



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.
13/142,608	06/29/2011	John T. Wong	PA7786U;67008-226PUS1	5853
74187	7590	10/27/2016	EXAMINER	
Carlson, Gaskey, & Olds, P.C./Sikorsky 400 West Maple Road, Suite 350 Birmingham, MI 48009			KESSIE, DANIEL	
			ART UNIT	PAPER NUMBER
			2836	
			NOTIFICATION DATE	DELIVERY MODE
			10/27/2016	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):

ptodocket@cgolaw.com
cgolaw@yahoo.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JOHN T. WONG and DAN URSENBACH

Appeal 2015-004618
Application 13/142,608
Technology Center 2800

Before MICHAEL P. COLAIANNI, GEORGE C. BEST, and
MICHAEL G. McMANUS, *Administrative Patent Judges*.

COLAIANNI, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134 the final rejection of claims 1–4, 8–14, and 20–23. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b).

We REVERSE.

Appellants' invention is directed to a method of non-destructive inspection and an automated process to objectively evaluate a test scan (Spec. ¶ 1).

Claim 1 is illustrative:

1. A method of non-destructive inspection evaluation of a part comprising:
 - converting a scan file of at least a particular section of a part into a text file;
 - evaluating the text file for a signal attenuation representative value within the particular section of the part;
 - determining whether the signal attenuation representative value is greater than a predetermined value; and
 - outputting a numeric score related to the signal attenuation representative value to signify a defect.

Appellants appeal the following rejections:

1. Claims 1–4 and 20 are rejected under 35 U.S.C. § 103(a) as unpatentable over Wunderer (US 6,745,628 B2, issued June 8, 2004) (“Wunderer”) in view of Patton et al. (US 2006/0008309 A1, published Jan. 12, 2006) (“Patton”).
2. Claims 8–11, 13, and 14 are rejected under 35 U.S.C. § 103(a) as unpatentable over Wunderer in view of Patton and Uehara et al. (US 2007/0175912 A1, published Aug. 2, 2007) (“Uehara”).

3. Claim 12 is rejected under 35 U.S.C. § 103(a) as unpatentable over Wunderer in view of Patton and Livingston (US 4,487,072, issued Dec. 11, 1984) (“Livingston”).
4. Claims 21–23 are rejected under 35 U.S.C. § 103(a) as unpatentable over Wunderer in view of Patton and Kulesha (US 8,490,362 B2, issued July 23, 2013) (“Kulesha”).

FINDINGS OF FACT & ANALYSIS

The Examiner finds, *inter alia*, that Wunderer discloses a method of non-destructive inspection of a part as recited in claim 1 that includes converting a scan file of at least a particular section of a part into a text file¹ (Final Act. 2). The Examiner finds however that Wunderer does not necessarily disclose a text file as the type of file holding the data (Final Act. 3). The Examiner finds that text files were known at the time of the invention and cites to Patton as evidence that text files are used in graphic situations to record graphic images and mixtures of images and text. *Id.* The Examiner concludes that it would have been obvious to use a text file because text files are convenient and simple for storing data and can easily be read and handled by the user. *Id.*

Appellants argue that the Examiner’s reason for combining Patton’s text file with Wunderer’s method lacks support for the assertion that using a text file in lieu of Wunderer’s graphical depiction of the data as shown in

¹ Although the Examiner makes this finding, the portion of Wunderer cited by the Examiner to support that finding (i.e., column 3, lines 5 to 10 and Figure 4) do not explicitly disclose converting a scan file to a text file (Final Act. 2). The Examiner does not explain how the cited portion of Wunderer teaches a text file in the rejection.

Figure 4 would make the data easier to read and handle (App. Br. 3; Reply Br. 2–3). Appellants contend that the Examiner’s reliance on Patton’s definition of “text file” as including graphical and textual components is not how one of ordinary skill in the art would understand the claim phrase “text file” (Reply Br. 2). Appellants argue that Patton’s definition of text file is specific to Patton’s invention, and not some universal definition of text file (Reply Br. 2).

The preponderance of the evidence favors Appellants’ argument of non-obviousness. The Examiner finds that text files were known and so the Examiner concludes that the use of text files in lieu of Wunderer’s graphical representation of the data would have been obvious because text files are convenient and simple for storing data (Final Act. 3; Ans. 3). The Examiner’s conclusion is based upon the claim interpretation that text files include image and textual components as taught by Patton (Ans. 2). The Examiner does not explain, however, why Patton’s specific definition of text file as applied to Patton’s invention would have been understood by the ordinarily skilled artisan to be applicable to all text files. Patton discloses that the definition of text file used in Patton’s disclosure is “[f]or the purposes of the present invention.” Final Act. 3 (citing Patton 3 ¶ 32).

Additionally, the Examiner does not provide any support for the assertion that text files are “convenient and simple for storing data that can easily [be] read and handled by the user” (Final Act. 3). Appellants have challenged the Examiner’s assertion in view of Wunderer’s disclosure that the graphical representation of the data in Figure 4 is easier to show where the porous parts of the currency are located (App. Br. 3). The Examiner does not dispute that Wunderer’s graphical representation of the data

provides easier identification of defects and provides a quick way to visualize the data (Ans. 3). Indeed, the Examiner finds that Wunderer uses the graphical format because it provides an easier way to identify defects. *Id.* Nonetheless, the Examiner responds that it would have been obvious to store the data as a text file for later use. *Id.* The Examiner does not direct us to any portion of Patton that teaches that text files are convenient and easy to use as compared with graphical representations of data. Rather, the Examiner finds that choice of data storage depends upon what alternative kind of file might be used to store the data (Ans. 3). Missing from the Examiner's analysis is a reason to choose the use of text files for Wunderer's data when the Examiner finds that Wunderer uses a graphical representation to store the data because it provides an easier identification of defects in the currency note.

We find that the Examiner has not established that based on the teachings of Wunderer and Patton the method of claim 1 would have been obvious absent impermissible hindsight. We reverse the Examiner's rejection (1) for the above reasons. Because rejections (2) to (4) depend upon this flawed combination, we reverse these rejections for the same reasons.

DECISION

The Examiner's decision is reversed.

ORDER

REVERSED