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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* THOMAS H. JAMES and DIPAK M. SHAH<sup>1</sup>

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Appeal 2015-003735  
Application 13/093,642  
Technology Center 2400

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Before ERIC S. FRAHM, JAMES W. DEJMEK, and  
SCOTT B. HOWARD, *Administrative Patent Judges*.

DEJMEK, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 1–14 and 16–26. Claims 27–33 have been allowed and claim 15 is objected to as depending from a rejected base claim but would be allowable if rewritten in independent form. Final Act. 5. We have jurisdiction over the remaining pending claims under 35 U.S.C. § 6(b).

We affirm.

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<sup>1</sup> Appellants identify The DirecTV Group, Inc. as the real party in interest. App. Br. 1.

STATEMENT OF THE CASE

*Introduction*

Appellants' claimed invention is directed to "a satellite receiver system, and in particular, to network fraud prevention via registration and verification." Spec. 1. In a disclosed embodiment, a module, coupled between a receive antenna and a receiver, delivers a received signal to the receiver only when an association (e.g., a unique pairing) between the module and receiver is present. Spec. 5.

Claim 1 is representative of the subject matter on appeal and is reproduced below with the disputed limitations emphasized in *italics*:

1. An apparatus for controlling fraud in a signal delivery system, comprising:

*a module* for selectively delivering at least one signal to at least one authorized receiver of a plurality of authorized receivers via an output of the module, wherein:

the at least one signal comprises a signal for use in satellite television programming;

the module comprises a frequency translation module that receives the satellite television programming from an antenna;

each of the plurality of authorized receivers is registered to the module; and

via the registration, *the module is coupled to and uniquely paired with each of the plurality of authorized receivers upon installation of each authorized receiver to the output, such that the module:*

*determines whether the unique pairing and the coupling for the at least one authorized receiver is present;*  
and

*delivers the at least one signal to the at least one authorized receiver only when the unique pairing and the coupling to the at least one authorized receiver is present.*

*The Examiner's Rejections*

1. Claims 1, 2, 5, 10–12, 16–19, and 21–26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Coffin, III (US 7,010,265 B2; Mar. 7, 2006) (“Coffin”) and Moroney et al. (US 2003/0097563 A1; May 22, 2003) (“Moroney”). Final Act. 8–20.

2. Claims 3, 4, 7, 8, and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Coffin, Moroney, and Gurantz et al. (US 7,130,576 B1; Oct. 31, 2006) (“Gurantz”). Final Act. 20–22.

3. Claims 6, 13, and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Coffin, Moroney, and Abedi et al. (US 2006/0133612 A1; June 22, 2006) (“Abedi”). Final Act. 22–24.

4. Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Coffin, Moroney, and Lindstrom et al. (US 2005/0193419 A1; Sept. 1, 2005) (“Lindstrom”). Final Act. 24–25.

*Issues on Appeal*

1. Did the Examiner err in finding the proposed combination of Coffin and Moroney teaches or suggests, *inter alia*, the disputed limitations recited in claim 1?

2. Did the Examiner err in finding the proposed combination of Coffin, Moroney, and Gurantz teaches or suggests “a legacy association between the module and the legacy receiver, such that the module delivers

the at least one satellite signal to the legacy receiver only when the legacy association is present,” as recited in claim 4?

3. Did the Examiner err in finding the proposed combination of Coffin and Moroney teaches or suggests “wherein the module further comprises a controller for controlling signal flow between the output of the module and the at least one authorized receiver,” as recited in claim 5?

## ANALYSIS<sup>2</sup>

*Claims 1–3, 6–14, and 16–23*

In rejecting claim 1, the Examiner finds, *inter alia*, Coffin teaches a module for selectively delivering at least one signal to at least one receiver via an output. Final Act. 8 (citing Coffin, col. 2, ll. 17–28, col. 3, ll. 25–29, Figs. 2 and 3). In particular, the Examiner finds Coffin’s Transmodulating Outdoor Unit corresponds to the claimed module and Coffin’s Integrated Receiver Decoder (IRD) corresponds to the claimed receiver. Final Act. 8. Additionally, the Examiner finds Moroney teaches a system to disallow unauthorized receivers to receive a signal absent a pairing between devices. Final Act. 10–11 (citing Moroney ¶¶ 9–10, 17, 21–22, 27, 31, 33–36, and 41, Fig. 2). The Examiner concludes:

[I]t would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method and system for controlling satellite television signal delivery to a plurality of satellite receive[r]s by additionally incorporating the unique pairing and unique registration procedures performed

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<sup>2</sup> Throughout this Decision, we have considered the Appeal Brief, filed October 13, 2014 (“App. Br.”); the Reply Brief, filed February 2, 2015 (“Reply Br.”); the Examiner’s Answer, mailed on December 1, 2014 (“Ans.”); and the Final Office Action (“Final Act.”), mailed on May 9, 2014, from which this Appeal is taken.

between two devices upon installation of a new satellite receiver for purposes of fraud detection as taught by Moroney in order to minimize or eliminate methods of cheating by the customer or the installer in a satellite television viewing environment.

Final Act. 11.

Appellants contend the Examiner erred because Moroney teaches connecting a master set top box (STB) to slave set top boxes. App. Br. 8. Appellants note Moroney teaches the connection between master and slave STBs may use an RS-232 connection/cable. App. Br. 9 (citing Moroney ¶ 41). Appellants argue “Moroney’s master (and/or slave) boxes are not equivalent to nor even remotely similar to the claimed module.” App. Br. 9. Appellants argue Moroney’s STBs cannot function as the claimed module, the connection between STBs in Moroney is insufficient to support the transmission of television signals, and Moroney fails to teach pairing a module to a receiver. App. Br. 9–11.

In response, the Examiner explains, contrary to Appellants’ arguments, Coffin, not Moroney, is relied on to teach the claimed module. Ans. 6. Further, the Examiner explains “the technical teachings of uniquely pairing, as taught by Moroney” are incorporated into the system and teachings of Coffin to conclude claim 1, *inter alia*, would have been obvious to a person of ordinary skill in the art. Ans. 5–6.

Non-obviousness cannot be established by attacking references individually where, as here, the ground of unpatentability is based upon the teachings of a combination of references. *In re Keller*, 642 F.2d 413, 426 (CCPA 1981). Rather, the test for obviousness is whether the combination of references, taken as a whole, would have suggested the patentee’s invention to a person having ordinary skill in the art. *In re Merck & Co.*,

*Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). Additionally, the test for obviousness is not whether the features of one reference may be bodily incorporated into another reference. *In re Bozek*, 416 F.2d 1385, 1390 (1969); *see also 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.”).

We are not persuaded of Examiner error because Appellants’ arguments are not responsive to the Examiner’s rejection and attack the references separately, whereas the Examiner’s rejection relies on the combined teachings of Coffin and Moroney. Specifically, the Examiner finds, and we agree, the Transmodulating Outdoor Unit of Coffin teaches the claimed module. *See* Final Act. 8–9. As taught in Coffin, the Transmodulating Outdoor Unit is coupled between the receive antenna (via a low noise block element) and one or more Integrated Receiver Decoders (IRDs). *See* Coffin, col. 2, l. 57–col. 3, l. 19, Fig. 1. Coffin further teaches the Transmodulating Outdoor Unit tunes to multiple signals, demodulates the signals to recover the data packets, and multiples multiple packet streams into a single data stream to be modulated and transmitted to the one or more IRDs. *Id.* The Examiner finds, and we agree, the IRDs of Coffin teach the claimed receivers. Final Act. 8–9. Coffin teaches the IRDs “demodulate[] the stream of packets and route[] the packets to a set-top box . . . for display on a television.” Coffin, col. 3, ll. 13–16.

Regarding Moroney, the Examiner finds, and we agree, Moroney teaches, *inter alia*, the pairing of devices as a means to prevent the fraudulent reception/display of signals. Final Act. 10–11 (*see generally* Moroney ¶¶ 21–36). Although the pairing in Moroney is done between set

top boxes, the Examiner finds, as do we, the teaching is applicable to the system of Coffin. Final Act. 11.

Appellants assert “the references are not being attacked individually, but for the purpose on which they are relied upon. In this regard, Moroney’s pairing between two set top boxes is not equivalent to the claimed pairing between an FTM [(i.e., the claimed module)] and a receiver/STB.” Reply Br. 2.

We are not persuaded of Examiner error because Appellants do not provide persuasive argument or evidence to support the assertion that Moroney’s pairing of devices to prevent the fraudulent reception/display of television signals could not be applied to pair the Transmodulating Outdoor Unit and receiver (IRD) of Coffin to similarly prevent the fraudulent reception/display of satellite television signals in Coffin’s system. It is well settled that mere attorney arguments and conclusory statements, which are unsupported by factual evidence, are entitled to little probative value. *In re Geisler*, 116 F.3d 1465, 1470 (Fed. Cir. 1997); *see also In re Pearson*, 494 F.2d 1399, 1405 (CCPA 1974) (attorney argument is not evidence).

For the reasons discussed *supra*, we are unpersuaded of Examiner error. Accordingly, we sustain the Examiner’s rejection of claim 1 and, for similar reasons, the rejection of independent claims 11 and 17, which recite similar limitations and were argued together with claim 1. Further, we sustain the Examiner’s rejection of claims 2, 3, 6–10, 12–14, 16, and 18–23, which depend therefrom and were not argued separately. *See App. Br. 14–16.*

*Claim 4*

Appellants contend claim 4 “provides for creating a legacy association between a module and a legacy receiver such that the module delivers the satellite signal to the legacy receiver only when the legacy association is present.” App. Br. 15. However, Appellants assert Gurantz, as relied on by the Examiner, “merely describes connecting an ODU to a legacy receiver without regard to any type of association that must exist in order to deliver a satellite signal.” App. Br. 15.

As an initial matter, and as discussed *supra*, the Examiner relies on the combined teachings of Coffin and Moroney to teach the association between the module and a receiver. *See* Final Act. 21.

The Examiner finds, and we agree, Gurantz teaches, *inter alia*, adding new STBs to installations already having existing STBs (i.e., the claimed legacy receivers). Final Act. 21 (citing Gurantz, col. 9, ll. 34–54). Further, we note Figure 11 of Gurantz illustrates outputs from an outdoor unit (1110) to legacy STBs (1120) and new STBs (1140). The Examiner also finds, and we agree, it would have been obvious to a person of ordinary skill in the art to modify the architecture of Coffin/Moroney (and more particularly the module) to incorporate a second output for connection to legacy receivers “to facilitate backward compatibility communication features as taught by Gurantz.” Final Act. 20–21 (citing Gurantz, col. 9, ll. 52–54).

For the reasons discussed *supra*, we are unpersuaded of Examiner error. Accordingly, we sustain the Examiner’s rejection of claim 4.

*Claim 5*

Claim 5 depends from claim 1 and recites “wherein the module further comprises a controller for controlling signal flow between the output of the module and the at least one authorized receiver.”

Appellants contend that “a module that is not only coupled/paired to a receiver but that also controls signal flow to the receiver is conspicuously absent from the cited references.” App. Br. 14.

Appellants, however, do not provide persuasive evidence in support of these assertions. 37 C.F.R. § 41.37(c)(1)(iv) requires more substantive arguments in an appeal brief than a mere recitation of the claim elements and a naked assertion that the corresponding elements were not found in the prior art. *See In re Lovin*, 652 F.3d 1349, 1357 (Fed. Cir. 2011).

Further, the Examiner finds, and we agree, Coffin additionally teaches the Transmodulating Outdoor Unit has a Processor (212) that corresponds to the claimed controller. Final Act. 12 (citing Coffin Fig. 2). Additionally, the Examiner finds, and we agree, Coffin teaches the processor controls the signal flow from the Transmodulating Outdoor Unit to the at least one receiver (IRDs). Final Act. 12 (citing Coffin, col. 3, ll. 43–46, col. 4, ll. 9–13, col. 5, ll. 13–17). Thus, when combined with the teaching of Moroney, as applied by the Examiner and discussed *supra* with respect to claim 1, we agree with the Examiner that Coffin, as modified by Moroney, teaches the disputed limitation.

Accordingly, we sustain the Examiner’s rejection of claim 5.

*Claims 24–26*

Claims 24–26 depend from independent claims 1, 11, and 17, respectively, and add the limitation that the module is coupled to an outdoor unit and comprises a multiswitch.

Appellants acknowledge the Examiner finds Coffin teaches a module coupled to an outdoor unit and comprising a multiswitch. App. Br. 15. However, Appellants advance a similar argument that the proffered combination fails to teach “uniquely pairing a receiver with a FTM [(Frequency Translation Module—i.e., the claimed module)] that is coupled to an ODU. Instead, Moroney merely marries two receivers together while Coffin does not perform any such pairing or coupling.” App. Br. 15.

As discussed with regard to claim 1 *supra*, we find this argument unpersuasive of Examiner error. Accordingly, we sustain the Examiner’s rejection of claims 24–26.

DECISION

We affirm the Examiner’s decision to reject claims 1–14 and 16–26.

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. § 41.50(f).

AFFIRMED