

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte LOTHAR KNOPP

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Appeal No. 2001-1195  
Application No. 09/154,485

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ON BRIEF

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Before JERRY SMITH, BLANKENSHIP, and SAADAT, Administrative Patent Judges.  
BLANKENSHIP, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1-10, which are all the claims in the application.

We affirm-in-part.

BACKGROUND

The invention relates to sets of structures for switch consoles for household appliances, such as washing machines and laundry dryers, having a plurality of control panel types. Claim 1 is reproduced below.

1. In a multiplicity of household appliances having cabinet-shaped housings and switch consoles, a structural set for the switch consoles, comprising:

at least two different types of control panels including a first control panel and a second control panel each having control elements configured differently from right to left;

a plurality of identical printed circuit boards to be mounted behind each of said at least two different types of control panels;

a switching device mounted on each of said identical printed circuit boards and actuated by one of said control elements; and

said control elements of said first control panel having a configuration organized in a substantially mirror-symmetrical pattern relative to a configuration of said control elements of said second control panel.

The examiner relies on the following references:

Coates et al. (Coates)	4,798,424	Jan. 17, 1989
Ohashi	5,200,884	Apr. 6, 1993

Claims 1-10 stand rejected under 35 U.S.C. § 103 as being unpatentable over Coates and Ohashi.

We refer to the Final Rejection (Paper No. 9) and the Examiner's Answer (Paper No. 14) for a statement of the examiner's position and to the Brief (Paper No. 13) and the Reply Brief (Paper No. 15) for appellant's position with respect to the claims which stand rejected.

OPINION

Grouping of Claims

Appellant provides separate arguments for four groups of claims comprising: 1 & 6; 3 & 8; 4 & 9; and 5 & 10. We make our determinations based on our selection of claims 1, 3, 4, and 5 as representative of the claimed subject matter. Dependent claims 2 and 7, not separately argued, stand or fall with consideration of representative claim 1. See 37 CFR § 1.192(c)(7).

With respect to claim 1, appellant argues that the rejection is erroneous because control mounting panel 64 of Coates is believed to be a structure with the sole function of mechanically holding the control knobs 28a, 30a, 32a, 28b, 30b, and 32b in their mounting positions. (Brief at 9.) Appellant admits (id. at 10) that Coates may suggest a circuit board mounted inside the outer cabinet 12. Ohashi, however, is deemed to only teach a space-saving technique of mounting control instruments on a printed circuit board. Ohashi thus is viewed as not providing any motivation on how identical printed circuit boards may be used for different control panels. (Id.)

We disagree that Ohashi “only” teaches a space-saving technique of mounting control instruments on a printed circuit board. That may be the principal reason for Ohashi’s improvement over the prior art as depicted in Figure 10 of the reference. Ohashi col. 1, ll. 31-45. The reference also lists, however, eight advantages in the inventive construction that are not limited to a “space-saving technique” or a reduction in height of a switch. Col. 4, ll. 7-54. We agree with the examiner that Ohashi would

have suggested application of its teachings to the arrangement disclosed by Coates, particularly in view of at least advantages 1, 2, 3, and 6 expressed in column 4 of Ohashi.

Although we do not find express disclosure of a printed circuit board in Coates, the reference contemplates, and at least suggests, more sophisticated controls than those displayed in the figures that the artisan would see as requiring electronic components and a printed circuit board. See, e.g., Coates col. 5, ll. 1-7.

Moreover, we note that instant claim 1 sets forth “a” switching device mounted on each of the identical printed circuit boards and actuated by one of the control elements. The recitation requires no more than, for example, addition of a printed circuit board as taught by Ohashi to single control 62 (Coates col. 4, ll. 43-57; Fig. 3); i.e., a combined switching device and printed circuit board suitable for use in different orientations, with no preclusion of panel 64 remaining part of the final structure. Claim 1 further fails to preclude the use of different mounting panels or brackets for different control knobs (or control elements, in the language of claim 1), contrary to any implication by appellant at pages 4 through 5 of the Reply Brief that such is precluded by the invention as claimed.

Appellant asserts perceived impracticalities in the physical combination of the structures of Coates and Ohashi. We are mindful, however, that the test for obviousness is not whether the features of a one reference may be bodily incorporated into the structure of another reference. Rather, the test is what the combined teachings

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of those references would have suggested to those of ordinary skill in the art. In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). It is not necessary that the inventions of the references be physically combinable to render obvious the invention under review. In re Sneed, 710 F.2d 1544, 1550, 218 USPQ 385, 389 (Fed. Cir. 1983).

Appellant appears to argue (e.g., Reply Brief at ¶¶ bridging pages 3 and 4) that the advantages suggested by the combination of Coates and Ohashi are not the same as those asserted by appellant. However, for the purposes of an obviousness inquiry, there is no requirement that an artisan's reasons for making modifications of the prior art be the same as that of the patent applicant. See In re Kemps, 97 F.3d 1427, 1430, 40 USPQ2d 1309, 1311 (Fed. Cir. 1996) (citing In re Dillon, 919 F.2d 688, 693, 16 USPQ2d 1897, 1901 (Fed. Cir. 1990) (in banc) ("Although the motivation to combine here differs from that of the applicant, the motivation in the prior art to combine the references does not have to be identical to that of the applicant to establish obviousness.")).

We are thus unpersuaded of error in the rejection of instant claim 1. We sustain the section 103 rejection of claims 1, 2, 6, and 7.

With respect to dependent claim 3, we see nothing in the claim that would not follow from the suggested combination of Coates and Ohashi. Coates would have suggested the 180° rotation of the control elements and the corresponding mirror-symmetrical pattern. Claim 3 does, however, further limit base claim 1 in the aspect of

including “further switching devices” -- i.e., a total of at least three switching devices -- mounted on each of the identical “carrier plates” [sic; printed circuit boards]. For reasons similar that we found the combined teachings of the references would have suggested one switching device on each printed circuit board, we find the combined teachings would have suggested at least three switching devices on each printed circuit board. Coates expressly discloses that the single control 62 shown in Figure 3 is merely illustrative. Coates col. 4, ll. 56-57. The combination of Coates and Ohashi would have suggested multiple switching devices on each of identical printed circuit boards as claimed. We therefore sustain the section 103 rejection of claims 3 and 8.

We are in ultimate agreement with appellant, however, that the applied prior art fails to disclose or suggest the requirements of dependent claims 4, 5, 9, and 10. The claims require more than “arrangement of which devices are placed in which location,” as suggested on page 4 of the Answer. The claims require particular arrangements of indicator elements (claims 4 and 9) and illuminating means (claims 5 and 10) with respect to control elements, and further “coaxial optical conductors” (claims 5 and 10). Since the rejection of claims 4, 5, 9 and 10 lacks a factual foundation in this record, we do not sustain the section 103 rejection of those claims.

We have considered all of appellant’s arguments in making our determinations. Arguments appellant could have presented in the Brief, but chose not to rely upon, are deemed waived. See 37 CFR § 1.192(a) (“Any arguments or authorities not included in the brief will be refused consideration by the Board of Patent Appeals and

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Interferences, unless good cause is shown”) and § 1.192(c)(8)(iv) (the brief must point out the errors in the rejection).

CONCLUSION

We have affirmed the rejection of claims 1-3 and 6-8 under 35 U.S.C. § 103. We have reversed the rejection of claims 4, 5, 9 and 10 under 35 U.S.C. § 103. The examiner’s decision in rejecting claims 1-10 is thus affirmed-in-part.

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

AFFIRMED-IN-PART

JERRY SMITH	)	
Administrative Patent Judge	)	
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	)	BOARD OF PATENT
HOWARD B. BLANKENSHIP	)	APPEALS
Administrative Patent Judge	)	AND
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Administrative Patent Judge	)	

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