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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte KI-JU LEE

Appeal 2010-008108
Application 10/865,868
Technology Center 2600

Before ALLEN R. MACDONALD, KRISTEN L. DROESCH, AND JUSTIN
BUSCH *Administrative Patent Judges*.

BUSCH, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1-5, 7-11, 13-17, 19-23, and 25-35. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

Introduction

According to Appellant, the invention relates to:

An apparatus and method to control a disc driving speed where apparatus includes processor to set a disc driving speed and to transmit information of the disc driving speed according to a predetermined protocol; a disc drive to receive and to store the information of the disc driving speed, and to drive a disc at the disc driving speed.

Spec. § Abstract.

STATEMENT OF THE CASE

Exemplary Claim

Claim 1 is exemplary and reproduced below:

1. An apparatus to control a disc driving speed, comprising:
a processor to establish the disc driving speed and transmit information of the disc driving speed in accordance with a predetermined protocol; and
a disc drive to receive and store the information of the disc driving speed, and to drive the disc at the disc driving speed, the disc drive including a speed alternation unit changing a current driving speed at which a disc is driven to the established disc driving speed transmitted from the processor, wherein the disc is driven at the disc driving speed until the disc driving speed is replaced with another disc driving speed, where the disc is driven at the stored disc driving speed

even after a disc tray of the disc drive is opened and/or closed or a disc is changed.

References

Lee '428	US 6,154,428	Nov. 28, 2000
Yamashita	US 2002/0159365 A1	Oct. 31, 2002
Lee '967	US 6,538,967 B1	Mar. 25, 2003

Rejections

Claims 1, 2, 4, 7, 8, 10, 13, 14, 16, 19, 20, 22, 25-27, 29, 30, and 32-35 stand rejected under 35 U.S.C. § 103(a) as being obvious in view of Lee '967 and Yamashita.

Claims 3, 5, 9, 11, 15, 17, 21, 23, 28, and 31 stand rejected under 35 U.S.C. § 103(a) as being obvious in view of Lee '967, Yamashita, and Lee '428.

ISSUES

Appellant argues that the cited combination of Lee '967 and Yamashita does not teach a processor transmitting a disc driving speed to a disc drive that subsequently stores the speed. App. Br. 14-15. Appellant also argues that the cited combination of references does not teach continuing to drive a disc at a stored disc driving speed until the stored driving speed is replaced with a new driving speed. App. Br. 15-17.

Issue 1: Has the Examiner erred in finding that the combination of Lee '967 and Yamashita teaches or suggests “a processor to establish the disc driving speed and transmit information of the disc driving speed” and “a

disc drive to receive and store the information of the disc driving speed, and to drive the disc at the disc driving speed,” as recited in claim 1 and commensurately recited in claims 7, 13, 19, 27, 30, and 35?

Issue 2: Has the Examiner erred in finding that the combination of Lee ‘967 and Yamashita teaches or suggests “where the disc is driven at the stored disc driving speed even after a disc tray of the disc drive is opened and/or closed or a disc is changed,” as recited in claim 1 and commensurately recited in claims 7, 13, 19, 27, 30, and 35?

ANALYSIS

Issue 1

The Examiner relies on Lee ‘967 for teaching “a processor to establish the disc driving speed and transmit information of the disc driving speed in accordance with a predetermined protocol” and “a disc drive (Figure 2, ‘optical disk player’) to receive and store the information of the disc driving speed.” Ans. 3. Appellant argues that the speed in Lee ‘967 is pre-stored and that “the disc drive does not receive and store the information of the disc driving speed from the controller 61.” App. Br. 14. Appellant also argues that “Lee ‘967 does not suggest that a processor establishes the disc driving speed and transmits the disc driving speed.” *Id.* Appellant summarizes the argument by stating that “Lee ‘967 does not suggest that the processor 61 transmits a disc driving speed that is received and stored at a disc drive.” App. Br. 14.

The Examiner finds that the claimed “information of the disc driving speed” is not limited to “an actual disc driving speed, but also includes any

information related to a disc driving speed.” Ans. 10. The Examiner then finds that “a specific servo control program is downloaded corresponding to the reproduction speed,” which is then stored in memory. Ans. 10; *see also* Final Office Action p. 2.

As an initial matter, we note that the Examiner is correct in pointing out that it is not the “disc driving speed,” but rather “information of the disc driving speed” that is transmitted from the processor and that is received and stored by the disc drive. For example, “information of the disc driving speed” could include identification of the servo program in Lee ‘967 that controls the driving speed for the disk. Lee ‘967 col. 3 ll. 28-29 (“The ROM 100 contains data belonging to servo control programs and disk speeds which are linked to each other”). Additionally, nothing in the claim requires any particular order or timing with respect to storing the information. To the extent that Appellant argues that the combination of Lee ‘967 and Yamashita does not teach storing the “disc driving *speed*” (as opposed to “*information* of the disc driving speed”), *pre*-storing the information, or receiving the information “*from the controller*,” Appellant’s arguments are not commensurate with the scope of the claims.

We also agree with the Examiner’s findings that the servo control program corresponding to the reproduction speed is downloaded and stored in memory. Specifically, the portion of Lee ‘967 cited by the Examiner on page 2 of the Final Office Action states, in part, that the system includes a “controller 61 for selecting and downloading a servo control program corresponding to the present reproduction condition for an optical disk 10 from an external ROM 100 into an internal flash memory 61*a*.” Lee ‘967

col. 3 ll. 19-23. Additionally, we note that the features of Appellant's claims relating to transmitting, receiving, and storing information of the driving speed were well-known in the art, as Yamashita appears to teach these features as well. Specifically, Yamashita teaches establishing a disk driving speed and transmitting the speed through a system and eventually "to the disk drive interface unit." Yamashita Fig. 9, ¶ 101 (a processor to establish and transmit a disk driving speed). Yamashita further teaches driving the disk at the disk driving speed that was established "before the replacement of the medium 740 stored in a storage unit," which inherently requires that the driving speed was previously received and stored in the storage unit. Yamashita Fig. 9, ¶ 101 (disk drive receives and stores a disk driving speed).

Therefore, we find that Lee '967, in combination with Yamashita, teaches a controller that reads on the claimed "processor to establish the disc driving speed and transmit information of the disc driving speed in accordance with a predetermined protocol." We also find that the Examiner's proposed combination teaches a "disc drive to receive and store the information of the disc driving speed, and to drive the disc at the disc driving speed."

Issue 2

We agree with the Examiner's finding that paragraph 135 of Yamashita teaches driving the disk drive at the stored disk driving speed "even after a disc tray of the disc drive is opened and/or closed or a disc is changed." Ans. 13; *see also* Yamashita ¶ 134. Appellant has not provided any argument against the teachings of paragraph 135 of Yamashita.

Therefore, we are not persuaded by Appellant's arguments and agree with the Examiner's conclusion that independent claims 1, 7, 13, 19, 27, 30, and 35 would have been obvious in view of the combination of Lee'967 and Yamashita.

Dependent Claims

Appellant argues that dependent claims 26 and 34 are not rendered obvious by the combination of Lee '967 and Yamashita because neither Lee '967 nor Yamashita suggests storing the disk driving speed at the disk drive. This argument is based on the same argument raised for Issue 2. However, for the same reason as discussed above, we find that Lee '967 in combination with Yamashita does teach every limitation of dependent claims 26 and 34.

Dependent claims 2, 4, 8, 10, 14, 16, 20, 22, 25, 29, 32, and 33 are not argued separately and we thus find that they are obvious in view of the combination of Lee '967 and Yamashita for the same reasons as discussed above.

Appellant argues that Lee '428 fails to cure any of the deficiencies in Lee '967 and Yamashita. We find no deficiencies in the combination of Lee '967 and Yamashita as discussed above. Therefore, we find that dependent claims 3, 5, 9, 11, 15, 17, 21, 23, 28, and 31, not argued separately, are obvious in view of the combination of Lee '967, Yamashita, and Lee '428.

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DECISION

The Examiner's rejection of claims 1-5, 7-11, 13-17, 19-23, and 25-35 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) (2011).

AFFIRMED

ELD