires, “a global positioning system receiver determining a vehicle’s present location, a vehicle’s present speed and a speed limit at the vehicle’s present location.” First, Evans and Wendt discuss completely analog components and never discuss or suggest a global positioning system receiver, as recited in proposed substitute claim 21.

Aumayer does not disclose or suggest “a global positioning system receiver determining...a vehicle’s present speed and a speed limit at a vehicle’s present location,” as recited in proposed substitute claim 21. Aumayer discusses a vehicle locating device 201 that consists of a vehicle position determining device 202 that calculates the geographic position of the vehicle. However, there is no discussion or suggestion that the position determining device 202 determines vehicle speed. In fact, there is no description of any device in Aumayer which determines vehicle speed. Further, Aumayer expressly states that a “main processor 203 determines the speed limits for the individual classes of street and roads in the region in which the vehicle is located, i.e., the speed limits for the express way or freeway, high speed highway, country road, residential street, or inner city street.” Aumayer, col. 7, lines 21-26. Thus, the main processor 203, not the position determining device 202 determines a speed limit, and that speed limit is not “a speed limit at a vehicle’s present location,” as recited in proposed substitute claim 21. The speed limit determined by the main processor 203 in Aumayer relates to the type of road on which the vehicle is traveling regardless of the vehicle’s present location. Therefore, Aumayer neither discloses nor suggests, “a global positioning system receiver determining...a vehicle’s present speed and a speed limit at a vehicle’s present location,” as recited in proposed substitute claim 21.

Tegethoff does not disclose or suggest “a global positioning system receiver determining...a vehicle’s present speed and a speed limit at a vehicle’s present location,” as recited in proposed substitute claim 21. Tegethoff discusses a display system 1 consisting of a screen 37 and an image generating computer 33 which is connected to information providing elements 31. Among the information providing elements are separate elements for navigation and measuring speed. Thus, the element for navigation does not determine a vehicle’s present speed given the presence of the element for measuring speed. The element for navigation also does not determine the speed limit at the vehicle’s present location, because the element for navigation in Tegethoff is used in conjunction with a database of traffic control information as one way of determining a “maximum permissible speed,” which Tegethoff states is not equivalent to the legal speed limit, because the other discussed ways of determining the “maximum permissible speed” are manually and by an element for receiving transmitters outside the vehicle for traffic control. Therefore, Tegethoff neither discloses nor suggests, “a global positioning system receiver determining...a vehicle’s present speed and a speed limit at a vehicle’s present location,” as recited in proposed substitute claim 21.

Awada does not disclose or suggest “a global positioning system receiver determining...a vehicle’s present speed and a speed limit at a vehicle’s present location,” as recited in proposed substitute claim 21. Awada discusses a system for

reporting a posted speed limit to a driver consisting of a GPS receiver that determines a position of a vehicle. The only reference in Awada to a device for determining the vehicle's speed is, "information about the vehicle's current speed may be obtained through a speedometer interface 264 and reported to the CPU 254." Awada, col. 4, lines 33-36. Therefore, Awada neither discloses nor suggests, "a global positioning system receiver determining...a vehicle's present speed and a speed limit at a vehicle's present location," as recited in proposed substitute claim 21.

Therefore, Patent Owner respectfully submits that proposed substitute claim 21 is allowable, because neither Aumayer, Tegethoff, Awada, Evans nor Wendt, either alone or in combination, disclose or suggest, "a global positioning system receiver determining...a vehicle's present speed and a speed limit at a vehicle's present location."

B. Proposed Substitute Claim 22 is Patentable Over Cited References

Proposed substitute claim 22 depends from proposed substitute claim 21 and further requires, "wherein said global positioning system receiver compares the vehicle's present speed and the speed limit." First, because proposed substitute claim 22 depends from, and therefore includes all of the limitations of, claim 21, claim 22 is allowable for at least the reasons discussed above with respect to claim 21. Second, Evans and Wendt discuss completely analog components and never

discuss or suggest a global positioning system receiver, as recited in proposed substitute claim 22.

Neither Aumayer, Tegethoff nor Awada discloses or suggests, either alone or in combination, “wherein said global positioning system receiver compares the vehicle’s present speed and the speed limit,” as recited in proposed substitute claim 22. The “speed limit” determined by the main processor 203 in Aumayer relates to the type of road on which the vehicle is traveling regardless of the vehicle’s present location. Thus, there is no comparison in Aumayer of the vehicle’s present speed and the speed limit at the vehicle’s present location. Similarly, in Tegethoff, the “maximum permissible speed” is not the legal speed limit at the vehicle’s present location, because the “maximum permissible speed” is either set manually or in conjunction with traffic information. Finally, Awada does not disclose or suggest that the vehicle’s speed, as determined by the GPS receiver, is compared to the speed limit. There is no reference in Awada to any device which determines the vehicle’s present speed.

Therefore, Patent Owner respectfully submits that proposed substitute claim 22 is allowable, because neither Aumayer, Tegethoff, Awada, Evans nor Wendt, alone or in combination, disclose or suggest, “wherein said global positioning system receiver compares the vehicle’s present speed and the speed limit.”

C. Proposed Substitute Claim 23 is Patentable Over Cited References

Proposed substitute claim 23 depends from proposed substitute claim 21 and further requires, “wherein the display controller continuously adjusts the liquid crystal display to show speed readings in a first color or colored region when the vehicle’s present speed exceeds the speed limit at the vehicle’s present location and a color or colored region different from the first color when the vehicle’s present speed is less than the speed limit at the vehicle’s present location.” First, because proposed substitute claim 23 depends from, and therefore includes all of the limitations of, claim 21, claim 23 is allowable for at least the reasons discussed above with respect to claim 21. Second, Evans and Wendt discuss completely analog components and never discuss or suggest a display controller that “continuously adjusts [a] liquid crystal display,” as recited in substitute claim 23.

Neither Aumayer, Tegethoff nor Awada discloses or suggests, either alone or in combination, “wherein the display controller continuously adjusts the liquid crystal display to show speed readings in a first color or colored region when the vehicle’s present speed exceeds the speed limit at the vehicle’s present location and a color or colored region different from the first color when the vehicle’s present speed is less than the speed limit at the vehicle’s present location,” as recited in proposed substitute claim 23. Aumayer discusses a speed display device 101 that consists of a speed limit symbol 105 and a second scale mark 107 which indicate a speed limit for a type of road. There is no discussion of any color

associated with the speed limit symbol 105. Aumayer discusses a color associated with the second scale mark 107 alone. Thus, speed readings below and above the second scale mark 107 are shown in the same color. Tegethoff shows a “maximum permissible speed” (not a legal speed limit) with a mark 5. Similar to Aumayer, the speed readings below and above the mark 5 are shown in the same color. *Compare* Fig. 2a of Aumayer and Fig. 2 of Tegethoff. Finally, Awada discusses a numerical display 110 to show a speed limit and a warning light 120 that shines when the speed limit is exceeded. However, Awade never discusses or suggest a display showing speed readings of the vehicle or any colors associated with such a display or the warning light 120. *See* Fig. 1 of Awada.

Therefore, Patent Owner respectfully submits that proposed substitute claim 23 is allowable, because neither Aumayer, Tegethoff, Awada, Evans nor Wendt, either alone or in combination, disclose or suggest, “wherein the display controller continuously adjusts the liquid crystal display to show speed readings in a first color or colored region when the vehicle’s present speed exceeds the speed limit at the vehicle’s present location and a color or colored region different from the first color when the vehicle’s present speed is less than the speed limit at the vehicle’s present location.”

CONCLUSION

In light of the remarks herein, Patent Owner respectfully requests that the Board grant this Motion to Amend. If the Board has any questions, comments, or suggestions, the undersigned attorney earnestly requests a telephone conference.

No fees are required for filing this amendment; however, the Commissioner is authorized to charge any additional fees which may be required, or credit any overpayment, to Kasha Law LLC, Deposit Account No. 50-4075.

Respectfully submitted,

/John R. Kasha/

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Date: March 11, 2013

CERTIFICATE OF SERVICE

In accordance with 37 C.F.R § 1.550(f), a copy of the Patent Owner's Motion to Amend filed by the Cuozzo Speed Technologies LLC on March 11, 2013 including Exhibits 4000-4001, which include the Declaration of Giuseppe A. Cuozzo, was duly served on the *Inter Partes* Requester via e-mail on March 11, 2013 to the following e-mail addresses:

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