

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

Paper No. 25

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JEAN-FRANCOIS GOUMAZ

Appeal No. 1997-2296
Application No. 08/210,298

HEARD: OCTOBER 11, 2000

Before JERRY SMITH, FLEMING, and BLANKENSHIP, Administrative Patent Judges.

BLANKENSHIP, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of Claims 1 and 2.

We reverse.

BACKGROUND

The disclosed invention is directed to a sampling circuit for use in a digital sampling oscilloscope. Claim 1 is reproduced below.

1. Sampling circuit for a digital oscilloscope, comprising:

a current sampling switch for receiving an input and whose output represents a charge packet[,] a charge amplifier having an input receiving the charge packet;
and

a charge-to-voltage converter having an input connected to an output of the charge amplifier.

The examiner relies on the following reference:

Harris et al. (Harris)	3,309,618	Mar. 14, 1967
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Claims 3 through 7 have been objected to as being dependent upon a rejected base claim, but allowable if rewritten in independent form.

Claims 1 and 2 stand rejected under 35 U.S.C. § 102 as being anticipated by Harris.¹

We refer to the Final Rejection (Paper No. 7), the Examiner's Answer (Paper No. 16), and the Supplemental Examiner's Answer (Paper No. 19) for a statement of the examiner's position and to the Brief (Paper No. 15), the Reply Brief (Paper No. 17), and

¹ A second rejection over a different reference has been withdrawn. (See Answer, page 2.)

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the Response to Supplemental Examiner's Answer (Paper No. 20) for appellant's position with respect to the claims which stand rejected.

OPINION

The rejection of Claim 1 is founded on two different embodiments disclosed by Harris: (1) the embodiment of Figure 3; or, alternatively, (2) the embodiment of Figure 1. (See Answer, pages 3-4.) The examiner reads the claimed "charge amplifier" on "storage means" 14 (Figure 3) or on "storage capacitor" 14 (Figure 1).

Appellant argues, inter alia, that "storage capacitor 14 is not an amplifier." (Brief, page 4.) The written description of Harris refers to element 14 of Figure 1 as "storage capacitor 14." See Harris, column 2, lines 5-16. Harris refers to the "storage means" 14 of Figure 3 as "storage capacitor 14." See id. at column 2, lines 35-49. The disclosed circuitry (Figure 4) reveals that "storage capacitor 14" is, indeed, simply a capacitor.

"Anticipation is established only when a single prior art reference discloses, expressly or under principles of inherency, each and every element of a claimed invention." RCA Corp. v. Applied Digital Data Sys., Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). Claim language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art. In re Sneed, 710 F.2d 1544, 1548, 218 USPQ 385, 388 (Fed. Cir. 1983).

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An “amplifier” is defined as a “device that uses an electron tube, transistor, magnetic unit, or other amplification-producing component to increase the strength of a signal without appreciably altering its characteristic waveform.” McGraw-Hill Electronics Dictionary, Fifth Edition (1994). Consistent with the accepted definition, appellant’s embodiment of the “charge amplifier” comprises “a conventional bipolar operational amplifier 4...” (See specification, paragraph bridging pages 7 and 8.)

We agree with appellant that the Harris reference cannot support a finding of anticipation, at least for the reason that the artisan would not have considered passive element (capacitor) 14 in the reference to be an “amplifier.” Accordingly, we do not sustain the Section 102 rejection of the claims for anticipation by Harris.

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CONCLUSION

The rejection of Claims 1 and 2 is reversed.

REVERSED

JERRY SMITH
Administrative Patent Judge

MICHAEL R. FLEMING
Administrative Patent Judge

HOWARD B. BLANKENSHIP
Administrative Patent Judge

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OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON , VA 22202