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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte GLENN STARKEY

Appeal 2019-000708
Application 13/648,931
Technology Center 1700

BEFORE BRADLEY R. GARRIS, CHRISTOPHER C. KENNEDY, and
LILAN REN, *Administrative Patent Judges*.

GARRIS, *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 1, 3–7, 10, 13, 14, 16, and 19–29. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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 Progressive Components Int'l Corp. (Appeal Br. unnumbered 2).

CLAIMED SUBJECT MATTER

The claims are directed to a method for displaying process data from a mold 50 in a press 34 comprising: mounting a monitor 20 directly to the mold; mounting a transmitter 32 directly to an outer surface of the mold or press; and communicating output data from the monitor via a wireless transmission by the transmitter and over a network to a data processor 40 remotely located with respect to the monitor and the transmitter (independent claim 1). The method may include the step of converting the data in the data processor to a visual representation comprising a graph (independent claim 20) or the step of using plural monitors and transmitters as well as the step of using a 2-way communication device for communicating data/information to and from a user via the data processor (remaining independent claim 23). Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method for displaying processed data from a mold in a press, the method comprising:
 - mounting a monitor directly to the mold, and within a pocket formed within the mold, and the monitor specifically corresponding to the mold;
 - the monitor having a processor and an internal memory connected to the processor;
 - mounting a transmitter directly to an outer surface of the mold or the press, the transmitter in communication with the monitor via a wired connection with the monitor;
 - the monitor recording data from the mold, the processor converting the data from input data to output data;
 - communicating the output data via a wireless transmission by the transmitter and over a network to a data processor remotely located with respect to the monitor and the transmitter;
 - the data processor calculating the output data into processed data corresponding to operating parameters of the mold; and

the data processor creating a graphical user interface displaying the processed data as a desired result viewable at the graphical user interface located remotely with respect to the monitor, and the desired result comprising at least one of operating information of the mold, maintenance information of the mold, performance of the mold, activity of the mold, drawings of the mold and/or set up information of the mold.

REJECTION

Claims 1, 3–7, 10, 13, 14, 16, and 19–29 are rejected under pre-AIA 35 U.S.C. § 103(a) as obvious over Starkey (WO 2004/051857 A2; June 17, 2004) in view of Osborne (US 6,272,398 B1; Aug. 7, 2001) and Waser (WO 2009/052641 A1; April 30, 2009, as translated via US 2010/0242616 A1; Sept. 30, 2010) (Final Act. 2–6).²

OPINION

We sustain the Examiner’s § 103 rejection for the reasons given in the Final Office Action, the Examiner’s Answer, and below.

In rejecting the independent claims, the Examiner finds that Starkey discloses a method for displaying process data from a mold via a monitor comprising the step of using a transmitter for wirelessly communicating output data from the monitor to a data processor in the form of Starkey’s readout device or computer system comprising a graphical user interface and a 2-way communication device (Final Act. 2–3, 5 (*see* Starkey 4:7–25)). In the event Starkey is considered to not disclose a graphical user interface, the

² The Examiner erroneously fails to include claim 21 in the statement of this rejection (Final Act. 2). However, claim 21 is discussed in the rejection body (*id.* at 4). Furthermore, Appellant does not present any arguments specifically directed to this claim (*see generally* Appeal Br.). Under these circumstances, the Examiner's error is harmless.

Examiner relies on Osborne for concluding that it would have been obvious to provide Starkey with such a feature (*id.* at 3, 5). The Examiner relies on Waser to support a conclusion that it would have been obvious to provide Starkey with plural monitors and transmitters (*id.* at 3, 6 (citing Waser Abst., Fig. 1)).

Appellant argues that Starkey does not disclose a transmitter for communicating monitor data via wireless transmission over a network to a data processor remotely located with respect to the monitor and transmitter as claimed (Appeal Br. unnumbered 12). According to Appellant, Starkey uses short-range wireless protocols for communicating between devices set adjacent to each other (*id.*).

In response, the Examiner points out that Appellant provides no basis for asserting Starkey's wireless communication is limited to short-range wireless protocols such as Bluetooth[®] and that, in any case, such short-range wireless protocols include personal area networks thereby satisfying the network requirement of the claims (Ans. 8). The Examiner also points out that Appellant's apparent interpretation of the claim term "remote" is too narrow and that the term is reasonably interpreted as encompassing Starkey's computer (i.e., data processor) because the computer is separate, and therefore is remote, from the monitor and transmitter as claimed (*id.*).

We perceive convincing merit in the points made by the Examiner. Appellant replies to these points by arguing that one of ordinary skill in the art would not reasonably think Starkey discloses the network and remotely located features recited in the claims (Reply Br. 2). However, Appellant does not support this argument with any evidence such as citations to Specification disclosures that distinguish these features from Starkey. On the other hand, we observe that the Specification expressly teaches using

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Bluetooth[®] technology “to wirelessly communicate information between monitor 20, transmitter 32, and/or base station 30” (Spec. 12:17–19).

Appellant also argues that Starkey does not disclose a transmitter mounted to the mold or press as required by independent claim 1 (Appeal Br. unnumbered 13). This argument is unpersuasive because it fails to address the Examiner’s reliance on Waser’s disclosure of monitors and transmitters mounted on molds (Final Act. 3). Further, the argument is undermined by the Examiner’s finding that one with ordinary skill in this art would understand a transmitter to be an inherent part of the wireless communication from Starkey’s monitor (Ans. 10–11).

Appellant’s unembellished argument that Starkey does not disclose the base station requirement of various dependent claims (*see, e.g.*, Appeal Br. unnumbered 13) fails to address the Examiner’s express finding that Starkey’s readout device or computer system constitutes a base station (Final Act. 3, Ans. 11). For this reason, the argument lacks convincing merit.

We also are unpersuaded by Appellant’s argument that Starkey does not disclose a visual representation comprising a graph as required by independent claim 20 (Appeal Br. unnumbered 14). The Examiner explicitly finds that Starkey discloses converting data into a visual representation (Final Act. 4), and Appellant does not challenge this finding (*see generally* Appeal Br.). One having ordinary skill in this art reasonably would understand a visual representation to include a graph.

Appellant argues that the applied references would not have suggested the plural monitors and transmitters required by independent claim 23 and various dependent claims (*see, e.g.*, Appeal Br. unnumbered 15). This argument is not convincing because it fails to address the Examiner’s

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reliance on Waser for concluding that it would have been obvious to provide Starkey with plural monitors and transmitters (Final Act. 3, 6).

Appellant further argues that the 2-way communication device of independent claim 23 distinguishes over the applied prior art (Appeal Br. unnumbered 15). However, Starkey teaches that information may be added to or retrieved from the memory/processor of Starkey's counter/monitor via the readout device or computer system (Starkey 4:7–25). This teaching satisfies the 2-way communication device requirement of claim 23.

Appellant argues that the applied references would not have suggested mounting transmitters directly to a top surface of a press as recited in claims 25 and 26 (Appeal Br. unnumbered 16). Appellant's argument is unpersuasive because it does not address the Examiner's reliance on Waser's Abstract and Figure 1 (Final Act. 3, 6) which disclose a receiving module 9 (i.e., transmitter) mounted on a top surface of base plate 2 (i.e., press). Based on the record before us, we see no distinction between the claimed mounting of a transmitter directly to the top surface of a press and Waser's mounting of module 9 directly to the top surface of base plate 2.

For the reasons expressed above and given by the Examiner, Appellant's arguments fail to show error in the rejection of the claims before us in this appeal.³

³ We emphasize that Appellant's arguments specifically address only the claim limitations discussed in this opinion.

CONCLUSION

We affirm the Examiner's decision to reject claims 1, 3-7, 10, 13, 14, 16, and 19-29.

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1, 3-7, 10, 13, 14, 16, 19-29	103(a)	Starkey, Osborne, Waser	1, 3-7, 10, 13, 14, 16, 19-29	
Overall Outcome			1, 3-7, 10, 13, 14, 16, 19-29	

TIME PERIOD FOR 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