

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 20

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ERIC WRIGHT
and JOHN ALLEN

Appeal No. 2000-1476
Application 08/801,918

HEARD: FEBRUARY 21, 2001

Before COHEN, McQUADE and GONZALES, Administrative Patent Judges.

McQUADE, Administrative Patent Judge.

DECISION ON APPEAL

Eric Wright et al. appeal from the final rejection of claims 1 through 26, all of the claims pending in the application. We reverse.

THE INVENTION

The invention relates to an electronic brake controller for an electropneumatic railway brake system, the controller being designed to deter an operator from overshooting the amount of braking effort intended to be applied.

Representative claims 1, 16 and 22 read as follows:

1. An electronic brake controller for an electropneumatic brake system comprising:

a discrete housing to be mounted in an electropneumatic brake system;

at least one brake operator mounted to said housing and whose position defines a desired brake action;

a display on said housing;

an output on said housing providing operator position signals;

an electronic controller in said housing which determines the position of said operator and provides said operator position signals to said output and drives said display to instantly display said desired braking action as a function of the determined position of said operator.

16. An electronic brake controller for an electropneumatic brake system comprising:

a discrete housing means, to be mounted in an electropneumatic brake system, for housing said brake controller;

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at least one brake operator means mounted to said housing means for defining a desired brake action pressure;

a display means on said housing means for displaying said desired brake action pressure; and

an electronic controller means in said housing means for determining the position of said operator means and driving said display means to instantly display said desired braking action pressure as a function of the determined position of said operator means.

22. An electronic brake controller for an electropneumatic brake system comprising:

at least one brake operator whose position defines a desired brake action;

a display;

an electronic controller which determines the position of the operator, determines the desired braking action as a function of the determined position of the operator and drives the display to instantly display the determined desired braking action.

THE EVIDENCE

The items relied on by the examiner as evidence of obviousness are:

Yoshino	5,378,052	Jan. 3, 1995
Skantar et al. (Skantar)	5,415,465	May 16, 1995

The item relied on by the appellants as evidence of non-

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obviousness is:

The 37 CFR § 1.132 Declaration of John Allen filed
November 3, 1998 (Paper No. 6).

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THE REJECTION

Claims 1 through 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Skantar in view of Yoshino.

Attention is directed to the appellants' main and reply briefs (Paper Nos. 13 and 15) and to the examiner's final rejection and answer (Paper Nos. 8 and 14) for the respective positions of the appellants and the examiner with regard to the merits of this rejection.

DISCUSSION

Skantar, the examiner's primary reference, discloses an electropneumatic railway brake system comprising a cab control unit 1, a cab display unit 7, a cab control central processing unit (CPU) 8 and an electropneumatic operating unit 9. The cab control unit 1 includes a protective housing 2, an automatic brake handle 3, an independent brake handle 4 and a keypad 5. The foregoing components relate to one another and operate as explained by Skantar at column 4, line 12 et seq.

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Figure 1 in the reference depicts the display unit 7 and the CPU 8 as being separate from the cab control unit 1, and columns 5 and 6 in the reference describe the display unit as being used to display a set-up screen for pre-selecting and downloading certain variables into the CPU and a run-time screen for showing various operating parameters.

As conceded by the examiner (see page 2 in the final rejection and page 3 in the answer), Skantar does not respond to the limitations in independent claims 1, 16 and 22 requiring the display (or display means) to instantly display the desired braking action (or brake action pressure) as a function of the determined position of the brake operator (or brake operator means).

As persuasively argued by the appellants (see pages 7 and 10 in the main brief), Skantar also fails to respond to the limitations in claims 1 and 16 requiring the display (or display means) and the electronic controller (or controller means) to be in or on the discrete housing (or housing means) which mounts the brake operator (or brake operator means).

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Neither Skantar's display (display unit 7) nor electronic controller (CPU 8) is disclosed as being mounted in or on the discrete housing (housing 2) which mounts the brake operator (brake handles 3 and 4), and indeed Figure 1 of the reference shows that the display and controller are separate from the discrete housing. The examiner's finding to the contrary (see page 2 in the final rejection) is not only devoid of factual support, it is actually belied by Skantar's disclosure.

Yoshino discloses an electronic brake pedal adjustment apparatus 1 which enables a driver to set desired braking characteristics as a function of brake pedal pressure or travel. The apparatus includes means 2 for setting desired braking characteristics which define a relationship between a desired brake fluid pressure and a given brake pedal effort, means 15 for detecting brake pedal effort or travel, means 3 for calculating a desired brake fluid pressure based on the braking characteristics set for the detected brake pedal effort, means 17 for controlling actual brake fluid pressure in accordance with the calculated brake fluid pressure, and means 4 for displaying the desired and actual braking

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characteristics with respect to desired and actual braking
efforts.

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In proposing to combine Skantar and Yoshino to reject the appealed claims, the examiner concludes that it would have been obvious "to have displayed the desired braking [and] the actual braking on the display of Skantar et al. in view of the teaching of Yoshino" (final rejection, page 3). Even though both of these references pertain to braking systems, however, the differences between the two are many and varied. The display of desired braking characteristics disclosed by Yoshino is specifically associated with a brake characteristic adjustment apparatus that has no apparent relevance to the railway brake system disclosed by Skantar. Even if it is assumed for the sake of argument that Yoshino is analogous art (the appellants contend that it is not), the only suggestion for combining the two references in the manner proposed by the examiner so as to meet the instant display limitations in claims 1, 16 and 22 stems from an impermissible hindsight reconstruction of the appellants' invention wherein the claims have been used as a blueprint to selectively piece together disparate disclosures in the prior art. Furthermore, Yoshino does nothing to cure the above noted deficiencies of Skantar with respect to the limitations in claims 1 and 16 relating to

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the physical relationship between the discrete housing, the display, the controller and the brake operator.

Hence, the combined teachings of Skantar and Yoshino do not establish a prima facie case of obviousness with respect to the subject matter recited in claims 1, 16 and 22.¹ Accordingly, we shall not sustain the standing 35 U.S.C. § 103(a) rejection of claims 1, 16 and 22, or of dependent claims 2 through 15, 17 through 21 and 23 through 26, as being unpatentable over Skantar in view of Yoshino.

¹This being so, there is no need to delve into the merits of the appellants' declaration evidence of non-obviousness.

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SUMMARY

The decision of the examiner to reject claims 1 through
26 is reversed.

REVERSED

	IRWIN CHARLES COHEN)	
	Administrative Patent Judge)	
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)) BOARD OF
PATENT			
	JOHN P. McQUADE)	APPEALS
	Administrative Patent Judge)	AND
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INTERFERENCES)	
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	JOHN F. GONZALES))
	Administrative Patent Judge)	

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