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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte KEYUR RANCHHOD PARIKH and
JUNIUS ADONIS KIM

Appeal 2015-006404
Application 13/246,241
Technology Center 2400

Before THU A. DANG, JOHN P. PINKERTON,
and NATHAN A. ENGELS, *Administrative Patent Judges*.

PINKERTON, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) of the Examiner's Final Rejection of claims 1–20, which constitute all the claims pending in this application.¹ We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

¹ Appellants identify Harris Corp. as the real party in interest. App. Br. 3.

STATEMENT OF THE CASE

Appellants' invention relates generally to communications and, more specifically, to studio-transmitter link (STL) systems and methods. Spec.

¶ 1.

REFERENCES and REJECTIONS

The Examiner rejected claim 1 under 35 U.S.C. §102(a) as being anticipated by Kahn (US 4,896,371; Jan. 23, 1990).

The Examiner rejected claims 2, 3, and 16, under 35 U.S.C. §103(a) as being unpatentable over Khan in view of Li et al. (US 2009/0190478 A1; July 30, 2009) (“Li”).

The Examiner rejected claims 4, 5, 10, 11, and 15, under 35 U.S.C. §103(a) as being unpatentable over Kahn in view of Matsushima et al. (US 2009/0067323 A1; Mar. 12, 2009) (“Matsushima”).

The Examiner rejected claims 12 and 20 under 35 U.S.C. §103(a) as being unpatentable over Kahn, Li, and Matsushima.

ANALYSIS

We have reviewed Appellants' arguments in the Appeal Brief and Reply Brief, and the Examiner's response to Appellants' arguments. We concur with Appellants' contention that the Examiner erred in rejecting independent claim 1 under 35 U.S.C. § 102(b) as being anticipated by Kahn because the cited portions of Kahn do not disclose the limitations “a first STL transmitter interface that transmits program content over a first transmission path to a STL receiver; and a second STL transmitter interface that transmits program content over a second transmission path to the STL receiver,” as recited in claim 1. App. Br. 10–13; Reply Br. 2–4.

In finding that Kahn discloses these limitations, the Examiner states the following:

As noted above Kahn with reference to Fig. 2, clearly discloses program signal transmitted through direct and delayed path (i.e., separate transmission paths) is received by an STL receiver (i.e., element 18, “STL” receiver). It is noted that both the STL transmitter (i.e., STL transmitter 12 and 28 in Fig. 2), derives their carriers from a common carrier generator (i.e., carrier generator 26) using either the same frequency (emphasis added) and locked in phase or bear a fixed relationship in frequency and phase (see Kahn, col. 2, lines 42-47). Thus it is clear that the receiver (i.e., STL receiver 18 of Fig. 2) will be tuned in to receive program signals from both the STL transmitter (i.e., STL transmitters 12 and 28).

Ans. 14–15.

Appellants contend Kahn discloses that signals are transmitted from separate transmitters to separate respective receivers, whereas claim 1 recites that program content is transmitted over separate transmission paths to the same receiver. App. Br. 10–11. Appellants argue “Kahn fails entirely to teach that the STL receiver 18 of Kahn receives the signals that are transmitted from the STL transmitter 12 and the STL transmitter 28.” Reply Br. 2. Appellants also argue the Examiner fails to provide any support for the finding that Kahn’s two signals are provided from separate STL transmitters to the same STL receiver because the signals have the same carrier signal at the transmitter end, “particularly when Kahn explicitly discloses that the separate signals are provided to two separate STL receivers 18 and 34.” *See* App. Br. 12; Reply Br. 3–4; *see also*, Kahn, Fig. 2, col. 3, ll. 64–68.

We are persuaded by Appellants' arguments that the Examiner errs in finding Kahn anticipates claim 1. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631 (Fed. Cir. 1987). "[A]nticipation by inherent disclosure is appropriate only when the reference discloses prior art that must necessarily include the unstated limitation" *Transclean Corp. v. Bridgewood Servs., Inc.*, 290 F.3d 1364, 1373 (Fed. Cir. 2002). "Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient." *Cont'l Can Co. USA, Inc. v. Monsanto Co.*, 948 F.2d 1264, 1269 (Fed.Cir.1991) (quoting *In re Oelrich*, 666 F.2d 578, 581 (CCPA 1981)). Here, we have reviewed the cited portions of Kahn relied on by the Examiner and, for the reasons argued by Appellants, we agree that the cited portions of Kahn do not disclose the limitations at issue in claim 1, either expressly or inherently. Accordingly, we do not sustain the rejection of claim 1 under 35 U.S.C. § 102(b), as well as dependent claims 2–10.

Appellants also argue Kahn fails to teach or suggest the limitations of claims 11 and 16 that are substantially similar to the disputed limitations of claim 1. App. Br. 14–15, 20–21; Reply Br. 4–5, 9. For the reasons discussed *supra* regarding claim 1, we agree with Appellants' arguments. Thus, we do not sustain the Examiner's rejections of claims 11 and 16 under 35 U.S.C. § 103(a), as well as dependent claims 12–15 and 17–20.

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Application 13/246,241

DECISION

We reverse the Examiner's decision rejecting claims 1–20.

REVERSED