

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

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(2) is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WILLIAM P. SCHMIDT
and FRANKLIN D. HUTCHINSON

Appeal No. 94-4239
Application 07/942,293¹

ON BRIEF

Before COHEN, LYDDANE and FRANKFORT, Administrative Patent
Judges.

COHEN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims

¹ Application for patent filed September 9, 1992.

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1 through 4, 6, and 7. Claim 5, the only other claim in the application, stands withdrawn from consideration by the examiner pursuant to 37 CFR § 1.142(b).

Appellants' invention pertains to an extended field-of-view mirror. A basic understanding of the invention can be derived from a reading of exemplary claim 1, a copy of which appears below.

1. An extended field-of-view mirror, the mirror comprising:

(a) a convex reflective surface having a viewing area and a continuous perimetral edge surrounding the viewing area:

(b) an opaque band integrally formed with the reflective surface and depending therefrom, the opaque band substantially surrounding the entire reflective surface; and

(c) a mounting flange integrally formed with the opaque band and extending outwardly therefrom.

As evidence of anticipation, the examiner has relied upon the reference specified below:

Horton
1931

1,811,823

June 23,

An additional reference of record relied upon by this panel of the board in a new ground of rejection, infra, is:

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Schmidt et al. 4,436,372 Mar. 13,
1984
(Schmidt)

The following rejection is the sole rejection before us for review.

Claims 1 through 4, 6, and 7 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Horton.

The full text of the examiner's rejection and response to the argument presented by appellants appears in the answer (Paper No. 13), while the complete statement of appellant's argument can be found in the brief (Paper No. 12)².

OPINION

² The copy of claim 3 in the appendix to the brief is in error in that it reflects that the claim depends from claim 1. Claim 3, in the application file, specifies that the claim depends from claim 2. The copy of claim 7 in the brief is also in error. The recitation of "the vehicle" in the claim should be "a vehicle" as in claim 7 in the application file. We have reviewed claims 3 and 7 based upon their correct form in the application file.

In reaching our conclusion on the anticipation issue raised in this appeal, this panel of the board has carefully considered appellants' specification and claims³, the applied patent, and the respective viewpoints of appellants and the examiner. As a consequence of our review, we make the determination which follows.

We cannot sustain the examiner's rejection under 35 U.S.C. § 102(b). Our reasoning follows.

The extended field-of-view mirror set forth in appellants' claim 1 requires, inter alia, a convex reflective surface, an opaque band "integrally formed with" the reflective surface, and a mounting flange "integrally formed with" the opaque surface.

At this point, we note that appellants' specification does not define or explain the broad recitation

³ Claim 1, line 5 sets forth an "opaque" band, whereas claim 4, dependent from claim 1, recites an opaque surface coating disposed on the band. This latter recitation is consistent with the language of the specification (page 4) which sets forth that the opaque band 22 has an opaque surface coating 28 deposited thereon. We understand the recitation of claim 4 to denote that the opaque characteristic of the opaque band of claim 1 is effected by an opaque surface coating disposed on the band.

"integrally formed with" or give examples of mirror formation. However, turning to Figure 4 of the drawing, in particular, it is readily apparent that the reflective surface, opaque band, and mounting flange are joined together and collectively form the mirror. Thus, we believe it fair to say that the recitation "integrally formed with", in the context in which it is used in claim 1, simply means that the designated mirror parts were joined together prior to any use of the mirror, i.e., the respective reflective surface, opaque band, and mounting flange were joined together or integrally formed with one another to effect the overall mirror prior to the use of the mirror in being fixedly secured to the mounting frame and gasket.

A reading of the Horton patent (page 1, lines 36 through 50) reveals to us that the patentee contemplated a reflective field of a mirror being bordered by a defining, non-reflective margin which spaces or definitely sets off and removes the same from a brilliantly finished frame to the riddance and elimination of any view obscuring light rays and glare from the frame while looking in the mirror. In the

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depicted embodiment, a "separate" elastic or spring ring 4 is sprung into interlocking relationship with a frame. Thus, this ring is clearly not integrally formed with the reflective field 1, i.e., it is not joined to the reflective field as part of the overall mirror prior to mounting the mirror in its frame. As to the patentee's disclosure of a direct application of a defining border to the glass plate (page 1, lines 82 through 85), it is clear to us that this would denote a border or opaque band that is integrally formed with a reflective field, as now claimed. However, we do not discern that the aforesaid resulting glass plate mirror would include a mounting flange, as claimed, integrally formed with the opaque band. Thus, we conclude that the subject matter of appellants' claim 1 (and dependent claims) is not anticipated by the Horton patent.

NEW GROUND OF REJECTION

Under the authority of 37 CFR § 1.196(b), we introduce the following new ground of rejection.

Claims 1 through 4, 6, and 7 are rejected under

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35 U.S.C. § 103 as being unpatentable over Schmidt in view of Horton.

Schmidt (Figures 3 and 5) teaches a rear view mirror which enhances a driver's field of view and includes a convex reflecting surface (column 2, lines 23 through 31). The mirror 100 further has a diametrical mounting flange 50 which extends radially along the diametrical plane 32 at edge 30, with the flange preferably integrally formed with body 23 of the mirror 100 (column 6, lines 58 through 63). A flange 70 (Figure 5) secures the mirror body 23 and a disk member 60 together (column 7, lines 9, 10).

Horton (page 1, line 32 to page 2, line 13) explicitly discloses a reflective field of a mirror (convex glass plate) being bordered by a defining, non-reflective margin (preferably black) which spaces or definitely sets off and removes the same from a brilliantly finished frame to the riddance and elimination of any view obscuring light rays and glare from the frame while looking in the mirror⁴. The

⁴ The problem of concern to Horton is akin to the problem addressed by appellants (specification, page 1, line 30 to page 2, line 4).

disclosed means setting off the reflective field apart from the margin 3 comprises a band or border 4 of a non-reflecting finish. This defining border may be applied directly either to the glass plate or to the marginal body, or be made separate and distinct such as in the form of an elastic or spring ring.

In applying the test for obviousness⁵, we reach the conclusion that it would have been obvious to one having ordinary skill in the art, from a collective consideration of the applied teachings, to provide the rear view mirror of Schmidt with a defining non-reflective margin or border applied directly to the convex glass plate. In our opinion, the incentive for this modification on the part of one having ordinary skill would have simply been to gain the art recognized advantage of the non-reflective border, i.e., the elimination of view obscuring light rays and glare. With a

⁵ The test for obviousness is what the combined teachings of references would have suggested to one of ordinary skill in the art. See In re Young, 927 F.2d 588, 591, 18 USPQ2d 1089, 1091 (Fed. Cir. 1991) and In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981).

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directly applied border thereon⁶, as above, the modified convex glass plate mirror of Schmidt prior to use would comprise, using appellants' claim language, a convex reflective surface, an opaque band integrally formed with the reflective surface, and a mounting flange integrally formed with the opaque band and extending outwardly therefrom. Based upon the analysis, supra, claims 1, 2, 4, 6, and 7 are appropriately rejected under 35 U.S.C. § 103. We additionally are of the view that the applied teachings would have also been suggestive of the subject matter of claim 3. More specifically, it is apparent to us that those versed in the art would have appreciated the configuration of the modified mirror of Schmidt to reasonably suggest an angularly extending non-reflective border (opaque band), as now claimed.

Any request for reconsideration or modification of this decision by the Board of Patent Appeals and Interferences based upon the same record must be filed within one month from the date of the decision (37 CFR § 1.197). Should appellants elect to have further prosecution before the examiner in

⁶ We simply note at this point appellants' claimed opaque surface coating disposed on the band (claim 4).

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response to the new rejection under 37 CFR § 1.196(b) by way of amendment or showing of facts, or both, not previously of record, a shortened statutory period for making such response is hereby set to expire two months from the date of this decision.

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

In summary, this panel of the board has reversed the examiner's rejection of claims 1 through 4, 6, and 7 under 35 U.S.C. § 102(b) as being anticipated by Horton. Further, we have introduced a new rejection of appellants' claims under 35 U.S.C. § 103 pursuant to 37 CFR § 1.196(b).

The decision of the examiner is reversed.

REVERSED

37 CFR § 1.196(b)

IRWIN CHARLES COHEN)
Administrative Patent Judge)
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WILLIAM E. LYDDANE) BOARD OF PATENT
Administrative Patent Judge) APPEALS AND
) INTERFERENCES
)
)
CHARLES E . FRANKFORT)
Administrative Patent Judge)

Arnold S. Weintraub
Weintraub, Duross & Brady
30200 Telegraph Road
Suite 200
Bingham Farms, MI 48025

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