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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte KARL BARTH, ALEXANDER GEMMEL, SULTAN HAIDER,
GERHARD KLEINSZIG, WEI WEI, and MARKUS WEITEN

Appeal 2019-000851
Application 14/860,942
Technology Center 3600

Before JENNIFER D. BAHR, MICHELLE R. OSINSKI, and
JEREMY M. PLENZLER, *Administrative Patent Judges*.

BAHR, *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 rejecting claims 1 and 9–16, which are the only pending claims. 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 Siemens Aktiengesellschaft. Appeal Br. 1.

CLAIMED SUBJECT MATTER

The claims are directed to a mobile medical apparatus. Spec. ¶ 2.
Claim 1, reproduced below, is the only independent claim and is representative of the claimed subject matter.

1. A mobile medical apparatus, comprising:
 - movement means for moving all of the mobile medical apparatus;
 - a detection device configured for detecting a movement of the mobile medical apparatus as all of the mobile medical apparatus is moved on the movement means through a path from a first location to another location;
 - a storage device for storing at least one item of information describing the movement of all of the mobile medical apparatus through the path from the first location to the other location, wherein the movement of the mobile medical apparatus that is described by the at least one item of information includes the path in which all of the mobile medical apparatus has previously been moved from the first location to the other location; and
 - a control interface for inputting a control command to the mobile medical apparatus for repeating the movement of the mobile medical apparatus through the path in which all of the mobile medical apparatus has previously been moved on the movement means from the first location to the other location as described by the at least one item of information stored in said storage device and describing the movement of the mobile medical apparatus; and
 - a collision avoidance sensor.

EVIDENCE

The prior art relied upon by the Examiner is:

Bouvier	US 8,177,430 B2	May 15, 2012
Durkos	US 8,239,083 B2	Aug. 7, 2012
Kassow	US 8,779,715 B2	July 15, 2014

REJECTION

Claims 1 and 9–16 stand rejected under 35 U.S.C. § 103 as unpatentable over Bouvier, Durkos, and Kassow.

OPINION

Appellant does not present any separate arguments for claims 9–16 apart from their dependence from independent claim 1. *See* Appeal Br. 4–7. We decide this appeal on the basis of claim 1, with claims 9–16 standing or falling with claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv) (permitting the Board to select a single claim to decide the appeal as to a single ground of rejection of a group of claims argued together).

The Examiner finds that Bouvier discloses a mobile medical apparatus comprising movement means (wheeled or roller system 40) for moving all of the mobile apparatus, a detection device (navigation system 78) for detecting a movement of the mobile medical apparatus as it is moved on the movement means through a path from a first location to another location, a storage device (memory 66) for storing information describing movement of all of the mobile medical apparatus through the path, and a control interface for inputting a control command to the mobile medical apparatus for repeating the movement as described by the information stored in the storage device (citing Fig. 4, step 109). Final Act. 2–3.

The Examiner finds that Bouvier does not disclose a collision avoidance sensor, but the Examiner finds that Durkos teaches a collision sensor and determines it would have been obvious to modify Bouvier “to include [a] collision avoidance sensor[] because it aids in avoiding damage caused by collisions.” *Id.* at 3. Appellant does not contest either the Examiner’s finding regarding Durkos or the Examiner’s determination that it would have been obvious to provide a collision avoidance sensor in Bouvier. *See* Appeal Br. 4–7.

The Examiner also finds that Bouvier does not disclose programming “the mobile medical apparatus by moving the apparatus through a path.” Final Act. 3. In particular, Bouvier discloses a controller (control unit 60) to control drive 50 to move wheels 44 of roller system 40 of mobile device 22, which is operable to move an imaging device (X-ray machine 10) across a floor. Bouvier 2:7–8; 4:23–27, 59–61. Control unit 60 includes memory 66 having a plurality of program instructions for executing a process to move mobile device 22 by controlling drive 50. *Id.* 2:11–15. As shown in Figure 4, these program instructions include steps of receiving a positioning signal generated by activation of position controls “(e.g., buttons, touch-screen, toggle, joystick, etc.),” computing the current position of X-ray machine 10 using navigation system 78, computing a pre-programmed trajectory (i.e., path) between the current position and the coordinates contained in the positioning signal received from the position controls, and guiding movement of the X-ray machine by reference to this path. *Id.* 5:16–21, 6:34–43; *see also id.*, Fig. 2. Thus, Bouvier discloses a storage device (memory 66) for storing a pre-programmed trajectory (i.e., at least one item of information describing the movement of X-ray machine 10 and mobile

device 22). *See id.*, Figs. 1, 2, 4; 6:34–43. However, Bouvier is silent as to how the pre-programmed trajectory (or path) is programmed and stored in memory 66.

Kassow discloses “a program ‘wizard’ used for programming” movements of a robot by guiding the user through a process of actually leading the physical robot through the various steps (i.e., movements) through a desired path during the programming, and recording and storing the path either in its entirety or a number of waypoints along the path. *See* Kassow 11:63–13:40; *see also id.*, Figs. 17, 18, 20 (depicting the user interface presented by the program “wizard” prompting the user to physically move the robot according to the desired movements for the program).

The Examiner proposes to modify Bouvier by using the programming means taught by Kassow to program, record, and store the pre-programmed trajectory (or path) in Bouvier’s memory 66 for use in guiding the movement of mobile device 22 in response to receiving a positioning signal from the position controls. *See* Final Act. 3 (determining it would have been obvious “to allow the movements of the system [of Bouvier] to be programmed by physically moving the system through a path because it allows for a simpler method for program[m]ing complex movements”). When so modified, the position controls are a control interface for inputting a control command (command 106 illustrated in Figure 4) for repeating the movement of the mobile medical apparatus (mobile device 22) through the path in which mobile device 22 has previously been moved, during the programming, as described by the at least one item of information (pre-

programmed trajectory) stored in memory 66 during the programming as taught by Kassow.

Appellant argues that Kassow does not disclose or suggest that a movable device which transports the robot arm (e.g., mobile device 22 of Bouvier) “could be programmed using the same type of method that is used to program movements of the robot arm 1” in Kassow. Appeal Br. 6. Appellant adds that the person of ordinary skill in the art, in considering the teachings of the applied references, would not have been prompted to move Bouvier’s mobile platform or mobile device 22 “through a path on the ground in order to somehow program the mobile platform or mobile device 22 based on Kassow’s teaching of programming a robot that is fixedly attached to the ground or to another surface.” *Id.* These arguments are unpersuasive because they appear to insist on an explicit teaching, suggestion, or motivation in the cited art to establish obviousness, but such a requirement has been foreclosed by the Supreme Court. *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 415, 419 (2007) (stating that a rigid insistence on teaching, suggestion, or motivation is incompatible with its precedent concerning obviousness). The obviousness “analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for [the PTO] can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *Id.* at 418.

As discussed above, Bouvier discloses a pre-programmed trajectory for moving mobile device 22 across the floor, but is silent as to how the pre-programmed trajectory is programmed. The Examiner relies on Kassow for its teaching of a technique for programming movements of an apparatus. Thus, in this case, the modification proposed by the Examiner is nothing

more than the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for the improvement. *See id.* at 417. Appellant does not proffer any evidence or technical reasoning to indicate that the movement of Bouvier’s mobile device 22 across the floor differs in such a manner from the types of movements illustrated in the programming technique taught by Kassow as to present unique or insurmountable challenges to one of ordinary skill in the art in implementing Kassow’s programming technique in Bouvier’s system. “A person of ordinary skill is also a person of ordinary creativity, not an automaton.” *Id.* at 421.

Appellant also argues that, even if the applied references were combined, there would have been no suggestion of “a control interface for inputting a control command to the mobile apparatus for repeating the movement of the mobile medical apparatus through the path in which all of the mobile medical apparatus has previously been moved,” as recited in claim 1. Appeal Br. 6. Additionally, Appellant asserts that there would be no suggestion for “a storage device for storing information describing the movement of a robot arm through a path in which the robot arm has been previously moved.” *Id.* at 7. These arguments are not persuasive because, as explained above, if Bouvier were modified as proposed by the Examiner, Bouvier’s position controls would be the control interface for inputting a control command (command 106 illustrated in Figure 4) for repeating the movement of the mobile medical apparatus (mobile device 22) through the path in which mobile device 22 has previously been moved, during the programming, as described by the at least one item of information (pre-

programmed trajectory) stored in memory 66 during the programming as taught by Kassow.

For the above reasons, Appellant does not apprise us of error in the rejection of claim 1. Accordingly, we sustain the rejection of claim 1, as well as claims 9–16, which fall with claim 1, as unpatentable over Bouvier, Durkos, and Kassow.

DECISION

The Examiner’s decision rejecting claim 1 and 9–16 is **AFFIRMED**.

CONCLUSION

In summary:

Claims Rejected	Basis	Affirmed	Reversed
1, 9–16	§ 103 Bouvier, Durkos, Kassow	1, 9–16	

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