



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/997,897	12/14/2010	Pierre H. Woerlee	2008P00641WOUS	1037

24737 7590 11/28/2016
PHILIPS INTELLECTUAL PROPERTY & STANDARDS
465 Columbus Avenue
Suite 340
Valhalla, NY 10595

EXAMINER

TSAI, MICHAEL JASPER

ART UNIT	PAPER NUMBER
----------	--------------

3771

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

11/28/2016

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

marianne.fox@philips.com
debbie.henn@philips.com
patti.demichele@Philips.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte PIERRE H. WOERLEE, THOMAS J. DE HOOG,
IGOR W. F. PAULUSSEN, and SHERVIN AYATI

Appeal 2015-000583
Application 12/997,897
Technology Center 3700

Before: CHARLES N. GREENHUT, JEFFREY A. STEPHENS, and
PAUL J. KORNICZKY, *Administrative Patent Judges*.

GREENHUT, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from a rejection of claims 7
and 10. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

CLAIMED SUBJECT MATTER

The claims are directed to a method for automated cardio pulmonary resuscitation. Claim 7, reproduced below, with emphasis added, is illustrative of the claimed subject matter:

7. Method for automated cardio pulmonary resuscitation, comprising:

setting operating parameters that determine a dynamic behavior of a system comprising a chest compression actuator of an automated cardio pulmonary resuscitation apparatus adapted to be applied to the chest of a patient, the setting comprising *setting the operating parameters to safe initial values*, the method further comprising iteratively performing at least one chest compression by the cardio pulmonary resuscitation apparatus based on the set operating parameters,

collecting a chest compression waveform resulting from the chest compression,

evaluating the chest compression waveform with respect to compliance with a desired waveform for chest compression, and

modifying the operating parameters according to an adaptive control scheme using the evaluation.

REFERENCES

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Geheb	US 7,220,235 B2	May 22, 2007
Nysaether	US 8,333,720 B2	Dec. 18, 2012
Halperin	US 2002/0055694 A1	May 9, 2002

REJECTIONS

Claim 7 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Halperin and Nysaether.

Claim 10 is rejected 35 U.S.C. §103(a) as being unpatentable over Halperin, Nysaether, and Geheb (7,220,235).

OPINION

The main point of contention concerning claim 7 relates to the limitation “setting the operating parameters to safe initial values.” Br. 5–7. Appellants also briefly comment that “the Halperin CPR compression actuator is a chest constricting band, which interacts with the patient in a completely different manner than the piston-type compression device intended for use by Claim 7.” Br. 6. However, like the Examiner (Ans. 5), we understand this argument to relate to disclosed but unclaimed subject matter. “The invention disclosed in [Appellants’] written description may be outstanding in its field, but the name of the game is the claim.” *In re Hiniker Co.*, 150 F.3d 1362, 1369 (Fed. Cir. 1998).

The Examiner’s position regarding the recited “safe initial values” is twofold: First, the Examiner reasons that although Halperin does not use that precise terminology, one skilled in the art would understand Halperin’s use of terms such as “desired”, “proper”, and “appropriate” to mean the initially set values are safe. Ans. 4–5. Second, the Examiner concludes that even if there is no literal or implicit disclosure of using safe initial values when operating Halperin’s device, “it would have been obvious to one of ordinary skill in the art that a desired chest displacement and frequency would be a safe initial value as to not injure a patient during treatment.” Ans. 5. We agree with the Examiner under either rationale.

It is not controlling that the reference does not in haec verba disclose “using safe initial values.” “This principle, of general legal application, is

[translating from Latin] [i]n the construction of words, not the mere words, but the thing and the meaning, are to be inquired after.” *Application of Neugebauer*, 330 F.2d 353, 356 n.4 (CCPA 1964). Further, patent specifications are written for those skilled in the art; they need not spell out every detail that “one skilled in the art would reasonably understand or infer from [a prior-art] document’s teaching.” *In re Baxter Travenol Labs* 952 F.2d 388, 390–91 (Fed. Cir. 1991). Here, we agree with the Examiner that one skilled in the art would reasonably understand or infer from Halperin’s disclosure that “desired”, “proper”, or “appropriate” values are those that are safe. After all, the aim is resuscitation. One skilled in the art would understand that unsafe values would be undesirable, improper or inappropriate. We find no language in the claim requiring this particular step to consider safety based on a “particular patient.” *See* Br. 6. Limitations not appearing in the claims cannot be relied upon for patentability. *In re Self*, 671 F.2d 1344, 1348 (CCPA 1982).

The Examiner has articulated reasoning with rationale underpinnings (reproduced above) in support of the Examiner’s second position, that even if Halperin does not expressly or implicitly disclose using safe initial values, such a modification would have been obvious. The Examiner’s position in this regard stands uncontroverted. Accordingly, we sustain the Examiner’s rejection of claim 7 on either basis.

The only argument proffered by Appellants concerning claim 10, other than that Geheb does not cure the perceived deficiencies addressed above, is:

Although the Geheb equation appears similar in nature to the equation of Claim 10, it is concerned with a completely different problem of minimizing ECG artifacts induced by CPR chest

compressions, and not with the problem of iteratively adjusting parameters that control CPR chest compressions to an optimal level.

Br. 7–8.

We recognize that the Examiner initially made some findings that appear to indicate that the Examiner may have been interpreting Geheb’s disclosure beyond its reasonable scope. For example, the Examiner initially stated (with emphasis added) that “Geheb teaches an equation where $w(n+1)$ is a control signal *for the actuator* during a subsequent time interval.” Final Act. 4. Actuation is not automated in Geheb. The Examiner clarified in the Advisory Action (p. 2) and the Answer (pp. 6–7) that Geheb is relied on to demonstrate, much more generally, that iterative learning control was a known technique in the art. Geheb employs iterative learning techniques to determine filter coefficients.¹ However, considered in light of the teachings of Halperin and Nysaether regarding the need for reducing error created by compression, we must agree that the Examiner correctly concluded that it would have been obvious to employ iterative learning control techniques for this purpose. Ans. 7. Simply pointing out that Geheb employs the iterative learning control technique to solve a different problem (Br. 8) is an attack on Geheb alone when obviousness must be judged based on a combination of the prior art teachings. *See In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). Accordingly, we also sustain the rejection of claim 10.

DECISION

The Examiner’s rejections are affirmed.

¹ There does not appear to be any dispute that, although Geheb uses different terminology and expressions to represent gain and error, the equations in column 13, line 5 of Geheb and Appellants’ claim 10 are the same.

Appeal 2015-000583
Application 12/997,897

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED