

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 41

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte UDO NEUMANN  
and RAINER KALLENBACH

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Appeal No. 95-4918  
Application 08/114,293<sup>1</sup>

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ON BRIEF

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Before McCANDLISH, Senior Administrative Patent Judge, COHEN  
and BARRETT, Administrative Patent Judges.

COHEN, Administrative Patent Judge.

DECISION ON APPEAL

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<sup>1</sup> Application for patent filed August 30, 1993.  
According to appellants, this application is a continuation of  
Application No. 07/646,611, filed January 24, 1991, now  
abandoned.

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This is an appeal from the final rejection of claims 2 through 22 and 24, and from the refusal of the examiner to allow

claim 23, as amended subsequent to the final rejection. These claims constitute all of the claims remaining in the application.

Appellants' invention pertains to a device, and process for damping the motion sequences of two masses. An understanding of the invention can be derived from a reading of exemplary claims 13, 19 and 21, copies of which appear in the corrected APPENDIX communication of Paper No. 39.

As evidence of obviousness, the examiner has applied the documents listed below:

Fujishiro et al. 1987 (Fujishiro)	4,696,489	Sep. 29,
Wolfe 1990	4,953,089	Aug. 28,
Ivers et al. 1991 (Ivers)	5,004,079	Apr. 2,

The following rejection, as set forth in the answer

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(Paper No. 27), is the sole rejection before us for review.<sup>2</sup>

Claims 2 through 24 stand rejected under 35 U.S.C. § 103  
as  
being unpatentable over Fujishiro in view of Wolfe or Ivers in  
view of Wolfe.

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<sup>2</sup> A final rejection of claim 23 under 35 U.S.C. § 112, second paragraph, was withdrawn by the examiner responsive to an amendment after final (Paper No. 25).

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The full text of the examiner's rejection and response to the argument presented by appellants appears in the main and supplemental answers (Paper No. 27 and 32), while the complete statement of appellants' argument can be found in the main and reply briefs (Paper Nos. 26 and 31).<sup>3</sup>

In the main brief (page 5), appellants indicate that claims 2 through 24 stand together. In light thereof, we select claim 13 for review, and claims 2 through 12 and 14 through 24 shall stand or fall therewith; 37 CFR § 1.192(c)(7).

#### OPINION

In reaching our conclusion on the obviousness issue raised in this appeal, this panel of the board has carefully considered appellants' specification and claim 13, the applied patents,<sup>4</sup>

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<sup>3</sup> An earlier reply brief (Paper No. 28) was denied entry by the examiner (Paper No. 30). A supplemental reply brief (Paper No. 33) was also denied entry by the examiner (Paper No. 34). Thus, these noted briefs are not before us.

<sup>4</sup> In our evaluation of the applied patents, we have considered all of the disclosure thereof for what it would have fairly taught one of ordinary skill in the art. See In re Boe, 355 F.2d 961, 965, 148 USPQ 507, 510 (CCPA 1966). Additionally, this panel of the board has taken into account

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and

the respective viewpoints of appellants and the examiner. As  
a  
consequence of our review, we make the determination which  
follows.

We reverse the rejection of appellants' claims under  
35 U.S.C. § 103.

Claim 13 is drawn to a device for damping the motion  
sequences of two masses, comprising, inter alia, a signal  
processing circuit including means for filtering at least  
sensor output signals representing relative motion between the  
two masses, dependent on frequencies of at least respective  
ones of sensor output signals representing relative motion.

Akin to appellants' invention, each of the relevant  
patents  
relied upon by the examiner addresses a circuit including

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not only the specific teachings, but also the inferences which  
one skilled in the art would reasonably have been expected to  
draw from the disclosure. See In re Preda, 401 F.2d 825, 826,  
159 USPQ 342, 344 (CCPA 1968).

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sensors for detecting relative motion (speed or velocity) between two masses (components of an automotive suspension system).

The examiner relies upon the Wolfe disclosure as the basis for the asserted obvious modification of either of the Fujishiro or Ivers teachings to include a filter for the respective relative motion signals thereof. The proposed modification would have been obvious, according to the examiner, notwithstanding the

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patentee Wolfe's teaching of filtering only absolute motion signals, the teaching being acknowledged by the examiner (main answer, page 4).

The examiner refers us (main answer, page 4) to the disclosure by Wolfe (column 3, lines 42 through 45) of a first order low pass filter for eliminating unwanted "noise." Clearly, filters for noise elimination are known in this art.

However, the difficulty we have with the rejection before us is that when we set aside what appellants have taught us in the present application, and consider the evidence of obviousness as a whole, we conclude that the evidence relied upon would not have motivated one of ordinary skill in the art to make the modification proposed by the examiner. Of consequential importance to us is the circumstance that one of ordinary skill in this art would have been clearly instructed by the teaching of Wolfe to only filter an absolute velocity signal, when both absolute velocity and relative velocity signals are generated.

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Accordingly, based upon the stated deficiency in the evidence of obviousness, we are constrained to reverse the rejection on appeal.

The decision of the examiner is reversed.

REVERSED

	)	
HARRISON E. McCANDLISH	)	
Senior Administrative Patent Judge	)	)
	)	
	)	
	)	BOARD OF PATENT
IRWIN CHARLES COHEN	)	)
Administrative Patent Judge	)	APPEALS AND
	)	
	)	INTERFERENCES
	)	
LEE E. BARRETT	)	
Administrative Patent Judge	)	

ICC/sld

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