

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(2) is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CHRIS NARUS

Appeal No. 96-2346
Application 08/162,364¹

ON BRIEF

Before THOMAS, MARTIN and CARMICHAEL, Administrative Patent
Judges.

THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

¹ Application for patent filed October 28, 1993.

Appeal No. 96-2346
Application 08/162,364

Appellant has appealed to the Board from the examiner's final rejection of claims 22 through 39, which comprise all the claims remaining in the application.

Representative claim 22 is reproduced below:

22. A speaker system having increased sound quality which comprises:

a first and second speaker, said speakers each having a front and a back;

a duct having a first elongated portion, a second elongated portion and a third elongated portion, said first portion having an axial extremity in fluid communication with said back of said first speaker, said second portion having an axial extremity in fluid communication with said back of said second speaker; and said third portion being disposed intermediate said first and second portion;

said third portion includes an elongated first spur and a bass port is located at one end thereof, said spur being intermediate said first and second portions;

each of said speakers having the front thereof in contact with air outside of said duct and the back thereof in contact with air inside said duct.

The following reference is relied on by the examiner:

Hudson, III (Hudson)	4,756,382	July 12,
1988		

Claims 22 and 28 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Hudson. The rejection of other

Appeal No. 96-2346
Application 08/162,364

claims under this portion of 35 U.S.C., as well as under 35 U.S.C. § 103 has been withdrawn as set forth at page 5 of the answer.²

Rather than repeat the positions of the appellant and the examiner, reference is made to the briefs and the answer for the respective details thereof.

OPINION

We sustain the rejection of claim 22 as being anticipated under 35 U.S.C. § 102 by Hudson, but reverse the rejection of dependent claim 28.

With respect to the rejection of claim 22, appellant's arguments focus only upon the language of claim 22 reciting that the third portion has an elongated first spur. In our view, the examiner is correct in characterizing the duct 32 in the embodiment shown in Figure 3 as comprising an elongated first spur. Contrary to appellant's assertion at page 8 of the brief, it is not beyond dispute that duct 32 is wider than it is long. The claim does not require that the first spur of

² We note in passing that claim 37 depends from cancelled claim 21 and that claims 38 and 39 in turn depend from claim 37. The examiner has noted this only with respect to claim 37 at page 5 of the answer as well.

Appeal No. 96-2346
Application 08/162,364

the third portion is longer than the first or second portions as disclosed in Figures 1 and 3. That the third portion's first spur extends beyond the surface anywhere from tubular enclosure 16, we consider it elongated to the extent broadly recited in claim 22. There is no bounds or reference point to the term "elongated."

Moreover, the Figure 5 showing in Hudson is stated to be an alternative embodiment to that shown in Figure 3. Figure 5 clearly shows that the region L3 is longer in an elongated sense than the similar dimensions L2 and L1 of the perpendicularly extending duct 32 in Figure 3. The discussion at column 5 with respect to the Figure 3 embodiment clearly defines in Hudson the width dimensions as being depicted by W and the length dimensions being conveyed in terms of L of the duct 32. Therefore, the rejection of claim 22 under 35 U.S.C. § 102 is sustained.

As to the rejection of dependent claim 28, it is difficult to understand the examiner's reasoning as it applies

Appeal No. 96-2346
Application 08/162,364

to the Figures 4 and 6 embodiments of Hudson. The examiner's reasoning appears to be somewhat strained. In any event, the middle region of the longitudinally extending duct 34, as analogized by the examiner as comprising the claimed first spur, does not appear to have a middle region in Figures 4 and 6 depicting an "extremity." Since claim 22 requires that the spur be located at a position intermediate the first and second portions of the claim, the more specific recitation in dependent claim 28 would require that the axial extremity claimed be in the middle portion of the longitudinally extending duct 34. There is no furthest or most remote part (that is, an extremity) in this region of it that contains an oblique face as urged by the examiner.

The examiner's position at the bottom of page 4 of the answer appears to state that the first spur or duct 34 has an oblique face because the duct has a crescent-shaped opening. To the extent the end portions of longitudinally extending duct 34 show crescent-shaped openings, there is no axial "extremity" and certainly no oblique face in the Figures 4 and 6 embodiments. In view of the foregoing, the decision of

Appeal No. 96-2346
Application 08/162,364

the examiner rejecting claim 22 under 35 U.S.C. § 102 is affirmed, but the examiner's position as to claim 28 is reversed. As such, the decision of the examiner is affirmed-in-part.

Appeal No. 96-2346
Application 08/162,364

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

	JAMES D. THOMAS)	
	Administrative Patent Judge)	
)	
)	
)	
	JOHN C. MARTIN)	BOARD OF
PATENT	Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
	JAMES T. CARMICHAEL)	
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Appeal No. 96-2346
Application 08/162,364

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