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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte TAKAHIRO MORI and AKIRA NAKAMORI

Appeal 2019-002134
Application 14/329,024
Technology Center 2600

Before JUSTIN BUSCH, LINZY T. McCARTNEY, and BETH Z. SHAW, *Administrative Patent Judges*.

BUSCH, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING

Appellant[1] requests rehearing under 37 C.F.R. § 41.52 of our Decision, mailed June 2, 2020 ("Decision"). In the Decision we, in part, entered a new ground of rejection under 35 U.S.C. § 103 of claims 13 and 15. Appellant timely filed a Request for Rehearing ("Req. Reh'g" or "Request") on August 3, 2020.

We have reconsidered our Decision in light of Appellant's Request for Rehearing, but we decline to change the final disposition of the Decision for the reasons discussed, *infra*.

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[1] We use the word "Appellant" to refer to "applicant" as defined in 37 C.F.R. § l.42(a). Appellant identifies Fuji Electric Co., Ltd. as the real party in interest. Appeal Br. 1.

DISCUSSION

On June 2, 2020, we issued our Decision in which we, in part, entered a new ground of rejection of claims 13 and 15 under 35 U.S.C. § 103 as obvious in view of Kumagai, Kajima, Hu, and Okumura. *See* Decision 18–21. Appellant seeks rehearing of our Decision with respect to this new ground of rejection under 35 U.S.C. § 103. Req. Reh'g 1 ("Appellant respectfully submits that the Board misapprehended or overlooked the following points in entering the new ground of rejection of claim 13, and therefore respectfully requests reconsideration of the rejection of claim 13."), 3 ("Appellant respectfully submits that the alarm signal generator circuit according to claim 15 is allowable over the teachings of Kumagai, Kajima, Hu, and Okumura at least for similar reasons as claim 13.").

In particular, Appellant argues claims 13 and 15 prevent unnecessarily increasing components because the claimed alarm signal is derived from a single terminal. Req. Reh'g 2 (citing Spec. ¶ 74). Appellant does not appear to contest our finding that Okumura teaches "the general concept of encoding a signal to convey one value out of a set of choices." *See* Decision 19; Req. Reh'g 2. Instead, Appellant asserts that does not provide a teaching to arrive at what is recited in claim 13. Req. Reh'g 2. Appellant further contends that, even if combined, the proposed combination does not provide the benefit of the claimed alarm signal generator circuit. Req. Reh'g 2–3 (arguing Kajima's circuit requires additional components).

We disagree with Appellant's contention that we misapprehended or overlooked the points Appellant asserts in the Request. Claims 13 and 15 depend from claims 1 and 2, and we explicitly addressed these points with respect to claims 1 and 2. *See* Decision 4–5 (discussing the Examiner's

findings), 11–12 (discussing the Examiner's limited reliance on Kajima's and Hu's teachings to account for Kumagai's failure to *explicitly disclose* includes *two distinct portions*, even though Kumagai discloses a *single alarm signal* output from its *single terminal* that indicates both a phase and failure type). We also implicitly considered these points in our new ground of rejection. *See* Decision 19–20 (analyzing Okumura's teachings and finding Okumura cures any deficiency in the combination of Kumagai, Kajima, and Hu with respect to using pulse width to indicate a failure type and using a pulse number to indicate a failure phase).

As explained in our new ground of rejection, we agreed with (and implicitly adopted) the Examiner's findings that Kumagai, Kajima, and Hu teach or suggest the subject matter recited in claims 1 and 2. In the interest of clarity, our new ground of rejection adopts the Examiner's findings and conclusions with respect to base claims 1 and 2 and is based on these findings and conclusions as well as our further explanations in the Decision. *See* Decision 4–5, 11–12, 19–20.

Also for clarity, we briefly restate our findings here. "Kumagai teaches determining a phase and type of failure in a device and generating an alarm signal from which the phase and type of failure can be determined including a pulse corresponding to the phase or type of failure." Decision 4 (citing Final Act. 5); *see* Kumagai ¶¶ 2, 9, 56. "Kajima discloses an alarm signal with two portions . . . and Hu teaches the general concept that two pieces of information can be contained in one signal." Decision 4. The Examiner does not rely on, and neither do we, Kajima's particular components or modifying Kajima's current track. Decision 11. Rather, Kajima is relied on simply for the teaching that a failure phase and type may

be communicated in two distinct signals or signal portions. Decision 11 (citing Final Act. 5–6 (citing Kajima ¶¶ 71, 77, 78)). In other words, the proposed combination merely uses this teaching from Kajima to modify Kumagai's alarm signal to include two distinct portions and further uses Hu's explicit teaching that two different pieces of information can be combined into two portions of a single signal. *See* Decision 11.

Although Appellant's Request asserts our new ground of rejection overlooked or misapprehended certain points, those points relate to the findings and conclusions regarding independent claim 1, from which claims 13 and 15 ultimately depend. As explained in the new ground of rejection, we rely on Okumura for its limited teaching that signals may be encoded in different ways. Decision 19. The particular portions of the signals conveying the failure type and phase are recited in claims 1 and 2, the rejections of which we affirmed in the Decision. Decision 19.

CONCLUSION

We have considered Appellant's Request, but we maintain our Decision entering the new ground of rejection of claims 13 and 15 under 35 U.S.C. § 103 as obvious in view of Kumagai, Kajima, Hu, and Okumura.

DECISION SUMMARY

Outcome of Decision on Rehearing:

Claims	35 U.S.C §	Reference(s)/Basis	Denied	Granted
13, 15	103	Kumagai, Kajima, Hu, Okumura	13, 15	

Final Outcome of Appeal after Rehearing:

Claims Rejected	35 U.S.C. §	References	Affirmed	Reversed	New Ground
1, 2, 6	103	Kumagai, Kajima, Hu	1, 2, 6		
3, 7	103	Kumagai, Kajima, Hu, Okumura	3, 7		
4, 8	103	Kumagai, Kajima, Hu, Buxton	4, 8		
9	103	Kumagai, Kajima, Hu, Okumura, Buxton	9		
5, 10	103	Kumagai, Kajima, Hu, Isaka	5, 10		
11	103	Kumagai, Kajima, Hu, Okumura, Isaka	11		
12	103	Kumagai, Kajima, Hu, Buxton, Isaka	12		
13, 14	103	Kumagai, Kajima, Hu, Grek, Buxton		13, 14	
15, 16	103	Kumagai, Kajima, Hu, Grek, Isaka	15, 16		
13, 15	103	Kumagai, Kajima, Hu, Okumura			13, 15
Overall Outcome			1–12, 15, 16	13, 14	13, 15

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

REHEARING DENIED