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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 21

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HIROSHI KATO

Appeal No. 95-2912
Application 07/838,919[1]

HEARD: OCTOBER 16, 1996

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

KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1 and 3 through 9. Claims 2 and 10 through 14 have been indicated by the examiner as allowable and are no longer before us on appeal.

[1] Application for patent filed February 21, 1992.

The invention pertains to a color temperature selector for a color television set and is best described by reference to representative independent claim 1 reproduced as follows:

1. A color temperature selector comprising:
CRT drive circuits for red, green, and blue color signals;

first switching means for switching M drive levels of said red color signal by changing a combination of parallel connected resistors;

second switching means for switching N drive levels of said blue color signal by changing a combination of parallel connected resistors; and

selection controlling means for selecting at a time one of at least three combinations including an upper limit value, middle value, and lower limit value respectively set by said first and second switching means.

The examiner relies on appellant's admitted prior art [APA] shown in Figure 6 of the application.

Claim 5 stands rejected under 35 U.S.C. § 112, second paragraph. Further, claims 1 and 3 through 9 stand rejected under 35 U.S.C. § 103 as unpatentable over APA.

Reference is made to the briefs and answer for the respective positions of appellant and the examiner.

OPINION

Turning first to the rejection of claim 5 under the second paragraph of 35 U.S.C. § 112, the examiner contends that the claim is confusing because while it calls for operation means for setting a gain of the drive amplifiers for red, green and blue color signals, the specification and drawings disclose setting the gain of the amplifiers for only the red and blue color signals. The examiner contends that "it is unclear how the operation means sets a gain of the drive amplifier for the green color signal" [answer, page 3].

While appellant does not argue this rejection directly in the briefs, reference is made to "the comments on claim 5 already of record" [page 2, reply brief]. We find, in Paper No. 10, page 2, filed December 16, 1993, appellant argues that those "skilled in the art would readily comprehend that the gain of the G drive amplifier must also be set."

We find nothing in claim 5 which would make the claim indefinite with regard to the gain of the G amplifier, within the meaning of 35 U.S.C. § 112, second paragraph. While the

disclosure is silent as to any control of the gain of the G amplifier, claim 5 does not call for any control of this amplifier. Claim 5 calls for merely "setting a gain of each of said drive amplifiers." Clearly, the G amplifier is set to some value [see page 2, lines 16-17 of the specification wherein it states that "The drive level for the green signal is fixedly set."], even if it might be unity, merely passing a signal therethrough without amplification. We find nothing indefinite about setting a gain for the drive amplifier for the green color signal in claim 5. Accordingly, we will not sustain the rejection of claim 5 under 35 U.S.C. § 112, second paragraph.

With regard to the rejection under 35 U.S.C. § 103, as it relates to the independent claims, the rejection and argument center around whether it would have been obvious to employ "parallel connected resistors" for the series-connected resistors of the APA. The examiner answers this in the affirmative, reasoning that it was common knowledge in circuit analysis that any one resistor may be substituted for parallel resistors of appropriate value and vice-versa. Specifically, the examiner states:

> ...because a desired value of resistance obtained from a combination of parallel-connected resistors and obtained from series-connected resistors were art-recognized equivalents...where it is immaterial whether having plural resistors in parallel or having a single resistor, one of ordinary skill would have found it obvious to substitute a combination of parallel-connected resistors for the series-connected resistors in AAPA to obtain a desired resistance value [answer, page 5] [emphasis added].

We agree with the examiner's basic proposition that, in general, it would have been obvious to substitute a combination of parallel-connected resistors for series-connected resistors (and vice-versa) for a given, desired resistance value. However, the instant claimed invention is not concerned with a mere substitution of parallel-connected resistors for a single resistor and, contrary to the examiner's apparent position, the use of plural parallel-connected resistors in the instant claimed invention is very material.

The instant independent claims 1, 7 and 9 each call for, albeit in somewhat different form, parallel-connected resistors in separate circuits for controlling the drive amplifiers for

separate (red and blue) color signals. Independent claim 3 calls for switching the gains of two of the drive amplifiers by "changing a combination of parallel connected resistors" but there appears to be no requirement for first and second circuits or separate groups of parallel-connected resistors for each circuit.

In APA, however, switch 4-5 can connect only resistors 41-51 or 42-52 or 43-53 depending on its position. The resistors 41-43 are used to control the gain of the drive amplifier for the red color signal while resistors 51-53 are used to control the gain of the drive amplifier for the blue color signal. Thus, in APA, the drive level of each of the red and blue color signals is NOT changed by "changing a combination of parallel connected resistors," as recited in claim 1. Rather, the drive level of each color signal in APA is changed by the selection of a single resistor in each circuit, e.g., either one of resistors 41, 42 or 43 for the red color signal. Thus, for each circuit, the resistance is NOT a "resistance provided by parallel connected

resistors," as recited in claim 7. Further, APA does not provide for the "control means" as set forth in instant claim 9 wherein the control means "controls the connections of said first and second switch means to change the resistance values of said first and second resistors to change a combination of parallel connnection thereof..." because, in APA, there is no "combination of parallel connection..." to change.

Even in instant claim 3, where a plurality of gain switching means is not required, the claim still requires "changing a combination of parallel connected resistors." We fail to find such a "combination of parallel connected resistors" in APA and, contrary to the examiner's position, we find no legitimate reason for substituting parallel-connected resistors for each of the single resistors shown in APA.

We have not sustained either the rejection of claim 5 under 35 U.S.C. § 112, second paragraph, or the rejection of claims 1

and 3 through 9 under 35 U.S.C. § 103. Accordingly, the decision of the examiner is reversed.

REVERSED

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

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