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whirlpool_patents_co@whirlpool.com
mike_lafrenz@whirlpool.com
deborah_tomaszewski@whirlpool.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MICHAEL R. MACKAY and ROBERT J. PINKOWSKI

Appeal 2015-002439
Application 12/856,828
Technology Center 1700

Before KAREN M. HASTINGS, AVELYN M. ROSS, and
DEBRA L. DENNETT, *Administrative Patent Judges*.

HASTINGS, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants¹ appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1–5, 8, 12, 13, 15–24, 27, 31, 32, and 34–36² under 35 U.S.C. § 103(a) as unpatentable over at least the basic combination of Dahlke (US 2009/0100881 A1, published Apr. 23, 2009), and Wolfe (US 5,007,254, issued Apr. 16, 1991).³ We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b).

¹ The real party in interest is stated to be Whirlpool Corporation. (App. Br. 2).

² The Examiner withdrew the 103 rejections of claims 6, 7, 9–11, 25, 26, and 28–30 (Ans. 15).

³ The Examiner also applies Kim '177 (US 2009/0145177 A1, published June 11, 2009) in combination with Dahlke and Wolfe to claims 18–24, 27, 31, 32, and 34–36 (Ans. 8–15).

WE AFFIRM.

Claim 1 is illustrative of the claimed subject matter (emphasis added to highlight contested limitations):

1. A laundry treating appliance comprising:
 - a cabinet having an interior and having an access opening providing access to the interior;
 - a laundry treating chamber located within the interior and accessible through the access opening;
 - a door movably mounted to the cabinet configured to selectively close the access opening; and
 - a dispensing system configured to supply treating chemistry to the laundry treating chamber and comprising:
 - a drawer slidably coupled with the cabinet for movement between a closed position and an open position;
 - a cartridge recess formed in a portion of the drawer, defined at least in part by a bottom wall, and configured to receive a cartridge of treating chemistry; and
 - an aperture at least partially formed in the bottom wall of the cartridge recess;*
 - wherein when the drawer is in the closed position, the drawer is received within the interior, *and when the drawer is in the open position at least a portion of the aperture is exterior of the cabinet and the cartridge is viewable through at least a portion of the aperture when the drawer is viewed from below.*

App. Br. 30 (Claims Appendix).

Independent claim 18 is similar to claim 1 but adds a lower laundry treating appliance, with its upper laundry treating appliance having the structure recited in claim 1 (App. Br. 32, Claims Appendix).

ANALYSIS

Upon consideration of the evidence on this appeal record and each of Appellants' contentions, we find that the preponderance of evidence on this record supports the Examiner's conclusion that the subject matter of

Appellants' claims is unpatentable over the applied prior art. We sustain the Examiner's § 103 rejections essentially for the reasons set out by the Examiner in the Answer.

We add the following for emphasis.

Appellants' main argument for claim 1 is that the Examiner used impermissible hindsight to place a viewing window on the bottom of Dahlke's drawer (*e.g.*, for liquid detergent) based on the viewing window on the front side of the appliance for an indicator of the liquid detergent level of Wolfe (App. Br. 13–17; also Reply Br. *generally*). With respect to independent claim 18, Appellants also point out that there is no reason absent impermissible hindsight to replace the top appliance of Kim '177 with the appliance of Dahlke (App. Br. 23–25).

Appellants' arguments do not convince us of reversible error since they do not fully appreciate the inferences of the applied references that are presented on this record for our review.

It has been established that “the [obviousness] analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007). Likewise, it is also well settled that a reference stands for all of the specific teachings thereof as well as the inferences one of ordinary skill in the art would have reasonably been expected to draw therefrom. *See In re Fritch*, 972 F.2d 1260, 1264–65 (Fed. Cir. 1992).

Appellants have not identified reversible error in the Examiner's de facto determination that one of ordinary skill in the art would have inferred

that placement of a viewing window for checking on the presence of laundry detergent would have been desirable wherever the laundry detergent is located, including through a window under a slidable drawer containing laundry detergent. It was also common knowledge that a washing machine may be located at various heights, *e.g.*, via use of bottom pedestals. Thus, Appellants have not identified any error in the Examiner's determination that it would have been obvious to one skilled in the art, using no more than ordinary creativity, to have placed a viewing window on the underside of the laundry detergent containing drawer of Dahlke in light of the known use of a viewing window to check the amount of laundry treatment fluid on the front side of the appliance, as exemplified by Wolfe (*e.g.*, Ans. 16). With respect to independent claim 18, Appellants have also not identified any error in the Examiner's *de facto* determination that it would have been obvious to one skilled in the art, using no more than ordinary creativity, to have placed a laundry detergent containing drawer such as exemplified in Dahlke in the top laundry appliance of Kim's system and further placed a viewing window in the bottom of the drawer therein in light of the known use of a viewing window to check the amount of laundry treatment fluid on the front side of the appliance, as exemplified by Wolfe (*e.g.*, Ans. 21). *In re Keller*, 642 F.2d 413, 425 (CCPA 1981) ("The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference. . . . Rather, the test is what the combined teachings of [those] references would have suggested to those of ordinary skill in the art."); *In re Nievelt*, 482 F.2d 965, 968 (CCPA 1973) ("Combining the teachings of references does not involve an ability to combine their specific structures.").

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Accordingly, we affirm the Examiner's rejections.

The Examiner's decision 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).

AFFIRMED