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Row 3: EXAMINER MOON, SEOKYUN
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte KLAUS FLINNER, GEORG HAUSMANN,
STEFAN HOLZER, and JORG STELZER

Appeal 2010-006640
Application 11/017,616
Technology Center 2600

Before DEBRA K. STEPHENS, JUSTIN BUSCH, and
LYNNE E. PETTIGREW, *Administrative Patent Judges*.

PETTIGREW, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1-27. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

STATEMENT OF THE CASE

Introduction

Appellants' invention relates to a refrigerator with a function display panel that contains electrically charged pigment carriers that move under the influence of an electric field. Abstract. The function display panel contains electrodes that are configured to apply an electric field to the pigment carriers and are associated with a display element. *Id.*

Claim 12 is illustrative of the invention (disputed limitation *italicized*):

12. A refrigerator display, comprising:

a transparent ground electrode;

a printed circuit board including a plurality of second electrodes; and

a plurality of electrically charged pigment carriers configured to move under the influence of an electrical field between the transparent ground electrode and the second electrodes and to maintain position in the absence of the electric field,

wherein *at least one of the plurality of second electrodes is associated with a static graphical element.*

Rejections on Appeal

The Examiner rejected claims 12-14 and 27 under 35 U.S.C. § 103(a) as being unpatentable over Kawai (US 6,724,520 B2, Apr. 20, 2004) and Jacobson (US 6,445,489 B1, Sept. 3, 2002).

The Examiner rejected claims 15 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Kawai, Jacobson, Webber (US 7,170,670 B2, Jan. 30, 2007), and Hiraoka (US 6,526,766 B1, Mar. 4, 2003).

The Examiner rejected claims 1-11, 18, 23, and 25 under 35 U.S.C. § 103(a) as being unpatentable over Mikkelsen (US 6,054,071, Apr. 25, 2000), Jacobson, Hiraoka, and Lin (US 6,577,433 B1, June 10, 2003).

The Examiner rejected claims 17 and 19-21 under 35 U.S.C. § 103(a) as being unpatentable over Mikkelsen, Jacobson, Hiraoka, Lin, and Webber.

The Examiner rejected claims 22 and 24 under 35 U.S.C. § 103(a) as being unpatentable over Mikkelsen, Jacobson, Hiraoka, Lin, and Gelbman (US 6,753,830 B2, June 22, 2004).

The Examiner rejected claim 26 under 35 U.S.C. § 103(a) as being unpatentable over Kawai, Jacobson, and Gelbman.

Issue on Appeal

Did the Examiner err in rejecting the claims for obviousness because the prior art does not teach or suggest electrodes associated with a “static graphical element”?

ANALYSIS

We have reviewed the Examiner’s rejections in light of Appellants’ arguments that the Examiner has erred. We are not persuaded by Appellants’ arguments, and we concur with the conclusions reached by the Examiner.

The Examiner relies on Kawai for teaching most of the limitations in claim 12, including electrodes associated with a “static graphical element.”
Ans. 4. Kawai discloses an electrophoretic display on which content is

written by applying an appropriate voltage between pairs of electrodes, after which “the display is maintained for a time even though the voltage application is terminated.” Kawai, col. 5, ll. 26-29. In the rejection of claim 12, the Examiner notes that “the characters displayed on the electrophoretic paper of figure 12 [of Kawai] are static graphical elements for a certain time interval.” Ans. 4.

Appellants contend that “a graphical element that is displayed for a certain time interval clearly is not a static graphical element, as claimed.” App. Br. 8; Reply Br. 8. According to Appellants, such an interpretation “is overly broad and inconsistent with the specification.” App. Br. 8; Reply Br. 8. Appellants argue that their Specification defines “static graphical element” as “an unchanging graphical element that is formed by a pattern of electrodes formed on a specifically produced printed circuit board for that model of refrigerator.” App. Br. 10; Reply Br. 11-12, 13. Appellants allege that this definition is consistent with the dictionary definition of “static” as “standing or fixed in one place” or “characterized by a lack of movement, animation, or progression.” App. Br. 8; Reply Br. 8, 11. Appellants further contend that interpreting “static graphical element” to include graphical elements that change over certain time intervals renders the term “static” meaningless. App. Br. 9; Reply Br. 9. Appellants, however, emphasize that their interpretation of “static graphical element” does not encompass “permanent” graphical elements. App. Br. 10; Reply Br. 10.

We are not persuaded by Appellants’ arguments. We agree with the Examiner’s response that a static graphical element can be interpreted two ways in terms of time—either permanently static or not permanently static. Ans. 22. As the Examiner explains, “if a graphical element is not [a]

permanent-unchanging graphical element,” as Appellants acknowledge, “then the graphical element must be either a graphical element which is unchanged only for certain time intervals/periods or a continuously changing graphical element.” Ans. 24. Since a *continuously changing* graphical element cannot be considered a *static* graphical element, the term “static” is not meaningless, and we concur with the Examiner’s reasoning that the claim limitation “static graphical element” is properly interpreted as a graphical element that is unchanged for certain time intervals or periods. Ans. 24.

In addition, we note that Appellants’ proposed interpretation of “static graphical element” as an “unchanging graphical element that is formed by a pattern of electrodes formed on a specifically produced printed circuit board for that model of refrigerator” improperly reads limitations from the Specification into the claims. Under the Examiner’s broadest reasonable interpretation of “static graphical element,” the Examiner properly concludes that Kawai teaches the limitation as recited in claim 12.

We further conclude that a graphical display that never changes would have been obvious to a person of ordinary skill in the art. As described above, Kawai teaches that images on an electrophoretic display are maintained for some period of time after the applied voltage is terminated. Kawai, col. 5, ll. 26-29. An ordinarily skilled artisan would have recognized that the display could be maintained indefinitely by reapplying the voltage.

For the foregoing reasons, we sustain the Examiner’s § 103(a) rejection of claim 12 as well as dependent claims 13, 14, 26, and 27, for which Appellants’ have not made separate, detailed arguments.

For the remaining claims (1-11 and 15-25), the Examiner relies on Hiraoka for disclosing a “static graphical element.” Ans. 8, 11. Appellants make the same argument for Hiraoka as for Kawai—that a “static graphical element” as claimed does not encompass a display element that may change as disclosed in Hiraoka. App. Br. 11-13; Reply Br. 16-18. For the same reasons set forth above with respect to claim 12, we sustain the Examiner’s rejection of claims 1-11 and 15-25.

CONCLUSION

The Examiner did not err in rejecting claims 1-27 as being unpatentable under 35 U.S.C. § 103(a).

DECISION

The Examiner’s rejection of claims 1-27 is affirmed.

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

AFFIRMED

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