Paper No. 12

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KENNETH E. FLICK

Appeal No. 2002-1470
Application No. 09/490,192

ON BRIEF

Before FLEMING, DIXON, and LEVY, Administrative Patent Judges.
LEVY, 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 1-9, 15-19, 21-25, 27-32, and 34-39. Claims 10-14, 20, 26, 33, and 40 have been indicated as allowable if rewritten in independent form[1].

[1] (Paper No. 7, mailed March 12, 2001).

BACKGROUND

Appellant's invention relates to a vehicle alert system for a vehicle having a data bus. An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced as follows:

1. A vehicle alerting system comprising:

a data communications bus extending within the vehicle;

at least one security device at the vehicle for generating security signals on said data communications bus;

a remote receiver to be carried by a user

a local transmitter at the vehicle; and

a paging controller at the vehicle for causing said local transmitter to transmit to said remote receiver based upon security signals on said data communications bus to thereby alert the user when away from the vehicle.

The prior art reference of record relied upon by the examiner in rejecting the appealed claims is:

Grossheim et al. (Grossheim)	4,794,368	Dec. 27, 1988

Claims 1-9, 15-19, 21-25, 27-32, and 24-39 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Grossheim.

Rather than reiterate the conflicting viewpoints advanced by the examiner and appellant regarding the above-noted rejection, we make reference to the examiner's answer (Paper No. 10, mailed

July 3, 2001) for the examiner's complete reasoning in support of the rejection, and to appellant's brief (Paper No. 9, filed June 11, 2001) for appellant's arguments thereagainst. Only those arguments actually made by appellant have been considered in this decision. Arguments which appellant could have made but chose not to make in the brief have not been considered. See 37 CFR 1.192(a).

OPINION

In reaching our decision in this appeal, we have carefully considered the subject matter on appeal, the rejection advanced by the examiner, and the evidence of anticipation 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.

Upon consideration of the record before us, we affirm, essentially for the reasons set forth by the examiner, and add the following comments. We note at the outset that appellant asserts (brief, pages 3 and 4) that "[c]laims 1-9, 15-19, 21-25, 27-32, and 34-39 stand or fall together." Consistent with this

statement, appellant arguments are generic to each of the independent claims. Accordingly, we select claim 1 as representative of the group.

To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently. In re Schreiber, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997).

From our review of the record, we find that the issue before us is whether Grossheim discloses a data communications bus as set forth in appellant's claims.

The examiner's position (final rejection, page 2) is that Grossheim discloses a vehicle alerting system comprising a data communications bus 64 extending within the vehicle, and points to col. 10, lines 17-25, col. 11, lines 33-35 and figure 2 of Grossheim.

Appellant asserts (brief, page 6) that the only data bus described in Grossheim is internal data bus 64 of control unit 34. Appellant argues (brief, page 7) that the internal control unit data bus is not by itself, or in combination with the vehicle wiring harness 30, a data communications bus as disclosed and claimed in the present invention.

The examiner responds (answer, page 4) that data communications bus 64 of Grossheim extends within control unit 64 and inherently extends within the vehicle.

With respect to the issue of whether Grossheim discloses a data communications bus as discloses and claimed in the present invention, we note that terms in claims are to be given their ordinary and accustomed meaning, unless it appears that the inventor used them differently. Envirotech Corp. v. Al George, Inc., 730 F.2d 753, 759, 221 USPQ 473, 477 (Fed. Cir. 1984). See also Hoechst Celanese Corp. v. BP Chems. Ltd., 78 F.3d 1575, 1578, 38 USPQ2d 1126, 1129 (Fed. Cir. 1996). From appellant's statement (brief, page 6) that the "disclosed structure in the Grossheim et al. patent is simply not a data communications bus as would be understood by those skilled in the art, and as disclosed and claimed in the present application" it is our view that appellant intended for the phrase "data communications bus" to be given its ordinary and customary meaning, as understood by one of ordinary skill in the art. We take notice[2] that a bus in a computer system is a shared communication link, which uses one set of wires to connect multiple subsystems. From the definition

[2] Computer Organization and Design, by David A. Patterson et al. © 1994 Morgan Kaufman Publishers. A copy of the pertinent pages are attached to this Decision.

of a bus, we find that the data bus of Grossheim is a computer bus. In addition, from the disclosure of Grossheim (col. 13, lines 15 and 16) that the microprocessor places the appropriate data signals on the data bus 64, we find that the data bus 64 of Grossheim is a data communications bus. As stated by our reviewing court in In re Hiniker Co., 150 F.3d 1362, 1369, 47 USPQ2d 1523, 1529 (Fed. Cir. 1998) "[t]he name of the game is the claim." Claims will be given their broadest reasonable interpretation consistent with the specification, and limitations appearing in the specification are not to be read into the claims. In re Etter, 756 F.2d 852, 858, 225 USPQ 1, 5 (Fed. cir. 1985).

Claim 1 requires, inter alia, " a data communications bus extending within the vehicle," and "at least one security device at the vehicle for generating security signals on said data communication bus," and "a paging controller at the vehicle for causing said local transmitter to transmit to said remote receiver based upon security signals on said data communications bus." As claimed, we find that the data communications bus controls the automobile alarm system. Although from appellant's specification (page 9, lines 1-9 and figure 1), it appears that

appellant intended to refer to a data communication bus for controlling vehicle devices, such as the engine, in addition to the vehicle alerting system, claim 1 as broadly drafted, reads on the data communications bus 64 within the controller 34 of Grossheim.

As shown in figure 2 of Grossheim, bus 64 communicates data from the alarm sensors (via data latch 66) and microprocessor 60, to data latches 76, 78, and 80, which, through interface 88, connect to pager 56. As data bus 64 is within controller 34, it inherently extends within vehicle 12, as advanced by the examiner. Grossheim further discloses (col. 10, lines 47-55) that:

> a paging unit 56 may optionally be connected to the control unit 34 to provide remote paging capabilities should a violation be detected. Such paging unit 56 transmits a prescribed signal, through antenna 58, to a remote receiver (not shown) in order to signal the alarm condition. The remote receiver is typically carried by the owner and emits a beeping sound when being paged, thereby notifying the owner that a violation has occurred.

Because the pager transmits a signal through antenna 58 to a remote receiver (not shown), which is typically carried by the owner, we find that Grossheim includes a paging controller to control the transmitting of the alarm signals. In addition,

because the paging signals are received from data bus 64, we find that Grossheim discloses transmitting security signals received from the bus, to the paging controller.

From all of the above, we are not convinced of any error on the part of the examiner, and find that the examiner has established a prima facie case of anticipation of claim 1 that has not been successfully rebutted by appellant. Accordingly, we sustain the rejection of claim 1 under 35 U.S.C. § 102(b) as being clearly anticipated by Grossheim. As claims 2-9, 15-19, 21-25, 27-32, and 34-39 fall with claim 1 (brief, page 3) the rejection of claims 2-9, 15-19, 21-25, 27-32, and 34-39 under 35 U.S.C. § 102(b) is affirmed.

CONCLUSION

To summarize, the decision of the examiner to reject claims 1-9, 15-19, 21-25, 27-32, and 34-39 under 35 U.S.C. § 102(b) is affirmed. No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136 (a).

AFFIRMED

MICHAEL R. FLEMING Administrative Patent Judge	)
	) BOARD OF PATENT
JOSEPH L. DIXON Administrative Patent Judge	) APPEALS AND) INTERFERENCES
STUART S. LEVY Administrative Patent Judge	)

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