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EXAMINER

JIANG, YONG HANG

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MATTHEW C. McNEILL, KYLE E. NELSON, and
RICHARD A. HORTON

Appeal 2015-005507
Application 13/939,862
Technology Center 2600

Before DEBRA K. STEPHENS, KARA L. SZPONDOWSKI, and
MICHAEL M. BARRY, *Administrative Patent Judges*.

STEPHENS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from a Final Rejection of claims 1–7, 9–11, and 13–17, all pending claims of the application. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

STATEMENT OF THE INVENTION

According to Appellants, the claims are directed to a trailer stand monitoring system (Abstract). Claim 1, reproduced below, is representative of the claimed subject matter:

1. A trailer support for use in a distribution center having at least one dock for exchanging materials with a respective trailer comprising:

a stand to support the trailer when a tractor is detached from the trailer;

a sensor in communication with a central processing center to determine whether the trailer stand is properly engaged and supporting the trailer; and

an interlock that is initially engaged in a locked position to prevent dock component activation and disengaged when the sensor determines that the trailer support is engaged to the trailer to allow dock component activation.

REFERENCES

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

Rennick	US 4,122,629	Oct. 31, 1978
Trickle	US 5,047,748	Sep. 10, 1991
Reynard	US 2003/0199996 A1	Oct. 23, 2003
Paff	US 6,665,004 B1	Dec. 16, 2003
Tice	US 2004/0196152 A1	Oct. 7, 2004

REJECTIONS

Claim 9 stands rejected under 35 U.S.C. §112 (b) as being indefinite for failing to particularly point out and distinctly claim the subject matter which the inventor or a joint inventor regards as the inventor (Final Act. 3–4).

Claims 1–3 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Rennick and Trickle (Final Act. 5–6).

Claims 4–6 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Rennick, Trickle, and Paff (Final Act. 6–7).

Claims 7 and 17 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Rennick and Reynard (Final Act. 7–9).

Claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Rennick, Reynard, and Trickle (Final Act. 9).

Claim 10 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Rennick, Reynard, and Paff (Final Act. 9–10).

Claims 11, 15, and 16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Rennick, Reynard, and Tice (Final Act. 10–11).

Claims 13 and 14 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Rennick, Reynard, Tice, and Paff (Final Act. 11–12).

We have only considered those arguments that Appellants actually raised in the Briefs. Arguments Appellants could have made but chose not to make in the Briefs have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(iv) (2014).

ISSUES

35 U.S.C. § 112, second paragraph: Claim 9

The Examiner rejects claim 9 for reciting dependence on claim 8, which has been cancelled (Final Act. 3–4). Appellants submitted an amendment on August 13, 2014, correcting the dependence and amending the claims (After-Final Amdt. 7). The Examiner entered the amendment to

the claims (Advisory Act. 1, ¶ 7). Thus, we consider this rejection withdrawn.

With respect to the remaining rejections, we disagree with Appellants' conclusions and adopt as our own: (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken; and (2) the reasons set forth by the Examiner in the Answer in response to the Appeal Brief. With respect to the claims argued by Appellants, we highlight and address specific findings and arguments for emphasis as follows.

35 U.S.C. § 103(a): Claims 1–3

Appellants contend their invention as recited in claims 1–3, is not obvious over Rennick and Trickle (App. Br. 2–5). The issue presented by the arguments is:

Issue 1: Has the Examiner erred in finding the combination of Rennick and Trickle teaches or suggests “an interlock that is initially engaged in a locked position to prevent dock component activation and disengaged when the sensor determines that the trailer support is engaged to the trailer to *allow* dock component activation,” as recited in claim 1 (emphasis added)?

ANALYSIS

Appellants argue the combination of Rennick and Trickle

would result in a dock including a trailer stand support having a stand to support the trailer when a tractor is detached from the trailer, a sensor to determine if the trailer is engaged with the trailer stand, and a safety gate that is automatically opened when the sensor determines the trailer stand is engaged to the trailer

(App. Br. 4). According to Appellants, Rennick teaches the switch transitions to a closed position when the jack is engaged with the truck and that transition automatically activates the motor and opens the gate (*id.*). This is consistent with the Examiner's finding that Rennick teaches the switch on the jack is closed only when the jack is properly engaged with the truck, and once properly engaged, energizing the motor and lifting of the gate (Ans. 3; Rennick 5:24–29). Thus, we find Rennick teaches “an interlock that is initially engaged in a locked position to prevent dock component activation and disengaged when the sensor determines that the trailer support is engaged to the trailer,” as recited in claim 1.

Appellants next contend the combination of Rennick's and Trickle's teaching is different from claim 1 because the combination *automatically opens* the safety gate whereas claim 1 recites disengaging the interlock to *allow* dock component activation (App. Br. 4). Appellants further contend “blind automatic operation” does not teach the interlock requiring operator intervention to activate dock components to comply with protocols, as taught by claim 1 (*id.*); however, Appellants are arguing limitations not recited in the claim. Indeed, the claim does not recite operator intervention or compliance with protocols.

Appellants further argue a significant distinction exists between automatically opening and allowing something to open by disengaging an interlock (App. Br. 4). According to Appellants, an ordinarily skilled artisan would recognize locking a gate is a separate and subsequent step to closing a gate (*id.*). Appellants assert Rennick's teaching of turning on the motor in response to the sensor, to automatically activate a safety gate does not teach

“allowing” the motor to turn on in response to the sensor (Reply Br. 2).

Appellants contend

[i]n particular, when a dock door is automatically opened there is no further step required to open the door. However, when a dock door is allowed to be opened, another step is required, e.g., opening the door. That is, the operator still decides when to open the dock door after the interlock has been disengaged

(Reply Br. 4).

We are not persuaded by Appellants’ arguments. Initially, we note the disputed recitation “to allow dock component activation” is a statement of intended use. More specifically, the recited “to allow dock activation” language does not add a structural limitation to the claimed system or method. Moreover, as the Examiner finds, we determine Rennick teaches the disputed limitation. Although Appellants claim the remaining limitation “to *allow* dock component activation” is not taught, we agree with the Examiner that to energize the motor, Rennick must *allow* dock component activation. We additionally note Appellants’ arguments are to make an automatic process a manual one — requiring an operator to decide when to open the dock door after the interlock has been disengaged. We are not persuaded by Appellants’ arguments. Instead, we agree with the Examiner that the safety gate must be unlocked or disengaged first and further, are unpersuaded an ordinarily skilled artisan would have found it uniquely challenging or beyond their skill to replace an automatic process of deciding to open the dock door after the interlock has been disengaged with a human deciding to open the dock door.

Accordingly, we are not persuaded the Examiner erred in finding the combination of Rennick and Trickle teaches or suggests the limitations as

recited in independent claim 1 and dependent claims 2 and 3, not separately argued. Therefore, we sustain the rejection of claims 1–3 under 35 U.S.C. § 103(a) for obviousness over Rennick and Trickle.

35 U.S.C. § 103(a): Claims 4–6

Claims 4–6 were not argued separately (App. Br. 5); therefore, these claims fall with independent claim 1 from which they depend. Therefore, we sustain the rejection of claims 4–6 under 35 U.S.C. § 103(a) for obviousness.

35 U.S.C. § 103(a): Claims 7 and 17

Appellants contend their invention as recited in claims 7 and 17, is not obvious over Rennick and Reynard (App. Br. 5–8). The issues presented by the arguments are:

Issue 2: Has the Examiner improperly combined the teachings and suggestions of Rennick and Reynard?

Issue 3: Has the Examiner erred in concluding the combination of Rennick and Reynard teaches or suggests “communicating the electronic determination of trailer support to allow an operator to operate a dock door” and “sending feedback of the electronic determination to an equipment operator, a supervisor, and a central processing center,” as recited in independent claim 7 and commensurately recited dependent claim 17?

ANALYSIS

Appellants’ argument, that Rennick does not teach “electronic determination of trailer support to allow an operator to operate a dock door” (App. Br. 8) is not persuasive for the reasons set forth above with respect to

claim 1. Initially, we note the recitation of “to allow an operator to operate a dock door” is a statement of intended use which does not add a structural limitation to the claimed system or method. Moreover, the recitation does not require the “operator” physically open the door; rather, such control could be performed automatically by the operator. Nonetheless, we agree with the Examiner that this limitation is taught or suggested by the teachings and suggestions of Rennick and Reynard (Ans. 4). Accordingly, we are not persuaded the Examiner erred in finding the combination of Rennick and Reynard teaches or suggests “communicating the electronic determination of trailer support to allow an operator to operate a dock door” and “sending feedback of the electronic determination to an equipment operator, a supervisor, and a central processing center,” as recited in claim 7.

Appellants additionally argue an ordinarily skilled artisan would not have combined the teachings and suggestions of Rennick and Reynard (App. Br. 6). More specifically, Appellants argue an ordinarily skilled artisan would not have combined Rennick’s automatic opening of the dock door with Reynard’s indicator light which notifies the operator when it is safe to open the dock door because the dock door would already be opening (App. Br. 6). Thus, according to Appellants, an ordinarily skilled artisan would not have been motivated to combine the teachings of Rennick and Reynard (*id.*). Moreover, Appellants contend, the Examiner’s proffered motivation is not directed to “controlling the operation of docking station components so as to promote adherence to operation protocol and lower the potential for incidents’ by allowing an operator to operate a dock door once there has been an electronic determination of trailer support” — a proactive error

prevention system; rather, the Examiner's articulated motivation is to react to an existing fault (*id.* at 7).

We agree with the Examiner that an ordinarily skilled artisan would have been motivated to modify Rennick to include an indicator light as taught by Reynard. As noted by the Examiner, Reynard teaches a system including electronic sensors that determine the engagement of a trailer to allow an operator to operate a dock door (Ans. 4 (citing Reynard ¶¶ 9, 91)). Indeed, Reynard teaches when the truck or trailer is effectively restrained, a light is illuminated to indicate the dock is ready to use (Reynard ¶ 9). We agree with the Examiner that an ordinarily skilled artisan would have been motivated to combine the teachings of Rennick and Reynard to “[a]llow[] an operator to manually control the operations of the dock component in addition to automatic dock component operations” (Ans. 4). Thus, we find allowing for manual operation as the Examiner sets forth, would “control[] the operation of docking station components,” to which Appellants argue the present invention is directed (App. Br. 7). The Examiner has articulated reasoning with some rational underpinning. Appellants' argument that Rennick does not disclose manually operating the system and the references do not support the Examiner's articulated motivation (Reply Br. 4–5), are not persuasive as

“there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness” [H]owever, the 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)(quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)). Here, Appellants have not proffered sufficient evidence or argument to persuade us an ordinarily skilled artisan would not have taken the inferences and creative steps to arrive at the invention as recited in claim 1.

Appellants further argue Rennick teaches “automatically energizing a motor and opening the dock door in response to an electronic determination of a sensor that may be positioned on a trailer jack” (App. Br. 7). According to Appellants, Reynard fails to teach preventing the dock door from automatically opening in response to a sensor as taught by Rennick and, as a result, the combination would communicate an electronic determination of trailer support to automatically open a dock door and send feedback to the indicator light (*id.* at 7–8).

We are not persuaded by Appellants’ arguments. Initially, we note the Examiner relied on Rennick to teach or at least suggest “electronically determining whether the trailer stand is properly engaged and supporting the trailer” (Final Act. 7–8). Appellants seem to be arguing Reynard’s system would not be incorporated into the system of Rennick. However, the Examiner relies on Reynard for the specific teaching of communicating the electronic determination of trailer support and sending feedback as recited, not to combine the entire system of Reynard with Rennick.

[T]he test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art.

In re Keller, 642 F.2d 413, 425 (CCPA 1981).

Moreover, we conclude that such combination is no more than a simple arrangement of old elements, with each performing the same function it had been known to perform, yielding no more than one would expect from such an arrangement. *See KSR*, 550 U.S. at 406. Nor do we find combining the teachings of Reynard with the system of Rennick would have been “uniquely challenging or difficult for one of ordinary skill in the art” or “represented an unobvious step over the prior art.” *See Leapfrog Enters., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007) (citing *KSR*, 550 U.S. at 418–19).

We are further not persuaded the combination would “render the reference inoperable for its own stated objection and intended purpose,” as argued by Appellants (App. Br. 8; Reply Br. 6). Both Rennick and Reynard are directed to docks and loading dock equipment (Rennick, 1:5–8). We are not persuaded combining the communicating and sending feedback into Rennick’s system would render the system of Rennick inoperable or not provide a safe docking system. More specifically, we are not persuaded communicating and sending feedback would prevent operation of Rennick’s apparatus for use with a loading dock. Furthermore, we note Reynard teaches both an automatically and a manually operated door (Reynard ¶ 91). This finding further supports our determination that changing an automatically operated dock door to a manually operated door would have been obvious to an ordinarily skilled artisan.

Accordingly, we are not persuaded the Examiner erred in finding the combination of Rennick and Reynard teaches or suggests “communicating

the electronic determination of trailer support to allow an operator to operate a dock door” and “sending feedback of the electronic determination to an equipment operator, a supervisor, and a central processing center,” as recited in claim 7. We further are unpersuaded the Examiner improperly combined the teachings and suggestions of Rennick and Reynard. Therefore, we sustain the rejection of claim 7 and claim 17 argued on the basis of claim 7, under 35 U.S.C. § 103(a) for obviousness over Rennick and Reynard.

35 U.S.C. § 103(a): Claims 11, 15, and 16

Appellants contend their invention as recited in claims 11, 15, and 16, is not obvious over Rennick, Reynard, and Tice (App. Br. 8–11). The issues presented by the arguments are:

Issue 4: Has the Examiner erred by improperly combining the teachings of Rennick and Reynard?

Issue 5: Has the Examiner erred in concluding the combination of Rennick, Reynard, and Tice teaches or suggests “a central processing center configured to monitor the plurality of trailer support stands,” as recited in claim 11?

Issue 6: Has the Examiner improperly combined the teachings and suggestions of Rennick, Reynard, and Tice?

ANALYSIS

Appellants’ initial argument is that set forth for claim 7, and specifically, that Rennick fails to teach “notifying an operator when it is safe to open the door” because Rennick teaches automatically opening the door (App. Br. 10 (citing Rennick, 2: 35–56), whereas Reynard teaches using an indicator light for notification (App. Br. 10 (citing Reynard ¶¶ 39, 43, 57,

74)). Thus, according to Appellants, an ordinarily skilled artisan would not have combined the teachings and suggestions of Rennick and Reynard because no need exists to notify the operator that it is safe to open the dock door when the dock door automatically opens without input from the operator (App. Br. 10). Initially, we note Appellants are arguing limitations not recited in claim 11. More specifically, claim 11 does not recite notification when it is safe to open the door. Instead, claim 11 recites sensors configured to monitor a trailer support and generate wireless feedback and one of an operator, a supervisor, and a storage medium, receiving the wireless feedback. Furthermore, as set forth above with respect to claim 7, we are unpersuaded by Appellants' arguments that an ordinarily skilled artisan would not have combined the teachings and suggestions of Rennick and Reynard.

Appellants additionally argue none of the references teaches "a central processing center configured to monitor the plurality of trailer support stands," as recited in claim 11 (App. Br. 10). More specifically, Appellants contend Reynard teaches a control panel that controls the loading dock equipment of a specific dock that, according to Appellants, would result in a separate control panel located at each dock, but not a central processor that receives information from each dock (*id.* at 10–11).

The Examiner finds providing a central processor configured to monitor the plurality of trailer support stands is a mere duplication of parts and thus, would have been obvious to an ordinarily skilled artisan (Ans. 5; Final Act. 12). We agree with the Examiner that duplicating the single loading dock of Reynard would have been obvious (Ans. 5). We further agree with the Examiner that combining all the status signals into one central

processing center would have been obvious (*id.*). Appellants' argument is directed toward the Examiner's finding that duplicating the single loading dock would have been obvious (Reply Br. 8). However, Appellants have not proffered sufficient evidence or argument to persuade us modifying the control panel to receive all the signals from the plurality of loading docks to have one central processing center would not have been obvious to an ordinarily skilled artisan. Appellants have not defined explicitly the term "central processing center" and thus, even duplicating the control panels and placing all of them in a central location teaches a central processing center when taking a broad, but reasonable interpretation in light of Appellants' Specification.

Appellants further argue an ordinarily skilled artisan would not have been motivated to modify the control panel to communicate with components of another dock because it only controls components of its specific dock (App. Br. 11). We are not persuaded by Appellants' arguments. The Examiner has articulated motivation with rational underpinning — to send the wireless status feedback from each trailer support stand sensor to the equipment operator (Final Act. 10–11). Moreover, Reynard does not preclude the control panels from being in the same location. Reynard specifically teaches "each piece of dock equipment has sufficient limit switches or sensors which send signals to *the* controller to indicate the state of equipment" (Reynard ¶ 91 (emphasis added)). Thus, Reynard teaches the controller receives feedback from several pieces of dock equipment, which includes from at least one trailer support stand. We determine an ordinarily skilled artisan would have found it obvious that a controller receiving signals from multiple pieces of equipment can also

receive signals from multiple pieces of equipment, such as a plurality of trailer support stands. Thus, Reynard teaches or at least suggests “a central processing center configured to monitor the plurality of trailer support stands,” as recited in claim 11. We are further not persuaded the Examiner has improperly combined the teachings and suggestions of Rennick, Reynard, and Tice. Claims 15 and 16 were not separately argued and thus, these claims fall with independent claim 11.

Accordingly, we sustain the rejection of claims 11, 15, and 16 under 35 U.S.C. § 103(a) for obviousness over Rennick, Reynard, and Tice.

35 U.S.C. § 103(a): Claims 9, 10, 13, and 14

Dependent claims 9, 10, 13, and 14 were not argued separately (App. Br. 12). Thus, for the reasons set forth above, these claims fall with their independent claims 7 and 11, respectively.

DECISION

The Examiner’s rejection of claims 1–3 under 35 U.S.C. § 103(a) as being unpatentable over Rennick and Trickle is affirmed.

The Examiner’s rejection of claims 4–6 under 35 U.S.C. § 103(a) as being unpatentable over Rennick, Trickle, and Paff is affirmed.

The Examiner’s rejection of claims 7 and 17 under 35 U.S.C. § 103(a) as being unpatentable over Rennick and Reynard is affirmed.

The Examiner’s rejection of claim 9 under 35 U.S.C. § 103(a) as being unpatentable over Rennick, Reynard, and Trickle is affirmed.

The Examiner’s rejection of claim 10 under 35 U.S.C. § 103(a) as being unpatentable over Rennick, Reynard, and Paff is affirmed.

The Examiner’s rejection of claims 11, 15, and 16 under 35 U.S.C.

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§ 103(a) as being unpatentable over Rennick, Reynard, and Tice is affirmed.

The Examiner's rejection of claims 13 and 14 under 35 U.S.C.

§ 103(a) as being unpatentable over Rennick, Reynard, Tice, and Paff 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). *See* 37 C.F.R.

§ 1.136(a)(1)(iv).

AFFIRMED