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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JEFFRY K. KAMENETZ, MARK A. JOHNSTON,
EDWARD JOHN MAROTTA, CATHLEEN R. BLEIER,
and JOHN M. O'NEIL

Appeal 2015-007345
Application 13/239,791
Technology Center 2100

Before MICHAEL J. STRAUSS, ADAM J. PYONIN, and
AARON W. MOORE, *Administrative Patent Judges*.

MOORE, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants¹ appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 1, 3–7, and 10–17, which are all of the pending claims. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

THE INVENTION

The application “relates to electrical controllers, and more particularly to an electronic control architecture integrating multiple control channels.”

(Spec. ¶ 1.) Claim 1, reproduced below, is illustrative:

1. A method of electronically controlling a device comprising:
 - controlling a device using a first primary control microprocessor under normal conditions;
 - controlling said device using a second primary control microprocessor when said first primary control microprocessor is unhealthy and said second primary control microprocessor is healthy;
 - controlling said device using a first secondary control microprocessor or a second secondary control microprocessor when said first primary control microprocessor and said second primary control microprocessor are unhealthy;
 - each of said first primary control microprocessor, said second primary control microprocessor, said first secondary control microprocessor, and said second secondary control microprocessors that is not controlling said device accepting a channel in-control signal from one of said first primary control microprocessor, said second primary control microprocessor, said first secondary control microprocessor, and said second secondary

¹ Appellants identify United Technologies Corporation as the real party in interest. (*See* App. Br. 1.)

control microprocessor wherein the microprocessor originating the channel in-control signal is controlling said device; and

wherein said channel in-control signal prohibits each of said first primary control microprocessor, said second primary control microprocessor, said first secondary control microprocessor, and said second secondary control microprocessors that is not controlling said device from asserting control.

THE REJECTION²

Claims 1, 3–7, and 10–17 stand rejected under 35 U.S.C. § 102(b) as anticipated by Takats et al. (US 5,274,554; issued Dec. 28, 1993). (*See* Final Act. 4–12.)

ANALYSIS

Appellants argue Takats does not describe “wherein said channel in-control signal prohibits each of [the processors] that is not controlling said device from asserting control,” as recited in claim 1, or “wherein said control input is operable to prevent each of [the processors] from asserting control over said device when said signal received at said control input is a positive voltage,” as recited in claim 7.

The Examiner finds this limitation met because

Taka[t]s col. 6 line 45 - col. 8 line 67 and col. 8 lines 4 - 13 describes that it is [a] redundant system and the redundant CPUs only assert control, once the primary CPU is unhealthy. Redundancy is the duplication of critical components or functions or systems to increase reliability. Which means when

² The Examiner has objected to the Abstract and claims 1 and 9. (*See* Final Act. 3.) The objections are not a subject of this appeal.

one is running other one is prohibited to run, if the running component or system fails then other one start running.

(Ans. 11.)

We agree with Appellants that Takats' redundant system does not include control signals that prohibit processors that are not controlling the device from asserting control, as claimed. Instead, Takats teaches a system in which channels that are not in control may monitor the controlling channel in order to deactivate it in the event it fails but does not recognize its own fault status. (*See* Takats 8:4–13.) The reference simply does not describe a control signal originated by the controlling processor that “prohibits each of [the processors] that is not controlling said device from asserting control” as recited in claim 1 or analogously in claim 7.

Because the Examiner has not shown that Takats “disclose[s] each and every feature of the claimed invention, either explicitly or inherently,” *Eli Lilly & Co. v. Zenith Goldline Pharm., Inc.*, 471 F.3d 1369, 1375 (Fed. Cir. 2006), we do not sustain the 35 U.S.C. § 102(b) rejection.

DECISION

The rejection of claims 1, 3–7, and 10–17 is reversed.

REVERSED