

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. 12

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RONALD P. SANSONE and ROBERT A. LAW, JR.

Appeal No. 2003-0961
Application No. 09/298,782

ON BRIEF

Before COHEN, ABRAMS and MCQUADE, Administrative Patent Judges.
MCQUADE, Administrative Patent Judge.

DECISION ON APPEAL

Ronald P. Sansone et al. appeal from the final rejection of claims 1 through 18, all of the claims pending in the application.

THE INVENTION

The invention relates to "postage devices and more particularly to a system for correcting the rating and payment of mail pieces" (specification, page 1). Representative claim 1 reads as follows:

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1. A system for correcting the rating and payment of mail pieces, said system comprises:

a plurality of mailer's digital units that stores unique information that includes mail piece characteristics contained in a postal indicia affixed to each mail piece, wherein the unique information specifically identifies each mail piece and includes an amount of postage paid for each piece of mail;

a plurality of postal units that captures and stores the unique information contained in the postal indicia; and

a data center that receives information stored by the mailer's units and the unique information captured by the postal units to determine if a proper amount of postage has been paid for servicing and handling of the mail.

THE PRIOR ART

The references relied on by the examiner to support the final rejection are:

Breault et al. (Breault)	4,941,091	Jul. 10, 1990
Berson et al. (Berson)	5,819,239	Oct. 6, 1998

THE REJECTIONS

Claims 1 through 13 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Berson.

Claims 14 and 16 through 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Berson.

Claim 15 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Berson in view of Breault.

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Attention is directed to the brief (Paper No. 9) and answer (Paper No. 10) for the respective positions of the appellants and examiner regarding the merits of these rejections.¹

DISCUSSION

Berson, the examiner's primary reference, discloses "a system for ensuring proper payment by mailers for the amount of postage that is printed in the form of postage indicia printed on envelopes and labels during operation of their mailing machines" (column 1, lines 7 through 10). The system employs a product usage profile, i.e., a running or moving statistical average of the characteristics of the mail produced by the mailer, to calculate an expected cost for a discrete batch of mail pieces which can then be checked against actual funds credited to the mailer. The mailing machines generate and maintain a variety of information relating to each piece of mail such as its postage amount, dimensions and weight, mail classification, destination, piece count number, and date and time of processing (see column 7, lines 12 through 23). From this data, the machines utilize the postage amount and mail piece count for a discrete batch of

¹ In the final rejection (Paper No. 5), claims 14 and 16 through 18 also stood rejected under 35 U.S.C. § 102(e) as being anticipated by Berson. As the examiner has not restated this rejection in the answer, we assume that it has been withdrawn. See Ex parte Emm, 118 USPQ 180, 181 (Bd. App. 1957)

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mail pieces to generate a product usage profile which is periodically communicated to the post office (see column 7, lines 23 through 35). The post office counts mail pieces as they are received and predicts the cost of a discrete mail batch by multiplying the piece count by the mailer's product usage profile (see column 7, line 42, through column 8, line 38). Disparities between the predicted cost of the mail batch and the actual funds previously credited to the mailer are indicative of fraud and the need for further investigation (see column 8, lines 39 through 67). According to Berson (see column 2, line 54, through column 3, line 35), the use of this statistical inference or sampling to audit for postage meter fraud is superior in terms of cost and practicality, with essentially similar results, to so-called 100% verification systems wherein every piece of mail arriving at a post office is checked for proper postage.

As indicated above, independent claim 1 recites a system comprising mailer's digital units that store unique information contained in postal indicia affixed to each mail piece identifying the mail piece and its amount of postage, "a plurality of postal units that captures and stores the unique information contained in the postal indicia," and a data center that receives the information stored by the mailer's units and

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"the unique information captured by the postal units" to determine if a proper amount of postage has been paid for servicing and handling of the mail. Each of the rejections on appeal rests on the examiner's apparent finding (see pages 3, 8 and 9 in the answer) that the foregoing claim limitations relating to the unique information captured and stored by the postal units are met by Berson's product usage profile. This product usage profile, however, is merely a running statistical representation of the average cost of a mail piece. It does not constitute unique information specifically identifying each mail piece and its amount of postage as set forth in claim 1. Indeed, Berson's express rejection of so-called 100% verification methods as too costly and impractical ostensibly teaches away from postal units that capture and store the unique information defined in claim 1. Hence, Berson does not disclose, and would not have suggested, the system recited in claim 1.

Accordingly, we shall not sustain the standing 35 U.S.C. § 102(e) rejection of independent claim 1, and dependent claims 2 through 13, as being anticipated by Berson, or the standing 35 U.S.C. § 103(a) rejection of dependent claims 14 and 16 through 18 as being unpatentable over Berson.

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Since the examiner's application of Breault does not cure the above noted deficiencies in Berson relative to parent claim 1, we also shall not sustain the standing 35 U.S.C. § 103(a) rejection of dependent claim 15 as being unpatentable over Berson in view of Breault.

SUMMARY

The decision of the examiner to reject claims 1 through 18 is reversed.

REVERSED

IRWIN CHARLES COHEN)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
NEAL E. ABRAMS)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
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JOHN P. MCQUADE)	
Administrative Patent Judge)	

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