

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(2) is not binding precedent of the Board.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 WILLIAM D. WEINBERGER

Appeal No. 97-4173
Application 08/575,963¹

ON BRIEF

Before CALVERT, STAAB and CRAWFORD, Administrative Patent
Judges.

CALVERT, Administrative Patent Judge.

¹ Application for patent filed December 20, 1995.

Appeal No. 97-4173
Application 08/575,963

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1, 3 and 5, all the claims remaining in the application.

The subject matter in issue concerns an apparatus for receiving and crushing used beverage cans. In order to encourage use of the machine, each time a "valid" (e.g., empty, nonmagnetic) can is deposited, a game similar to a slot machine is activated, and the machine prints out a coupon for purchasing a product, the value of the coupon depending on the outcome of the game. The claims on appeal are reproduced in appellant's brief, except that, as pointed out by the examiner, claim 3 is dependent on claim 1, not on cancelled claim 2.

The references applied in the final rejection are:

Wilhelm 1994	5,346,048	Sept. 13,
Japanese Kokai ² (Fukuda)	04-370,896	Dec. 24, 1992

² Our understanding of this reference is derived from a translation prepared for the PTO, a copy of which is enclosed. References herein to pages and lines of the reference are to pages and lines of the translation.

Appeal No. 97-4173
Application 08/575,963

Claims 1, 3 and 5 stand finally rejected as unpat-
entable over Fukuda in view of Wilhelm, under 35 U.S.C. § 103.

The basis of the rejection is stated on page 4 of
the examiner's answer as follows:

[Fukuda] shows a can collecting apparatus
with a gaming apparatus 13, 19 and a de-
flector plate at 4 of Fig. 3 which is part
of the

can identifying means 9, the deflector
plate moves to a first position to send the
valid cans to the spaced can crusher 10 or
to a second position to return invalid cans
to discharge chute 15. [Fukuda] does not
show dispensing coupons. Wilhelm '048
shows a similar can redemption apparatus
with a gaming apparatus 12 which delivers
winnings as prizes, stamps or coupons, see
col. 3, lines 35-42. It would have been
obvious to one of ordinary skill in the art
in view of the showing and teaching of
Wilhelm '048 to provide the device of
[Fukuda] with a coupon dispenser to deliver
the winnings.

The examiner further holds that the provision of drain
openings, as called for by dependent claim 3, would have been
obvious. Appellant does not argue to the contrary.

Appellant does not contend that it would not have
been obvious to employ the gaming apparatus 12 of Wilhelm as

Appeal No. 97-4173
Application 08/575,963

the "play machine" 19 of Fukuda. However, with regard to claim 1, appellant argues that (brief page 6)

neither the Japanese publication or Wilhelm teaches the concept of different coupon values for being a coupon value located within each segment of each reel. After spinning of the reels,^[3] the reels come to rest aligning a segment from each reel to produce a series of aligned segments. These aligned segments represent a total coupon value. No such structure is believed to be shown or taught

by the Japanese publication or Wilhelm. It is therefore believed that independent Claim 1 defines novel subject matter over applied references of record.

The examiner, on the other hand, takes the position that (answer, page 5):

The appellant argues that the references do not show a plurality of reels with different coupon values which when aligned represent a total coupon value. It is the examiner's position that this is exactly how gaming machines with spinning reels such as those shown in [Fukuda] and Wilhelm '048 work. Conventional operation in these type gaming machines is that when the

³ We note that in appellant's disclosed apparatus, the "reels" are electronic representations of reels on a monitor, which are "spun" electronically (specification, pages 12 to 14).

Appeal No. 97-4173
Application 08/575,963

symbols in the pay-off line do not match there is no payout, when the pay-off line has certain symbols, such as: three cherries, the payout is a small amount and when the pay-off line has other symbols, such as: JACKPOT, the payout amount is quite large. If there was not a variable payout, they would not be called gaming machines. "[I]n considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom." In re Preda, 401 F.2d 825, 159 USPQ 342, 344 (CCPA 1968). One of ordinary skill in the art would be expected to infer the normal operation of gaming machines when presented with the gaming machines disclosed in [Fukuda] and Wilhelm '048. It would follow then, that various combinations of symbols on the reels of the gaming machines of [Fukuda] or Wilhelm '048 would result in prizes of different values and therefore corresponding coupons of different values.

The penultimate paragraph of claim 1 recites, inter alia:

each said reel being divided into a plurality of separate segments, a coupon value located within each said segment with

Appeal No. 97-4173
Application 08/575,963

there being a plurality of different coupon values, after spinning of said reels said reels to come to rest aligning a segment from each said reel producing aligned segments . . . , said aligned segments represent a total coupon value to the user of said can collection apparatus.

The gaming machine of Wilhelm appears to operate like a conventional slot machine, except that the rollers (reels) 12a may be provided with "symbols, numbers and/or drawings formed as advertising media" (col. 3, lines 32 to 34), and the winnings (pay off) may be supplied as a coupon (col. 3, line 42). To add to the examiner's description of the operation of a conventional slot machine, supra, such machines also normally pay off one amount when two of a particular symbol (e.g., two cherries) are aligned, and pay off a greater amount when three of that symbol (e.g., three cherries) are aligned. Thus, where the pay off is in the form of a coupon, as disclosed by Wilhelm, we consider that it would have been obvious to pay off a coupon of a greater amount when three of the same symbol are aligned than when two of that symbol are aligned. This is all that the above quoted

Appeal No. 97-4173
Application 08/575,963

language of claim 1 requires, since each such symbol would constitute a coupon value located within a segment, the different symbols would be a plurality of different coupon values, and the number of aligned segments (of the same symbol) would "represent a total coupon value," as recited.

Accordingly, the combination of Fukuda and Wilhelm meets all the limitations of claim 1, and the rejection of that claim will be sustained. Since appellant states that claim 3 stands or falls with claim 1 (brief, page 5), its rejection will likewise be sustained.

As for claim 5, appellant further argues that neither Fukuda nor Wilhelm suggests adding the accumulated value of similar coupons on the aligned segments of the reels. We agree. Claim 5 requires adding the coupon values displayed on the left reel to any similar coupon values located (in alignment) on the other two reels, with the total coupon value being the sum of those values. The examiner does not assert, and we are not aware, that in the normal operation of a slot machine the pay off is determined by adding up the values of the aligned symbols. There is therefore no suggestion from

Appeal No. 97-4173
Application 08/575,963

the combination of Fukuda and Wilhelm of the subject matter recited, and the rejection of claim 5 will not be sustained.

Conclusion

The examiner's decision to reject claims 1 and 3 is affirmed, and to reject claim 5 is reversed.

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

AFFIRMED-IN-PART

	IAN A. CALVERT)	
	Administrative Patent Judge)	
)	
)	
)	BOARD OF
PATENT)	
	LAWRENCE J. STAAB)	APPEALS AND
	Administrative Patent Judge)	
INTERFERENCES)	
)	
)	
	MURRIEL E. CRAWFORD)	

Appeal No. 97-4173
Application 08/575,963

Administrative Patent Judge)

Appeal No. 97-4173
Application 08/575,963

Jack C. Munro
28720 Roadside Drive
Suite 225
Agoura Hills, CA 91301