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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO. Includes application details for 13/553,287 and 129925 7590, inventor Gerd DEWITZ, attorney Taft, Stettinius & Hollister LLP, examiner LE, DAVID, art unit 2498, and notification date 12/23/2016.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte GERD DEWITZ, GUNNAR PRYTZ,
MICHAEL GIENKE, RAGNAR SCHIERHOLZ,
STEFAN BOLLMEYER, and THOMAS PAULY

Appeal 2016-000381
Application 13/553,287
Technology Center 2400

Before JOHNNY A. KUMAR, TERRENCE W. McMILLIN,
STEVEN M. AMUNDSON, *Administrative Patent Judges.*

KUMAR, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–13 and 15–20. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Exemplary Claims

Exemplary claim 1 under appeal reads as follows:

1. A computer-implemented process control system, comprising:

a plurality of spatially distributed interconnected network subscribers with secure communication between network nodes, and wherein communication integrity between the network nodes is based on an interchange of certificates; and

an integrated central certification point, which is an integral part of the process control system, and where the integrity of the communication on the interchange of certificates is based on the process control system having the central certification point, which assigns and distributes the certificates; and

wherein existing reporting and logging system of the process control system is designed, to monitor and record key management functions using the process control system by events, which are recorded and stored as system messages.

Rejections¹

Claims 1–13 and 15–20 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Final Act. 4.

¹ Separate patentability is not argued for claims 2–13 and 15–20. Except for our ultimate decision, these claims are not discussed further herein.

Claims 1–3, 5, 11, 13, and 15 are rejected under 35 U.S.C. § 103(a) as being unpatentable by Gossel (US 2011/0167257 A1, July 7, 2011) in view of Madoukh (US 2001/0019614 A1, Sept. 6, 2001). Final Act. 4–7.

Claim 4 is rejected under 35 U.S.C. § 103(a) as being unpatentable by Gossel and Madoukh, in view of Chang (US 2003/0065921 A1, Apr. 3, 2003). Final Act. 7–8.

Claim 6 is rejected under 35 U.S.C. § 103(a) as being unpatentable by Gossel and Madoukh, in view of Baum-Waidner (US 2002/0046335 A1, Apr. 18, 2002). Final Act. 8–9.

Claim 7 rejected under 35 U.S.C. § 103(a) as being unpatentable by Gossel and Madoukh, in view of Lee (US 2002/0129024 A1, Sept. 12, 2002). Final Act. 9.

Claim 8 is rejected under 35 U.S.C. § 103(a) as being unpatentable by Gossel and Madoukh, in view of Heinla (US 2005/0122965 A1, June 9, 2005). Final Act. 10.

Claims 9, 10, and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable by Gossel and Madoukh, in view of Guo (US 2010/0115267 A1, May 6, 2010). Final Act. 10–12.

Claims 16–18 and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable by Gossel and Madoukh, in view of Frost (US 2004/0225898 A1, Nov. 11, 2004). Final Act. 12–14.

Claim 19 is rejected under 35 U.S.C. § 103(a) as being unpatentable by Gossel and Madoukh, in view of Curry (US 6,128,740, Oct. 3, 2000). Final Act. 14–15.

Appellants' Contentions²

1. Appellants contend that the Examiner erred in rejecting claims 1–13 and 15–20 under 35 U.S.C. § 101 because “[c]laims 1-13 and 15-20 were amended as suggested [by the Examiner] in the Final Rejection dated August 22, 2014, to recite a computer-implemented process control system.” App. Br. 4; *see also* Reply Br. 1–3.

2. Appellants contend that the Examiner erred in rejecting claim 1 under 35 U.S.C. § 103(a) because the combination of Gossel and Madoukh does not teach “wherein existing reporting and logging system of the process control system is designed, to monitor and record key management functions using the process control system by events, which are recorded and stored as system messages.” App. Br. 5–7; Reply Br. 2–3.

Issues on Appeal

Did the Examiner err in rejecting claims 1–13 and 15–20 as being directed to non-statutory subject matter?

Did the Examiner err in rejecting claims 1–13 and 15–20 as being obvious?

ANALYSIS

We have reviewed the Examiner’s rejections in light of Appellants’ Appeal Brief arguments (Appeal Brief and Reply Brief) that the Examiner has erred.

² The Examiner’s Final Rejection also includes objections to the drawings. Final Act. 3. However, this is a petitionable, rather than appealable, matter and we express no opinion as to its propriety as it is not before us. *See* 37 C.F.R. § 1.181.

As to Appellants' above contention 1, we agree with Appellants' arguments.

As to Appellants' above contention 2, we disagree. We agree with the Examiner's reasoning that the prior art renders obvious claim 1. Ans. 3–4. In particular, we agree with the Examiner's mapping of the elements of claim 1 to the disclosures of Gossel and Madoukh (Final Act. 4–5). The Examiner finds, and we agree, that the disputed language of claim 1 is taught by Madoukh. Final Act. 5 (citing Madoukh, para. 49).

The Examiner also responds to Appellants' arguments by describing the features of Gossel wherein the ordinarily skilled artisan would have combined with Madoukh, consistent with the guidelines stated in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398 (2007). See Ans. 3–6. We adopt the Examiner's findings and underlying reasoning, which are incorporated herein by reference.

The Supreme Court has indicated that:

[It is error to] assum[e] that a person of ordinary skill attempting to solve a problem will be led only to those elements of prior art designed to solve the same problem. . . . Common sense teaches . . . that familiar items may have obvious uses beyond their primary purposes, and in many cases a person of ordinary skill will be able to fit the teachings of multiple patents together like pieces of a puzzle.

KSR, 550 U.S. at 420 (citation omitted).

Moreover, “[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 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).

Appellants provide additional arguments with respect to the patentability of dependent claims 4, 6, 7, 9, 10, 12, and 16–21. App. Br. 8–11. The Examiner has rebutted each of those arguments in the Final Action (pages 8–15). Therefore, we agree with the Examiner’s findings and underlying reasoning and adopt them as our own.

Thus, we are not persuaded of Examiner error. Therefore, we sustain the Examiner’s § 103 rejections of claims 1–13 and 15–20.

DECISION

The Examiner’s rejection of claims 1–13 and 15–20 under 35 U.S.C. § 101 is reversed.

The Examiner’s rejection of claims 1–13 and 15–20 under 35 U.S.C. § 103 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)(1)(iv).

AFFIRMED