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AMUNDSON, Administrative Patent Judge.

DECISION ON APPEAL

Appellant\(^1\) seeks our review under 35 U.S.C. § 134(a) from rejections of claims 6, 7, 10, and 15–17, i.e., all pending claims. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

STATEMENT OF THE CASE

The Invention

According to the Specification, the invention relates to various aspects of an information-processing or communications system in which an image-

\(^1\) According to Appellant, the real party in interest is Sharp Kabushiki Kaisha. App. Br. 1.
forming apparatus (e.g., a printer) prints an image based on image data received from an external device (e.g., a mobile phone with a camera).

Spec. ¶ 3, 26, 35; Abstract. 2

Representative Claim

Claim 7 exemplifies the subject matter of the claims under consideration and reads as follows, with italics identifying the limitations at issue:

7. An image forming apparatus, comprising:
   a receiving section that receives an image data from an external device by a wireless communication; and
   an image forming section that forms an image based on the image data received by the receiving section,
   wherein after the communication between the external device and the image forming apparatus is established with a non-contact wireless method by bringing the external device close to the image forming apparatus and holding the external device over the image forming apparatus in a state that a file name of the image is displayed on the external device, the image data related to the displayed file name is outputted from the external device to the image forming apparatus with an IEEE 802.11 standard.

App. Br. 8 (Claims App.).

The Prior Art Supporting the Rejections on Appeal

Oba et al. (“Oba”)  US 2004/0078169 A1  Apr. 22, 2004

The Rejections on Appeal

Claims 6, 7, 10, and 15–17 stand provisionally rejected on the ground of obviousness-type double patenting as unpatentable over one or more claims in one or more copending applications. Non-Final Act. 3–5; Ans. 2–4.

Claims 7 and 15–17 stand rejected under 35 U.S.C. § 112 ¶ 2 as indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. Non-Final Act. 5–7; Ans. 4–6.

Claims 6, 7, 10, 15, and 17 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Kato. Non-Final Act. 8–12; App. Br. 3; Ans. 7–11.

Claim 16 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Kato and Oba. Non-Final Act. 12–13; App. Br. 3; Ans. 11–12.

ANALYSIS

We have reviewed the rejections of claims 6, 7, 10, and 15–17 in light of Appellant’s arguments that the Examiner erred. In doing so, we have evaluated only the arguments that Appellant actually makes on appeal. Arguments that Appellant could have made but declined to make are considered waived. See 37 C.F.R. § 41.37(c)(1)(iv).

For the reasons explained below, we disagree with Appellant’s assertions regarding error by the Examiner.

The Rejection for Obviousness-Type Double Patenting

In the Non-Final Office Action, the Examiner rejected all pending claims on the ground of obviousness-type double patenting. Non-Final Act. 3–5. In the Appeal Brief, Appellant does not present any arguments

Because Appellant does not contest the double-patenting rejection, we summarily sustain that rejection.³ See Hyatt v. Dudas, 551 F.3d 1307, 1314 (Fed. Cir. 2008) (explaining that “[w]hen the appellant fails to contest a ground of rejection to the Board, . . . the Board may treat any argument with respect to that ground of rejection as waived”); see also Manual of Patent Examining Procedure (MPEP) § 1205.02 (9th ed. Rev. 07.2015 Nov. 2015) (“If a ground of rejection stated by the examiner is not addressed in the appellant’s brief, appellant has waived any challenge to that ground of rejection and the Board may summarily sustain it, unless the examiner subsequently withdrew the rejection in the examiner’s answer.”).


In the Non-Final Office Action, the Examiner rejected claims 7 and 15–17 as indefinite. Non-Final Act. 5–7. In the Appeal Brief, Appellant does not present any arguments addressing—or even acknowledge—the indefiniteness rejection. App. Br. 4–6. In the Answer, the Examiner repeats the indefiniteness rejection. Ans. 4–6.

Because Appellant does not contest the indefiniteness rejection, we summarily sustain that rejection. See In re Berger, 279 F.3d 975, 980, 984–85 (Fed. Cir. 2002) (holding that the Board did not err in sustaining a

³ In a footnote, Appellant states that a terminal disclaimer was filed. App. Br. 3 n.1. In the event of further prosecution, we leave it to the Examiner to evaluate the terminal disclaimer as to whether it is sufficient to overcome the rejection.
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rejection under 35 U.S.C. § 112 ¶ 2 when the appellant failed to contest the rejection on appeal); see also MPEP § 1205.02.

The Rejections of Claims 6–7, 10, and 15–17 Under 35 U.S.C. § 103(a)

Independent Claim 7

Appellant argues that Kato does not disclose establishing communication between an “external device” and an “image forming apparatus” through “a non-contact wireless method by bringing the external device close to the image forming apparatus and holding the external device over the image forming apparatus in a state that a file name of the image is displayed on the external device.” App. Br. 4–5. In particular, Appellant contends that Kato fails to disclose or suggest two features: (1) establishing communication through “a non-contact wireless method” and (2) establishing communication by “holding the external device over the image forming apparatus in a state that a file name of the image is displayed on the external device.” Id. at 4–5.

For “a non-contact wireless method,” Appellant contends that Kato does not disclose or suggest such a method because Kato describes a communication that occurs when a portable terminal device (the “external device”) touches a multifunction peripheral (the “image forming apparatus”). App. Br. 5 (quoting Kato ¶ 64).

The Examiner finds, however, that Kato teaches other methods that involve “non-contact” communication, e.g., methods according to Bluetooth and IEEE 802.11 standards. Non-Final Act. 9, 10, 12; Ans. 8–9, 11, 13. We agree with the Examiner that in paragraph 40, among other places, Kato discloses “using Bluetooth communication [that] would not require any
touching of the devices, only maintaining a close distance of the devices.”

Ans. 13. Moreover, Appellant admits that Kato discloses a communicating unit in the multifunction peripheral (the “image forming apparatus”) that “performs non-contact bi-directional communication” with the portable terminal device (the “external device”). App. Br. 4.

For “holding the external device over the image forming apparatus in a state that a file name of the image is displayed on the external device,” Appellant contends that Kato describes selecting a document by name as shown in Figure 3 and then specifying print setting information for the selected document as shown in Figure 4. App. Br. 5. Based on that sequence, Appellant asserts that “logic would dictate that the last displayed screen, i.e., the [print] settings screen, would be displayed” during image data output rather than the “file to be printed/processed.” Id.

The Examiner finds, however, that (1) Kato “discloses that the name of the document can be displayed in conjunction with the print settings” and (2) “the document name of the image to be transmitted ... meets the limitation of displaying the file name.” Ans. 13–14 (citing Kato ¶¶ 40, 58, Fig. 3, Fig. 4).

We agree with the Examiner that Kato discloses an “external device” that displays “the name of the document data . . . and various pieces of print setting information for that document data” when a user enters information according to Figures 3 and 4. Kato ¶ 58. The display of the selected document’s name during image data output satisfies the requirement for the display of “a file name of the image.”
Accordingly, Appellant’s arguments have not persuaded us that the Examiner erred in rejecting claim 7 for obviousness based on Kato. Hence, we sustain the obviousness rejection.

Independent Claims 6, 10, 15, and 17 and Dependent Claim 16

Appellant does not present any patentability arguments for the other pending claims beyond the arguments regarding claim 7. App. Br. 6. For instance, Appellant asserts that “claim 16 is patentable over Kato for at least those reasons presented above with respect to claim 7.” Id. Because Appellant does not argue the claims separately, we sustain the obviousness rejections of claims 6, 10, and 15–17.

DECISION

We affirm the Examiner’s decision to reject claims 6, 7, 10, and 15–17.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). See 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED