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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte PAUL LANGER

Appeal 2016-000733
Application 13/706,239¹
Technology Center 2600

Before STEPHEN C. SIU, JOYCE CRAIG, and ALEX S. YAP,
Administrative Patent Judges.

CRAIG, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1, 2, and 4–20, which constitute of all the claims pending in this application.² We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ According to Appellant, the real party in interest is EchoStar Technologies L.L.C. App. Br. 1.

² Claim 3 has been canceled. App. Br. 14.

INVENTION

Appellant's invention relates to detection of remote control for configuration of a universal remote. Abstract. Claim 1 is illustrative and reads as follows:

1. A method of programming a remote control,
 - instructing a user to transmit an identifying signal from a first remote control;
 - receiving the identifying signal from the first remote control;
 - comparing the received identifying signal to a database of remote control signals;
 - selecting a remote control programming code from the database based on the comparison of the received identifying signal and the database of remote control signals;
 - displaying the selected remote control programming code on a display; and
 - programming a second remote control with the remote control programming code.

REJECTIONS

Claims 1, 2, 4–9, and 11–20 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Drimusz et al. (US 2008/0174467 A1; published July 24, 2008) (“Drimusz”) and Kohanek (US 2012/0212680 A1; published Aug. 23, 2012).

Claim 10 stands rejected under 35 U.S.C. § 103(a) as obvious over the combination of Drimusz, Kohanek, and Huang et al. (US 2007/0296552 A1; published Dec. 27, 2007) (“Huang”).

ANALYSIS

We have considered Appellant’s arguments, but do not find them persuasive of error. We agree with and adopt as our own the Examiner’s findings of facts and conclusions as set forth in the Answer and in the Action from which this appeal was taken. We provide the following explanation for emphasis.

In rejecting claim 1, the Examiner found that Drimusz teaches or suggests all of the recited limitations except “displaying the selected remote control programming code on a display,” for which the Examiner relied on Kohanek. Final Act. 2–4 (citing Drimusz Figs. 3, 5, ¶¶ 23, 25, 27, 29, 30, 33, and 34; Kohanek ¶ 29).

Appellant contends the cited portions of Drimusz and Kohanek do not teach the limitation “displaying the selected remote control programming code on a display,” recited in claim 1. App. Br. 11. Appellant argues that “if the device disclosed in Drimusz were modified based on the teachings in Kohanek, the resulting device would not display a command code on a display.” *Id.* Appellant further argues that, because Drimusz teaches that a command code does not uniquely identify a command, merely displaying a command code assigned to a key of a controlling device on a display would not confirm to a user what command is issued by the controlling device upon activation of the key of a controlling device, as claim 1 requires. *Id.* at 11–12.

Appellant’s arguments do not persuade us of Examiner error. “The 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.” *See In re Keller*, 642 F.2d 413, 425 (CCPA 1981). The Examiner found that Drimusz provides the structure and function of a remote control programming system in which a remote control includes command codes and corresponding control buttons, each associated with a particular command code. Ans. 5. The Examiner further found that Kohanek provides the structure and function of re-displaying to a user what key functions are assigned to a controlling device. *Id.* The Examiner explained that the control programming code and its corresponding key function are equal representations of a particular remote control function used to control an appliance, and displaying one or the other is the same. *Id.* Appellant present no persuasive explanation or evidence to rebut the Examiner’s findings.

Additionally, we agree with the Examiner's findings and conclusion (Final Act. 4, Ans. 5–6) that the proposed combination is based on the predictable use of prior art elements according to their established functions and thus, would have been obvious to one of ordinary skill in the art. “The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *See KSR Int'l v. Teleflex, Inc.*, 550 U.S. 398, 416 (2007).

Regarding Appellant’s further contentions challenging the propriety of combining the references (App. Br. 12), we also agree with the Examiner's analysis and reasoning. We specifically find that the Examiner has articulated (*see* Final Act. 2–4, Ans. 4–5) how the claimed features are met by the reference teachings with some rational underpinning to combine Drimusz’s teachings with Kohanek. *KSR*, 550 U.S. at 418. Moreover, Appellant has not presented evidence sufficient to show that combining

Drimusz with Kohanek would have been “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*, 550 U.S. at 418–19).

For these reasons, we are not persuaded that the Examiner erred in finding that the combination of Drimusz and Kohanek teaches or suggests the limitations of claim 1.

Accordingly, we sustain the 35 U.S.C. § 103(a) rejection of independent claim 1, as well as the 35 U.S.C. § 103(a) rejection of independent claims 11 and 15, which Appellant argues are patentable for similar reasons. App. Br. 12. We also sustain the Examiner’s rejection of dependent claims 2–10, 12–14, and 16–20, for which Appellant makes no additional arguments. *Id.* at 12–13.

DECISION

We affirm the decision of the Examiner rejecting claims 1, 2, and 4–20.

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