

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HARSHANG PANDYA
and XING ZHU

Appeal 2008-3992
Application 11/316,197
Technology Center 2800

Decided: September 29, 2008

Before CATHERINE Q. TIMM, ROMULO H. DELMENDO, and
JEFFREY T. SMITH, *Administrative Patent Judges*.

SMITH, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on an appeal under 35 U.S.C. § 134 from the Primary Examiner's final rejection of claims 1-4, 7-14, and 17-21.¹ We have jurisdiction pursuant to 35 U.S.C. § 6.

¹ In rendering this decision we have considered the Appellants' arguments presented in the Amended Appeal Brief dated April 17, 2008 and the Reply Brief filed October 4, 2007.

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Appellants' invention is directed a cable testing system that includes a cable tester and a multi jack cable adapter that includes a switch matrix operable to be in electrical communication with the cable tester and a plurality of cables. Claim 1 is representative of the invention and is reproduced below:

1. A cable testing system, comprising:
a cable tester; and

a multi jack cable adapter including:

a switch matrix operable to be in electrical communication with the cable tester and a plurality of cables to establish a plurality of signal paths between the cable tester and the plurality of cables; and

a switch controller operable to be in electrical communication with the switch matrix and the cable tester to control a switching by the switch matrix of each signal path between an activated state and a deactivated state as commanded by the cable tester.

Claims 1-4, 7-14, and 17-21 stand rejected as follows:

A) Claims 1, 4, 7, 11, 14, 17, and 21 stand rejected under 35 U.S.C. § 102(b) as anticipated by Teich, Published U.S. Patent Application No. 2004/0046570 dated March 11, 2004.

B) Claims 2, 3, 8-10, 12, 13, and 18-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Teich in view of Hammond, Published U.S. Patent Application No. 2005/0207561 dated September 22, 2005.

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We have thoroughly reviewed each of Appellants' arguments for patentability.² However, we are in complete agreement with the Examiner that the claimed subject matter is not patentable within the meaning of §§ 102 and 103 in view of the applied prior art. Accordingly, we will sustain the Examiner's rejections.

Anticipation under 35 U.S.C. § 102 requires that a prior art reference describe each and every limitation of a claimed invention with "sufficient specificity" to establish anticipation. *Atofina v. Great Lakes Chem. Corp.*, 441 F.3d 991, 999 (Fed. Cir. 2006)). To anticipate, a reference must sufficiently describe the claimed invention to have placed the invention in the possession of the public. See *Minnesota Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 1572 (Fed. Cir. 1992).

A claimed invention is unpatentable if the differences between it and the prior art are "such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art." 35 U.S.C. § 103(a) (2000); *KSR Int'l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1734 (2007); *Graham v. John Deere Co.*, 383 U.S. 1, 13-14 (1966). Under 35 U.S.C. § 103, the factual inquiry into obviousness requires a determination of: (1) the scope and content of the prior art; (2) the differences between the claimed subject matter and the prior art; (3) the level of ordinary skill in the art; and (4) secondary considerations such as

² Appellant's arguments (and, therefore, our analysis) focus on independent claims 1, 11 and 21. Regarding claims 4, 7, 14 and 17; Appellants rely on the arguments presented for independent claims 1, 11 and 21. (App. Br. 11). Therefore, our analysis will be limited to claims 1, 11 and 21. As indicated below, we have considered all separate arguments for patentability of the rejected claims.

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evidence of unexpected results. *See Graham v. John Deere Co.*, 383 U.S. at 17-18.

Appellants contend that Teich fails to show a switch controller operable to be in electrical communication with the switch matrix and the cable tester to control a switching by the switch matrix of each signal path between an activated state and a deactivated state as commanded by the cable tester as recited in independent claims 1 and 11. Appellants contend that Teich fails to show controlling a switching of each signal path by the switch matrix between an activated state and a deactivated state as commanded by the cable tester as recited in independent claim 21. (App. Br. 10).

The issue presented is: did Appellants identify reversible error in the Examiner's rejection of claims 1, 11, and 21 under § 102? We answer this question in the negative. The issue turns on whether Teich describes a cable testing system that includes a cable tester and a multi jack cable adapter that includes a switch matrix operable to be in electrical communication with the cable tester and a plurality of cables.

The Examiner found (Ans. 3):

Referring to claims 1, 11 and 21, Teich discloses a cable testing system and method, comprising: a cable tester (fig. 2 (14) and (16)); and a multi-jack cable adapter (paragraph [0027]) including: a switch matrix (fig. 2 (12)) operable to be in electrical communication with the cable tester and a plurality of cables to establish a plurality of signal paths between the cable tester and the plurality of cables (paragraph [0024]); and a switch controller (fig. 2 (24)) operable to be in electrical communication with the switch matrix and the cable tester to control a switching by the switch matrix of each signal path between an activated state and a

deactivated state as commanded by the cable tester (paragraph [0040]).

The Teich reference describes a cable testing system that includes a cable tester and a multi jack cable adapter that includes a switch matrix operable to be in electrical communication with the cable tester and a plurality of cables. As correctly determined by the Examiner, (Ans. 6-7) Teich discloses a time domain reflectometer (TDR) 14, and digital multimeter (DMM) 16 which are used to send and receive signals for performing cable testing. The TDR and DMM include a computer which functions automatically to perform the cable testing. (paragraph [0045]). When in the automatic mode, the switching matrix connects each of the cables to the TDR for short/open test and then connects each of the cables to the DMM for an insulation test. The claimed invention does not preclude the use of a computer processor in conjunction with TDR and DMM.

Thus, the present record establishes that a person of ordinary skill in the art was in possession of the claimed cable testing system that includes a cable tester and a multi jack cable adapter that includes a switch matrix operable to be in electrical communication with the cable tester and a plurality of cables.

Regarding the rejection of claims 2, 3, 8-10, 12, 13, and 18-20 under 35 U.S.C. § 103(a), we affirm these rejections advanced by the Examiner. Appellants have not provided substantive arguments addressing the Examiner's reliance upon the Hammond reference. Rather, Appellants rely upon the arguments presented in support of patentability of the independent claims. (App. Br. 12). Appellants do not assert non-obviousness based on

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the additional limitations set forth claims 2, 3, 8-10, 12, 13, and 18-20 subject to this rejection by explaining how the additional reference applied thereto by the Examiner fails to establish the obviousness of the additional features recited in these separately rejected claims. Because we do not find Appellants' arguments persuasive as to independent claims 1 and 11, it follows that these arguments are unpersuasive as to claims 2, 3, 8-10, 12, 13, and 18-20.

For the foregoing reasons and those stated in the Answer, we affirm all grounds of rejection presented in this appeal.

ORDER

The rejections of claims 1, 4, 7, 11, 14, 17, and 21 under 35 U.S.C. § 102(b) and claims 2, 3, 8-10, 12, 13, and 18-20 under 35 U.S.C. § 103(a) are affirmed.

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).

AFFIRMED

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