

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

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte DIETER HEERDT*

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Appeal No. 2006-1252  
Application No. 10/310,886  
Technology Center 3600

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Decided: August 16, 2006

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Before BAHR, LEVY and NAPPI, *Administrative Patent Judges*.

BAHR, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal from the examiner's rejection of claims 1-36.

We AFFIRM-IN-PART.

## BACKGROUND

The appellant's invention relates to electronic controllers for controlling a liquid dispenser, such as hot-melt equipment, so as to be accessible from remote locations such as over an Ethernet-based network or the Internet. A copy of the claims under appeal is set forth in the appendix to the appellant's brief.

The examiner relies upon the following as evidence of unpatentability:

Whitmore	US 6,611,203 B2	Aug. 26, 2003 (Aug. 29, 2001)
Scherer	US 6,772,033 B2	Aug. 3, 2004 (Sep. 6, 2002)

The following rejection is before us for review.

Claims 1-36 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Whitmore in view of Scherer.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding this appeal, we make reference to the examiner's answer (mailed July 13, 2005) for the examiner's complete reasoning in support of the rejection and to the appellant's brief (filed May 16, 2005) for the appellant's arguments thereagainst.

## OPINION

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

Whitmore, the primary reference relied upon by the examiner in rejecting all of the claims on appeal, discloses a monitoring system that permits an operator to observe on a visual display operating data for a plurality of dispensing devices. The fluid dispensing monitoring system includes a plurality of dispensing devices 10, such as fluid spray guns, the operation of each such device being individually controllable by a respective machine control circuit 12, and a monitor control circuit 14 for detecting and converting to electrical signals at least one characteristic or parameter of the operation of the devices. The monitor control 14 may provide warning or alarm signals to the machine control 12. The monitor control 14 provides the corresponding signal that is representative of the parameter being monitored to a respective operator control circuit 16 across a suitable network 18, thus permitting an operator to monitor the dispensing device 10 operation from a location that is remote from the dispensing device.

Whitmore's operator control 16 includes a visual display 20 such as a color monitor connected to a personal computer and an operator interface 30 such as a keyboard, mouse and so forth for data input such as is needed for configuring the system or updating and making changes. At least one screen or window of the visual representation of the operator control 16 will allow the operator to select and group data for a plurality of dispensing devices 10 to observe simultaneously. Coded faceplates are provided to visually alert an operator to a fault condition. For example, a faceplate may be framed in red to indicate a fault condition and

maintained in the red condition until reset by the operator after appropriate action has been taken to correct the condition.

Whitmore teaches that the operator control 16 may be interfaced with a conventional web browser for online access. For applications in which the operator control has access to the Internet, such as through a modem or other network connection, the Help menu may include a link to a web site that contains an online manual such as may be used for troubleshooting or setup (col. 4, ll. 51-58).

Scherer discloses a manufacturing network system including a net server, comprising at least one master computer 2 and at least one network computer 3 linked for the purpose of network management, the network computer 3 being provided with a number of software modules and being linked with a number of local control devices 4 in the area of assembly lines, work stations and the like, which local control devices 4 are associated with field devices, such as initiators, actuators, screw control modules for controlling or actuating corresponding work devices in the work stations, assembly lines or the like. One of the software modules discussed by Scherer is a machine/operating data acquisition module (MDE/BDE module) for obtaining data about machines and their operation, including warnings about operative states of the machine, such as excessive temperature or oil. The MDE/BDE module can directly communicate with the various machines via a transmission control protocol/internet protocol (TCP/IP)

connection to provide an actual state of the corresponding machines without any considerable time delay.

To permit an overview of the whole company plant assigned to the network system, a plant overview module can be provided for outputting at least operative states and plant overviews. For example, such a module would indicate states of work stations, transportation sections of the assembly lines, or the like. The various modes of operation of the different work stations can be, for example, graphically highlighted in a corresponding plant overview by the module on the basis of data received from the MDE/BDE module.

As pointed out by Scherer, all kinds of events can be recorded continuously by the network computer and its associated event database system. Moreover, no specific configuration of the individual components is needed because of the network connection and the various components being able to communicate with one another in a variable way via TCP/IP (col. 6, last para.).

In rejecting appellant's claims, the examiner asserts that it would have been obvious to one of ordinary skill in the art, at the time of appellant's invention, "to use the web-based manufacturing network system [as taught by Scherer] to control and monitor Whitmore's spray gun" (answer, p. 3). Appellant (brief, p. 10) takes issue with the examiner's assertion because, according to appellant, Scherer simply states that the computer system (manufacturing network system 1) is linked to local control devices 4 with which work devices are associated and does not expressly discuss controlling the control devices or work devices from the computer system.

We do not agree with appellant. Scherer states (col. 2, ll. 6-9) that the data exchange between the network computer 3 and local control devices 4 is normally bidirectional, “so that corresponding data can also be transmitted to the local control devices, for instance for the purpose of programming, or can be called therefrom by the network computer.” The programming of the local control devices that control the field devices and workstations constitutes control of the field devices and workstations. In disclosing a manufacturing network system, including a net server, for linking with local control devices associated with field devices and work stations, Scherer would have provided ample suggestion to one of ordinary skill in the art at the time of appellant’s invention to utilize such a network to monitor and control the work station(s) (fluid dispensing devices) of Whitmore to attain the flexibility and variability discussed by Scherer (col. 6, last para.).

With particular reference to claim 1, appellant (brief, p. 11) argues that Whitmore fails to teach or suggest network software configuring said network hardware to be recognized and function as a network server in the network. This argument is not persuasive because the rejection of claim 1 is not based on Whitmore alone but, rather, on Whitmore in view of Scherer. Nonobviousness cannot be established by attacking the references individually when the rejection is predicated upon a combination of prior art disclosures. *See In re Merck & Co. Inc.*, 800 F.2d 1091, 1097, 231 USPQ 375, 380 (Fed. Cir. 1986). As discussed above, the suggestion to use a manufacturing network including a net server to

monitor and/or control the fluid dispensing devices of Whitmore comes from Scherer. The rejection of claim 1 is sustained.

With respect to claim 2, appellant (brief, p. 11) argues that the examiner has failed to specify where in the references the recited feature of the network server having a unique address recognizable in the network for allowing a user to access said network server by incorporating said unique address in a request sent to said network server might be found or suggested. In response, the examiner states, on page 6 of the answer, that

Whitmore's mention of the use of the internet with a link (32) to an "internet web site" (see col. 3, lines 8 and 9) at the very least, imply such a unique address being used.

Such a system does not work without an internet address, as is the standard way of accessing sites on the internet.

Scherer also discloses use of TCP/IP (transmission control protocol/internet protocol) as well as other well known protocols such as HTTP and SMTP, for example, which utilize a similar address format.

Appellant has not rebutted the examiner's statement by explaining why the disclosure alluded to by the examiner would not have at least been suggestive of the feature highlighted by appellant. The rejection of claim 2 is thus sustained.

With respect to claim 3, appellant argues that the examiner has failed to specify where in the references the "static and dynamic information" feature is found or suggested (brief, p. 12). In response, the examiner contends, on page 6 of the answer, that Whitmore's interface shows static information, such as calibration

history (116) of each spray gun, as well as a graph of the pressure of a particular gun over time (Figures 3 and 4). Appellant has not offered any explanation as to why the showing of calibration history and pressure pointed to by the examiner would not satisfy the language of claim 3 urged not to be met by Whitmore. The rejection of claim 3, as well as claims 4, 5 and 7 which appellant has not argued separately apart from claim 3, is sustained.

With respect to claim 6, appellant argues, on page 12 of the brief, that the applied references fail to disclose, teach or suggest that the user interface is interactive and includes a plurality of commands for selection by the user and asserts that Whitmore's disclosure (col. 3, ll. 4-9) that the operator interface enables the operator to input data and make changes still fails to address a user interface that includes a plurality of commands for selection by the user as required in claim 6. Be that as it may, Scherer's teaching (col. 5, ll. 12-37) of providing a touch-sensitive screen on the local computer to permit specific sequences or queries displayed on the screen to be started directly by touching corresponding symbols or icons to permit control and monitoring of the various field devices in the different work stations would have suggested an interactive user interface including a plurality of commands for selection by the user to control the liquid dispensing devices of Whitmore. Appellant's argument is thus unconvincing of any error on the part of the examiner in rejecting claim 6 as being unpatentable over Whitmore in view of Scherer. The rejection is sustained.

With respect to claim 8, appellant (brief, p. 13) argues that the examiner has failed to specify where the feature of the network server having a messaging program for generating and sending a message to a node in the network when a predetermined condition is detected in said device is taught or suggested in the references. The examiner points out on page 7 of the answer that Whitmore (Figure 5) discloses a warning message with a fault description and a date and time of the occurrence of said fault and refers to Whitmore's disclosure (col. 2, ll. 50-55), considering the text information about various gun devices to be messages as recited in the claim. Moreover, the examiner notes that Scherer discloses (Figure 13) a "message" area in the upper left-hand corner of the screen and use of simple mail transfer protocol (SMTP) for sending messages throughout the system (answer, p. 7). It is not apparent, and appellant has not cogently explained, why the portions of the references alluded to by the examiner would not have been suggestive of the claim limitation highlighted by appellant. The rejection of claim 8 is sustained.

We cannot sustain the examiner's rejection of claims 9 and 10, or claims 11-20, which depend from claim 10, as, despite appellant's challenge to do so (brief, pp. 13-14), the examiner has failed to point out where the applied references teach or suggest the features recited in claims 9 and 10 and it is not immediately apparent where such teachings or suggestions are found in the references. We likewise cannot sustain the examiner's rejection of claim 21, or claims 22-36 depending from claim 21, as the examiner has refused to respond to appellant's challenge to

point out where the applied references teach or suggest hot-melt equipment. Upon return of jurisdiction of the application to the primary examiner, if the examiner remains of the view that these claims are unpatentable over Whitmore in view of Scherer, the examiner may consider reinstating the rejection of these claims, with the appropriate authorization, specifically pointing out where the features of these claims are taught or suggested in the references.

#### CONCLUSION

To summarize, the decision of the examiner to reject claims 1-36 is affirmed as to claims 1-8 and reversed as to claims 9-36. The examiner's decision is  
**AFFIRMED-IN-PART.**

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED-IN-PART

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