

IPR2025-00172
U.S. Patent No. 9,022,294

Patent Owner's Demonstratives
March 25th, 2025

Overview

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Instituted Grounds

IPR2025-00172

Ground	Basis	Reference(s)	Claims
1	§103	<i>Suga and Gorsuch</i>	1-20

Petition, 32

Challenged Independent Claim

Claim 1

1[pre] A cellular phone, comprising:

1[a] an electronic circuit capable of storing data therein, capable of processing data, and capable of data input and output;

1[b] a user-triggered control device operatively linked to said electronic circuit, said user-triggered control device configured to be operated by a user via one of a button, a keypad, a tactile screen, and a biometric parameter detector, and after being operated issue an invariable activation command, with said invariable activation command being issued when said control device is selectively triggered by the user;

1[c] a first data transceiver operatively linked to said electronic circuit, said first data transceiver being for exchanging data between said electronic circuit and a first external data exchange device over a first communication link;

1[d] a second data transceiver operatively linked to said electronic circuit, said second data transceiver being for exchanging data between said electronic circuit and a second external data exchange device over a second communication link that is distinct from said first communication link;

1[e] a cue receiver operatively linked to said electronic circuit for receiving an activation cue from a source external to said cellular phone;

1[f] a data conveyance switching element operatively linked to said electronic circuit, said switching element being assigned a first state upon an activation cue having been received by said cue receiver, and being assigned a second state when no activation cue was received by said cue receiver; and

1[g] power means for providing power to said portable electronic device cellular phone;

1[h] wherein upon said control device being selectively triggered by the user to issue said invariable activation command: if said switching element is in said first state, a first data conveyance operation will be initiated through the instrumentality of said first data transceiver for sending data from said electronic circuit to the first external data exchange device over said first communication link; and

1[i] [wherein upon said control device being selectively triggered by the user to issue said invariable activation command:] if said switching element is in said second state, a second data conveyance operation will be initiated through the instrumentality of said second data transceiver for sending data from said electronic circuit to the second external data exchange device over said second communication link.

Challenged Independent Claim

Claim 10

10[pre] A cellular phone comprising:

10[a] an electronic circuit capable of storing data therein, capable of processing data, and capable of data input and output;

10[b] a user-triggered control device operatively linked to said electronic circuit, said user-triggered control device configured to be operated by a user via one of a button, a keypad, a tactile screen, and a biometric parameter detector, and after being operated issue an invariable activation command, with said invariable activation command being issued when said control device is triggered by the user;

10[c] first and second data conveyance operations programmed in said electronic circuit;

10[d] a first data transceiver operatively linked to said electronic circuit, said first data transceiver being operable for data exchange over a first communication link;

10[e] a second data transceiver operably linked to said electronic circuit, said second data transceiver being operable for data exchange over a second communication link that is distinct from said first communication link;

10[f] a cue receiver operatively linked to said electronic circuit for receiving an activation cue from a source external to said cellular phone; and

10[g] power means, for providing power to said cellular phone;

10[h] wherein upon said control device being selectively triggered by the user to issue said invariable activation command: if an activation cue was received by said cue receiver, said electronic circuit will accomplish said first data conveyance operation to convey data from said electronic circuit to said first data transceiver for transmitting data through said first data transceiver; and

10[i] [wherein upon said control device being selectively triggered by the user to issue said invariable activation command:] if no activation cue was received by said cue receiver, said electronic circuit will accomplish said second data conveyance operation to convey data from said electronic circuit to said second data transceiver for transmitting data through said second data transceiver.

Challenged Independent Claim

Claim 11

11[pre] A data exchange system comprising:

11[a] a first data exchange device;

11[b] a second data exchange device; and

11[c] a cellular phone, including:

11[d] an electronic circuit capable of storing data therein, capable of processing data, and capable of data input and output;

11[e] a user-triggered control device operatively linked to said electronic circuit, said user-triggered control device configured to be operated by a user via one of a button, a keypad, a tactile screen, and a biometric parameter detector, and after being operated issue an invariable activation command, with said invariable activation command being issued when said control device is selectively triggered by the user;

11[f] a first data transceiver operatively linked to said electronic circuit, said first data transceiver being for exchanging data between said electronic circuit and said first data exchange device through a direct link;

11[g] a second data transceiver operatively linked to said electronic circuit, said second data transceiver being for exchanging data between said electronic circuit and said second data exchange device through a communication network that is distinct from said direct link;

11[h] a cue receiver operatively linked to said electronic circuit for receiving an activation cue from said first data exchange device;

11[i] a data conveyance switching element operatively linked to said electronic circuit, said switching element being assigned a first state upon an activation cue having been received by said cue receiver, and being assigned a second state when no activation cue was received by said cue receiver; and

11[j] power means for providing power to said cellular phone;

11[k] wherein upon said control device being selectively triggered by the user to issue said invariable activation command: if said switching element is in said first state, a first data conveyance operation will be initiated through the instrumentality of said first data transceiver for exchanging data between said electronic circuit and the first external data exchange device;

11[l] wherein upon said control device being selectively triggered by the user to issue said invariable activation command:] if said switching element is in said second state, a second data conveyance operation will be initiated through the instrumentality of said second data transceiver for exchanging data between said electronic circuit and the second external data exchange device.

Challenged Independent Claim

Claim 12

12[pre] A method for data conveyance with a cellular phone of the type comprising: an electronic circuit capable of storing data therein, capable of processing data, and capable of data input and output, a user-triggered control device operatively linked to said electronic circuit, said user-triggered control device configured to be operated by a user via one of a button, a keypad, a tactile screen, and a biometric parameter detector, and after being operated issue an invariable activation command, first and second data transceivers operatively linked to said electronic circuit, a cue receiver operatively linked to said electronic circuit, a data conveyance switching element operatively linked to said electronic circuit and capable of being in either one of a first and a second state, and power means for providing power to said cellular phone, said method comprising the steps of:

11[a] awaiting for an activation cue to be received at said cue receiver;

11[b] if an activation cue is received at said cue receiver, assigning said first state to said switching element, while if no activation cue is received at said cue receiver, assigning said second state to said switching element; and

11[c] a user selectively triggering said control device to issue an invariable activation command whereby: if said switching element is in said first state, forwarding first data to said first data transceiver for initiating a data exchange operation with a first external data exchange device over a first communication link; and

11[d] [a user selectively triggering said control device to issue an invariable activation command whereby:] if said switching element is in said second state, forwarding second data to said second data transceiver for initiating a data exchange operation with a second external data exchange device over a first communication link.

Challenged Independent Claim

Claim 19

19[pre] A method for data conveyance with a cellular phone of the type comprising: an electronic circuit capable of storing data therein, capable of processing data, and capable of data input and output, a control device operatively linked to said electronic circuit, first and second data transceivers operatively linked to said electronic circuit, a cue receiver operatively linked to said electronic circuit, a data conveyance switching element operatively linked to said electronic circuit and capable of being in either one of a first and a second state, and power means for providing power to said cellular phone, said method comprising the steps of:

19[a] awaiting for an activation cue to be received at said cue receiver;

19[b] if an activation cue is received at said cue receiver, assigning said first state to said switching element, while if no activation cue is received at said cue receiver, assigning said second state to said switching element; and

19[c] selectively triggering said control device to issue an invariable activation command whereby: if said switching element is in said first state, forwarding first data to said first data transceiver for initiating a data exchange operation with a first external data exchange device over a first communication link; and

19[d] [selectively triggering said control device to issue an invariable activation command whereby:] if said switching element is in said second state, forwarding second data to said second data transceiver for initiating a data exchange operation with a second external data exchange device over a second communication link that is distinct from said first communication link;

19[e] wherein said method further comprises the following steps before the step of forwarding first data to said first data transceiver for initiating a data exchange operation with a first external data exchange device:

19[f] forwarding third data to and displaying said third data on a display screen provided on said cellular phone, wherein said third data is representative of the content of said first data; and

19[g] awaiting for an authorization command to be inputted through a user confirmation input device provided on said cellular phone before forwarding said first data to said first data transceiver; and

19[h] wherein said method further comprises the following steps before the step of forwarding second data to said second data transceiver for initiating a data exchange operation with a second external data exchange device:

19[i] forwarding fourth data to and displaying said fourth data on said display screen, wherein said fourth data is representative of the content of said second data; and

19[j] awaiting for an authorization command to be inputted through said user confirmation input device before forwarding said second data to said second data transceiver.

Challenged Dependent Claims

Claim 2

2. A cellular phone as defined in claim 1, further comprising a display screen operatively linked to said electronic circuit.

Claim 3

3. A cellular phone as defined in claim 1, wherein said first data transceiver includes said cue receiver.

Claim 4

4. A cellular phone as defined in claim 1, wherein said control device is one of a manually activated button, a keypad for receiving a PIN code, a biometric parameter detector and a combination thereof.

Claim 5

5. A cellular phone as defined in claim 1, wherein said electronic circuit includes said switching element.

Claim 6

6. A cellular phone as defined in claim 5, wherein said electronic circuit comprises a microchip, and wherein said switching element is a series of instructions programmed onto said microchip.

Claim 7

7. A cellular phone as defined in **claim 1**, wherein said switching element comprises a logical circuit.

Challenged Dependent Claims

Claim 8

8. A cellular phone as defined in claim 1, wherein said first data transceiver comprises a proximity transceiver for accomplishing a wireless data exchange with a first external data exchange device through a direct link representing said first communication link where the cellular phone is conveyed toward a close proximity of the first external data exchange device and within a range to receive the activation cue to initiate the wireless data exchange.

Claim 9

9. A cellular phone as defined in claim 8, wherein said second data transceiver comprises a communication network transceiver for wireless communication through a communication network that represents said second communication link, with one of a remote portable electronic device, a remote server, a remote terminal and a combination thereof.

Claim 13

13. A method as defined in claim 12, further comprising the following step before the step of forwarding first data to said first data transceiver for initiating a data exchange operation with a first external data exchange device: forwarding third data to and displaying said third data on a display screen provided on said cellular phone, wherein said third data is representative of the content of said first data.

Claim 14

14. A method as defined in claim 13, wherein after the step of forwarding said third data to the display screen, the method comprises the following step: awaiting for an authorization command to be inputted through a user confirmation input device provided on said cellular phone before forwarding said first data to said first data transceiver.

Challenged Dependent Claims

Claim 15

15. A method as defined in claim 12, wherein said first and second data are identical.

Claim 16

16. A method as defined in claim 12, wherein said first data transceiver is a proximity transceiver and the step of forwarding said first data to said first transceiver is for initiating a wireless data exchange operation with a proximate first external data exchange device through a direct link representing said first communication link where the cellular phone is conveyed toward a close proximity of the first external data exchange device and within a range to receive the activation cue to initiate the wireless data exchange.

Claim 17

17. A method as defined in claim 12, wherein said second data transceiver is a communication network transceiver and the step of forwarding said second data to said second data transceiver is for initiating a wireless data conveyance operation through a communication network representing said second communication link, with one of a remote portable electronic device, a remote server, a remote terminal and a combination thereof.

Claim 18

18. A method as defined in claim 12, wherein the step of selectively triggering said control device to issue the invariable activation command comprises selectively triggering one of the manually activated button, the keypad for receiving a PIN code, the biometric parameter detector and a combination thereof.

Claim 20

20. A method as defined in claim 19, wherein said control device includes said user confirmation input device.

The Invention

The Invention

(12) United States Patent Gaillard

(10) Patent No.: US 9,022,294 B2
(45) Date of Patent: May 5, 2015

(54) PORTABLE ELECTRONIC DEVICE AND METHOD FOR ALTERNATE DATA CONVEYANCE OPERATIONS RESPONSIVE TO AN INVARIABLE ACTIVATION COMMAND

(75) Inventor: Joel Gaillard, Nassau (BS)

(73) Assignee: G. Holdings Ltd., Nassau NP (BS)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 768 days.

(21) Appl. No.: 12/603,085

(22) Filed: Oct. 21, 2009

(65) Prior Publication Data
US 2010/0038436 A1 Feb. 18, 2010

Related U.S. Application Data

(63) Continuation-in-part of application No. 10/552,912, filed as application No. PCT/IB03/01523 on Apr. 14, 2003, now Pat. No. 7,628,333.

(51) Int. Cl.

H04M 1/00 (2006.01)
G06K 19/073 (2006.01)
G06K 17/00 (2006.01)
G06K 19/07 (2006.01)
G06K 19/077 (2006.01)

(52) U.S. Cl.

CPC G06K 19/07345 (2013.01); G06K 17/0022 (2013.01); G06K 19/0723 (2013.01); G06K 19/07354 (2013.01); G06K 19/07703 (2013.01); G06K 19/07769 (2013.01)

(58) Field of Classification Search

USPC 235/492, 487; 455/550.1, 557
See application file for complete search history.

(56) References Cited

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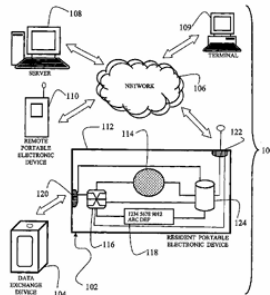
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(74) Attorney, Agent, or Firm — Fraser Clemens Martin Miller LLC; James D. Miller

(57)

ABSTRACT

The portable electronic device includes an electronic circuit, a control device operatively linked to the electronic circuit, first and second data transceivers operatively linked to the electronic circuit, a cue receiver operatively linked to the electronic circuit, a data conveyance switching element operatively linked to the electronic circuit and capable of being in either one of a first and a second state, and power means for providing power to the portable electronic device. The method of data conveyance includes awaiting for an activation cue to be received at the cue receiver; if an activation cue is received at the cue receiver, assigning its first state to the switching element, while if no activation cue is received at the cue receiver, assigning its second state to the switching element; and selectively triggering the control device to issue an invariable activation command. Upon the control device being triggered, if the switching element is in its first state first data will be forwarded to the first data transceiver for initiating a data exchange operation with a first external data exchange device; while if the switching element is in its second state, second data will be forwarded to the second data transceiver for initiating a data exchange operation with second external data exchange device.

20 Claims, 4 Drawing Sheets



(54) PORTABLE ELECTRONIC DEVICE AND METHOD FOR ALTERNATE DATA CONVEYANCE OPERATIONS RESPONSIVE TO AN INVARIABLE ACTIVATION COMMAND

(57)

ABSTRACT

The portable electronic device includes an electronic circuit, a control device operatively linked to the electronic circuit, first and second data transceivers operatively linked to the electronic circuit, a cue receiver operatively linked to the electronic circuit, a data conveyance switching element operatively linked to the electronic circuit and capable of being in either one of a first and a second state, and power means for providing power to the portable electronic device. The method of data conveyance includes awaiting for an activation cue to be received at the cue receiver; if an activation cue is received at the cue receiver, assigning its first state to the switching element, while if no activation cue is received at the cue receiver, assigning its second state to the switching element; and selectively triggering the control device to issue an invariable activation command. Upon the control device being triggered, if the switching element is in its first state, first data will be forwarded to the first data transceiver for initiating a data exchange operation with a first external data exchange device; while if the switching element is in its second state, second data will be forwarded to the second data transceiver for initiating a data exchange operation with a second external data exchange device.

Ex. 1001, Cover

The Invention

(12) **United States Patent**
Gaillard

(10) **Patent No.:** US 9,022,294 B2
(45) **Date of Patent:** May 5, 2015

(54) **PORTABLE ELECTRONIC DEVICE AND METHOD FOR ALTERNATE DATA CONVEYANCE OPERATIONS RESPONSIVE TO AN INVARIABLE ACTIVATION COMMAND**

(75) Inventor: **Joel Gaillard**, Nassau (BS)

(73) Assignee: **G. Holdings Ltd.**, Nassau NP (BS)

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(51) **Int. Cl.**
H04M 1/00 (2006.01)
G06K 19/073 (2006.01)
G06K 17/00 (2006.01)
G06K 19/07 (2006.01)
G06K 19/077 (2006.01)

(52) **U.S. Cl.**
CPC **G06K 19/07345** (2013.01); **G06K 17/0022** (2013.01); **G06K 19/0723** (2013.01); **G06K 19/07354** (2013.01); **G06K 19/07703** (2013.01); **G06K 19/07769** (2013.01)

(58) **Field of Classification Search**
USPC 235/492, 487; 455/550.1, 557
See application file for complete search history.

References Cited

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4,800,25

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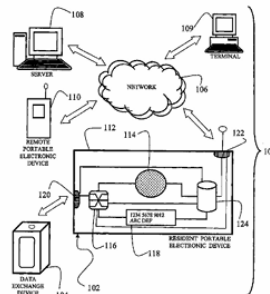
DE
DE

Primary Exa
(74) *Attorne*
Miller L.L.C.

(57)

The portable a control dev first and sec electronic ci electronic circuit, a data conveyance switching element operatively linked to the electronic circuit and capable of being in either one of a first and a second state, and power means for providing power to the portable electronic device. The method of data conveyance includes awaiting for an activation cue to be received at the cue receiver; if an activation cue is received at the cue receiver, assigning its first state to the switching element, while if no activation cue is received at the cue receiver, assigning its second state to the switching element; and selectively triggering the control device to issue an invariable activation command. Upon the control device being triggered, if the switching element is in its first state, first data will be forwarded to the first data transceiver for initiating a data exchange operation with a first external data exchange device; while if the switching element is in its second state, second data will be forwarded to the second data transceiver for initiating a data exchange operation with a second external data exchange device.

20 Claims, 4 Drawing Sheets



FIELD OF THE INVENTION

This invention relates to a portable electronic device capable of alternate data conveyance operations responsive to an invariable activation command.

Ex. 1001, 1:14-18

The Invention

1. A cellular phone, comprising:

an electronic circuit capable of storing data therein, capable of processing data, and capable of data input and output;

a user-triggered control device operatively linked to said electronic circuit, said user-triggered control device configured to be operated by a user via one of a button, a keypad, a tactile screen, and a biometric parameter detector, and **after being operated issue an invariable activation command**, with said invariable activation command being issued when said control device is selectively triggered by the user;

a first data transceiver operatively linked to said electronic circuit, said first data transceiver being for exchanging data between said electronic circuit and a first external data exchange device over a first communication link;

a second data transceiver operatively linked to said electronic circuit, said second data transceiver being for exchanging data between said electronic circuit and a second external data exchange device over a second communication link that is distinct from said first communication link;

a cue receiver operatively linked to said electronic circuit **for receiving an activation cue from a source external to said cellular phone**;

a data conveyance switching element operatively linked to said electronic circuit, said switching element being assigned a first state upon an activation cue having been received by said cue receiver, and being assigned a second state when no activation cue was received by said cue receiver; and

power means for providing power to said portable electronic device cellular phone;
wherein upon said control device being selectively triggered by the user to issue said invariable activation command:

if said switching element is in said first state, a first data conveyance operation will be initiated through the instrumentality of said first data transceiver for sending data from said electronic circuit to the first external data exchange device over said first communication link; and

if said switching element is in said second state, a second data conveyance operation will be initiated through the instrumentality of said second data transceiver for sending data from said electronic circuit to the second external data exchange device over said second communication link.

Person Having Ordinary Skill In The Art

Proposed Levels of Skill in the Art – Parties Agree

<u>Party</u>	<u>Proposed Definition</u>
P.O.	Patent Owner agrees with the Petitioner on the level of ordinary skill in the art. A person with ordinary skill in the relevant art at the time of invention - April 14, 2003 - would have a bachelor's degree in electrical engineering or a similar discipline and at least three years of relevant industry or research experience in wireless communication between devices. This definition is approximate, and more education may substitute for industry experience or vice versa. See Exh. 2001, ¶¶26- 29.
Petitioner	A person of ordinary skill in the art at the time of the alleged invention of the '294 Patent ("POSITA") would have had a bachelor's degree in Electrical Engineering, Computer Engineering, or in a similar discipline with at least two years of experience with wireless communication devices and networks. More education can substitute for practical experience and vice versa. <i>Dec.</i> , ¶34.

The Board's Preliminary POSITA Level from ID

Trials@uspto.gov
571-272-7822

Paper 8
Date: June 25, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

DH INTERNATIONAL LTD.,
Patent Owner.

IPR2025-00172
Patent 9,022,294 B2

Before KARL D. EASTHOM, BF
MARY C. HOFFMAN, *Administh*
MURPHY, *Administrative Patent*

We adopt the parties' agreed level of ordinary skill in the art, which is consistent with the description in the '294 patent and the prior art of record.

DECISION
Granting Institution of *Inter Partes* Review
35 U.S.C. § 314

Claim Construction

Activation Cue

Patent Owner:

[T]he “activation cue” has to be designed or created for use in a device to cause activation.

Response, 10

The claim term “activation cue” means a predetermined indicator, such as “a predetermined bit sequence” (Exh. 1001, 6:1-3), that is “recognized by the electronic device as an activation cue” *Id.* A POSITA would understand that the “activation cue” must be intended as a predetermined indicator. Patent Owner IS NOT saying the “activation cue” has to be a predetermined bit sequence as insinuated in the ID, ID, p.14-15

Board:

Response, 10

In sum, based on the present record at this stage of the proceeding, we preliminarily construe “activation cue” as a data communication of a specific type that will be recognized by the cellular phone as an activation cue received from a source external to the cellular phone.

DI, 16 (*Emphasis Added*)

Data Conveyance Switching Element

Patent Owner:

The term “data conveyance switching element” should be given its plain meaning, which is the switching of the data. The data itself is what is being switched.

Response11

Petitioner:

Petitioner agrees that allowing for networked or non-networked devices that exchange data is consistent with the intrinsic record and with Petitioner’s Proposed Ground, which mapped Suga’s W-LAN access point (e.g., WiFi router) and cellular base station as the claimed data exchange devices. See Paper 1, 39.

Reply, 8-9

Data Exchange Device and External Data Exchange Device

[Petitioner did not propose any construction in Petition or Reply]

Patent Owner:

The data exchange device, by its plain meaning, is a device or node on a network or a device that is directly linked without a network connection, which is consistent with the specification. It is shown in Figures 1, 3, and 4 of the '294 patent.

Response, 11-12

Petitioner:

In sum, to the extent the Board expressly construes this language, data exchange devices are simply devices or nodes that send and/or receive data.

Reply, 11

Close Proximity

Patent Owner:

The '294 Patent also describes “a proximity transaction wherein **devices 102 and 104 are physically close to one another**. Exh. 1001, 13:36-37. In all of these examples, a person is physically close to the machines to view the interface and operate the machine. Therefore, a POSITA would consider close proximity to be one meter or less. Exh. 2001, ¶56.

Response, 12 (color added)

Petitioner:

Thus, a user device must be in **proximity** to the W-LAN hub, i.e., within the coverage region 613 shown in annotated Fig. 5, below, to receive a beacon frame and subsequently transmit data with a W-LAN hub 611.

Petition, 61 (color added)

PATENTABILITY

Ground 1

§103 - Claims 1-20 – *Suga (Exh. 1005) and Gorsuch (Exh. 1006)*

OVERVIEW OF *SUGA* (Exh. 1005)

Suga and Gorsuch

The purpose of the *Suga* is “to address these circumstances by providing a portable information device that has a wireless phone function and a line switching method, therefore, it can realize low-cost, high-speed wireless communication.” *Id.*, 4. *Suga* switches between networks (e.g., switching equipment, public network, access point) depending on whether the data is transferred between nodes (e.g., cell phone, server, PCs). See Exh. 1005, FIG. 1. Exh. 2001, ¶41.

Response, 14

CLAIM 1 ELEMENTS

GROUND 1

Elements 1[e], 1[f], 1[h], and 1[i]

Suga and Gorsuch

[1.e] **a cue receiver** operatively linked to said electronic circuit **for receiving an activation cue** from a source external to said cellular phone;

[1.f] a data conveyance switching element operatively linked to said electronic circuit, said switching element being assigned a first state upon an activation cue having been received by said cue receiver, and being assigned a second state when no activation cue was received by said cue receiver; and

...

[1.h] wherein upon said control device being selectively **triggered by the user to issue said invariable activation command: if said switching element is in said first state, a first data conveyance operation will be initiated...**

[1.i] **if said switching element is in said second state, a second data conveyance operation will be initiated....**

Exhibit 1001, Claim 1 (*color added*)

CLAIM 1 ELEMENTS

GROUND 1

Element 1[e]

Suga and Gorsuch

[1.e] **a cue receiver** operatively linked to said electronic circuit **for receiving an activation cue** from a source external to said cellular phone;

Exhibit 1001, Claim 1 (*color added*)

Petitioner Asserts:

[T]he proposed combination incorporates Gorsuch’s W-LAN detection circuit 201 (“cue receiver”) into Suga’s cellular phone to provide information on the availability of W-LAN. With this information, Suga’s MPU 40 (“electronic circuit”) can choose the proper transceiver for a data communication (e.g., an email transmission).

Petition, 44

CLAIM 1 ELEMENT

GROUND 1

Element 1[e]

Suga and Gorsuch

[1.e] **a cue receiver** operatively linked to said electronic circuit **for receiving an activation cue** from a source external to said cellular phone;

Exhibit 1001, Claim 1 (*color added*)

Petitioner's Position:

Gorsuch's W-LAN detection circuit 201 that receives a beacon frame or beacon signal ("activation cue") from a W-LAN base station 611, which is "a source external to said cellular phone[.]" Gorsuch, Abstract, 4:31-5:1, 13:14-22, 14:10-14, 16:1-12, Fig. 6; Dec., ¶93. "IEEE 802.11 specifies that a beacon frame should be transmitted at regular intervals" by a W-LAN hub. Gorsuch, 13:17-18. A POSITA would have understood that Suga's access point 6, like Gorsuch's W-LAN base station 611, also emits a beacon signal. Dec., ¶93 (discussing Suga, [0039]-[0041] and explaining that **Suga's access point would emit beacon frames** in order to remain.

Pet., 45 (*color added*)

IM 1 ELEMENTS

GROUND 1

Element 1[e]

Suga and Gorsuch

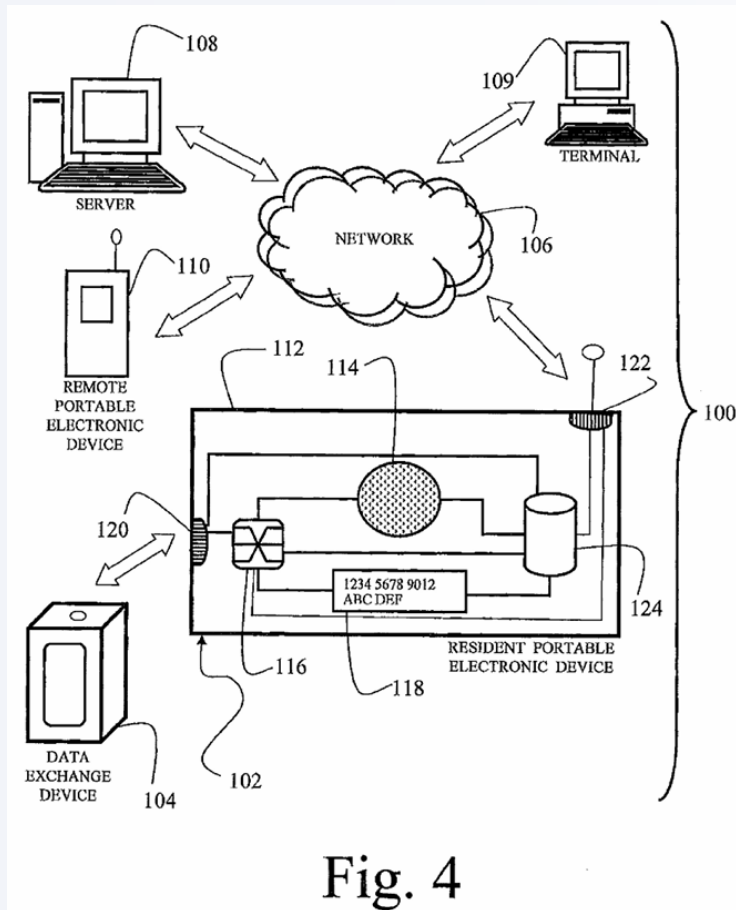


Fig. 4

Exh. 1001, 6

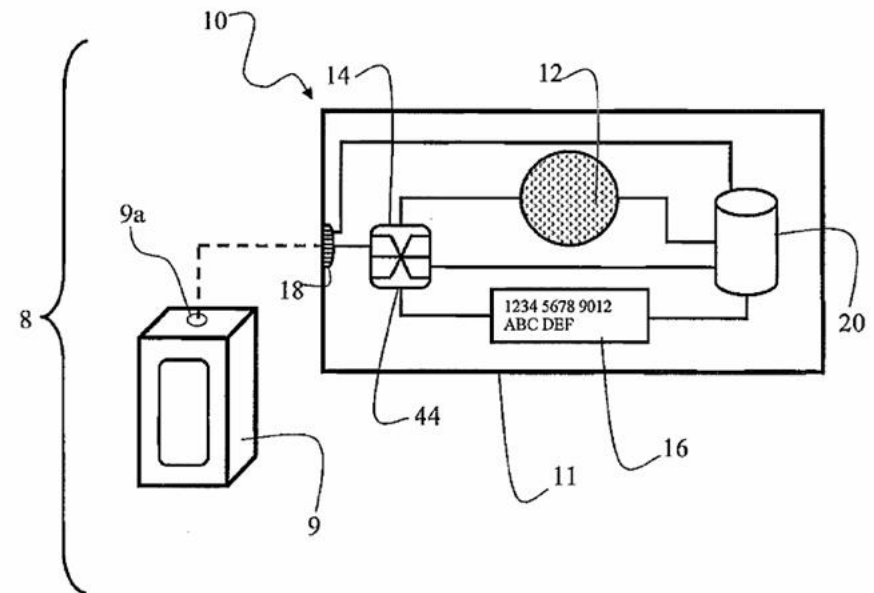


Fig. 1

Exh. 1001, 3

CLAIM 1 ELEMENTS

GROUND 1

Element 1[e]

Suga and Gorsuch

[1.e] **a cue receiver** operatively linked to said electronic circuit **for receiving an activation cue** from a source external to said cellular phone;

Exhibit 1001, Claim 1 (*color added*)

The “data exchange device” is the device identified as the data’s end destination, not a network access point or network infrastructure that passes the data. A POSITA would know the “activation cue” would have to come from the actual device expecting to receive the data (e.g., “data exchange device”). Exh. 2001, ¶85. The Petition is mixing apples and oranges. The ’294 patent is for sending data to a data exchange device, a device that is expecting to receive the data, not intermediary devices that support creating a network connection that routes packets blindly at a network level.

Response 32-33

CLAIM 1 ELEMENTS

GROUND 1

Element 1[e]

Suga and Gorsuch

[1.e] **a cue receiver** operatively linked to said electronic circuit **for receiving an activation cue** from a source external to said cellular phone;

Exhibit 1001, Claim 1 (*color added*)

The *Gorsuch's* W-LAN detection circuit 201 provides information on W-LAN availability, not the data exchange device.

Response 32-33

CLAIM 9 ELEMENTS

GROUND 1

[Needs to originate or terminate date]

Suga and Gorsuch

9. A cellular phone as defined in claim 8, wherein said second data transceiver comprises a communication network transceiver for wireless communication through a communication network that represents said second communication link, **with one of a remote portable electronic device, a remote server, a remote terminal and a combination thereof.**

Exhibit 1001, Claim 9 (*color added*)

Claim 9 states that “said second data transceiver comprises a communication network transceiver for a wireless communication network that represents said second communication link, with one of a remote terminal and a combination thereof.”

Sur-Reply, 5

CLAIM 8 ELEMENTS

GROUND 1

Suga and Gorsuch

[8] A cellular phone as defined in claim 1, wherein said first data transceiver comprises a proximity transceiver for accomplishing a wireless data exchange with a first external data exchange device through a direct link representing said first communication link where the cellular phone is conveyed toward **a close proximity of the first external data exchange device** and within a range to receive the activation cue to initiate the wireless data exchange.

Exhibit 1001, Claim 8 (color added)

The '294 patent specification demonstrates that **there is a difference between direct linked devices and a connection to a network**: portable electronic device 102 will communicate with data exchange device 104 through a direct link, for example in a proximity transaction wherein devices 102 and 104 are physically close to one another; while portable electronic device 102 will communicate with second data exchange device 108, 109 or 110 through a communication network 106 wherein devices 102 and 108, 109 or 110 may be physically distant from one another.

PO Response, 46

Independent Claims 1, 10, 11, 12, and 19

Dependent claims 8 and 16

Mooney

Elements 1[e] discussed for independent claim 1 also apply to all the other independent claims 10, 11, 12 and 19.

See Exhibit 1001, Claims 1, 10, 11, 12, and 19

The “Close Proximity” element discussed in dependent claims 8 also applies to dependent claim 16.

See Exhibit 1001, Claims 8 and 16

Patent Owner's Motion To Exclude

Motion to Exclude

Mr. Lipoff's Opinions

Petitioner did not follow the Board's Order instructing the Petitioner to file a corrected affidavit for the foreign Suga reference, Exhibit 1005.

Reply to Pet. Opp. To PO Motion to Exclude, 3

Exh. 1005 is a non-compliant reference and thus cannot be considered as prior art because no valid affidavit for the translation was timely entered.

Exh. 1017 fails to address the problem identified by the Board because the Exhibit was a different affiant and did not reference Exh. 1005.

Thus, the Petition (Paper 1) and Reply (Paper 18) must be rejected because the Institution Decision was based on Exh. 1005.

Reply to Pet. Opp. To PO Motion to Exclude, 6

End of Demonstrative