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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte PHILIP C. HANSES and MICHAEL A. DRAGO

Appeal 2010-006959
Application 11/671,358
Technology Center 2100

Before ROBERT E. NAPPI, LYNNE E. PETTIGREW, and
MIRIAM L. QUINN, *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 1-26. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

STATEMENT OF THE CASE

Introduction

According to Appellants, their invention relates to a system for using assembly product-related information included with one or more components of a product to obtain and assemble or apply one or more additional components or processes to a product during assembly. Spec. ¶ 0005.

Claims 1, 6, 17, and 22 are independent. Claim 6 is illustrative of the invention (disputed limitations *italicized*):

6. A system for performing one or more manufacturing operations utilizing product-related information provided on *one or more tags secured to a product being manufactured*, the system comprising:

means for reading the product-related information provided on the one or more tags;

means for identifying at least one of a component to be assembled to the product or a process to be applied to the product by utilizing the product-related information;

means for verifying that the product is located at a designated assembly station;

means for verifying that at least one of an available component is the component designated by the product-related information or an available process is the process designated by the product-related information;

means for updating the product-related information to indicate at least one of an assembly of the available component to the product or the application of the available process to the product; and

means for writing the updated product-related information to the one or more tags.

Rejections on Appeal

The Examiner has rejected claims 6-8, 13, and 16 under 35 U.S.C. § 102(b) as anticipated by Sanada (US 6,725,116 B2; Apr. 20, 2004). Ans. 4-6.

The Examiner has rejected claims 1-5, 9-12, 14, 15, and 17-26 under 35 U.S.C. § 103(a) as being unpatentable over Sanada and Farchmin (US 2005/0228528 A1; Oct. 13, 2005). Ans. 6-13.¹

Issues on Appeal

1. Did the Examiner err in rejecting independent claim 6 under 35 U.S.C. § 102(b) because Sanada fails to teach all of the limitations of the claim (App. Br. 15-16)?

2. Did the Examiner err in rejecting dependent claim 13 under 35 U.S.C. § 102(b) because Sanada fails to teach “means for retrieving the available component” (App. Br. 17)?

3. Did the Examiner err in rejecting dependent claim 14 under 35 U.S.C. § 103(a) because the combination of Sanada and Farchmin fails to teach or suggest “wherein means for retrieving the available component is selected from the group consisting of a conveyor system, an automated storage and retrieval system, a robotic arm, an automated guided vehicle, or a manual delivery system” (App. Br. 20-21)?

4. Did the Examiner err in rejecting independent claim 1 under 35 U.S.C. § 103(a) because the combination of Sanada and Farchmin fails to

¹ The Examiner has withdrawn the rejection of claims 6-8, 10, 12, and 13 under 35 U.S.C. § 101. Ans. 3-4.

teach or suggest “one or more tag writers collectively adapted to update the product-related information on the first primary tag of the product to *indicate completion of the first manufacturing operation*” (App. Br. 17)?

5. Did the Examiner err in rejecting independent claims 17 and 22 under 35 U.S.C. § 103(a) because the combination of Sanada and Farchmin fails to teach or suggest all of the limitations of those claims (App. Br. 19-20)?

6. Did the Examiner err in rejecting dependent claims 19 and 24 under 35 U.S.C. § 103(a) because the combination of Sanada and Farchmin fails to teach or suggest all of the limitations of those claims (App. Br. 21)?

ANALYSIS

Claims 6-12

Appellants first contend that Sanada does not teach “one or more tags secured to a product being manufactured,” as recited in claim 6. App. Br. 15. As an initial matter, Appellants assert that this preamble language is a claim limitation because it provides antecedent basis for limitations in the claim body. App. Br. 15 (citing *Catalina Mktg. Int’l, Inc. v. Coolsavings.com, Inc.*, 289 F.3d 801, 808 (Fed. Cir. 2002)). Turning to the Examiner’s rejection, Appellants argue that information storage medium 2 in Sanada, relied on by the Examiner for teaching a tag, is not secured to a product being manufactured, but instead “is part of a transport device that carries the product being manufactured.” App. Br. 15.

Without expressly considering whether the recited preamble language is a claim limitation, the Examiner finds that Sanada discloses a tag secured to a product being manufactured. Ans. 4. Specifically, the Examiner points to Figures 1, 2A, and 3 of Sanada, all of which show information storage

medium 2 (corresponding to the claimed tag) secured to vehicle body 1 (corresponding to the claimed product being manufactured). *Id.*

Even assuming the recited preamble language is a claim limitation, an issue we need not decide, we agree with the Examiner that Sanada discloses a tag secured to a product being manufactured. As correctly found by the Examiner, the figures in Sanada clearly show a tag (information storage medium 2) secured to a product being manufactured (vehicle body 1). Appellants' contrary argument is based on the following language from Sanada (col. 3, ll. 1-7):

[A]t the preparation step, as shown in FIG. 1, . . . the computer terminal 11 causes an information read/write unit 3 to write product-specific information . . . and parts-specific information . . . in an information storage medium 2, as set at a predetermined position of the truck[, which carries vehicle body 1 along a production line].

It is not clear whether this passage indicates that information storage medium 2 in Sanada is placed at a predetermined position on the truck, as Appellants allege, or that the writing of product-specific and parts-specific information occurs when the truck is at a predetermined position as the assembly process begins. In any event, even if information storage medium 2 is placed at a predetermined position on the truck, that does not preclude it from also being secured to the product being manufactured. In view of Figures 1, 2A, and 3 of Sanada, we agree with the Examiner that Sanada discloses a tag secured to a product being manufactured, as recited in claim 6.

Next, Appellants contend that Sanada does not teach “means for updating the product-related information to indicate at least one of an assembly of the available component to the product or the application of the

available process to the product.” App. Br. 15-16. Specifically, Appellants argue that Sanada teaches updating information on information storage medium 2 (the tag) *prior to* an assembly operation, which in Appellants’ view does not “indicate assembly,” as required by claim 6. *Id.* (citing Sanada, col. 3, ll. 42-49; Abstract). The Examiner responds that in claim 6, “no particular time is specified[,] only an indication of assembly.” Ans. 13.

We agree with the Examiner that Sanada teaches this limitation. Sanada provides that when comparisons between (a) product-specific information on information storage medium 2 and completion check 4, and (b) parts-specific information on information storage medium 2 and parts 6, are both identical, computer terminal 12 writes the parts-intrinsic information in the information storage medium 2 (i.e., updates the product-related information). Sanada, col. 3, ll. 34-45. Sanada also provides that when both comparisons are identical, the parts 6 are assembled in the vehicle body 1 (i.e., assembly of the available component to the product takes place). Sanada, col. 3, ll. 48-49. Because updating product-related information and assembly of the component to the part both occur when the comparisons are identical, Sanada discloses “updating . . . to indicate . . . assembly” under the broadest reasonable interpretation of the claim language.

Finally, Appellants contend that Sanada fails to disclose “means for verifying that the part is located at the assembly station,” as recited in claim 6. App. Br. 16. We concur with the Examiner that Sanada teaches this limitation. When the product being manufactured in Sanada reaches the assembly stage of the production line (i.e., a designated assembly station), a bar code reader 5 reads product-specific information from the product and

transmits the information to computer terminal 12. Ans. 5; Sanada, col. 3, ll. 16-20. This verifies that the product is located at the assembly station.

For the foregoing reasons, we sustain the 35 U.S.C. § 102(b) rejection of claim 6 as anticipated by Sanada. We also sustain the Examiner's § 102(b) rejection of dependent claims 7 and 8, not separately argued by Appellants. *See* App. Br. 16. For the same reasons, we affirm the Examiner's § 103(a) rejection of dependent claims 9-12 over Sanada and Farchmin because Appellants do not challenge the Examiner's findings with respect to Farchmin or the additional limitations in those claims. *See* App. Br. 20.

Claims 13-16

Appellants contend that Sanada does not disclose “means for retrieving the available component,” as recited in dependent claim 13. App. Br. 17. However, we are not persuaded that the Examiner erred in finding that Sanada teaches this limitation. As the Examiner correctly notes (Ans. 3), Appellants' Specification indicates that corresponding structure for the claimed “means for retrieving” includes “manual and/or automated signals for retrieval . . . that may be used to signal a driver to make a delivery of components.” Spec. ¶ 0014. The portion of Sanada relied on by the Examiner (Ans. 5) discloses that in response to a warning signal indicating that the wrong part is present, the operator “remakes the preparation or the like for proper parts and renews the parts assembling step.” Sanada, col. 3, ll. 54-58. In view of Appellants' Specification, an operator receiving a signal and retrieving the proper part as taught by Sanada is within the scope of the claimed “means for retrieving.” Accordingly, we sustain the 35

U.S.C. § 102(b) rejection of claim 13 and of claim 16 dependent thereon, not separately argued. *See* App. Br. 16.

Claim 14 further recites “means for retrieving the available component is selected from the group consisting of a conveyor system, an automated storage and retrieval system, a robotic arm, an automated guided vehicle, or a manual delivery system.” As the Examiner properly found, Farchmin teaches a facility operator that manually retrieves and loads parts onto a component feeder. Ans. 10 (citing Farchmin ¶ 0068). Thus, we are not persuaded by Appellants’ argument that the Examiner has not shown this limitation is taught by the combination of references. App. Br. 20. Accordingly, we sustain the Examiner’s § 103(a) rejection of claim 14 over Sanada and Farchmin, as well as the § 103(a) rejection of claim 15 dependent thereon, not separately argued. *See id.*

Claims 1-5

Claim 1 recites “one or more tag writers collectively adapted to update the product-related information on the first primary tag of the product *to indicate completion of the first manufacturing operation*” (emphasis added). Appellants contend that Sanada teaches that writing to the information storage medium (updating the information on the tag) allows a manufacturing operation to begin, rather than indicating that a manufacturing operation has been completed, as required by claim 1. App. Br. 17; Reply Br. 2. The Examiner does not respond to this argument, stating only that no particular time is specified for an indication of assembly, as recited in claim 6. Ans. 13. In contrast to claim 6, however, claim 1 recites that writing to the tag indicates *completion* of a manufacturing operation, which, as set forth in other limitations of claim 1, includes

applying a component or process to the product. Appellants have persuaded us that the Examiner has not established that Sanada teaches or suggests this limitation. Furthermore, the Examiner does not rely on Farchmin to teach this limitation. Accordingly, we do not sustain the Examiner's rejection of claim 1 under 35 U.S.C. § 103(a) over Sanada and Farchmin, nor do we sustain the Examiner's § 103(a) rejection of claims 2-5 dependent thereon.²

Claims 17, 18, 20, 21-23, 25, and 26

With respect to claim 17, Appellants contend that the combination of Sanada and Farchmin does not teach or suggest two limitations similar to those in claim 6—"securing a first tag to a first assembly component" and "updating the production-related information contained on the first tag to indicate assembly of the child component." App. Br. 19-20. For the reasons discussed above with respect to claim 6, we concur with the Examiner that Sanada teaches the recited limitations.

Appellants also argue that the combination of Sanada and Farchmin does not teach or suggest "reading . . . product-related information from the first tag, . . . including a first assembly operation" and "a designated assembly station identified by the first assembly operation," as recited in claim 17. App. Br. 19-20. We agree with the Examiner that Farchmin teaches that instructions for processing a product (i.e., a first assembly operation) can be stored on and read from a tag. Ans. 12; Farchmin, ¶ 0116. Farchmin also teaches that these instructions may include the location for the

² Because this issue is dispositive with respect to claims 1-5, we do not reach Appellants' other contentions regarding additional limitations in these claims. *See* App. Br. 17-19, 21.

process (i.e., a designated assembly station). Farchmin, ¶ 0116 (citing table 58 in Fig. 6).

For the foregoing reasons, we sustain the Examiner's 35 U.S.C. § 103(a) rejection of claim 17 as well as claim 22, which contains similar limitations. We also sustain the Examiner's § 103(a) rejection of dependent claims 18, 20, 21, 23, 25, and 26, not separately argued.

Claims 19 and 24

Appellants contend that the Examiner has not identified any portion of Sanada or Farchmin that teaches or suggests “a first process identifier read from the first tag” and “updating the production-related information contained on the first tag to indicate application of the process.” App. Br. 21. In the Answer, however, the Examiner has provided sufficient reasoning for concluding that it would have been obvious to a person of ordinary skill in the art to modify Sanada and Farchmin to provide these features. Ans. 13. Accordingly, we sustain the Examiner's rejection of claims 19 and 24 under 35 U.S.C. § 103(a).

CONCLUSIONS

On the record before us, we conclude that the Examiner did not err in rejecting claims 6-8, 13, and 16 under 35 U.S.C. § 102(b) as anticipated by Sanada, or in rejecting claims 9-12, 14, 15, and 17-26 under 35 U.S.C. § 103(a) as being unpatentable over Sanada and Farchmin. We conclude, however, that the Examiner erred in rejecting claims 1-5 under 35 U.S.C. § 103(a) as being unpatentable over Sanada and Farchmin.

DECISION

The Examiner's rejection of claims 1-5 is reversed.

The Examiner's rejection of claims 6-26 is affirmed.³

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-IN-PART

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³ We have decided the appeal before us. However, should there be further prosecution of claims 22-26, which recite an "article of manufacture comprising machine readable media storing instructions," the Examiner's attention is directed to *In re Nuijten*, 500 F.3d 1346 (Fed. Cir. 2007), and *Subject Matter Eligibility of Computer Readable Media*, 1351 Off. Gaz. Pat. Office 212 (Feb. 23, 2010).