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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte LUCIAN PETRILLA, BRUCE JOHN CHANTRY,
and WILLIAM THOMAS MATTHEWS

Appeal 2017-001318
Application 13/290,398¹
Technology Center 3700

Before JENIFFER D. BAHR, JAMES P. CALVE, and
FREDERICK C. LANEY, *Administrative Patent Judges*.

LANEY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Lucian Petrilla et al. (Appellants) appeal under 35 U.S.C. § 134(a) from the Examiner’s decision (entered Nov. 13, 2015, hereinafter “Final Act.”) rejecting claims 1–4, 6–8, 22, and 23 under 35 U.S.C. § 103(a) as unpatentable in view of Peters (US 2007/0262065 A1, pub. Nov. 15, 2007), Furman (US 7,294,808 B2, iss. Nov. 13, 2007), and Daniel (US 2009/0184098 A1, pub. July 23, 2009).² We have jurisdiction over this appeal under 35 U.S.C. § 6(b).

¹ According to Appellants, the real party in interest is Lincoln Global, Incorporated. Appeal Br. 3 (entered June 6, 2016).

² Claims 5 and 9–21 have been withdrawn. Appeal Br. 22–26 (Claims App.).

We REVERSE.

INVENTION

The invention “relates to the use of various communication devices as a user interface for welding equipment and systems.” Spec. ¶ 1.

Claim 1, which is reproduced below, is independent and illustrative of the claimed invention.

1. A welding or cutting system, comprising:
 - a plurality of welding or cutting power supplies to respectively perform welding or cutting operations; and
 - a mobile communication device comprising a mobile communication programming application and a welding or cutting programming application installed thereon, said welding or cutting programming application allowing a user to respectively input all operational parameters needed to control each of said operations into said mobile communication device and real-time communication with said plurality of welding or cutting power supplies;wherein said plurality of power supplies do not have a user input interface other than said mobile communication device such that said mobile communication device is used exclusively to input said all operational parameters of each of said plurality of power supplies, and
wherein said mobile communication device is a smartphone that distinguishes between said plurality of power supplies to transmit said all operational parameters of each of said plurality of power supplies.

Appeal Br. 21 (Claims App.).

ANALYSIS

Relying on the combined teachings of Peters, Furman, and Daniel, the Examiner determines independent claim 1 recites a combination of elements

that would have been obvious at the time of the invention. Final Act. 2–4. Among the issues Appellants raise with this determination is whether the Examiner made a sufficient showing that a skilled artisan would have known to combine the teachings of Peters, as modified by Daniel, with Furman in the manner claimed. Appeal Br. 14–15. For the following reasons, we are persuaded that the Examiner’s showing in this regard is deficient.

Citing Peters’s illustrations and description of apparatus 300, the Examiner finds that it was known to have a mobile communication device with the recited mobile communication programming application for allowing a user to input all operational parameters needed to control a single welding or cutting power supply and provide real-time communication with the welding or cutting power supply. Final Act. 2–3 (citing Peters ¶¶ 5, 30–33, Figs. 3A–3C). The Examiner finds Peters does not teach, however, “a plurality of welding or cutting power supplies and wherein each of the plurality of power supplies is controlled by a smartphone . . . [that] can distinguish between the pluralities of power supplies to transmit operational parameters of each of the plurality of power supplies.” *Id.* at 3.

Nevertheless, the Examiner finds Daniel shows that it was known to use a smartphone as a mobile communication device that is operatively connected to a welding system. *Id.* at 4 (citing Daniel ¶ 51). The Examiner finds Furman discloses “a remotely located wire feeder driven by one of a plurality of power sources, wherein the wire feeder receives a signal from the particular power source connected to the wire feeder so the wire feeder can automatically identify and communicate with the actual power source connected to the wire feeder.” *Id.* at 3–4 (citing Furman Figs. 1, 5 (in addition the Examiner states, “See Desc of Invention”)).

The Examiner determines “it would have been obvious to one skilled in the art to include in Peters a plurality of power supplies with each one having unique coding for operation[a] parameters, as Furman teaches remote wire feeders have difficulty in changing voltage.” Final Act. 4. “[T]he problem of identifying the particular power source connected to a specific wire feeder so that the coded communication between the wire feeder and power source using the primary aspect of the invention can be effected in an easy manner.” *Id.* The Examiner clarifies in the Answer that Furman “show[s] that a welding system can have a plurality of power sources which can be controlled by one controller” and “[s]ince Furman teaches a plurality of power supplies with each having [a] unique coding for operation parameters,” which beneficially allows a feeder to remotely control a power supply, a skilled artisan would have known “a remote controlled power source for one, can work for more than one (not a difficult task for a programmer).” Ans. 16–17.

Appellants assert “that it would not have been obvious to combine the teachings of Peters, as modified by Daniel, with Furman.” Appeal Br. 15. As support, Appellants note that “Furman first requires a hardwire connection (indeed, the welding lead itself) between the power supply and remote control device before a code can be transmitted to the remote control device.” *Id.* (emphasis omitted). In view of this, Appellants argue that it would have been counterintuitive “to employ such a method to a smartphone.” *Id.* In the Reply Brief, Appellants further explain that Furman teaches that remotely controlling one of a plurality of power supplies presents a problem with identifying which power supply a remote feeder must communicate with to control its operation. Reply Br. 11 (citing

Furman col. 1, ll. 55–col. 2, ll. 21, col. 8, ll. 10–19, Fig. 5). Appellants note Furman teaches, to “solve[] this dilemma,” that the power supplies are configured to provide the remotely located feeder with a unique coded signal through the lead connection (i.e., the connection used to transfer power to the feeder), which the feeder then uses to set the communication code for its transceiver so that the signals transmitted by the feeder are only recognized by the appropriate power supply. *Id.* (citing col. 8, ll. 19–26).

When evaluating claims for obviousness, it is well settled that “the prior art as a whole must be considered.” *In re Hedges*, 783 F.2d 1038, 1041 (Fed. Cir. 1986); *see also In re Merck & Co., Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986) (explaining that a reference “must be read, not in isolation, but for what it fairly teaches in combination with the prior art as a whole”). “It is impermissible within the framework of section 103 to pick and choose [teachings] from any one reference . . . to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art.” *Hedges*, 783 F.2d at 1041 (quoting *In re Wesslau*, 353 F.2d 238, 241 (CCPA 1965)). It is not enough to show a skilled artisan, once presented with the identified references, “would have understood that they *could be* combined” in the manner claimed because there must also be support for *why* the artisan would “pick out those . . . references and combine them to arrive at the claimed invention.” *Personal Web Techs., LLC v. Apple, Inc.*, 848 F.3d 987, 993–94 (Fed. Cir. 2017).

We are persuaded that the Examiner failed to establish a rational underpinning to explain why a skilled artisan would have modified the teachings of Peters, as modified by Daniel, with Furman in the manner claimed. The Examiner relies on Furman to disclose that it was known to

have a welding system configuration that has a plurality of power supplies, but the power supplies that Furman teaches receive operational inputs from a feeder. Furman teaches that, to enable the power supply to be remotely controlled by the feeder, the power supply must first identify itself to the feeder through the lead connected to the feeder. Claim 1 recites, however, that the “plurality of power supplies do not have a user input interface other than [the] mobile communication device such that [the] mobile communication device is used exclusively to input said all operational parameters.” The Examiner fails to explain why a skilled artisan would have modified the plurality of power supplies Furman discloses so that the *only* means for inputting operational parameters into them is through the apparatus 300 that Peters discloses. It is unclear on this record why a skilled artisan would have selected apparatus 300 to communicate operational data to the plurality of power supplies rather than the feeder, as taught by Furman. As a result, the Examiner’s rejection of claim 1 in view of Peters, Daniel, and Furman is deficient.

Therefore, we do not sustain the Examiner’s rejection of claim 1, or claims 2–4, 6–8, 22, and 23 depending therefrom.

DECISION

The Examiner’s rejection of claims 1–4, 6–8, 22, and 23 is reversed.

REVERSED