

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MEMPHIS-ZHIHONG YIN

Appeal 2008-0948
Application 10/947,013
Technology Center 2800

Decided: May 20, 2008

Before: KENNETH W. HAIRSTON, JOHN A. JEFFERY, and R. EUGENE VARNDELL, JR., *Administrative Patent Judges.*

VARNDELL, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF CASE

Appellant's invention relates to a portable computer with a detachable display and a method of using the same. The Examiner allowed claims 8, 14, 19, and 20 and rejected claims 3-7, 9, 10, 12, 13, 15-18, and 21. Appellant appeals the Final Rejection of claims 3-7, 9, 10, 12, 13, 15-18, and 21 under 35 U.S.C. § 134. We have jurisdiction under 35 U.S.C. § 6(b).

Claims 3 and 9 represent the invention claimed on appeal and read as follows:

3. A portable computer comprising:
a base unit comprising a main battery; and
a display unit coupled to the base unit, the display unit comprising a display device and a display battery, and
wherein the display battery is disposed between the display device and a display cover;
wherein the display unit is selectively detachable from the base unit, and
wherein the base unit wirelessly couples to the display device.

9. A portable computer comprising:
a base unit comprising a main battery; and
a display unit coupled to the base unit, the display unit comprising a display device and a display battery;
wherein the display unit is selectively detachable from the base unit, and
wherein the base unit wirelessly couples to the display device; and
wirelessly couples to the display device when the display unit is attached to the base unit.

The Examiner relies on the following prior art references to show unpatentability:¹

Richardson	US 6,028,764	Feb. 22, 2000
Itou	US 2001/0048586 A1	Dec. 6, 2001

¹ We note that Appellant submitted an Information Disclosure Statement on April 11, 2008, after the filing of Appellant's Brief. The documents cited therein apparently were not considered by the Examiner and are not a part of the record on appeal, and are therefore not before us.

The Examiner rejected claims 3-7, 9, 10, 12, 13, 15-18, and 21 under 35 U.S.C. § 103(a) as being unpatentable over Richardson in view of Itou. Appellant contends that the claimed subject matter would not have been obvious and argues the patentability of claims 3 and 9 on appeal. Appellant identifies claim 3 as representing the group of claims including claims 3-7, 12, 13, 15, 16, and 18 (App. Br. 10); and claim 9 as representing the group of claims including claims 9, 10, 17, and 21 (App. Br. 12). With respect to claim 3, Appellant contends that Richardson and Itoh fail to teach or suggest a display unit where “the display battery is disposed between the display device and a display cover” (App. Br. 11-12). In connection with claim 9, Appellant contends that Richardson and Itoh fail to teach or suggest that “the base unit wirelessly couples to the display device when the display unit is attached to the base unit” (App. Br. 12-13). The Examiner contends that the structures in claims 3 and 9 on appeal would have been obvious to one having ordinary skill in the art at the time of the invention based on the teachings of Richardson and Itoh (Ans. 3-4).

We AFFIRM.

ISSUES

Has Appellant shown that the Examiner failed to establish one skilled in the art would have disposed the display battery between the display device and a display cover, as required in claim 3?

Has Appellant shown that the Examiner failed to establish one skilled in the art would have wirelessly coupled the base unit to the display device when the display unit is attached to the base unit, as required in claim 9?

OPINION

We refer to the Examiner's Answer (mailed March 20, 2007) and to Appellant's Brief (filed November 10, 2006) and Reply Brief (filed May 18, 2007) for the respective arguments.

With respect to the group of claims represented by claim 3, Appellant contends that Richardson and Itoh fail to teach or suggest a display unit where "the display battery is disposed between the display device and a display cover" (App. Br. 11-12). Appellant argues that in Itoh the battery (11) is separated from the display device (5) by the battery case portion (16) of the lower case (2), an arrangement different from claim 3 on appeal. As Appellant views the FIG. 2 of Itoh, the battery (11) is exposed on the outer surface of the lower case (2) when coupled within the indentation (16), and thus battery (11) cannot be "disposed between the display device and the display cover," as required in claim 3 on appeal. (App. Br. 11-12, Reply Br. 2).

Referring to FIGS. 2 and 3 of Itoh, the Answer states that Itoh teaches an information processing apparatus having a battery (11) disposed between a display device (5) and a display case (2) (Ans. 3-4). While Appellant argues that battery (11) of Itoh is exposed on the outer surface of the lower case 2, FIG. 3 and the accompanying paragraphs [0035-0036] of Itoh show a battery cover (8) covering the battery case (16). The battery cover (8) has lock switches at two positions, thereby securing the battery cover (8) to the lower case (2) of Itoh. When so secured the battery cover (8) becomes a part of the lower case (2). Accordingly, to one of ordinary skill in the art, the teachings of Itoh show a battery (11) arranged between a display device (5)

and a display cover (the battery cover (8) and/or lower case (2)) as broadly recited in claim 3. Therefore, we agree with the Examiner's conclusion that it would have been obvious to one having ordinary skill in the art at the time of the invention to locate the display unit battery of Richardson between the display device and a display cover, as taught by Itou (Ans. 3-4).

Appellant argues on page 11 of the Appeal Brief that Itou includes "an indentation 16... in the form of a battery case" or structure other than the display battery between the display and the display cover, as required in claim 3. However, as the Examiner correctly explains, Appellant's claim 3 is open to, and does not exclude, additional structures (Ans. 6-7). The transitional term "comprising" in claim 3 on appeal is inclusive or "open-ended and does not exclude additional, unrecited elements," *Mars, Inc. v. H.J. Heinz Co.*, 377 F.3d 1369, 1376 (Fed. Cir. 2004). In *Gillette Co. v. Energizer Holdings, Inc.*, 405 F.3d 1367, 1371-73 (Fed. Cir. 2005), the court held that a claim to a safety razor unit comprising a guard, a cap, and a group of first, second, and third blades encompasses razors with more than three blades because the transitional phrase "comprising" encompasses razors with more than three blades. Therefore, claim 3 on appeal does not patentably distinguish from the structure shown by Itoh because it does not exclude additional structures between the battery and the display, such as the indentation or battery case (16), chassis (4), and main board (3) of Itoh.

Concerning claims 9, 10, 17, and 21, Appellant contends that Richardson and Itoh fail to teach or suggest that "the base unit wirelessly couples to the display device when the display unit is attached to the base unit," as required in claim 9. Appellant states that the discussion of

“Richardson at Col. 3, lines 4-8 (which speaks to the cable to couple the components when physically connected) and particularly Richardson's Figure 7 (which shows both the physical connection and the wireless connection as single embodiment)” buttresses Appellant's position. That is, “[w]hen the Richardson's display 14 is physically coupled to the base unit, Richardson teaches that the display 14 is coupled to the base unit by a hard-wired connection. Thus, Richardson fails to teach a system using a wireless connection when the display 14 is physically coupled to the base unit (Reply Br. 1-2), as required in claim 9 on appeal.

Contrary to Appellant's assertion, the teachings of Richardson do not require that the display (14) is coupled to the base unit by a hard-wired connection when the display (14) is physically coupled to the base unit. While Richardson teaches an embodiment where the communication link between the display housing (14) and the base unit housing (12) can be a wire link, the disclosure of this embodiment does not constitute a teaching away from the wireless communication link when the housings (12) and (14) are coupled together, as taught by Richardson in other embodiments. See, for example, *In re Fulton*, 391 F.3d 1195, 1201 (Fed. Cir. 2004). Richardson at Col. 2, lines 3-17, explains that the display housing is detachably secured to the housing (12) and a communication link is provided to allow the housings (12) and (14) to communicate. This can be accomplished by one of a variety of known techniques including wireless communication (i.e., an infrared communication link or a radio frequency link). Richardson further explains that once the display housing (12) has been separated from the display housing as shown in FIG. 2, it continues to

communicate as if it was still physically connected. Thus, the teachings of Richardson positively recite a portable computer as required in claim 9 on appeal, namely, comprising:

a base unit comprising a main battery; and a display unit coupled to the base unit, the display unit comprising a display device and a display battery; wherein the display is selectively detachable from the base unit, and wherein the base unit wirelessly couples to the display device; and wirelessly couples to the display device when the display unit is attached to the base unit.

In conclusion, based upon the factual findings set forth in the Answer and above, we determine that the Examiner has established a *prima facie* case of obviousness which has not been sufficiently rebutted by Appellant. Hence, we hold that the preponderance of evidence weighs most heavily in favor of obviousness within the meaning of 35 U.S.C. § 103. Accordingly, we affirm the Examiner's decision rejecting claims 3-7, 9, 10, 12, 13, 15-18, and 21 on appeal under 35 U.S.C. § 103.

ORDER

The decision of the Examiner rejecting claims 3-7, 9, 10, 12, 13, 15-18, and 21 under 35 U.S.C. § 103 is affirmed.

Appeal 2008-0948
Application 10/947,013

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

AFFIRMED

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HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400