

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 28

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte CARL M. PANASIK and ANTHONY B. WOOD,

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Appeal No. 2002-1032  
Application No. 08/829,278

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HEARD: March 13, 2003

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Before KRASS, JERRY SMITH and BARRETT, Administrative Patent Judges.

KRASS, Administrative Patent Judge.

ON REQUEST FOR REHEARING

Appellants request that we reconsider our decision of March 21, 2003 wherein we affirmed the examiner's decision rejecting claims 1-11, 14 and 16-23 under 35 U.S.C. §103.

In particular, appellants contend that our decision is in error because we did not designate our definition of "antenna segment" as a new ground of rejection because it

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was not consistent with the examiner's definition. Appellants also contend that we erred in determining that a skilled artisan would have understood each segment, or branch, from the hub to each antenna station in Zarem to be an "antenna segment" and that our determination of such is improperly based on our own understanding or experience. Based on these arguments, appellants contend that our decision was flawed because there was no prima facie case of obviousness established.

With regard to the alleged new ground of rejection, the examiner pointed to antenna stations 11 of Zarem as the claimed "antenna segments" and we merely elaborated on this allegation to note that these antenna stations are connected to a hub and that the artisan would have understood each segment, or branch, from the hub to each antenna station to be the claimed "antenna segment." Thus, while we may have applied the Zarem reference in a manner somewhat different than did the examiner, this does not constitute a new ground of rejection. In re Halley, 296 F.2d 774, 778, 132 USPQ 16, 20 (CCPA 1961); In re Bush, 296 F.2d 491, 495, 131 USPQ 263, 266 (CCPA 1961).

With regard to the allegation that we erred in determining that a skilled artisan would have understood each segment, or branch, from the hub to each antenna station in Zarem to be an "antenna segment," as claimed, appellants now submit declaration evidence purported to show that the artisan would not have understood such segments

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from the hub to each antenna station to be an “antenna segment,” as claimed because in order for a portion of an antenna to be termed an “antenna segment,” 1. Any components within the “antenna segment” must be passive -not active; 2. Any components between antenna segments must be passive -not active; and 3. A signal received on one segment is present on all other segments. Since the “antenna segments” identified in Zarem do not appear to meet these definitions, appellants urge that our decision is in error.

We disagree.

First, the proffered declaration evidence has not been considered by us since it has not been timely filed and was not before the examiner. Moreover, the definition of “antenna segment” attempted to be introduced by appellants at this late date, is not identified as being part of the original disclosure or having any special definition therein. Accordingly, the term, “antenna segment,” as broadly claimed, is given a broad, yet reasonable, interpretation. When interpreting a claim, words of the claim are generally given their ordinary and accustomed meaning, unless it appears from the specification or the file history that they were used differently by the inventor. Carroll Touch, Inc. V. Electro Mechanical Sys., Inc., 15 F.3d 1573, 1577, 27 USPQ2d 1836, 1840 (Fed. Cir. 1993).

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Since there is no special meaning ascribed to “antenna segment” by the specification or the file history, and appellants have pointed to no such disclosure of a special meaning, “antenna segment” is interpreted in an ordinary and customary manner. That is, “antenna segment” is interpreted to be any portion, or a piece, of an antenna. Contrary to appellants’ assertion, there is no requirement that such “antenna segment” must have components that are passive or that a signal received on one antenna segment must be present on all other segments.

Since we do not agree with appellants’ assessment that we were in error to interpret each segment of Zarem’s antenna from the hub to each antenna station to be an “antenna segment,” we also do not agree that no prima facie case of obviousness has been established.

Appellants have not convinced us of error in our decision of March 21, 2003. Accordingly, while we have granted appellants’ request for rehearing to the extent that we have reconsidered our decision, that request is denied with respect to making any changes therein.

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No time period for taking any subsequent action in connection with this appeal  
may be extended under 37 CFR § 1.136(a).

DENIED

ERROL A. KRASS	)	
Administrative Patent Judge	)	
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	)	
	)	BOARD OF PATENT
JERRY SMITH	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
	)	
	)	
LEE E. BARRETT	)	
Administrative Patent Judge	)	

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