

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 25

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SERGIO PERATONER

Appeal No. 2000-0259
Application 08/827,835

ON BRIEF

Before JERRY SMITH, RUGGIERO and DIXON, Administrative Patent Judges.

RUGGIERO, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal from the final rejection of claims 19-36, 38, and 39, which are the only claims remaining in the application. Claims 1-18 and 37 have been canceled.

The claimed invention relates to a modularized distributed electronic price display system which includes a central computer communicating through a hard wired or radio frequency system to receivers located at each aisle of a retail store or warehouse.

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Each receiver at each aisle is wired into a series of shelving structures known as gondola units, each gondola unit being controlled by a single controller or multiple controllers. Each level of control beyond the receivers at each aisle redistributes information to the next level down by selectively enabling the receipt of message information at each subsequent level of distribution. Each unit connected to a transmitting unit has the message information transmitted to it, but only a unit that is enabled to receive the message will logically have access to the message. According to Appellant (specification, page 5), this particular system arrangement eliminates wiring and hardware at the display site which would otherwise be necessary for logical address verification.

Claim 19 is illustrative of the invention and a copy of the claim is appended to this decision.

The Examiner relies on the following prior art:

Sundelin	4,002,886	Jan. 11, 1977
Gomersall et al. (Gomersall)	4,500,880	Feb. 19, 1985
Waterhouse et al. (Waterhouse)	5,245,534	Sep. 14, 1993
Briechle et al. (Briechle)	5,348,485	Sep. 20, 1994
Joliey	5,404,149	Apr. 04, 1995
Opoczynski	5,453,737	Sep. 26, 1995

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Claims 19-36, 38, and 39 stand finally rejected under 35 U.S.C. § 103. With respect to claims 19-21, 23-25, and 29-32, as evidence of obviousness, the Examiner offers, in the alternative, Sundelin, Waterhouse, or Jolley, each in view of Opoczynski. Briechle is added to the basic combination with respect to claim 22, and Gomersall is added to the basic combination with respect to claims 26-28, 33, and 34. As to claims 35, 36, 38, and 39, the Examiner offers Briechle in view of, in the alternative, Sundelin, Waterhouse, or Jolley.

Rather than reiterate the arguments of Appellant and the Examiner, reference is made to the Brief (Paper No. 23) and Answer (Paper No. 24) for the respective details.

OPINION

We have carefully considered the subject matter on appeal, the rejection advanced by the Examiner, the arguments in support of the rejection 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, Appellant's arguments set forth in the Brief along with the Examiner's rationale in support of the rejection and arguments in rebuttal set forth in the Examiner's Answer.

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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 one of ordinary skill in the art the obviousness of the invention as set forth in claims 19-36, 38, and 39. 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, 17-18, 148 USPQ 459, 467 (1966), and to provide a reason why one having ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. Such reason must stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. Uniroyal Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir.), cert. denied, 488 U.S. 825 (1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc.,

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776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985), cert. denied, 475 U.S. 1017 (1986); ACS Hosp. Sys., Inc. v. Montefiore Hosp., 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). 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).

With respect to independent claims 19 and 29, the Examiner, as the basis for the obviousness rejection, proposes to modify the disclosures of any one of Sundelin, Waterhouse, or Jolley, each of which discloses the transmission of pricing information through a plurality of routing points eventually to price tag modules. According to the Examiner (Answer, page 4), "[t]hese references show all the claimed limitations yet lack in expressly discussing the verification of addresses occurring in the routing means." To address this deficiency, the Examiner turns to Opoczynski which, in the Examiner's view (id.), describes a master-slave communication system in which address comparison is performed at a routing point to determine message destination.

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As further asserted by the Examiner, signals are generated in Opoczynski which logically enable a specific slave station to receive the message, thereby eliminating the need for expensive address comparators at the slave station locations. The Examiner concludes (id.):

it would have been obvious to one of ordinary skill in the art at the time of the invention to have utilized an address comparison routing capability in the above systems (Sundelin, Waterhouse, Joliey) to ensure operation of the proper price tag module in a system of a vast number of price tag modules, as suggested by Opoczynski.

In response, Appellant asserts that the Examiner has not established proper motivation for the proposed combination of references so as to set forth a prima facie case of obviousness. After careful review of the applied prior art references in light of the arguments of record, we are in agreement with Appellant's position as stated in the Brief. As argued by Appellant (Brief, pages 5-8), the Examiner has pointed to no disclosure in Opoczynski that would suggest any support for the Examiner's assertion that the price tag module systems of Sundelin, Waterhouse, or Joliey could be modified to incorporate an address-free price tag module that is selectively enabled to

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accept a signal input. Our interpretation of the disclosure of Opoczynski coincides with that of Appellant, i.e., a kill signal is generated to disable a malfunctioning slave system, not to selectively enable one in an address-free manner as claimed.

We similarly find no disclosure in any of the applied prior art that would support the Examiner's position as to the specific shift register structure set forth in independent claim 29.

Although the Examiner is correct (Answer, page 9) that Appellant's argued terminology "barrel shifting" does not appear in the claims, a specific interconnection of shift register outputs and inputs is recited, an interconnection which is not taught or suggested by any disclosure in the applied prior art.

Further, even assuming, arguendo, that the applied references could be combined, there is no indication as to how and in what manner the combination would take place to produce the specific combination set forth in the appealed claims. In order for us to sustain the Examiner's rejection under 35 U.S.C. § 103, we would need to resort to speculation or unfounded assumptions or rationales to supply deficiencies in the factual

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basis of the rejection before us. In re Warner, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967), cert. denied, 389 U.S. 1057 (1968), rehearing denied, 390 U.S. 1000 (1968).

We have also reviewed the Briechle and Gomersall references, applied by the Examiner against several dependent claims, and find nothing that would overcome the deficiencies of the prior art references discussed supra. Accordingly, since the Examiner has not established a prima facie case of obviousness, the rejection of independent claims 19 and 29, as well as claims 20-28 and 30-34 dependent thereon, is not sustained.

Turning to a consideration of the Examiner's obviousness rejection of independent claim 35, and its dependent claims 36, 38, and 39, in which the Briechle reference is applied in the alternative to Sundelin, Waterhouse, or Jolley, we do not sustain this rejection as well. We are in agreement with Appellant (Brief, page 14) that there is no disclosure in the Briechle reference, nor any of the other applied prior art, of the details of the attachment structure which fastens the price tag modules to the carrier strip as set forth in independent claim 35.

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In summary, we have not sustained the Examiner's 35 U.S.C. § 103 of any of the claims on appeal. Therefore, the decision of the Examiner rejecting claims 19-36, 38, and 39 is reversed.

REVERSED

JERRY SMITH)	
Administrative Patent Judge)	
)	
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)	BOARD OF PATENT
JOSEPH F. RUGGIERO)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
)	
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APPENDIX
Claim 19

19. An electronic price tag system comprising:

a plurality of address-free price tag modules having means to store and display price information but no means to either store or decode address information;

central computing means for transmitting an information signal;

a plurality of signal routing means, each having a unique address and being connected between said central computing means and said plurality of address-free price tag modules to receive said information signal transmitted by said central computing means, said information signal containing data corresponding to the address of a particular one of said plurality of signal routing means, the location of a particular one of said plurality of price tag modules, and the price information to be stored and displayed by said particular price tag module, said plurality of signal routing means comparing the respective unique addresses thereof with the address data contained by said information signal transmitted by said central computing means;

a plurality of enable lines that are electrically distinguishable from one another, said plurality of signal routing means connected to said plurality of price tag modules by respective ones of said enable lines; and

a plurality of data bus lines, each of said data bus lines respectively connected between one of said plurality of signal routing means and a number of said plurality of address-free price tag modules;

APPENDIX: Claim 19 (cont.)

a selected one of said plurality of signal routing means whose unique address matches the address identified by said information signal generating first and second output signals, a first of said output signals enabling the particular one of said plurality of price tag modules via a respective one of said electrically distinguishable enable lines depending upon the location identified by said information signal, and the second output signal being transmitted on one of said plurality of data bus lines to each of said number of price tag modules that are connected to said one data bus line so that the price information can be stored and displayed by said particular price tag module that is enabled via the respective one of said electrically distinguishable enable lines.

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