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for publication and is not binding precedent of the Board.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. 13

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte TERRY L. ZIMMERMAN
and
RAGHURAMA BHYRAVABHOTLA

Appeal No. 2004-0326
Application No. 09/651,019

ON BRIEF

Before HAIRSTON, McQUADE, and NASE, Administrative Patent Judges.

NASE, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 to 17, which are all of the claims pending in this application.

We REVERSE.

BACKGROUND

The appellants' invention relates generally to improvements to electronic price label (EPL) systems, and more specifically to systems and methods for handling alternate information by EPLs (specification, p. 1). A copy of the dependent claims under appeal is set forth in the appendix to the appellants' brief. Claims 1 and 9, the independent claims on appeal, read as follows:

> 1. A computerized method for displaying alternate information on an electronic price label comprising the steps of:
>
> (a) reading, from a first data file, a record for a merchandise item associated with an electronic price label, the record comprising a first field for the item's regular price and a second field for alternate data;
>
> (b) determining whether the electronic price label is to display the item's unit price or an alternate message based on the alternate data for the item;
>
> (c) if the item's unit price is to be displayed, transmitting a message to the electronic price label, containing the unit price and a command to display the unit price;
>
> (d) if the item's unit price is not to be displayed, determining if the alternate data comprises the alternate message or the alternate data comprises one or more instructions directing the creation of the alternate message;
>
> (e) if the alternate data comprises the alternate message, transmitting to the electronic price label the alternate message and a command to display the alternate message; and
>
> (f) if the alternate data comprises one or more instructions directing the creation of the alternate message, creating the alternate message utilizing the one or more instructions and transmitting to the electronic price label the alternate message and the command to display the alternate message.
>
> 9. A computerized system for handling alternate information on electronic price labels comprising:
>
> a first data file comprising a record for a merchandise item associated with an electronic price label, the record comprising a first field for the item's regular price and a second field for alternate data;
>
> means for reading the record from the first data file;

means for determining whether the electronic price label is to display the item's unit price or an alternate message based on the alternate data for the item;

means for transmitting to the electronic price label a message containing the unit price and a command to display the unit price;

means for determining if the alternate data comprises the alternate message or the alternate data comprises one or more instructions directing the creation of the alternate message;

means for creating the alternate message utilizing the one or more instructions if the alternate data comprises the one or more instructions; and

means for transmitting to the electronic price label the alternate message and a command to display the alternate message.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Goodwin, III (Goodwin '913)	5,999,913	Dec. 7, 1999
Goodwin, III (Goodwin '395)	6,021,395	Feb. 1, 2000

Claims 1 to 17 stand rejected under 35 U.S.C. § 103 as being unpatentable over Goodwin '395 in view of Goodwin '913.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejection, we make reference to the final rejection (Paper No. 4, mailed September 4, 2002) and the answer (Paper No. 9, mailed April 7, 2003) for the examiner's complete reasoning in support of the rejection, and to

the brief (Paper No. 8, filed February 10, 2003) for the appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by the appellants and the examiner. Upon evaluation of all the evidence before us, it is our conclusion that the evidence adduced by the examiner is insufficient to establish a prima facie case of obviousness with respect to the claims under appeal. Accordingly, we will not sustain the examiner's rejection of claims 1 to 17 under 35 U.S.C. § 103. Our reasoning for this determination follows.

In rejecting claims under 35 U.S.C. § 103, the examiner bears the initial burden of presenting a prima facie case of obviousness. See In re Rijckaert, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993). A prima facie case of obviousness is established by presenting evidence that would have led one of ordinary skill in the art to combine the relevant teachings of the references to arrive at the claimed invention. See In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988) and In re Lintner, 458 F.2d 1013, 1016, 173 USPQ 560, 562 (CCPA 1972).

Goodwin '395 is directed to a system and method of managing displayed message priorities in an electronic price label (EPL) system through a data file containing message records including message priorities for each EPL. The system includes a computer which stores a plurality of records for an electronic price label in a data file, which reads the data file to identify all of the records for the electronic price label, which determines the priorities in the records, and which displays the messages at start times within the records in accordance with the priorities. The computer records the records in response to operator input and/or inputs received from an application program through an application programming interface. For inputs received from application programs, the computer establishes new priorities for the messages based upon different application priorities assigned to the application programs. As shown in Figure 2, the EPL display displays the price and other information (i.e., message) contained within data registers.

Goodwin '913 is directed to an electronic price label (EPL) system which is capable of displaying price information in terms of a plurality of different currencies. The system includes an EPL and a computer. The EPL includes a display, and a control circuit which causes the display to display price information based upon a plurality of different currencies. The computer sends messages to the EPL instructing the EPL to display predetermined price information based upon a predetermined currency. As

shown in Figures 2 and 3, the EPL display includes two pieces of cost information at a time in each currency, unit cost and total cost.

In our view, it would have been obvious at the time the invention was made to a person of ordinary skill in the art to have combined the teachings of Goodwin '395 and Goodwin '913 so as to arrive at an EPL that displays both two pieces of cost information at a time in each currency (unit cost and total cost) and messages based upon different application priorities assigned to the application programs. However, this does not arrive at the claimed invention since such an EPL would always display the item's unit price and the system would never determine whether the EPL is to display the item's unit price or an alternate message based on the alternate data for the item as set forth in the claims under appeal.[1]

Since the teachings of Goodwin '395 and Goodwin '913 are not suggestive of the claimed subject matter for the reasons set forth above, the decision of the examiner to reject claims 1 to 17 under 35 U.S.C. § 103 is reversed.

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[1] In the rejection before us in this appeal (final rejection, pp. 2-4), the examiner incorrectly ascertained that Goodwin '395 determined whether the EPL is to display the item's unit price or an alternate message. Goodwin '395 contains no teaching that the EPL displays the item's unit price.

CONCLUSION

To summarize, the decision of the examiner to reject claims 1 to 17 under 35 U.S.C. § 103 is reversed.

REVERSED

KENNETH W. HAIRSTON Administrative Patent Judge	)	
JOHN P. McQUADE Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
JEFFREY V. NASE Administrative Patent Judge	)	

PAUL W. MARTIN
LAW DEPARTMENT, WHQ-4
1700 S. PATTERSON BLVD.
DAYTON, OH 45479-0001

JVN/jg