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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* CHRISTOPHER J. SENESAC,  
RALPH P. HEINEFIELD, and MICHAEL HONEA

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Appeal 2018-002493  
Application 13/861,678<sup>1</sup>  
Technology Center 2100

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Before CARLA M. KRIVAK, IRVIN E. BRANCH, and  
SHARON FENICK, *Administrative Patent Judges*.

BRANCH, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1–11 and 13–20, which are all of the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

STATEMENT OF THE CASE

*Technology*

The application relates to “identifying a nonconformance in the assembling of vehicles in a manufacturing environment.” Spec. ¶ 2. The claims are directed to graphically displaying manufacturing

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<sup>1</sup> According to Appellants, the real party in interest is “The Boeing Company.” App. Br. 2.

nonconformances for an aircraft, by nonconformance type, responsive to a user's selection of the nonconformance type. The nonconformances are for a given volume of the aircraft. *See id.* Figs. 23–25, 27, 32, and ¶¶ 229–31, 250.

*Illustrative Claim*

Claims 1, 16, and 18 are independent claims. Claim 1 is reproduced below for reference:

1. A method for processing nonconformances, the method comprising:

identifying, via a processor unit, a volume in a model of an aircraft;

importing, via the processor unit, the nonconformances associated with parts within the volume of the model of the aircraft by:

displaying, on a display device, an input data window such that the input data window displays the nonconformances in rows such that each row has a corresponding non-conformance and each row includes a nonconformance type; and

responsive to a user selection of the nonconformance type, parsing the nonconformances associated with the parts within the identified volume in the model of the aircraft based on the selected nonconformance type;

displaying graphical indicators indicating the nonconformances within the volume in a graphical user interface on the display device;

determining, using the graphical indicators, density information for the nonconformances; [and]

determining, using the density information, an area of interest.

*References and Rejections<sup>2</sup>*

Claims 1, 16, and 18 stand rejected under 35 U.S.C. § 112(a), first paragraph, as failing to comply with the written description requirement. Final Act. 2–7.

Claims 1–11 and 13–20 stand rejected under 35 U.S.C. § 103 as unpatentable over the combination of Lindgren (US 2010/0161095 A1; published June 24, 2010) and Froom (US 2013/261876 A1; published Oct. 3, 2013). Final Act. 7–13.

ANALYSIS

We have reviewed the Examiner’s rejections in light of Appellants’ arguments. Arguments Appellants could have made but chose not to make are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(iv); *Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential).

*Rejection of claims 1, 16, and 18 Under § 112, First Paragraph*

Claim 1 recites, in pertinent part, “responsive to a user selection of the nonconformance type, parsing the nonconformances associated with the parts within the identified volume in the model of the aircraft based on the selected nonconformance type.” Claims 16 and 18 recite corresponding subject matter.

The Examiner finds that “there is no support found in the instant specification” for this subject matter. Final Act. 3.

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<sup>2</sup> Rather than repeat the Examiner’s positions and Appellants’ arguments in their entirety, we refer to the above mentioned Appeal Brief filed July 20, 2017 (“App. Br.”), as well as the following documents for their respective details: the Final Action mailed April 20, 2017 (“Final Act.”), the Examiner’s Answer mailed November 3, 2017 (“Ans.”), and Appellants’ Reply Brief filed January 3, 2018 (“Reply Br.”).

We are persuaded of error. Specifically, we agree with Appellants that support may be found at least at paragraphs 125, 126, 161, 230, 231, and Figure 6. App. Br. 7–11; *see, e.g.*, Spec. ¶ 230 (“Responsive to receiving the user input from selecting import data button **2306** and further responsive to the parsing of the nonconformance data identified in source window **2302**, input data window **2308** displays information about the nonconformances in the nonconformance data.”).

We therefore reverse the Examiner’s 35 U.S.C. § 112, first paragraph, rejection of claims 1, 16, and 18.

*Obviousness Rejection of Claims 1–11 and 13–20*

Appellants’ arguments do not persuade us the Examiner errs in finding that the combination of Lindgren and Froom renders the claims obvious. We adopt the Examiner’s findings and conclusion that claims 1–11 and 13–20 are obvious over the cited combination of references and the Examiner’s response to Appellants’ arguments. Final Act. 7–13; Ans. 12–23. We provide the following for emphasis.

Claim 1 recites, in pertinent part:

importing, via the processor unit, the nonconformances associated with parts within the volume of the model of the aircraft by:

displaying, on a display device, an input data window such that the input data window displays the nonconformances in rows such that each row has a corresponding non-conformance and each row includes a nonconformance type; and

responsive to a user selection of the nonconformance type, parsing the nonconformances associated

with the parts within the identified volume in the model of the aircraft based on the selected nonconformance type.

App. Br. 23.

Appellants argue that the Examiner has committed reversible error for failing to properly interpret “responsive to a user selection of the nonconformance type, parsing the nonconformances associated with the parts within the identified volume in the model of the aircraft based on the selected nonconformance type” to mean “displaying nonconformance data in rows and columns in response to user interaction with a GUI object.” App. Br. 12–13; *see also id.* at 7–11; Reply Br. 7–9. Appellants, however, do not explicitly state how this limitation should be interpreted. *See id.* We therefore are not persuaded that the Examiner’s interpretation of this claim language is unreasonably broad or inconsistent with Appellants’ Specification. Because we are not persuaded that the Examiner has improperly interpreted the claim, we also are not persuaded that the improper interpretation led the Examiner to improperly give “the express use of claims terms adequate weight,” as Appellants argue. Final Act. 14.

Appellants also argue error because the claims are not obvious in view of the combination of Lindgren and Froom. Final Act. 14–18. Appellants argue that Lindgren’s step 62 of Figure 7, described at paragraph 35, “does not generate the 3-D boundaries of the repair area by displaying a row with the repair area that shows a repair type.” *Id.* at 15. Appellants contend that “even if the damage location showed a ‘row’ there is no information displayed in the damage location 150 that shows a damage type.” *Id.* Appellants further contend that “Lindgren cannot be modified to Figure 13B to import the location of the area needing repair because such a modification would be incompatible with the system of Lindgren.” *Id.*

Regarding Froom, Appellants argue that “there is no discussion about a user interacting with the tabular summary to import the defects,” that Froom “does not disclose that the location of the defects are imported by parsing the defects from within an identified volume in the aircraft,” and that “Froom simply discloses a tabular summary of defects and that one skilled in the art wou[ld] not arrive at the claimed input data window based on this disclosure.” App. Br. 17. Appellants contend that “[e]ven if Froom disclosed displaying defects in a row, Froom does not disclose that each includes a defect type. Nor does Froom disclose that information presented in the rows is selectable.” *Id.* Based on these asserted errors, Appellants contend the references do not teach or suggest the portion of claim 1 quoted above. *Id.* at 14–20; Reply Br. 9–11.

We are not persuaded of error for the reasons stated by the Examiner. Ans. 13–17. In particular, we agree with the Examiner that the additional teachings of the references specifically argued by Appellants do not negate that the limitations at issue, broadly but reasonably construed, read on other teachings in the references. *Id.* at 14 (Appellants’ argument “does not preclude the fact that **Lindgren** teaches the claimed features or that the combination of the references would have been obvious to one of ordinary skill in the art based on the broadest interpretation of the claim language.”). Appellants’ arguments do not specifically address, for example, Lindgren’s teachings at paragraphs 6, 33–37, as the Examiner points out. Accordingly, Appellants’ arguments do not persuasively rebut the Examiner’s findings upon which the rejection is based. Final Act. 7–13. We also agree with the Examiner that Appellants’ arguments amount to an unpersuasive attack on the references individually, when the rejection is based on the combined

teachings of the references. Ans. 15 (citing *In re Keller*, 642 F.2d 413 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091 (Fed. Cir. 1986).

In view of the foregoing, we are unpersuaded of error in the Examiner's rejection of independent claims 1, 16, and 18 and those that depend therefrom.

Appellants additionally argue dependent claims 2, 17, and 19 on the basis that "the Office Action fails to assess the differences between claim 2 and Lindgren and Froom considered together as a whole, and hence failed to state a *prima facie* obviousness rejection against claim 2 in particular." App. Br. 21–22. Claim 2 recites "displaying the graphical indicators to indicate a presence of a cluster of the nonconformances within the volume, wherein the cluster identifies nonconformances having parameters that relate the nonconformance to one another." The Examiner construes claim 2 to include "graphically displaying nonconformances that are positioned in a same area or cluster of a plane's fuselage." Ans. 20. The Examiner finds Lindgren's disclosure of graphically displaying an identified boundary of a non-confirming area relates nonconformances within that area by the parameter of proximity. Ans. 20–21.

Appellants' arguments (App. Br. 21–22; Reply Br. 12–14) do not persuade us of error for the reasons stated by the Examiner (Ans. 20–21).

Accordingly, we sustain the Examiner's rejection of claims 1–11 and 13–20.

## DECISION

For the reasons above, we reverse the Examiner's rejection of claims 1, 16, and 18 under 35 U.S.C. § 112, first paragraph. We affirm the Examiner's rejection of claims 1–11 and 13–20 under 35 U.S.C. § 103(a).

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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. § 41.50(f).

AFFIRMED