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EXAMINER

ANDREWS, LEON T

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte HIRONOBU ABE, HIDEO KAWAMURA, SHIN HIKINO, and
YUKINORI KISHIDA

Appeal 2015-006983
Application 12/664,848
Technology Center 2400

Before MARC S. HOFF, NORMAN H. BEAMER,
and STEVEN M. AMUNDSON, *Administrative Patent Judges*.

BEAMER, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–12.¹ We have jurisdiction over the pending rejected claims under 35 U.S.C. § 6(b).

We affirm.

¹ Appellants identify Mitsubishi Electric Corporation as the real party in interest. (App. Br. 1.)

THE INVENTION

Appellants' disclosed and claimed invention is directed to a digital video transport system. (Spec., Title.) Claim 1, reproduced below, is illustrative of the subject matter on appeal:

1. A digital video transport system comprising:
 - a plurality of digital video transmitting devices each of which connected to a standardized digital network; and
 - a digital video receiving device equipped with a network interface to communicate with the plurality of digital video transmitting devices through said standardized digital network, wherein
 - each of the plurality of digital video transmitting devices includes
 - an A/D converter configured to convert video data from analog format to digital format, and a data transmitting unit configured to output the digital formatted video data converted by the A/D converter to the standardized digital network, and
 - the digital video receiving device includes
 - a data receiving unit configured to receive the digital formatted video data from the standardized digital network through the network interface, and an encoding unit configured to encode the digital formatted video data received by the data receiving unit.

REJECTIONS

The Examiner rejected claims 1, 3–7, 11, and 12 under 35 U.S.C. § 103(a) as being unpatentable over Rasmussen (US 5,995,146, issued Nov. 30, 1999) and Lee (US 2004/0016003 A1, pub. Jan. 22, 2004). (Final Act. 2–5.)

The Examiner rejected claims 2 and 8–10 under 35 U.S.C. § 103(a) as being unpatentable over Rasmussen, Lee, and Spratt et al. (US 6,272,147 B1, issued Aug. 7, 2001). (Final Act. 5–6.)

ISSUES ON APPEAL

Appellants’ arguments in the Briefs present the following issues:²

Issue One: Whether the Examiner erred in finding the combination of Rasmussen and Lee teaches or suggests the independent claim 1 limitation “an encoding unit configured to encode the digital formatted video data received by the data receiving unit,” and the similar limitations recited in independent claims 11 and 12. (App. Br. 6–11.)

Issue Two: Whether the Examiner erred in finding the combination of Rasmussen and Lee teaches or suggests the additional limitations of dependent claims 3 and 7. (App. Br. 11.)

ANALYSIS

We have reviewed the Examiner’s rejections in light of Appellants’ arguments that the Examiner errs. We disagree with Appellants’ arguments, and we adopt as our own (1) the pertinent findings and reasons set forth by the Examiner in the Action from which this appeal is taken (Final Act. 2–6) and (2) the corresponding findings and reasons set forth by the Examiner in the Examiner’s Answer in response to Appellants’ Appeal Brief (Ans. 2–3).

² Rather than reiterate the arguments of Appellants and the findings of the Examiner, we refer to the Appeal Brief (filed Feb. 3, 2015); the Reply Brief (filed July 20, 2015); the Final Office Action (mailed Aug. 7, 2014); and the Examiner’s Answer (mailed June 17, 2015) for the respective details.

We concur with the applicable conclusions reached by the Examiner and emphasize the following.

Issue One

In finding Rasmussen and Lee teach or suggest the limitation at issue, the Examiner relied on the disclosure in Lee of a digital video receiver that includes a decoder. (Final Act. 3; Lee ¶ 31.) Appellants argue the Examiner erred because one of ordinary skill, considering the entirety of the Lee disclosure, would understand that the portion of Lee on which the Examiner relied is inconsistent with the remainder of the Lee disclosure. (App. Br. 9–10.)

However, an issued patent is presumed to be operative absent proof to the contrary. 35 U.S.C. § 282; MPEP § 716.07. Lee unambiguously states that an encoder is included in a digital video receiver. (Lee ¶ 31.) Therefore, this argument is not persuasive.

Appellants also argue the combination of Rasmussen and Lee is unreasonable, because the transmitting nodes of Rasmussen each include an encoder, thus rendering the further inclusion of an encoder in the receiver superfluous. (App. Br. 10.) However, we are not persuaded that the Examiner erred in finding that one of ordinary skill would be motivated, in light of the teaching in Lee to locate the encoder in the receiver, to modify Rasmussen accordingly, for the same reasons of economy as motivated Appellants to locate the encoder in the receiver rather than the transmitters. (Final Act. 3; Ans. 3; Spec. ¶¶ 6, 26.) Appellants do not point to any evidence of record that the resulting combination would be “uniquely challenging or difficult for one of ordinary skill in the art” or “represented an unobvious step over the prior art.” *Leapfrog Enters., Inc. v. Fisher-Price*,

Inc., 485 F.3d 1157, 1162 (Fed. Cir. 2007) (citing *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418–19 (2007)). The Examiner’s findings are reasonable because the skilled artisan would “be able to fit the teachings of multiple patents together like pieces of a puzzle,” because the skilled artisan is “a person of ordinary creativity, not an automaton.” *KSR*, 550 U.S. at 420–21. We are persuaded the claimed subject matter exemplifies the principle that “[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *KSR*, 550 U.S. at 416.

Issue Two

Appellants further argue the Examiner erred in finding that Rasmussen and Lee teach or suggest the additional limitations of dependent claims 3 and 7, because the Examiner relied on structures disclosed in Rasmussen that are located in the transmitting node, whereas the claimed subject matter is directed to structures located in the receiver. (App. Br. 11.) However, given, as discussed above, the teaching or suggestion from the combination of Rasmussen and Lee — of modifying the disclosure of Rasmussen to locate the encoder from the transmitting node to the receiver — we are not persuaded that the Examiner erred in finding such teaching or suggestion with respect to the additional structures of claims 3 and 7. (*See* Final Act. 3–4.)

CONCLUSIONS

For the reasons stated above, we sustain the obviousness rejections of claims 1, 3, 7, 11, and 12 over Rasmussen and Lee. We also sustain the obviousness rejections of claims 4–6 over Rasmussen and Lee, and of claims

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2 and 8–10 over Rasmussen, Lee, and Spratt, which rejections are not argued separately with particularity.

DECISION

We affirm the Examiner's rejection of claims 1–12.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED