

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 11

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DANIEL PELLETIER

Appeal No. 2004-0150
Application No. 09/772,481

ON BRIEF

Before BARRY, LEVY, and BLANKENSHIP, Administrative Patent Judges.

BLANKENSHIP, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1-15, which are all the claims in the application.

We affirm.

BACKGROUND

The invention relates to verifying compliance with examination procedures. In particular, the invention is directed to ensuring that remotely located applicants taking qualifying exams or tests comply with predetermined examination guidelines and procedures. Representative claim 12 is reproduced below.

12. A method for verifying compliance with predetermined examination procedures, comprising the steps of:

providing at least one examination site data processing system comprising a data processing device and a user interface that allows the user to input data in response to examination questions;

generating data defining an examination and routing the data to the data processing device;

using the user interface to respond to examination questions and generating corresponding examination response to data;

visually monitoring the examination site and the user during the examination period and generating corresponding video data;

audibly monitoring the examination site and user during the examination period and generating corresponding audio data; and

correlating the visual and audio data with the examination response data to determine if the user is complying with predetermined examination procedures.

The examiner relies on the following references:

Walker et al. (Walker)	5,947,747	Sep. 7, 1999
Sonnenfeld	6,112,049	Aug. 29, 2000 (filed Oct. 21, 1997)

Appeal No. 2004-0150
Application No. 09/772,481

Claims 1-15 stand rejected under 35 U.S.C. § 103 as being unpatentable over Walker and Sonnenfeld.

We refer to the Final Rejection (Paper No. 4) and the Examiner's Answer (Paper No. 10) for a statement of the examiner's position and to the Brief (Paper No. 9) for appellant's position with respect to the claims which stand rejected.

OPINION

In accordance with appellant's proposed grouping of the claims (Brief at 3), we select claim 12 as representative. See 37 CFR § 1.192(c)(7).

Walker discloses method and apparatus for computer-based educational testing. The examiner finds, inter alia, that Walker teaches a recording device for recording audio information about the examination site and user, in view of column 15, line 16 through column 16, line 11 of the reference. Walker describes a "biometric device," in particular a voice verification system, to verify test-taker identity. The examiner further finds that Walker fails to expressly teach the use of a video recording device or visually monitoring an examination site. However, the examiner turns to Sonnenfeld at column 3, line 28 et seq., for the teaching of a video camera that may be provided in a computer-network based testing system for the purpose of proctoring the test. The examiner finds that the teachings would have motivated the artisan to combine the video camera monitoring system of Sonnenfeld with the system taught by Walker to enhance verification of compliance with the requisite examination procedures.

Appeal No. 2004-0150
Application No. 09/772,481

Appellant submits that the combination fails to teach or suggest “correlating the visual and audio data with the examination response data to determine if the user is complying with predetermined examination procedures.” Appellant’s arguments in support of the position, however, consist of pointing out deficiencies in Sonnenfeld and Walker, taken individually. Nonobviousness cannot be established by attacking references individually where the rejection is based upon the teachings of a combination of references. In re Merck & Co., 800 F.2d 1091, 1097, 231 USPQ 375, 380 (Fed. Cir. 1986) (citing In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981)).

We consider the examiner’s conclusion with respect to prima facie obviousness to be well founded. Claim 12 requires correlating audio data with the examination response data to determine if the user is complying with predetermined examination procedures. Walker fairly teaches as much, in ensuring that the examination response data generated by a test-taker is generated by the properly authorized person in view of the “voice-print” verification. Sonnenfeld teaches the addition of video monitoring, to correlate the examination response data generated by a test-taker with video data to ensure compliance with predetermined examination procedures. We note that the claim is not specific as to how the “correlating” is to be done. Nor, for that matter, does the claim even require that the “correlating” be performed by a machine.

Appeal No. 2004-0150
Application No. 09/772,481

Appellant's arguments in support of patentability do not persuade us of error in the rejection over the prior art. We sustain the rejection of claims 1-15 under 35 U.S.C. § 103 as being unpatentable over Walker and Sonnenfeld.

CONCLUSION

The rejection of claims 1-15 under 35 U.S.C. § 103 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

LANCE LEONARD BARRY
Administrative Patent Judge

STUART S. LEVY
Administrative Patent Judge

HOWARD B. BLANKENSHIP
Administrative Patent Judge

)
)
)
)
)
)
) BOARD OF PATENT
) APPEALS
) AND
) INTERFERENCES
)
)
)
)
)

Appeal No. 2004-0150
Application No. 09/772,481

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR , NY 10510