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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MICHAEL CHEN

Appeal 2017-008912
Application 13/686,080
Technology Center 2900

Before ERIC B. CHEN, JEREMY J. CURCURI, and
DAVID J. CUTITTA II, *Administrative Patent Judges*.

CURCURI, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1–22 and 26–28. Final Act. 1. We have jurisdiction under 35 U.S.C. § 6(b).

Claims 1–7, 9, 10, 12–17, 19, 20, 22, and 26–28 are rejected under 35 U.S.C. § 103(a) as obvious over Parker (US 2004/0135686 A1, pub. July 15, 2004). Final Act. 3–8.

Claim 8 is rejected under 35 U.S.C. § 103(a) as obvious over Parker and Abdallah (US 2008/0240105 A1, pub. Oct. 2, 2008). Final Act. 8–9.

Claim 11 is rejected under 35 U.S.C. § 103(a) as obvious over Parker and Kondo (US 2004/0155963 A1, pub. Aug. 12, 2004). Final Act. 9–10.

Claims 18 and 21 are rejected under 35 U.S.C. § 103(a) as obvious

over Parker and Bogineni (US 2010/0131280 A1, pub. May 27, 2010). Final Act. 10.

We affirm.

STATEMENT OF THE CASE

Appellant's invention relates to "methods and systems for ambient system control, comprising multiple detection devices with varying levels of detection capability." Spec., Abstract. Claim 1 is illustrative and reproduced below, with the key disputed limitation emphasized:

1. A method comprising:
 - detecting, at a first detection device, a first signal generated by a source;
 - determining that the first signal comprises a first command and transmitting an activation signal from the first detection device to a second detection device proximate to the source in response to the first command, thereby activating the second detection device proximate to the source, *wherein the second detection device has less available power than the first detection device*;
 - detecting, at the second detection device, a second signal generated by the source;
 - determining that the second signal comprises a second command; and
 - acting upon the second command.

ANALYSIS

THE OBVIOUSNESS REJECTION OF CLAIMS 1–7, 9, 10, 12–17, 19, 20, 22, AND
26–28 OVER PARKER

The Examiner finds Parker teaches all limitations of claim 1. Final Act. 3–4; *see also* Ans. 2–3. In particular, the Examiner finds

Although Parker does not explicitly state the second detection device has less available power than the first detection device, . . . one with ordinary skill in the art would realize that the camera 5 obviously has less available power than the motion sensor 7 since the motion sensor is continuously activating and the camera 5 only to start capturing image when triggered by the motion sensor.

Therefore, one with ordinary skill in the art at the time the invention was made [would have provided the] Parker system with the concepts of the second detection device configured to have less available power than the first detection device because the power required for the motion sensor would definitely need to be more than the camera as it would be continuously sensing the motion.

Final Act. 4.

Appellant presents the following principal arguments:

i. “To the extent that the Office Action intends to invoke Official Notice of the fact that the second detection device has less available power than the first detection device, Applicant asserts that the Official Notice is improper.” App. Br. 5.

ii.

[T]he motion sensor is active for longer periods of time than the camera [in Parker]. The only conclusion that can be drawn from this is that the motion sensor consumes power for a longer time than the camera. That is, the statement in the Office Action fails to provide any information regarding the rate at which either the camera or the motion sensor consumes power, which is needed to determine how much power is consumed while[] the devices are active much less the relative capacities of the power sources used by the camera and the motion sensor.

App. Br. 6; *see also* Reply Br. 2.

iii. “There is no indication in *Parker* (or in the Office Action) what power source is used for each of these devices. Accordingly, it is impossible

to draw any inference regarding the power available to either device.” App. Br. 7; *see also* Reply Br. 2–3.

We review the appealed rejections for error based upon the issues identified by Appellant, and in light of the arguments and evidence produced thereon. *Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential).

We do not see any error in the Examiner’s findings or in the Examiner’s conclusion of obviousness. Specifically, Appellant’s arguments (i), (ii), and (iii), do not show any error in the Examiner’s findings. In short, we find Parker’s disclosures would have reasonably suggested the claimed arrangement of available power to one of ordinary skill in the art, and are not limited in their suggestions to only the amount of time for which power is consumed.

We agree with and adopt as our own the Examiner’s explanation in the Examiner’s Answer:

one with ordinary skill in the art would [have] recognize[d], in view of the disclosure of Parker, and implement[ed] a smaller available power for the second detection device (the camera, because it only activated when a trigger signal from the motion sensor/buzzer) than the first detection device (motion sensor/buzzer, which is continuously power on), in order to cut the cost of manufacturing and installation of the appropriate size of power.

Ans. 2–3.

Further, the rationale to support a conclusion that a claim would have been obvious may be that

a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense. In that instance the fact that

a combination was obvious to try might show that it was obvious under § 103.

KSR Int'l Co. v. Teleflex Inc., 550 U.S. 398, 421 (2007).

Only a finite number of possible arrangements exist for providing power to the first detection device and the second detection device. In particular, either (i) the first detection device may be arranged to have less available power than the second detection device; or (ii) the second detection device may be arranged to have less available power than the first detection device; or (iii) both detection devices may be arranged to have the same available power. We, therefore, conclude that it would have been obvious to a person having ordinary skill in the art to have provided an arrangement for power available to the first detection device and the second detection device meeting the argued claim limitations. Such an arrangement would have been merely a product of ordinary skill and common sense. This is because when faced with the design need of making power available to the first detection device and the second detection device, one of ordinary skill in the art would have found it obvious to try the claimed arrangement from the finite set of identified arrangements and because the claimed arrangement produces a predictable solution that is within the grasp of one of ordinary skill. *See KSR*, 550 U.S. at 421.

We, therefore, sustain the Examiner's rejection of claim 1. We also sustain the Examiner's rejection of claims 2–7, 9, 10, 12–17, 19, 20, 22, and 26–28, which are not separately argued with particularity.

THE OBVIOUSNESS REJECTION OF CLAIM 8 OVER PARKER AND ABDALLAH

Appellant argues Abdallah fails to cure the purported deficiencies of Parker. *See App. Br. 8.*

For reasons discussed above, we find Parker is not deficient. We, therefore, sustain the Examiner's rejection of claim 8.

THE OBVIOUSNESS REJECTION OF CLAIM 11 OVER PARKER AND KONDO

Appellant argues Kondo fails to cure the purported deficiencies of Parker. *See App. Br. 8.*

For reasons discussed above, we find Parker is not deficient. We, therefore, sustain the Examiner's rejection of claim 11.

THE OBVIOUSNESS REJECTION OF CLAIMS 18 AND 21 OVER PARKER AND
BOGINENI

Appellant argues Bogineni fails to cure the purported deficiencies of Parker. *See App. Br. 8.*

For reasons discussed above, we find Parker is not deficient. We, therefore, sustain the Examiner's rejection of claims 18 and 21.

ORDER

The Examiner's decision rejecting claims 1–22 and 26–28 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