

Patent Owner e-Vision Smart Optics, Inc.

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King & Spalding LLP

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Independent Claim 11 (Grounds 4 and 7)

Independent claim 11

Claim 11	Limitation
[11P]	Eyewear comprising:
[11A]	an eyewear frame having a first temple and a second temple; and
[11B]	an application module mechanically coupled to the eyewear frame, the application module including a wireless chip to communicate with a wireless enabled device,
[11C]	wherein the wireless enabled device is configured to recognize a presence of a wearer of the eyewear based at least in part on communication with the wireless chip.

'960 patent eyewear application module

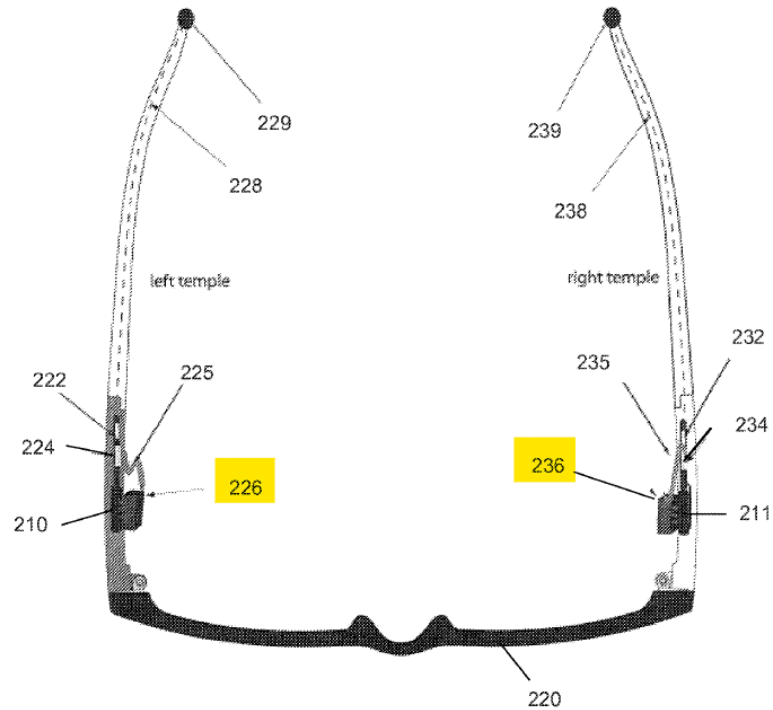


FIG. 3

EX-1001 ('960 patent), FIG. 3

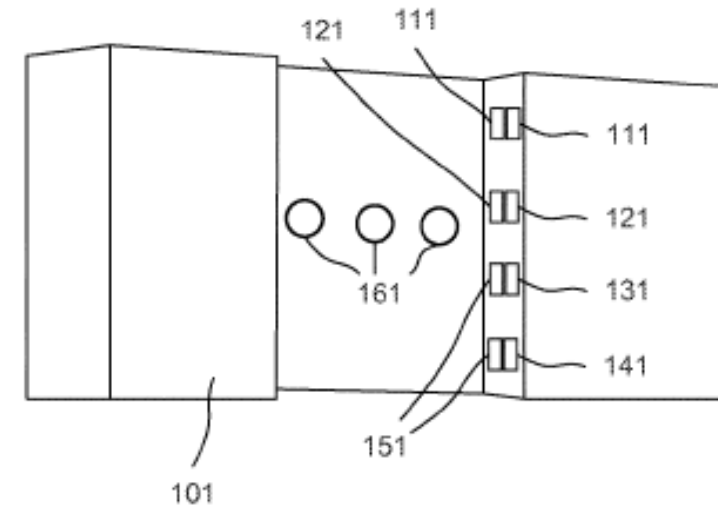


FIG. 2A

EX-1001 ('960 patent), FIG. 2A

Claim 11 is patentable

- **Ground 4 (Jannard-740 and Rosenblatt)**
 - Lack of motivation to combine
- **Ground 7 (Chen and Rosenblatt)**
 - Non-analogous art
 - Missing element – “application module”
 - Lack of motivation to combine

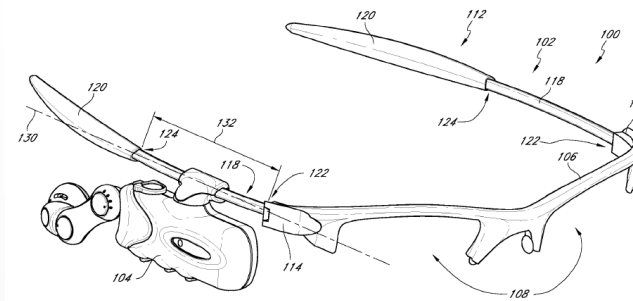


FIG. 3

EX-1005 (Jannard-740), FIG. 3

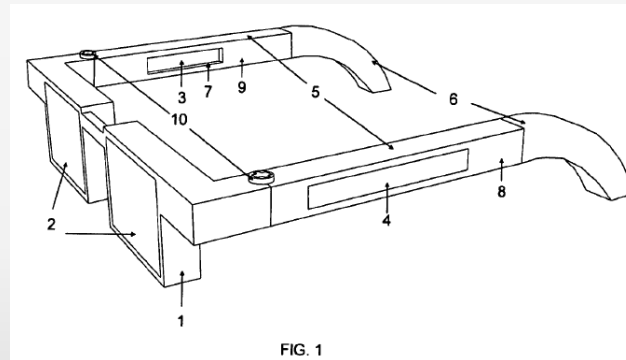


FIG. 1

EX-1010 (Chen), FIG. 1

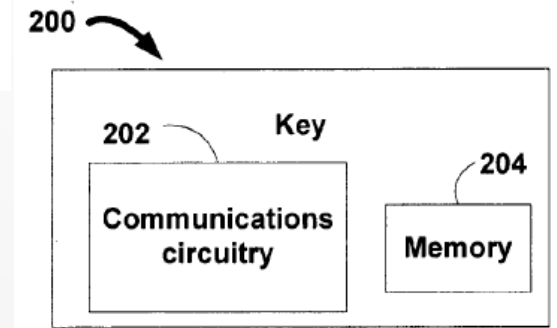


FIG. 2

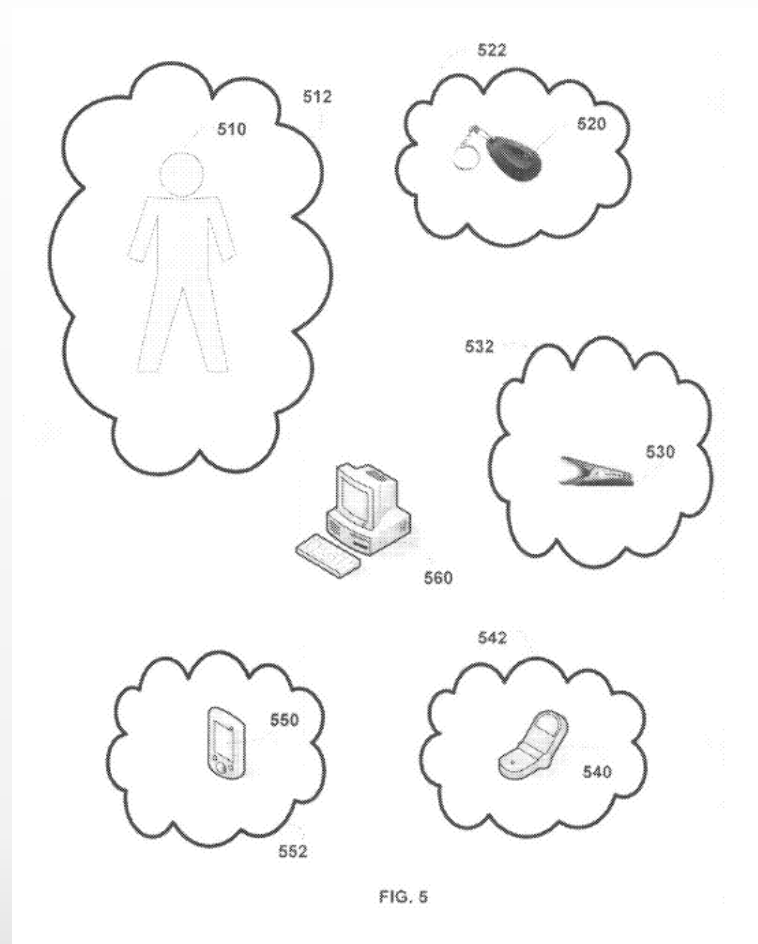
EX-1007 (Rosenblatt), FIG. 2

Ground 4 (Jannard-740 and Rosenblatt)

Rosenblatt describes many types of “keys”

[0007] The key may be incorporated or integrated in any suitable device. For example, the key may be a key fob, a card (e.g., a credit card shaped device), a portable drive (e.g., a flash drive), a widget (e.g., a coin-sized object), or any other suitable device or object that may be unobtrusively carried in or clipped to a user's pocket, bag, or other possession. In some embodiments, the key may be inserted inside a user (e.g., surgically inserted under a user's skin). In some embodiments, the key or its functionality may be incorporated in an electronic device, for example in a cellular telephone, a mobile communications device, a pocket-sized personal computer (e.g., an iPAQ or a Palm Pilot) a personal media device (e.g., an iPod), a camera, a video recorder, a computer (e.g., a laptop computer), a key (e.g., car keys), a remote controller, or any other suitable electronic device.

EX-1007 (Rosenblatt), ¶7



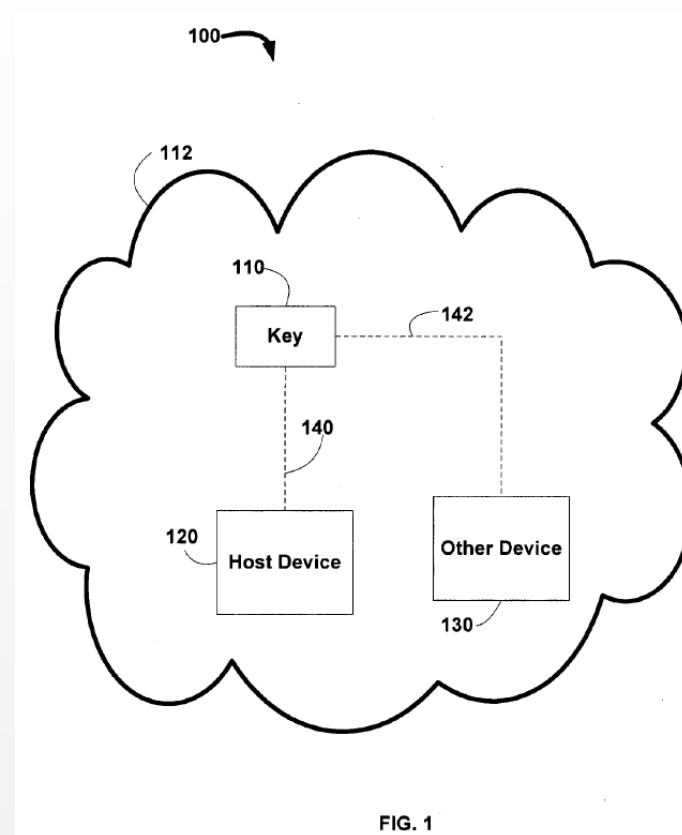
EX-1007 (Rosenblatt), FIG. 5

Ground 4 (Jannard-740 and Rosenblatt)

Different Rosenblatt “keys” have different components

[0030] In one embodiment, the short range communications circuitry may be integrated within the packaging of key 110 (e.g., integrated into a printed circuit board of the device), or in other embodiments, may be included in an accessory device that is docked or connected to device 110. The accessory device may be, for example, a relatively unobtrusive device that provides device 110 with short-range communicating functionality. Examples of key 110 may include, for example, a media player such as an iPod available by Apple Computer Inc., of Cupertino, Calif., a key fob, a cellular telephone, pocket-sized personal computers such as an iPAQ Pocket PC available by Hewlett Packard Inc., of Palo Alto, Calif., personal digital assistants (PDAs), a desktop computer, a laptop computer, and any other device capable of communicating wirelessly (with or without the aid of a wireless enabling accessory system). In some embodiments, key

EX-1007 (Rosenblatt), ¶30



EX-1007 (Rosenblatt), FIG. 1

Ground 4 (Jannard-740 and Rosenblatt)

Some “keys” have wireless functionality

“creates personal area networks.” (*Id.*, [0057]). The ability to create personal area networks, such as “WiFi hotspots” and “ad hoc networks” is a feature of wireless transceivers, including WiFi and Bluetooth chipsets used in desktops, laptop computers, tablets and smartphones. Although Rosenblatt includes a “key fob” and a “clip” alongside “mobile telephone” and “personal media device” as devices “harbor[ing] a key that creates personal area networks,” it is my opinion that a POSITA would have recognized that car key fobs and garment clips were not capable of housing and powering wireless transceivers capable of creating personal area networks, in contrast with cell phones and personal media devices that may contain wireless transceivers with that capability.

EX-2014 (Oliver Declaration), ¶49 (excerpted)

Ground 4 (Jannard-740 and Rosenblatt)

Rosenblatt “keys” having wireless functionality are inappropriate for eyewear

50. In addition to their size, processor, memory, storage and/or wireless transceiver components would contribute significant mass, which I would estimate at 20-50 grams for each chip. I estimate that this would make a typical system comprising processor, memory, storage, wireless transceiver, power circuitry and battery weigh about at least 100 grams, and in many cases significantly more. Moreover, those components would require more power than simpler RFID circuits and additional space would be needed for the power management integrated circuit (PMIC) or equivalent power circuitry and for an onboard battery large enough to supply the required power. As a result, a POSITA would view this first category of Rosenblatt keys as limited to very simple circuitry and incapable of encompassing

EX-2014 (Oliver Declaration), ¶50 (excerpted)

Ground 4 (Jannard-740 and Rosenblatt)

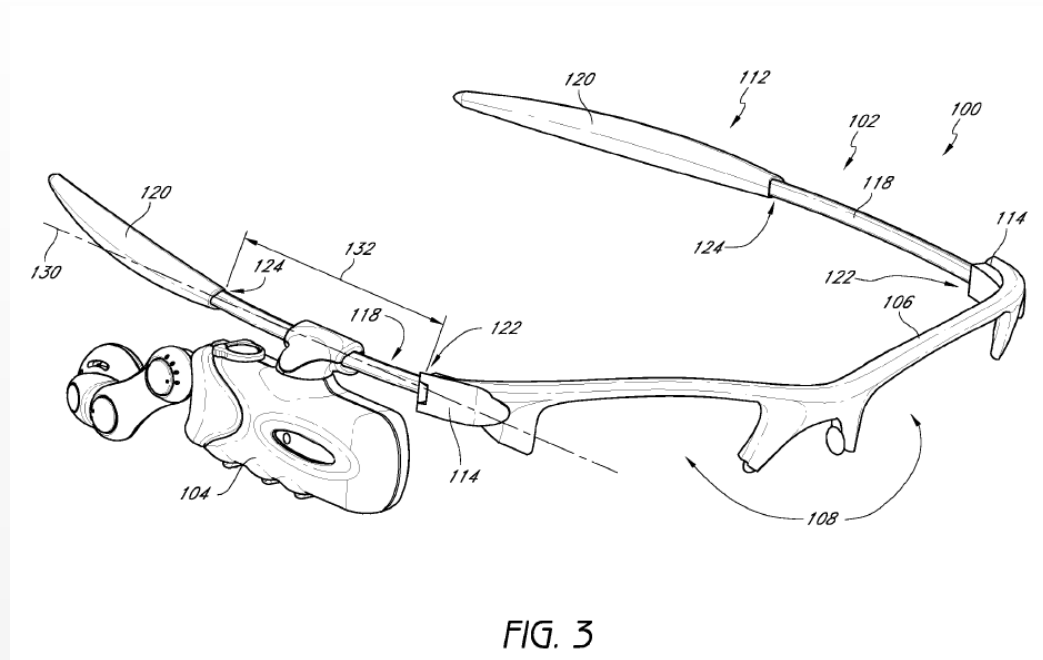
Rosenblatt “keys” having wireless functionality are inappropriate for eyewear

54. A further consideration for a POSITA is that the hardware components (processor, memory, storage and wireless transceiver) needed for Rosenblatt keys implemented in cellphones or computers would be joined together on a printed circuit board and enclosed in a case, which would add to their size and weight. Furthermore, electronic components give off heat during operation, and a POSITA must accordingly design the placement and enclosure for the hardware components to dissipate heat using passive (e.g., heatsinks, heat pipes) and/or active (e.g., fans) cooling solutions. The need for effective heat dissipation is accentuated when embedding electronics in small spaces as the heat increases as the size of the electronics shrinks. (See, e.g., Texas Instruments’ thermal calculator for simulated printed circuit boards, which reflects this relationship. (EX-2016)). Moreover, Heat

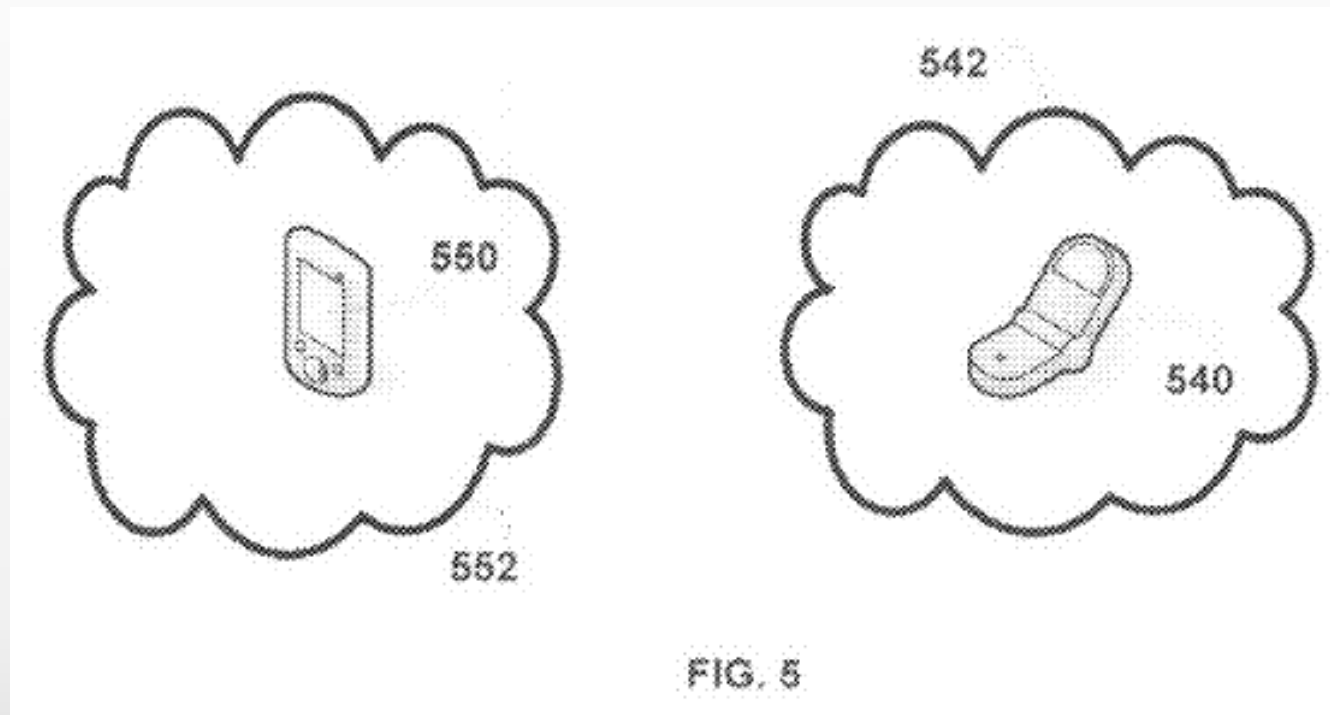
EX-2014 (Oliver Declaration), ¶54 (excerpted)

Ground 4 (Jannard-740 and Rosenblatt)

Lack of motivation to combine



EX-1005 (Jannard-740), FIG. 3

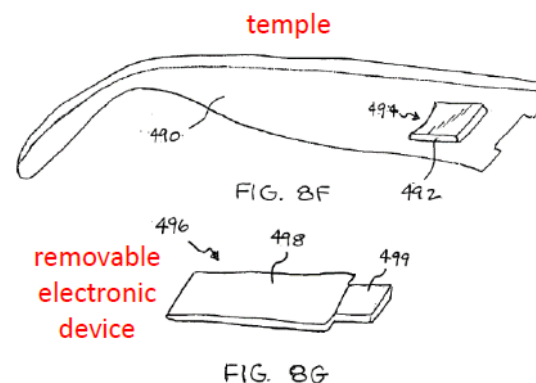


EX-1007 (Rosenblatt), FIG. 5 (excerpted)

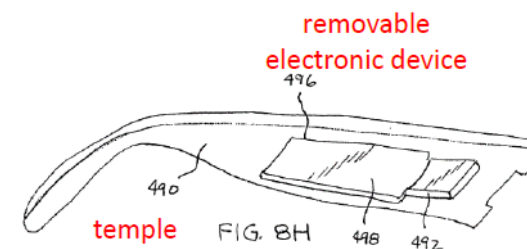
Ground 4 (Jannard-740 and Rosenblatt)

Petitioner did not raise Howell-158 in the Petition

In sum, Dr. Feland's testimony, supported by the record, confirms that a POSITA would have had a reasonable expectation of success when incorporating Rosenblatt's key or its functionality into Jannard-740's application module. Dr. Paper 28 (Reply), 11 (excerpted)



Howell-158, Figs. 8F-8G



Howell-158, Fig. 8H

Id., Figs. 8F-8H. According to Howell-158, its eyewear's "wireless coupling capabilities can be used to couple to a *Bluetooth network, the Internet, a WiFi network, a WiMax network, a cell-phone network or other types of networks.*" *Id.*, [0112] (emphasis added); *see also id.*, [0123].

Paper 28 (Reply), 11 (excerpted)

Ground 7 (Chen and Rosenblatt)

Lack of motivation to combine

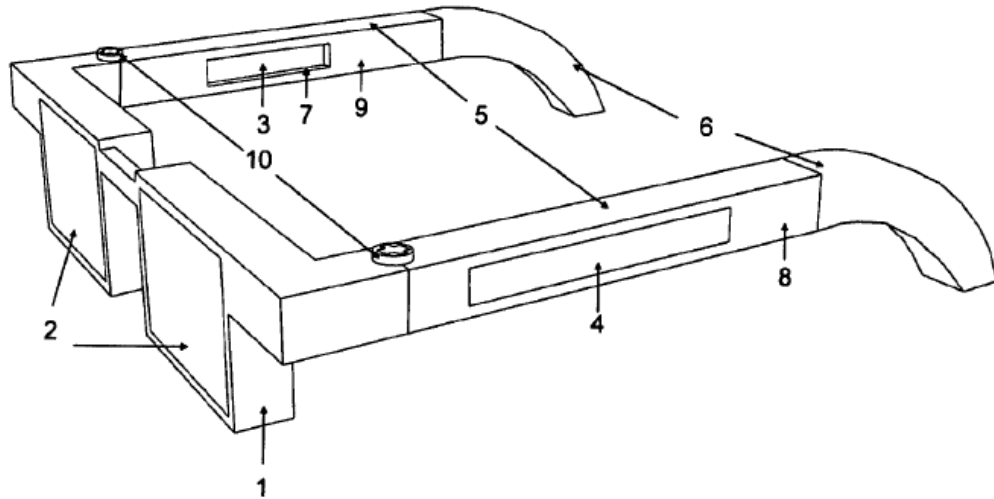


FIG. 1

EX-1010 (Chen), FIG. 1

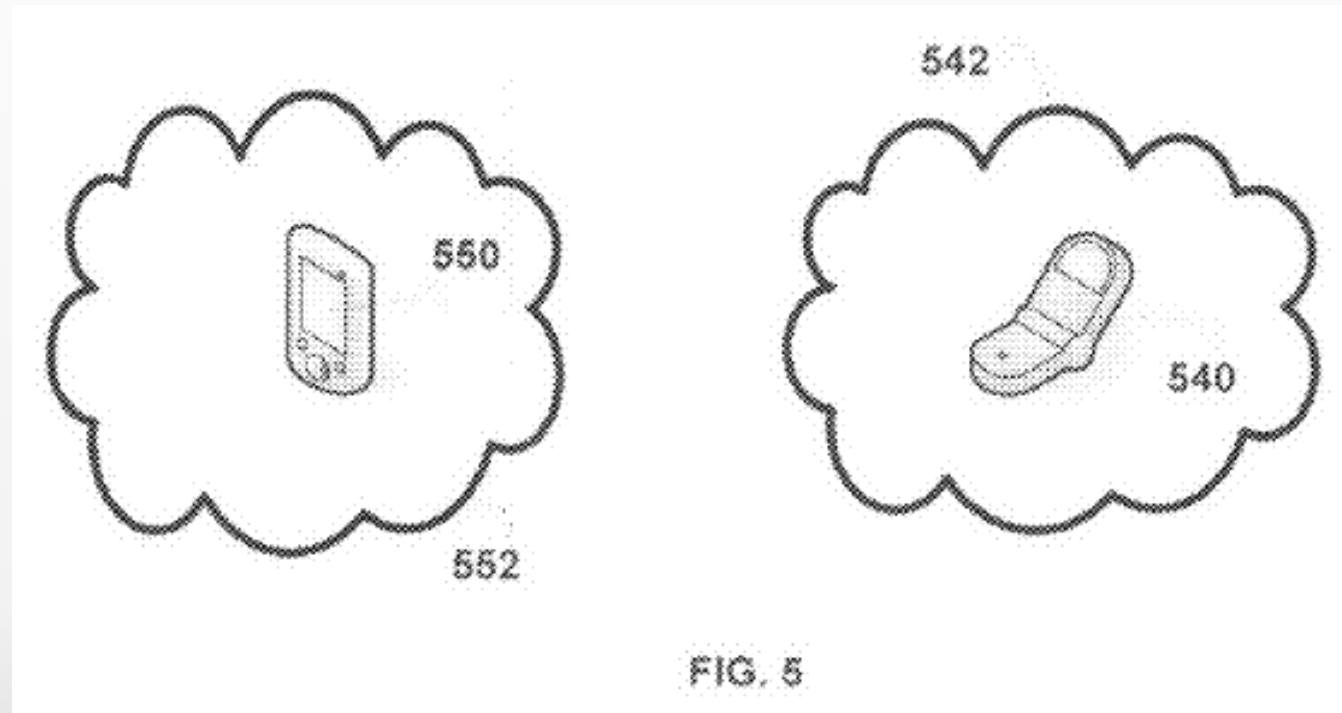


FIG. 5

EX-1007 (Rosenblatt), FIG. 5 (excerpted)

Ground 7 (Chen and Rosenblatt)

Chen is not from the same field of endeavor as the '960 patent

(57)

ABSTRACT

An eyewear system including an eyewear frame and an application module. The eyewear frame including a docking station, and an electronic connector including a first set of preconfigured application connection points. The application module adapted to be mounted to the docking station, and including an electronic device configured to perform a function, and a second set of preconfigured application connection points corresponding to at least some of the first set of preconfigured application connection points. The second set of preconfigured application connection points including at least two different sub-function connections used to support the function of the electronic device.

EX-1001 ('960 patent), Abstract

BACKGROUND

Today there are so many electronic devices each capable of providing an occupational benefit or personal benefit for the user. These electronic devices have been in many cases miniaturized. The modern world operates at a very high pace whereby being able to provide benefits to the user in a hands free manner is very efficient and beneficial. However, if one wants to purchase “fashionable” eyewear capable of being used for a plurality of functions beyond correcting the refractive error of the wearer and/or providing a tinted means to make the wearer’s eyes more comfortable, such eyewear does not exist. Needless to say there is a need for a single pair of fashionable eyewear capable of utilizing one or more of a multitude of different application devices while the wearer is wearing the eyewear.

EX-1001 ('960 patent), Background (excerpted)

Ground 7 (Chen and Rosenblatt)

Chen is not from the same field of endeavor as the '960 patent

FIELD OF THE INVENTION

In one aspect, the present invention relates to eyewear with temple assemblies that contain storage recesses and detachable temples, temple tips, or other temple attachments. In another aspect, the present invention is related to eyewear with temple components that provide additional functions. In yet another aspect, the present invention relates to prior works of art that provide thermal regulation of the head.

EX-1010 (Chen), Field of the Invention

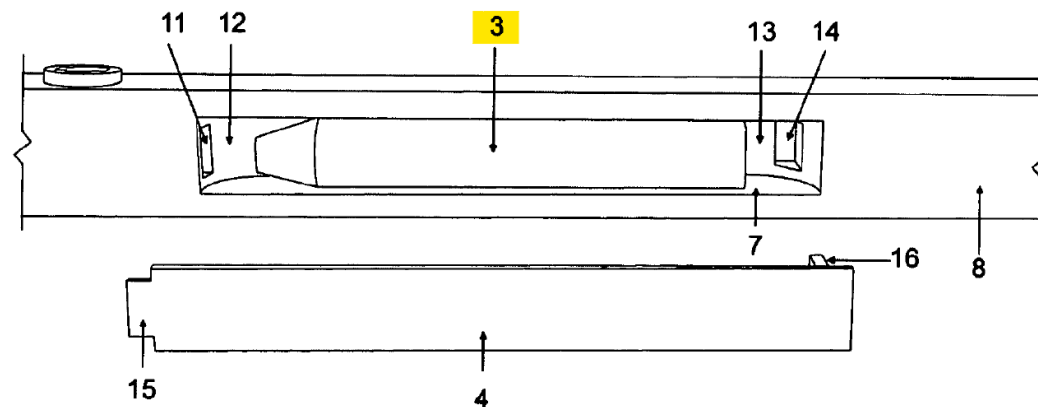


FIG. 2

EX-1010 (Chen), FIG. 2

Ground 7 (Chen and Rosenblatt)

Chen is not reasonably pertinent to the problem solved by the inventor of the '960 patent

As displayed in FIG. 2, an installable, self-contained cartridge 3 can be of any size and shape as long as it is securely placed into cartridge compartment 7. Cartridge 3 is comprised of materials and components, including electronic or non-electronic or any combination thereof, which will provide useful functions. For instance, cartridge 3 can be a simple, miniature, thermal regulating cartridge that an eyewear user utilizes to regulate his/her head temperature in a convenient and unobtrusive manner. However, a cartridge is not limited to just this functionality but can also include any other function(s) that are only restricted by the component(s) & material(s) in the cartridge as well as the physical dimensions of the compartment & the cartridge.

EX-1010 (Chen), 5:59-6:3

Missing element – the '960 patent's "application module"

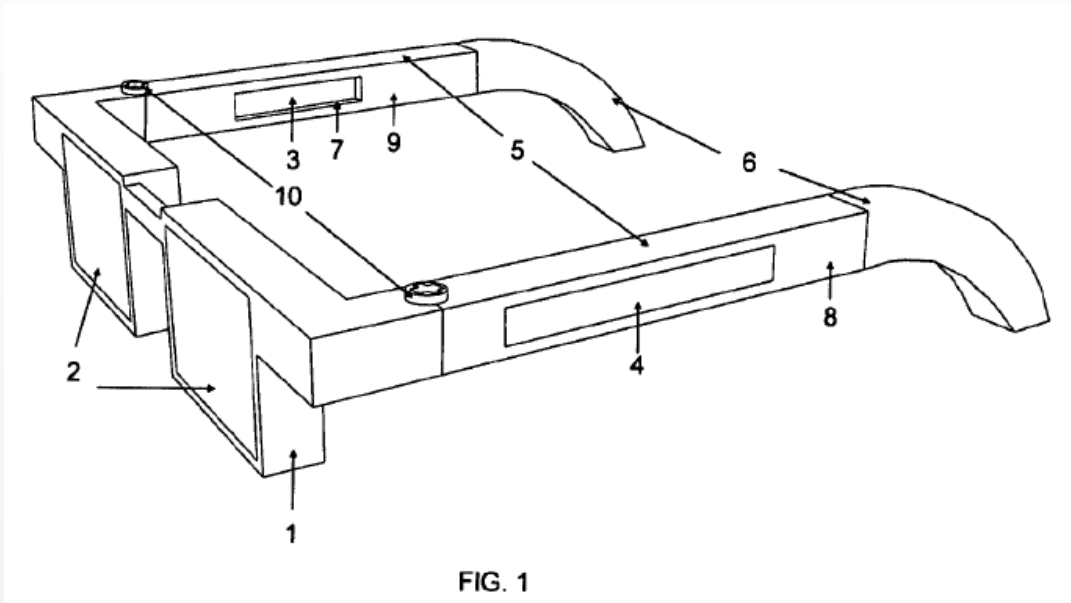
BACKGROUND OF THE INVENTION

In regards to the integration of additional eyewear functionalities, U.S. Pat. No. 5,539,480 presents sunglasses that incorporate an unwieldy sunscreen dispenser. Eyewear with integrated electronic components have also been described recently. U.S. Pat. No. 6,929,365 describes a Bluetooth component being integrally embedded into the temple whereas U.S. Pat. No. 5,455,638 describes a micro-electron-

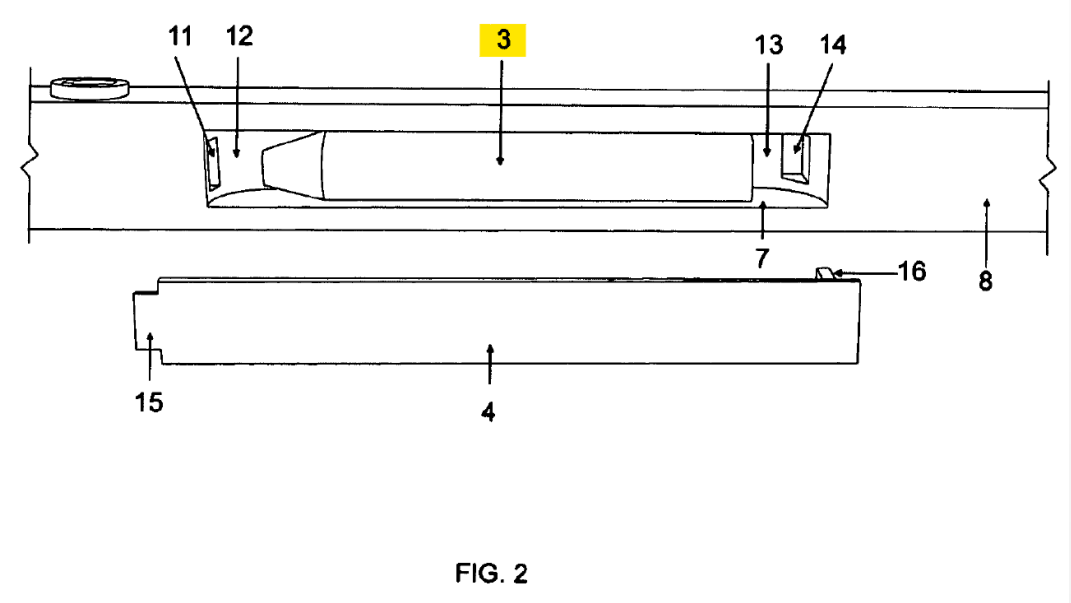
EX-1010 (Chen), 1:61-67

Ground 7 (Chen and Rosenblatt)

Missing element – “application module”



EX-1010 (Chen), FIG. 1



EX-1010 (Chen), FIG. 2

Dependent Claim 19 (Grounds 5 and 8)

Dependent claim 19

Claim 19	Limitation
[19P]	The eyewear of claim 16,
[19A]	wherein the wireless enabled device is configured to control a functionality of the automobile to awake the wearer should the wearer fall asleep.

Dependent Claim 19 (Grounds 5 and 8)

Gunaratne is non-analogous art

(57)

ABSTRACT

The present invention discloses a system and a process for rapidly detecting drowsiness in a individual operating a machine. The system can capture a plurality of facial images of the individual and compare one or more facial parameters from the images to a plurality of stored high priority sleepiness facial actions that are in a prioritized action database. Based on the comparison, a current level of sleepiness can be determined for the individual and an actuator can be actuated in order to alert the individual and possibly any other individuals that may be in the vicinity.

EX-1008 (Gunaratne), Abstract

Dependent Claim 19 (Grounds 5 and 8)

Gunaratne provides no guidance for eyewear integration

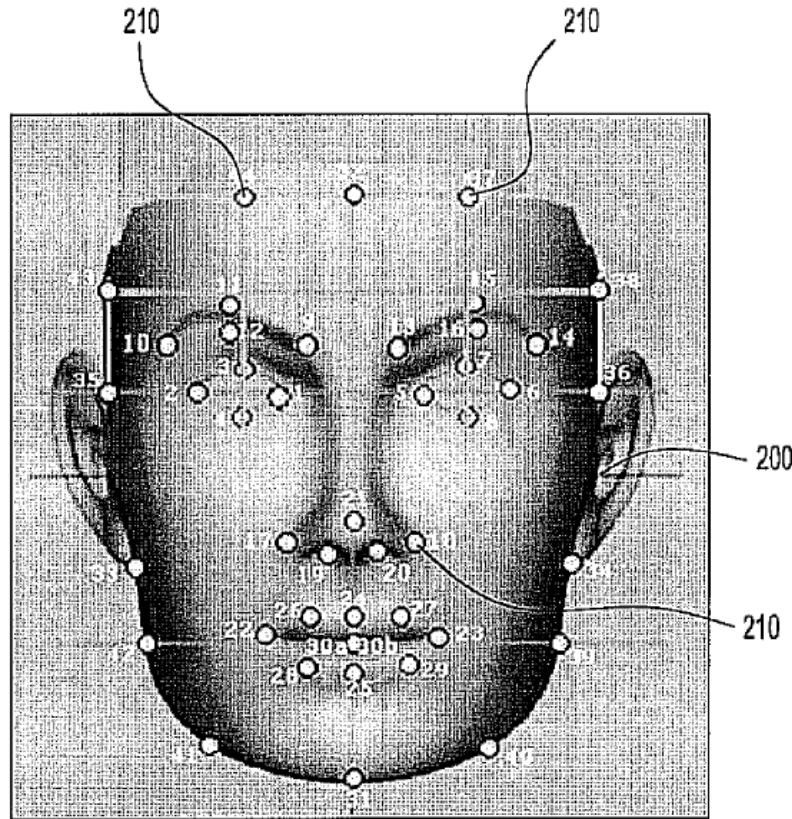
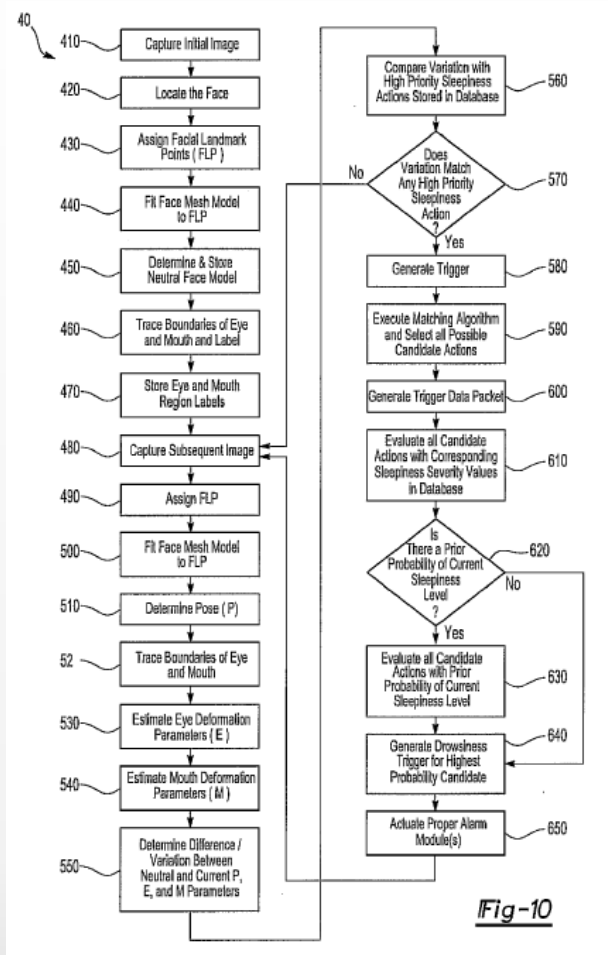


Fig-2

EX-1008 (Gunaratne), FIG. 2

Dependent Claim 19 (Grounds 5 and 8)

Gunaratne provides no guidance for eyewear integration



EX-1008 (Gunaratne), FIG. 10

Dependent Claim 24 (Grounds 4 and 7)

Dependent claim 24

Claim 24	Limitation
[24P]	The eyewear of claim 22,
[24A]	wherein the wireless enabled device is configured to adjust a brightness and/or a volume of the computer.

Dependent Claim 24 (Grounds 4 and 7)

Rosenblatt does not disclose display brightness control

[0052] In some embodiments, device 300 may include a display and a user interface. The display and user interface may include some or all of the features discussed above in connection with the display and user interface of key 200.

EX-1007 (Rosenblatt), ¶52

Dependent Claim 24 (Grounds 4 and 7)

Turning “ON” a display does not disclose display brightness control

34:22-35:20 (Patent Owner’s expert agreeing that turning on a display would activate visual elements and “generally require[] some level of illumination to render the visual elements visible to the user”). This shows that the combination renders obvious that the computer’s display is configured to adjust its brightness.

Paper 28 (Reply), 20 (excerpted)

20	Do you see that?	11:29:38
21	A. I do.	11:29:39
22	Q. Would turning on virtual or	11:29:39
1	augmented-reality functions typically involve	11:29:46
2	activating visual elements within the lens display?	11:29:49

EX-1026 (Oliver Testimony), 34:22-35:20

Dependent Claim 25 (Grounds 6 and 9)

Dependent claim 25

Claim 25	Limitation
[25P]	The eyewear of claim 22,
[25A]	wherein the wireless enabled device is configured to adjust a font size of an application in the computer.

Dependent Claim 25 (Grounds 6 and 9)

Nielsen is non-analogous art

(57)

ABSTRACT

When retrieving documents over a network, such as the Internet, the font size imposed by default or by a style sheet is sometimes not the right size for comfortable viewing by a user. A database of font size changes made by a user to particular documents is maintained and used to infer a font size preference for a document. A document is displayed using a recorded preference. If no preference is found for a document, a check is made to determine if a preference has been specified for a different document related to that document by having a common portion of a network address. That is, if a preference had been specified for one chapter of a document having a particular network address, a preference would be inferred for other chapters of the document based on a common portion of a hierarchical address.

EX-1009 (Nielsen), Abstract

Dependent Claim 25 (Grounds 6 and 9)

Nielsen would result in an inoperable combination

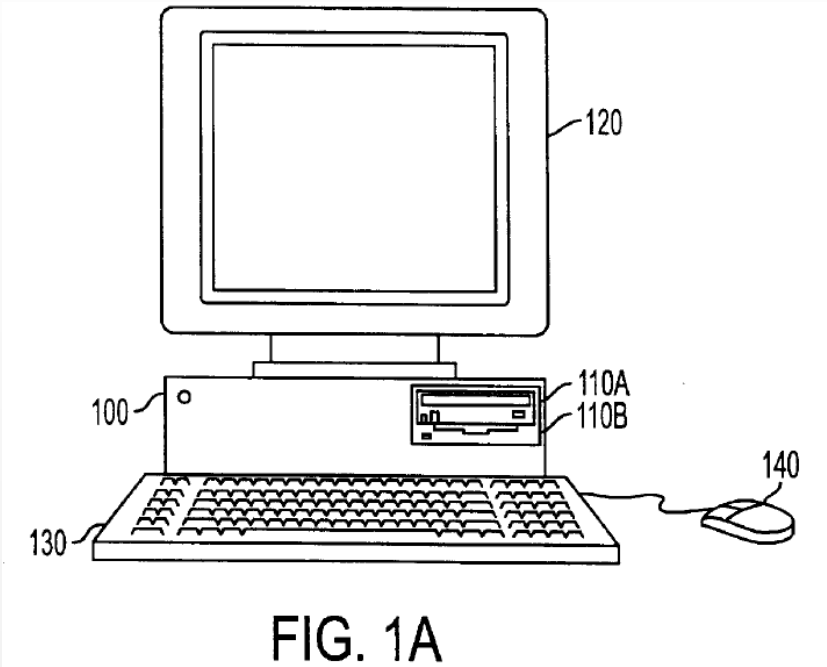


FIG. 1A
EX-1009 (Nielsen), FIG. 1A

URL	FONT SIZE	DATE & TIME CHANGED
www.nasa.gov	12	4/10/97
www.nasa.gov	10	4/11/97
www.gmu.edu/catalog/page 1	11	5/10/97
-	-	-
-	-	-

FIG. 3A
EX-1009 (Nielsen), FIG. 3A