

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 10

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID B. PARKS

Appeal No. 1998-0916
Application 08/331,435

ON BRIEF

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

JERRY SMITH, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134 from the examiner's rejection of claims 1-4, 10 and 11. Claims 5-9 stand withdrawn from consideration as being directed to a nonelected invention.

The disclosed invention pertains to a switching driver for a power field effect transistor (PFET). More

particularly, the invention is directed to the manner in which the PFET is charged and discharged to effect bipolar operation.

Representative claim 1 is reproduced as follows:

1. A driver, comprising:

(a) first and second power supply inputs;

(b) an output;

(c) a first switch directly between said first power supply input and said output;

(d) a second switch coupled between said second power supply input and a passive overshoot circuit, said overshoot circuit coupled to said output; and

(e) a switch input coupled to said first and second switches.

The examiner relies on the following references:

Uenishi	5,140,201	Aug. 18, 1992
Jacobson	5,264,736	Nov. 23, 1993
Kayser et al. (Kayser)	5,265,003	Nov. 23, 1993

The following rejections are before us in this appeal:

1. Claims 1-4, 10 and 11 stand rejected under 35

U.S.C.

§ 102(b) as being anticipated by the disclosure of Uenishi.

2. Claims 1, 2, 10 and 11 stand rejected under 35

Appeal No. 1998-0916
Application 08/331,435

U.S.C.

§ 102(e) as being anticipated by the disclosure of Jacobson.

3. Claims 1 and 10 stand rejected under 35 U.S.C.

§ 102(e) as being anticipated by the disclosure of Kayser.

Rather than repeat the arguments of appellant or the examiner, we make reference to the brief and the answer for the respective details thereof.

OPINION

We have carefully considered the subject matter on appeal, the rejections advanced by the examiner and the evidence of anticipation relied upon by the examiner as support for the rejections. We have, likewise, reviewed and taken into consideration, in reaching our decision, the appellant's arguments set forth in the brief along with the examiner's rationale in support of the rejections and arguments in rebuttal set forth in the examiner's answer.

It is our view, after consideration of the record before us, that the disclosures of Uenishi, Jacobson and Kayser do not fully meet the invention as set forth in claims 1-4, 10 and 11. Accordingly, we reverse.

Appellant has indicated that for purposes of this

Appeal No. 1998-0916
Application 08/331,435

appeal the claims will stand or fall together in the following two groups: Group I has claims 1-4, and Group II has claims 10 and 11 [brief, page 3]. Consistent with this indication appellant has made no separate arguments with respect to any of the claims within each group. Accordingly, all the claims within each group will stand or fall together. Note In re King, 801 F.2d 1324, 1325, 231 USPQ 136, 137 (Fed. Cir. 1986); In re Sernaker, 702 F.2d 989, 991, 217 USPQ 1, 3 (Fed. Cir. 1983). Therefore, we will consider the rejection against claims 1 and 10 as representative of all the claims on appeal.

Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.); cert. dismissed, 468 U.S. 1228 (1984); W.L. Gore and Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

Representative, independent claims 1 and 10 are

Appeal No. 1998-0916
Application 08/331,435

similar in scope, and each claim is rejected on any one of Uenishi, Jacobson or Kayser. The examiner supports the rejections by referring to Figure 1 of Uenishi, Figure 1 of Jacobson and Figure 4a of Kayser [final rejection].

With respect to Uenishi, appellant argues that Uenishi does not meet the asymmetrical charging and discharging required by the recitations of claims 1 and 10. The examiner responds that the asymmetry feature is not recited in the claims. With respect to Jacobson, appellant argues that the switch for discharging the gate is not directly connected to the driver output as required by claims 1 and 10. The examiner responds that the first switch in Jacobson is "directly between said first power supply input and said output" as claimed. With respect to Kayser, appellant argues that Kayser lacks the passive overshoot circuit connected as recited in claims 1 and 10. The examiner responds that resistor 51 in Kayser is the claimed passive overshoot circuit.

We agree with each of appellant's arguments. The recitation of a first switch directly between the first power supply and the output and a second switch between a second

Appeal No. 1998-0916
Application 08/331,435

power supply and a passive overshoot circuit establishes the asymmetrical operation which the examiner argues is lacking in claims 1 and 10. Although claim 1 would read more clearly if the word "coupled" had not been deleted from amended claim 1, we agree with appellant that the word "directly" in claims 1 and 10 cannot be met by an additional element included between the two named components. Thus, appellant is correct that neither switch 101 nor 102 of Uenishi is directly (coupled) between a first power supply and the output because inductance element 108 interrupts the direct connection. Therefore, a feature of claims 1 and 10 is not disclosed by Uenishi, and the anticipation rejection is not sustained.

Jacobson suffers the same problem as Uenishi. That is, inductor 18 in Jacobson precludes either of switches 14 or 16 from being directly between a first power supply and the output as recited in claims 1 and 10. Therefore, we also do not sustain the rejection based on Jacobson.

Although Kayser teaches each of switches 44 and 47 as being directly between a power supply input and the output, Kayser fails to disclose a passive overshoot circuit connected as recited in claims 1 and 10. The examiner's response that

Appeal No. 1998-0916
Application 08/331,435

resistor 51 in Kayser meets the claimed passive overshoot circuit is not supported. Not only is there no evidence that resistor 51 is a passive overshoot circuit (or could perform as one), but the resistor 51 is not coupled between the switch and the output as recited in claims 1 and 10. Therefore, we do not sustain the anticipation rejection based on Kayser.

Appeal No. 1998-0916
Application 08/331,435

In summary, we have not sustained any of the examiner's anticipation rejections based on Uenishi, Jacobson or Kayser. Therefore, the decision of the examiner rejecting claims 1-4, 10 and 11 is reversed.

REVERSED

)	
JERRY SMITH)	
Administrative Patent Judge)	
)	
)	
)	BOARD OF PATENT
MICHAEL R. FLEMING)	
Administrative Patent Judge)	APPEALS AND
)	
)	INTERFERENCES
)	
ANITA PELLMAN GROSS)	
Administrative Patent Judge)	

Appeal No. 1998-0916
Application 08/331,435

Carlton H. Hoel
Texas Instruments
Patent Department Mail Station 219
P. O. Box 655474
Dallas, TX 75265

JS/caw