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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JOSE M. MEJIAS and VICTOR DAVILA

Appeal 2016-001282
Application 13/322,973
Technology Center 2100

Before CARLA M. KRIVAK, CARL W. WHITEHEAD JR,
PHILLIP A. BENNETT, *Administrative Patent Judges*.

WHITEHEAD JR., *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants are appealing the Final Rejection of claims 1–21 under 35 U.S.C. § 134(a). Appeal Brief 1. We have jurisdiction under 35 U.S.C. § 6(b) (2012).

We affirm.

Introduction

The invention is directed to a cooling system for a computer system. Specification 3.

Representative Claim (disputed limitations emphasized)

1. A method for cooling comprising:

accessing a preferred temperature corresponding to a computer system;
accessing a current feedback temperature signal associated with one of a plurality of cooling devices;
determining an actual temperature corresponding to said computer system;
comparing said preferred temperature to said actual temperature;
generating instructions that modify said current feedback temperature signal associated with said one of said plurality of cooling devices; and
providing said modified current feedback temperature signal to a temperature feedback input of said one of said plurality of cooling devices,
wherein said temperature feedback input is intended to receive an air return temperature signal of said one of said plurality of cooling devices, and
wherein said modified current feedback temperature signal instructs said one of said plurality of cooling devices to provide cooling to said computer system such that said actual temperature is proximate said preferred temperature.

Rejections on Appeal

Claims 1–19 stand rejected under pre-AIA 35 U.S.C. §102(b) as being anticipated by Bash (US Patent Application Publication Number 2006/008001 A1; published April 13, 2006). Final Rejection 3–8.

Claims 20 and 21 stand rejected under pre-AIA 35 U.S.C. §103(a) as being unpatentable over Bash and Lyon (US Patent Application Publication Number 2008/0186670 A1; published August 7, 2008). Final Rejection 9 and 10.

ANALYSIS

Rather than reiterate the arguments of Appellants and the Examiner, we refer to the Appeal Brief (filed March 20, 2015), the Reply Brief (filed

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November 6, 2015), the Answer (mailed September 8, 2015), and the Final Rejection (mailed November 20, 2014) for the respective details. We have considered in this decision only those arguments Appellants actually raised in the Briefs.

We have reviewed the Examiner's rejections in light of Appellants' arguments that the Examiner has erred. We adopt as our own (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken and (2) the reasons set forth by the Examiner in the Examiner's Answer in response to Appellants' Appeal Brief, except where noted.

ANTICIPATION REJECTION

Appellants contend Bash "relates to correlating vent tiles with racks based upon vent tile settings and rack inlet temperatures (see Bash, Abstract)." Appeal Brief 9. Appellants describe Bash's utilization of the Vent Tile Operating [VTO] Index and contend "the VTO index of the Bash reference simply provides a correlation between the inlet temperatures of airflow delivered into the racks and the degree or percentage that the vent tiles are open." Appeal Brief 10. Appellants argue:

[T]o the extent the Bash reference provides that "*the temperatures at the inlets of the racks 102a-102n may be detected with the temperature sensors 208 at the recorded vent tile 118a-118n settings*" (Bash, para. [0068]), the Bash reference simply provides that "*the detected inlet temperatures may be transmitted or otherwise sent to the input/output module 206 and may also be stored in the memory 212*" (emphases added) (Bash, para. [0068]).

Appeal Brief 10.

Appellants conclude Bash does not disclose multiple features of the invention as recited in independent claims 1 and 15. Appeal Brief 10–13

(for the sake of brevity, we do not list the features). We do not find Appellants' contentions persuasive. Appellants summarize Bash's invention and list all the features Bash does not teach without specifically addressing the Examiner's findings. We are therefore not persuaded of Examiner error in regard to independent claims 1 and 15.¹

Appellants argue Bash "simply correlates vent tiles with racks based upon vent tile settings and rack inlet temperatures (See Bash, Abstract)." Appeal Brief 13. Appellants further argue Bash "does not disclose controlling a temperature within a first localized environment (having a computer system contained therein) by modifying a temperature within a second localized environment (having a temperature feedback sensor of a cooling device contained therein), as recited in dependent claim 17." Appeal Brief 13. We do not find Appellants' arguments persuasive because the Examiner relied upon Bash paragraphs 18, 67–74, 84 and Figure 3A to support the anticipation rejection. *See* Final Rejection 8. Appellants make similar arguments in regard to dependent claims 18 and 19 and therefore we do not find Appellants' arguments persuasive because the Examiner cited paragraph 25 and not the Abstract as Appellants contend. *See* Final Rejection 8; *see also* Appeal Brief 13.

We sustain the Examiner's anticipation rejection of independent claims 1 and 15, as well as independent claim 8 not separately argued.

¹ In an appeal from a rejection for anticipation, Appellants must explain which limitations are not found in the reference. *See Gechter v. Davidson*, 116 F.3d 1454, 1460 (Fed. Cir. 1997) ("[W]e expect that the Board's anticipation analysis be conducted on a limitation by limitation basis, with specific fact findings for each *contested* limitation and satisfactory explanations for such findings.") (emphasis added). *See also In re Kahn*, 441 F.3d 977, 985–86 (Fed. Cir. 2006).

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Appeal Brief 13. We also sustain the Examiner's anticipation rejection of dependent claims 17–19, as well as, dependent claims 2–7, 9–14, and 16 not separately argued. Appeal Brief 13–14.

OBVIOUSNESS REJECTION

Appellants argue Lyon fails to address the deficiency of Bash and note Lyon relates to an electronics cooling system. Appeal Brief 15. We do not find Appellants' arguments persuasive as Appellants fail to address the Examiner's findings by addressing Lyon's Abstract instead of Lyon's Figure 1 and paragraph 20 as cited by the Examiner in the Final Rejection, pages 9–10. Once the Examiner has satisfied the burden of presenting a prima facie case of obviousness, the burden then shifts to Appellants to present evidence and/or arguments that persuasively rebut the Examiner's prima facie case. *See In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). Since Appellants did not particularly point out errors in the Examiner's reasoning to persuasively rebut the Examiner's prima facie case of obviousness, the rejection of claims 20 and 21 is therefore sustained.

DECISION

The Examiner's anticipation rejection of claims 1–19 is affirmed.

The Examiner's obviousness rejection of claims 20 and 21 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). *See* 37 C.F.R. § 41.50(f).

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AFFIRMED