

The opinion in support of the decision being entered today not written for publication and is not binding precedent of the Board.

Paper No. 30

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TIMO ALI-VEHMAS,
HEIKKI HUTTUNEN and
TIMOTHY J. FRAIN

Appeal No. 1997-1921
Application 08/099,709

ON BRIEF

Before KRASS, BARRETT and GROSS, Administrative Patent Judges.
KRASS, Administrative Patent Judge.

ON REQUEST FOR REHEARING

Appellants request that we reconsider that part of our decision of April 28, 2000 wherein we sustained the rejection

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of claims 1-6, 10-12 and 20 under 35 U.S.C. § 103 over
Grimmett in view of Dallmann.

Appellants first contest our observation, at footnote 1 on page 9 of the decision, that page 2 of the instant specification admits that receivably removable SIMs were known at the time of the instant invention and would appear to admit that the use of different "types" of plug-in modules were also known. Appellants contend that our assessment was incorrect since the prior art radio telephones used the same type of SIMs. However, at lines 18-19 of page 2 of the specification, it is stated that "[a]t present the two standards are (a) a credit card size SIM, and (b) a plug-in SIM about 20mm x 25mm." While the functionality of these two SIMs may have been the same, the two known sizes may be broadly considered two "types." This is what we intended to convey in our observation.

Appellants next contend that our decision was in error in that while Grimmett's switch 15 only switches between two NAMs

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7 and 14, based upon whether or not switch 15 detects that telephone 2 is connected to telephone 1, instant claim 1 recites that automatic use of its information processing means is based upon a prioritization of the two receiving means, not whether or not a switch is activated by connection of two components to each other.

As we explained, at pages 9-10 of our decision, we fully understand the difference between the instant *disclosed* invention and the invention disclosed by Grimmatt. However, as broadly *claimed*, Grimmatt clearly does disclose the "predetermined prioritization." Grimmatt automatically alternatively uses information from either a first module (portable telephone 2) or a second module (radio telephone 1), depending on whether portable telephone 2 is plugged into connector 10. If it is so connected, then a "predetermined prioritization" determines that portable telephone 2 shall take precedence over radio telephone 1 and the unplugging of portable telephone 2 permits radio telephone 1 to, once again, use the information in NAM 14.

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Claim 1 does not preclude the use of a switch to determine, or effect, prioritization. As such, Grimmatt clearly discloses at least the last element of the claim and we find appellants' argument to the contrary unpersuasive.

Appellants have not convinced us of any error in our decision of April 28, 2000. Accordingly, while we have granted appellants' request for rehearing to the extent that we have

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reconsidered our decision, the request is denied with respect to making any changes therein.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

DENIED

	ERROL A. KRASS)	
	Administrative Patent Judge)	
)	
)	
)	
)	BOARD OF PATENT
	LEE E. BARRETT)	APPEALS
	Administrative Patent Judge)	AND
)	
INTERFERENCES)	
)	
)	
	ANITA PELLMAN GROSS)	
	Administrative Patent Judge)	

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