The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 27

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CHARLES M. WINE

Appeal No. 1999-2824
Application 08/481,408[1]

ON BRIEF

Before KRASS, BARRETT, and LALL, Administrative Patent Judges.

BARRETT, Administrative Patent Judge.

DECISION ON APPEAL

[1] Application for patent filed July 10, 1995, entitled "Digital Video Tape Recorder for Digital HDTV," which is a national stage application under 35 U.S.C. § 371 of international PCT Application PCT/US94/00739, filed January 19, 1994, which claims the foreign filing priority benefit of Great Britain Application, 9301093.2, filed January 20, 1993.

This is a decision on appeal under 35 U.S.C. § 134 from the final rejection of claims 43-47.

We reverse.

BACKGROUND

The disclosed invention is directed to a video recording/reproducing (VRR) device, such as a consumer VCR, intended to operate with a video device, such as a television receiver, for processing and displaying television-type information. The VRR is arranged to have at least one of the video feature functions it normally performs, such as freeze frame, performed instead by the video device. See specification, page 34, line 1 to page 37, line 16 and page 39, lines 16-24.

Claim 43 is reproduced below.

> 43. A video recording/reproducing (VRR) system for processing a digital enhanced definition television signal, comprising
>
> input means for receiving a digital datastream containing video information;
>
> recording/reproducing means responsive to said datastream;
>
> output means responsive to a transduced signal from said recording/reproducing means for conveying information including transduced video information to a

video device suitable for processing and displaying television-type information, when present;

feature control means, responsive to user input control, for generating VRR video feature control data to determine the operation of said video device such that, in response to said feature control data being provided from said VRR system to said video device when present, at least one VRR video feature function is performed in whole or in part by said video device; and

means for conveying said feature control data to said output means.

The Examiner relies on the following prior art:

Hatakenaka et al. (Hatakenaka)	5,282,049	January 25, 1994 (filed February 4, 1992)
Lett et al. (Lett)	5,657,414	August 12, 1997 (filed December 1, 1992)

Claims 43 and 44 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Lett.

Claims 45-47 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lett and Hatakenaka.

We refer to the final rejection (Paper No. 23) and the examiner's answer (Paper No. 26) (pages referred to as "EA__") for a statement of the Examiner's position, and to the appeal

brief (Paper No. 25) (pages referred to as "Br__") for a statement of Appellant's arguments thereagainst.

OPINION

Anticipation | claims 43 and 44

The issue is whether Lett teaches the following limitations of claim 43:

> feature control means, responsive to user input control, for generating VRR video feature control data to determine the operation of said video device such that, in response to said feature control data being provided from said VRR system to said video device when present, at least one VRR video feature function is performed in whole or in part by said video device . . . .

Appellant notes that all of the claimed arrangements pertain to a video device for performing VRR video functions, such as freeze frame and slow motion, in response to instructions from the VRR device (Br4). It is argued (Br4-5): "Television receiver 352 in Lett does not perform any VCR video feature functions, nor does Lett suggest such operation. In fact, as far as applicant can tell, Lett never mentions VCR special features functions, for example freeze-frame, as discussed by applicant and as specifically claimed in claims 44, 46 and 47."

The Examiner finds, with respect to Fig. 7 of Lett, that VCR 350 has a reproduction function which is a VCR video feature function and that the reproduction operation is partly performed by a display means, the TV receiver 352. "Consequently, it is clear that component 352 shown in Lett et al's Figure 7, does partly perform VCR video feature functions because video signal generated during reproduction operation of the VCR must be displayed thereon." (EA7.)

The Examiner errs in his finding of anticipation. In particular, the Examiner errs by lumping the separate functions of reproducing the recorded signal (a VRR video feature function) and displaying the reproduced information (a video device function) under the general description of "reproduction" and then finding that the TV receiver 352 in Lett performs part of the reproduction function. Reproducing a recorded signal from a recording medium to produce a signal to be displayed is a necessary function of any VCR, and is a "VRR video feature function." However, this function is incapable of being performed by TV receiver 352. The function of TV receiver 352 is to display the signal from VCR 350, which is <u>not</u> a VRR video feature function since the VCR 350

never performs display. The TV receiver 352 does not perform in whole or in part any VRR video feature function which would normally be performed by the VRR system, such as freeze frame or slow motion. Nor is there any teaching in Lett of generating user controlled VRR video feature control data that will cause the video device (TV receiver 352) to perform one VRR video feature function, which limitation is not addressed in the rejection. The fact that the TV receiver 352 displays information reproduced by the VCR 350 does not meet the feature control means claim language, no matter how broadly the language is interpreted.

We agree with Appellant's treatment (Br5-7) of the Examiner's reasoning in the final rejection which, in any case, has not been repeated in the examiner's answer.

The Examiner errs in finding that the TV receiver 352 in Lett performs at least one VRR video function and, therefore, has failed to establish a prima facie case of anticipation. The rejection of claims 43 and 44 is reversed.

Obviousness | claims 45-47

Claims 45 and 46

Limitation (e) of claim 45 essentially corresponds to the feature control limitation of claim 43, which is not taught by Lett. Hatakenaka is applied by the Examiner to teach altering the data arrangement for high speed tape tracking (EA5-6). We find that Hatakenaka does not cure the deficiency of Lett with respect to the missing feature control limitation. Accordingly, the Examiner has failed to establish a prima facie case of obviousness. The rejection of claims 45 and 46 is reversed.

Claim 47

Limitation (a) of claim 47 essentially corresponds to the feature control limitation of claim 43, which is not taught by Lett. Claim 47 does not recite altering the data arrangement for high speed tape tracking and, therefore, it is not clear why the Examiner applies Hatakenaka. Claim 47 includes the step of "generating a freeze frame display using local memory associated with said video device"; i.e., the VRR video feature function performed by the video device is a freeze frame. The Examiner finds that the feature of generating a freeze frame display is inherently present in the proposed combination of Lett and Hatakenaka since conventional VCRs,

such as the one disclosed in Fig. 7 of Lett, would include the capability to freeze the image on the screen utilizing the pause button.

Appellant argues that "the generated VRR feature is a 'freeze frame display using local memory associated with the video device'" (Br8), which is not suggested by either Lett with Hatakenaka, nor by the fact that a conventional VCR may perform a freeze frame operation.

Lett with Hatakenaka do not suggest the feature control limitation of step (a). We further agree with Appellant that neither Lett with Hatakenaka suggests "generating a freeze frame display using local memory associated with said video device." Conventional VCRs keep scanning the tape for a freeze frame. The Examiner has failed to establish a prima facie case of obviousness. The rejection of claim 47 is reversed.

CONCLUSION

The rejections of claims 43-47 are reversed.

REVERSED

ERROL A. KRASS Administrative Patent Judge	)	
LEE E. BARRETT Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
PARSHOTAM S. LALL Administrative Patent Judge	)	

Joseph S. Tripoli
PATENT OPERATIONS GE & RCA LICENSING
MANAGEMENT OPERATION, INC.
CN 5312
Princeton, NJ 08540