

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(2) is not binding precedent of the Board.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. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT S. PHARR

Appeal No. 96-3304
Application 08/279,565¹

ON BRIEF

Before McCANDLISH, Senior Administrative Patent Judge, STAAB
and CRAWFORD, Administrative Patent Judges.

CRAWFORD, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal from the examiner's final rejection of claims 1-23 which are all the claims pending in the application.

Appellant's invention is a machine readable display unit for metered devices. Claim 1 is exemplary of the subject

¹ Application for patent filed July 25, 1994.

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matter on appeal and recites:

1. A machine readable display unit for metered devices of the type displaying a changeable, readable indicia proportional to an input thereto, said input varying in relative value over a period of time, said machine readable display unit comprising:

means for displaying alpha-numeric indicia in a machine readable format;

means for changing said readable indicia responsive to the input to the metered device.

THE REFERENCES

The following references were relied on by the examiner in support of the rejections:

Becker et al. (Becker) 1986	4,588,949	May 13,
Munday et al. (Munday) 1990	4,977,368	Dec. 11,
Wakatsuki et al. (Wakatsuki) 11, 1994	5,278,551	Jan.

(filed April 16, 1993)

THE REJECTIONS

Claims 1-9 and 11-22 stand rejected under 35 U.S.C. § 103 as being unpatentable over Becker in view of Wakatsuki.

Claims 10 and 23 stand rejected under 35 U.S.C. § 103 as being unpatentable over Becker in view of Wakatsuki as applied to claims 1-9 and 11-22 above, and further in view of Munday.

Rather than reiterate the examiner's full statement of

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the above-noted rejections and the conflicting viewpoints advanced by the examiner and the appellant regarding the rejections, we make reference to the examiner's answer (Paper No. 10) for the examiner's complete reasoning in support of the rejections and the appellant's brief (Paper No. 7) and reply brief (Paper No. 11) for the appellant's arguments thereagainst.

OPINION

We have carefully reviewed the appellant's claimed subject matter as described in the specification, the appealed claims, the prior art references applied by the examiner, and the respective positions advanced by the appellant and the examiner. As a consequence of our review, we have made the determinations which follow.

As a preliminary matter we base our understanding of the appealed subject matter upon the following interpretation of the terminology employed in the claims. In line 7 of claim 14, we interpret the "input" there recited to be the same "input" recited in line 4 of claim 1 (See specification at page 3, lines 21-24).

Turning first to the rejection of claims 1-9 and 11-22

under 35 U.S.C. § 103 as being unpatentable over Becker in view of Wakatsuki, we find that Becker discloses a metering apparatus 1 which has a tamper indicating mechanism 12, a metering mechanism 5 and a base 3 disposed in a socket 11. The tamper indicating mechanism 12 includes a means on a rotating drums 21 for displaying markings 25 which may be numerals, alphanumeric characters, or bar code. The tamper indicating mechanism comprises a one-way ratchet for causing the drums 21 to move to display the next marking upon either insertion or removal of the meter base from its socket (column 5, lines 6-17). In addition, the one-way ratchet is configured such that one who tampers with the meter "will be unable to rotate the register drums [carrying markings 25] in a reverse direction . . . and will also be unable to rotate the register drums through one full turn in order to display the original markings which was [sic, were] displayed before any tampering had occurred" (column 5, lines 31-36).

Wakatsuki discloses a meter reading system to facilitate the reading and recording of meter data. In pertinent part, the Wakatsuki system includes a meter having a label 3 with a bar-coded user number and a digital display section 4 for

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providing a digital display of a current reading in a plurality of digits (column 3, lines 43-48). The digits in the digital display are representative of energy consumed (column 1, lines 25-27). A meterman uses a hand held data input terminal unit 6 having a bar code reader and a keypad to read the bar code label and to input the current reading displayed on the digital display section.

Independent claim 1 requires that the means for displaying alpha-numeric indicia in machine readable form is responsive to an input to the meter that varies in relative value over a period of time.

In rejecting claim 1, the examiner considers that the Becker's drums 21 correspond to the claimed means for displaying alpha-numeric indicia in machine readable form. As we understand it, it is the examiner's position that the movement of Becker's meter when inserting or removing it from its base constitutes an input that varies in relative value over time. Alternatively, it may possibly be the examiner's position that it would have been obvious to make Becker's drums 21 responsive to an input that varies in relative value over time in view of Wakatsuki.

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In either case, we do not agree. First, the movement of Becker's meter when inserting or removing it from its base is not an input that varies in value over time. Second, there is nothing in Wakatsuki which would have suggested to one of ordinary skill in the art that Becker's meter may be modified such that the drums 21 are responsive to an input that varies over time. In this regard, it reasonably appears that the user number bar coded on the label 3 of Wakatsuki does not, in normal use, vary over time. As such, we will not sustain the examiner's rejection of claim 1, or claims 2-9 and 11-13 which depend therefrom, under 35 U.S.C. § 103 as being unpatentable over Becker in view of Wakatsuki.

We turn next to claim 14. Claim 14 recites a utility rate meter with a changeable readable indicia which represents energy consumed and a display unit which displays alphanumeric indicia in machine readable format.

The examiner is of the opinion that it would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the meter of Becker with a changeable readable indicia representative of energy consumed in view of the teachings of Wakatsuki. We do not agree. We

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find no motivation in the applied prior art to modify the tamper indicating mechanism disclosed in Becker so that the display unit displays changeable readable indicia representative of energy consumed. Indeed, there would be no reason to make this change as the apparatus disclosed in Becker includes a metering mechanism 5 for measuring electrical power consumption (see column 3, lines 54-65). As such, we will not sustain this rejection as it is directed to claim 14 and dependent claims 15-22.

Turning next to the examiner's rejection of claims 10 and 23 under 35 U.S.C. § 103 as being unpatentable over Becker and Wakatsuki and further in view of Munday, the examiner cites Munday for disclosing a liquid crystal diode for display means. According to the examiner, it would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the meter of Becker as modified with Wakatsuki with a display means including a liquid crystal diode in order to better place readable information in readable form. Even if we were to agree with the examiner's proposed modification of Becker in view of Munday, the tertiary reference does not remedy the deficiencies noted

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above for Becker and Wakatsuki as they relate to claims 1 and 14 from which claims 10 and 23 depend. As such, we will not sustain this rejection.

Under the provisions of 37 CFR § 1.196(b), we make the following new rejection:

Claims 1-4, 8, 11-17, and 21 are rejected under 35 U.S.C. § 103 as being unpatentable over Becker.

As detailed above, Becker discloses an apparatus with a metering mechanism 5 and a tampering indicating mechanism. With regard to the tampering indicating mechanism, Becker discloses that a drum which includes markings is read to determine whether it has been advanced to a next set of markings thereby indicating that the base has been removed from or replaced in the socket. Becker also discloses that the markings can be bar code markings and that bar coding enables automatic remote optical detection by a meter reader using an optical laser scanner. As such, it is our view that it would have been obvious to one of ordinary skill in the art to utilize bar code markings on the metering mechanism 5 to display changes in input to the metering apparatus in order to enable automatic remote optical detection by a meter reader

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using an optical laser scanner. This input would be representative of energy consumed and would vary in relative amount over time.

In regard to claims 8 and 21, we note that a display means that includes a plurality of tumblers is well known. In any case, in view of the disclosure in Becker of a display means comprising a plurality of drums or tumblers (Fig. 5), it would have been obvious to use such a plurality of drums or tumblers in the modified metering apparatus of Becker.

In summary, the examiner's rejections of claims 1-23 are reversed.

We have entered a new rejection of claims 1-4, 8, 11-17 and 21 pursuant to 37 CFR § 1.196(b) (amended effective Dec. 1, 1997, by final rule notice, 62 Fed. Reg. 53,197 (Oct. 10, 1997), 1203 Off. Gaz. Pat. & Trademark Office 63, 122 (Oct. 21, 1997)). Section 1.196(b) of 37 CFR provides that "A new ground of rejection shall not be considered final for purposes of judicial review."

37 CFR § 1.196(b) also provides that the appellant, WITHIN TWO MONTHS FROM THE DATE OF THE DECISION, must exercise one of the following two options with respect to the new

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ground of rejection to avoid termination of proceedings (37
CFR § 1.197(c)) as to the rejected claims:

(1) Submit an appropriate amendment of the claims so rejected or a showing of facts relating to the claims so rejected, or both, and have the matter reconsidered by the examiner, in which event the application will be remanded to the examiner..

(2) Request that the application be reheard under § 1.197(b) by the Board of Patent Appeals and Interferences upon the same record. . . .

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

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1.136(a).

REVERSED
37 CFR § 1.196(b)

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Administrative Patent Judge)	
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)	
)	BOARD OF PATENT
LAWRENCE J. STAAB)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
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MEC/gjh

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