

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TADASHI OHTANI, YOSHIKAZU IIDA,
HIROYUKI ISURU, DAIKI TSUKAHARA, RIICHI HIGAKI
and YUKIKAZU IWANE

Appeal No. 1998-2720
Application 08/352,730

ON BRIEF

Before THOMAS, JERRY SMITH and FLEMING, Administrative Patent Judges.

JERRY SMITH, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134 from the examiner's rejection of claims 1 and 3, which constitute all the claims remaining in the application. An amendment after final rejection was filed on June 20, 1997 and was entered by the examiner.

The disclosed invention pertains to a device which

displays physical quantities by pointers moving over a scale plate.

Representative claim 1 is reproduced as follows:

1. A display device, comprising:

a display to display physical quantities by pointers moving over a scale plate;

a display driver to drive the pointers;

operator controls to change the physical quantities displayed by said display in response to manipulation by an operator;

an electrical supply detector to generate a voltage change signal upon detection of at least one of battery exchange and an electrical supply voltage below a predetermined voltage;

a memory to store movement information representative of the physical quantities displayed by said display; and

a controller to control driving of said display by said display driver in response to the manipulation of said operator controls and storing of the movement information in said memory when the voltage change signal is generated by said electrical supply detector, and to control movement of the pointers by said display driver to standard positions based on the movement information stored in said memory.

The examiner relies on the following reference:

Wakabayashi et al.	5,365,292	Nov. 15, 1994
(Wakabayashi)		(filed Feb. 01,
1993)		

Claims 1 and 3 stand rejected under 35 U.S.C. § 102(e)

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as being anticipated by the disclosure of Wakabayashi.

Rather than repeat the arguments of appellants or the examiner, we make reference to the briefs and the answer for the respective details thereof.

OPINION

We have carefully considered the subject matter on appeal, the rejection advanced by the examiner and the evidence of anticipation relied upon by the examiner as support for the rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, the appellants' arguments set forth in the briefs along with the examiner's rationale in support of the rejection and arguments in rebuttal set forth in the examiner's answer.

It is our view, after consideration of the record before us, that the disclosure of Wakabayashi does not fully meet the invention as set forth in claims 1 and 3. Accordingly, we reverse.

Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing

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the recited functional limitations. RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.); cert. dismissed, 468 U.S. 1228 (1984); W.L. Gore and Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

In the final rejection, the examiner rejected claims 1 and 3 as anticipated by the disclosure of Wakabayashi. Wakabayashi teaches a display device in which in response to a power failure a pointer can be returned to the location it was at before the power failure occurred. The examiner found that moving the pointer to a standard position would be inherent in the Wakabayashi display device [final rejection, pages 2-3]. Appellants argued that Wakabayashi does not disclose how standard positions might be located, and appellants also argued that the claimed movement control to a standard position based on movement information stored in memory was not inherently present in the Wakabayashi device [brief, pages 3-5].

In the examiner's answer the examiner made no mention of the inherency argument from the final rejection. Instead,

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the examiner asserted that the term "standard positions" in claims 1 and 3 could be read on either the starting positions of the pointers or on the prior displayed pointer positions before the battery was exchanged [answer, pages 4-5].

Therefore, the examiner interpreted "standard positions" to mean the positions of the pointers prior to battery exchange as disclosed by Wakabayashi. The examiner referred to appellants' specification as supporting this interpretation of standard positions.

Appellants basically respond that there is no way in which the term "standard positions" can be interpreted to include the positions of the pointers prior to the battery exchange when the term is considered in view of the disclosure or given its ordinary interpretation [reply brief].

We agree with the position argued by appellants. Although we do not find the term "standard positions" explicitly defined anywhere in the specification, we agree with appellants that standard positions cannot be read on positions of the pointers prior to battery exchange. As noted by appellants, such positions are not "standard" in any sense of the word. The ordinary definition of "standard" when used

as an adjective is serving as a standard or basis of measurement. Thus, the term "standard positions" as used in claims 1 and 3 must be interpreted to mean a starting point or some other baseline point from which measurements are taken. The pointer positions prior to battery exchange do not meet the conventional definition of "standard positions."

We also agree with appellants that the specification does not support the examiner's position that pointer positions prior to battery exchange are standard positions. The portion of the specification relied on by the examiner states

Despite an exchange of batteries or an interruption of electrical power, it is possible for the rotary pointers to be automatically returned to their starting positions or to their display positions prior to the battery exchange.

The fact that the pointers can be returned to their display positions prior to the battery exchange does not constitute a disclosure that standard positions include such positions. The term standard positions is not used here at all. As noted above, the specification never explicitly states what is meant by the term standard positions. Thus, we do not agree with

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the examiner's assertion that the specification supports his position that standard positions can be read on the pointer positions prior to the battery exchange.

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Since we do not agree with the examiner's interpretation of claims 1 and 3, we find that Wakabayashi does not disclose every limitation of the claimed invention. Therefore, the decision of the examiner rejecting claims 1 and 3 is reversed.

REVERSED

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JAMES D. THOMAS)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
JERRY SMITH)	
Administrative Patent Judge)	APPEALS AND
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MICHAEL R. FLEMING)	
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