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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte LARRY ERNST and GEORGE PROMIS

Appeal 2019-004066
Application 13/042,857
Technology Center 2800

Before LINDA M. GAUDETTE, WESLEY B. DERRICK, and
LILAN REN, *Administrative Patent Judges*.

REN, *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 to reject claims 1, 5–12, 14–17, and 22–24.² Final Act.

2. 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. Appellant identifies the real party in interest as “Ricoh
Company, Ltd.” Appeal Br. 3.

² We note that the Appeal Brief, in multiple places, includes claim 4 in the
claims rejected. Appeal Br. 6, 11, 12. Appellant notes, however, that claim 4
has been canceled. *Id.* at 3. Claim 4 is therefore not before us.

CLAIMED SUBJECT MATTER

The claims are directed to a mechanism for “maintaining ink jet printing systems.” Spec. ¶ 1. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A printing system comprising:
 - one or more print engines each having a plurality of ink jet nozzles to print a flush line pattern on a medium during production of a print job;
 - a reader to capture an image of the flush line pattern; and
 - a controller to analyze the image of the flush line pattern during the production of the print job to extract print quality information by detecting a density change and one or more color value changes at a component of the flush line pattern corresponding to an ink jet nozzle location.

Claims Appendix (Appeal Br. i).

REJECTION

Claims 1, 5–12, 14–17, and 22–24 are rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Ino (US 2009/0189928 A1, Pub. Date July 30, 2009) in view of Teshigawara (US 2011/0211008 A1, Pub. Date Sept. 1, 2011). Final Act. 2.

OPINION

We review the appealed rejections for error based upon the issues identified by Appellant and in light of the arguments and evidence produced thereon. *Cf. Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential) (cited with approval in *In re Jung*, 637 F.3d 1356, 1365 (Fed. Cir. 2011) (“[I]t has long been the Board’s practice to require an applicant to identify the alleged error in the examiner’s rejections.”)). After having

considered the evidence presented in this Appeal and each of Appellant's contentions, we are not persuaded that reversible error has been identified, and we affirm the Examiner's § 103 rejection for the reasons expressed in the Final Office Action and the Answer. We add the following primarily for emphasis.

The Examiner rejects claim 1³, finding that Ino teaches a recited “controller to analyze the image of the flush line pattern during the production of the print job.” Final Act. 3 (citing Ino ¶¶ 90, 99); Ans. 3 (citing Ino Fig. 5, ¶¶ 76–83). Appellant acknowledges that Ino “does disclose an instruction given to a read sensor to read the nozzle-check patterns” and that Ino “discloses a cursory analysis description in which a determination is made as to whether or not a number of individual nozzles in which poor ejecting is occurring is a specific value or above.” Appeal Br. 10 (citing Ino ¶¶ 74, 83); *see also* Reply Br. 3 (acknowledging that “the disclosed nozzle-check pattern print processing is performed when an instruction has been input by a control unit when carrying out image forming” and that “[a]s a part of the nozzle-check pattern print processing a sensor reads nozzle-check patterns and a controller processes the nozzle-check patterns to process the results”) (citing Ino ¶¶ 74, 98).

Appellant, however, argues that Ino does not teach or suggest the nozzle-check pattern analysis “during the production of the print job” as recited in claim 1. Appeal Br. 10; Reply Br. 3. Although not clearly stated,

³ Appellant does not separately argue for the rejection of claims 5–12, 14–17, and 22–24. *See* Appeal Br. 6–9, 11. We select claim 1 as representative. *See* 37 C.F.R. § 41.37(c)(1)(iv).

Appellant's argument is understood to be that the recited "print job" excludes a print for the nozzle-check pattern itself. Appeal Br. 10.

We are not persuaded by Appellant for at least two reasons. First, Appellant does not identify reversible error in the Examiner's findings in support of this limitation. More specifically, the Examiner points out that Fig. 7A of Ino "shows the nozzle check pattern 91 printed between the images of a print job." Ans. 4 (citing Ino Fig. 7A, ¶ 99). Appellant disagrees with the Examiner but does not provide sufficient explanation as to why the Examiner reversibly erred here. Reply Br. 4 (stating only that "printing nozzle check patterns during an image formation run [as taught in Ino] does not suggest that the nozzle check patterns are printed during a production of a print job"). "[M]ere statements of disagreement . . . do not amount to a developed argument." *SmithKline Beecham Corp. v. Apotex Corp.*, 439 F.3d 1312, 1320 (Fed. Cir. 2006).

Second, we note that the Specification provides:

The term print job as used herein refers a print job or any component thereof, including a page of print content, a page including multiple print items or elements, such as checks, pages, an element on a page, etc. The print job may further include one or more pages, where each page has one or more elements, e.g., checks. A page may include a unit of print output, where the page may be outputted on a single piece of a print medium or multiple pages may be outputted on a roll, ribbon or web of a print medium.

Spec. ¶ 14. To the extent that Appellant attempts to exclude from the recited "print job" a print for a nozzle-check pattern, the Specification does not support such an argument. No reversible error has therefore been identified in the Examiner's findings here.

CONCLUSION

The Examiner's rejection is affirmed.

More specifically,

DECISION SUMMARY

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1, 5-12, 14-17, 22-24	103	Teshigawarah, Ino	1, 5-12, 14-17, 22-24	

FINALITY AND RESPONSE

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