

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 12

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JACK R. GILMORE and NEIL D. GRAVES

Appeal No. 96-3645
Application 08/154,167¹

ON BRIEF

Before KRASS, CARMICHAEL, and HECKER, Administrative Patent Judges.

CARMICHAEL, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of Claims 9 and 10. The other claims remaining in the application, Claims 3 and 8, have been withdrawn from consideration.

Claim 9 reads as follows:

A mail processing system for mail pieces comprising:

¹ Application for patent filed November 17, 1993.

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- (a) providing a stamp with a bar code thereon representative of a postage denomination for application to a mail piece by the postal user at a postal bearing area;
- (b) affixing said stamp to said mail piece;
- (c) collecting and depositing the stamp-bearing mail piece;
- (d) initially sorting so that mail pieces of a similar class are commonly grouped;
- (e) orienting the mail pieces so that the postal-bearing areas are aligned;
- (f) automatically scanning the bar codes on the mail piece with a machine reader to determine whether a minimum denomination of postage is affixed; and
- (g) rejecting the postage material having a stamp below a postage denomination from the processing line.

The examiner's Answer cites the following prior art:

Wright et al. (Wright)	4,900,904	Feb. 13, 1990
Whitehouse	5,319,562	Jun. 7, 1994 (filed Aug. 22, 1991)

OPINION

The claims stand rejected under 35 U.S.C. § 103 as unpatentable over Wright in view of Whitehouse. We reverse for the reasons given by Appellants, amplified as follows.

The examiner's rejection is based on a factual finding that the references both disclose automatically scanning the

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bar codes on mail pieces with a machine reader to determine whether a minimum denomination of postage is affixed and rejecting mail pieces having a stamp below the minimum. Examiner's Answer at 4 and 5.

Appellants challenge that finding. Substitute Appeal Brief at 11 and 13. In response, the examiner refers to the following passage from Whitehouse:

In this way, the same bar code scanners which read the ZIP+4 encoding for sortation purposes can also read and store the amount of postage and originating account number. Therefore, postage expenditure could be compared with postage purchases for any user of this technology. This would offer the U.S.P.S. a new and unprecedented level of accountability. Column 9, lines 44-50.

Whitehouse also states that "[b]y accountability, we mean how the application of proper postage is confirmed by the U.S.P.S." Column 8, lines 61-63. The examiner uses that passage to contend that Whitehouse suggests checking for a minimum amount of affixed postage, i.e., "proper postage." However, it is clear from Whitehouse as a whole that "proper postage" refers only to whether postage affixed by a meter was properly authorized and paid for. Whitehouse is a system for combating counterfeit meter postage, not for checking whether

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deposited mail bears a minimum amount. Column 10, lines 33-38.

Similarly, Wright discloses a system for combating counterfeit metering and not for checking whether deposited mail bears a minimum amount. Column 13, lines 49-53.

The examiner has attempted to stretch the teachings of the references beyond what they would suggest to one skilled in the art. We are unable to find any suggestion in the combined teachings of Wright and Whitehouse for a mail processing system that automatically scans bar codes to determine whether a minimum denomination of postage is affixed and reject mail pieces having a stamp below the minimum.

CONCLUSION

The rejection of Claims 9 and 10 is not sustained.

REVERSED

ERROL A. KRASS)
Administrative Patent Judge)
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) BOARD OF PATENT

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