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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/019,209	05/12/2023	8594698	BRD698	1020

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7590

11/01/2023

EXAMINER

CORSARO, NICK

ART UNIT	PAPER NUMBER
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3992

MAIL DATE	DELIVERY MODE
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11/01/2023

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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***EX PARTE* REEXAMINATION COMMUNICATION TRANSMITTAL FORM**

REEXAMINATION CONTROL NO. 90/019,209.

PATENT UNDER REEXAMINATION 8594698.

ART UNIT 3992.

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).

Office Action in Ex Parte Reexamination	Control No. 90/019,209	Patent Under Reexamination 8594698	
	Examiner NICK CORSARO	Art Unit 3992	AIA (FITF) Status No

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

- a. ☒ Responsive to the communication(s) filed on 12 May 2023.
☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on ____.
- b. ☐ This action is made FINAL.
- c. ☒ A statement under 37 CFR 1.530 has not been received from the patent owner.

A shortened statutory period for response to this action is set to expire 2 month(s) from the mailing date of this letter. Failure to respond within the period for response will result in termination of the proceeding and issuance of an *ex parte* reexamination certificate in accordance with this action. 37 CFR 1.550(d). **EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.550(c)**. If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|---|
| 1. ☒ Notice of References Cited by Examiner, PTO-892. | 3. ☐ Interview Summary, PTO-474. |
| 2. ☐ Information Disclosure Statement, PTO/SB/08. | 4. ☐ ____. |

Part II SUMMARY OF ACTION

- 1a. ☒ Claims 1-32 are subject to reexamination.
- 1b. ☐ Claims ____ are not subject to reexamination.
2. ☐ Claims ____ have been canceled in the present reexamination proceeding.
3. ☒ Claims 1-23 are patentable and/or confirmed.
4. ☒ Claims 24-32 are rejected.
5. ☐ Claims ____ are objected to.
6. ☐ The drawings, filed on ____ are acceptable.
7. ☐ The proposed drawing correction, filed on ____ has been (7a) ☐ approved (7b) ☐ disapproved.
8. ☐ Acknowledgment is made of the priority claim under 35 U.S.C. 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the certified copies have
1 ☐ been received.
2 ☐ not been received.
3 ☐ been filed in Application No. ____.
4 ☐ been filed in reexamination Control No. ____.
5 ☐ been received by the International Bureau in PCT application No. ____.
- * See the attached detailed Office action for a list of the certified copies not received.
9. ☐ Since the proceeding appears to be in condition for issuance of an *ex parte* reexamination certificate except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte* Quayle, 1935 C.D. 11, 453 O.G. 213.
10. ☐ Other: ____

cc: Requester (if third party requester)

U.S. Patent and Trademark Office
PTOL-466 (Rev. 08-13)

Office Action in Ex Parte Reexamination

Part of Paper No. 20231101

NON-FINAL OFFICE ACTION

I. Introduction

A) The Patent Under Reexamination

This action addresses *Ex Parte* reexamination of U.S. Pat. No. 8,594,698 (“**698 Patent**”) to Shkedi, titled "SIGNAL COMPARISON-BASED LOCATION DETERMINING METHOD."

B) Summary of the Proceeding

On May 12, 2023, a Third Party Requester (“**Requester**”) filed a request (“**Request**”) for *Ex Parte* reexamination of claims 1 - 32 of the 698 Patent. The Request was assigned reexamination control number 90/019,209 (“**209 Proceeding**” or “**Instant Reexamination Proceeding**”).

On June 02, 2023, the Office issued an order (“**Order**”) granting reexamination of the requested claims. For that reason, claims 1 - 32 of the 698 Patent are addressed in this office action.

The Examiner has reviewed the file record and finds that the Patent Owner has not submitted a Patent Owner statement under 37 CFR § 1.530.

C) Reminder Concerning Status of Concurrent Proceedings.

Patent owner is reminded of the continuing responsibility under 37 CFR 1.565(a), to apprise the Office of any litigation activity, or other prior or concurrent proceeding, involving the patent throughout the course of this reexamination proceeding. See MPEP §§ 2207, 2282 and 2286.

The third party requester is similarly apprised of the ability to disclose such proceedings.

II. Status of Claims

A) Claims Addressed in this Proceeding

1. Claims 1 - 32 were the patented claims ("**Patented Claims**").
2. Claims 1 - 32 are pending and under reexamination ("**Reexamined Claims**").

5

B) Disposition of Claims as a Result of this Action

1. Claims 24 - 32: Rejected under 35 U.S.C. §103.
2. Claims 1 - 23: Confirmed.

10

III. Priority and Patent Term

A) Priority

U.S. Pat. No. 8,594,698 is based upon U.S. application 13/448,309, which is a continuation of application Ser. No. 12/720,362, filed Mar. 9, 2010, now U.S. Pat. No. 8,170,583, which is a continuation of application Ser. No. 11/533,238, filed on Sep. 19, 2006, now U.S. Pat. No. 7,706,811

15

B) Effective Filing Date

Based upon the above priority the Examiner finds that the 698 Patent has an effective filing date of Sep. 19, 2006.

20

C) Patent Term

Based upon review of the 698 Patent and the above domestic priority the Examiner finds that the term of the 698 Patent has not expired.

IV. Acknowledgements

1. AIA: As noted above, the file record indicates that the invention as claimed in the 698 Patent has an effective filing date before the AIA first inventor to file date of March 16 2013. As such, the present proceeding is examined under the pre-AIA first to invent provisions.

5 2. Concurrent Proceedings: Based upon Examiner's review of the 698 Patent itself, the prosecution history, and the image file wrapper, the Examiner finds that there are no concurrent Ex Parte reexaminations, supplemental reexaminations, reissues, or IPR proceedings involving the 698 Patent.

10 3. Litigation: Based upon the Examiner's review of the prosecution history, the file record including the Request, with associated submissions, and a litigation search conducted by the USPTO, the Examiner finds that the 698 Patent is in litigation. (*Request p. 49*).

V. Evidence Cited/Applied in this Proceeding

A) Patents and Printed Publications Supplied by Requestor

15 1. **de Clerq**: Pub. No. US 2005/0094610 to de Clerq et al., published May 5, 2005, filed Nov. 1, 2004.

 2. **Sheynblat**: Pub. No. US 2006/0089153 to Sheynblat, published Apr. 27, 2006, filed Nov. 30, 2004.

20 3. **Copley**: Pub. No. US 2005/0068169 to Copley et al., published Mar. 31, 2005, filed Oct. 15, 2004.

B) Written Statements and Declarations

10

VI. Claim Interpretation

- MPEP § 2258 I (G). *Claim Interpretation and Treatment*

15

After a careful review of the original specification and unless expressly noted otherwise

Part of Paper No. 20231101

clarity, deliberateness, and precision the Examiner concludes that the Patent Owner is not their own lexicographer. See MPEP §§ 2111.01 (III) (IV).

C) 'Sources' for the 'The Broadest Reasonable Interpretation (BRI)'

5 **1. Code:** "1. Program instructions. Source code consists of human-readable statements written by a programmer in a programming language. Machine code consists of numerical instructions that the computer can recognize and execute and that were converted from source code. See also data, program. 2." Microsoft Press Computer Dictionary, 2nd Edition, Microsoft Press, Redmond, WA, 1994.

2. Computer: "Any machine that does three things: accepts structured input, processes it according to prescribed rules, and produces the results as output. . . ." Microsoft Press Computer Dictionary, 2nd Edition, Microsoft Press, Redmond, WA, 1994.

15 **3. Program:** "A sequence of instructions that can be executed by a computer. The term can refer to the original source code or to the executable (machine language) version. Also called: software." Microsoft Press Computer Dictionary, 2nd Edition, Microsoft Press, Redmond, WA, 1994.

4. Software: "n. Computer programs; instructions that make hardware work." Microsoft Press Computer Dictionary, 2nd Edition, Microsoft Press, Redmond, WA, 1994.

D) 35 U.S.C. §112 6th Paragraph

A second exception is when a claimed phrase is interpreted in accordance with 35 U.S.C. § 112 ¶ 6 (“§ 112 ¶ 6”). See MPEP § 2181 *et seq.* To invoke § 112 ¶ 6, a claimed phrase must meet the three prong analysis (“**3 Prong Analysis**”) as set forth in MPEP § 2181 (I).

- 5 In the following the Examiner will analyze the claims to determine if any claim phrase invoke § 112 ¶ 6. In the following analysis of the Functional Phrases of the claims the Examiner notes:

10 An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

- 35 U.S.C. § 112 ¶ 6

15 “In assessing whether the claim limitation is in means-plus-function format, we do not merely consider the introductory phrase (e.g., ‘mechanical control assembly’) in isolation, but look to the entire passage including functions performed by the introductory phrase. [Emphasis added.]”

20 - *MTD Prods. Inc. v. Iancu*, 933 F.3d 1336, 1342 (Fed. Cir. 2019).

25 “[a] claim limitation that does not use the term “means” or “step” will trigger the rebuttable presumption that 35 U.S.C. 112(f) or pre-AIA 35U.S.C. 112, sixth paragraph does not apply. See, e.g., *Phillips v. AWH Corp.*, 415 F.3d 1303, 1310, 75 USPQ2d 1321, 1324 (Fed. Cir. 2005) (*en banc*); *CCS Fitness, Inc. v. Brunswick Corp.*, 288 F.3d 1359, 1369, 62 USPQ2d 1658, 1664 (Fed. Cir. 2002); *Personalized Media Commc’ns, LLC v. ITC*, 161 F.3d 696, 703-04, 48 USPQ2d 1880, 1886–87 (Fed. Cir. 1998). *Williamson v. Citrix Online, LLC*, 792 F.3d 1339, **The presumption is overcome when “the claim term fails to ‘recite sufficiently definite structure’ or else recites ‘function without reciting sufficient structure for performing that function.’”** 1339, 1348 (sic), 115 USPQ2d 1105, 1111 (Fed. Cir. 2015) (*en banc*) (quoting *Watts v. XL Systems, Inc.*, 232 F.3d 877, 880 (Fed. Cir. 2000) [Emphasis added.]”

- MPEP § 2181 I.

I. Analysis of claims 1 - 22 and 24 - 32: The Examiner finds that claims 1 - 22 and 24 - 32 do not have any phrases that invoke 35 U.S.C. § 112 6th Paragraph. For support of this position the Examiner notes the following: Claims 1 - 22 and 24 - 32 do not recite “means for” or “step for.” In addition these claims do not recite any structural generic placeholder for “means for” nor any generic place holders for “step for.” Therefore claims 1 - 22 and 24 - 32 fail Prong (A) as set forth in MPEP §2181 I. Because claims 1 - 22 and 24 - 32 fail Prong (A) as set forth in MPEP §2181 I., the Examiner concludes that claims 1 - 22 and 24 - 32 do not invoke 35 U.S.C. § 112, 6th paragraph. See also Ex Parte Miyazaki, 89 USPQ2d 1207, 1215-16 (B.P.A.I. 2008) (precedential).

10

II) Analysis of Independent Claim 23 : The Examiner finds that the following phrases, from independent claim 23 will be first identified and then analyzed using the MPEP’s 3 Prong Analysis to determine if the claimed phrases invoke § 112 ¶ 6. If a phrase invokes § 112 ¶ 6, the corresponding structure will also be determined.

15

Functional Phrase #1:

“computer program code that . . . controls the portable device to cause the portable device to perform a location determining method, the method comprising : (a) monitoring the location of the portable device by
(i) receiving with the antenna communications signals from a first plurality of fixed-location service-area antenna stations capable of RF communication with the portable device wherein the antenna stations are substantially continuously operating,
(ii) identifying at least one ID within at least one of the received communications signals, and

20

(iii) *measuring a varying signal characteristic other than ID, which signal characteristic is associated with a received communications signal from each of the first plurality of antenna stations,*” as recited in claim 23 lines 3 -17.

Functional Phrase #2:

5 “computer program code that . . . controls the portable device to cause the portable device to perform a location determining method, the method comprising: . . .
(b) *determining if a first monitored location, monitored in accordance with part (a), is within proximity of a location entered by a user of the portable device on the user interface, as a result of electronically comparing*

10 (i) *the at least one ID at the first monitored location with at least one ID at the location chosen by the user; and*

 (ii) *at least one number based on the varying signal characteristics of the communications signals from each of the first plurality of antenna stations at the first monitored location with at least one number based on corresponding varying signal*
15 *characteristics of the communications signals from each of the first plurality of antenna stations at the location chosen by the user,*” as recited in claim 23 lines 18 - 30.

a) 3-Prong Analysis Prong (A):

In accordance with the MPEP, Prong (A) requires:

20 (A) the claim limitation uses the term “means” or “step” or a term used as a substitute for “means” that is a generic placeholder (also called a nonce term or a non-structural term having no specific structural meaning) for performing the claimed function

25 MPEP § 2181 I. — Prong (A).

First, as an initial matter, the Examiner finds that Functional Phrases #1, and #2 do not use the phrase “means for.” Therefore the issue arising under Invocation Prong (A) then becomes whether or not Functional Phrases #1 and #2, including the claimed “*computer program code*” [followed by the claimed functions],” is a generic placeholder for “means.”

5 Second, based upon review of technical dictionaries, the specification and the prior art the Examiner finds that the term “computer program code” does not represent sufficient structure to perform the claimed functions, i.e., Functions of Functional Phrases #1 and #2 outlined below. Accordingly, the Examiner concludes “computer program code” is being applied in the claim as a generic place holder for “means.” In more detail, and for support of this conclusion, the

10 Examiner notes the following:

(1) The Examiner has reviewed technical literature, i.e. technical dictionaries, and finds insufficient evidence that the complete phrase of “computer program code” is known as a single word or phrase connoting a particular structure that would be sufficient to perform the claimed function. Rather, the best the Examiner can determine is that “computer program code”
15 is a derived compound word formed from combining the word “computer,” “program,” and “code” See the section above entitled “Sources for the Broadest Reasonable Interpretation.” The best the Examiner can determine from review of the meaning of the terms “computer,” “program,” and “code” is that the compound word “computer program code” is a sequence of instructions with the only known function of “*accepts structured input, processes it according to*
20 *prescribed rules, and produces the results as output.*” (Id. at “Sources for BRI.”). However the Examiner finds that a PHOSITA understands that computer program code, such as a general sequence of instructions (alone), does not represent a term sufficient to perform the entire claim

function. Rather, a PHOSITA would understand that particular and special instructions would be needed.

(2) Looking at the specification the Examiner concludes that the specification does not provide a description sufficient to inform a PHOSITA that the term “computer program code” (alone) denotes sufficient structure to perform the claimed function. For example, as noted above the Examiner finds insufficient evidence that the specification lexicographically defines the terms as having the associated functions. And, as also noted above, the term is not known in the art as a single word having the claimed functions. Additionally, the Examiner finds insufficient evidence that the specification states that the term “computer program code” is known in the art as a structure known to be associated with the Functions of Functional Phrase #1 and the Function of Functional Phrase #2 outlined below in this action. Accordingly, the Examiner concludes that a PHOSITA understands that the specification does not describe “computer program code” (by itself), as a structure known to perform the entire claim function. Other structural elements are needed.

Finally, looking at the prior art, the Examiner finds that the term “computer program code” is not known in art as a structure sufficient to perform the claimed functions, i.e. the Function of Functional Phrase #1 and Function of Functional Phrase #2 recited below. For Example, Copley (Pub # US 2005/0068169), now of record, is discussing a mobile device and states at Par [0060] that program code is simply software stored in a terminal. However, the Examiner finds that a PHOSITA would understand that software stored in a terminal, (alone), does not represent sufficient structure to perform the entire claim function. i.e. the Function of Functional Phrase #1 and Function of Functional Phrase #2 recited below. Rather, something more, such as special programming, would be needed.

Accordingly the Examiner concludes that the phrase “computer program code” as set forth in Functional Phrase #1 and Functional Phrase #2 is being used as a generic term for a structure that performs the function, and therefore a place holder for the phrase "means for" performing the recited function. Because “computer program code” is merely a generic placeholder having no specific structure associated therewith, the Examiner concludes that Functional Phrase #1 and Functional Phrase #2 meets invocation Prong (A).

b) 3-Prong Analysis Prong (B):

In accordance with the MPEP prong (B) requires:

(B) the term “means” or “step” or the generic placeholder is modified by functional language, typically, but not always linked by the transition word “for” (e.g., “means for”) or another linking word or phrase, such as “configured to” or “so that”
MPEP § 2181 I. — Prong (B).

Based upon a review of the claim, the Examiner finds that the functions associated with Functional Phrase #1 and Functional Phrase #2 are as follows:

Function of Functional Phrase #1:

“controls the portable device to cause the portable device to perform a location determining method, the method comprising: (a) monitoring the location of the portable device by

(i) receiving with the antenna communications signals from a first plurality of fixed-location service-area antenna stations capable of RF communication with the portable device wherein the antenna stations are substantially continuously operating,

(ii) identifying at least one ID within at least one of the received communications signals, and

(iii) measuring a varying signal characteristic other than ID, which signal characteristic is associated with a received communications signal from each of the first plurality of antenna stations.”

Function of Functional Phrase #2:

5 *“controls the portable device to cause the portable device to perform a location determining method, the method comprising: . . . (b) determining if a first monitored location, monitored in accordance with part (a), is within proximity of a location entered by a user of the portable device on the user interface, as a result of electronically comparing*

10 *(i) the at least one ID at the first monitored location with at least one ID at the location chosen by the user; and*

(ii) at least one number based on the varying signal characteristics of the communications signals from each of the first plurality of antenna stations at the first monitored location with at least one number based on corresponding varying signal characteristics of the communications signals from each of the first plurality of antenna stations at the location chosen by the user.”

15

Because Functional Phrase #1 and Functional Phrase #2 include the functions expressly noted above, the Examiner concludes that Functional Phrase #1 and Functional Phrase #2 meet invocation Prong (B). In other words they have a function. Additionally, the Examiner notes that

20 because nothing in the written description contradicts the plain language describing the functions, the functions within the functional phrases will have their ordinary and accustomed meaning.

c) 3-Prong Analysis: Prong (C)

In accordance with the MPEP, Prong (C) requires:

(C) the term “means” or “step” or the generic placeholder is not modified by sufficient structure, material, or acts for performing the claimed function.

MPEP § 2181 (I) — Prong (C)

Based upon a review of the entire Functional Phrase #1 and Functional Phrase #2 the Examiner finds that Functional Phrase #1 and Functional Phrase #2 do not contain sufficient structure for performing the entire claimed function. In fact, the Examiner finds that Functional Phrase #1 and Functional Phrase #2 recites very little structure (if any) for performing the claimed function.

Because Functional Phrase #1 and Functional Phrase #2 do not contain sufficient structure for performing the claimed function the Examiner concludes that Functional Phrase #1 and Functional Phrase #2 meets invocation Prong (C).

Because, as verified above, Functional Phrase #1 and Functional Phrase #2 meet the 3 Prong Analysis as set forth in MPEP §2181 I., the Examiner concludes that Functional Phrase #1 and Functional Phrase #2 invoke § 112 ¶ 6.

d) Corresponding Structure for Functional Phrase #1 and Functional Phrase #2.

The Examiner finds that the corresponding structures, that follow, are computer based algorithms. For example, as noted above, each phrase begins with "computer program code." As such a PHOSITA would expect the corresponding structure to be computer based.

With that said, the Examiner notes that the 698 Patent Specification is written in narrative/conversational format. As such, the specification does not include a particular flow

chart for the algorithms. For that reason, the Examiner finds that based upon the claim language, the algorithms required to realize the claimed functions are written in Prose. Accordingly, the algorithms must be grasped from several sections of the specification. See MPEP §2181 II. B. at ¶5, supporting such an approach in finding support for algorithm.

5 The Examiner finds the corresponding structures are as follows.

1. For Functional Phrase #1: Based upon a review of the original disclosure, the Examiner finds that the corresponding structure for Functional Phrase #1 must include the algorithm for what is generally called in the 698 Patent as "Monitoring." (FP#1 requires monitoring). As such a review of the specification the Examiner finds that the corresponding structure must include the underlying steps of "Monitoring," as recited in the 698 Patent at
10 C12:L5 - 40 and other sections as outlined below. Accordingly, the corresponding structure is part of a portable device, such as a cell phone or portable computer (See 698 Patent, at C11:L18 - 38, discussing the invention is on a portable RF communication device such as cellular telephones or RF Device like communication enabled portable computer). The corresponding
15 structure including and inherent processor with storage memories connected to an inherent radio frequency transceiver (Inherent: The 698 Patent does not describe the circuits of the portable device, but at C11:L18 - 38, and C14:L29 - 61 but states the invention requires reception of RF signals, analysis, storage, and comparison of station ID's and signal measurements, thus inherent processor, memories, and transceivers.). The corresponding structure further including an
20 algorithm stored in the memories generally disclosed as the Monitoring Step (698 Patent C12:L48 - 54) the algorithm including more specific underlying steps or pre-steps expressly or inherently disclosed as including inter alia:

(1) Causing the transceiver to monitor for wireless signals surrounding stations by scanning and tuning to those signals (Inherent: C12:L5 - 10 expressly states that the invention requires the portable device to monitor receives RF signals. As noted above the device is a cell phone or portable computing device. At C19:L64 - 67 to C20:L1 - 6, the example is GSM

5 Broadcast Control Channel, 'BCCH,' being monitored by the phone. Thus monitor inherently requires scanning to find the signals then tuning to receive them.);

(2) Receive communication signals from the stations (C12:L5 - 10).

(3) Detect, identify, and store stations ID's (C12:L18 - 26, C12:L48-65. The claim in FP#2 requires matching ID's identified in FP#1. Thus to FP#2 the ID's in FP#1 must be detected,
10 identified and stored.);

(4) Measure the signal strength of the received signals (C6:L10 - 12, C12:L10 - 12, FP#1 requires measuring a signal characteristic other than the ID.);

(5) Store the power of the received signals as a particular number representing signal strength (Inherent: C6:L10 - 12, C12:L10 - 12, as noted above, FP#2 requires a comparison of a
15 number representing the measurement in FP#1. Thus some number must be stored.).

2. For Functional Phrase #2: Based upon a review of the original disclosure, the Examiner finds that the corresponding structure for Functional Phrase #2 must include the algorithm for what is generally called in the 698 Patent as part of the "Monitoring Algorithm," along with "Recording," and "Determining," as recited in the 698 Patent at C11:L39 - 40,
20 C12:L1-4, and C12:L27 - 65. Due to the claim language steps from other sections as outlined below are also required. Accordingly, the corresponding structure is part of a portable device, such as a cell phone or portable computer (See 698 Patent, at C11:L18 - 38, discussing the invention is on a portable RF communication device such as cellular telephones or RF Device

like communication enabled portable computer). The corresponding structure including and inherent processor with storage memories connected to an inherent radio frequency transceiver (Inherent: The 698 Patent does not describe the circuits of the portable device, but at C11:L18 - 38, and C14:L29 - 61 but states the invention requires reception of RF signals, analysis, storage, and comparison of station ID's and signal measurements, thus inherent processor, memories, and transceivers.). The corresponding structure further including an algorithm stored in the memories generally disclosed as including inter alia:

(1) Accepting and input from a user of the device indicating that a current location is a location should be recorded and stored (Inherent: See FP#2 requiring "*a location entered by a user.*" See 698 Patent C11:L39 - 67 and C18:L1 - 54, the user selects a location., Thus the phone must detect an input requiring the selection.)

(2) Causing the transceiver to monitor for wireless signals from surrounding stations by scanning and tuning to those signals (Inherent: C11:L39 -58, C18:L17 - 25 expressly states that the invention requires the portable device to receives RF signals in that selected location. As noted above the device is a cell phone or portable computing device. At C19:L64 - 67 to C20:L1 - 6, the example is GSM Broadcast Control Channel, 'BCCH,' being monitored by the phone. Thus monitor inherently requires scanning to find the signals then tuning to receive them.);

(3) Causing the transceiver to receive communication signals from the surrounding stations at the user selected location (C11:L39 -58, C18:L17 - 25).

(4) Detect, identify, and store stations ID's at the user specified location (As noted above, FP#2 requires comparing ID's at the user selected location and the ID's from FP#1 above. This is described as an algorithm step at C12:L40 - 65 and C18:L25 - 40. Because FP#2 requires

matching ID's identified in FP#1. Thus to FP#2 the ID's at the selected location must be detected, identified and stored.);

(5) Measure the signal strength of the received signals, at the user selected location (See C11:L1-58 and C18:L18 - 25, and See FP#2 requiring comparing the signal strengths as the user specified location with those from FP#1 at a monitored location, i.e. a first location.);

(5) Store the power of the received signals, at the user specified location, as a particular number representing signal strength (C6:L5 - 8, C11:L59 - 62, as noted above, FP#2 requires a comparison of a number representing the measurement in FP#1. Thus some number must be stored.);

(6) Compare the stored ID's of the user selected location with the stored ID's of the Monitored, location of FP#1. (C12:L17 - 26).

(7) Compare the signal strength numbers of the user selected location to the signal strength numbers of the monitored locations. (C12:L30 - 40 and C15:L33-45).

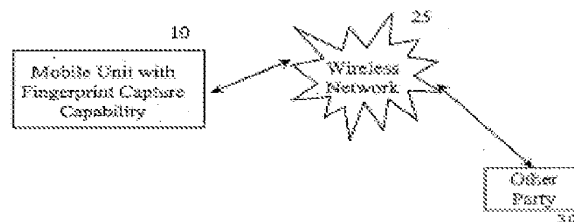
15

VII. Prior Art Rejections

A) Claims 24 - 29, 31, and 32 is/are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Perez-Breva et al. (Pub. # US 2005/0037776) in view of Sheynblat (Pub. No. US 2006/0089153).

(1) Regarding 24 Perez-Breva discloses **a method of determining whether a portable RF communications device** (10, Figure 1, reprinted below) **is present at a device-specific target location** (See Perez-Breva at Par [0006] [0027] [0038], discussing a need to determine if the mobile unit is at a location.). Perez-Breva discloses **the method comprising:**

with the portable RF communications device automatically: (a) receiving a first plurality of communications signals, each from one of a first plurality of antenna stations within range of the portable RF communications device (See Perez-Breva at Par [0024], [0025], [0038] and [0055], the mobile captures signals from various transmitting station at it's current location.).



5

- Perez-Breva (Pub. # US 2005/0037776), Figure 1.

Perez -Breva discloses **each containing an identifier, wherein the antenna stations are fixed-location service-area antenna stations and are substantially continuously operating** (See Perez-Breva Figure 9 below at Par [0024], [0030] [0033], [0025], [0038] and [0055],

10 discussing that the mobile station also captures and identification of the frequency of the communication signals from transmitters and frequencies identifying the signal such as cell towers or TV and radio transmitters at particular frequencies. As shown in Figure 9 ID's and signal characteristics are tabulated per frequency. Accordingly, the communication signals are tabulated and identified by frequency.).

15

400	Fingerprint Structure					
401	Time of Capture:					
402	Station ID:	S1	S2	S3	...	Sn
403	Frequency:	F1	F2	F3	...	Fn
404	Tuning Parameters:	P1	P2	P3	...	Pn
405	Transmitter Location:	L1	L2	L3	...	Ln
406	Signal Strength 1:	S11	S12	S13	...	S1n
407	Signal Strength 2:	S21	S22	S23	...	S2n
408	...	...	...	...	...	...
409	Signal Strength m:	Sm1	Sm2	Sm3	...	Smn

- Perez-Breva, Figure 9.

Perez-Breva discloses (b) **determining whether the portable RF communications device is within proximity of the device-specific target location by electronically comparing at least one number based on signal characteristics of the first plurality of communications signals with at least one number based on corresponding signal characteristics of a second plurality of communication signals of a second plurality of antenna stations, each of which second plurality of communication signals contains an identifier matching one of the identifiers of the first plurality of communication signals** (See Perez-Breva at Par [0038], Par [0040] to [0042], [0045], and Par [0055] where signal fingerprint matching includes determining first and second stations are using the same channel at a particular latitude and longitude, thus same identifiers to determine location).

Perez-Breva discloses (c) **wherein the second plurality of antenna stations have previously been identified as being within range of the same location as the device-specific target location, and the signal characteristics of the second plurality of communication signals have previously been determined for the same location as the device-specific target location** (See Perez-Breva at Par [0055], discussing that all of the signal characteristics for each

station have been collected prior to the algorithm starting, i.e. the fingerprints are taken prior to the location determining.), and

(a) Perez-Breva does not expressly disclose **(d) wherein the signal characteristics that are compared include at least one signal characteristic that, for each of the second plurality of antenna stations, differs at different locations within that antenna station's range.**

(b) In related art Sheynblat discloses a location-determining method, operable by a first portable RF communications device (See Sheynblat, Item 2, Figure 1 below, and Par [0017] and [0022], discussing a mobile station 2 accessing it's own location.).

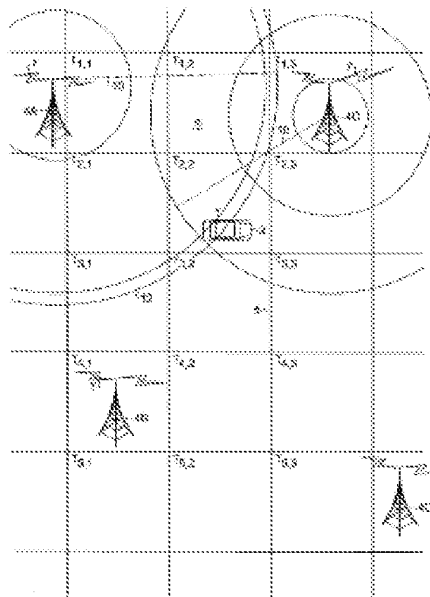


Fig. 1

10

- Sheynblat (Pub. # U.S. 2006/0089153), Figure 1.

(c) Sheynblat teaches **wherein the signal characteristics that are compared include at least one signal characteristic that, for each of the second plurality of antenna stations, differs at different locations within that antenna station's range** (See Par [0021]

[0024] [0025] [0029], discussing that the mobile is measuring characteristics such as RSSI and TOA that differ depending on range thus defining a different area in the grid.).

(d) The Examiner find that it would have been obvious to a person of ordinary skill in the art on or before the time of the claimed invention to make the modification because:

5 (i) Teaching Suggestion: Perez-Breva is concerned with using received signal strength (RSSI) finger printing techniques (Perez-Breva at Par [0020] [0030]), and Sheynblat suggests a need to enhance RSSI (Sheynblat Par [0008]). Additionally the Examiner finds that a person of ordinary skill in the art at the time of the invention could have made the modification with reasonable expectation of success because the function
10 of measuring characteristics is the same. All that is necessary is to simply substitute known characteristics recited in Sheynblat for the characteristic being measured in Perez-Breva (See Perez-Breva at Par [0003], discussing that using different signal characteristics such as angle of arrival or time different of arrival were well known.). Because those characteristics are well known a PHOSITA could reasonably expect
15 success when making the modification.

(ii) KSR: Alternatively, and instead of the teaching suggestion motivation directly above, the Examiner finds that the modification is also supported by KRS Rational (B) "Simple Substitution of One Known Element for Another To Obtain Predictable Results.": For example al Perez-Breva is teaching a system that differs from
20 the claimed system by using different signal characteristic for measurement and comparison (Perez-Breva at Par [0020] [0030], discussing RSSI but not actually using another signal characteristic.). Sheynblat shows the element being substituted was known in the art (Sheynblat Id. at Par [0024]). Additionally, the Examiner finds that a

person of ordinary skill in the art at the time of the invention could have made the substitution and the results would have been predictable (See Perez-Breva at Par [0003], discussing that using different signal characteristics such as angle of arrival or time different of arrival were well known and being used at the time of the invention. Because they are well known, a PHOSITA would have the skill set and could make a substitution expecting the substitution would yield predictable results.).

(2) Regarding claim 25, Perez-Breva combined with Sheynblat disclose the method of claim 24 wherein part (a) is performed iteratively, with a predetermined time delay between successive iterations (See Perez-Breva Par [0047], discussing refinements of the location by several iterations).

(3) Regarding claim 26, Perez-Breva combined with Sheynblat disclose the method of claim 24 wherein the portable RF communications device is determined to be within proximity of the target location if the at least one number based on the signal characteristics of the first plurality of communications signals and the at least one number based on corresponding signal characteristics of a second plurality of communication signals of a second plurality of antenna stations are related within a predetermined threshold (See Perez-Breva Par [0036] [0040] [0043] [0044] discussing the fingerprints with the closets match are determined to be the location based upon integrations of matching other fingerprints. See Also Sheynblat at Par [0004] discussing that the look up token within a predetermined threshold is selected.).

(4) Regarding claim 27, Perez-Breva in view of Sheynblat discloses the method of claim 24 further comprising passing an indicia to a computer program application running on the portable RF communications device indicating that the device is one of: (i) at the device-specific target location, or (ii) no longer at the device-specific target location (See Perez-Breva at Par

[0006] [0038] stating that the results can be transmitted to another station. See Sheynblat at Par [0031] stating the location gets displayed possible as a street address. Thus an indicia to software.).

(5) Regarding claim 28, Perez-Breva in view of Sheynblat he method of claim 24
5 further comprising launching a computer program application on the portable RF communications device when the device is at the device-specific target location (See Perez-Breva at Par [0006] [0038] stating that the results can be transmitted to another station. See Sheynblat at Par [0031] stating the location gets displayed possible as a street address. Thus launching a computer program to display the location.).

10 (6) Regarding claim 29, Perez-Breva in view of Sheynblat disclose the method of claim 24 wherein part (b) is performed iteratively, with a predetermined time delay between successive iterations (See Perez-Breva Par [0047], discussing refinements of the location by several iterations).

(7) Regarding claim 31, Perez-Breva in view of Sheynblat disclose the method of
15 claim 24 wherein part (b) is performed upon request from a computer program application running on the portable RF communications device (See Perez-Breva at Par [0025] [0029] discussing that once a location is requested the mobile device activates an element including software.

(8) Regarding claim 32, Perez-Breva in view of Sheynblat The method of claim 24
20 wherein part (b) is performed upon the portable RF communications device switching the base station with which it is registered (See Perez-Breva at Par [0049] discussing that the algorithm is based upon the base station handling the call. Thus registered. See Sheynblat Figure 1 and Par

[0021] discussing that the mobile is moving and picking up pilots of different base station, thus inherently as the mobile switches BS that it is registered.).

B) Claims 30 is/are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over
5 Perez-Breva et al. (Pub. # US 2005/0037776) in view of Sheynblat (Pub. No. US
2006/0089153) and further in view of Copley et al. (Pub. # US 2005/0068169).

Regarding claim 30, Perez-Breva in view of Sheynblat discloses the method of claim 24
wherein part (b) is performed and takes into account the rate of change of the mobile (See Perez-
Breva at Par [0041] to [0047], and Par [0051]. Discussing improving accuracy based upon rate of
10 change of the mobile. See Sheynblat Par [0007] discussing determining speed of the mobile
device.).

However, Perez-Breva and Sheynblat do not expressly disclose, part (b) is performed
depending on the rate of change of the user's location.

In related art Copley is discussing location monitoring (abstract) and teaches part (b) is
15 performed depending on the rate of change of the user's location (See Copley at Par [0070]
discussing that the data can be sent more or less often depending on motion, for example
when the device has not moved for a long period.).

Accordingly, Perez-Breva and Sheynblat as modified by Copley shows a system where
part (b) is performed depending on the rate of change of the user's location.

20 The Examiner find that it would have been obvious to a person of ordinary skill in the art
on or before the time of the claimed invention to make the modification, because:

(i) Teaching Suggestion: Perez-Breva and Sheynblat are concerned with
tracking location of mobiles (See discussion above). And Copley suggest a need for

better location finding where the tracked device could be stationary or moving (Copley at Par [0003] [0007]). Additionally the Examiner finds that a person of ordinary skill in the art at the time of the invention could have made the modification with reasonable expectation of success because the function is simply an addition to a location finding techniques that was already concerned with movement of the device and thus people in the field new how rate of change could be tracked (See Perez-Breva at Par [0041] to [0047], and Par [0051]. Discussing improving accuracy based upon rate of change of the mobile. See Sheynblat Par [0007] discussing determining speed of the mobile device.).

(ii) KSR: Alternatively, and instead of the teaching suggestion motivation directly above, the Examiner finds that the modification is also supported by KRS Rational (D) " Applying a Known Technique to a Known Device (Method, or Product) Ready for Improvement To Yield Predictable Results.": For example al Perez-Breva and Sheynblat are teaching a base system where adding the rate of change determination as claimed would be an improvement (Perez-Breva at Par [0006] [0020] [0030], discussing tracking the location of a device and compiling the locations. And Sheynblat Figure 1, item 2 showing and automobile, thus the potential for different rates of movement.). And Copley shows that the there were location system at the time that had the known improvement (see discussion above.). Additionally the Examiner finds that a person of ordinary skill in the art at the time of the invention could have made the addition and the results would have been predictable because the function of tracking rate of change is simply tracking time between two locations and performing a mathematical operation known to the skilled artesian (See Perez-Breva at Figure 9 showing that the systems at the time were tracking the time the location was captured.).

VIII. Claims Patentable and/or Confirmed

Claims 1 - 23 are confirmed over the prior art of record. The following is a statement of the Examiners reason for confirmation.

Regarding claim 1: The prior art of record de Clerq (Pub. No. US 2005/0094610);

5 Sheynblat (Pub. No. US 2006/008915); Copley (Pub. No. US 2005/0068169); and Perez-Breva (Pub. No. US 2005/0037776) fail to teach:

"the first portable RF communications device determining if a first monitored location, monitored in accordance with part (a), is within proximity of a location chosen by a user of the first portable RF communications device, as a result of electronically comparing (i) the at least
10 *one ID at the first monitored location with at least one ID at the location chosen by the user and*
(ii) at least one number based on the varying signal characteristic of the communications signals
from each of the first plurality of antenna stations at the first monitored location with at least
one number based on corresponding varying signal characteristics of the communications
signals from each of the first plurality of antenna stations at the location chosen by the user,"
15 **("Confirmed Feature of Claim 1")**, as in claim 1 lines 15 - 28.

The Examiner takes this position because, claim 1 as a whole is directed to "*a location - determination method, operable by a first portable RF communication device,*" as in claim 1 lines 1 - 2.

To determine it's location the *first portable RF communication device* performs both of
20 monitoring it's location, for example, in claim 1 lines 3 - 14 (i.e. Part (a)), then determining it's location, for example in claim 1 lines 15 - 28 (i.e. Part (b)). As noted above, the Examiner has named Part (b) the Confirmed Feature of Claim 1 because it is not taught by the prior art of record as follows.

First, the Examiner finds that Part (a) of claim 1, e.g. lines 9 - 10, essentially states that the first portable RF communication device receives communication signals from surrounding stations and identifies at least one ID in those signals. Additionally, Part (a) of claim 1, e.g. lines 10 - 14 essentially requires that the first portable RF communication device measure signal
5 characteristics, other than the ID of signals.

Second, the Examiner finds that Part (b) of claim 1 lines 19 - 21, i.e. the Confirmed Feature of Claim 1, essentially states that the first portable communication device compare the ID determined in Part (a) with a at least one ID at a location chosen by the user. Additionally, Part (b) of claim 1 lines 21 - 28 essentially states that the first communication device compares a
10 number determined from the signal characteristics, determined in Part (a), to a number determined from the signal characteristics at a location chosen by the user.

Third, in summary, looking at the prior art or record, the Examiner finds that the combination of the references would teach Part (a) of claim 1 and additionally would teach only the ID matching of Part (b), however, not both of the ID matching and signal characteristic
15 matching of characteristics at a location chosen by the user. In more detail the Examiner notes the following:

de Clerq (Pub. No. US 2005/0094610) is the closets reference of record. de Clerq teaches monitoring and acquiring the identification of an ID of the monitored signals as in claim 1 Part (a) (See Par [0034] Id's of stations 14a, 14b, 14c, and 14d are received). de Clerq further teaches
20 comparing the ID monitored Part (a) to an ID of a user chosen location as required by claim 1 Part (b) (See de Clerq, Id. at Par [0034], and further at Par [0040] stating that the user had preprogrammed the ID's). In addition, de Clerq implies monitoring the signal characteristic as

required by claim 1 Part (a), however, does not describe the monitoring in detail such that it can be applied to claim 1.

For that reason the Examiner finds that de Clerq at least teaches identifying the signals ID's as in Part (a) of claim 1 and comparing that ID to an ID of a location chosen by the user, as
5 in Part (b) of claim 1. However, does not teach the monitoring of signal characteristics then comparing those to signal characteristics of a location chosen by the user as in claim 1 Part (a) and Part (b).

The Requester in EXHIBIT AA, at p. 24 , states that de Clerq teaches the above noted feature of comparing signal characteristics. For example the Requester maps de Clerq at Par
10 [0036] to [0038] to that feature of claim 1, Part (b), where de Clerq teaches that the location determination can be enhanced by using other location determination definitions such as signal strength or triangulation. However the Examiner finds that those sections of de Clerq only imply some type of signal characteristic matching takes place. However, those sections do not explain the technique. For example, in Par [0038] de Clerq states that signal strength can be matched to a
15 location definition. The Examiner finds that such a statement may imply that signal characteristics at a user chosen location have been stored. As such, the Requester equates those sections to Part (b) of claim 1, i.e. claim 1 lines 21 - 28, requiring comparing a number determined from the signal characteristics determined in Part (a) to a number determined from the signal characteristics at a location chosen by the user.

20 However, after review of de Clerq the Examiner finds that de Clerq does not explain the signal strength definitions. Therefore it is unclear if de Clerq's discussion of a using a signal strength definition equates to the feature in claim 1 Part (b) of "*comparing . . . at least one number based on the varying signal characteristic of the communications signals from each of*

the first plurality of antenna stations at the first monitored location with at least one number based on corresponding varying signal characteristics of the communications signals from each of the first plurality of antenna stations at the location chosen by the user," as in claim 1 Part (b), i.e. claim 1 lines 21 -28. After a detailed review of de Clerq at Par [0036] to Par [0038], the

5 Examiner finds that de Clerq is discussing location finding with respect to Figure 5. As shown in Figure 5, the terminal 10, at a location, may also receive signals from devices 14e and 14f from two other locations. To enhance it's location determination using the ID matching process, de Clerq states that signal strength or triangulation can be used (de Clerq at Par [0036]). However, the Examiner finds that while de Clerq states in Par [0038] that the signal strength or

10 triangulation can be based upon a definition, the Examiner finds insufficient evidence that de Clerq expressly or inherently teaches that the signal strength definition is a definition based upon signal strength characteristics at a location chosen by the user. In other words the Examiner finds that the definition could be something else, such as a general strength vs. distance definition of the area supplied by for example system manufacturers. Therefore the Examiner

15 finds that de Clerq does not expressly or inherently disclose "*at least one number based on corresponding varying signal characteristics of the communications signals from each of the first plurality of antenna stations at the location chosen by the user,"* as required by Part (b) of claim 1, at lines 21 - 28. .

Because de Clerq does not expressly or inherently teach the feature of "*at least one*

20 *number based on corresponding varying signal characteristics of the communications signals from each of the first plurality of antenna stations at the location chosen by the user,"* as required by Part (b) of claim 1, at lines 21 - 28 the Examiner finds that de Clerq does not teach the Confirmed Feature of Claim 1.

The Examiner finds that Sheynblat (Pub. No. US 2006/008915) appears to teach the needed feature of Part (b), i.e. matching currently measured signal strength characteristics to stored signal strength characteristics, and thus, matching numbers related to those characteristics. However, the Examiner finds insufficient evidence that Sheynblat expressly or inherently states that the stored characteristics are for locations chosen by a user. For example, Sheynblat teaches a mobile terminal, 2 in Figure 1, determining its approximate location by matching stored received signal strength Indicators (RSSI) finger prints (See Sheynblat, Abstract). Sheynblat Figure 6 discusses that the mobile makes measurements of the surrounding stations 4A, 4B, 4C, 4D, Figure 1 then compares those measurements to look up tokens. The look up tokens being stored signal strength data (Sheynblat Par [0022] [0030] [0033] [0034]). Sheynblat states that the approximate location is determined by matching the best correlated token (Id.). Sheynblat states that the mobile could use the station ID and the signal strength token to get the location (Par [0029]). However, the Examiner finds that Sheynblat does not expressly or inherently teach that the station ID's or strength maps are for locations location chosen by the user, as required by claim 1. Rather, the station ID's are observed from the signals received by the mobile (Id.). Sheynblat then states then and the signal strength maps associated with the ID's are downloaded to the mobile terminal from the communication system, where a comparison is made to determine a map location or street address (See Sheynblat at Par [0019] to [0022] and Par [0030] to [0034]).

Because neither of the station ID's or signal strength RSSI characteristic are stored for locations chosen by the user, the Examiner finds that Sheynblat alone does not teach the Confirmed Feature of Claim 1 requiring "*comparing . . . at least one number based on the varying signal characteristic of the communications signals from each of the first plurality of*

antenna stations at the first monitored location with at least one number based on corresponding varying signal characteristics of the communications signals from each of the first plurality of antenna stations at the location chosen by the user," as in claim 1 Part (b), i.e. claim 1 lines 21 - 28.

5 Additionally, as noted above, the same feature was missing in de Clerq. Accordingly, because Sheynblat does not teach "*comparing . . . at least one number based on the varying signal characteristic of the communications signals from each of the first plurality of antenna stations at the first monitored location with at least one number based on corresponding varying signal characteristics of the communications signals from each of the first plurality of antenna*
10 *stations at the location chosen by the user*," as in claim 1 Part (b), i.e. claim 1 lines 21 -28, the Examiner finds that the combination of de Clerq with Sheynblat would not teach the Confirmed Feature of Claim 1.

Perez-Breva (Pub. No. US 2005/0037776) is similar to Sheynblat. Perez-Breva teaches a mobile station that compares stored location RF fingerprints, i.e. signal strength data, to currently
15 measured location fingerprints (Perez-Breva at Par [0024] [0029] [0030]). The mobile compares the fingerprints with those in a data base and determines it's location (Perez-Breva at Par [0036]). However, the Examiner finds that Perez-Breva does not expressly or inherently disclose that the stored fingerprint data is for a location specified by the user. Accordingly, Perez-Breva cannot teach the determined location is found by comparing a number representing the varying signal
20 characteristics of a monitored location to those of a location chosen by the user. Therefore the Examiner finds that Perez Breva does not teach "*comparing . . . at least one number based on the varying signal characteristic of the communications signals from each of the first plurality of antenna stations at the first monitored location with at least one number based on corresponding*

varying signal characteristics of the communications signals from each of the first plurality of antenna stations at the location chosen by the user," as in claim 1 Part (b), i.e. claim 1 lines 21 - 28.

Additionally, as noted above, because neither of de Clerq or Sheynblat teach

5 *"comparing . . . at least one number based on the varying signal characteristic of the communications signals from each of the first plurality of antenna stations at the first monitored location with at least one number based on corresponding varying signal characteristics of the communications signals from each of the first plurality of antenna stations at the location chosen by the user," as in claim 1 Part (b), i.e. claim 1 lines 21 -28, the Examiner finds that the*
10 combination of de Clerq, Sheynblat, and Perez-Breva would not teach the Confirmed Feature of Claim 1.

Copley (Pub. No. US 2005/0068 169) is another reference disclosing a mobile station 134
Figure 1, finding it's own location (See step 302, Figure 3). Copley states that the mobile device can track it's own location using cell towers (Par [0067]). Copley states that the mobile can have
15 locations stored and match those locations to measured locations to determine if the mobile is in one of those locations (Par [0067] [0070] [0106]). However, the Examiner finds insufficient evidence that Copley gives details of how the locations are stored, i.e. by station ID and signal characteristics, and if those locations are stored as locations chosen by the user. Therefore the Examiner finds that Copley does not teach *"comparing . . . at least one number based on the*
20 *varying signal characteristic of the communications signals from each of the first plurality of antenna stations at the first monitored location with at least one number based on corresponding varying signal characteristics of the communications signals from each of the first plurality of*

antenna stations at the location chosen by the user," as in claim 1 Part (b), i.e. claim 1 lines 21 - 28.

Additionally, as noted above, because neither of de Clerq, Sheynblat, or Perez-Breva teach "*comparing . . . at least one number based on the varying signal characteristic of the communications signals from each of the first plurality of antenna stations at the first monitored location with at least one number based on corresponding varying signal characteristics of the communications signals from each of the first plurality of antenna stations at the location chosen by the user,*" as in claim 1 Part (b), i.e. claim 1 lines 21 -28, the Examiner finds that the combination of de Clerq, Sheynblat, Perez-Breva, with Copley would not teach the Confirmed Feature of Claim 1.

Regarding claim 23: The prior art of record de Clerq (Pub. No. US 2005/0094610); Sheynblat (Pub. No. US 2006/008915); Copley (Pub. No. US 2005/0068169); and Perez-Breva (Pub. No. US 2005/0037776) fail to teach the corresponding structure for Functional Phrase #2. The corresponding structure for Functional Phrase #2 is outlined above in this action in the section entitled "Claim Interpretation." The Corresponding structure for Functional Phrase #2 requires at least a portable device with processor and special programming that cause the device to: (1) accept input from a user of the device indicating that a current location is a location should be recorded and stored; (2) Cause the transceiver to monitor for wireless signals from surrounding stations by scanning and tuning to those signals; (3) Cause the transceiver to receive communication signals from the surrounding stations at the user selected location; (4) Detect, identify, and store stations ID's at the user specified location; (5) Measure the signal strength of the received signals, at the user selected location; (6) Store the power of the received signals, at the user specified location as a particular number; (7) Compare the stored ID's of the user

selected location with the stored ID's of the monitored, location; (8) Compare the signal strength numbers of the user selected location to the signal strength numbers of the monitored locations.

As noted above, de Clerq, Sheynblat, Perez-Breva, with Copley do not store the ID and strength values, i.e. signal characteristics a user specified location then determine the location of the device based upon the current monitored location received ID matching the stored user location ID and the signal characteristics of the user selected location with the current monitored location. Thus de Clerq, Sheynblat, Perez-Breva, with Copley do not teach a structure with the algorithm of Functional Phrase #2 that would realized such a function.

10 **IX. Notices Regarding Patent Owners Correspondence Address**

Effective May 16, 2007, 37 C.F.R. § 1.33(c) has been revised to provide that:

The patent owner's correspondence address for all communications in an Ex Parte reexamination or an Inter Partes reexamination is designated as the correspondence address of the patent.

15 **Revisions and Technical Corrections Affecting Requirements for Ex Parte and Inter Partes Reexamination, 72 FR 18892 (April 16, 2007) (Final Rule).**

The correspondence address for any pending reexamination proceeding not having the same correspondence address as that of the patent is, by way of this revision to 37 CFR 1.33(c), automatically changed to that of the patent file as of the effective date.

20 This change is effective for any reexamination proceeding which is pending before the Office as of May 16, 2007, including the present reexamination proceeding, and to any reexamination proceeding which is filed after that date.

Parties are to take this change into account when filing papers, and direct communications accordingly.

In the event the patent owner's correspondence address listed in the papers (record) for the present proceeding is different from the correspondence address of the patent, it is strongly encouraged that the patent owner affirmatively file a Notification of Change of Correspondence Address in the reexamination proceeding and/or the patent (depending on which address patent owner desires), to conform the address of the proceeding with that of the patent and to clarify the record as to which address should be used for correspondence.

10 **X. Conclusion and Correspondence Information**

Based upon the reasoning above, claims 1 - 23 are confirmed and claims 24 - 32 are rejected under § 103.

Extensions of time under 37 C.F.R. § 1.136(a) will not be permitted in these proceedings because the provisions of 37 C.F.R. § 1.136 apply only to "an applicant" and not to parties in a reexamination proceeding.

Additionally, 35 U.S.C. 305 requires that Ex Parte reexamination proceedings "will be conducted with special dispatch" (37 CFR 1.550(a)).

Extensions of time in Ex Parte reexamination proceedings are provided for in 37 CFR 1.550(c).

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Any inquiry concerning this communication or earlier communications from the Reexamination Legal Advisor or Examiner, or as to the status of this proceeding, should be directed to the Central Reexamination Unit at telephone number (571) 272-7705, or the Examiner can be reached directly at (571) 272-7876.

5

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