UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/813,529	07/30/2015	Larry Bell	2015P00824US	3636

46726	7590	06/10/2020

BSH Home Appliances Corporation
100 Bosch Boulevard
NEW BERN, NC 28562

EXAMINER
GLENNIE, DEBRA L

ART UNIT	PAPER NUMBER
3689	

NOTIFICATION DATE	DELIVERY MODE
06/10/2020	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

MBX-NBN-IntelProp@bshg.com

UNITED STATES PATENT AND TRADEMARK OFFICE

_____

BEFORE THE PATENT TRIAL AND APPEAL BOARD

_____

Ex parte LARRY BELL

_____

Appeal 2020-000066
Application[1] 14/813,529
Technology Center 3600

_____

Before ERIC B. GRIMES, FRANCISCO C. PRATS, and
RACHEL H. TOWNSEND, *Administrative Patent Judges*.

TOWNSEND, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134(a) involving claims to a
domestic appliance and device for providing service data to one or more
domestic appliances, which have been rejected as obvious. We have
jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

STATEMENT OF THE CASE

"[C]urrent methods for notifying . . . customers [with recall notices]
are slow and do not effectively notify all of the customers in possession of

_____

the product." (Spec. ¶ 3.) Additionally, once notified of a recall, "the user

of the product may not always take action to correct the problem identified

in the recall notice." (*Id.*) Appellant's invention is directed at systems to

provide service notifications to a product. (*Id.* ¶ 6.)

Claims 1–23 are on appeal. Claims 1, 9, and 16 are representative and

reads as follows:

> 1. A domestic appliance comprising:
>
> communication circuitry;
>
> a processing system, comprising at least one processor, the processing system coupled to the communication circuitry and being configured to:
>
> receive, using the communication circuitry, service data from a server, the service data including a service code identifying one or more services that need to be performed on the domestic appliance;
>
> disable, based on the received service code, one or more features of the domestic appliance while permitting one or more other features to be operational if the received service code identifies a non-safety critical service to be performed on the domestic appliance;
>
> disable, based on the received service code, operation of the domestic appliance if the received service code identifies a safety critical service to be performed on the domestic appliance; and
>
> in response to an input indicating that the one or more services corresponding to the service code have been performed on the domestic appliance, enable the one or more features of the domestic appliance that were disabled.

(Appeal Br. 22.)

> 9. A domestic appliance comprising:
>
> communication circuitry;

a processing system, comprising at least one processor and memory, the processing system coupled to the communication circuitry and being configured to:

transmit, using the communication circuitry, a request for recall information for the domestic appliance;

in response to the request for recall, receive, from a server, recall information for the domestic appliance;

display, on a display coupled to the domestic appliance, the received recall information for the domestic appliance, and

selectively disable one or more features of the domestic appliance while permitting one or more other features of the domestic appliance to be operational based on the recall information.

(Appeal Br. 24.)

16. A device for providing service data to one or more domestic appliances, the device comprising:

communication circuitry;

storage storing recall notices for a plurality of domestic appliances, each recall notice being associated with one or more domestic appliances; and

a processing system, comprising at least one processor, the processing system coupled to the communication circuitry and the storage, the processing system being configured to:

receive, using the communication circuitry, a service data request from a domestic appliance, the service data request including appliance identification information of the domestic appliance;

determine, based [sic] the appliance identification information, whether one or more of the recall notices stored in storage apply to the domestic appliance requesting service data; and

when a determination is made that the one or more of the recall notices stored in the storage apply to the domestic appliance requesting the service data, transmit, using the communication circuitry, the service data with information

3

identifying the one or more of the recall notices applying to the domestic appliance requesting the service data,

wherein the one or more of the recall notices includes service data including a service code identifying one or more services that need to be performed on the domestic appliance, the service code selectively identifying a non-safety critical service or a safety critical service,

wherein, when the received service code identifies the non-safety critical service, the service code further identifies one or more features of the domestic appliance to be disabled while permitting one or more other features to be operational until the one or more services, which are identified by the service code as the non-safety critical service, have been performed, and

wherein, when the received service code identifies the safety critical service, the service code further indicates that operation of the domestic appliance is to be disabled until the one or more services, which are identified by the service code to be the safety critical service, have been performed.

(Appeal Br. 26.)

The prior art relied upon by the Examiner is:

Name	Reference	Date
DeSalvo	US 2013/0073690 A1	Mar. 21, 2013
Engle et al.	US 2006/0149612 A1	July 6, 2006

The following grounds of rejection by the Examiner are before us on review:

Claims 1–6 and 8–23 under 35 U.S.C. § 103 as unpatentable over DeSalvo.

Claim 7 under 35 U.S.C. § 103 as unpatentable over DeSalvo and Engle.

DISCUSSION

Claim 1

The Examiner finds that DeSalvo teaches a host system connected to a network that is adapted to communicate between a consumer, a supplier, and an appliance. (Final Action 3–4.) The Examiner finds that the system includes a hub that communicates to a server maintained by a supplier, where the supplier can provide through the server a number of things including warranty and recall information, product updates, as well as diagnostic code recognition and servicing. (*Id.*) The Examiner also finds that the system monitors the status of the appliance and provides the customer with duress maintenance notifications regarding when a part is wearing down or needs to be changed. (*Id.* at 4.) The Examiner further finds that DeSalvo teaches that control actions are performed on the appliance including "modifying the operational cycle of the appliance" based on sensing by the appliance where the appliance communicates with an external database and retrieves information that enables the appliance "to be used but in an altered condition." (*Id.* at 5.) In addition the Examiner finds that DeSalvo teaches that "received alerts will persist on the appliance until the consumer takes a specific action" and that the system "may warn and/or terminate processing before the appliance has a mechanical or electrical breakdown." (*Id.* at 6.)

The Examiner interprets the "diagnostic code recognition of DeSalvo [to be] equivalent to the service code" claimed. (*Id.* at 7.) Accordingly, "[t]he Examiner asserts the prior art is recognizing codes and therefore the codes have specific (predefined) meaning and are specific (predefined) to particular failures or particular operating conditions. The codes are

5

identifying the operational state of the appliance." (*Id.*) According to the Examiner,

> [t]he teachings of DeSalvo would have led one of ordinary skill to come to [the] conclusion that the evaluation of the codes of DeSalvo and the modifications to the operations of the appliance in order to alter, pause, extend, and/or terminate the operation of the appliance establishes a teaching to arrive at the claimed invention.

(*Id.* at 7–8.)

"An examiner bears the initial burden of presenting a prima facie case of obviousness." *In re Huai-Hung Kao*, 639 F.3d 1057, 1066 (Fed. Cir. 2011). We agree with Appellant that the Examiner has not done so for claim 1. In arriving at our conclusion, we do not find it necessary to determine the scope of "safety critical service" and "non-safety critical service." Rather, we conclude that the question of whether the Examiner established a prima facie case may be resolved based on the two different functions that the processing system is required to be configured to perform. The "configured to" language can denote structure in the context of an electronic circuit or programming. *In re Lowry*, 32 F.3d 1579, 1583–84 (Fed. Cir. 1994) (claim limitations regarding organization of data in memory held to distinguish over prior art); *In re Noll*, 545 F.2d 141, 148 (CCPA 1976) ("[T]he claimed invention . . . comprises physical structure, including storage devices and electrical components uniquely configured to perform specified functions through the physical properties of electrical circuits to achieve controlled results. Appellant's programmed machine is structurally different from a machine without that program.").

In particular, claim 1 requires the processing system be configured to (a) disable a feature of the appliance while permitting another feature to be

operational "based on the received service code" if that code "identifies a non-safety critical service to be performed on the" appliance and (b) disable operation of the appliance "based on the received service code" if that code "identifies a safety critical service to be performed on the" appliance.

DeSalvo describes a host server (68) connected to an appliance through a network where that server system can provide real-time alerts to the appliance, such as recall information and/or duress maintenance notification. (*See, e.g.*, DeSalvo ¶¶ 41, 46, 50 and Figure 2.) DeSalvo explains further that "the system provides a customer with duress maintenance notifications and informs the customer when a part is wearing down or needs to be changed" and that the "alerts will persist on the appliance . . . until the consumer takes a specific action to respond to the alert." (*Id.* ¶¶ 22, 50.) DeSalvo also teaches that "[t]he described system provides for the detection and/or prediction of problems in operation of the appliance and may warn and/or terminate processing before the appliance has a mechanical and/or electrical breakdown." (*Id.* ¶¶ 22, 50 (noting the appliance would "stop running itself before ruining something if it's a serious mechanical problem").) Based on these teachings, we agree with the Examiner that DeSalvo teaches or at least suggests disabling the appliance based on a recall notice or duress maintenance notification.

However, what we find is not taught or suggested by DeSalvo is that "one or more features of the domestic appliance" are disabled while permitting one or more features to be operational based on the received service code. DeSalvo teaches that operation of an appliance may be optimized when an appliance sensor determines "the wrong type of consumable" or is "alerted" that the wrong type of consumable is being used in order to "compensate for the incorrect usage." (*Id.* ¶¶ 25–27.) We do not

see any teaching or suggestion of disabling only a particular feature of an appliance while allowing other features to operate based on a received service code in DeSalvo. The disabling that is responsive to a service code is either providing a warning or terminating the entirety of processing, whereas feature disablement, rather than whole processing, is in response to appliance sensor determinations.

Although claim 9 does not have two different disable functions that the processing system is required to be configured to perform, we note that, like claim 1, claim 9 does require that the processing system be "configured to" selectively disable one or more features of the appliance while permitting one or more other features of the appliance to be operational "based on the recall information." As just discussed, DeSalvo does not teach or suggest the processing system so configured.

Consequently, we reverse the Examiner's rejection of claims 1–6, 8–15 and 21–23 as being obvious over DeSalvo.

Claim 7 depends from claim 1. Engle, which the Examiner relies on to address the limitation of claim 7, does not address the deficiency discussed above. Consequently, we also reverse the Examiner's rejection of claim 7 as being obvious over DeSalvo and Engle.

Claim 16

Unlike claims 1 and 9, claim 16 focuses not on the domestic appliance, but on a device for providing service data to a domestic appliance. We determine that this claim is significantly different in scope than claims 1 and 9. In particular, here the processing system is concerned with receiving requests for service data from an appliance, determining whether a recall notice stored in the device applies to the requesting

appliance, and transmitting service data with information identifying relevant recall notices to the appliance. In addition to the foregoing, there are three "wherein" clauses. The first wherein clause describes content of the recall notice, namely that it includes service data including a service code "selectively identifying a non-safety critical service or a safety critical service." The second and third wherein clauses describe further information in the service code which relates to disabling of features or disabling operation with respect to the appliance depending on whether non-safety critical or safety critical service is identified in the service code. The processing system of this claim is not directed to being configured to disable, but simply to receiving, assessing, and transmitting data.

As to this claim, the Examiner explains that DeSalvo describes a host system that is connected to a network and is adapted to receive and transmit information/data to an appliance. (Final Action 20–22 (citing DeSalvo Figures 1 and 2).) The Examiner further finds that DeSalvo teaches that the host system communicates with a server maintained by a supplier that has access to a data repository that contains information about appliances and that this system allows the supplier to provide, *inter alia*, recall information, diagnostic code recognition, and servicing information, including alerts letting the consumer know a part is wearing down or needs changing. (*Id.*; Ans. 12.) The Examiner explains that DeSalvo teaches that the system provides information relevant to the appliance. (Final Action 22 (citing DeSalvo ¶ 19).) The Examiner also finds that DeSalvo teaches that the information content set forth in the wherein clauses is transmitted to the appliance. (*Id.* at 23–25.)

We find that the Examiner has established a prima facie case of obviousness based on DeSalvo for claim 16.

However, in so concluding, we note that while it is true that DeSalvo teaches that the appliance communicates with the hub (*see* DeSalvo ¶ 16 ("each individual appliance has the communication ability to talk to a home router or hub") and the hub communicates with supplier servers "to process information requests" (*id.*), we do not find anything in this paragraph of DeSalvo that teaches or suggests the processing system of the hub is receiving requests from the appliance concerning "a service data request." In particular, DeSalvo states:

> each individual appliance has the communication ability to talk to a home router or hub. The hub, in tum, communicates through a network such as, for example, the Internet to a server maintained by a supplier such as a manufacturer and/or retailer to process information requests either directed to the appliance or from data repositories that contain information such as information regarding the appliance.

(DeSalvo ¶ 16.) This paragraph indicates that the appliance communicates with the hub and the hub communicates with suppliers and processes information directed to the appliance or from the repository about the appliance.

DeSalvo teaches that the system "may monitor" the appliance health (*id.* ¶ 17), that a remote control can be used to pause, extend, alter and/or terminate processing (*id.* ¶ 18), that product information relevant to the appliance can be provided to the appliance by the supplier (*id.* ¶ 19), that the system can mine long term data regarding the appliance (*id.* ¶ 20) and can provide a customer with duress maintenance notifications and inform the customer when a part is wearing down or needs to be changed (*id.* ¶ 22), and provide a customer with scheduled maintenance reminders and/or alerts (*id.*). However, none of the foregoing suggests that the appliance is requesting service information.

On the other hand, DeSalvo does teach that the appliance can communicate to the supplier information such as the consumable it is using, and the appliance

> will be notified how to adjust the type of mechanical action, thermal or time settings or other options and modifiers available on the machine based on the hardness o[f] water and temperature of inlet water in order to produce the best cleaning result, most accurate use of additives or most efficient operation without compromising the cleaning performance.

(*Id.* ¶¶ 25–26.) This communication can be deemed to be a request for service. Consequently, we conclude that DeSalvo teaches or suggests that the hub processing system is configured to receive a service data request from the appliance.

We further note that DeSalvo teaches "the processing devices 20, 20', 20" illustrated in FIG. 1 may be embodied in any device having the ability to execute instructions such as . . . a personal computer." (*Id.* ¶ 31.) In light of this, regarding the wherein clauses that identify content of the service code that the processing system must be configured to transmit using communication circuitry (which DeSalvo also teaches (*id.* ¶¶ 16, 37)), we determine that, absent evidence to the contrary, the processing system described by DeSalvo that receives service requests from the appliance and transmits service data including recall notices, diagnostic code recognition and/or servicing (DeSalvo ¶ 19), is configured such that it would be capable of transmitting recall notices that include service code required by the wherein clauses.

Appellant's arguments that DeSalvo is silent to differentiating between non-safety critical and safety critical services to be performed on an appliance (*see, e.g.*, Appeal Br. 13–17; Reply Br. 9–11, 15–19) are not

11

persuasive because claim 16 is not directed to the performance of any services on the appliance other than transmitting data to it.

Claims 17–20 have not been argued separately and therefore fall with claim 16. 37 C.F.R. § 41.37(c)(1)(iv).

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1–6, 8–23	103	DeSalvo	16–20	1–6, 8–15, 21–23
7	103	DeSalvo, Engle		7
Overall Outcome			16–20	1–15, 21–23

TIME PERIOD FOR 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-IN-PART