

The opinion in support of the decision being entered today was not written for publication in and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TAKURO NODA, YOSHIKI TAKENAKA,
YOSHIOUKI TAKAKU, and HIRAKU INOUE

Appeal No. 2006-2452
Application No. 09/797,872

HEARD: Oct. 17, 2006

Before THOMAS, RUGGIERO, and SAADAT, Administrative Patent Judges.

RUGGIERO, Administrative Patent Judge

DECISION ON APPEAL

This is a decision on the appeal from the final rejection of claims 1-9, which are all of the claims pending in this application.

The claimed invention relates to a method and system for establishing communication between a controlling device and a controlled device which are interconnected via a data bus which complies with a predetermined communication format permitting data exchange between the devices. After transmission of a command from the controlling device to the controlled device during a communication transaction, a determination is made as to whether a

response received by the controlling device from the controlled device is an interim response. If the response is determined to be an interim response, the controlling device terminates the transaction without waiting for a final response from the controlled device.

Claim 1 is illustrative of the invention and reads as follows:

1. An electronic device system having a controlling device and a controlled device interconnected via a data bus which complies with a predetermined communication format and which allows data to be exchanged between the devices, said electronic device system comprising:

means for causing said controlling device to transmit a command to said controlled device over said data bus in a transaction;

means for allowing said controlling device to receive a response returned within a first predetermined period by said controlled device over said data bus in response to the transmitted command during said transaction;

means for judging whether the response received by said controlling device is an interim response corresponding to when said controlled device determines that the transmitted command has been received and that a transmission of a final response is impossible within a second predetermined period less than the first predetermined period; and

means for immediately terminating said transaction without waiting for reception of said final response from said controlled device if said judging means judges the response received by said controlling device to be said interim response, said means for terminating including means for recognizing a command transmission error when said controlling device does not receive a response within said first predetermined period.

The Examiner relies on the following prior art:

Hoekstra et al. 5,754,548 May 19, 1998
(Hoekstra)

Kagawa 6,160,637 Dec. 12, 2000
(filed Mar. 26, 1998)

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Ishiwatari et al. JP 359172862 Sep. 29, 1984
(Ishiwatari)

Kawamura et al. EP 0 812 092 Oct. 12, 1997
(Kawamura)

Claims 1-9, all of the appealed claims, stand finally rejected under 35 U.S.C. § 103(a). As evidence of obviousness, the Examiner offers Kawamura in view of Hoekstra and Kagawa with respect to claims 1, 2, 4, 5, 7, and 8, and adds Ishiwatari to the basic combination with respect to claims 3, 6, and 9.

Rather than reiterate the arguments of Appellants and the Examiner, reference is made to the Briefs¹ and Answer for the respective details.

OPINION

We have carefully considered the subject matter on appeal, the rejection advanced by the Examiner and the evidence of obviousness relied upon by the Examiner as support for the rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, Appellants' arguments set forth in the Briefs along with the Examiner's rationale in support of the rejection and arguments in rebuttal set forth in the Examiner's Answer.

It is our view, after consideration of the record before us, that the evidence relied upon and the level of skill in the particular art would not have suggested to

¹ The Appeal Brief was filed November 28, 2005. In response to the Examiner's Answer mailed January 18, 2006, a Reply Brief was filed March 20, 2006, which was acknowledged and entered by the Examiner as indicated in the communication dated April 11, 2006.

one of ordinary skill in the art the obviousness of the invention as set forth in claims 1-9. Accordingly, we reverse.

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. See In re Fine, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the Examiner is expected to make the factual determinations set forth in Graham v. John Deere Co., 383 U.S. 1, 17, 148 USPQ 459, 467 (1966). The Examiner must articulate reasons for the Examiner's decision. In re Lee, 277 F.3d 1338, 1342, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002). In particular, the Examiner must show that there is a teaching, motivation, or suggestion of a motivation to combine references relied on as evidence of obviousness. Id. 277 F.3d at 1343, 61 USPQ2d at 1433-34. The Examiner cannot simply reach conclusions based on the examiner's own understanding or experience – or on his or her assessment of what would be basic knowledge or common sense. Rather, the Examiner must point to some concrete evidence in the record in support of these findings. In re Zurko, 258 F.3d 1379, 1386, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001). Thus the Examiner must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the Examiner's conclusion. These showings by the Examiner are an essential part of complying with the burden of presenting a *prima facie* case of obviousness. Note In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444

(Fed. Cir. 1992). If that burden is met, the burden then shifts to the applicant to overcome the *prima facie* case with argument and/or evidence. Obviousness is then determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. See Id.; In re Hedges, 783 F.2d 1038, 1040, 228 USPQ 685, 687 (Fed. Cir. 1986); In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984); and In re Rinehart, 531 F.2d 1048, 1051, 189 USPQ 143, 146-47 (CCPA 1976).

With respect to appealed independent claims 1, 4, and 7, Appellants' arguments in response to the obviousness rejection assert a failure by the Examiner to establish a *prima facie* case of obviousness since all of the claimed limitations are not taught or suggested by the applied prior art references. After reviewing the applied Kawamura, Hoekstra, and Kagawa references in light of the arguments of record, we are in general agreement with Appellants' position as stated in the Briefs.

In particular, we agree with Appellants that, in contrast to the claimed invention, the Kawamura reference has no disclosure of the immediate termination of a command transaction transmitted from a controlling device to a controlled device upon receipt of an interim response from the controlled device. As described, for example, at pages 103, 104, and 108 of Appellants' specification, the immediate termination of a command transaction upon receipt of an interim response from a controlled device enables the controller to conclude a transaction without waiting for a final response that may occur at a

later time. This elimination of a final response wait time enables the controller to formulate a new command for a new target controlled device without having to wait for a final response from the original target controlled device.

Our review of the disclosure of Kawamura finds no description of any operation which could reasonably be interpreted as corresponding to the claimed immediate transaction termination feature. As pointed out by Appellants (Brief, pages 7-10; Reply Brief, pages 2-9), the receipt of an interim response from a controlled device in Kawamura triggers the formulation of a “NOTIFY (CANCEL) COMMAND” (Figure 3, Step ST 6) which then must be transmitted to the controlled device for processing. As further illustrated in Kawamura’s Figure 3 and described at column 13, lines 8-58 of Kawamura, the command transaction initiated by the controller device is not terminated (Step ST 4) until the controlled device processes the “(NOTIFY (CANCEL) COMMAND” and sends back to the controller device an “ACCEPTED” response (Step ST 7) or a “TIME-OUT” occurs (Step ST 8).

We further agree with Appellants (Reply Brief, page 6) that, even if it is assumed that in Nakamura the “NOTIFY (CANCEL) COMMAND” is transmitted immediately to the controlled device upon receipt of an interim response by the controller device, there is no immediate termination of the command transaction sent from the controller device to the controlled device (Step ST 1). As pointed out by Appellants (*id.*), Kawamura’s controller device must wait until the controlled device processes the “NOTIFY (CANCEL) COMMAND” (Figure 4,

Step ST 19) and sends back to the controller device a formulated “ACCEPTED” response (Step ST 20) which must then be processed by the controlled device (Step ST 7) before the command transaction is terminated at Step ST 4.

We have also reviewed the Hoekstra, Kagawa, and Ishiwatari references added to Kawamura by the Examiner to address, respectively, the claimed response time periods, transmission error recognition, and power on/off command transmission features. We find nothing, however, in any of these references, taken individually or collectively, which would overcome the innate deficiencies of Kawamura discussed supra.

In view of the above discussion, since we are of the opinion that the proposed combination of the Kawamura, Hoekstra, Kagawa, and Ishiwatari references set forth by the Examiner does not support the obviousness rejection, we do not sustain the rejection of independent claims 1, 4, and 7, nor of claims 2, 3, 5, 6, 8, and 9 dependent thereon.

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In summary, we have not sustained the Examiner's rejection of any of the claims on appeal. Therefore, the decision of the Examiner rejecting claims 1-9 under 35 U.S.C. § 103(a) is reversed.

REVERSED

James D. Thomas)	
Administrative Patent Judge)	
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Joseph F. Ruggiero) BOARD OF PATENT	
Administrative Patent Judge) APPEALS AND	
) INTERFERENCES	
)	
)	
Mahshid D. Saadat)	
Administrative Patent Judge)	

JFR:tdl

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C. Irvin McClelland
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314