

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte DANIEL J. POWERS, KARL A. WOELFER and JUDITH L. CYRUS

Appeal No. 2005-1893
Application No. 09/418,536

ON BRIEF

Before FRANKFORT, McQUADE, and NASE, Administrative Patent Judges.
NASE, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's non-final rejection (mailed June 22, 2004) of claims 1 to 16 and 18 to 28, which are all of the claims pending in this application.

We REVERSE.

BACKGROUND

The appellants' invention relates in general to defibrillators, particularly automatic or semi-automatic external defibrillators (specification, p. 1). A copy of claims 1 to 16, 18, 19 and 21 to 28 is set forth in the appendix to the appellants' supplemental brief. A copy of claim 20 is set forth in the appendix to the examiner's answer.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Powers et al. (Powers)	5,879,374	Mar. 9, 1999
Rockwell et al. (Rockwell)	6,141,584	Oct. 31, 2000
Skelton et al. (Skelton)	6,292,692	Sep. 18, 2001

Claims 1 to 12, 14 and 18 to 28 stand rejected under 35 U.S.C. § 102(e) as being anticipated by or, in the alternative, under 35 U.S.C. § 103 as obvious over Skelton.

Claims 4 and 12 stand rejected under 35 U.S.C. § 103 as being unpatentable over Skelton in view of Rockwell.

Claims 13, 15 and 16 stand rejected under 35 U.S.C. § 103 as being unpatentable over Skelton in view of Powers.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejections, we make reference to the answer (mailed November 3, 2004) for the examiner's complete reasoning in support of the rejections, and to the brief (filed March 19, 2004), supplemental brief (filed July 19, 2004) and reply brief (filed December 3, 2004) for the appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by the appellants and the examiner. As a consequence of our review, we make the determinations which follow.

Claims 1 to 12, 14 and 18 to 28

We will not sustain the rejection of claims 1 to 12, 14 and 18 to 28 under 35 U.S.C. § 102(e) as being anticipated by or, in the alternative, under 35 U.S.C. § 103 as obvious over Skelton.

Claims 1 and 19, the only independent claims on appeal, read as follows:

1. A method of reviewing incident data on an external defibrillator having a screen, comprising:

- deploying the defibrillator for use in an emergency, wherein the defibrillator is attached to a patient;
- monitoring ECG data from the patient;
- recording the monitored ECG data in memory; and
- activating an incident review mode in which the previously recorded ECG data stored in memory and the currently monitored information are displayable simultaneously on the defibrillator screen of the defibrillator while the patient is being monitored by the defibrillator without the need to attach the defibrillator to another external device for display, and said recorded ECG data also being displayable offline.

19. An external defibrillator comprising:

- a controller;
- an energy delivery system operable by the controller to deliver an electrical shock from an energy source to an electrode interface;
- memory for recording incident data;
- a screen;
- an incident review activator; and
- an incident review output comprising a visual image generator, wherein the incident review output retrieves the incident data from memory upon activation of the incident review activator by the user and simultaneously displays the retrieved incident data on the defibrillator screen and the current patient monitoring while the patient is being monitored by the defibrillator without requiring communication with an external device.

Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention. RCA Corp. v. Applied Digital Data Sys., Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). In other words, there must be no difference between

the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. Scripps Clinic & Research Found. v. Genentech Inc., 927 F.2d 1565, 1576, 18 USPQ2d 1001, 1010 (Fed. Cir. 1991).

After reviewing the entire disclosure of Skelton, we find ourselves in agreement with the appellants that claims 1 and 19 are not anticipated by Skelton. In that regard, we find no disclosure whatsoever in Skelton of the simultaneous display on the defibrillator screen of both previously recorded ECG data and currently monitored information. The examiner's position (answer, pp. 11-12 and 15) that one of the traces (e.g. wave form 98a) could be current ECG data and another of the traces (e.g. wave form 98b) could be historical ECG data is pure speculation unsupported by any teaching or suggestion in Skelton. Skelton teaches only that the three graphical traces (wave forms 98a-98c; see Figures 4 and 10) are generated from accumulated data and displayed to a user.

A prima facie case of obviousness is established by presenting evidence that would have led one of ordinary skill in the art to arrive at the claimed invention. See In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988) and In re Lintner, 458 F.2d 1013, 1016, 173 USPQ 560, 562 (CCPA 1972).

We also find ourselves in agreement with the appellants that claims 1 and 19 are not obvious from Skelton. In that regard, we find no evidence whatsoever in Skelton that would have made it obvious at the time the invention was made to a person having ordinary skill in the art to simultaneous display on the defibrillator screen of Skelton both previously recorded ECG data and currently monitored information.

For the reasons set forth above, the decision of the examiner to reject claims 1 and 19, and claims 2 to 12, 14, 18 and 20 to 28 dependent thereon, under 35 U.S.C. § 102(e) as being anticipated by or, in the alternative, under 35 U.S.C. § 103 as obvious over Skelton is reversed.

Claims 4, 12, 13, 15 and 16

We have reviewed the patent to Rockwell applied in the rejection of dependent claims 4 and 12 and the patent to Powers applied in the rejection of dependent claims 13, 15 and 16 but find nothing therein which makes up for the deficiency of Skelton discussed above regarding claim 1. Accordingly, we cannot sustain the examiner's rejection of appealed claims 4, 12, 13, 15 and 16 under 35 U.S.C. § 103.

CONCLUSION

To summarize, the decision of the examiner to reject claims 1 to 12, 14 and 18 to 28 under 35 U.S.C. § 102(e) as being anticipated by or, in the alternative, under 35 U.S.C. § 103 as obvious over Skelton is reversed; the decision of the examiner to reject claims 4 and 12 under 35 U.S.C. § 103 as being unpatentable over Skelton in view of Rockwell is reversed; and the decision of the examiner to reject claims 13, 15 and 16 under 35 U.S.C. § 103 as being unpatentable over Skelton in view of Powers is reversed.

REVERSED

CHARLES E. FRANKFORT
Administrative Patent Judge

JOHN P. McQUADE
Administrative Patent Judge

JEFFREY V. NASE
Administrative Patent Judge

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

Appeal No. 2005-1893
Application No. 09/418,536

Page 8

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

JVN/jg