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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JOSEPHUS A. VAN ENGELN, JEYHAN KARAOGUZ,
NAMBIRAJAN SESHADRI, and JAMES D. BENNETT

Appeal 2011-007976
Application 11/120,455
Technology Center 2600

Before JOSEPH L. DIXON, ST. JOHN COURTEANY III, and
CARLA M. KRIVAK, *Administrative Patent Judges*.

KRIVAK, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1-20 and 22-25. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

STATEMENT OF THE CASE

Appellants' claimed invention is directed to a modular wireless headset including integral but detachable elements (Abstract).

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

1. A modular wireless headset operable to support voice communications, comprising:

a wireless microphone operable to detachably couple to a base unit and coupled to receive first audible signals from a user and provide the first audible signals to the base unit; and

a wireless earpiece operable to physically directly and detachably couple to the wireless microphone and the base unit and coupled to receive second audible signals from the base unit and provide the second audible signals to the user, the wireless earpiece and the wireless microphone each operable to separately detach from the base unit; and wherein at least one of the wireless microphone or the wireless earpiece further comprises:

a portable power supply operable to power the wireless earpiece, and operable to power the wireless microphone when the wireless earpiece and wireless microphone are coupled; and

a power control circuit operable to allocate power between the wireless earpiece and the wireless microphone when the wireless earpiece and the wireless microphone are physically coupled.

REFERENCES and REJECTIONS

The Examiner rejected claims 1-5, 7-17, 19, 20, 22, 24, and 25 under 35 U.S.C. § 103(a) based upon the teachings of Michalak (US Patent Application Publication No. 2005/0130593 A1, June 16, 2005, filed December 16, 2003), Weatherill (US Patent No. 5,881,149, March 09, 1999), and Carley (US Patent No. 6,845,242 B1, January 18, 2005).

The Examiner rejected claim 6 under 35 U.S.C. § 103(a) based upon the teachings of Michalak, Weatherill, Carley, and Chang (US Patent No. 6,757,517 B2, June 29, 2004).

The Examiner rejected claims 18 and 23 under 35 U.S.C. § 103(a) based upon the teachings of Michalak, Weatherill, Carley, and Villaverde (US Patent Application Publication No. 2005/0026560 A1, February 03, 2005).

ANALYSIS

The Examiner finds Michalak discloses all of Appellants' claimed limitations except for "a wireless earpiece operable to physically directly and detachably couple to the wireless microphone and the base unit," but finds Weatherill discloses this feature. The Examiner then finds Michalak and Weatherill do not disclose the wireless earpiece and wireless microphone are operable to separately detach from the base unit, however Carley discloses this feature. (Ans. 3-5).

Appellants contend the combination of Michalak, Weatherill, and Carley does not teach or suggest "the wireless earpiece and the wireless microphone each operable to separately detach from the base unit" (italics omitted) as claimed (App. Br. 12). Appellants argue Carley teaches a

speaker and microphone not physically connected (i.e., wirelessly connected) to a cordless base unit, Michalak discloses a detachable wireless headset that includes a microphone and speaker, but neither can be separately detached from a base unit, and Weatherill discloses a detachable earpiece and/or a detachable combined earpiece/microphone (i.e., a headset) (App. Br. 13). Appellants “agree with the Examiner that Michalak teaches a detachable wireless headset and that Weatherill teaches a detachable wireless earpiece,” but Appellants disagree with the Examiner’s interpretation of Carley, as neither the wireless speaker nor the wireless microphone of Carley are capable of “detaching” from a base unit as they are stand-alone devices (App. Br. 14). Appellants then conclude since none of the references discloses an earpiece and microphone separately detachable from the base unit, the claimed invention is not obvious (*id.*).

As the Examiner finds, Appellants is considering the references individually and not as a combination (Ans. 21). “[O]ne cannot show nonobviousness by attacking references individually, where . . . the rejections are based on combinations of references.” *In re Keller*, 642 F.2d 413, 426 (CCPA 1981) (citation omitted). “The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference, nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art.” *Id.* at 425 (citations omitted). Further, *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007) (citing *Graham v. John Deere Co.*, 383 U.S. 1, 12 (1966)), reaffirmed principles based on its precedent that “[t]he combination of familiar elements

according to known methods is likely to be obvious when it does no more than yield predictable results.” *Id.* (“When there is a design need or market pressure to solve a problem and there are a finite number of identified, predictable solutions, a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense. In that instance the fact that a combination was obvious to try might show that it was obvious under § 103.”). *See KSR*, 550 U.S. at 419.

We agree with the Examiner that Appellants are arguing the references individually. We also agree, in light of the totality of the references, the combination would be a combination of familiar elements according to known methods that would do no more than yield predictable results. Thus, we are not persuaded of Examiner error. Because we find the weight of the evidence supports the Examiner’s ultimate legal conclusion of obviousness, we sustain the Examiner’s rejection of claims 1-5, 7-17, 19, 20, 22, 24, and 25, and claims 6, 18, and 23, their allowability argued with respect to independent claims 1, 10, and 20 (App. Br. 15-16).

DECISION

The Examiner’s decision rejecting claims 1-20 and 22-25 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

Vsh