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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte GREGORY A. HUIZEN and KEITH D. FOOTE

Appeal 2019-001603
Application 13/891,619
Technology Center 2800

Before JEFFREY B. ROBERTSON, GEORGE C. BEST, and
BRIAN D. RANGE, *Administrative Patent Judges*.

ROBERTSON, *Administrative Patent Judge*.

DECISION ON APPEAL¹

STATEMENT OF THE CASE

Appellant² appeals under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–12 and 14–22. (Appeal Br. 8–9.) We have jurisdiction pursuant to 35 U.S.C. § 6(b).

¹ This Decision includes citations to the following documents: Specification filed May 10, 2013 (“Spec.”); Final Office Action mailed November 2, 2017 (“Final Act.”); Appeal Brief filed May 2, 2018 (“Appeal Br.”); Examiner’s Answer mailed October 19, 2018 (“Ans.”); and Reply Brief filed December 18, 2018 (“Reply Br.”).

² 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 Koninklijke Philips N.V. (Appeal Br. 3.)

We REVERSE.

THE INVENTION

Appellant states the invention relates to exterior mirrors for vehicles, and more particularly, to a lighted exterior mirror assembly. (Spec. ¶ 2.)

Claim 1 is representative and reproduced below from the Claims Appendix to the Appeal Brief:

1. A lighted exterior rearview mirror system suitable for use in a vehicle, said lighted exterior rearview mirror system comprising:

a lighted exterior rearview mirror assembly;

a light module disposed at said lighted exterior rearview mirror assembly, said light module comprising a plurality of illumination sources operable to emit light at least in a generally forwardly direction with respect to a vehicle equipped with said lighted exterior rearview mirror system;

wherein said plurality of illumination sources comprises at least three linearly arranged illumination sources arranged horizontally at said lighted exterior rearview mirror assembly;

wherein said at least three linearly arranged illumination sources comprises an inboard illumination source, an outboard illumination source and at least one intermediate illumination source disposed between said inboard illumination source and said outboard illumination source;

wherein said inboard illumination source, with said lighted exterior rearview mirror assembly attached at a side of the equipped vehicle, is closer to the side of the equipped vehicle than said at least one intermediate illumination source and said outboard illumination source;

wherein said outboard illumination source, with said lighted exterior rearview mirror assembly attached at the side of the equipped vehicle, is farther from the side of the equipped

vehicle than said inboard illumination source and said at least one intermediate illumination source;

wherein said illumination sources are controlled responsive to a user input operable by a driver of the equipped vehicle normally operating the equipped vehicle to provide illumination emanating from said exterior rearview mirror assembly;

wherein said user input activates a turn signal indicator system of the equipped vehicle;

wherein, responsive to activation via said user input of said turn signal indicator system of the equipped vehicle, said illumination sources are sequentially powered in an outward direction to provide an appearance of an outward moving light; and

wherein said sequential powering of said at least three linearly arranged illumination sources comprises sequential powering of the individual illumination sources from said inboard illumination source of said light module to said outboard illumination source of said light module.

(Appeal Br. (Claims Appendix) 36–37.)

Claims 14 and 19 are also independent, and recite lighted exterior rearview mirror systems having linearly and horizontally arranged light emitting diodes that are sequentially powered in an outward direction to provide an appearance of outward moving light. (*Id.* at 39–42.)

REJECTIONS

1. The Examiner rejected claims 1, 2, 5, 7, 9, 19, and 21 under pre-AIA 35 U.S.C. § 103(a) as obvious over Yajima et al. (US 2009/0073709 A1, published March 19, 2009, hereinafter “Yajima”) and Muhlbaier et al. (US 2006/0133103 A1, published June 22, 2006, hereinafter “Muhlbaier”).

2. The Examiner rejected claims 3, 4, 8, 20, and 22 under pre-AIA 35 U.S.C. § 103(a) as obvious over Yajima, Muhlbaier, and Koike (US 2009/0257240 A1, published October 15, 2009).
3. The Examiner rejected claim 11 under pre-AIA 35 U.S.C. § 103(a) as obvious over Yajima, Muhlbaier, and Pederson et al. (US 2002/0105432 A1, published August 8, 2002, hereinafter “Pederson”).
4. The Examiner rejected claim 12 under pre-AIA 35 U.S.C. § 103(a) as obvious over Yajima, Muhlbaier, Pederson, and Soborski (US 5,815,018, issued September 29, 1998).
5. The Examiner rejected claim 10 under pre-AIA 35 U.S.C. § 103(a) as obvious over Yajima, Muhlbaier, and Pastrick (US 6,296,379 B1, issued October 2, 2001).
6. The Examiner rejected claims 14 and 15 under pre-AIA 35 U.S.C. § 103(a) as obvious over Yajima, Muhlbaier, and Pastrick.
7. The Examiner rejected claims 16–18 under pre-AIA 35 U.S.C. § 103(a) as obvious over Yajima, Muhlbaier, Pastrick, and Koike.

(Final Act. 2–12.)

We limit our discussion to independent claim 1, which is sufficient for disposition of this appeal.

Rejection 1

ISSUE

The Examiner found Yajima discloses a lighted exterior rearview mirror assembly having a plurality of illumination sources that are linearly and horizontally arranged in the manner recited in claim 1. (Final Act. 3.) The Examiner found Yajima fails to disclose a sequential turn signal indicator source light. (*Id.* at 4.) The Examiner found Muhlbaier discloses a

sequential turn signal device. (*Id.*) The Examiner determined it would have been obvious to provide the device of Yajima with a turn signal illumination device as taught by Muhlbaier in order to indicate the direction of a moving vehicle. (*Id.*)

Appellant argues, *inter alia*, that Yajima and Muhlbaier are incompatible as Yajima is directed to simultaneous illumination, such that the core of Yajima's invention incompatible with the sequential illumination of Muhlbaier. (Appeal Br. 20–23.) As a result, Appellant argues the Examiner's rationale is insufficient and based on an impermissible hindsight reconstruction. (*Id.*)

Accordingly, the dispositive issue with respect to this rejection is:

Did the Examiner reversibly err in determining that it would have been obvious to have incorporated sequential illumination of the illumination sources in Yajima in view of Muhlbaier's disclosure?

DISCUSSION

We are persuaded that the Examiner has not provided sufficient rationale to support the position that one of ordinary skill in the art would have configured the lighted exterior rearview mirror system of Yajima to sequentially power the illumination sources in an outward direction to provide an appearance of an outward moving light in view of Muhlbaier.

In particular, Yajima discloses “a lighting fixture for a vehicle that suppresses uneven brightness by which a plurality of light sources in the turned-ON state is recognizable.” (Yajima, ¶ 7.) Yajima discloses in conventional lighting fixtures containing a plurality of LEDs, “the irradiating light has uneven brightness, and causes the reduction of visual

quality [of] the lighting fixture for [the] vehicle during light-ON” as a result of the locally bright LEDs. (*Id.* at ¶ 5.) As part of a solution to this problem, Yajima discloses a lighting fixture with a partition wall in the housing main body, which creates a housing space shielded portion in order to prevent a light source from being visually contacted from a direct front of the vehicle. (*Id.* at ¶ 8.) The partition wall includes a reflection wall portion that includes a reflection surface to reflect outputted light through an opening in the partition wall. (*Id.*) Yajima discloses that by arranging the lighting fixture in this manner, the irradiating light formed by the reflected light suppresses uneven brightness where each light source in the turned-ON state is recognizable in the case of looking at the irradiating light, and the reflection wall surfaces prevent the light source from being seen from the front direction of the vehicle, such that the plurality of light sources can be treated as a single lighting fixture. (*Id.* at ¶¶ 79–82.)

Therefore, because Yajima discloses a lighting fixture that is directed to suppressing uneven brightness, particularly in the forward direction, we agree with Appellant that even if Muhlbaier can be interpreted to disclose sequential powering to provide an appearance of outward moving light, the Examiner has not provided sufficient rationale as to why one of ordinary skill in the art would not have undertaken to modify Yajima to arrive at the lighted rearview mirror assembly recited in claim 1. *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1731 (2007) (citing *In re Kahn*, 441 F.3d 977 (Fed. Cir. 2006) (“Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.”)).

As a result, we reverse the Examiner's rejection.

Rejections 2–7

Because Rejections 2–5 and 7 are directed to dependent claims, and all rely on the same base combination of Yajima and Muhlbaier, we reverse these rejections for similar reasons as discussed above with respect to Rejection 1.

Regarding Rejection 6, directed to independent claim 14 and claim 15, dependent therefrom, we observe that Pastrick is cited merely for disclosing amber light (Final Act. 10), and thus the citation to Pastrick does not remedy the deficiencies discussed above with respect to the combination of Yajima and Muhlbaier. Accordingly, we reverse Rejection 6 as well.

CONCLUSION

Claims Rejected	Basis	Affirmed	Reversed
1, 2, 5, 7, 9, 19, and 21	§ 103(a) Yajima and Muhlbaier		1, 2, 5, 7, 9, 19, and 21
3, 4, 8, 20, and 22	§ 103(a) Yajima, Muhlbaier, and Koike		3, 4, 8, 20, and 22
11	§ 103(a) Yajima, Muhlbaier, and Pederson		
12	§ 103(a) Yajima, Muhlbaier, Pederson, and Soborski		
10	§ 103(a) Yajima, Muhlbaier, and Pastrick		

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Claims Rejected	Basis	Affirmed	Reversed
14 and 15	§ 103(a) Yajima, Muhlbaier, and Pastrick		
16–18	§ 103(a) Yajima, Muhlbaier, Pastrick, and Koike		
Overall Outcome			1–12 and 14–22

REVERSED