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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte TAKASHI KUROSAKI, TOMOAKI SEKIYA,
SUSUMU TAKAHASHI, TAKESHI KOJIMA and SHIGEHIRO HONDA

Appeal 2011-003749
Application 11/494,771
Technology Center 3600

Before KEN B. BARRETT, LYNNE H. BROWNE and
PATRICK R. SCANLON, *Administrative Patent Judges*.

BROWNE, *Administrative Patent Judge*

DECISION ON APPEAL

STATEMENT OF THE CASE

Takashi Kurosaki et al., (Appellants) appeal under 35 U.S.C. § 134 from the Examiner's decision finally rejecting claims 1 and 5 under 35 U.S.C. § 103(a) as being unpatentable over Friederichs (US 5,944,394, iss. Aug. 31, 1999), Inoue (US 5,267,783, iss. Dec. 7, 1993), Yasuno (US 5,229,944, iss. Jul. 20, 1993) and Official Notice; and, claims 7 and 9 under 35 U.S.C. § 103(a) as being unpatentable over Friederichs, Inoue, Yasuno, Official Notice and Wiss (US 5,816,666, iss. Oct. 6, 1998).

Claim 3 has been canceled. Claims 2, 4, 6, 8 and 10-20 are withdrawn from consideration. Appellants' representative presented oral argument on February 12, 2013. We have jurisdiction under 35 U.S.C. § 6(b).

We Affirm.

THE INVENTION

Claim 1, reproduced below, is representative of the subject matter on appeal.

1. A brake pressure controller for a vehicle comprising:

an allowable differential pressure setting device for setting an allowable differential pressure between a left wheel and a right wheel on an identical axle based on parameters indicating a motion state of a vehicle;

a target control pressure setting device for performing a moment-to-moment setting of a value obtained by summing up the allowable differential pressure set by the allowable differential pressure setting device and a lower-friction-side brake pressure to be applied to a lower-friction-side wheel of the left and right wheels, as a target control pressure of a higher-friction-side brake pressure to be applied to only a higher-friction-side wheel; and

a higher-friction-side brake pressure control device for adjusting the higher-friction-side brake pressure to the target control pressure, wherein

the parameters are a speed of a vehicle body, *a lateral acceleration rate measured by a sensor* for detecting an acceleration rate in the left and right direction of the vehicle body, and a lower-friction-side brake pressure of the brake pressures to be applied to the left and right wheels, and

the allowable differential pressure setting device comprises:

a candidate calculation device for calculating a first candidate of the allowable differential pressure based on the vehicle body speed, *calculating a second candidate of the allowable differential pressure based on the lateral acceleration rate*, and calculating a third candidate if the allowable differential pressure based on the lower-friction-side brake pressure, at least the third candidate from among the candidates being calculated using a map prepared in advance; and
an allowable differential pressure selection device for selecting and setting the highest one among the first, second, and third candidates calculated by the candidate calculation device, as the allowable differential pressure.

App. Br. 14-15 (emphasis added).

OPINION

Claims 1 and 5:

Appellants argue claims 1 and 5 together. App. Br. 11-12. We select claim 1 as the representative claim and claim 5 stands or falls with claim 1. *See* 37 C.F.R. § 41.37(c)(1)(vii) (2011).

The Examiner finds that Friederichs discloses all of the limitations of claim 1 except for

expressly calculating additional candidates of the allowable differential pressure based on additional parameters of a speed of a vehicle body and *a lateral acceleration rate* of the vehicle body, at least the candidate based on the lower-friction-side brake pressure being calculated using a map prepared in advance, and selecting the highest one among the three candidates as the allowable differential pressure.

Ans. 5 (emphasis added).

The Examiner further reasons that these deficiencies are remedied by the teachings of Inoue and Yasuno and the finding (based on Official Notice) that the equivalence of determining the lateral acceleration rate by using a sensor or by using a calculation was well known to a person of ordinary skill in the art at the time of the invention. Ans. 6.

Appellants argue that “in Yasuno, the actual lateral acceleration rate is not of concern . . . it is only the theoretical ‘lateral acceleration rate’ which is calculated” stating “[i]f the vehicle would lose traction between the tires of the vehicle and the road the actual lateral acceleration rate would be different than the calculated theoretical lateral acceleration rate taught by Yasuno.” Appellants then conclude “[t]herefore, it is respectfully submitted that the present second candidate of the allowable differential pressure based on the lateral acceleration rate is distinct from that erroneously alleged to be obvious by the teachings of Yasuno.” App. Br. 11-12.

Appellants’ argument is unconvincing because it is not responsive to the rejection articulated by the Examiner. The Examiner found that the limitations directed to the lateral acceleration rate and calculation of the second candidate are met by the teachings of Yasuno considered in view of the taking of Official Notice “that it is well-known to a person of ordinary skill in the art that a lateral acceleration rate can be measured by a sensor for detecting an acceleration rate in the left and right direction of a vehicle body.” Ans. 6.

The question before us is not whether it would be obvious to modify Yasuno to use a sensor to measure the lateral acceleration rate. Rather, the question raised is whether it would have been obvious to one of ordinary

skill in the art to modify Friederichs in view of the teachings of Inoue, Yasuno and facts set forth in the Examiner's taking of Official Notice. Appellants' arguments fail to apprise us of Examiner error. Accordingly, we sustain the Examiner's rejection of claims 1 and 5.

Claims 7 and 9:

Appellants argue "[t]he Wiss reference does not cure the defects of the Friederichs et al., Inoue et al. and Yasuno combination, as discussed above." App. Br. 12.

As discussed *supra*, we discern no error in the Examiner's rejection based on the combined teachings of Friederichs, Inoue, Yasuno and Official Notice. Accordingly, we sustain the Examiner's rejection of claims 7 and 9.

DECISION

We affirm the Examiner's rejection of claims 1, 5, 7 and 9 under 35 U.S.C. § 103(a).

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

Klh