

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 CARLOS SENA

Appeal No. 2006-1295
Application 10/427,072

ON BRIEF

Before OWENS, CRAWFORD and LEVY, *Administrative Patent Judges*.

OWENS, *Administrative Patent Judge*.

DECISION ON APPEAL

This appeal is from a rejection of claims 9-22, which are all of the pending claims.

THE INVENTION

The appellant claims a cruise control system and method wherein an indicator emits light of a first color when the cruise control system is in the on condition and emits light of a second color when the cruise control system is in the set condition.

Claim 9 is illustrative:

9. A cruise control system including an off condition, an on condition, and a set condition, the cruise control system comprising:

an indicator selectively operable to emit light having one of a first color and a second color; and

a user-operable control movable to configure the cruise control system in one of an off condition, an on condition, and a set condition, the indicator emitting light of the first color when the cruise control system is in the on condition and emitting light of the second color when the cruise control system is in the set condition.

THE REFERENCES

Masuda	4,796,716	Jan. 10, 1989
Knoll et al. (Knoll)	6,294,990	Sep. 25, 2001
Suzuki et al. (Suzuki)	6,396,394	May 28, 2002
Abel et al. (Abel)	6,693,523	Feb. 17, 2004
		(filed Aug. 25, 2000)

THE REJECTIONS

The claims stand rejected under 35 U.S.C. § 103 as follows:
claims 9, 10 and 12-19 over Suzuki in view of Abel and Masuda,
and claims 11 and 20-22 over Suzuki in view of Abel, Masuda and
Knoll.

OPINION

We reverse the aforementioned rejections. We need to address only the independent claims, i.e., claims 9, 18 and 20. Each of those claims requires an indicator that emits light of a first color when a cruise control system is in the on condition, and emits light of a second color when the cruise control system is in the set condition.

Suzuki discloses a cruise control system having indicators that show when the system is in the on condition (indicator 131) and the set condition (indicator 132) (col. 4, lines 20-21; figure 1).

Abel discloses a motor vehicle instrument cluster display, "the color and/or brightness of the display of more than one measured value being changed when a value of a measured variable is overshot or undershot and/or when a certain operating state of the motor vehicle is entered. This change can be better perceived by the driver" (col. 1, lines 34-39). "If unauthorized

speed ranges for the road being driven along at the time are transmitted to the vehicle via telematic systems, the driver is always informed of the authorized speed by these ranges being highlighted in color on a speed display" (col. 1, lines 52-57). "If the vehicle driver switches off the cruise control and exceeds the authorized maximum speed on the section driven along at the time, the color of representation of the pointer **6** changes for example from white to green or red" (col. 2, lines 45-49).

Masuda discloses a motorcycle having a speed control switch (19) which, when turned on, causes an indicator light positioned adjacent the speedometer or within its face to be illuminated so as to provide the rider with an indication that the speed control has been activated (col. 5, lines 27-31).

Knoll discloses a motor vehicle display having two separate lighting devices wherein "the instantaneous speed can be displayed continuously, while the second lighting device can be used to show the speed value corresponding to the set speed. The scale segments showing the set speed are clearly distinguishable by color, contrast and/or brightness from the scale segments displaying the instantaneous speed" (col. 1, lines 29-34). The lighting devices can be light emitting diodes (col. 2, lines 21-23).

The examiner argues:

At the time of the invention, it would have been obvious to a person of ordinary skill in this art to change the color of the indicators disclosed in Suzuki et al. to different colors based on the particular operating state of the cruise control system as taught by Abel et al. The motivation for doing so would have been, in the case of a variable-color display, cruise control marks (indicators) can be easily represented so that the driver better perceives the change in the operating state. [answer, page 4]

A person of ordinary skill in this art would have the requisite skill and knowledge to modify the cruise control indicators (131,132) disclosed in Suzuki et al. to have different colors for the various operating states of the cruise control system based on the generally [sic] teaching disclosed in Abel et al. that changes the color of instrument cluster indicator as a way to better alert the driver of a change in the operating state of the vehicle. [answer, page 7]

The operating state referred to by Abel is the speed relative to the authorized maximum speed. The examiner's extension of Abel's teaching to the on/set condition of a cruise control is based upon impermissible hindsight in view of the appellant's disclosure. See *W.L. Gore & Associates v. Garlock, Inc.*, 721 F.2d 1540, 1553, 220 USPQ 303, 312-13 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984); *In re Rothermel*, 276 F.2d 393, 396, 125 USPQ 328, 331 (CCPA 1960). Accordingly, we reverse the examiner's rejections.

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DECISION

The rejections under 35 U.S.C. § 103 of claims 9, 10 and 12-19 over Suzuki in view of Abel and Masuda, and claims 11 and 20-22 over Suzuki in view of Abel, Masuda and Knoll, are reversed.

REVERSED

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TERRY J. OWENS)
Administrative Patent Judge)
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) BOARD OF PATENT
MURRIEL E. CRAWFORD)
Administrative Patent Judge) APPEALS AND
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) INTERFERENCES
)
STUART S. LEVY)
Administrative Patent Judge)

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