

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BLACKBERRY CORPORATION,
Petitioner,

v.

NXP B.V.,
Patent Owner.

Case IPR2013-00233
Patent 6,501,420 B2

Before JENNIFER S. BISK, TRENTON A. WARD, and
BRIAN P. MURPHY, *Administrative Patent Judges*.

WARD, *Administrative Patent Judge*.

FINAL WRITTEN DECISION

35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. INTRODUCTION

A. *Background*

Blackberry Corporation (“Petitioner”) filed a Petition for *inter partes* review of claim 3 of U.S. Patent No. 6,501,420 B2 (“the ’420 patent”). Paper 1 (“Pet.”). NXP B.V. (“Patent Owner”) timely filed a Preliminary Response. Paper 7 (“Prelim. Resp.”). On October 1, 2013, pursuant to 35 U.S.C. § 314, we instituted *inter partes* review, as to claim 3 of the ’420 patent. Paper 9 (“Dec.”).

After institution of trial, Patent Owner filed a Response (Paper 15, “PO Resp.”) and Petitioner filed a Reply (Paper 16, “Pet. Reply”). Oral hearing was held on June 2, 2014. The hearing transcript has been entered in the record as Paper 23 (“Tr.”).

The Board has jurisdiction under 35 U.S.C. § 6(c). This final written decision is issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons discussed below, we determine that Petitioner has shown by a preponderance of the evidence that claim 3 of the ’420 patent is unpatentable.

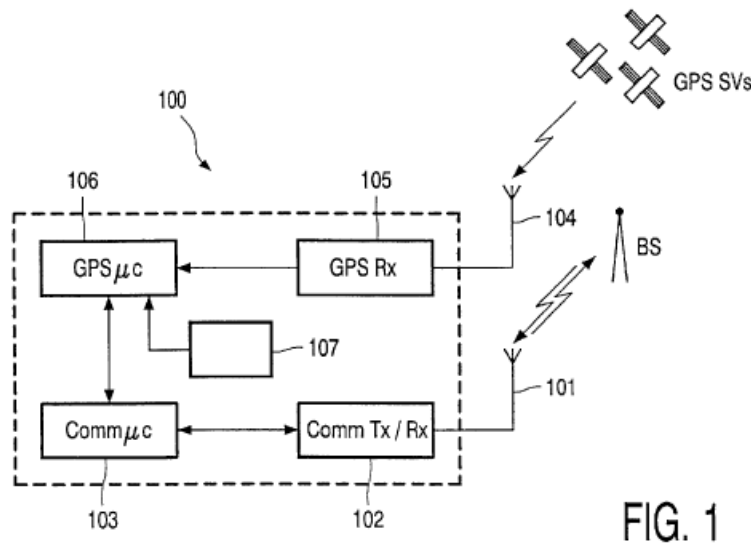
B. *Related Proceedings*

In addition to this petition, on September 30, 2013, we instituted *inter partes* review based on Petitioner’s challenges to the patentability of certain claims of Patent Owner’s U.S. Patent No. 5,639,697 (IPR2013-00232). Our Final Decision in that proceeding is being entered concurrently with this Decision. The ’420 patent is the subject of litigation between the parties

titled *NXP B.V. v. Research In Motion Ltd.*, Case No. 6:12-cv-498 (M.D. Fla.).

C. The '420 Patent

The '420 patent (Ex. 1001) is titled “Mobile Cellular Telephone Comprising a GPS Receiver” and generally relates to a mobile cellular telephone with a Global Positioning System (“GPS”) receiver arranged to power up in response to direct interaction between the user and the mobile phone. Ex. 1001, Abstr. The '420 patent explains that for a mobile telephone with a GPS receiver, the power consumption of the GPS receiver during GPS signal acquisition, tracking, and navigation can be high; thus, it is preferable that the GPS receiver is powered up only when required. *Id.* at col. 1, ll. 18–23. Figure 1 of the '420 patent is reproduced below:



'420 patent, Figure 1

As shown above in Figure 1, the '420 patent describes mobile cellular telephone 100 comprising a communications transmitter and receiver 102 connected to communication antenna 101, communications microprocessor 103, and GPS receiver 105. Ex. 1001, col. 2, l. 60–col. 3, l. 5. The '420 patent describes that the GPS receiver may be arranged to power up in response to the user selecting a particular web site, for example, a web site associated with a location-based service, whereby the call location is determined in anticipation of a request from that web site. *Id.* at col. 2, ll. 40–45.

Claim 3 is reproduced below:

3. An internet enabled, mobile cellular telephone comprising a communications transmitter and receiver arranged for two-way communication with a base station, and a GPS receiver, wherein the GPS receiver is arranged to power up in response to a user selecting a particular web site.

D. Grounds of Unpatentability

In the Institution Decision, we instituted an *inter partes* review of claim 3, the only challenged claim, on the following grounds:

Reference(s)	Basis
Koss ¹ and O'Neill ²	§ 103
Koss and Sheynblat ³	§ 103

¹ US 6,731,612 B1 (Ex. 1004) (“Koss”)

² US 6,141,570 (Ex. 1005) (“O'Neill”)

³ US 6,314,308 B1 (Ex. 1006) (“Sheynblat”)

Reference(s)	Basis
Jessup ⁴ and O'Neill	§ 103
Jessup and Sheynblat	§ 103

Dec. 18.

E. Claim Construction

The Board interprets claims using the broadest reasonable construction in light of the specification of the patent in which they appear. *See* Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,766 (Aug. 14, 2012); 37 C.F.R. § 42.100(b). There is a “heavy presumption” that a claim term carries its ordinary and customary meaning. *CCS Fitness, Inc. v. Brunswick Corp.*, 288 F.3d 1359, 1366 (Fed. Cir. 2002).

Petitioner does not argue that any of the claim terms in the challenged claims should take on meanings other than their ordinary and customary meanings. *See* Pet. 7–8. Patent Owner argues that that the plain and ordinary meaning of the words in their common usage applies, taken in the context of the '420 patent. PO Resp. 9.

Specifically, Patent Owner argues that the plain and ordinary meaning of the claim 3 term “power up,” is that the power supplied to something is increased. *Id.* (citing Ex. 2006 ¶ 46). During the hearing, Petitioner acknowledged that “selectively increasing or adding power to the component is the broadest reasonable interpretation” of “power up.” Tr. 7:3–11. We determine that both proposed constructions are substantially equivalent.

⁴ US 7,330,883 B1 (Ex. 1007) (“Jessup”)

Furthermore, the Specification uses the term “power up” to describe providing power to the GPS receiver. Ex. 1001, Abstr. (“a GPS receiver (105, 106) arranged to power up in response to direct interaction between a user and the mobile phone (100) after the telephone has been switched on.”). Accordingly, in light the Specification and in the context of the claims, we construe “power up” to mean increasing the power supplied.

II. ANALYSIS

A. Obviousness of Claim 3 Over Koss and O’Neill

1. Overview of Koss (Ex. 1004)

Koss discloses a hyperlink browsing system that includes a plurality of mobile hyperlink browsers that communicate wirelessly with a plurality of servers having geographically-dependent information content. Ex. 1004, Abstr. Koss discloses that the hyperlink browsers have access to positioning receivers that generate the geographic coordinates of the locations of the browsers, such that the hyperlink browsers can include the geographic coordinates when submitting HTTP requests. Ex. 1004, Abstr.

Specifically, Koss discloses a mobile computer including a positioning receiver, i.e., a GPS receiver that generates geographic coordinates of the mobile computer and its user. Ex. 1004, col. 3, ll. 24–28. According to Koss, a user of the mobile computer can select a hyperlink, such that the mobile computer obtains the current geographic coordinates of the mobile computer’s GPS receivers, and sends an HTTP request to a hyperlinked content network including the embedded GPS location

parameters. Ex. 1004, col. 5, ll. 39–48. More particularly, Koss discloses sending HTTP requests for web sites along with the embedded GPS location information of the mobile computer sending the request. *Id.*

2. Overview of O'Neill (Ex. 1005)

O'Neill discloses a wireless telephone having a wireless communication transceiver, a GPS receiver, and a controller, wherein the controller adapts intelligently its GPS data maintenance schedule according to a unique set of indicators derived from the wireless telephone's operating conditions. Ex. 1005, Abstr. Figure 1 of O'Neill is reproduced below.

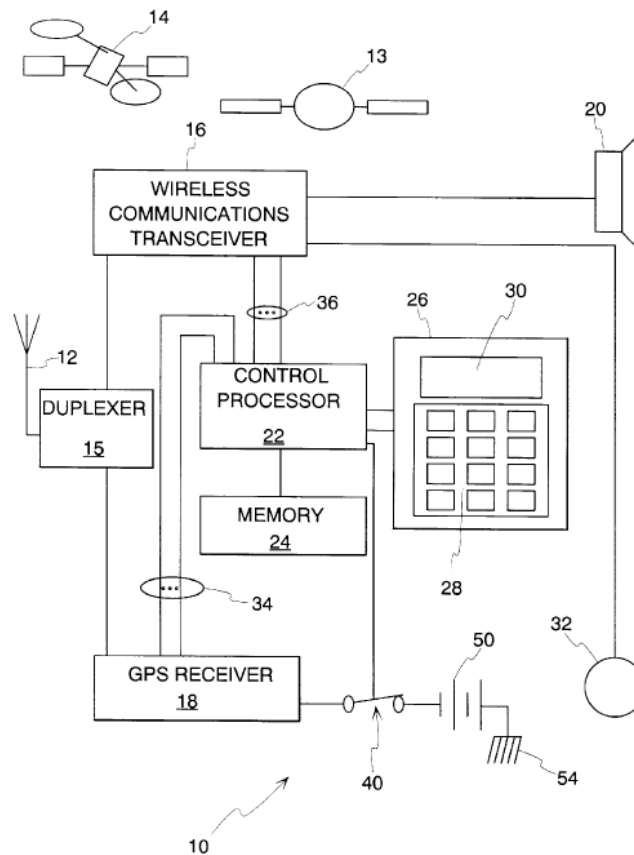


Fig. 1

O'Neill, Figure 1

As illustrated above in Figure 1, O'Neill discloses wireless telephone 10 having wireless communication transceiver 16, GPS receiver 18, control processor 22, and switch 40 controlled by processor 22 to control power to GPS receiver 18. Ex. 1005, col. 4, ll. 1–4, 17–18. O'Neill discloses that control processor 22 operates to “provide an efficient use of battery power to maintain the freshness of short-term and long-term information, while *conserving battery energy* for primary telecommunication functions.” *Id.* at col. 4, ll. 17–22 (emphasis added). Specifically, O'Neill discloses that control processor 22 is responsive to operating conditions of wireless telephone 10, which affect the GPS data maintenance schedule by lengthening the schedule, delaying an individual measurement, or obtaining information immediately. *Id.* at col. 4, ll. 30–34. For example, “when the wireless telephone 10 is about to make or receive a call or initiate some geo-location feature, the GPS receiver 18 anticipates and executes a fresh short-term information update.” *Id.* at col. 4, ll. 48–51. Thus, O'Neill discloses selectively activating the GPS receiver to conserve battery energy. *Id.*

3. Analysis

Petitioner contends that claim 3 is obvious over Koss in view of O'Neill. Pet. 15–23. Petitioner argues that Koss teaches the required “internet enabled, mobile cellular telephone comprising a communications transmitter and receiver arranged for two-way communication with a base station, and a GPS receiver” by disclosing a mobile computer, which may be a hand-held device, including a positioning receiver, i.e., a GPS receiver that generates geographic coordinates of the mobile computer and its user.

Pet. 16–20 (citing Ex. 1004, col. 3, ll. 24–30). Furthermore, Petitioner argues that Koss discloses that the user can select a particular web site by disclosing that the user can send an HTTP request with embedded GPS location parameters. Pet. 19–20 (citing Ex. 1004, col. 5, ll. 34–48). Additionally, Petitioner argues that O’Neill teaches intelligent maintenance of power consumption by a GPS receiver by acquiring GPS location information based on the user’s activity. Pet. 22 (citing Ex. 1005, col. 4, ll. 48–51, col. 5, ll. 37–44).

Petitioner’s expert, Dr. Michael Caloyannides, states that power conservation was known to be a pervasive issue in the cellular telephone art and combining the teachings of Koss with the selective powering up of the GPS receiver taught in O’Neill would have been well-recognized in the art as a power conservation technique. Ex. 1009 ¶ 54. Therefore, Petitioner argues that it would have been obvious to modify the teachings of Koss to include O’Neill’s teachings regarding powering up the GPS receiver, in response to a user selecting a particular web site. Pet. 23–24. We agree with Petitioner’s assertions.

Patent Owner makes several arguments in response to Petitioner’s assertions. First, Patent Owner argues that Koss is not in the same field as the ’420 patent because Koss teaches a mobile computer that can be used with a cellular telephone and not the “internet enabled, mobile cellular telephone” recited in claim 3. PO Resp. 10. Petitioner disagrees and argues that Koss does, in fact, teach an “internet enabled, mobile cellular telephone.” Pet. Reply 3. Specifically, Petitioner responds that Koss discloses generally that the “invention relates to mobile Web browsers, and

to the utilization of GPS-generated geographical information in conjunction with such Web browsers.” *Id.* (quoting Ex. 1004, col. 1, ll. 5–7) (internal quotation marks omitted). Furthermore, Petitioner cites to Koss’s disclosure that “the invention is implemented . . . by a mobile computer that is particularly adapted for the automotive, *handheld*, or other mobile environments” and that “those skilled in the art will appreciate that the invention may be practiced with other computer system configurations, including *hand-held* devices” *Id.* (emphases added) (quoting Ex. 1004, col. 2, ll. 1–24) (internal quotation marks omitted). In view of the cited disclosures from Koss regarding hand-held mobile computers, we are not persuaded by Patent Owner’s argument that Koss is directed to a different field than the ’420 patent.

Patent Owner further argues that because Koss discloses that its mobile computer is to be used with a cellular telephone, the mobile computer itself cannot be a cellular telephone. PO Resp. 11. Petitioner counters that the portion of Koss cited by Patent Owner for this argument also states that the communications device may be “some other type of communications adapter using *digital cellular technology*.” Pet. Reply 4 (emphasis added) (quoting Ex. 1004, col. 3, ll. 39–40) (internal quotation marks omitted). We agree with Petitioner that one of ordinary skill would have understood that a mobile computer using digital cellular technology could have been a handheld cellular telephone. *Id.* (citing col. 1, ll. 13-16; Ex. 1010 ¶ 33). Mobile cellular telephones, moreover, were well known in the art as of the ’420 patent’s priority filing date. Ex. 1001, col. 1, ll. 9-12, col. 2, ll. 65-67; Ex. 1010 ¶ 33. In addition to disclosing the use of other

digital cellular technology, Koss discloses that its “mobile computer 20 has a wireless communicator interface.” Ex. 1004, col. 3, ll. 35–36. Therefore, we determine that the disclosure in Koss encompasses an “internet enabled, mobile cellular telephone,” as recited in claim 3.

Second, Patent Owner argues that Koss’s mobile computer 20 is not subject to GPS receiver power conservation concerns that arise in mobile cellular telephones, because it is a large mobile computer with substantial battery capacity. PO Resp. 13. Thus, Patent Owner argues that one of ordinary skill in the art seeking to conserve energy in an “internet enabled, mobile cellular telephone” would not look to Koss. *Id.* Patent Owner argues that one of ordinary skill in the art would not have combined Koss with O’Neill, because power consumption would have been a concern only for the wireless phone with GPS receiver described in O’Neill, not for Koss’s large mobile computer with substantial battery capacity. PO Resp. 16–17.

Patent Owner’s argument that Koss discloses only large mobile computers with substantial battery capacity is contrary to the express disclosure in Koss that its mobile computer may be a “hand-held device[.]” Ex. 1004, col. 2, ll. 1–24. Furthermore, as Patent Owner’s counsel conceded during the oral hearing, all mobile devices under certain circumstances have power conservation concerns, including laptop mobile computers. Tr. 24:6–8 (“Would you agree that all mobile devices have some sort of concern with power conservation? Mr. Schaeffer: Under certain circumstance[s], yes.”). Therefore, we determine that one of ordinary skill in the art looking at Koss would realize that power consumption is a concern for the mobile computer device. Furthermore, O’Neill expressly discloses, “it is common practice to

operate a GPS receiver in a stand-by mode of readiness” in an “effort to preserve battery energy.” Ex. 1005, col. 2, ll. 7–11. Accordingly, we are not persuaded by Patent Owner’s argument that one of skill in the art would not have had a reason to combine Koss and O’Neill.

Third, Patent Owner argues that, contrary to the requirements of claim 3, O’Neill discloses powering up the GPS receiver every time the user presses a button on the keypad. PO Resp. 17 (citing Ex. 1005, col. 5, ll. 37–44). Thus, Patent Owner argues that “there is no suggestion in O’Neill of selectively powering up the GPS receiver only for *certain key sequences* input by the user that correspond to a particular website (or phone number).” PO Resp. 18 (emphasis added). We note that Patent Owner’s arguments are not commensurate with the scope of claim 3. Claim 3 recites, “wherein the GPS receiver is arranged to power up in response to a user selecting a particular web site.” Contrary to Patent Owner’s arguments, claim 3 does not require the user to enter “*certain key sequences*” to power up the GPS receiver, *id.* (emphasis added), but merely to power up the GPS receiver in “response to a user selecting a particular web site.”

Petitioner’s challenge relies upon the disclosure in O’Neill that power can be conserved by a control processor, which can actuate a GPS receiver to acquire new position information based upon manipulation of the keypad by the user. Pet. 22 (citing Ex. 1005, col. 5, ll. 37–44). Petitioner provides that it would have been obvious to combine this teaching from O’Neill to modify the teaching of Koss to include powering up the GPS receiver in response to the user sending an HTTP request with embedded GPS locations. Pet. 23–24. Patent Owner counters that this combination would

not suggest all the features of claim 3, because the combination lacks the functionality of claim 3 in which the GPS receiver is powered up in response to a user selecting a particular web site. PO Resp. 20.

Patent Owner's arguments are not responsive fully to the combination as proposed by Petitioner. Specifically, Petitioner relies upon Koss, not O'Neill, for teaching that a GPS location is acquired from the GPS receiver in response to a user selecting a particular web site. For this teaching, Petitioner cites to the following disclosure in Koss:

Step 302 comprises allowing a user to select a hyperlink from the rendered hyperlinked content. Step 304 comprises obtaining current geographical coordinates of the mobile computer from the computer's GPS receiver.

Pet. 19–20 (emphasis omitted) (quoting Ex. 1004, col. 5, ll. 34–48).

Petitioner further proposes in its challenge that O'Neill's teaching of power conservation in activation of the GPS receiver be combined with this disclosure from Koss regarding acquiring GPS location information when the user selects a particular web site. Pet. 23–24. Accordingly, we are persuaded Petitioner has established sufficiently that the combination of Koss and O'Neill teaches a GPS receiver “arranged to power up in response to a user selecting a particular web site,” as recited in claim 3.

For the reasons stated above, we conclude that Petitioner has shown by a preponderance of the evidence that claim 3 would have been obvious over Koss and O'Neill.

B. Obviousness of Claim 3 Over Koss and Sheynblat

1. Overview of Sheynblat (Ex. 1006)

Sheynblat discloses power management in cellular telephones with integrated GPS receivers. Ex. 1006, col. 1, ll. 5–8. More specifically, Sheynblat discloses a portable cellular transceiver comprising a GPS receiver and a power detection circuit for monitoring a power level of a battery. Ex. 1006, Abstr. Sheynblat discloses that “activation of a single button of the portable cellular transceiver causes the selective application of power to GPS receiver circuitry and selective application of power to communication circuitry.” Ex. 1006, col. 2, ll. 26–29. For example, Sheynblat discloses that an emergency call be placed by the user, such that “[i]n placing the emergency telephone call, the power control circuitry 112 provides power to the telephone circuitry 102 and the position circuitry 104 of the portable cellular telephone 100.” Ex. 1006, col. 4, ll. 43–47.

2. Analysis

Petitioner contends that claim 3 is obvious over Koss and Sheynblat. Pet. 24–28. As discussed above for the asserted ground based on Koss and O’Neill, Petitioner argues that Koss teaches the required “internet enabled, mobile cellular telephone comprising a communications transmitter and receiver arranged for two-way communication with a base station, and a GPS receiver” by disclosing mobile computer 20 including positioning receiver 49, i.e., a GPS receiver that generates geographic coordinates of mobile computer 20 and its user. Pet. 24–25. Additionally, Petitioner argues that Sheynblat teaches “selective application of power to GPS

receiver circuitry.” Pet. 25–26 (emphasis and internal quotation marks omitted) (quoting Ex. 1006, col. 2, ll. 24–29).

Petitioner’s expert, Dr. Caloyannides, states that power conservation was known to be a pervasive issue in the cellular telephone art and combining the teachings of Koss with the selective powering up of the GPS receiver taught in Sheynblat would have been well recognized in the art as a power conservation technique. Ex. 1009 ¶ 62. Petitioner argues that Sheynblat recognizes that by selectively powering up the GPS receiver when a position fix is needed, as determined by user activity, battery power can be conserved. Pet. 27 (citing Ex. 1006, col. 1, ll. 5–8, col. 2, ll. 24–29; Ex. 1009 ¶ 62). Therefore, Petitioner argues that it would have been obvious to modify the teachings of Koss to include the teachings from Sheynblat regarding powering up the GPS receiver in response to a user selecting a particular web site. Pet. 27. We are persuaded by Petitioner’s arguments and supporting evidence.

We address Patent Owner’s responsive arguments in turn. First, Patent Owner repeats the same arguments against Koss as in the previous challenge, namely, that Koss teaches a mobile computer and that a cellular phone is not a part of that mobile computer. PO Resp. 21. For the same reasons discussed above, we are not persuaded by Patent Owner’s arguments.

Second, Patent Owner argues that Sheynblat cannot be properly combined with Koss because Sheynblat is not concerned with increasing the time period during which a cellular telephone can operate. PO Resp. 22. Patent Owner argues that Sheynblat merely discloses reserving power for an

emergency call by a GPS-enabled cellular telephone so than an emergency call can always be made. PO Resp. 23. In short, Patent Owner argues that Sheynblat does not teach *conserving* power but rather *reserving* power. PO Resp. 23–24.

Petitioner counters that Sheynblat expressly discloses the need for power conservation in a GPS enabled cellular telephone by disclosing that “integration of a GPS receiver” is “likely to increase the power consumption of the telephone device” and the “telephone designer must focus particular effort on decreasing the power requirements.” Pet. Reply 13 (emphasis and internal quotation marks omitted) (quoting Ex. 1006, col. 1, ll. 30–38). Petitioner further argues that Sheynblat’s disclosure of placing the telephone in a low-power mode to conserve battery power and selectively powering up the GPS receiver would have taught a person of ordinary skill in the art a power conservation technique. Pet. Reply 14. We are not persuaded by Patent Owner’s attempt to draw a distinction between conserving power and reserving power, as both are focused on reducing the power consumed by the GPS-enabled cellular telephone. Furthermore, we find that Petitioner’s proposed combination of Koss and Sheynblat provides a sufficiently “articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007) (citation and internal quotation marks omitted). A person of ordinary skill in the art would have relied upon selectively powering up the GPS receiver, as shown in Sheynblat, to modify the Koss disclosure of a mobile cellular telephone user selecting a particular web site.

For the reasons stated above, we conclude that Petitioner has shown

by a preponderance of the evidence that claim 3 would have been obvious over Koss and Sheynblat.

C. Obviousness of Claim 3 Over Jessup and O'Neill

1. Overview of Jessup (Ex. 1007)

Jessup is titled “System and Method for Sending Local Information from a Wireless Browser to a Web Server,” and discloses a system for using a wireless browser to send local information from a wireless handset to a web server. Ex. 1007, Abstr. Figure 1 of Jessup is reproduced below.

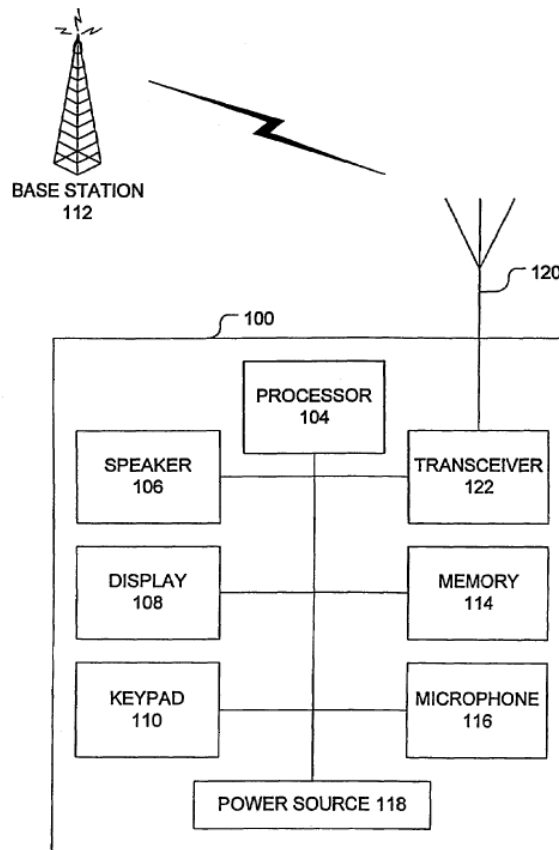


Fig. 1

Jessup, Figure 1

As shown above in Figure 1, Jessup discloses handset 100 that includes processor 104, transceiver 122, and position determination system 134 that uses a GPS system to determine location. *Id.* at col. 4, ll. 4–5, col. 5, ll. 13–22. Jessup further discloses a method for requesting information across a network in which the user initiates a request for information, and the system acquires the position of the handset if the request requires the handset location. *Id.* at col. 6, ll. 44–50. For example, Jessup discloses that the handset user can select a web service, the handset then determines if the user has selected a web service requiring local information, and, if so, the “browser will acquire the current GPS data from position determination device 134” and include it in the URL request. *Id.* at col. 8, ll. 45–47, col. 9, ll. 5–13.

2. Analysis

Petitioner contends that claim 3 is obvious over Jessup and O’Neil. Pet. 28–37. Petitioner argues that Jessup teaches the required “internet enabled, mobile cellular telephone comprising a communications transmitter and receiver arranged for two-way communication with a base station, and a GPS receiver” by disclosing handset 100 with position determination system 134 that uses GPS. Pet. 29–30 (citing Ex. 1007, col. 5, ll. 16–23). Furthermore, Petitioner argues that Jessup teaches that the user can select a web service that requires location information, and the browser will acquire the current GPS data from position determination device 134 and include that location information in the web service request. Pet. 32–33 (citing Ex. 1007, col. 8, l. 36 – col. 9, l. 11). Additionally, Petitioner argues that O’Neill teaches intelligent maintenance of power consumption by a GPS

receiver by acquiring GPS location information based on the user's activity. Pet. 35–36 (citing Ex. 1005, col. 4, ll. 48–51, col. 5, ll. 37–44).

Petitioner's expert, Dr. Caloyannides, states that power conservation was known to be a pervasive issue in the cellular telephone art and combining the teachings of Jessup with the selective powering up of the GPS receiver taught in O'Neill would have been well recognized in the art as a power conservation technique. Ex. 1009 ¶ 79. Petitioner further argues that it would have been obvious to modify the teachings of Jessup to include the teachings from O'Neill regarding powering up the GPS receiver in response to a user selecting a particular web site. Pet. 36–37. We agree with Petitioner.

Patent Owner disputes Petitioner's challenge by arguing that the combination of Jessup and O'Neill cannot teach claim 3 because Jessup does not teach controlling the GPS receiver's power and O'Neill does not teach the functionality recited in claim 3. PO Resp. 30–31. Specifically, Patent Owner argues that O'Neill teaches that the GPS receiver is powered on every time the users presses the keypad, instead of selectively powering up the GPS receiver only for certain key sequences. PO Resp. 31. Patent Owner's arguments against this combination are the same as those addressed above against the combination of Koss and O'Neill. Just as with Koss and O'Neill, Patent Owner's arguments here are not responsive fully to the combination as proposed by Petitioner.

More particularly, Petitioner relies upon Jessup, not O'Neill, for the teaching that a GPS location is acquired from the GPS receiver in response to a user selecting a particular web site:

In step 204, the system determines whether the request requires the handset location or position. *If position information is required*, the method proceeds from step 204 to step 212, *where system 134 acquires the position of handset 130*. If system 134 is situated in hands-free unit 132, unit 132 provides the position data to handset 130 for transmission to server 136 over wireless network 140 (step 214).

Ex. 1007, col. 6, ll. 44–54, Fig. 3 (emphases added); *see* Pet. 31–32.

Petitioner further proposes in its challenge that O’Neill’s teachings of power conservation in activation of the GPS receiver be combined with Jessup’s teachings regarding acquiring GPS location information when the user selects a particular web site. Accordingly, we are persuaded that Petitioner has established sufficiently that the combination of Jessup and O’Neill teaches that “the GPS receiver is arranged to power up in response to a user selecting a particular web site,” as recited in claim 3.

For the reasons stated above, we conclude that Petitioner has shown by a preponderance of the evidence that claim 3 would have been obvious over Jessup and O’Neill.

D. Obviousness of Claim 3 Over Jessup and Sheynblat

Petitioner contends that claim 3 is obvious over Jessup and Sheynblat. Pet. 37–41. As discussed above for the asserted ground based on Jessup and O’Neill, Petitioner argues that Jessup teaches the required “internet enabled, mobile cellular telephone comprising a communications transmitter and receiver arranged for two-way communication with a base station, and a GPS receiver” by disclosing handset 100 with position determination system 134 that uses GPS. Pet. 37–38 (referring to Pet. 29–30). Additionally,

Petitioner argues that Sheynblat teaches “selective application of power to GPS receiver circuitry.” Pet. 39 (emphasis and internal quotation marks omitted) (quoting Ex. 1006, col. 2, ll. 24–29). Petitioner argues that Sheynblat recognizes that by selectively powering up the GPS receiver when a position fix is needed, as determined by user activity, battery power can be conserved. Pet. 40 (citing Ex. 1006, col. 1, ll. 5–8, col. 2, ll. 24–29; Ex. 1009 ¶ 87).

Petitioner’s expert, Dr. Caloyannides, states that power conservation was known to be a pervasive issue in the cellular telephone art and combining the teachings of Jessup with the selective powering up of the GPS receiver taught in Sheynblat would have been well recognized in the art as a power conservation technique. Ex. 1009 ¶ 87. Therefore, Petitioner argues that it would have been obvious to modify the teachings of Jessup to include the teachings from Sheynblat regarding powering up the GPS receiver in response to a user selecting a particular web site. Pet. 40.

Similar to the argument against the combination of Koss and Sheynblat, Patent Owner argues that Sheynblat cannot be combined properly with Jessup, because Sheynblat does not teach conserving power, but rather reserving power. PO Resp. 34. Patent Owner argues that, contrary to the requirements of claim 3, combining Jessup and Sheynblat would teach a cellular phone that suspends operation when battery power drops below a threshold level and when an emergency call is made, using that reserved battery power to activate the cellular phone’s GPS receiver. PO Resp. 35. Patent Owner argues, therefore, that the combination of Jessup and

Sheynblat would not result in a cellular phone that powers up the GPS receiver in response to a user selecting a particular web site. *Id.*

Similar to its arguments with respect to the combination of Koss and Sheynblat, Patent Owner's arguments are not responsive fully to the combination of Jessup and Sheynblat proposed by Petitioner. First, Petitioner relies upon Jessup for its disclosure that a GPS location is acquired from the GPS receiver in response to a user selecting a particular web site. Pet. 31–32 (citing Ex. 1007, col. 6, ll. 44–50), 38. Second, Petitioner relies upon Sheynblat for GPS power conservation, namely, that Sheynblat expressly discloses the need for power conservation in a GPS enabled cellular telephone by disclosing that “integration of a GPS receiver” is “likely to increase the power consumption of the telephone device” and the “telephone designer must focus particular effort on decreasing the power requirements.” Pet. 39; Pet. Reply 13 (citing Ex. 1006, col. 1, ll. 30–38). Petitioner further argues that Sheynblat's disclosure of placing the telephone in a low-power mode to conserve battery and selectively powering up the GPS receiver would have taught a person of ordinary skill in the art a power conservation technique. Pet. 40. We are not persuaded by Patent Owner's attempt to draw a distinction between teachings regarding conserving energy and reserving energy. Furthermore, we find that Petitioner's proposed combination of Jessup and Sheynblat provides a sufficiently “articulated reasoning with some rational underpinning to support the legal conclusion of obviousness,” *KSR*, 550 U.S. at 418 (citation and internal quotation marks omitted), as a person of ordinary skill in the art would have relied upon

selectively powering up the GPS receiver, as shown in Sheynblat, to modify Jessup's disclosure of a user selecting a particular web site.

For the reasons stated above, we conclude that Petitioner has shown by a preponderance of the evidence that claim 3 would have been obvious over Jessup and Sheynblat.

III. CONCLUSION

We conclude that Petitioner has demonstrated by a preponderance of the evidence that:

- A. Claim 3 would have been obvious over Koss and O'Neill;
- B. Claim 3 would have been obvious over Koss and Sheynblat;
- C. Claim 3 would have been obvious over Jessup and O'Neill; and
- D. Claim 3 would have been obvious over Jessup and Sheynblat.

IV. ORDER

Accordingly, it is hereby:

ORDERED that Petitioner has shown by a preponderance of the evidence that claim 3 of U.S. Patent No. 6,501,420 B2 is unpatentable; and

FURTHER ORDERED that because this is a final written decision, parties to the proceeding seeking judicial review of the decision must comply with the notice and service requirements of 37 C.F.R. § 90.2.

IPR2013-00233
Patent 6,501,420 B2

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