



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

Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
14/765,392 08/03/2015 SOTIR FILIPOV OUZOUNOV 2012P01057WOUS 9915

24737 7590 08/23/2018
PHILIPS INTELLECTUAL PROPERTY & STANDARDS
465 Columbus Avenue
Suite 340
Valhalla, NY 10595

EXAMINER

FLEMING-HALL, ERICA L

ART UNIT PAPER NUMBER

2647

NOTIFICATION DATE DELIVERY MODE

08/23/2018

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):

patti.demichele@Philips.com
marianne.fox@philips.com
katelyn.mulroy@philips.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SOTIR FILIPOV OUZOUNOV, RONALD VAN LANGEVELDE,
ANTENEH ALEMU ABBO, FRANK WARTENA,
LUCAS HENDRIKUS GERADUS TAN, and
PETER JOHANNUS HENRICUS RUTTEN

Appeal 2018-001983
Application 14/765,392¹
Technology Center 2600

Before ROBERT E. NAPPI, JASON J. CHUNG, and
JOHN D. HAMANN, *Administrative Patent Judges*.

CHUNG, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) of the Final Rejection of claims 1–8.² We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

INVENTION

The invention is directed to body coupled communication systems and devices for use in such body coupled communication devices. Spec. 1:2–3. Claim 1 is illustrative of the invention and is reproduced below:

¹ According to Appellants, Koninklijke Philips N.V. is the real party in interest. App. Br. 3.

² Claims 9–20 have been cancelled. App. Br. 16.

1. A body coupled communication system for providing secure communication, the body coupled communication system comprising:

a first device comprising a first body coupled communication interface configured to transmit and receive information via a body transmission channel along a body of a user when the first body coupled communication interface is in a vicinity of the user;

a second device comprising a second body coupled communication interface configured to transmit and receive the information with the first device via the body transmission channel when the second body coupled communication interface is in the vicinity of the user, wherein the first device and the second device are configured to form a body communication network, wherein the vicinity is a maximum distance at which the first device and the second device are capable of transmitting and receiving the information via the body transmission channel, wherein the body coupled communication system is configured to prevent misuse of the first device or the second device such that the first device is configured to detect whether the second device is present in the body communication network, and provide a signal when the second device is no longer present in the body communication network.

REJECTIONS AT ISSUE

Claims 1, 2, 4–6, and 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Baker et al. (US 2012/0001751 A1; published Jan. 5, 2012) and Zhao (US 2008/0174554 A1; published July 24, 2008). Ans. 2–9.

Claims 3 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Baker, Zhao, and Lee (US 2012/0171956 A1; published July 5, 2012). Ans. 9–10.

We have only considered those arguments that Appellants actually raised in the Briefs. Arguments Appellants could have made, but chose not to make, in the Briefs have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(iv).

ANALYSIS

The Examiner finds Zhao teaches when the user's hand touches the electrode on a computer mouse and when the user's wrist rests on a mouse pad, bi-directional communication is formed, which the Examiner maps to the limitation

a first device comprising a first body coupled communication interface configured to transmit and receive information via a body transmission channel along a body of a user when the first body coupled communication interface is in a vicinity of the user; and a second device comprising a second body coupled communication interface configured to transmit and receive the information with the first device via the body transmission channel user when the second body coupled communication interface is in a vicinity of the user

recited in claim 1. Ans. 5–6, 13, 16 (citing Zhao ¶ 13). In addition, the Examiner finds Zhao teaches mouse 110 may report that bi-directional communication is broken and the communication link may be disabled or closed, which the Examiner maps to the limitation

wherein the body coupled communication system is configured to prevent misuse of the first device or the second device such that the first device is configured to detect whether the second device is present in the body communication network, and provide a signal when the second device is no longer present in the body communication network

recited in claim 1. Ans. 6, 14–15 (citing Zhao ¶ 46). The Examiner concludes it would have been obvious for a person having ordinary skill in

the art at the time of the invention to modify Zhao to include Baker for the purpose of preventing attenuation of the communication over longer distances. Ans. 6–7, 16–17.

Appellants argue Baker fails to teach a “body coupled communication system,” as recited in claim 1, because Baker teaches a Bluetooth network. App. Br. 6–7; Reply Br. 4–7, 9–10. Appellants also argue Baker fails to teach a “first device comprising a first body coupled communication interface configured to transmit and receive information via a body transmission channel along a body of a user” and “a second device comprising a second body coupled communication interface configured to transmit and receive the information with the first device via the body transmission channel when the second body coupled communication interface is in the vicinity of the user,” as recited in claim 1, because Baker teaches a Bluetooth network that does not transmit along the body of a user. App. Br. 7–8. Further, Appellants argue Baker fails to teach “wherein the first device and the second device are configured to form a body communication network” because Baker’s Bluetooth network only communicates with the patient monitor, which is not the patient body. *Id.* at 8; Reply Br. 11–12. Appellants argue Baker fails to teach

wherein the body coupled communication system is configured to prevent misuse of the first device or the second device such that the first device is configured to detect whether the second device is present in the body communication network, and provide a signal when the second device is no longer present in the body communication network

as recited in claim 1 because Zhou does not prevent misuse nor does Zhou recognize any possible misuse or disconnection. *Id.* at 9. Moreover, Appellants argue there is a lack of motivation to combine Baker and Zhou

because: (1) Zhou teaches away from combining with Baker’s Bluetooth; (2) neither Baker nor Zhao appears to focus on security; and (3) the Examiner’s motivation includes improper hindsight. App. Br. 6–13 (citing Zhao ¶¶ 7–8); Reply Br. 10–11, 14–17.

In addition, Appellants argue Zhao’s one-way communication and second one-way communication fails to teach “transmit and receive information” as recited in claim 1. Reply Br. 2–3.³ Appellants also argue Zhao’s link between an electronic device worn on a living body and another electronic device does not teach the claimed “body communication system.” *Id.* at 7–8.⁴ Further, Appellants argue Zhao’s paragraph 46 merely discusses a connection being broken and closed, which fails to teach preventing misuse or detecting when a device is no longer present in the body communication network. *Id.* at 12–14.⁵ We disagree with Appellants.

Regarding Appellants’ arguments in the Appeal Brief (*see* App. Br. 6–9) pertaining to Baker failing to teach certain limitations, we disagree with Appellants because the Examiner later relies on Zhao in the Answer to teach these limitations. *Compare* Ans. 5–6, 13, 16 (citing Zhao ¶ 13), *with* Final Act. 2–4.

Additionally, the cited portions of Zhao teach when the user’s skin on their hand touches the electrode on a computer mouse and when the user’s skin on their wrist rests on a mouse pad, bi-directional communication is formed between the user worn device and mouse/mouse pad via the

³ Appellants’ argument is timely because it is responsive to the Examiner’s new finding relying on paragraphs 13 and 46 of Zhao in the Answer. *See* 37 C.F.R. § 41.41(b)(2).

⁴ *See supra*, n.3.

⁵ *See supra*, n.3.

hand/wrist, which teaches “body coupled communication system” as recited in claim 1. Ans. 5–6, 13, 16 (citing Zhao ¶ 13). Furthermore, the cited portions of Zhao teach bi-directional communication is formed (i.e., transmit and receive information via the body coupled communication interface) when the user’s hand contacts the mouse and the wrist contacts the mouse pad, which teaches the limitation

a first device comprising a first body coupled communication interface configured to transmit and receive information via a body transmission channel along a body of a user when the first body coupled communication interface is in a vicinity of the user; and a second device comprising a second body coupled communication interface configured to transmit and receive the information with the first device via the body transmission channel user when the second body coupled communication interface is in a vicinity of the user

recited in claim 1. Ans. 5–6, 13, 16 (citing Zhao ¶ 13). In addition, we agree with the Examiner’s determination that the recitation of “to prevent misuse” in claim 1 is intended use and Zhao is capable of preventing misuse. Ans. 14–15. In particular, the cited portions of Zhao teach a mouse may report that bi-directional communication is broken (i.e., when a device is no longer present in the body communication network) and the communication link may be disabled or closed, which teaches the limitation

wherein the body coupled communication system is configured to prevent misuse of the first device or the second device such that the first device is configured to detect whether the second device is present in the body communication network, and provide a signal when the second device is no longer present in the body communication network

recited in claim 1. Ans. 6, 14–15 (citing Zhao ¶ 46).

As for Appellants’ argument that Zhao teaches away from combining with Baker’s Bluetooth (App. Br. 6–13 (citing Zhao ¶¶ 7–8)), we disagree

because the Federal Circuit held “[a] reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant.” *In re Kahn*, 441 F.3d 977, 990 (Fed. Cir. 2006) (quoting *In re Gurley*, 27 F.3d 551, 553 (Fed. Cir.1994)). In this case, we conclude that Zhao does not discourage from combining with Bluetooth because paragraphs 7 and 8 of Zhao state “Bluetooth . . . *may be utilized* . . . [h]owever, as portable computing devices continue to shrink, new problems may arise with wireless communication” (emphasis added). Zhao ¶ 7. Stated differently, we conclude paragraph 7 of Zhao does not rise to the requisite level of discouragement from combining with Bluetooth because paragraph 7 still states that one may utilize Bluetooth. *Id.*

Furthermore, we disagree with Appellants’ other arguments as to a lack of motivation to combine Baker and Zhou (App. Br. 6–13) because we agree with the Examiner’s conclusion that it would have been obvious for a person having ordinary skill in the art at the time of the invention to modify Zhao to include Baker for the purpose of preventing attenuation of the communication over longer distances. Ans. 6–7, 16–17. And we conclude the Examiner has set forth sufficient “articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007) (quoting *Kahn*, 441 F.3d at 988); Ans. 6–7, 16–17.

DECISION

We affirm the Examiner’s decision rejecting claims 1–8 under 35 U.S.C. § 103(a).

Appeal 2018-001983
Application 14/765,392

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).

AFFIRMED