

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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

Appeal No. 1998-2201
Application No. 08/571,702

ON BRIEF

Before THOMAS, HAIRSTON, and BARRETT, Administrative Patent Judges.

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 12 through 15.

The disclosed invention relates to a method and to a device for reading and writing of a transponder located inside

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a tire.

Claims 12 and 13 are the only independent claims on appeal, and they read as follows:

12. A method of reading and writing of a transponder containing a rod antenna which is arranged at an inner surface of a tire and an axial direction of the rod antenna is along the circumferential direction of the tire, comprising the steps of; using an external rod antenna for receiving and transmitting to the transponder in the tire, positioning said external rod antenna such that an axial line of the external rod antenna is along the circumferential direction of the tire; moving the external rod antenna along the circumferential direction, and reading and writing to and from said transponder from outside of the tire.

13. A device for reading and writing of a transponder located inside a tire from a position outside the tire comprising; a rod antenna portion for receiving signals from and transmission of signals to the transponder and a main body for performing processing of a signal, wherein the rod antenna portion is connected to the main body through a stick which is generally perpendicularly joined to the rod antenna portion.

The reference relied on by the examiner is:

Pollack et al. (Pollack) 5,181,975 Jan.
26, 1993

Claims 12, 14 and 15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Pollack.

Claims 12 through 15 stand rejected under 35 U.S.C. § 103 as being unpatentable over Pollack.

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Reference is made to a prior Office action (paper number 12), the briefs and the answer for the respective positions of the appellants and the examiner.

OPINION

With the exception of the obviousness rejection of claim 13, all of the other rejections are reversed.

Pollack discloses a device for reading and writing of a transponder 24 located inside a tire 20 from a position outside the tire (Figure 11B). The device includes a rod antenna portion 27 for receiving signals from and transmission of signals to the transponder 24, and a main body (i.e., oscillator) 14 for processing of a signal. The rod antenna portion 27 is connected to the main body through a wand/stick 12 which is generally perpendicularly joined to the rod antenna portion 27.

During operation of the Pollack device, an oscillating magnetic field 28 generated by an exciter/interrogation coil on the rod antenna portion 27 causes a magnetic field 29 to encircle an annular tensile member 36 located adjacent to the transponder 24. Since the annular tensile member 36 and the

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transponder 24 function as primary and secondary, respectively, of a transformer, the magnetic field 29 that encircles the annular tensile member 36 in turn causes the transponder (i.e., secondary) to transmit (column 8, lines 32 through 57; column 15, lines 37 through 43; column 16, lines 18 through 30).

A comparison of Pollack's device with the device described in claim 13 reveals that this claim reads on the Pollack device. Appellants' argument (Brief, page 9) that "the wand [12] itself is not 'a stick' but more properly a part of the main body in that it contains active circuitry" is without merit because nothing in claim 13 precludes the inclusion of "active circuitry" in the wand/stick 12. Appellants' argument (Brief, page 10) that the Pollack probe structure is not used in "a sweeping or moving operation" is likewise without merit because claim 13 is a device claim without such a step. Thus, the 35 U.S.C. § 103 rejection of claim 13¹ is sustained because anticipation is the "ultimate

¹ In keeping with 37 CFR § 1.192(a), arguments which appellants could have made in the briefs have not been considered by the Board.

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or epitome of obviousness." In re Pearson, 494 F.2d 1399, 1402, 181 USPQ 641, 644 (CCPA 1974).

Turning to the remainder of the claims on appeal, appellants argue (Brief, pages 5 through 9) that Pollack neither teaches nor would have suggested the claim 12 steps of "positioning said external rod antenna such that an axial line of the external rod antenna is along the circumferential direction of the tire," and "moving the external rod antenna along the circumferential direction, and reading and writing to and from said transponder from outside of the tire." We agree with appellants' arguments. Although it is possible to position and move the Pollack rod antenna portion 27 in a myriad of directions as suggested by the examiner (Answer, page 4), we believe that the examiner arrived at the specifically claimed directions only after reading appellants' disclosed and claimed directions. We will not condone the use of impermissible hindsight to arrive at a suggested teaching of such claimed directions. In summary, the 35 U.S.C. § 102(b) and the 35 U.S.C. § 103 rejections of claims 12, 14 and 15 are reversed.

DECISION

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The decision of the examiner rejecting claims 12, 14 and 15 under 35 U.S.C. § 102(b) is reversed, and the decision of the examiner rejecting claims 12 through 15 under 35 U.S.C. § 103 is affirmed as to claim 13, and is reversed as to claims 12, 14 and 15. Accordingly, the decision of the examiner is affirmed-in-part.

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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

	James D. Thomas)	
	Administrative Patent Judge)	
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	Kenneth W. Hairston)	BOARD OF
PATENT)	
	Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
	Lee E. Barrett)	
	Administrative Patent Judge)	

KWH:tdl

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SUGHRUE, MION, ZINN, MACPEAK & SEAS
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3202