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Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
4 Research Way
3rd Floor
Princeton, NJ 08543

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pat.verlangieri@technicolor.com
russell.smith@technicolor.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DANIEL MONSIEUX

Appeal 2017-008319
Application 13/888,317
Technology Center 2400

Before ROBERT E. NAPPI, DENISE M. POTHIER, and
JOHNNY A. KUMAR, *Administrative Patent Judges*.

NAPPI, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) from the rejection of claims 1 through 12. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

INVENTION

Appellant's disclosed and claimed invention is directed to a home gateway which is adapted to connect to a voice service and has a standby service. Spec., Abstract. Claim 1 is illustrative of the invention and reproduced below.

1. A gateway comprising:
 - a connector connecting a telephone to the gateway;
 - a modem configured to connect the gateway to a voice service;
 - a detection circuit configured to detect, at the gateway, a request to make a telephone call;
 - a processor configured to:
 - initiate connection to the voice service responsive to the detection of a request to make a telephone call;
 - indicate that voice service is being connected; and
 - upon connection to the voice service, transfer the telephone call to the voice service.

REJECTION AT ISSUE¹

The Examiner has rejected claims 1, 2, 4, 5, 7, 8, 10, and 11 under 35 U.S.C. § 103(a) as being unpatentable over Mundra et al. (US 2008/0162710 A1; pub. July 3, 2008) and Bossemeyer et al. (US 2002/0037004 A1; pub. Mar. 28, 2002). Final Act. 3–7.²

The Examiner has rejected claims 3 and 9 under 35 U.S.C. § 103(a) as being unpatentable over Mundra, Bossemeyer and Kim (US 2004/0254683 A1; pub. Dec. 16, 2004). Final Act. 7–8.

¹ Throughout this Decision we refer to the Appeal Brief filed September 15, 2015 and supplemented on March 30, 2016 (“Br.”), Examiner’s Answer mailed September 22, 2016 (“Ans.”), and the Final Action mailed February 27, 2015 (“Final Act.”).

² We note that the statement of the rejection on page 3 of the Final Act. does not include claim 7; however, the detailed discussion of the rejection includes claim 7.

The Examiner has rejected claims 6 and 12 under 35 U.S.C. § 103(a) as being unpatentable over Mundra, Bossemeyer and Smith et al. (US 2007/0280208 A1; pub. Dec. 6, 2007). Final Act. 8–9.

ISSUES

Appellant argues on pages 7 through 9 of the Appeal Brief that the Examiner’s obviousness rejection of claims 1, 2, 4, 5, 7, 8, 10, and 11 is in error.³ These arguments present us with the following issues:

- a) Did the Examiner err in finding the combination of Mundra, and Bossemeyer teaches a gateway comprising a modem as recited in representative claim 1?
- b) Did the Examiner err in finding the combination of Mundra, and Bossemeyer teaches the processor indicates that the voice service is being connected as recited in representative claim 1?

ANALYSIS

We have reviewed Appellant’s arguments in the Appeal Brief, the Examiner’s rejections, and the Examiner’s response to Appellant’s arguments. Appellant’s arguments have not persuaded us of error in the Examiner’s rejections of claims 1 through 12.

First issue

³ These arguments group claims 1, 2, 4, 5, 7, 8, 10, and 11 together. We select claim 1 as representative and decide the appeal based upon claim 1. See 37 C.F.R. § 41.37(c)(1)(iv).

Appellant's arguments directed to the first issue assert that Mundra teaches in Figure 1 that the modem (item 22) is separate from the gateway. Br. 6–7 (citing Fig. 1). Further, Appellant asserts that Bossemeyer fails to teach the gateway comprises a modem. Br. 8 (citing para's 0033, 0035, and 0036).

The Examiner cites to paragraph 93 of Mundra to show the gateway can include a modem. Ans. 2–3. We concur with the Examiner. We additionally note that Mundra states, “[a]lternatively, a DSL or cable modem might be integrated into the residential gateway.” See Mundra, para. 5. Accordingly, Appellant's arguments directed to the first issue have not persuaded us of error in the Examiner's rejection.

Second issue

Appellant's arguments directed to the second issue assert that Bossemeyer teaches in paragraph 35 that the processor determines that voice service is requested and directs the voice service to be set up, but does not teach the processor indicates that the voice service is being connected. Br. 8.

The Examiner responds to Appellant's arguments finding that the processor provides the indication in that it directs the call identification system to indicate the call number. Ans. 3–4 (citing Bossemeyer paragraphs 33–35 and Figures 2–3).

Appellant's arguments directed to the second issue have not persuaded us of error in the Examiner's rejection. Paragraph 33 Bossemeyer, cited by the Examiner, discusses the processor providing the call identification module (item 58 in Figure 2) data concerning a call. Appellant's arguments focus on paragraph 35 of Bossemeyer, and Appellant

has not addressed the Examiners' findings concerning the processor interacting with the call identification module (discussed in paragraph 33). Thus, Appellant has not identified an error in the Examiner's finding that the processor, through the call identification module, provides the claimed indication that the voice service is being connected. As such, we are not persuaded of error by Appellant's arguments directed to the second issue and sustain the Examiner's rejection of claims 1, 2, 4, 5, 7, 8, 10, and 11.

Appellant's arguments directed to the rejections of claims 3, 6, 9 and 12 assert that the rejection is in error for the reasons discussed with respect to claim 1 and because the additional teachings of Kim and Smith do not make up for the deficiencies in the rejection of claim 1. Br. 9–11. As discussed above, we are not persuaded of error in the rejection of claim 1; thus, we are similarly not persuaded of error in the rejections of claims 3, 6, 9 and 12. Accordingly, we sustain the Examiner's rejections of claims 3, 6, 9 and 12.

DECISION

We sustain the Examiner's rejections of claims 1 through 12 under 35 U.S.C. § 103(a).

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).

AFFIRMED