UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PHILIPPE MOQUIN

Appeal 2008-1100
Application 10/241,275
Technology Center 2600

Decided: July 16, 2008

Before KENNETH W. HAIRSTON, ANITA PELLMAN GROSS, and ROBERT E. NAPPI, *Administrative Patent Judges*.

GROSS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Moquin (Appellant) appeals under 35 U.S.C. § 134 from the Examiner's Final Rejection of claims 1 through 12, which are all of the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

Appellant's invention relates to a signaling system for automatic bi-directional communication between a peripheral device connected to a handset port and a telephone set. *See generally* Spec. 1:29-2:15. Claim 1 is illustrative of the claimed invention, and it reads as follows:

> 1. A signaling system for a telephone set to communicate with a peripheral device connected thereto, the system comprising:
>
> a detecting circuit for detecting short, load, and no load conditions of the peripheral device; and
>
> a power circuit for toggling a bias voltage supplied by the telephone set to the peripheral device,
>
> the peripheral device having a generating circuit for automatically generating said short, load and no-load conditions in accordance with predetermined first patterns to communicate with the telephone set, the telephone set toggling the bias voltage in accordance with predetermined second patterns to communicate with the peripheral device.

The prior art references of record relied upon by the Examiner in rejecting the appealed claims are:

Holthaus	US 5,838,804	Nov. 17, 1998
Tuoriniemi	US 6,470,197 B1	Oct. 22, 2002 (filed May 06, 1999)

Claims 1 through 3, 5 through 9, 11, and 12 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Tuoriniemi.

Claims 4 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tuoriniemi in view of Holthaus.

We refer to the Examiner's Answer (mailed August 11, 2006) and to Appellant's Brief (filed June 8, 2006) and Reply Brief (filed October 11, 2006) for the respective arguments.

SUMMARY OF DECISION

As a consequence of our review, we will reverse the anticipation rejection of claims 1 through 3, 5 through 9, 11, and 12 and also the obviousness rejection of claims 4 and 10.

OPINION

Appellant contends (Br. 7) that Tuoriniemi fails to disclose *automatically* generated conditions of load, no load, and short. Further, Appellant contends (Br. 8-9) that Tuoriniemi fails to disclose a short condition. The Examiner asserts (Ans. 4) that the positions of the switch constitute the three load conditions. Also, the Examiner asserts (Ans. 5) the claimed generating circuit for automatically generating the three conditions "suggests that the function of the generating circuit is qualified to automatically react to or be determined by predetermined first patterns" and does not require generating loading conditions without user input. Further, the Examiner contends (Ans. 4) that the closing of diode 19 in Tuoriniemi causes a short condition. The issues before us, therefore, are whether Tuoriniemi teaches a generating circuit for automatically generating three conditions and whether Tuoriniemi teaches one of the conditions being a short.

Regarding the generating circuit, claim 1 recites "the peripheral device having a generating circuit for automatically generating said short, load and no-load conditions." Tuoriniemi discloses (col. 2, ll. 50-54) a headset contains a three-position push button switch, with each switch position

resulting in a different DC voltage. The Examiner equates each voltage with a different load condition. The switch is user-operated and, thus, manual, not automatic. We find no teaching in Tuoriniemi of a generating circuit that automatically generates the three conditions, only the user operated a switch.

In addition, as explained by Appellant (Br. 8), the voltage levels for all switch positions are greater than zero, and, therefore, do not result in a short circuit condition. Consequently, Tuoriniemi fails to disclose both the automatic generation of the load conditions and also the short circuit condition. Thus, Tuoriniemi fails to anticipate claims 1 through 3, 5 through 9, 11, and 12.

Claims 4 and 10 depend from claims 1 and 7, respectively, and, thus, include all of the limitations of claims 1 and 7. Holthaus (abstract) discloses automatically providing a proper bias current and load resistance for the particular microphone used, but does not teach automatically generating load conditions for a peripheral device. Also, Holthaus fails to disclose or suggest the claimed short circuit condition. Accordingly, Holthaus fails to overcome the shortcomings of Tuoriniemi, and we cannot sustain the obviousness rejection of claims 4 and 10 over Tuoriniemi in view of Holthaus.

ORDER

The decision of the Examiner rejecting claims 1 through 3, 5 through 9, 11, and 12 under 35 U.S.C. § 102 and claims 4 and 10 under 35 U.S.C. § 103 is reversed.

REVERSED

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