

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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 GREGORY P. MURPHY and ALLEN F. MUELLENBACH

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Appeal No. 2002-0484  
Application No. 09/274,617

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ON BRIEF

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Before COHEN, PATE, and BAHR, Administrative Patent Judges.

PATE, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 27. The appeal with respect to claims 28 through 33 was withdrawn by appellants in the brief.

The claimed invention is directed to a system for determining fuel used by an internal combustion engine within a geographical jurisdiction. In particular, the present invention may take the form of a computer controlled internal combustion engine having a fuel system wherein the computer control is operable to compute fueling command values and provide

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corresponding fueling signals to the fuel system for selectively supplying fuel to the engine. This system takes advantage of the information already existing and available within the control computer and thus does not require additional sensors or fuel flow meters to compute the amount of fuel used.

The claims on appeal may be further understood with reference to the appealed claims appended to appellants' brief.

The references of record relied upon by the examiner as evidence of obviousness are:

Juhasz	4,067,061	Jan. 3, 1978
Ebaugh et al. (Ebaugh)	5,303,163	Apr. 12, 1994
Parupalli et al. (Parupalli)	5,642,284	Jun. 24, 1997
Jenkins et al. (Jenkins)	5,928,291	Jul. 27, 1999
		(filed Mar. 27, 1997)

#### THE REJECTIONS

Claims 1 through 13, 16 through 24 and 27 stand rejected under 35 U.S.C. § 103 as being unpatentable over Jenkins in view of Juhasz.

Claims 11, 14, 15, 25 and 26 stand rejected under 35 U.S.C. § 103 as being unpatentable over Jenkins in view of Juhasz and further in view of Parupalli.

Claims 11, 14, 15, 25 and 26 stand rejected under 35 U.S.C. § 103 as being unpatentable over Jenkins in view Juhasz and further in view of Ebaugh.

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For the details of these rejections, reference is made to the examiner's answer. Reference is also made to appellants' brief for arguments respecting the rejections on appeal.

#### OPINION

We have carefully reviewed the rejections on appeal in light of the argument of the appellants and the examiner. As a result of this review, we have determined that the applied prior art does not establish the *prima facie* obviousness of the appealed claims. Accordingly, the rejections of all claims on appeal are not sustained.

As an initial matter, we will construe the means-plus-function limitations of the claims on appeal. For claim 1, the means for determining can be auxiliary computer 72 with GPS, control computer 12 with GPS unit 46, or an auxiliary computer with a user actuated switch 52 and equivalents. The means responsive to the fueling signal is construed to be engine fuel system 32 and equivalents. The means for producing fueling signals is considered to read on control computer 12 and equivalents. The means for accumulating the fueling values is either auxiliary computer 76 or control computer 12 and equivalents. For claim 17, again the means for determining a

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jurisdiction could be either an auxiliary computer 72 with GPS, a control computer 12 with GPS unit 46, or an auxiliary computer with a user actuated switch 52 and equivalents.

The following are our findings of fact with respect to the scope and content of the prior art and the differences between the prior art and the claimed subject matter. Jenkins discloses a mileage and fuel consumption system wherein the location of the vehicle is determined in relation to various engine parameters. These parameters are illustrated in Figure 10. Jenkins is not specific as to how his instantaneous fuel consumption value is obtained. Jenkins clearly shows at least a means for determining the jurisdiction of a vehicle and a means for continually accumulating fueling values while the vehicle is in a respective jurisdiction. Jenkins does not show any means for producing fueling signals and for producing fueling values, which we have construed as the control computer 12. Note that this claimed means controls both the engine's fuel system and measures the instantaneous fuel values. Likewise for claim 17, Jenkins does not disclose a control computer for producing fuel control signals to the engine's fuel system and broadcasting the values to the auxiliary computer.

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Juhasz discloses a monitoring and recording system for vehicles in which the jurisdiction is manually set by the operator and the fuel values for a respective jurisdiction are recorded in a tape drive. The fuel values in the Juhasz system come from a flow meter 10 placed in the fuel line. Here again, the values do not come from the engine control computer that actually determines the amount of fuel to be delivered to the fuel system.

Consequently, neither reference relied upon by the examiner in rejecting the independent claims on appeal discloses a means or an engine control computer that sends fueling signals to an engine fuel system and sends fuel values to be recorded. Therefore, the combined teachings of these references do not render the claimed subject matter *prima facie* obvious.

We have carefully reviewed the other applied references, but find therein no teaching or suggestion for appellants' claimed control system. Accordingly, the rejections of all claims on appeal are reversed.

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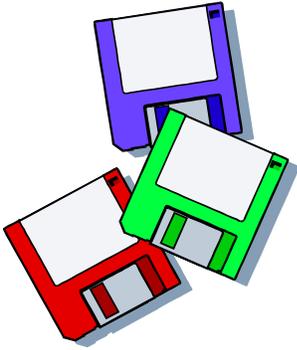
REVERSED

IRWIN CHARLES COHEN	)	
Administrative Patent Judge	)	
	)	
	)	
	)	
	)	BOARD OF PATENT
WILLIAM F. PATE, III	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
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JENNIFER D. BAHR	)	
Administrative Patent Judge	)	

WFP/LBG

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DECISION: REVERSED

Prepared: October 9, 2003

Draft            Final

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PALM / ACTS 2 / BOOK

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