



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/687,100	11/28/2012	Patrick H. Hayes	81230.62US7	8094
34018	7590	09/30/2019	EXAMINER	
Greenberg Traurig, LLP 77 W. Wacker Drive Suite 3100 CHICAGO, IL 60601-1732			PAN, YONGJIA	
			ART UNIT	PAPER NUMBER
			2145	
			NOTIFICATION DATE	DELIVERY MODE
			09/30/2019	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

chiipmail@gtlaw.com
clairt@gtlaw.com
jarosikg@gtlaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte PATRICK H. HAYES, STEVEN LANPING HUANG,
WEIDONG WILLIAM WANG, HAN-SHENG YUH,
JONATHAN CHRISTIAN LIM, and JOYCE M. PRESSEAU

Appeal 2017-010061
Application 13/687,100
Technology Center 2100

BEFORE MAHSHID D. SAADAT, ERIC S. FRAHM, and
TREVOR M. JEFFERSON, *Administrative Patent Judges*.

JEFFERSON, *Administrative Patent Judge*.

DECISION ON APPEAL
STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision to reject claims 11–22. Non-Final Act. 1.² We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

¹ We use the word “Appellant” to refer to “Applicant” as defined in 37 C.F.R. § 1.42(a). Appellant identifies the real party in interest as Universal Electronics Inc. Appeal Brief (“Appeal Br.”) 1 (filed Feb. 27, 2017). We also refer to the Appellant’s Reply Brief (“Reply Br.”) dated July 20, 2017.

² We refer to the Examiner’s Answer (“Ans.”) dated May 23, 2017, and the Non-Final Office Action (“Non-Final Act.”) dated Dec. 14, 2016.

CLAIMED SUBJECT MATTER

The claims are directed to a system and method for using a mark-up language page to command an appliance. Specifically, a hand-held device with a display and browser supports a full screen tag to display a link, which when activated causes the device to transmit a command to a consumer appliance. Abstract. Claim 11, reproduced below, is illustrative of the claimed subject matter:

11. A non-transitory computer-readable media having computer executable instructions for displaying information in a display, the instructions performing steps, when executed by a processing device of a controlling device having the display, comprising:

retrieving a mark-up language formatted page having an embedded mark-up language formatted page tag comprised of a data field containing data having a value indicative of at least one consumer appliance function to be controlled and a second data field containing data for displaying an activable hyperlink in the display;

displaying the mark-up language formatted page including the hyperlink in the display;

in response to the hyperlink being activated, providing the value indicative of the at least one consumer appliance function to be controlled contained in the data field of the embedded mark-up language page tag to a transmission controller associated with the controlling device;

using by the transmission controller the value indicative of the at least one consumer appliance function to be controlled to select one or more command codes from a one of a plurality of command code sets wherein each of the plurality of command code sets includes one or more command codes supportive of the at least one consumer appliance function to be controlled and wherein the one of the plurality of command code sets is the one of the plurality of command code sets that was provisioned for use by the transmission controller at a time of activation of the hyperlink; and

using by the transmission controller the selected one or more command codes to transmit at least one command communication to a consumer appliance.

REFERENCES

The prior art relied upon by the Examiner is:

Goldstein	US 5,410,326	Apr. 25, 1995
Humpleman	US 2001/0011284 A1	Aug. 2, 2001
Mitani	US 6,466,233 B1	Oct. 15, 2002
Dubil	US 8,132,105 B1	Mar. 6, 2012

REJECTIONS

Claims 11, 15, 21, and 22 stand rejected under 35 U.S.C. § 112 second paragraph as being indefinite. Ans. 2; Non-Final Act. 3.

Claims 11, 12, 14–16, and 18–20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mitani, Dubil, and Goldstein. Ans. 5; Non-Final Act. 6.

Claims 13 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mitani, Dubil, Goldstein, and Humpleman. Non-Final Act. 14.

OPINION

Indefiniteness Claims 11, 15, 21, and 22

The Examiner finds that claim 11's recitation of "wherein the one of the plurality of command code sets is the one of the plurality of command code sets that was provisioned for use by the transmission controller at a time of activation of the hyperlink" is indefinite because "command code sets" are not "provisioned" for use at a time of activation of the hyperlink. Ans. 3; Non-Final Act. 3. The Examiner argues that "it is unclear how a command code set is provisioned for use at a time of activation of the

hyperlink as the instant [S]pecification and the [A]pplicant themselves state activation of a hyperlink results in looking up a command code not provisioning a command code set to be transmitted.” Ans. 5. Appellant argues the rejection of claims 11, 15, 21, and 22 as a group. We select claim 11 as representative and claims 15, 21, and 22 stand or fall with claim 11.

A claim is properly rejected as being indefinite under 35 U.S.C. § 112, second paragraph if, after applying the broadest reasonable interpretation in light of the specification, the metes and bounds of a claim are not clear because the claim “contains words or phrases whose meaning is unclear.” *In re Packard*, 751 F.3d 1307, 1310 (Fed. Cir. 2014).

Appellant contends that the Examiner erred because the activation in the hyperlink in claim 11 “results in the transmission of a command *from a command code set that was provisioned for use by the transmission controller at a time of activation of the hyperlink.*” Appeal Br. 5. Appellant argues that the Specification supports the well-known use of a command code set that is activated by mode buttons to access commands for a code set that was provisioned for use. *Id.* Thus, Appellant argues the Examiner erred in stating that claim 11 “recite[s] a singular process of activation of a hyperlink *to provision command code set and transmit a control function 'in response to the hyperlink being activated.*” Reply Br. 2 (quoting Ans. 3 (emphasis added)). Instead, Appellant argues that the plain language of the claim states that there is a two-step process wherein the command code set was provisioned previously for use by the transmission controller and upon activation of the hyperlink a command is then selected. Reply Br. 2–3. We agree with Appellant that the indication that the command code set “was provisioned” indicates that the activation has already occurred. In this case,

the provisioning step resolves the ambiguity identified by the Examiner. Accordingly, we do not sustain the Examiner's rejection of claims 11, 15, 21, and 22 stand rejected under 35 U.S.C. § 112 second paragraph as being indefinite.

*Claims 11, 12, 14–16, and 18–20—
Obviousness over Mitani, Dubil, and Goldstein*

The Examiner rejected claims 11, 12, 14–16, and 18–20 over Mitani, Dubil, and Goldstein. Ans. 5; Non-Final Act. 6. Appellant argues the rejection of claims 11, 12, 14–16, and 18–20 as a group. We select claim 11 as representative and claims 12, 14–16, and 18–20 stand or fall with claim 11.

Appellant argues that “the claimed invention has the advantage of being flexible in that the mark-up language formatted page is not tied to any particular command codes or . . . sets when it is initially provided to a controlling device.” Appeal Br. 6. Appellant argues that the Examiner admits

that Mitani does not expressly or inherently disclose the claimed element of a mark-up language formatted page having an embedded mark-up language formatted tag where the mark-up language formatted tag is comprised of a data field in which is contained data having a value indicative of at least one consumer appliance function to be controlled.

Id. at 7. Appellant then asserts that Dubil and Goldstein fail to teach the limitations not disclosed by Mitani. *Id.* at 7–8. Appellant asserts that Dubil discloses an inflexible system using a specific command code and that Goldstein's touch screen teachings fail to teach modifying Mitani or Dubil to teach the limitations of claim 11. *Id.*

We have reviewed Appellant's contentions in light of the Examiner's rejection and response and we agree with the Examiner. We adopt the Examiner's Answer (Ans. 5–11) and Non-Final Rejection (Non-Final Act. 6–9). We agree with the Examiner that Appellant's emphasis on the claims disclosing "a flexible mark-up language formatted page that is not tied to a particular command code set and the same mark-up language formatted page can be used to control a plurality of different appliances" is not supported by the Specification or Appellant's arguments. Ans. 6–7. In addition, Appellant has not persuasively shown that the claims support this flexible architecture.

We agree with the Examiner that Mitani discloses selecting a mode for a device and a command, and retrieving a mark-up language formatted page with embedded tags. Ans. 8–9 (citing Mitani 2:13–21, 2:26–29, 6:55–67, 7:1–12, Fig. 9). The Examiner shows that Dubil teaches "an embedded mark-up language formatted page tag comprising of a data field that contains a value indicative of a least one consumer appliance function to be controlled and transmission to control a consumer appliance" by using codes described in XML tags. *Id.* at 9–10 (citing Dubil 4:14–40, 5:18–26). Finally, we also agree with the Examiner that Goldstein discloses decoding and selecting a code from a plurality of codes. *Id.* at 10 (citing Dubil 13:25–35).

One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. *See In re Keller*, 642 F.2d 413, 426 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). Appellant's arguments fail to address the teachings of Mitani cited by the Examiner (*see* Non-Final Act. 6–16) and merely

attack the Dubil and Goldstein references separately without reference to what they teach in combination with Mitani. Upon reviewing the Examiner's Answer and Non-Final Rejection we agree that:

In this case Mitani, Dubil, and Goldstein teach a system and method for controlling home devices, it would have been obvious to one of skilled in the art to modify Mitani to include Dubil's indicative value and Goldstein's command identifiers to achieve the predictable result of providing a means to indicate a device to be controlled and providing a means to identify and retrieve correct command codes.

Ans. 11.

For the foregoing reasons, we sustain the Examiner's rejection under 35 U.S.C § 103(a) of claim 11 over Mitani, Dubil, and Goldstein. Appellant does not present arguments for claims 12, 14-16, and 18-20. Accordingly, we find that the Examiner did not err in rejecting claims 12, 14-16, and 18-20 as unpatentable under 35 U.S.C § 103(a) over Mitani, Dubil, and Goldstein.

Claims 13 and 17

Obviousness over Mitani, Dubil, Goldstein, and Humpleman

Appellant does not present arguments for the Examiner's rejection of claim 13 and 17. *See* Non-Final Act. 14-15. Accordingly, we sustain the Examiner's rejection. *See* 37 C.F.R. § 41.37(c)(1)(iv).

DECISION

The Examiner's rejections of claims 11, 12, 14-16, and 18-20 under 35 U.S.C §103(a) over Mitani, Dubil, and Goldstein is **AFFIRMED**

The Examiner's rejections of claims 13 and 17 under 35 U.S.C §103(a) over Mitani, Dubil, Goldstein, and Humpleman, is **AFFIRMED**.

The Examiner's rejection of claims 11, 15, 21, and 22 under 35 U.S.C. § 112 second paragraph is REVERSED.

DECISION SUMMARY

Claims Rejected	Basis	Affirmed	Reversed
11, 12, 14–16, and 18–20	§ 103(a)	11, 12, 14–16, and 18–20	
13 and 17	§ 103(a)	13 and 17	
11, 15, 21, and 22	§ 112 second paragraph		11, 15, 21, and 22

FINALITY AND RESPONSE

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-IN-PART