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STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			SATANOVSKY, ALEXANDER	
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* HIND CHEBBO and SAIED ABEDI

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Appeal 2017-005596  
Application 13/254,064<sup>1</sup>  
Technology Center 2800

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Before JEFFREY T. SMITH, JEFFREY R. SNAY, and  
SHELDON M. McGEE, *Administrative Patent Judges*.

McGEE, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134, Appellants seek our review of the Examiner's rejections adverse to the patentability of claims 1, 8, 15, 17, and 18 under 35 U.S.C. § 103(a).

We have jurisdiction under 35 U.S.C. § 6.

We affirm.

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<sup>1</sup> Appellants identify the real party in interest as Fujitsu Limited. App. Br. 3.

SUBJECT MATTER

The subject application discloses various wireless personal area networks (WPANs), such as body area networks (BANs), which contain sensors to detect and transmit a particular parameter value to another device. Spec. 1:1–36. BANs are useful in medical environments such as hospitals where the detected values may indicate an emergency condition of a patient wearing one or more sensors. *Id.* at 1:32–36, 2:5–12.

Claim 1 is illustrative of the subject matter on appeal:

1. A wireless sensor network of devices including one or more sensors for monitoring an entity, including:

a said sensor arranged to detect a value of a parameter related to the entity and to wirelessly transmit information to another device in the network;

a coordinator arranged to receive said wirelessly transmitted information; and means for determining, responsive to said detected value or said transmitted information, existence of an emergency condition of the entity;

wherein commands are transmitted in the network via MAC command frames and wherein the means for determining is arranged to transmit a declaration of the emergency condition of the entity being monitored to at least one other device in the wireless sensor network by setting a command frame identifier of a MAC command frame to an emergency notification command frame type; and

wherein the means for determining is arranged, when the entity is no longer in the emergency condition, to transmit said declaration in which the command frame identifier is followed by a payload for lifting the emergency condition[.]

App. Br. 20.

The following claims are rejected under 35 U.S.C. § 103(a):

- I. Claims 1 and 15 over Cohen,<sup>2</sup> Rudolf,<sup>3</sup> Siddiqui,<sup>4</sup> and Suh;<sup>5</sup>
- II. Claim 8 over Cohen, Rudolf, Siddiqui, Suh and Gao;<sup>6</sup> and
- III. Claims 17 and 18 over Cohen, Rudolf, Siddiqui, Suh and Ballou<sup>7</sup> or Yun.<sup>8</sup>

## OPINION

### *Rejection I*

The Examiner's rejection appears at pages 2 through 7 of the Final Office Action.<sup>9</sup> We adopt the Examiner's findings and conclusions as our own.

We have considered Appellants' arguments (App. Br. 8–14; Reply Br. 2–7) and are unpersuaded that Appellants have identified any reversible error in the Examiner's rejections. *In re Jung*, 637 F.3d 1356, 1365–66 (Fed. Cir. 2011). Therefore, we sustain this obviousness rejection based on the findings of fact, conclusions of law, and rebuttals to arguments well-expressed by the Examiner in the Final Action and in the Answer. We add the following comments for emphasis.

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<sup>2</sup> David Cohen, US 2006/0241521 A1, pub. October 26, 2006.

<sup>3</sup> Marian Rudolf, et al., US 2007/0032219 A1, pub. February 8, 2007.

<sup>4</sup> Waqaas Ahmed Siddiqui, US 2006/0247505 A1, pub. November 2, 2006.

<sup>5</sup> Soowan Suh, et al., US 2006/0256710 A1, pub. November 16, 2006.

<sup>6</sup> Xia Gao, et al., US 2006/0285527 A1, pub. December 21, 2006.

<sup>7</sup> Bernard L. Ballou, Jr., et al., US 2008/0318547 A1, pub. December 25, 2008.

<sup>8</sup> Chang Sik Yun, US 2006/0015916 A1, pub. January 19, 2006.

<sup>9</sup> Final Office Action dated December 7, 2015 ("Final Act.").

Even though the rejection is based on the disclosure of four references, several of Appellants' arguments are solely directed to the specific teachings of individual references, particularly Suh. App. Br. 9–14. Such arguments, without more, are unpersuasive because “[n]on-obviousness cannot be established by attacking references individually where the rejection is based upon the teachings of a combination of references. . . . [The reference] must be read, not in isolation, but for what it fairly teaches in combination with the prior art as a whole.” *In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). “The test for obviousness is what the combined teachings of the references would have suggested to one of ordinary skill in the art.” *In re Young*, 927 F.2d 588, 591 (Fed. Cir. 1991).

One such argument is that Suh is non analogous art because it relates to non-emergency situations occurring in fiber-optic networks. Reply Br. 5. We are not persuaded. Rather, we agree with the Examiner's finding (Ans. 8–9) that Suh is reasonably pertinent to the problem facing the inventors of the subject application, and is thus analogous art. A reference is reasonably pertinent to the particular problem with which the inventor is involved if it addresses the same or a similar problem. *In re ICON Health & Fitness, Inc.*, 496 F.3d 1374, 1380–1381 (Fed. Cir. 2007). Here, Suh involves detecting a defective condition, and then triggering and outputting an alarm indication signal until it is determined that the alarm signal should be cleared from the data communication network. Suh ¶ 33, 38, 41, 42, 64. The application addresses a similar problem in that once an emergency condition is detected, the existence of such condition is declared and transmitted until it is determined that the emergency condition is over and should be lifted. Spec. 3:15–23, 9:5–14:27, Figs. 12–17. Based on these similarities, we hold that

Suh would have reasonably commended the attention of the application’s inventors in determining suitable procedures for detecting, transmitting, and lifting an emergency condition in a data communication network.

Having found that Suh is analogous art to the instant application, we consider Appellants’ contention that the skilled artisan would not have combined Suh with the other cited references because “Suh relates to data transmission over fiber-optic networks . . . and is therefore in a different field of technology from the other cited references.” App. Br. 9. This argument is unpersuasive because Suh evinces that it was known to use a command frame identifier “to determine when to declare and clear group [alarm indication signals (AIS)].” Suh ¶ 32. Siddiqui discloses the use of a MAC command frame type in a wireless personal area network (WPAN). Siddiqui ¶ 50. Appellants’ arguments have not identified error in the Examiner’s conclusion that it would have been obvious to a person of ordinary skill in the art of data communication to employ known features related to notification transmission via MAC command frames to predictably consider other data command frame structures or protocols known in the art with a reasonable expectation of success.<sup>10</sup> Final Act. 11; Ans. 9. “The

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<sup>10</sup> The Examiner’s findings regarding Suh’s disclosure of command frames appears in the Final Rejection. Final Act. 5, 6, 12, 13–14. Thus, we consider Appellants’ argument (Reply Br. 3) that “Suh refers only to data frames, not “command frames” untimely, and decline to consider it. Appellants have not shown good cause why this argument could not have been raised in the Appeal Brief. *See* 37 C.F.R. § 41.37 (c)(1)(iv) (“Except as provided for in §§ 41.41, 41.47, and 41.52, any arguments or authorities not included in the appeal brief will be refused consideration by the Board for purposes of the present appeal.”). *See also* 37 C.F.R. § 41.41(b)(2) (“Any argument raised in the reply brief which was not raised in the appeal brief, or

combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007). “[W]hen the question is whether a patent claiming the combination of elements of prior art is obvious,” the answer depends on “whether the improvement is more than the predictable use of prior art elements according to their established functions.” *Id.* at 417.

For these reasons and those expressed by the Examiner, we sustain the rejection of claims 1 and 15.

### *Rejections II and III*

The Examiner’s rejections appear at pages 7 through 9 of the Final Office Action. We adopt the Examiner’s findings and conclusions as our own. We have considered Appellants’ arguments (App. Br. 15–18) and are unpersuaded that Appellants have identified any reversible error in the Examiner’s rejections.

Specifically, we note that Appellants’ arguments against these rejections again focus on the teachings of the references individually and not on what the combination of references would have suggested to the skilled artisan. App. Br. 15–18. Such limited arguments fail to reveal error. *In re Merck & Co.*, 800 F.2d at 1097; *In re Young*, 927 F.2d at 591.

Therefore, we sustain these obviousness rejections based on the findings of fact, conclusions of law, and rebuttals to arguments well-expressed by the Examiner in the Final Action, in the Answer, and above.

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is not responsive to an argument raised in the examiner’s answer, including any designated new ground of rejection, will not be considered by the Board for purposes of the present appeal, unless good cause is shown.”).

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Application 13/254,064

DECISION

The Examiner's final decision to reject claims 1, 8, 15, 17, and 18 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).

AFFIRMED