

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(2) is not binding precedent of the Board.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 YOSHIYUKI FURUYA,
KUNIMITSU AOKI AND
TADASHI IINO

Appeal No. 95-1947
Application 07/787,447¹

ON BRIEF

Before THOMAS, HAIRSTON and TORCZON, Administrative Patent
Judges.

THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

Appellants have appealed to the Board from the examiner's
final rejection of claims 1 and 2, which constitute all the
claims in the application.

¹ Application for patent filed November 4, 1991.

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The pertinent portions of claim 1 on appeal require that a second surface of a reflection plate be diagonally disposed in relation to a first surface of the same plate and "wherein said display light diagonally falling on said second surface is reflected in a direction other than toward the eye range."

The following references are relied on by the examiner:

Gross	2,750,833	June 19, 1956
Smith	5,013,134	May 7, 1991

Claims 1 and 2 stand rejected under 35 U.S.C. § 103 in light of appellants' admitted prior art teachings in Figures 5 and 6, the discussion thereof in the prior art at pages 2 and 3 of the specification as filed, and principally the paragraph bridging pages 2 and 3, as well as Smith and Gross.

OPINION

Upon considering the teachings and suggestions of the prior art relied upon in conjunction with the examiner's detailed reasoning process in the statement of the rejection between pages 2 and 4 of the answer, even as repeated somewhat in the responsive arguments portion of the answer at page 5, further in light of appellants' brief on appeal, we reverse the rejection of claims 1 and 2 on appeal.

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The structure of the prior art is shown in appellants' prior art Figures 5 and 6, which causes the ray of light 1 entering the reflection plate 20 in Figure 5 to produce a reflected ray 1 from the first surface 20A and a refracted ray 1 from the inside of the second surface 20B of the reflection plate 20. The viewer at the eye range position 40 sees a double image. The examiner's approach recognizes this and relies upon the teachings in Smith to eliminate the double image by means of an optical wedge within the windshield of the automobile in Smith such as to adjust the angle between the first and second surfaces of the reflection plate (the windshield of the automobile). The examiner further recognizes that this combination does not direct the light from the second surface away from the claimed eye range, but further relies upon Gross to teach that it would have been obvious to solve the same problem of double images by eliminating one of the reflected rays. The examiner's reasoning at page 5 of the answer is essentially the same.

We do not agree with the examiner's basic conclusion. The examiner construes Gross as teaching the avoidance of the merged image concept taught by Smith which essentially causes a blurred infringed image. The teachings, suggestions and inferences the

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artisan would have derived from the combination of Smith and Gross, as argued by the examiner, may well have been to eliminate one of the images of Smith by the teachings of Gross, but it would not, in our view, have led the artisan to change the surface angles to project one of the images away from the eye range as required at the end of claim 1 on appeal.

In any event, assuming for the sake of argument that it would have been proper to combine the teachings and suggestions within 35 U.S.C. § 103 from the prior art relied upon, we conclude, even as urged by appellants in the brief, that the combination would not have rendered obvious to the artisan the subject matter of independent claim 1 on appeal. Essentially, Smith would have taught to the artisan the concept of overlapping the two images of appellants' prior art Figure 5 from rays l_a and l_b at the viewer's eye level as one approach to eliminating the known problem of double images associated with the approach taken in the appellants' prior art Figures 5 and 6. On the other hand, Gross teaches an entirely different approach, which is essentially to cancel or otherwise suppress either one of the rays l_a or l_b (Gross, column 2, lines 48 to 51). Thus, the artisan would not have been led to the claimed approach taken by appellants of

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using an essentially wedged reflection plate (the diagonally disposed first and second surfaces of claim 1 on appeal) to redirect one of the rays l_A and l_B of prior art Figure 5. The teaching value of canceling or suppressing one of two rays in Gross would not have led the artisan in our view to have changed the surface angle within the windshield in Smith to project one of the images away from the eye range.

Since the prior art relied upon does not support the examiner's conclusion of the obviousness of the subject matter of claims 1 and 2 on appeal, the rejection of these claims under 35 U.S.C. § 103 is reversed.

REVERSED

JAMES D. THOMAS)	
Administrative Patent Judge)	
)	
)	
KENNETH W. HAIRSTON)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
RICHARD TORCZON)	
Administrative Patent Judge)	

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Armstrong, Nikaido, Marmelstein,
Kubovcik & Murray
1725 K Street, N.W. Suite 1000
Washington, DC 20006

JDT/cam