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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte BRANDON JEREMY ROGERS and AHMED EL-GAYYAR

Appeal 2019-001101
Application 15/088,375
Technology Center 2800

Before CATHERINE Q. TIMM, MICHAEL P. COLAIANNI, and
LILAN REN, *Administrative Patent Judges*.

COLAIANNI, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision to reject claims 1, 7–11, and 14–22. We have jurisdiction under 35 U.S.C. § 6(b).

We *pro forma* REVERSE and enter a new ground of rejection pursuant to 37 C.F.R. § 41.50(b).

¹ We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as Eaton Intelligent Power Limited. Appeal Br. 2.

Appellant's invention is directed to intelligent sensor-activated light control devices and systems including ambient light sensors (Spec. 1:6–9; Claim 1).

Claim 1 is representative of the subject matter on appeal:

1. A method for dynamically adjusting output light levels, the method comprising:
 - determining, in response to motion being detected by at least one motion sensor, an ambient light level within a local environment using at least one ambient light sensor;
 - determining a first output light level and a second output light level stored within memory, wherein the first and second output light levels are associated with the ambient light level that was determined in response to the motion being detected;
 - determining that the first output light level is associated with a first time interval, and that the second output light level is associated with a second time interval;
 - determining that the motion was detected at a first occurrence within the first time interval;
 - selecting the first output light level in response to determining the ambient light level and determining that the motion was detected at the first occurrence;
 - causing, using a light control device, light to be output at the selected first output light level;
 - determining, in response to motion being detected at a second occurrence, the ambient light level;
 - determining that the second occurrence occurred within the second time interval;
 - selecting the second output light level in response to determining the first ambient light level and determining that the motion was detected at the second occurrence; and
 - causing light to be output at the selected second output light level.

Appellant appeals the following rejection:

1. Claims 1, 7–11, 14–17, 21, and 22 are rejected under 35 U.S.C.

- § 103 as unpatentable over Chemel '579 (US 2012/0235579 A1, published Sept. 20, 2012) in view of Chemel '357 (US 2012/0143357 A1, published June 7, 2012).
2. Claims 18–20 are rejected under 35 U.S.C. § 103 as unpatentable over Greene (US 2015/0108901 A1, published Apr. 23, 2015) in view of Chemel '579 and Chemel '357.

FINDINGS OF FACT & ANALYSIS

Appellant argues that claim 1 requires that “at a given ambient light level, light will be output at different light levels (i.e., the first output light level or the second output light level) depending on the time (i.e., the first time interval or the second time interval)” (Appeal Br. 7). Appellant contends that Chemel '357 does not teach having different light levels associated with different times for the same ambient light level (Appeal Br. 8).

The Examiner finds that claim 1 does not require turning lights on at different light levels at the same ambient light level (Ans. 3). The Examiner finds that claim 1 recites “an ambient light level” and “the first ambient light level.”(Ans. 3).

Based upon the arguments and findings presented, the primary issue raised in this appeal is whether the claim should be construed as turning lights on at different light levels at the same ambient light level, but at different times of day. Claim 1 is directed to a method comprising:

determining, in response to motion being detected by at least one motion sensor, an ambient light level within a local environment using at least one ambient light sensor;

determining a first output light level and a second output light level stored within memory, wherein the first and second output light levels are associated with the ambient light level that was determined in response to the motion being detected; .

..

selecting the first output light level in response to determining the ambient light level and determining that the motion was detected at the first occurrence; . . .

determining, in response to the motion being detected at a second occurrence, the ambient light level

Claim 1 requires first determining an ambient light level in response to motion being detected. The determined ambient light level in the first step is associated with a first and second output light level (claim 1). The first output light level is selected if it is determined that the ambient light level and detected motion happened during the first occurrence (claim 1).

Claim 1 further recites “determining, in response to motion being detected at a second occurrence, the ambient light level.” However, it is not clear whether the ambient light level referred to in this step is the same as the ambient light level measured in the first step of the process. In particular, the determining the ambient light level step requires as a prerequisite that motion is detected at a second occurrence. This requirement would appear to require a second triggering of the motion detector at a second occurrence (i.e., time) so that an ambient light level is measured a second time. It is unclear whether “the ambient light level” recited in the determining step at a second occurrence motion is the same as “an ambient light level” recited in the first determining step where motion triggers an ambient light level reading. Based upon antecedent basis, it would appear that “the ambient light level” refers back to “an ambient light

level” from the first step. That interpretation does not make sense in that the first step determines an ambient light level such that the ambient light level in the determining step at the second occurrence must be a different, discrete ambient light level measurement. Claim 1 as drafted is indefinite.

Claims 11 and 18 suffer from the same issue as claim 1. Claim 11 recites a device comprising, *inter alia*, an ambient light level sensor structured to determine an ambient light level and a processor structured to select the first output light level in response to determining the ambient light level and determining the motion was detected at the first occurrence. Claim 11 further recites that the processor is structured to “determine, in response to motion being detected at a second occurrence, the ambient light level.” Claim 18 is directed to a system comprising, *inter alia*, a “processor structured to: receive, . . . an ambient light level determined by the at least one ambient light sensor for the local environment in response to motion being detected.” Claim 18 further recites to “determine, in response to motion being detected at a second occurrence, the ambient light level.” As with claim 1, it is unclear whether the ambient light level determined in response to the motion detected at a second occurrence in claims 11 and 18 is different from the ambient light level determined by the ambient light sensor that is used at the first occurrence.

We find that claims 1, 7–11, and 14–22 are indefinite and enter a new ground of rejection under 35 U.S.C. § 112(b) for the reasons discussed above. Because the Examiner’s rejections are based upon a speculative meaning as to the claims, we *pro forma* reverse the Examiner’s § 103 rejections over Chemel ’579, Chemel ’357, and Greene. *In re Steele*, 305 F.2d 859, 863 (CCPA 1962).

CONCLUSION

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed	New Ground
1, 7-11, 14-17, 21, 22	103	Chemel '579, Chemel '357		1, 7-11, 14-17, 21, 22	
18-20	103	Greene, Chemel '579, Chemel '357		18-20	
1, 7-11, 14-22	112(b)	Indefiniteness			1, 7-11, 14-22
Overall Outcome				1, 7-11, 14-22	

REVERSED; 37 C.F.R. § 41.50(b)