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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MICHAEL C. LALENA

Appeal 2020-004704
Patent 8,961,011 B2
Application 15/441,336
Technology Center 3900

Before ALLEN R. MacDONALD, JOHN A. JEFFERY, and
MICHAEL J. ENGLE, *Administrative Patent Judges*.

ENGLE, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant¹ appeals under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 7–14, 16, and 18–20, which are all of the claims pending in the application. 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(a). Appellant identifies Carestream Health, Inc. as the real party in interest. Appeal Br. 3.

TECHNOLOGY

The application relates to a radiography unit (e.g., x-ray machine) that can be moved between locations and has multiple monitors. Spec. Title, 1:17–27.

ILLUSTRATIVE CLAIM

Claim 9 is illustrative and reproduced below with certain limitations at issue emphasized:

9. A mobile x-ray radiography apparatus comprising:

a moveable transport frame, the moveable transport frame configured to transport the mobile x-ray radiography apparatus;

a first display at the moveable transport frame;

an adjustable mount structure coupled to the moveable transport frame; and

a tube head mounted to the adjustable mount structure, the tube head comprising:

an extendable portion, wherein the extendable portion has movable sections adapted to extend the tube head from the adjustable mount structure;

a second display; and

an x-ray source,

wherein *the second display is configured to be operable and the first display is configured to be inoperable when the adjustable mount structure is docked in a travel configuration during transport of the mobile x-ray radiography apparatus from a first x-ray exposure operation location to a second x-ray exposure operation location, and*

wherein, when in the travel configuration, the adjustable mount structure is collapsible to a position and the tube head is rotatable to a position to seat the x-ray source in a stable position adjacent a top surface of the moveable transport frame.

REFERENCES

The Examiner relies on the following prior art references:

| Name | Number | Date |
|--------------------|--------------------|---------------|
| Fujii | US 6,609,826 B1 | Aug. 26, 2003 |
| Koren | US 2009/0034688 A1 | Feb. 5, 2009 |
| Muszak | US 2008/0069304 A1 | Mar. 20, 2008 |
| Nakagawa | US 2003/0190014 A1 | Oct. 9, 2003 |
| Seissler | US 6,491,430 B1 | Dec. 10, 2002 |
| Sukovic | US 2008/0181356 A1 | July 31, 2008 |
| Takae ² | WO 2009/104656 A1 | Aug. 27, 2009 |
| Ward | US 2009/0005651 A1 | Jan. 1, 2009 |

REJECTIONS ON APPEAL

The Examiner makes the following rejections under 35 U.S.C. § 103.

The rejection under 35 U.S.C. § 251 was withdrawn. Ans. 5.

| Claims | References | Final Act. |
|-----------|---|------------|
| 9, 11, 12 | Takae, Nakagawa, Muszak, Seissler | 9 |
| 10 | Takae, Nakagawa, Muszak, Seissler, Koren | 19 |
| 16 | Takae, Nakagawa, Muszak, Seissler, Sukovic | 21 |
| 13, 20 | Takae, Nakagawa, Muszak, Seissler, Ward | 23 |
| 7, 14, 18 | Takae, Nakagawa, Fujii, Muszak, Seissler | 25–26 |
| 8 | Takae, Nakagawa, Fujii, Muszak, Seissler, Sukovic | 39 |
| 19 | Takae, Nakagawa, Fujii, Muszak, Seissler, Koren | 40–41 |

ISSUES

1. Did the Examiner err in finding the combination of Takae and Muszak teaches or suggests “the second display is configured to be operable and the first display is configured to be inoperable when the adjustable mount structure is docked in a travel configuration,” as recited in claim 9?

² The cited version of Takae is in Japanese. The Examiner states that Appellant requested U.S. Patent No. 8,376,612 B2 (“Takae ’612”) be used “as the English equivalent.” Ans. 2 n.1 (citing Resp. ¶ 29 (July 13, 2018)).

2. Did the Examiner err in finding Sukovic teaches or suggests “the second display is configured to display a video of an area in front of the mobile x-ray radiography apparatus during transport of the mobile x-ray radiography apparatus,” as recited in claim 16?

ANALYSIS

Claims 9, 11, and 12

Claim 9 recites “the second display is configured to be operable and the first display is configured to be inoperable when the adjustable mount structure is docked in a travel configuration.”

According to Appellant, “Takae discloses a single display on a portable x-ray device.” Appeal Br. 12. Appellant argues that in Takae, only “the x-ray image (or other patient information) is not displayed, while the display itself preferably remains operable.” *Id.* at 13. However, we agree with the Examiner that Appellant is limiting Takae to only *preferred* embodiments. *See* Ans. 7; Takae ’612 at 8:54–60 (“it is *preferable* that the setting screen for the X-ray generator 4, etc. is allowed to be displayed so that next imaging can be prepared during movement”; “when the X-ray image is set to non-display, only the X-ray image *may* be set to non-display, *or patient information, etc.* which are displayed simultaneously with the X-ray image may be set to non-display” (emphases added)). Thus, Takae teaches or at least suggests that all aspects of the display may be disabled, including the “setting screen,” “X-ray image,” “patient information, etc.”

Turning to Muszak, Appellant argues that “Muszak discloses a stationary x-ray apparatus with two screens” but “what is disabled is allowing the movement functions to be activated,” not “that a display itself

is disabled.” Appeal Br. 13–14. Further, Appellant argues that if Takae was applied to Muszak, then Takae’s “stated goal of protecting personal information during movement of a mobile x-ray apparatus” would require that “all screens . . . be similarly treated because allowing any screen to display personal information could potentially leak personal information.”

Appeal Br. 15. Finally, Appellant argues that

disabling controls on multiple screens ([as in] Muszak) or choosing to not display certain information on a single screen ([as in] Takae) would not provide suggestion or motivation to one skilled in the art to selectively turn off only one of multiple screens, while leaving the other screen on, because these teachings (above portions of Muszak with Takae) only relate to what is displayed on one or more screens that are turned on (operable).

Appeal Br. 15.

Appellant’s arguments do not persuade us of Examiner error. Muszak discloses that “[d]isplay and control hardware can be selectively enabled or disabled or have its function changed by the operator to serve the needs of the patient and to improve the efficiency of the radiological imaging facility.” Muszak ¶ 50. The same paragraph expressly discloses that Muszak “can also control the function of each work zone *independently of the others*, providing only those functions needed/desired.” *Id.* (emphasis added); *see also* Ans. 7. Similarly, claim 5 of Muszak recites “the first display is adapted to be disabled independently from the second display.” Thus, in a combination of Takae and Muszak, we agree with the Examiner that it would have been obvious that the displays would be disabled independently when in a traveling mode. This includes disabling one of the screens when no operator or patient is expected to need that screen while

traveling (e.g., “where visibility of a controlled component is obstructed from a certain operator position” as in Muszak or where personal information would be visible to persons other than the operator as in Takae) while still enabling the other screen where the operator or patient is expected to be (e.g., because Takae discloses “it is preferable that the setting screen for the X-ray generator 4, etc. is allowed to be displayed so that [the] next imaging can be prepared during movement” and Muszak discloses a second display can provide specific information helpful to either the operator or the patient). *See* Ans. 7–9; Takae ’612 at 8:29–60; Muszak ¶¶ 65, 69–77, 79–81. The Examiner has articulated reasoning with rational underpinning from the prior art of record supporting the legal conclusion of obviousness and why a person of ordinary skill in the art would have been motivated to combine Takae and Muszak in the suggested manner. *See* Ans. 8–9; *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007).

Accordingly, we sustain the Examiner’s rejection of claim 9, and claims 11 and 12, which Appellant argues are patentable for similar reasons. *See* Appeal Br. 16; 37 C.F.R. § 41.37(c)(1)(iv).

Claim 16

Dependent claim 16 further recites “the second display is configured to display a video of an area in front of the mobile x-ray radiography apparatus during transport of the mobile x-ray radiography apparatus.”

Appellant argues that in Sukovic “the camera 60 faces the patient to obtain images of the patient” or “can face the operator or the CT scanner . . . to allow an outside technician to assist the in-room operator through video conference.” Appeal Br. 17.

We are not persuaded by Appellant’s arguments. Although Sukovic discloses specific “examples” of camera 60 taking images of “operator O” (¶¶ 18–20, 6), “patient P” (¶¶ 23, 26, 28, 7–9), or “CT scanner 10” (¶ 19), Sukovic more generally discloses that “[t]he camera 60 can be moved or pivoted relative to the CT scanner such that the camera 60 is able to capture images of different objects in the room 96.” Sukovic ¶ 18. In discussing a “prior art CT scanner,” Sukovic notes that the prior art cameras “are only used to take external images of the patient for association with the three dimensional CT image” and “[i]t would be beneficial if cameras could be used for other purposes.” *Id.* ¶ 3. The Examiner further notes that as shown in Figures 1 and 2, Sukovic “specifically teaches the camera 60 being located on the front [of] first arm 16” and hence faces forward towards operator O. Ans. 12 (citing Sukovic ¶¶ 18–20, Figs. 1–2).

Appellant further argues that in Sukovic, “the camera transmits an image . . . to a remote monitor” so “Sukovic does not disclose that the camera view can be displayed on a display screen at the mobile radiography apparatus during transport.” Appeal Br. 17. However, we agree with the Examiner that Sukovic teaches or suggests displaying the camera’s images on the CT scanner’s display. Ans. 12–13. For example, Sukovic discloses “[t]he camera is associated *with the computer 30*” and expressly provides at least one example in which “the external images” from camera 30 can be displayed “*on the display 36.*” Sukovic ¶¶ 20, 23 (emphases added); *see also id.* ¶ 17 (“the CT scanner 10 further includes a computer 30 having . . . a display 36”); Ans. 12–13.

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Thus, Sukovic teaches or suggests the camera “can be moved or pivoted . . . to capture images of different objects in the room 96,” which includes objects in front of CT scanner 10 (such as operator O in Figure 1), and such images can be displayed “on the display 36.” Sukovic therefore teaches or suggests the claimed limitation of “the second display is configured to display a video of an area in front of the mobile x-ray radiography apparatus during transport.”

Accordingly, we sustain the Examiner’s rejection of claim 16.

Claims 7, 8, 10, 13, 14, and 18–20

Appellant argues that independent claim 7 is patentable for the same reasons as independent claim 9 and dependent claim 8 for the same reasons as dependent claim 16. Appeal Br. 19–21. Appellant also argues that dependent claims 10, 13, 14, and 18–20 “stand or fall with their respective independent claim.” Appeal Br. 18, 20, 16, 21.

Accordingly, because we sustain the rejections of claims 9 and 16, we also sustain the Examiner’s rejections of claims 10, 13, 14, and 18–20.

OUTCOME

The following table summarizes the outcome of each rejection:

| Claims Rejected | 35 U.S.C. § | References | Affirmed | Reversed |
|------------------------|-------------|---|-----------------|----------|
| 9, 11, 12 | 103 | Takae, Nakagawa, Muszak, Seissler | 9, 11, 12 | |
| 10 | 103 | Takae, Nakagawa, Muszak, Seissler, Koren | 10 | |
| 16 | 103 | Takae, Nakagawa, Muszak, Seissler, Sukovic | 16 | |
| 13, 20 | 103 | Takae, Nakagawa, Muszak, Seissler, Ward | 13, 20 | |
| 7, 14, 18 | 103 | Takae, Nakagawa, Fujii, Muszak, Seissler | 7, 14, 18 | |
| 8 | 103 | Takae, Nakagawa, Fujii, Muszak, Seissler, Sukovic | 8 | |
| 19 | 103 | Takae, Nakagawa, Fujii, Muszak, Seissler, Koren | 19 | |
| OVERALL OUTCOME | | | 9–14, 16, 18–20 | |

TIME TO RESPOND

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. § 1.36(a)(1)(iv).

AFFIRMED