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12/151,740	05/07/2008	Yulun Wang	P027	2493
98471	7590	09/23/2019	EXAMINER	
InTouch Health C/O CPA Global 900 2nd Avenue South, Suite 600 Minneapolis, MN 55402			AMIN, BHAVESH V	
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* YULUN WANG, CHARLES S. JORDAN,  
MARCO PINTER, DANIEL STEVEN SANCHEZ,  
and KEVIN HANRAHAN

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Appeal 2019-002507  
Application 12/151,740  
Technology Center 3600

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Before JOHN C. KERINS, MICHAEL L. HOELTER, and  
LEE L. STEPINA, *Administrative Patent Judges*.

KERINS, *Administrative Patent Judge*.

DECISION ON APPEAL  
STATEMENT OF THE CASE

Appellant<sup>1</sup> seeks our review under 35 U.S.C. § 134(a) from the Examiner's Final Office Action dated June 9, 2016 ("Final Act."), rejecting claims 1–10. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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<sup>1</sup> We use the term "Appellant" to refer to "applicant" as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as InTouch Technologies, Inc. Appeal Br. 2.

## THE INVENTION

Appellant's invention relates to a tele-presence system and a method for providing a remote medical consultation. Claim 1, reproduced below, is illustrative of the claimed subject matter.

1. A tele-presence system, comprising:

a boom that is attached to a fixed structure at a first location;

a robot face coupled to said boom, said robot face including a robot monitor, a robot camera, a robot speaker, and a robot microphone, said robot camera and said robot monitor are mechanically coupled such that they move together relative to said boom, and said robot camera captures a patient image; and,

a remote station located a second location remote from said first location, said remote station is coupled to said robot face via a network to receive said patient image, said remote station can control a movement of said robot face and includes a station monitor that displays said patient image, a station camera that captures a user image that is transmitted to said robot and displayed by said robot monitor, a station speaker that reproduces sound received by said robot microphone, and a station microphone that receives sound that is reproduced by said robot speaker.

## THE REJECTIONS

The Examiner rejects:

(i) claims 1–6 and 8–10 under 35 U.S.C. § 103(a) as being unpatentable over Wang (US 2004/0019406 A1, published Jan. 29, 2004) in view of Wendt (US 2002/0082498 A1, published June 27, 2002); and

(ii) claim 7 under 35 U.S.C. § 103(a) as being unpatentable over Wang in view of Wendt and Schulz (US 2005/0110867 A1, published May 26, 2005).

## DISCUSSION

### *Claims 1–6 and 8–10--§ 103(a)--Wang/Wendt*

Appellant argues claims 1–6 and 8–10 as a group, presenting no arguments for the separate patentability of any individual claim. We take claim 1 as representative of the group, and claims 2–6 and 8–10 will stand or fall with claim 1.

The Examiner finds that Wang discloses the limitations in claim 1, with the exception of the boom carrying the claimed robot face being attached to a fixed structure, and the remote station being able to control movement of the claimed robot face. Final Act. 3. The Examiner finds that both of these features are present in Wendt, and that it would have been obvious to modify Wang to include those features, with the fixation of the boom to a static structure providing stability to the robot face, as well as that it would not take up floor space that is needed in a surgical environment. *Id.* at 4; Ans. 11–12. The Examiner further takes the position that the modification is in the nature of combining known prior art elements according to known methods, and yielding predictable results. Ans. 11.

Appellant presents several arguments directed to alleged shortcomings of Wendt vis-à-vis various claim limitations, and argues as well that it would not have been obvious to modify any embodiment of Wendt to arrive at the claimed invention. *See, e.g.*, Appeal Br. 5–6; Reply Br. 2–3. The arguments do not apprise us of Examiner error, in that the Examiner’s rejection does not involve a proposed modification to any device in Wendt.

Appellant also argues that the proposed modification to Wang in view of Wendt would render Wang unsatisfactory for its intended purpose. Appeal Br. 6–8. In particular, Appellant cites to passages in Wang that

indicate that the holonomic platform of Wang which carries the robot face is for the purpose of allowing the robot to move about a home or facility to locate and/or follow a patient. *Id.*; Reply Br. 3–4. Appellant maintains that modifying Wang such that the robot is fixed to a static structure or is otherwise limited in movement would render the Wang robot unsatisfactory for its intended purpose, and, as such, no motivation or suggestion to make the proposed modification exists. Appeal Br. 8. Appellant additionally argues that Wendt does not disclose that mounting a boom to a ceiling would aid in stabilizing the boom and the device carried by the boom, nor that such mounting would increase floor space, and, as such, asserts that the rejection relies on improper hindsight reconstruction. Reply Br. 4.

As noted by Appellant, Wang does evidence that a purpose for mounting a robot face, via a boom, to a mobile platform or robot is to allow the robot to be able to move from room to room in a home or medical facility. Wang, however, also teaches the person of skill in the art an approach to remotely monitoring a person for medical reasons by providing a system with cameras, monitors, microphones, and speakers in the person/patient location and in a remote location, and using controls in the remote location to control the portion of the system in proximity to the person/patient. *See, e.g.*, Wang ¶ 20.

Attaching the boom carrying the robot face in Wang to a fixed structure would, as argued by Appellant, limit the ability to move the robot face “about a home or facility,” as discussed in Wang. Wang, Abstract. Doing so would not, however, render the robot face carried by the boom unsatisfactory for its intended purpose of allowing remote monitoring of a

person/patient present within the range of motion of the boom and robot face.

Wendt teaches that it was known to remotely control a video camera and/or display for monitoring a patient, by attaching the same to a boom that itself is attached to a ceiling in an operating room or the like. Wendt ¶¶ 54–55, Figs. 5, 6. Appellant is correct that Wendt does not explicitly state that using such an arrangement provides stability for imaging or increases available floor space, but a person of ordinary skill in the art would understand this even in the absence of explicit disclosure. *See In re Jacoby*, 309 F.2d 513, 516 (CCPA 1962) (artisan presumed to know something about art apart from what references expressly disclose); *In re Preda*, 401 F.2d 825, 826 (CCPA 1968) (proper to take into account not only specific teachings of reference but also inferences which one skilled in the art would reasonably be expected to draw therefrom). Accordingly, not only is Appellant’s contention the rejection relies on improper hindsight not persuasive, Wendt provides the necessary underpinnings for the combination of the teachings of the references. In situations in which the monitoring of a patient is only needed in a particular area, such as an operating room, the use of a ceiling-mounted boom is demonstrated to be appropriate.

Thus, the Examiner’s proposed modification provides stabilization of the camera and monitor, and increases floor space, as compared to using the mobile robot of Wang, in a particular space such as an operating room, at the expense of a greater range of movement, such as throughout a house or facility. A given course of action often has simultaneous advantages and disadvantages, and this does not necessarily obviate motivation to combine. *Allied Erecting and Dismantling Co., Inc. v. Genesis Attachments, LLC*, 825

F.3d 1373 (Fed. Cir. 2016) (quoting *Medichem, S.A. v. Rolabo, S.L.*, 437 F.3d 1157, 1165 (Fed. Cir. 2006); *see also, In re Urbanski*, 809 F.3d 1237 (Fed. Cir. 2016) (combination did not achieve properties of product in principal reference, but achieved other desirable properties).

Appellant's arguments do not apprise us of Examiner error in the rejection. The rejection of claim 1 as being unpatentable over Wang and Wendt is sustained. Claims 2–6 and 8–10 fall with claim 1.

*Claim 7--§ 103(a)--Wang/Wendt/Schulz*

Appellant does not present any additional arguments specifically directed to claim 7, which depends from rejected claim 1. The rejection is therefore sustained for the reasons identified above.

DECISION

The rejection of claims 1–6 and 8–10 under 35 U.S.C. § 103(a) as being unpatentable over Wang in view of Wendt is affirmed.

The rejection of claim 7 under 35 U.S.C. § 103(a) as being unpatentable over Wang in view of Wendt and Schulz is affirmed.

CONCLUSION

In summary:

<b>Claims Rejected</b>	<b>Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1–6, 8–10	§ 103(a) Wang, Wendt	1–6, 8–10	
7	§ 103(a) Wang, Wendt, Schulz	7	
<b>Overall Outcome</b>		1–10	

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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).

AFFIRMED