

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

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HIROYUKI YUYAMA and YOSHITO GOTO

Appeal No. 2005-2220
Application No. 09/335,189

ON BRIEF

Before THOMAS, RUGGIERO, and NAPPI, **Administrative Patent Judges**.

NAPPI, **Administrative Patent Judge**.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 of the final rejection of claims 26 through 31. For the reasons stated *infra* we will not sustain the examiner's rejection of claims 26 through 31.

THE INVENTION

The invention relates to a system for preparing and printing out of drug information. See page 1 appellants' specification. In the system, drugs are prepared to dispense to patients at plural stations. Each station has different types of drugs and each station has a printer, to print out instructions related to the drug. The system is programmed such that the printer at a station only prints out instructions related to the drugs at that station. See pages 2 and 3 of appellants' specification.

Claim 26 is representative of the invention and is reproduced below:

26. A drug preparation order system for use with a drug preparation order sheet, said system comprising:
a control unit for carrying out logic operations and outputting control signals;
a display device connected to said control unit; and
a plurality of printers connected to said control unit,
said control unit comprising:
a memory for storing a plurality of printer codes each corresponding to one of said plurality of printers, a plurality of drug type codes, and a printer setting file defining a correlation between the drug type codes and the printer codes;
an input device through which external data can be entered into said memory, said external data comprising a plurality of sets of data, each set comprising drug data;
correlating means for correlating each of the plurality of sets of data with one of the drug type codes;
display means for displaying said correlation between the drug type codes and the printer codes on said display device;
altering means for altering said correlation in response to a signal entered through said input device; and
printer activating means for, in response to a command to print one of the plurality of sets of data, activating one of said printers that corresponds to one of the printer codes corresponding, in accordance with said printer setting file, to one of said drug type codes which is correlated by said correlating means with said one of the plurality of sets of data to print said one of the plurality of sets of data on a drug preparation sheet.

THE REFERENCES

The references relied upon by the examiner are:

Kraslavsky et al (Kraslavsky)	5,537,626	July 16, 1996
Halvorson	4,847,764	July 11, 1989

THE REJECTIONS AT ISSUE

Claims 26 through 31 stand rejected under 35 U.S.C. § 103 as being obvious over Halvorson in view of Kraslavsky. Throughout the opinion we make reference to the brief and the answer for the respective details thereof.

OPINION

We have carefully considered the subject matter on appeal, the rejection advanced by the examiner and the evidence of obviousness relied upon by the examiner as support for the rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, appellants' argument 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.

With full consideration being given to the subject matter on appeal, the examiner's rejections and the arguments of appellants and the examiner, for the reasons stated *infra* we will not sustain the examiner's rejection of claims 26 through 31 under 35 U.S.C. § 103.

Appellants argue, on page 7 of the brief, "Halvorson fails to teach a display means for displaying the correlation between the drug type code and the

printer codes on the display device.” Further, appellants argue, on page 8 of the brief:

[I]t is respectfully submitted that the keyboard does not teach the altering means for altering the correlation in response to a signal entered through the input device as required in claim 26. Specifically, it is generally accepted that a keyboard is used to manipulate data in a computer to alter the computer’s functions or alter data stored therein. It should at least be understood that “the keyboard” of Halverson might merely teach “the input device” as required in claim 26, not “the altering means” as required in claim 26. Nevertheless, it is respectfully submitted that merely because a user can enter data via a keyboard into a computer, such entry does not necessarily translate into a means for altering the correlation in response to a signal entered through the input device as required in claim 26.

In response the examiner asserts, on page 10 of the answer:

Halverson teach a system database which includes information about the patient’s name and code as well as drug code, taking directions and dosage of all medication for example, the Examiner interprets “sleeve id code” and “quantity of dosage of a drug in the sleeve” as a form of drug type code, since Halverson clearly teaches that different sleeves have different quantity of drug and colored difficult [sic] (see: column 9, lines 42-45, 54-55, column 10, lines 54 and Figure 8).

Further, the examiner states:

Halverson does teach one or more printers with printer settings in strategic location. However, Halverson was not relied on for the teachings of the printer activating means, Kraslavsky et al. was relied on for this teaching using a computer with printing software called Novell NetWare® that allows the user to control (modify) the printer’s functions that include creating a new print server and print queues, configuring printing ports (reads on “correlating data to printer codes”) and starting or stopping printer (see: column 12, lines 6-13).

We disagree with the examiner’s rationale. The examiner bears the initial burden of establishing a *prima facie* case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). **See also In re**

Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). It is the burden of the examiner to establish why one having ordinary skill in the art would have been led to the claimed invention by the express teachings or suggestions found in the prior art, or by the implication contained in such teachings or suggestions. **In re Sernaker** 702 F.2d 989, 995, 217 USPQ 1, 6 (Fed. Cir. 1983). “The motivation, suggestion or teaching may come explicitly from statements in the prior art, the knowledge of one of ordinary skill in the art, or, in some cases the nature of the problem to be solved.” **In re Huston** 308 F.3d 1267, 1278, 64 USPQ2d 1801, 1810 (Fed. Cir. 2002, citing **In re Kotzab** 217 F.3d 1365, 1370, 55 USPQ 1313, 1317 (Fed. Cir. 2000)).

While we concur with the examiner that Halverson teaches a plurality of printers (see figure 1) and a correlation between drug codes and drug data (see figures 8 and 16 (which depict data fields in a database)), we do not find that the combination of the references teaches “a correlation between the drug type codes and the printer codes” as claimed in claim 26. Claim 26 includes the limitations of “a memory for storing ... a printer setting file defining a correlation between the drug type codes and the printer codes”; “display means for displaying said correlation between the drug type codes and the printer codes on said display device”; and “correlating means for correlating each of the plurality of sets of data [drug data] with one of the drug type codes.” Thus, claim 26 includes two correlations, printer codes to drug codes and drug codes to drug

data.¹ We concur with the examiner that Halverson teaches the correlation of drug data to drug codes, see, for example, the database tables depicted in figures 8 and 16, which correlate drug information to various codes associated with the drugs. Further, we find that Halverson teaches storing printer codes for the printer associated with each station; see figure 7 which depicts a database table for drug dispensing station settings. However, we find no disclosure in Halverson that correlates drug codes to printer codes as claimed. Additionally, we do not find that Halverson teaches a means to alter either of the correlations. Kraslavsky teaches a method of connecting a printer to a network and does not address a system for distributing drug information. We find no disclosure or suggestion in Kraslavsky that suggests that printer codes should be correlated to drug codes in a system such as Halverson. Accordingly, we do not find that the examiner has established a *prima facie* case of obviousness.

¹ We note that claim 26 also includes the limitation of “altering means for altering said correlation.” It is unclear which of the two correlations are being altered by the altering means. Appellants and the examiner should insure that appropriate amendments are made to clarify the claim.

In summary we will not sustain the examiner's rejection of claims 26 through 31 under 35 U.S.C. § 103. Additionally, appellants and the examiner should take appropriate steps to correct the noted ambiguities in the claims. The decision of the examiner is reversed.

REVERSED

JAMES D. THOMAS)	
Administrative Patent Judge)	
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)	
JOSEPH F. RUGGIERO)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
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