

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 21

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

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Ex parte ERIC W. HAUCK and WINSTON G. WALKER

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Appeal No. 2005-1123  
Application No. 10/062,921

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ON BRIEF

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Before FRANKFORT, NASE and BAHR, Administrative Patent Judges.  
BAHR, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 2-4, 6-8, 15-19 and 21-23. Claims 9-13 were canceled by amendment subsequent to the final rejection.

We AFFIRM.

## BACKGROUND

The appellants' invention relates to remote controls for use with motorized window coverings and to systems for controlling motorized window coverings. A copy of the claims under appeal is set forth in the appendix to the appellants' brief.

### ***The Prior Art***

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

Kovach et al. (Kovach)	5,793,174	Aug. 11, 1998
Hosono et al. (Hosono) (Japanese Kokai Patent Application)	1999-98028	Apr 9, 1999 <sup>1</sup>

### ***The Rejection***

Claims 2-4, 6-8, 15-19 and 21-23 stand rejected under 35 U.S.C. § 103 as being unpatentable over Kovach in view of Hosono.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejection, we make reference to the answer (Paper No. 16) for the examiner's complete reasoning in support of the rejection and to the brief (Paper No. 15) and reply brief (Paper No. 17) for the appellants' arguments thereagainst.

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<sup>1</sup> We derive our understanding of this reference from an English language translation, obtained by the USPTO, a copy of which is attached hereto.

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. For the reasons which follow, we sustain the examiner's rejection.

Appellants have opted to group all of their claims together for purposes of this appeal (brief, page 2) and have presented arguments as to the patentability of the claims without regard to any particular claim. Therefore, we shall decide this appeal on the basis of representative claim 15, with claims 2-4, 6-8, 16-19 and 21-23 standing or falling therewith. See In re Wiseman, 596 F.2d 1019, 1021-1022, 201 USPQ 658, 660 (CCPA 1979); In re Burckel, 592 F.2d 1175, 1178-1179, 201 USPQ 67, 70 (CCPA 1979); In re Hellsund, 474 F.2d 1307, 1309-1310, 177 USPQ 170, 172 (CCPA 1973).

The examiner has rejected claim 15 as being unpatentable over Kovach in view of Hosono. Kovach discloses an infrared (IR) transmitter (remote control unit) 218 having UP and DOWN buttons 220a, 220b used to remotely activate a window shade 106 provided with a motor 122 mounted in the head rail 102 thereof for driving a reel shaft 124 which in turn causes movement of a lift cord 120' to raise or lower the blind. The window shade is also equipped with an interface module having an IR receiver 216.

According to Kovach, in a preferred embodiment, the IR transmitter 218 is provided with a two-position channel selection switch 222, which allows a user to choose between two channels A and B. Kovach teaches that "[t]he channel selection

feature is especially advantageous in rooms where more than one window covering assembly is to be installed” (column 9, lines 46-48). When the UP or DOWN button on the transmitter 218 is pushed, a coded sequence of pulses corresponding to the button pushed and the channel selected is generated. This sequence comprises a command signal and has an identical number of pulses, with the sequence being repeated as long as the button is depressed. Each pulse in a sequence is modulated with a 38 kHz carrier before being transmitted.

The IR receiver filters and demodulates the sensed command signal and outputs a sequence of pulses corresponding to that generated within the transmitter before being modulated. The pulses are read by the processor 214 and matched against a reference sequence stored in ROM. If a match occurs, the processor sends out the appropriate signals to energize the motor. See column 9, last paragraph.

Hosono discloses a remote control transmitter comprising a laser beam emitter 6 for emitting a laser beam 10, an infrared light emitter 5, a convex lens 14 for restricting the directivity of the infrared light 11 and a half mirror 13 for making the directivity of the infrared light 11 and laser beam 10 the same. See Figure 4 and page 6 of the appended translation. As illustrated in Figure 4, the infrared beam 11 is broader than the visible laser beam 10. Hosono teaches that the laser beam emitter emits visible light (laser beam 10) for the purpose of ensuring that the target device is the transmission target for the command contents of the infrared light (translation, page 1).

Hosono explains that the visible laser beam is provided to overcome the problem in the prior art that, if there were a number of devices which received the same remote control format within a close distance in a room, the control extended to devices besides the target device (translation, page 2). Previous attempts to overcome this problem by providing separate function keys for each device made the transmitter complex and the provision of a slide switch to switch control between different devices A to C was inconvenient, as it required the user to slide the switch with each change of the operating devices A to C (translation, page 3). Hosono points out that the visible light beam permits the user to confirm whether the transmitted remote control signal, which is not visible to the human eye, is accurately directed toward the target device (translation, page 4). Accordingly, the infrared light signal need not be emitted in a wide range as was necessary in the prior art (translation, page 3).

Hosono discloses each and every element of claim 15. Specifically, Hosono discloses a remote control transmitter, for controlling a target device, comprising a laser beam emitter 6 (means for emitting a visible light beam) and an infrared light emitter 5 (means for emitting an encoded light beam), wherein the encoded infrared beam is superimposed on the visible light beam (see Figure 4), the encoded infrared beam carrying commands to the target device (translation, page 5, and claims 1 and 5 of Hosono). Claim 15 does not recite a window covering. The language “for controlling a window covering” and “to move the window covering” constitutes intended use. It is well settled that the recitation of an intended use for an old product does not make a claim to

that old product patentable. In re Schreiber, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997). In this case, Hosono's remote control transmitter is fully capable, without modification, of being used for controlling a motorized window covering having an IR receiver.

In light of the above, we conclude that Hosono anticipates<sup>2</sup> claim 15. A disclosure that anticipates under 35 U.S.C. § 102 also renders the claim unpatentable under 35 U.S.C. § 103, for "anticipation is the epitome of obviousness." Jones v. Hardy, 727 F.2d 1524, 1529, 220 USPQ 1021, 1025 (Fed. Cir. 1984). See also In re Fracalossi, 681 F.2d 792, 794, 215 USPQ 569, 571 (CCPA 1982); In re Pearson, 494 F.2d 1399, 1402, 181 USPQ 641, 644 (CCPA 1974).

Moreover, it would have been obvious, in view of the combined teachings of Kovach and Hosono, to provide a remote control transmitter for Kovach's powered window assembly comprising both an infrared light emitter for transmitting an encoded infrared light signal carrying commands for moving the window covering and a visible laser beam emitter, with the infrared light beam being superimposed on the visible light beam, as illustrated in Figure 4 of Hosono. The motivation for providing such a remote

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<sup>2</sup> 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). It is not necessary that the reference teach what the subject application teaches, but only that the claim read on something disclosed in the reference, i.e., that all of the limitations in the claim be found in or fully met by the reference. Kalman v. Kimberly Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984).

control transmitter, in place of the two-channel IR transmitter of Kovach, comes from both of the references, as pointed out by the examiner on page 4 of the answer.

Specifically, both Kovach and Hosono recognize that the placement of two or more remotely controlled devices controlled by the same transmitter in close proximity to one another renders it more difficult for the operator to target the intended device for control. Further, Hosono appreciates that the two-channel solution in prior art transmitters such as that of Kovach is inconvenient for operators and teaches one instead to provide on the transmitter means for emitting a visible light beam, aligned with and narrower than the IR control beam, to help the operator to direct the control beam to target the intended device for control. As such, Hosono would have provided ample motivation to one of ordinary skill in the art to provide in Kovach's remote control transmitter a means for emitting a visible laser beam, coaxial with and narrower than the emitted IR control beam, to permit the operator to accurately target the intended window blind for control.

The appellants' argument that Hosono is non-analogous art (brief, page 3) is not well taken. Two criteria have evolved for determining whether prior art is analogous: (1) whether the art is from the same field of endeavor, regardless of the problem addressed, and (2) if the reference is not within the field of the inventor's endeavor, whether the reference still is reasonably pertinent to the particular problem with which the inventor is involved. In re Clay, 966 F.2d 656, 658-59, 23 USPQ2d 1058, 1060 (Fed. Cir. 1992). See also In re Deminski, 796 F.2d 436, 442, 230 USPQ 313, 315 (Fed. Cir. 1986); In re Wood, 599 F.2d 1032, 1036, 202 USPQ 171, 174 (CCPA 1979).

Hosono is analogous art with respect to the invention recited in claim 15, as both Hosono and claim 15 are from the field of remote control units. Moreover, even if Hosono were not considered to be from the same field of endeavor as the invention of claim 15, Hosono is still reasonably pertinent to the particular problem which the appellants' invention seeks to solve, namely, permitting the operator to direct the remote control beam at just one receiver when one or more actuators are placed in close proximity to one another (see appellants' specification, page 1, and the discussion of Hosono above). Therefore, Hosono qualifies as analogous art with respect to the appellants' invention under either of the two established criteria.

For all of the above reasons, we shall sustain the examiner's rejection of claim 15, as well as claims 2-4, 6-8, 16-19 and 21-23 which stand or fall with claim 15, as being unpatentable over Kovach in view of Hosono.

#### CONCLUSION

To summarize, the decision of the examiner to reject claims 2-4, 6-8, 15-19 and 21-23 under 35 U.S.C. § 103 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

CHARLES E. FRANKFORT  
Administrative Patent Judge

JEFFREY V. NASE  
Administrative Patent Judge

JENNIFER D. BAHR  
Administrative Patent Judge

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Attachment: English language translation of Hosono reference