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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte YASUO ISHIHARA and STEVE C. JOHNSON

Appeal 2010-006128
Application 11/368,973
Technology Center 3600

Before LINDA E. HORNER, BARRY L. GROSSMAN, and JILL D. HILL,
Administrative Patent Judges.

HORNER, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Yasuo Ishihara and Steve C. Johnson (Appellants) seek our review under 35 U.S.C. § 134 of the Examiner's decision rejecting claims 1-12 and 21-26, which are all of the pending claims. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

THE INVENTION

Appellants' claimed invention relates to a system for selectively altering a ground proximity warning message for a flight vehicle. Spec., para. [0004]. Claims 1 and 6 are independent. Claim 1, reproduced below, is representative of the subject matter on appeal.

1. A ground proximity warning system for a vehicle, comprising:

a processor that is configured to generate a look-ahead envelope that defines a region extending outwardly from the vehicle and to generate a terrain proximity message when the defined region intersects a terrain feature; and

an interface device coupled to the processor that is arranged to receive at least one of a first selection and a second selection from a crew member of the vehicle, arranged to cause the processor to configure the system in a first operating mode wherein the generated terrain proximity message is selectively suppressed in response to the first selection, and arranged to cause the processor to configure the system in a second operating mode wherein the terrain proximity message is not suppressed in response to the second selection.

Independent claim 6 is also directed to a ground proximity warning system and comprises a look-ahead warning generator and "an interface coupled to the generator, arranged to receive at least one of a first selection and a second selection from a crew member of the aircraft" where the generated terrain proximity message is selectively suppressed in response to the first selection and is not suppressed in response to the second selection.

THE EVIDENCE

The Examiner relies upon the following evidence:

Wood	US 6,021,374	Feb. 1, 2000
DeMers	US 6,346,892 B1	Feb. 12, 2002
Kelly	US 6,567,728 B1	May 20, 2003
Johnson	US 2002/0097169 A1	Jul. 25, 2002
Corwin	US 2003/0004641 A1	Jan. 2, 2003
Conner	US 2004/0030465 A1	Feb. 12, 2004
Khatwa	US 2004/0225440 A1	Nov. 11, 2004

THE REJECTIONS

Appellants seek review of the following rejections:

1. Claims 1-3, 5-10, and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson and Conner.
2. Claims 4 and 11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson, Conner, and Wood.
3. Claims 22 and 25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson, Conner, and Khatwa.
4. Claims 23 and 26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson, Conner, and DeMers.
5. Claims 21 and 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson, Conner, Wood, Kelly, and Corwin.

ANALYSIS

Appellants present arguments for the patentability of independent claims 1 and 6 over Johnson and Conner. App. Br. 4-10. Appellants do not present separate arguments for dependent claims 2, 3, 5, 7-10, and 12, so these claims stand or fall with their respective independent claims. *See* 37

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C.F.R. § 41.37(c)(1)(vii) (2011). While Appellants appeal the ground of rejection of the remaining claims 4, 11, and 21-26 (App. Br. 3-4), Appellants do not present arguments specifically rebutting these grounds of rejection. We understand Appellants to be seeking reversal of these rejections based on the arguments presented in rebuttal of the first ground of rejection of independent claims 1 and 6. As such, the outcome of this appeal turns on our analysis of the Examiner's rejection of claims 1 and 6 under 35 U.S.C. § 103 as being unpatentable over Johnson and Conner.

We agree with the Examiner that Johnson discloses all the features of the systems of claims 1 and 6, except for explicitly disclosing that a crew member may cause the system to act in multiple modes. Ans. 3-4. We also agree with the Examiner that Conner teaches a system that determines a phase of flight based on input from a crew member (via gear or flaps) and sends a signal to the processing system. Ans. 5-7. We also agree with the Examiner that the modification of Johnson to incorporate or substitute a crew interface device coupled to a processor as taught by Conner in Johnson's system is simply the combination of prior art elements according to their established functions to yield predictable results or the mere substitution of one element for another known in the field to yield a predictable result. Ans. 7. We further find that the Examiner has adequately addressed Appellants' arguments in the Examiner's Answer. Ans. 8-12. As such, we adopt the Examiner's findings and reasoning as our own. In particular, Appellants' arguments that Conner fails to provide motivation to modify Johnson (App. Br. 6) and that one of ordinary skill in the art would

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not be motivated to modify Johnson's system as proposed (App. Br. 9; Reply Br. 5) rely on a crew member's intent to suppress the terrain proximity message via the interface. These arguments are not commensurate with the scope of the claim language, which simply calls for the interface device to be "arranged to receive" a selection from a crew member and to be "arranged to cause the processor [or generator] to configure the system" in a first or second operating mode based on the selection made. *See* Ans. 11. As such, Appellants have not persuaded us of error in the Examiner's rejection of claims 1 and 6.

DECISION

We AFFIRM the decision of the Examiner to reject claims 1-12 and 21-26.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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