

REMARKS

Claims 1 – 20 are pending. Claims 1, 6, 9, 11, 13-17, 19-20 have been amended, and no claims have been added or cancelled.

As an initial matter, the Applicants would like to thank the Examiner for acknowledging that Claims 3 and 4 are allowable. The Applicants are greatly appreciative of this acknowledgement.

Rejections under 35 U.S.C §103

Claim 1 – 2, 5 – 8, 10 – 13, and 15 – 20 were rejected under 35 U.S.C. 103 as being obvious over Vescovi (U.S. Publication No. 20150277559) in view of Weast (U.S. Publication 20130106603) further in view of Civelli (U.S. Publication No. 20140230019) and further in view of Ghabra (U.S. Publication No. 20060055517). This rejection is respectfully traversed.

Specifically, establishment of a proper *prima facie* basis upon which to reject claimed subject matter as unpatentably obvious requires the Office to consider the *Graham* factual inquiries, which include a) determining the scope and content of the prior art, b) ascertaining the differences between the claimed invention and the prior art, and c) resolving the level of ordinary skill in the pertinent art.¹ However, the analysis cannot stop there. Rather, “this analysis should be made explicit,” and “[r]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness”).² The Office must therefore present a clear and explicit rationale supporting the assertion that all of the claimed elements were known in the prior art and that one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, to produce a combination yielding nothing more than predictable results to one of

¹ *Graham v. John Deere Co.*, 383 U.S. 1 (1966).

² *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398 at 419, quoting with approval *In re Kahn*, 441 F.3d 977, 988 (C.A. Fed. 2006): “

ordinary skill in the art.³ Additionally, “a prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention.”⁴

The Office “bears the initial burden of factually supporting any *prima facie* conclusion of obviousness” and must therefore present “a clear articulation of the reason(s) why the claimed invention would have been obvious.”⁵ This articulation must include the following findings: a) that the prior art included each element claimed; b) that one of ordinary skill in the art could have combined the elements as claimed by known methods, and that in combination, each element merely performs the same function as it does separately; c) that one of ordinary skill in the art would have recognized that the results of the combination were predictable; and d) whatever additional findings based on the *Graham* factual inquiries may be necessary, in view of the facts of the case under consideration, to explain a conclusion of obviousness.⁶ Furthermore, “[t]o support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.”⁷

It is respectfully submitted that the Office cannot show that all of the claimed elements are taught by a combination of the art of record, nor present any sufficient rational underpinning why one of ordinary skill in the art could combine the teachings of the prior art references to produce the subject matter of claimed, and even if combined, one of skill in the art would not derive the Applicants’ claimed invention.

Specifically, the Applicants would like to draw the attention of the Examiner to the fact that Vescovi was filed on April 1, 2015, and its priority document U. S. Provisional Application No. 61/973,469 was filed on April 1, 2014. The Applicants’ claimed priority

³ See *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398 at 416.

⁴ MPEP §2141.02 quoting *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984).

⁵ MPEP §2142.

⁶ MPEP §2143 Section A.

⁷ MPEP §706.02(j) quoting *Ex Parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985).

document, U.S. Provisional No. 61/910,201, however, was filed on November 29, 2013. As such, Vescovi is not appropriate prior art to the Applicants' claimed invention. Because Vescovi was filed after the Applicants' priority document, and cannot be considered prior art to the Applicant, a *prima facie* case of obviousness relying on Vescovi cannot be established.

Additionally, Claim 1 is directed to a wearable intelligent ring, a curved rechargeable battery, one or more sensors, a memory, and a flexible printed circuit board. The wearable intelligent ring is a computing device that includes a housing having an interior bounding member and an exterior bounding member, the interior bounding member and the exterior bounding member being configured for being coupled together to form a cavity for retaining various components there between. The curved battery and sensor are positioned within the cavity of the ring housing, where the sensor may include one or more of an accelerometer, a gyroscope, and a motion sensor that are configured to sense a change in a condition of the wearer of the intelligent ring. The flexible printed circuit board is also positioned within the cavity and includes a processor and a communications module having a near field communication device.

Vescovi is deficient because it cannot be considered prior art to the Applicants' claimed invention. As acknowledged by the Office, Vescovi is further deficient for failing to teach a curved battery, a flexible printed circuit board, and the functionality of remotely unlocking a computing device. The Office, therefore, relies on Weast for the teaching of a curved battery. However, as the Applicants' claims are directed to ring, and the device of Weast is directed to a bracelet, the two devices are not capable of being combined in the manner suggested by the Office. Specifically, a battery for a bracelet, curved or otherwise, would not be of a dimension to be fitted within the confines of a cavity of a ring. Nor is there any teaching within Weast as to how such a battery can be re-configured to do so. Consequently, even if the two references of Vescovi and Weast could be combined, there is no likelihood that the Applicants' claimed invention would thereby be successfully derived. Consequently, a *prima facie* case for obviousness has not been established, and this rejection may be withdrawn.

Further, the Office acknowledges that Vescovi in combination with Weast is deficient

for failing to teach the functionality of unlocking a computing device. The Office therefore relies on Civelli for this teaching. However, the Office provides no rational for making this combination other than that this functionality is generally useful. As set forth above, in order to establish a *prima facie* case of obviousness the Office must establish that there is “some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” In this instance, the Office has not provided any articulated reasoning for making the proposed combination. Consequently, a *prima facie* case for obviousness has not been established, and this rejection may be withdrawn.

Furthermore, the Office additionally acknowledges that the combination of Vescovi in view of Weast and further in view of Civelli is deficient for failing to teach a flexible circuit board. The Office therefore relies on Ghabra for this teaching. However, Ghabra is directed to a circuit board assembly for use in a vehicle immobilizer system, and as such, constitutes non-analogous art to the Claimed invention. As such, one of skill in the art looking to solve a problem of generating a printed circuit board that could be adapted to be fitted within the dimensions of a cavity within a ring would not look to Ghabra to solve the problem. As such the Office has not shown why or even how one skilled in the art could have combined the elements as claimed, by these alleged known methods, with no change in their respective functions, so as to successfully derive the Applicants’ claimed invention. Consequently, a *prima facie* case for obviousness has not been established, and this rejection may be withdrawn.

In addition to the above, the Office has further not established where all the claimed elements are taught or suggested. Specifically, the Office has not set forth where the combined references teach or suggest a housing having the recited bounding members, forming a cavity, wherein all of the recited components reside. More specifically, in order to establish a *prima facie* case of obviousness, the Office must set forth with particularity where all of the claimed elements are taught by the combination. As the Office has not set forth where the combination teaches or suggests these claimed elements, a *prima facie* case of obviousness has not been established. Accordingly, because the combination of Vescovi in view of Weast further in view of Civelli and further in view of Ghabra fails to teach each and every element of the

rejected claims, the recited combination fails to present a *prima facie* case of obviousness. Therefore, because a *prima facie* case of obviousness has not been established, the Applicants respectfully request that this rejection of claim 1 be withdrawn.

It is asserted that claims 2-10, dependent upon claim 1 are also allowable over the cited art for substantially the same reasons as claim 1, and more particularly, for the specific limitations they recite.

It is asserted that independent claims 11 and 15 are allowable over the cited art for substantially the same reasons as claim 1, and more particularly, for the specific limitations they recite.

It is asserted that claims 12-14, dependent upon claim 11 are also allowable over the cited art for substantially the same reasons as claim 11, and more particularly, for the specific limitations they recite.

It is asserted that claims 16-20, dependent upon claim 15 are also allowable over the cited art for substantially the same reasons as claim 15, and more particularly, for the specific limitations they recite.

Claim 9 and 14 were rejected under 35 U.S.C. 103 as being obvious over Vescovi (U.S. Publication No. 20150277559) in view of Weast (U.S. Publication 20130106603) further in view of Civelli (U.S. Publication No. 20140230019) additionally in view of Ghabra (U.S. Publication No. 20060055517) and further in view of Mastandrea (U. S. Publication 20130027341). This rejection is respectfully traversed.

For the reasons stated herein above the combination of Vescovi in view of Weast further in view of Civelli and in view of Ghabra is deficient. As Mastandrea was cited solely for the purpose of allegedly disclosing a charging coil for a rechargeable battery, it fails to remedy these deficiencies. Accordingly, a *prima facie* case for obviousness has not been established. Therefore, because a *prima facie* case of obviousness has not been established, the Applicants respectfully request that this rejection of claims 9 and 14 be withdrawn.

CONCLUSION

On the basis of the foregoing arguments, the pending claims are in condition for allowance. It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper.

If there are any questions regarding this reply, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,

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