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EXAMINER
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TOMASZEWSKI, MICHAEL

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patti.demichele@Philips.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* W. SCOTT REID and BRIAN D. GROSS

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Appeal 2014-009896<sup>1</sup>  
Application 13/384,348<sup>2</sup>  
Technology Center 3600

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Before MICHAEL C. ASTORINO, NINA L. MEDLOCK, and  
ROBERT J. SILVERMAN, *Administrative Patent Judges*.

MEDLOCK, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner’s final rejection of claims 2–21. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

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<sup>1</sup> Our decision references Appellants’ Appeal Brief (“App. Br.,” filed April 14, 2014) and Reply Brief (“Reply Br.,” filed August 19, 2014), and the Examiner’s Answer (“Ans.,” mailed June 20, 2014), and Final Office Action (“Final Act.,” mailed November 15, 2013).

<sup>2</sup> Appellants identify Koninklijke Philips Electronics N.V. as the real party in interest. App. Br. 1.

### CLAIMED INVENTION

Appellants' claimed invention "relates to a network, system, or method for electronically determining whether rooms or equipment in a health care environment are clean or dirty" (Spec. 1, ll. 2–4).

Claims 4 and 12 are the independent claims on appeal. Claim 4, reproduced below, is illustrative of the claimed subject matter:

4. A room monitoring system, comprising:
  - a plurality of in-room units which collect information relating to a clean or dirty status of a plurality of patient rooms and/or equipment in the rooms, wherein the in-room units each include:
    - one or more sensors positioned in the room and configured to measure cleanliness of the patient room and/or equipment in the room;
    - a monitoring station which receives clean or dirty status information from the in-room units and determines which rooms are clean, and ready for a patient, which are dirty and in need of cleaning, and which are occupied.

### REJECTIONS

Claims 2, 4, 5, 8–13, and 15 are rejected under 35 U.S.C. § 103(a) as unpatentable over Reeder et al. (WO 03/014871 A2, pub. Feb. 20, 2003) (hereinafter "Reeder") and Swart et al. (US 2009/0276239 A1, pub. Nov. 5, 2009) (hereinafter "Swart").

Claims 3 and 16 are rejected under 35 U.S.C. § 103(a) as unpatentable over Reeder, Swart, and Rosow et al. (US 2003/0074222 A1, pub. Apr. 17, 2003) (hereinafter "Rosow").

Claims 6, 7, 14, 17, and 18 are rejected under 35 U.S.C. § 103(a) as unpatentable over Reeder, Swart, and Downing (US 6,647,765 B2, iss. Nov. 18, 2003).

Claims 19 and 20 are rejected under 35 U.S.C. § 103(a) as unpatentable over Reeder, Swart, and Jang (US 5,869,007, iss. Feb. 9, 1999).

Claim 21 is rejected under 35 U.S.C. § 103(a) as unpatentable over Reeder, Swart, Downing, and Jang.

## ANALYSIS

### *Independent Claim 4 and Dependent Claims 2, 5, and 8–11*

We are persuaded by Appellants' argument that the Examiner erred in rejecting independent claim 4 under 35 U.S.C. § 103(a) because neither Reeder nor Swart, alone or in combination, discloses or suggests "a plurality of in-room units . . . wherein the in-room units each include: one or more sensors positioned in the room and configured to measure cleanliness of the patient room and/or equipment in the room," as recited in claim 4 (App. Br. 7–9; *see also* Reply Br. 2–3).

Reeder is directed to a patient point-of-care computer system, and discloses a monitor 2014, at page 46, line 8 through page 47, line 3, cited by the Examiner (Final Act. 3), which includes a sensor 2011 (or a plurality of sensors 2011) for detecting badges or tags worn by caregivers, patients, etc., or mounted onto equipment, supplies, files, etc., and a camera 2015 for providing video input to a client device 2006. Reeder discloses that client device 2006 detects and identifies individuals, e.g., the cleaning staff, as they come within the range of sensor 2011, and may display a message requiring the staff member to activate a displayed icon to indicate that the room cleaning procedure is complete (Reeder 46, ll. 20–27). The client device, alternatively, may employ business logic that assumes, if a member of the cleaning staff remains within the range of sensor 2011 for at least a

pre-determined time period (e.g., 15 minutes), that the room cleaning procedure is complete (*id.* at 46, ll. 29–32).

The Examiner relies on Reeder as disclosing in-room units that include one or more sensors configured to measure cleanliness of the patient room, as recited in claim 4 (Final Act. 3 (citing Reeder 46, l. 8–47, l. 3; 59, ll. 1–30; Figs. 129–132)). However, we agree with Appellants that relying on a cleaning staff member to activate a cleaning complete icon or a processor to measure a time that a member of the cleaning staff is near a sensor does not constitute “one or more sensors positioned in the room and configured to measure cleanliness of the patient room,” as called for in claim 4 (App. Br. 7–8; Reply Br. 2).

The Examiner asserts in the Answer that Swart explicitly teaches measuring the cleanliness of equipment in the room and discloses the use of “photoluminescent or chemiluminescent indicators (i.e., sensors) positioned in rooms, on surfaces, on equipment, etc. to validate a room, a surface, equipment, and the like, has been cleaned” (Ans. 4 (citing Swart ¶ 75)). Yet Swart merely describes that a photoluminescent or chemiluminescent can be applied to a high touch surface, e.g., a sink, toilet seat, toilet handle, in a patient room prior to cleaning; the high touch surface can then be inspected with a black light after cleaning to determine if the indicator was disturbed by the cleaning process (*see* Swart ¶¶ 75, 93–94). Swart discloses that “[t]raining would be provided to hospital personal on what constitutes a ‘passing’ or ‘failing’ result” (*see id.* ¶ 94) and, thus, makes clear that the cleanliness of the high touch surface is determined by a human being, i.e., that the determination is a manual process.

In view of the foregoing, we do not sustain the Examiner's rejection of independent claim 4 under 35 U.S.C. § 103(a). For the same reasons, we also do not sustain the rejection of dependent claims 2, 5, and 8–11.

*Cf. In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992) (“dependent claims are nonobvious if the independent claims from which they depend are nonobvious”).

*Independent Claim 12 and Dependent Claims 13 and 15*

Independent claim 12 includes language substantially similar to the language of claim 4 and stands rejected based on substantially the same rationale applied with respect to claim 4 (*see* Final Act. 5). Therefore, we do not sustain the Examiner's rejection of independent claim 12, and claims 13 and 15, which depend therefrom, for the same reasons set forth above with respect to independent claim 4.

*Dependent Claims 3, 6, 7, 14, and 16–21*

Each of claims 3, 6, 7, 14, and 16–21 depends, directly or indirectly, from one of independent claims 4 and 12. The rejections of claims 3, 6, 7, 14, and 16–21 do not cure the deficiency in the Examiner's rejection of independent claims 4 and 12. Therefore, we do not sustain the Examiner's rejections of claims 3, 6, 7, 14, and 16–21 for substantially the same reasons set forth above with respect to the independent claims.

DECISION

The Examiner's rejections of claims 2–21 under 35 U.S.C. § 103(a) are reversed.

REVERSED