The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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

Appeal No. 2005-1839
Application No. 09/471,101

ON BRIEF

MAILED
FEB 23 2006
PAT. & T.M OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Before HAIRSTON, SMITH, and BARRY , Administrative Patent Judges.
HAIRSTON, Administrative Patent Judge.

REQUEST FOR REHEARING

In a decision dated October 26, 2005, the Board affirmed the provisional obviousness-type double patenting rejection and the 35 U.S.C. § 103(a) rejection of claims 1 through 3, 5 through 9, 13, 14, 16, 17, 21 through 31 and 33 through 37.

Turning first to the provisional obviousness-type double patenting rejection, appellant states (request, page 1) that "in order to expedite this review, Appellant accepts the provisional obviousness-type double patent rejection."

Although the disclosure does not provide a specific definition of a "network," appellant now seeks to limit the definition of "network" to the definition found in Newton's Telecom Dictionary (request, pages 3 and 4). As recently stated in Phillips v. AWH Industries, 415 F.3d 1303, 1320-21, 75 USPQ2d 1321, 1332 (Fed. Cir. 2005), the extrinsic evidence provided by a dictionary definition must give way to the meaning of the term imparted by the intrinsic evidence found in the specification. In the absence of a specific definition of the term "network" in the specification, we agree with the appellant's argument (request, page 2) that the PTO should apply "to verbiage of the proposed claims the broadest reasonable meaning of the **words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in applicant's specification**." Thus, based upon the broad usage of the term "network" throughout the specification, we see no need to limit the term to the single definition cited by the appellant.

Turning to the obviousness rejection, appellant argues (request, pages 6 and 7) that Pulizzi does not disclose a control signal or a control signal pin. As previously indicated (decision, page 4), the RS-232 network connector in Pulizzi is a multi-pin socket with 25 pins, and the control signals are received by one of the 25 pins. Appellant argues (request, page 7) that the claimed invention "taken as a whole, states that a control signal on a separate wire of a network connection is directly connected to

circuits for turning off a power outlet, thus eliminating the need for any microcontroller" as used by Pulizzi. Appellant's argument is not commensurate in scope with the claimed invention because the claims do not call for a direct connection between the network connection and the circuits for turning off a power outlet. Thus, claim 1 on appeal does not preclude the presence of the microcontroller 18 in the circuit disclosed by Pulizzi for turning power on/off in response to the received control signal.

Appellant's argument (request, page 8) that there is no discussion in Pulizzi "of utilizing separate pins or wires of any network connection or other connection" as in claim 13 has been answered by our response supra for claim 1.

Turning to the obviousness rejection of claims 13 and 22 based upon the teachings of Cheng, appellant argues (request, page 9) that:

> Cheng taken as a whole is also not directed to controlling power outlets using a signal carried over a standard network connection. It is instead particularly directed to a local staged power up of a number of computing devices (including network devices) in a particular sequence.

As indicated supra, appellant's disclosure does not provide a specific definition of what is a "network." Accordingly, when the claims on appeal are given their broadest reasonable interpretation consistent with the usage of the term "network" in the specification, we find that claims 13 and 22 read on the network disclosed by Cheng. We additionally find that the sequencing disclosed by Cheng is not precluded by the claims when they are considered as a whole.

Appellant's argument (request, page 10) that the status bus or cable 212 in Cheng does not carry a data signal is without merit since the status information on the bus/cable is data concerning the status of the equipment.

Appellant argues (request, page 10) that the connection 202 in Cheng is an AC power connection, and is not a network socket. We agree with appellant's argument. The list of network sockets should have only included 204, 206, 208 and 210 (decision, page 6).

Appellant's arguments (request, page 10) concerning the Newton dictionary definition of a "network" have been answered supra.

Appellant's argument (request, page 10) that Cheng does not teach two or more independently controlled sets of power outlets is without merit since the one set of controlled power outlets 130 and 140 would be repeated several times when the unit that holds power outlets 130 and 140 is daisy chained to other units in the rack or cabinet of the sequencer 200 (column 4, lines 56 through 63).

With respect to appellant's argument (request, page 11) that Cheng does not disclose the last limitation in claim 13, we still maintain that Cheng operates in the manner set forth in this limitation of claim 13.

Turning to the obviousness rejection of claims 1 and 13 based upon the teachings of Lord, we find that appellant's argument (request, pages 11 and 12) that the numerals 65 and 100 in Lord are not network sockets is without merit since Figure 2 of

the drawing clearly shows 65 and 100 as network sockets. If network sockets 65 and 100 are connected in the network, then they are part of the network (request, page 12).

Appellant's argument (request, page 12) to the contrary notwithstanding, the network in Lord is not limited to the telephone lines 45.

Appellant's argument (request, page 12) concerning the use of the modem 40 in Lord is without merit since claims 1 and 13 do not preclude the presence of the modem in the network.

Appellant's argument (request, page 13) that Lord is not in a network such as the one disclosed and claimed by Appellant has been treated supra. When the claimed term "network" is given its broadest reasonable interpretation, the limitations of claims 1 and 13 read directly on Lord.

Appellant's request for rehearing has been granted to the extent that our decision has been reconsidered, but such request is denied with respect to making any modifications to the decision other than removing the designation of AC power connection 202 as a network socket.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv).

REHEARING DENIED

KENNETH W. HAIRSTON Administrative Patent Judge	)
JERRY SMITH Administrative Patent Judge	) BOARD OF PATENT APPEALS AND INTERFERENCES
LANCE LEONARD BARRY Administrative Patent Judge	)

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