

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 CAROLYNN RAE JOHNSON

Appeal 2007-0660
Application 10/116,574
Technology Center 2100

Decided: April 30, 2007

Before JOSEPH F. RUGGIERO, LANCE LEONARD BARRY,
and JEAN R. HOMERE, *Administrative Patent Judges*.

HOMERE, *Administrative Patent Judge*.

DECISION ON APPEAL
STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134 from the Examiner's final rejection of claims 1, 3, 4, 6, 7, 9, and 11 through 13. Claims 2, 5, 8, 10, 14, and 15 have been cancelled. We have jurisdiction under 35 U.S.C. § 6(b) to decide this appeal.

Appellant invented a method and system for allowing a user to temporarily disable the automatic shutdown feature in a portable device. (Specification 4).

Claim 1 is illustrative and representative of the claimed invention. It reads as follows:

1. A method for suspending an automatic shutdown of a hand-held device, the automatic shutdown resulting after a pre-specified time period of inactivity of the hand-held device, the method comprising the steps of:

receiving a user input to suspend the automatic shutdown;

disabling the automatic shutdown in response to the user input, such that the hand-held device is shutdown only if a user of the hand-held device manually shuts down the hand-held device;

automatically re-enabling the automatic shutdown to occur after the pre-specified time period of inactivity, upon a subsequent power-up of the hand-held device; and

providing an audible warning that the automatic shutdown is imminent, at a pre-designated time prior to the automatic shutdown.

In rejecting the claims on appeal, the Examiner relied upon the following prior art:

Kuroda	US 6,530,524 B1	Mar. 11, 2003
Taylor	US 6,685,683 B2	Mar. 8, 2005

The Examiner rejected the claims on appeal as follows:

A. Claims 1, 3, 4, 6, 7, 9, and 11 through 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Taylor and Kuroda.

Appellant contends¹ that the combination of Taylor and Kuroda does not render claims 1, 3, 4, 6, 7, 9, and 11 through 13 unpatentable. Particularly, Appellant contends that the combination of Taylor and Kuroda does not fairly teach or suggest providing an audible warning that the automatic shutdown is imminent, at a pre-designated time prior to the automatic shutdown, as recited in representative claim 1. (Br. 5, Reply Br. 5). Appellant also contends that the cited combination does not fairly teach or suggest automatically re-enabling the automatic shutdown to occur after the pre-specified period of inactivity, upon a subsequent power up of the handheld device, as recited in representative claim 1. (Br. 8, Reply Br. 4). For these same reasons, Appellant further contends that the combination of Taylor and Kuroda does not render claims 3, 4, 6, 7, 9, and 11 through 13 unpatentable. (Br. 9-13, Reply Br. 6). The Examiner, in contrast, contends that the combination of Taylor and Kuroda teaches the cited limitations of representative claim 1. (Answer 4 and 9). The Examiner therefore concludes that the combination of Taylor and Kuroda renders claims 1, 3, 4, 6, 7, 9, and 11 through 13 unpatentable. (Id.)

We affirm.

¹ This decision considers only those arguments that Appellants submitted in the Appeal and Reply Briefs. Arguments that Appellants could have made but chose not to make in the Briefs are deemed to have been waived. *See* 37 C.F.R. § 41.37(c)(1) (vii)(eff. Sept. 13, 2004). *See also In re_Watts*, 354 F.3d 1362, 1368, 69 USPQ2d 1453, 1458 (Fed. Cir. 2004).

ISSUES

The *pivotal* issue in the appeal before us is as follows:

Has Appellant shown that the Examiner has failed to establish that one of ordinary skill in the art, at the time of the present invention, would have found that the combined disclosures of Taylor and Kuroda would have suggested the limitations of (1) providing an audible warning that the automatic shutdown is imminent, at a pre-designated time prior to the automatic shutdown, and (2) automatically re-enabling the automatic shutdown to occur after the pre-specified period of inactivity, upon a subsequent power up of the handheld device to render the claimed invention unpatentable under 35 U.S.C. § 103(a)?

FINDINGS OF FACT

The following findings of fact are supported by a preponderance of the evidence.

The invention

1. Appellant invented a method and system for allowing a user to temporarily disable the automatic shutdown feature in a portable device (200) that includes an Auto-off device (299). (Specification 4).
2. As depicted in Figures 3 and 4, the automatic shutdown device (300) of the portable device (200) includes a warning module (310) that issues an audible warning that the shutdown of the portable device is imminent. (Id. 7.)

3. After a pre-specified time period of inactivity has elapsed, the power control module (330) performs an automatic shutdown of the portable device. (Id.)
4. In response to a user input, the power control module (330) temporarily disables the automatic shutdown such that the portable device (200) can only be shutdown manually by the user. (Id.)
5. Upon subsequently powering up the portable device, the power control module re-enables the automatic shutdown to occur after a pre-specified time of inactivity. (Id.)

The Prior Art Relied upon

6. Taylor discloses a portable device (100) equipped with a light emitting diode ("LED") notification mechanism (140) and an audio notification interface (174) to provide visual and audible notifications to a user. (Col. 3, ll. 3-16).
7. As depicted in Figure 2, the portable device (100) is also equipped with an Auto on/ Auto off program (203), where the "Auto off" mode automatically drives the portable device into the "sleep or shut down mode" after a pre-specified time period of time has elapsed (e.g. inactivity by user, i.e. idle state), and the "Auto on" mode automatically drives the device in a "awaken mode" after a pre-specified period of time has elapsed. (Col. 3, ll. 45-48, col. 4, ll. 11-20, col. 5, ll. 3-13).
8. The portable device (100) is further equipped with a user interface (U.I.) program (209) that allows the user to specify a time in the Auto on/Auto off program (209) for the portable device (100) to automatically shut off (Abstract, col. 3, ll. 59-64).

9. Additionally, the U.I. program (209) displays a count down to the shutdown of the portable device (100), and allows the user to cancel an imminent shutdown of the portable device by temporarily disabling the Auto on/ Auto off program (209) while the count down is proceeding. (Col. 3, l. 64- col. 4, l. 4).

10. After a boot process has concluded, the portable device operates in a normal power mode until the next scheduled sleep event wherein Auto on/ Auto off data files are retrieved from the operating system (403) to automatically restore the Auto on /Auto off features of the device. (Col. 7, ll. 4-6).

11. Kuroda discloses an audible notification mechanism for providing a warning sound, as well as a visual warning indicating that the power of a portable device is lower than a predetermined level (col. 4, ll. 41-44).

12. Kuroda also discloses that after a pre-specified period of inactivity, the device is automatically shut off. (Col. 4, ll. 44-50).

PRINCIPLES OF LAW

1. OBVIOUSNESS

In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of establishing a prima facie case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). *See also In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). The Examiner can satisfy this burden by showing that some objective teaching in the prior art or knowledge generally available to one of ordinary skill in the art suggests the claimed subject matter. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). Only if this initial burden is met does the burden of coming forward with evidence or argument

shift to the Appellants. *Oetiker*, 977 F.2d at 1445, 24 USPQ2d at 1444. *See also Piasecki*, 745 F.2d at 1472, 223 USPQ at 788. 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.

ANALYSIS

35 U.S.C. § 103(a) REJECTION

As set forth above, representative claim 1 requires (1) providing an audible warning that the automatic shutdown is imminent, at a pre-designated time prior to the automatic shutdown. As detailed in the Findings of Fact section above, we have found Taylor generally teaches a visual notification mechanism as well as an audio notification mechanism (Findings of Fact 6). More specifically, Taylor explicitly teaches displaying a warning with a count down of an imminent shutdown of the portable device. (Findings of Fact 9). Additionally, we have found that Kuroda teaches issuing visual and audio warnings that the power of the portable device has fallen below a pre-specified level. (Findings of Fact 11). In light of these findings, it is our view that the combination of Taylor and Kuroda would have suggested the limitation of providing an audible warning that the automatic shutdown is imminent, at a pre-designated time prior to the automatic shutdown, as recited in representative claim 1.

Further, as set forth above, representative claim 1 requires (2) automatically re-enabling the automatic shutdown to occur after the pre-specified period of inactivity, upon a subsequent power up of the handheld device. As detailed in the Findings of Fact above, we have found that Taylor teaches that restoring the Auto on/Auto off features of the portable

device after a booting process has been completed, and a next scheduled sleep event has begun. (Findings of Fact 10). We find that one of ordinary skill in the art would have readily recognized that when the portable device is rebooted, stored Auto on/ Auto off files must be retrieved in order for the next sleep event to take place. Furthermore, we have found that Kuroda teaches shutting down the portable device if it is not used over a specific amount of time. (Findings of Fact 12). In light of these findings, it is our view that the combination of Taylor and Kuroda would have suggested the limitation of automatically re-enabling the automatic shutdown to occur after the pre-specified period of inactivity, upon a subsequent power up of the handheld device. Thus, we agree with the Examiner that one of ordinary skill in the art would have found it obvious to combine the teachings of Taylor and Kuroda to yield the invention as claimed. It follows that the Examiner did not err in rejecting representative claim 1 as being unpatentable over Taylor and Kuroda. It follows for the same reasons that the Examiner did not err in rejecting dependent claims 3, 4, 6, 7, 9 and 11 through 13 as being unpatentable over Taylor and Kuroda.

CONCLUSION OF LAW

On the record before us, Appellant has not shown that the Examiner has failed to establish that the combination of Taylor and Kuroda renders claims 1, 3, 4, 6, 7, 9, and 11 through 13 unpatentable under 35 U.S.C. § 103(a).

Appeal 2007-0660
Application 10/116,574

DECISION

We have affirmed the Examiner's decision to reject claims 1, 3, 4, 6, 7, 9, and 11 through 13.

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

Appeal 2007-0660
Application 10/116,574

AFFIRMED

ELD

JOSEPH S. TRIPOLI
THOMSON MULTIMEDIA LICENSING INC.
2 INDEPENDENCE WAY
P.O. BOX 5312
PRINCETON NJ 08543-5312