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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte PAUL VAN VLECK, STEVEN M. BELZ, GREGORY
EDWARDS, and JAMES PRATT

Appeal 2015-007601
Application 12/541,021¹
Technology Center 2600

Before MARC S. HOFF, NORMAN H. BEAMER,
and JOYCE CRAIG, *Administrative Patent Judges*.

BEAMER, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) the Examiner's final rejection of claims 1–4, 7, 9, 10, 12, 14, 15, 18, and 20–24. Claims 5, 6, 8, 11, 13, 16, 17, and 19 are cancelled. We have jurisdiction over the pending rejected claims under 35 U.S.C. § 6(b).

We affirm.

¹ Appellants identify AT&T Intellectual Property I, L.P., as the real party in interest. (App. Br. 2.)

THE INVENTION

Appellants' disclosed and claimed invention is directed to programming a universal remote control (URC) to operate with a remote-controlled device. (Abstract.) Claim 1, reproduced below, is illustrative of the subject matter on appeal:

1. A method for configuring a universal remote control, comprising:
 - receiving a remote control configuration request;
 - displaying a menu, wherein the menu includes a plurality of selectable objects representing a plurality of remote-controlled devices wherein the menu includes a plurality of pages, each of the pages in the menu corresponding to a different type of device;
 - receiving user input selecting one of the plurality of selectable objects from the menu, wherein an identity of a selected remote-controlled device represented by the selected object is determined;
 - obtaining, from a database local to a client of a multimedia content distribution network, programming codes for the selected remote-controlled device;
 - programming, using the client, the universal remote control with the obtained programming codes to control the selected remote-controlled device;
 - sending a confirmation to a mobile communications device originating the remote control configuration request, wherein the confirmation indicates that the universal remote control was successfully programmed.

REJECTION

The Examiner rejected claims 1–4, 7, 9, 10, 12, 14, 15, 18, and 20–24 under 35 U.S.C. § 103(a) as being unpatentable over Haughawout et al. (US

7,653,212 B2, issued Jan. 26, 2010), Arling et al. (US 6,788,241 B2, issued Sept. 7, 2004), and Murphy et al. (US 7,822,325 B2, issued Oct. 26, 2010). (Final Act. 2–17.)

ISSUE ON APPEAL

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

Whether the Examiner erred in finding the combination of Haughawout, Arling, and Murphy teaches or suggests the independent claim 1 limitations, “each of the pages in the menu corresponding to a different type of device, [and] sending a confirmation to a mobile communications device originating the remote control configuration request, wherein the confirmation indicates that the universal remote control was successfully programmed,” and the similar limitations recited in independent claims 10 and 18. (App. Br. 5–14.)

ANALYSIS

We have reviewed the Examiner’s rejections in light of Appellants’ arguments the Examiner erred. We are unpersuaded by 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. 2–17) and (2) the corresponding findings and reasons set forth by

² Rather than reiterate the arguments of Appellants and the findings of the Examiner, we refer to the Appeal Brief (filed Dec. 20, 2014, corrected Mar. 4, 2015); the Reply Brief (filed Aug. 17, 2015); the Final Office Action (mailed July 7, 2014); and the Examiner’s Answer (mailed June 15, 2015) for the respective details.

the Examiner in the Examiner's Answer in response to Appellants' Appeal Brief (Ans. 2–13). We concur with the applicable conclusions reached by the Examiner, and emphasize the following.

In finding Haughawout, Arling, and Murphy teach or suggest the limitations at issue, the Examiner relies on the disclosure in Haughawout of providing an image of a device to be controlled to an image recognition system which accesses a database of control information, resulting in appropriate programming of a universal remote control device. (Final Act. 3–4; Haughawout Abstract.) Haughawout further discloses use of a cell phone to acquire and provide the image of the device to be controlled, and also discloses, in response to receiving the images, of the use of menus in the form of pages depicting potential matching devices, allowing selection from the menus of the device to be controlled. (*Id.*; Ans. 5, 10–13; Haughawout Figs. 7, 8, col. 4, l. 62–col. 5, l. 2, col. 6, ll. 5–9, col. 6, l. 49–col. 6, l. 3.)

The Examiner also relies on the disclosure in Arling of a remote control device that monitors keystroke usage and correlates a command key to a target device based on the keystrokes, and which displays different menu pages for different types of devices — e.g., one menu page for a satellite system and another menu page for a television. (Final Act. 5; Arling Figs. 2a–2c, col. 4, l. 63–col. 5, l. 13.) The Examiner further relies on the disclosure in Murphy of remotely programming a controller in a device (a water heater in the illustrative embodiment) via a wireless handheld device, and responding with a confirmation signal. (Final Act. 5–6; Murphy col. 3, ll. 51–58, col. 5, l. 59–col. 6, l. 38.)

Appellants argue the Examiner improperly ignores the claim requirement, “each of the pages in the menu corresponding to a different type of device,” based on the Examiner’s statement that, because the Specification lists several alternative menu arrangements, the claimed arrangement is optional and thus, according to the Examiner, “does not have any criticality for the claimed invention and is not further limiting.” (App. Br. 5–6; Final Act. 4.) However, taken as a whole, the Examiner’s Final Action does not in fact ignore this claim limitation — the Examiner goes on to rely on the above discussed disclosures of menu pages in Haughawout and Arling as teaching or suggesting “each of the pages in the menu corresponding to a different type of device.” (Final Act. 3–5.)

In regard to this aspect of the Examiner’s rejection, Appellants’ opening Brief ignores the Examiner’s reliance on Arling.³ Further, Appellants argue Haughawout does not teach or suggest “a menu in which each selectable object is associated with a corresponding device type.” (App. Br. 6–7.) However, the claims were amended to drop this limitation, and so this argument is not pertinent. (*See* 4/15/14 Claim Amendments.) In addition, Appellants argue Haughawout does not disclose “a page organization solution in which each page displays a single brand of a single type of equipment.” (Reply Br. 4.) Again, the claims require each page to

³ In the Reply, Appellants argue for the first time that there is no motivation to combine Arling and Haughawout. (Reply Br. 5–6.) In the absence of showing of good cause explaining why the argument could not have been presented in the principle Brief, we decline to consider the argument and deem it waived. *See* 37 C.F.R. § 41.41(b)(2)(2014); *In re Hyatt*, 211 F.3d 1367, 1373 (Fed. Cir. 2000) (noting that an argument not first raised in the brief to the Board is waived on appeal).

correspond to a different type of device, not to a “single brand.” In sum, we are not persuaded the Examiner errs in finding Haughawout, Arling, and Murphy teach or suggest “each of the pages in the menu corresponding to a different type of device.”

In regard to the limitation, “sending a confirmation to a mobile communications device originating the remote control configuration request, wherein the confirmation indicates that the universal remote control was successfully programmed,” Appellants argue Murphy discloses confirmation of receipt of a programming request, rather than the required confirmation of successful programming. (App. Br. 7.) To the contrary, as the Examiner finds, Murphy does in fact disclose confirmation of successful programming. (Ans. 7–9; Murphy col. 6, ll. 27–38.) Appellants also argue the Examiner’s reliance on Haughawout is in error, because the Examiner relies on a disclosure in Haughawout of an embodiment in which a user manually submits a configuration request. (App. Br. 8.) However, as Appellants acknowledge, the Examiner also relies on the above discussed use of a cell phone to submit a request, and this latter disclosure is sufficient, in combination with the disclosure of Murphy, to teach or suggest the limitation at issue. (App. Br. 8, Final Act. 3; Ans. 11.)

CONCLUSIONS

For the reasons stated above, we sustain the obviousness rejections of independent claims 1, 10, and 18. We also sustain the obviousness rejections of claims 2–4, 7, 9, 12, 14, 15, and 20–24, which rejections are not argued separately with particularity. (App. Br. 8.)

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DECISION

We affirm the Examiner's rejections of claims 1–4, 7, 9, 10, 12, 14, 15, 18, and 20–24.

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