

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MAN MACHINE INTERFACE TECHNOLOGIES LLC
Appellant

Appeal 2014-010010
Reexamination Control 90/012,469
Patent 6,069,614
Technology Center 3900

Before ST. JOHN COURTENAY III, THU A. DANG, and
LARRY J. HUME, *Administrative Patent Judges*.

HUME, *Administrative Patent Judge*.

DECISION ON APPEAL

Man Machine Interface Technologies LLC, the patent owner (hereinafter "Patent Owner" or "Appellant") of the Patent under reexamination (hereinafter the "'614 Patent"), appeals under 35 U.S.C. § 134(b) from a final rejection of claims 1, 4, 7–10, and 17. Claims 2, 3, 5, 6, and 11–16 are not subject to reexamination.¹ We have jurisdiction under 35 U.S.C. §§ 134(b) and 306.

We AFFIRM.

¹ Final Act. 1.

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STATEMENT OF THE CASE²

Background

Davidson, Davidson, & Kappel, LLC filed a third-party request on September 6, 2012, for *ex parte* reexamination of the '614 Patent, which was assigned Reexamination Control No. 90/012,469. The '614 Patent, entitled "MAN MACHINE INTERFACE VIA DISPLAY PERIPHERAL," issued May 30, 2000, to the sole inventor, Tara C. Singhal, based on Application No. 08/710,388, filed September 16, 1996. The '614 Patent was previously subjected to *ex parte* reexamination, resulting in an *Ex Parte* Reexamination Certificate (US 6,069,614 C1) being issued on October 7, 2008. During that previous reexamination, claims 1 and 8 were amended, and claim 17 was added.

USPTO records indicate the required '614 Patent maintenance fees have been paid; therefore, the '614 Patent appears to still be in force. The '614 patent was assigned by the sole inventor to Patent Owner on October 26, 2009, as recorded in USPTO assignment records at reel/frame 23419-696.

² Our Decision relies upon Appellant's Appeal Brief ("App. Br.," filed Dec. 12, 2013); Examiner's Answer ("Ans.," mailed June 20, 2014); *Ex Parte* Reexamination Final Office Action ("Final Act.," mailed Aug. 16, 2013); Request for *Ex Parte* Reexamination of '614 Patent ("Third-Party Request," filed Sept. 6, 2012); and the original Specification ("Spec.," filed Sept. 16, 1996).

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The Invention

An embodiment of Appellant's invention relates to a "man machine interface for computer, television, electronic games and appliances" which allows "control and selections" by using

one multi-function thumb push switch, allowing cursor movement, rate of movement and object selection to be performed from this one thumb switch and an index finger slide switch for mode control, whereas these switches are located in the natural resting positions of thumb and finger when the device is held in either the left or the right hand.

Abstract.

Exemplary Claim

Claim 1, reproduced below after amendment during the first reexamination proceeding, is representative of the subject matter on appeal (*emphases and formatting added*):

1. A remote control device adapted for use by a human to control and select from a screen, the screen including a plurality of choices and a cursor, the remote control device comprising:

a body adapted to be held by the human hand, the body having a top side and a bottom side;

a thumb switch positioned on the top side of the body, the thumb switch being adapted for activation by a human thumb, the thumb switch being adapted to perform multiple functions;

wherein the thumb switch includes a center switch, an annular switch, and a cover plate,

the annular switch including only four switches and the cover plate covers the four switches, wherein the annular switch surrounds the center switch, the

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annular switch being adapted to operate independently
from the center switch;

wherein the annular switch is adapted to effect
movement of the cursor between the plurality of
choices and the center switch is adapted to effect
selection of one of the choices identified by the
cursor;

electronic means adapted to generate a signal upon
activation of one of the switches; and

transmitting means for transmitting the signal from the
electronic means.

Prior Art

The Examiner relies upon the following prior art as evidence in
rejecting the claims on appeal:

Darbee	US 5,228,077	July 13, 1993
Florin et al. (hereinafter "Florin")	US 5,594,509	Jan. 14, 1997
International Business Machines, Inc. (hereinafter EP '729)	EP 0622729 A2	Nov. 2, 1994
Japanese Patent Laid-Open No. Sho JP 58-219634 (hereinafter "JP '634")		Dec. 21, 1983
Japanese Patent Laid-Open No. Sho JP 63-54098 (hereinafter "JP '098")		Mar. 8, 1988
Japanese Patent Laid-Open No. JP 6-110638 (hereinafter "JP '638")		Apr. 22, 1994
Japanese Patent Laid-Open No. Hei JP 6-245268 (hereinafter "JP '268")		Sept. 2, 1994

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Rejections on Appeal

R1. Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by JP '634. Ans. 2; Final Act. 19.

R2. Claim 1 stands rejected under 35 U.S.C. § 103(a) as being obvious in view of JP '634. Ans. 2; Final Act. 20.

R3. Claims 1, 4, 8, and 10 stand rejected under 35 U.S.C. § 103(a) as being obvious over the combination of Florin and JP '634. Ans. 3; Final Act. 20.

R4. Claim 10 stands rejected under 35 U.S.C. § 103(a) as being obvious over the combination of Florin, JP '634, and JP '638. Ans. 3-4; Final Act. 21.

R5. Claims 1, 7-9, and 17 stand rejected under 35 U.S.C. § 103(a) as being obvious over the combination of JP '634 and JP '098. Ans. 4; Final Act. 22.

R6. Claim 7 stands rejected under 35 U.S.C. § 103(a) as being obvious over the combination of JP '634, JP '098, and Darbee. Ans. 5; Final Act. 22.

R7. Claim 9 stands rejected under 35 U.S.C. § 103(a) as being obvious over the combination of JP '634, JP '098, and EP '729. Ans. 5; Final Act. 23.

R8. Claim 17 stands rejected under 35 U.S.C. § 103(a) as being obvious over the combination of JP '634, JP '098, and JP '268. Ans. 6; Final Act. 23.

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GROUPING OF CLAIMS

Based on Appellant's arguments (App. Br. 10–50), we decide the appeal of Rejection R3 of claims 1, 4, 8, and 10 on the basis of representative claim 1; and we decide the appeal of Rejection R5 of claims 1, 7–9, and 17 on the basis of representative claim 1.

We address separately argued Rejections R1 and R2 of claim 1, *infra*.

We also address claims 1, 7, 9, 10, and 17 in rejections R2, R4, R6–R8, not separately argued, *infra*.

ISSUES AND ANALYSIS

In reaching this decision, we consider all evidence presented and all arguments actually made by Appellant. We do not consider arguments which Appellant could have made but chose not to make in the Briefs so that any such arguments are deemed to be waived. 37 C.F.R. § 41.37(c)(1)(vii).

We disagree with Appellant's arguments with respect to claims 1, 4, 7–10, and 17 which are subject to reexamination, and we incorporate herein and adopt as our own: (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken and (2) the reasons and rebuttals set forth in the Examiner's Answer in response to Appellant's arguments. We incorporate such findings, reasons, and rebuttals herein by reference unless otherwise noted. However, we highlight and address specific findings and arguments regarding the rejections of claim 1 for emphasis as follows.

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1. § 102 Rejection R1 of Claim 1

Issue 1

Appellant argues (App. Br. 27–28, 39–50) the Examiner's rejection of claim 1 under 35 U.S.C. § 102(b) as being anticipated by JP '634 is in error. These contentions present us with the following issue:

Did the Examiner err in finding the cited prior art discloses a device which includes, *inter alia*, "a body adapted to be held by the human hand, the body having a top side and a bottom side; [and] a thumb switch positioned on the top side of the body, the thumb switch being adapted for activation by a human thumb," as recited in claim 1?

Analysis

Appellant contends claim 1 is directed: (1) to a handheld device, (2) having ergonomic features of a thumb switch positioned on the handheld device. App. Br. 27. Appellant contrasts the disclosure of JP '634 by arguing the reference "does not disclose any of these two features and instead is directed to a desktop mouse operable by a finger touching and operating the many switches of this desktop mouse." *Id.* Appellant continues by stating both the handheld feature and the thumb switch are "integral and essential elements of [claim 1]," and neither are taught by the reference. App. Br. 28.

Appellant further alleges the anticipation rejection of claim 1 is "nonsensical because JP '634 is a desktop mouse." *Id.* In addition, Appellant argues "[f]inger operable switches designed for a desktop mouse

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as in JP '634 have inherently different characteristics than those of a thumb switch for a handheld body as in [claim 1]." *Id.*

Functional v. Structural Limitations

Appellant alleges the Examiner has ignored certain limitations such as "a body adapted to be held by the human hand" (claim 1) and "hand held device" (claim 17) because the Examiner deems such limitations to be functional and not structural. App. Br. 40. Further in this regard, Appellant contends:

The term "handheld" limits the structure of the device in shape, form, size and weight and manner of holding it in a hand. In the context in which the term "handheld" is used in the claims, it limits the claim to a remote control device with a body configured to be held in a human hand and operated by the thumb of that hand.

The structure of the handheld device is dictated by the anatomy of the human hand and the need to hold the device in the human hand. The anatomy of the hand dictates that the device is held-cradled in the hand being supported by the palm and the fingers, that is, where the fingers are positioned underneath the device or the backside of the device. This claim term is not anticipated or rendered obvious by a wall, floor, or a desktop device simply because a user could plausibly hold it in his or her hand.

App. Br. 41.

Appellant also argues the Examiner ignored the structural recitation in claim 1 of a "thumb switch," which purportedly "is not functional but a structural limitation since the term 'thumb switch' does not recite what it does, but rather what it is." App. Br. 43. "In a human hand, a thumb and

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fingers are entirely different based on relative orientation, length, and pad size relative to, for example, a finger." *Id.*

In response, the Examiner finds, and we agree, the Examiner did not ignore the structural implications of such functional claim limitations; rather the interpretations of the phrases "adapted to be held by the human hand" and "thumb switch" are the underlying issues. Ans. 8-14. The Examiner finds the breadth of the recitations does not preclude the Examiner's interpretation that various forms of grasp by a human hand, such as the grasping of the mouse disclosed in JP '634 (Ans. 8), or that the descriptor "thumb switch" describes a preferred mode of operation, but does not preclude switch activation by another digit or item such as a pen (Ans. 9), "so long as the switch of the device is capable of being enabled by a user's thumb." Ans. 10; and see "Broadest Reasonable Interpretation," *infra*. We agree with the Examiner's findings and resulting claim construction in this regard.

Broadest Reasonable Interpretation

Appellant sets forth another argument that the "broadest reasonable interpretation" (BRI) standard of claim construction "is not applicable to the claims of an issued patent on a third party *ex parte* request for reexamination." App. Br. 46. Appellant's argued inapplicability of the BRI standard to *ex parte* reexamination, as pointed out by the Examiner, is both factually and legally incorrect. Ans. 17 (citing *In re Yamamoto*, 740 F.2d 1569 (Fed. Cir. 1984); *In re Etter*, 756 F.2d 852 (Fed. Cir. 1985); and MPEP § 2258).

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Claim terms are to be given their broadest reasonable interpretation, as understood by those of ordinary skill in the art and taking into account whatever enlightenment may be had from the Specification. *In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997). Any special meaning assigned to a term "must be sufficiently clear in the specification that any departure from common usage would be so understood by a person of experience in the field of the invention." *Multiform Desiccants, Inc. v. Medzam, Ltd.*, 133 F.3d 1473, 1477 (Fed. Cir. 1998). Absent an express intent to impart a novel meaning to a claim term, the words take on the ordinary and customary meanings attributed to them by those of ordinary skill in the art. *Brookhill-Wilk I, LLC v. Intuitive Surgical, Inc.*, 334 F.3d 1294, 1298 (Fed. Cir. 2003) (citation omitted). Also, while we interpret claims broadly but reasonably in light of the Specification, we nonetheless must not import limitations from the Specification into the claims. See *Phillips v. AWH Corp.*, 415 F.3d 1303, 1316, 1323 (Fed. Cir. 2005) (*en banc*) (citations omitted).

Accordingly, we do not find Appellant's arguments concerning the BRI of the contested limitations to be persuasive.

Appellant further contends "[t]he specification is clear in that the term 'handheld' means that it is configured to be held in the human hand, and not merely touched by the hand. Further the specification is clear that the term 'thumb switch' is a thumb switch and not a finger switch." App. Br. 46.

However, we note Appellant has not cited to a definition of "a body adapted to be held by the human hand" or "thumb switch" in the Specification that would preclude the Examiner's broader reading. We find the recitation in claim 1 of "a body adapted to be held by the human hand"

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broadly but reasonably reads on the disclosure in JP '634 of a mouse grasped or touched by a human operator's hand, as found by the Examiner. Ans. 11. Similarly, we find the recitation of "thumb switch" broadly but reasonably reads on the disclosure in JP '634 (p. 4; and Fig. 2) of "cursor moving key" 4 collectively with "cursor locking key" 5. Ans. 2; Third Party Request (Exh. 12).

Accordingly, we do not find Appellant's arguments concerning the contested limitations to be persuasive.

Teachings of JP '634

Appellant contends, "[t]he claimed subject matter is limited to the field of endeavor of a handheld remote control device and a multi-function thumb switch positioned on the top of the device that is ergonomically operated by the thumb." App. Br. 48. Further, Appellant alleges,

JP '634 teaches a desk-based mouse device operated by an index finger . . . [and therefore] cannot be used for anticipation as well as obviousness . . . [because t]he nature of the current claims and their limitations — field of endeavor — The ergonomic features inherent in the remote control device of the current claims make them entirely different and distinguishable over JP '634.

App. Br. 22–23, 48–49.

The Examiner finds, and we agree, Appellant's arguments are not commensurate with the scope of the claims because the claims do not require or otherwise implicate any ergonomic considerations which are allegedly inherent to Appellant's claimed invention. See Ans. 19–20.

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Therefore, based upon the findings above, on this record, we are not persuaded of error in the Examiner's reliance on JP '634 to disclose each limitation of claim 1, nor do we find error in the Examiner's resulting finding of anticipation.

§ 103 REJECTIONS R2–R8 — COMMON ARGUMENTS

Before addressing each rejection R2–R8 in turn, we note, as an initial matter, Appellant advances four common arguments with respect to each § 103 obviousness, along with alleged separate arguments. App. Br. 29–33. These four common arguments A1–A4 center on purported deficiencies of the JP '634 reference, wherein the arguments and our respective responses to the arguments are as follows:

A1. "Under both *In re Clay* and the *In re Klein* two-part test, JP '634, not being analogous art, thus cannot be considered for any obviousness analysis" App. Br. 29–31 (citing *In re Clay*, 966 F.2d 656, 658-9 (Fed. Cir. 1992)). Appellant argues preclusion as an available reference is required because the reference

teaches a desktop mouse and the '614 claims [on appeal] teach features of a thumb switch in a handheld remote control device . . . [which] are entirely different types of art and, under the *In re Klein* two part test, are not analogous art and thus JP '634 cannot be used for any obviousness analysis.

App. Br. 29.

Response to A1

As the Examiner points out (Ans. 14–16), the test for analogous art involves a determination that the prior art reference is *either* (a) in the field

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of Appellant's endeavor, *or in the alternative*, (b) the reference must be reasonably pertinent to the particular problem with which Appellant is concerned, and does not require both prongs of the test being satisfied, as argued by Appellant, as cited above. *See In re Oetiker*, 977 F.2d 1443, 1447 (Fed. Cir. 1992).

The Examiner finds, and we agree, both JP '634 and the claims of the present Reexamination may be characterized as being concerned with a man-machine interface device, such that they may reasonably be considered in the same field of endeavor, such that we, therefore, agree with the Examiner's findings that JP '634 is analogous art. Ans. 15.

A2. "There is misuse of the disclosed subject matter of the [present Reexamination] in arguing obviousness. Specifically, one would have to ignore the intended purpose of or misuse the desktop mouse of JP '634 for it to be held in the hand." App. Br. 32. Appellant further contends the "proposed modifications cannot change the principle of operation of a reference [and t]his is what the Examiners have done." *Id.*

Response to A2

We note Argument A2 is closely related to construction of the term "a body adapted to be held by the human hand," discussed with respect to *Issue 1, supra*. For the same reasons, we do not find Appellant's Argument A2 to be persuasive. In addition, we note Appellant's contention that the principle

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of operation would be changed is mere attorney argument, unsupported by any evidence of record.³

A3. Appellant argues JP '634 teaches away from the claimed invention by teaching a desktop mouse. App. Br. 32. Teaching away of the reference is alleged because key 5 of JP '634 is finger operated and positioned where finger contact occurs less frequently. *Id.* Appellant contrasts this teaching with the claimed invention which recites "adapted to be held by the hand" (claim 1), and argues "with the thumb *inherently always at or near* the central switch of the multi-function thumb switch [such that n]o person of ordinary skill would read this in JP '634 and, as a result, find my very different invention obvious." App. Br. 32-33 (emphasis added).

Response to A3

We note Argument A3 is also related to construction of the term "a body adapted to be held by the human hand," discussed with respect to *Issue 1, supra*.

We further note, "[a] reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant." *Ricoh Co., Ltd. v. Quanta Computer, Inc.*, 550 F.3d 1325, 1332 (Fed. Cir. 2008)

³ No extrinsic evidence was submitted by Appellant in support of Argument A2. See App. Br. 52 ("9. EVIDENCE APPENDIX . . . Attached Appendix A for JP '634; Japanese Patent Sho 58-219634, (JP SHO '634) patent date 12/21/1983, Application date: 6/15/1982")

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(citations omitted). A reference does not teach away if it merely expresses a general preference for an alternative invention from amongst options available to the ordinarily skilled artisan, and the reference does not discredit or discourage investigation into the invention claimed. *In re Fulton*, 391 F.3d 1195, 1201 (Fed. Cir. 2004). Further, it is irrelevant that the prior art and the present invention may have different purposes. *See Nat'l Steel Car, Ltd. v. Canadian Pac. Ry., Ltd.*, 357 F.3d 1319, 1339 (Fed. Cir. 2004) ("A finding that two inventions were designed to resolve different problems . . . is insufficient to demonstrate that one invention teaches away from another.").

We find a person of ordinary skill in the art would have understood JP '634's teaching of a handheld desktop mouse arrangement to be an alternative approach to "[a] remote control device adapted for use by a human to control and select from a screen, the screen including a plurality of choices and a cursor." Claim 1.

Further, Appellant has provided no evidence (*see* FN 3) that combining such teachings was "uniquely challenging or difficult for one of ordinary skill in the art," *Leapfrog Enters., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007), nor have Appellant presented evidence that this incorporation yielded more than expected results. Rather, we find that Appellant's invention is simply a combination of known teachings that realize a predictable result. The Supreme Court has determined that the conclusion of obviousness can be based on the interrelated teachings of multiple patents, the effects of demands known to the design community or present in the marketplace, and the background knowledge possessed by a

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person having ordinary skill in the art. *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398, 418 (2007).

Therefore, in the absence of persuasive evidence to the contrary, we find JP '634 does not teach away from the claimed invention.

A4. Appellant argues secondary considerations of non-obviousness, specifically, commercial success and long-felt need:

There is considerable commercial success that had addressed a long-felt need in the industry that is now being interfered with through this reexamination request. There is an active licensing program since dozens of companies have licensed the Singhal '614 patent.

The companies that have taken a license are: Logitech, Panasonic, Phillips, Mitsubishi, Funai, Motorola, Nokia, Uniden, SMK-Link Electronics, Coby USA, NIKON, FUNAI, and Dell.

These companies had knowledge of any relevant JP patents in the area of claimed subject matter and would not have taken a license.

App. Br. 33.

Response to A4

The ultimate issue of obviousness is a matter of law that turns on four underlying factual determinations: (1) the scope and content of the prior art, (2) the level of ordinary skill in the art, (3) the differences between the claimed invention and the prior art, and (4) objective indicia of nonobviousness (secondary considerations). *See Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966), as reaffirmed by *KSR*, 550 U.S. at 406.

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While a prima facie case for obviousness may be rebutted by evidence showing secondary considerations such as commercial success, as alleged by Appellant in Argument A4, such arguments must be supported by evidence on the record which demonstrates a nexus between the purported commercial success and the claimed invention. See *Pro-Mold & Tool Co., Inc. v. Great Lakes Plastics, Inc.*, 75 F.3d 1568, 1574 (Fed. Cir. 1996) (noting that fact finders must ascertain whether a nexus connects commercial success to a claimed invention and determine the probative value of secondary-considerations evidence for rebutting a prima facie case of obviousness); *Demaco Corp. v. F. Von Langsdorff Licensing Ltd.*, 851 F.2d 1387, 1391–94 (Fed. Cir. 1988) (noting that secondary-considerations evidence must be considered despite a strong case for obviousness based on prior art, and laying out an “evidentiary routine” where a patentee must establish a prima facie case of a nexus between commercial success and the claimed invention); *Simmons Fastener Corp. v. Ill. Tool Works, Inc.*, 739 F.2d 1573, 1575 (Fed. Cir. 1984) (explaining that the weight accorded to secondary-considerations evidence depends on a demonstration of “[a] nexus between the merits of the claimed invention and the evidence of secondary considerations”). However, we further note evidence of commercial success without proof that sales are the direct result of unique characteristics of the invention does not demonstrate nonobviousness. *In re DBC*, 545 F.3d 1373, 1384 (Fed. Cir. 2008).

Accordingly, given the lack of any evidence on this record supporting Appellant's argument for nonobviousness based upon the secondary

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consideration of commercial success, we do not find Appellant's argument to be persuasive.

§ 103 REJECTIONS R2-R8 — SPECIFIC ARGUMENTS

2. § 103 Rejection R2 of Claim 1

Issue 2

Appellant argues (App. Br. 34 and 50) the Examiner's rejection of claim 1 under 35 U.S.C. § 103(a) as being obvious in view of JP '634 is in error. These contentions present us with the following issues:

(a) Did the Examiner err by finding the cited prior art discloses a device which includes, *inter alia*, "a body adapted to be held by the human hand, the body having a top side and a bottom side; [and] a thumb switch positioned on the top side of the body, the thumb switch being adapted for activation by a human thumb," as recited in claim 1?

(b) Did the Examiner err in rejecting claim 1 because JP '634 is allegedly non-analogous art to the claimed invention?

(c) Did the Examiner err by stating an improper motivation to modify JP '634 in the manner suggested, purportedly because the intended purpose of JP '634 must be ignored to make the modification necessary to render claim 1 obvious?

(d) Did the Examiner err in relying upon JP '634 in the manner suggested because this reference supposedly teaches away from the claimed invention?

(e) Did the Examiner err in rejecting claim 1 as being obvious over JP '634 because the claimed invention purportedly enjoys considerable commercial success?

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Analysis

Appellant contends there are "[f]our different arguments [] provided for these 103(a) rejections," (App. Br. 29), and "[t]he four . . . arguments . . . are incorporated here by reference [against Rejection R2] as though fully set forth." App. Br. 34.

For the reasons set forth above (*see* "§ 103 REJECTIONS R2–R8 — COMMON ARGUMENTS" and our response therein to Arguments A1–A4), we disagree with Appellant's arguments, and adopt as our own the Examiner's findings and resulting legal conclusion of obviousness of claim 1.

3. § 103 Rejection R3 of Claims 1, 4, 8, and 10

Issue 3

Appellant argues (App. Br. 34, 35, and 50) the Examiner's rejection of claims 1, 4, 8, and 10 under 35 U.S.C. § 103(a) as being obvious over the combination of Florin and JP '634 is in error. These contentions present us with the following issue:

Did the Examiner err by finding the cited prior art combination teaches or at least suggests the invention of claim 1 because Florin purportedly cannot be combined with JP '634 because Florin does not teach the cover plate limitation of claim 1?

Analysis

Appellant contends "[t]he cited prior art cannot be used for any obviousness analysis under the court created doctrine of Analogous Art . . . [as] JP [']634 [cannot] be considered prior art . . . [and] The four different 35 USC 103(a) arguments as provided above are incorporated here by reference

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as though fully set forth." App. Br. 35. For the reasons discussed above with respect to R2, we do not find Appellant's arguments to be persuasive.

Appellant further contends, "Florin cannot be combined with JP '634 because Florin does not teach the cover plate elements of the claims." *Id.*

We note, however, Appellant's arguments are misplaced in this regard, as the Examiner does not rely upon Florin for teaching this limitation. Instead, the Examiner cites JP '634 as teaching or at least suggesting this limitation. *See* Ans. 3 (citing Third-Party Request 25–32, 43; and Exh. 14).

Therefore, based upon the findings above, on this record, we are not persuaded of error in the Examiner's reliance on the combined teachings and suggestions of the cited prior art combination to teach or suggest the disputed limitations of claim 1, nor do we find error in the Examiner's resulting legal conclusion of obviousness of claim 1, and claims 4, 8, and 10, which fall therewith. *See* Grouping of Claims, *supra*.

4. § 103 Rejections R4–R8 of Claims 1, 7–10, and 17

In view of the lack of any separate arguments directed to obviousness Rejections R4–R8 of claims 1, 7–10, and 17 under § 103 (*see* App. Br. 35–38), we sustain the Examiner's rejection of these claims, as they fall for the same reasons discussed, *supra*, with respect to Rejections R2 and R3.

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CONCLUSIONS⁴

(1) The Examiner did not err with respect to the anticipation Rejection R1 of claim 1 under 35 U.S.C. § 102(b) over the cited prior art of record, and we sustain the rejection.

(2) The Examiner did not err with respect to the obviousness rejections of claims 1, 4, 7-10, and 17 under 35 U.S.C. § 103(a) over the cited prior art combinations of record, and we sustain the rejections.

DECISION

We affirm the Examiner's decision rejecting claims 1, 4, 7-10, and 17.

Extensions of time in reexamination proceedings are governed by 37 C.F.R. § 1.550(c). *See* 37 C.F.R. § 41.50(f).

AFFIRMED

rwk

⁴ We note the Examiner's findings and legal conclusions remain unrebutted by Appellant, as the right to file a Reply Brief was waived. *See* "WAIVER OF RIGHT TO FILE A REPLY BRIEF TO EXAMINER ANSWER" filed June 27, 2014.

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Appellant:

TARA CHAND, C/O MAN MACHINE INTERFACE
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2390 CRENSHAW BLVD, STE 239
TORRANCE, CA 90501

Third-party requester:

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