

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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

Appeal No. 96-2752
Application 08/224,202¹

HEARD: AUGUST 5, 1999

Before URYNOWICZ, HAIRSTON and BARRY, Administrative Patent Judges.

URYNOWICZ, Administrative Patent Judge.

DECISION ON APPEAL

This appeal is from the final rejection of claims 1-8 and 10-23, all the claims pending in

¹ Application for patent filed April 14, 1994.

the application.

The invention pertains to a message display sign. Claim 1 is illustrative and reads as follows:

1. A variable message display sign having a power source and operative to display a variable message, comprising:

(a) a plurality of interchangeable character displays each having a plurality of signal elements organized in a plurality of distinct sets, each said signal element having an on state and an off state;

(b) a controller located remotely from said character displays and operative to produce an address signal containing character address data for identifying an addressed character display which resides at a desired address location within said message display sign, a set signal containing set address data for identifying an addressed set of signal elements and a data signal containing display data corresponding to desired on/off states for each signal element in the addressed state;

(c) a logic circuit associated with each of said character displays and having a unique character address therefor, each said logic circuit secured to a respective one of said character displays and having a memory operative in response to the address signal containing character address data corresponding to the unique character address of said logic circuit to receive and store the display data according to the set address data for an addressed set of signal elements, said logic circuit operative to switch the signal elements of its associated character display to a desired pattern of on/off states according to the display data stored in said memory thereby to display a desired character irrespective of which one of said plurality of character displays resides at the desired address location; and

(d) a data bus interconnected [sic] said controller and said logic circuits whereby said character address data, said set address data and said display data is communicated.

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The references relied upon by the examiner as evidence of obviousness are:

Bryant et al. (Bryant)	4,410,889	Oct. 18, 1983
Gomersall et al. (Gomersall)	4,500,880	Feb. 19, 1985
Revesz et al. (Revesz)	4,888,709	Dec. 19, 1989
Rashidi (UK Patent Application)	2 164 189 A	Mar. 12, 1986
Minkus (International Application)	WO89/03571	Apr. 20, 1989.

The appealed claims stand rejected under 35 U.S.C. § 103 as being unpatentable over Minkus in view of Revesz, Bryant, Gomersall and Rashidi.

The respective positions of the examiner and the appellant with regard to the propriety of these rejections are set forth in the final rejection (Paper No. 10) and the examiner's answer (Paper No. 15) and the appellant's brief (Paper No. 13) and reply brief (Paper No. 16).

The Rejection under 35 U.S.C. §103

After consideration of the positions and arguments presented by both the examiner and the appellant, we have concluded that the rejection should not be sustained. It is considered that the examiner has failed to establish motivation for combining the teachings of the specific prior art on which he relied. Accordingly, the examiner has failed to establish a prima facie case of obviousness.

The examiner has mentioned motivation in but two places in his Answer. At page 3, the examiner states,

One of ordinary skill in the art having Revesz et al, Gomersall et al, and Rashidi would have been well aware and obviously motivated to construct the display in Minkus of modules to eliminate the need for unnecessary lights (see page 1, lines 11-15 of Rashidi).

In the paragraph bridging pages 4 and 5 of the Examiner Answer, the Examiner asserts,

At the time the invention was made, Gomersall et al had shown in Figures 5 and 10 that the display driving means as set forth in the claims was known. One of ordinary skill in the art having Revesz et al, Bryant et al, and Gomersall et al would have been motivated to use the teaching in these references to realized [sic] the message units and display structure suggested in Minkus.

With respect to combining the teachings of Minkus and Rashidi, the fact that Rashidi teaches elimination of unnecessary lights in displays would not suggest utilizing the modular display system of Rashidi in Minkus because it is not established as a matter of fact that Minkus suffers from the presence of unnecessary lights. With respect to Gomersall, Revesz and Bryant, the examiner has simply concluded that one of ordinary skill in the art would have been motivated to use specific teachings of these references with Minkus and Rashidi. The bare conclusion that motivation existed is unpersuasive. Teachings of references can be combined only if there is some suggestion or incentive to do so. In re Fritch, 972 F.2d 1260, 1266, 23 USPQ2d 1780, 1783-84 (Fed. Cir. 1992).

It is further considered that even if there were motivation to combine the teachings in the art relied on by the examiner, the combination would not result in the claimed invention. It has not been established by the examiner that the combination would include (1) interchangeable character displays, as recited in independent claims 1, 22 and 23, (2) an interconnect cable which is hard-wired with the unique character address of its associated logic circuit, as in claim 23 and dependent claim 20, (3) a controller to produce the equivalent of a set signal containing set address data for identifying an addressed set of signal elements, as recited in

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all of the independent claims (claims 1, 16, 22 and 23), or (4) a data latch to latch display data and to output the display data latched in response to an output enable signal, as recited in claim 16.

REVERSED

STANLEY M. URYNOWICZ, JR.)
Administrative Patent Judge)
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) BOARD OF PATENT
KENNETH W. HAIRSTON) APPEALS AND
Administrative Patent Judge) INTERFERENCES
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