

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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 MARK E. TUTTLE, RICKIE C. LAKE,
STEVEN F. SCHICHT and JOHN R. TUTTLE

Appeal No. 96-3086
Application No. 08/306,906¹

ON BRIEF

Before KRASS, BARRETT and LALL, Administrative Patent Judges.

KRASS, Administrative Patent Judge.

DECISION ON APPEAL

¹ Application for patent filed September 15, 1994. According to appellants, this application is a continuation-in-part of Application No. 07/979,607 filed November 20, 1992, pending.

Appeal No. 96-3086
Application No. 08/306,906

This is a decision on appeal from the final rejection of claims 46, 47, 66 and 67, all of the claims remaining in the application.

The invention pertains to testing the sensitivity of RF transponders by transmitting an RF signal to the transponder, detecting the value of the strength of the received signal, generating a multiple-bit digital representation of the detected signal strength value and transmitting another RF signal containing a message conveying the digital representation of the value of the received signal strength measurement.

Representative independent claim 46 is reproduced as follows:

46. A method for a test fixture system to test the sensitivity of an RF transponder, comprising the steps of:

- a) a test fixture system transmitting a first RF signal to an RF transponder;
- b) the transponder receiving the first RF signal and detecting the value of the strength of the received signal;
- c) the transponder producing a multiple-bit digital representation of the detected signal strength value; and
- d) the transponder transmitting a second RF signal containing a message conveying the multiple-bit digital

Appeal No. 96-3086
Application No. 08/306,906

representation of the value of the received signal strength measurement.

The examiner relies on the following reference:

Marui et al. [Marui] 4,996,715 Feb. 26,
1991

Appeal No. 96-3086
Application No. 08/306,906

Claims 46, 47, 66 and 67 stand rejected under 35 U.S.C. § 103 as unpatentable over Marui.

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

OPINION

The examiner contends that Marui teaches the transmission of a first RF signal to an RF transponder. While the examiner never identifies exactly where, in Marui, this is taught, we can agree that in the cellular mobile telephone environment of Marui, such telephones are known to receive RF signals. Figure 1 of Marui clearly discloses receipt of an RF signal from antenna 13 through coupler 11 into a receiver 14.

The examiner further contends that the transponder of Marui receives the RF signal and measures the value of its signal strength. Again, we agree. Column 2, lines 48-54, and the abstract of Marui clearly indicate that signal strength is measured.

The examiner then contends that Marui teaches that the transponder produces a multiple-bit digital representation of the detected signal strength. We do not find this position to

Appeal No. 96-3086
Application No. 08/306,906

be unreasonable in view of Marui's converting of the received signal from receiver 22 to digital form by A/D converter 24.

However, we do take issue with the examiner's finding of the claimed transmission of a second RF signal within the disclosure of Marui. Both independent claims 46 and 66 require the transmission of "a second RF signal containing a message conveying the multiple-bit digital representation" of the received signal strength. The examiner points to column 2, lines 61-66, of Marui for such a teaching. However, reference to the cited portion of Marui finds only an explanation that when the detected signal strength value decreases to a second threshold value, microprocessor 15 causes transmitter section 12 to terminate broadcasting, presumably on the assumption that the signal is too weak to continue using the cellular telephone. We find no teaching or suggestion in Marui of the transmission of a second RF signal which contains a message conveying the representation of signal strength. Of course, there is no need for conveying such a message in Marui for Marui is not interested in testing transponders as is the instant invention. Moreover, if Marui causes termination of transmission on receipt of a signal

Appeal No. 96-3086
Application No. 08/306,906

having too low a strength value, it would appear that, under that circumstance, Marui could not, as required by the instant claims, transmit a second RF signal containing a message conveying the representation of signal strength.

We also note that while the examiner recognizes that Marui does not teach a test fixture system for transmitting the first RF signal, the examiner contends that it would have been obvious to connect the Marui circuitry to a test fixture because skilled artisans "would have wanted to certify that the cellular system's signal strength measuring circuitry was functioning appropriately" [answer-page 4]. In responding to appellants' argument in this regard, at page 6 of the answer, the examiner explains further that the skilled artisan

would have been clearly motivated to test the Marui signal strength to ensure that it could correctly recognize a given signal's strength. In order to accomplish this objective, a test fixture would transmit signals of known strength to Marui's system to be analyzed by the Marui system for signal strength. The test would be completed when the Marui system generated a multi-bit digital representation of the signal strength as registered within Marui's cellular apparatus, and transmits this digital representation back to the test fixture. Only in this way can one of ordinary skill determine if the signal strength circuitry of Marui is operating effectively.

Appeal No. 96-3086
Application No. 08/306,906

We find the examiner's views in this regard to be purely speculative, lacking even a semblance of evidence, save for appellants' own disclosure, as to any suggestion for employing a test fixture with the cellular mobile telephone system of Marui. Marui nowhere indicates that there is any desire or need to test the reliability of the signal strength circuitry. Since Marui merely causes received signals of insufficient strength to terminate transmission, there is no suggestion therein of transmitting a second RF signal containing a message conveying the digital representation of the value of the received signal strength measurement for purposes of testing the sensitivity of an RF transponder, as claimed.

The examiner's decision rejecting claims 46, 47, 66 and 67 under 35 U.S.C. § 103 is reversed.

REVERSED

ERROL A. KRASS)
Administrative Patent Judge)
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) BOARD OF PATENT
LEE E. BARRETT) APPEALS

Appeal No. 96-3086
Application No. 08/306,906

Administrative Patent Judge)	AND
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Appeal No. 96-3086
Application No. 08/306,906

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