

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBIN WILLATS, JOHN EMSON, SIDNEY FISHER, JEAN-BERNARD DIDIER, ALAN DIXON, STEPHEN DRYSDALE, NIGEL SPURR, and GURBINDER KALSI

Appeal 2006-2295
Application 10/215,274
Technology Center 2600

Decided: October 23, 2007

Before KENNETH W. HAIRSTON, JOSEPH F. RUGGIERO, and MARC S. HOFF, *Administrative Patent Judges*.

RUGGIERO, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from the Final Rejection of claims 1-22. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

Appellants' claimed invention relates to an access control method and system for a vehicle having at least two closures and a receiver. The

receiver operates to determine the angular position of an associated authorization device relative to the receiver which permits the determination of the appropriate vehicle closure or closures to open. The determination of additional closures to open is also permitted in accordance with predetermined criteria based on the period of time for which an input signal is received from the authorization device. (Specification 2-3).

Claim 1 is illustrative of the invention and reads as follows:

1. An access control system for a vehicle having at least two closures, the system being controllable by an authorization device, comprising:

a receiver that receives an input signal from the authorization device and detects an angular position of the authorization device relative to the receiver; and

a controller that determines which one of said at least two closures to open and that determines at least one additional closure of said at least two closures to be opened in accordance with predetermined criteria corresponding to change in the length of the duration of the input signal.

The Examiner relies on the following prior art references to show unpatentability:

Talty	US 5,532,709	Jul. 2, 1996
Sydor	US 5,619,215	Apr. 8, 1997
Lambropoulos	US 5,774,064	Jun. 30, 1998
Honda	JP 2-164988	June 25, 1990
Seubert	GB 2,333,388 A	Jul. 21, 1999

Claims 1-22, all of the appealed claims, stand rejected under 35 U.S.C. § 103(a). As evidence of obviousness, the Examiner offers Talty in

view of Lambropoulos with respect to claims 1, 2, 5, 10-14, 16, and 18-20, adds Sydor to the basic combination with respect to claims 3, 4, and 15, and adds Honda to the basic combination with respect to claims 6-9 and 17. With respect to claims 21 and 22, the Examiner applies the combination of Talty and Seubert.

Rather than reiterate the arguments of Appellants and the Examiner, reference is made to the Briefs and Answer for the respective details. Only those arguments actually made by Appellants have been considered in this decision. Arguments which Appellants could have made but chose not to make in the Briefs have not been considered and are deemed to be waived [see 37 C.F.R. § 41.37(c)(1)(vii)].

ISSUES

- (1) Under 35 U.S.C § 103(a), with respect to appealed claims 1, 2, 5, 10-14, 16, and 18-20, would one of ordinary skill in the art at the time of the invention have found it obvious to combine Talty with Lambropoulos to render the claimed invention unpatentable?
- (2) Under 35 U.S.C § 103(a), with respect to appealed claims 3, 4, 6-9, 15, and 17, would the ordinarily skilled artisan have found it obvious to modify the combination of Talty and Lambropoulos by separately adding the Sydor and Honda references to render the claimed invention unpatentable?
- (3) Under 35 U.S.C § 103(a), with respect to appealed claims 21 and 22, would the one of ordinary skill in the art at the time of the

invention have found it obvious to combine Talty with Seubert to render the claimed invention unpatentable?

PRINCIPLES OF LAW

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *See In re Fine*, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the Examiner must make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966). “[T]he examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a *prima facie* case of unpatentability.” *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). Furthermore, “‘there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness’ . . . [H]owever, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741, 82 USPQ2d 1385, 1396 (2007)(quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)).

ANALYSIS

With respect to the obviousness rejection of independent claims 1 and 13 based on the combination of Talty and Lambropoulos, Appellants’ arguments in response assert a failure by the Examiner to establish a *prima facie* case of obviousness since, even if combined, all of the claimed

limitations would not be taught or suggested by the applied prior art references. In particular, Appellants contend (Br. 4-7; Reply Br. 1-2) that, in contrast to the claimed invention, neither Talty nor Lambropoulos discloses the determination of which of a plurality of vehicle closures are to be opened based on the change in length of the duration of a received input signal as claimed.

After reviewing the disclosures of Talty and Lambropoulos in light of the arguments of record, we are in general agreement with Appellants' position as stated in the Briefs. With respect to Talty, the Examiner has correctly recognized (Answer 3) that, while Talty provides a disclosure of the claimed feature of detecting the angular position of an authorization device relative to a receiver located on the vehicle, there is no disclosure of operating a closure dependent upon the duration length of a received input signal.

We also find no disclosure in Lambropoulos that would overcome the deficiencies of Talty in disclosing the specific claimed signal duration dependent vehicle closure operation. Our interpretation of the disclosure of Lambropoulos coincides with that of Appellants, i.e., while Lambropoulos provides for the unlocking of additional vehicle closures depending on the length of time unlock switch 14 is activated, the duration of the switch activation beyond a predetermined time results in the generation of an additional signal which functions to unlock additional closures.

As described by Lambropoulos (col. 9, ll.9-15),

[w]hen switch 14 is depressed, a single data transmission is initiated. This unlocks only the driver's door of the vehicle. Microprocessor 10 continues to interrogate switch 14 for a short time, such as 2.5 seconds. If the

switch is released during this time, circuit 20 is deactivated. If switch 14 is held for the 2.5 seconds, transmitter T will transmit a second signal having a function portion to unlock all doors of the vehicle.

In other words, in contrast to the claimed invention, additional doors are unlocked in Lambropoulos not based on the length of the duration of any received input signal as presently claimed but, rather, on the receipt of an additional signal which is generated upon the operation of unlocking switch 14 beyond a predetermined time.

In view of the above discussion, we are of the opinion that, since the Lambropoulos reference does not overcome the deficiencies of Talty discussed above, the references, even if combined, do not support the obviousness rejection. We have also reviewed the Sydor and Honda references applied by the Examiner to address the claimed features of rotational position detection and plural directional receivers present in several dependent claims. We find nothing, however, in the disclosures of Sydor and Honda which overcome the innate deficiencies of Talty and Lambropoulos discussed *supra*. We, therefore, do not sustain the Examiner's 35 U.S.C. § 103(a) rejection of independent claims 1 and 13, nor of claims 2-12 and 14-20 dependent thereon.

We also do not sustain the Examiner's U.S.C § 103(a) rejection of independent claim 21 based on the combination of Talty and Seubert. Although independent claim 21 is similar to previously discussed independent claims 1 and 13 in including the feature of opening a vehicle closure dependent on the length of the duration of a received input signal,

the Examiner has relied upon Seubert, rather than Lambropoulos, in combination with Talty to address this feature.

We find from our review of Seubert, however, that Seubert suffers from the same deficiencies as we discussed with respect to Lambropoulos. As with Lambropoulos, activation of switch 2 in the remote control unit of Seubert for longer than a predetermined time, will result in additional vehicle doors being locked or unlocked. This additional vehicle door operation, however, is not based on the duration of the length of a signal received by a vehicle receiver as claimed but, rather, is a result of different coded signals being generated dependent on the duration of the operation of switch 2.

Turning to a consideration of the Examiner's 35 U.S.C. § 103(a) rejection, based on the combination of Talty and Seubert, of independent claim 22, we note that, while we found Appellants' arguments to be persuasive with the respect to the Examiner's obviousness rejections of claims 1-21, we reach the opposite conclusion with respect to the rejection of claim 22 and we sustain the Examiner's rejection of this claim. Independent claim 22 differs from previously discussed independent claims 1, 13, and 21 by not including the feature of determining vehicle door operation based on received signal duration but, rather, setting forth the detection of different authorization levels for the authorization device resulting in the locking or unlocking of different vehicle doors.

As we mentioned earlier with respect to our discussion of claim 21, the remote control device of Seubert functions to lock and/or unlock different vehicle doors dependent on the generation of different coded signals, which generation is dependent upon the duration of the operation of

switch 2. We fail to see why (and there are no convincing arguments to the contrary from Appellants) the different door locking and unlocking codes present in the remote control device of Seubert would not be considered by the skilled artisan to correspond to “authorization levels” as claimed.

We are further of the view that to whatever extent Appellants intended to claim the disclosed embodiment (Specification 5) in which authorization devices having differing levels of authorization are carried by different categories of individuals such as drivers and passengers, no such recitation is present in the language of claim 22. It is our opinion that Appellants’ arguments improperly attempt to narrow the scope of the claim by implicitly adding disclosed limitations which have no basis in the claim. *See In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997).

CONCLUSION

In summary, with respect to the Examiner's 35 U.S.C. § 103(a) rejections of the appealed claims, we have not sustained the rejections of claims 1-21, but have sustained the rejection of claim 22. Accordingly, the Examiner's decision rejecting appealed claims 1-22 is affirmed-in-part.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv)

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AFFIRMED-IN-PART

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