

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. 22

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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**Ex parte** NORBERT BENDICKS and DETLEF KERKMANN

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Appeal No. 2004-0613  
Application No. 09/857,551

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ON BRIEF

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Before HAIRSTON, JERRY SMITH, and DIXON, **Administrative Patent Judges**.  
DIXON, **Administrative Patent Judge**.

### **DECISION ON APPEAL**

This is a decision on appeal from the examiner's final rejection of claims 20-24 and 32, which are all of the claims pending in this application.

We REVERSE.

## BACKGROUND

Appellants' invention relates to a sensor device for detecting a physical measured quantity. An understanding of the invention can be derived from a reading of exemplary claim 20, which is reproduced below.

20. A sensor device for measuring a physical value, the sensor device comprising:

a sensor element for generating an output signal in response to measuring a physical value;

a processor operable with the sensor element for comparing the output signal to a reference signal in order to generate a primary signal indicative of the measured physical value, the processor further operable with the sensor element for generating a secondary signal indicative of the operating condition of the sensor element based on the output signal; and

a logic block operable for receiving the primary and secondary signals from the processor, wherein the logic block includes a signal-mixing element that overlays the primary and secondary signals to form a combined primary and secondary signal, the logic block having an output for outputting the combined primary and secondary signal.

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

Wellman et al. (Wellman)	5,343,145	Aug. 30, 1994
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Claims 20-22 and 32 stand rejected under 35 U.S.C. § 102 as being anticipated by Wellman. Claims 23 and 24 stand rejected under 35 U.S.C. § 103 as being unpatentable over Wellman.

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Rather than reiterate the conflicting viewpoints advanced by the examiner and appellants regarding the above-noted rejections, we make reference to the examiner's answer (Paper No. 18, mailed Jun. 4, 2003) for the examiner's reasoning in support of the rejections, and to appellants' brief (Paper No. 17, filed Mar. 10, 2003) and reply brief (Paper No. 19, filed Jun. 12, 2003) for appellants' arguments thereagainst.

### OPINION

In reaching our decision in this appeal, we have given careful consideration to appellants' specification and claims, to the applied prior art reference, and to the respective positions articulated by appellants and the examiner. As a consequence of our review, we make the determinations which follow.

Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention. **RCA Corp. v. Applied Digital Data Sys., Inc.**, 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). In other words, there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. **Scripps Clinic & Research Found. v. Genentech Inc.**, 927 F.2d 1565, 1576, 18 USPQ2d 1001, 1010 (Fed. Cir. 1991).

Appellants argue that the difference between Wellman and the claimed invention is that the claimed invention generates and outputs through an output one signal which is the combined primary and secondary signal which contains information concerning

the physical value and the operating condition of the sensor element. (See brief at page 7.) The examiner maintains that Wellman teaches a logic block 124 in Figure 7 which mixes and overlays the primary and secondary signals to form a combined signal. (See answer at pages 3 and 5.) From our review of Wellman, we disagree with the examiner and do not find that multiplexer 124 combines two signals to form a single output signal containing both information quantities. Additionally, the examiner maintains that the A/D converter “converts the analog output signal 102 into digital output signal and combines it with the digital output signal 104 to output one combined signal (figure 7).” (See brief at page 5.) We find no clear support for the examiner’s position and merely find that the signals are transmitted to the microprocessor, but not disclosed as combined as recited in independent claim 20. Therefore, we do not find that Wellman teaches every limitation recited in independent claim 20, and we cannot sustain the rejection of independent claim 20 and its dependent claims.

Similarly, we do not find that the examiner has made a persuasive showing of the obviousness of the invention as recited in independent claim 20 and dependent claim 23, and we cannot sustain the rejection of dependent claims 23 and 24.

## **CONCLUSION**

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To summarize, the decision of the examiner to reject claims 20-22 and 32 under 35 U.S.C. § 102 is reversed, and the decision of the examiner to reject claims 23 and 24 under 35 U.S.C. § 103 is reversed.

**REVERSED**

KENNETH HAIRSTON	)	
Administrative Patent Judge	)	
	)	
	)	
	)	
	)	BOARD OF PATENT
JERRY SMITH	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
	)	
	)	
JOSEPH L. DIXON	)	
Administrative Patent Judge	)	

JD/RWK

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BROOKS KUSHMAN P.C.  
1000 TOWN CENTER  
TWENTY-SECOND FLOOR  
SOUTHFIELD, MI 48075