The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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

Appeal No. 1999-0479
Application No. 08/417,613

ON BRIEF[1]

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

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the Final rejection of claims 2 through 10 and 12. In an Amendment After Final (paper number 10), claim 4 was amended.

The disclosed invention relates to a device for

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[1]This appeal was originally scheduled for oral hearing on January 24, 2001. At the request of the Board, Craig Feinberg contacted appellant's attorney to request permission to decide the appeal on brief. Appellant agreed to withdraw the request for oral hearing, and agreed to an on-brief decision.

protecting a motor vehicle against use by third parties. The device senses facial features of a person sitting in the driver's seat of the vehicle and compares these features with stored image information. When correspondence is detected between the facial features and the stored image information, the device generates a driver authorization signal that changes at least one vehicle component from a disabled state in which starting of the vehicle is disabled to an enabled state in which it is possible to start the vehicle. In the device, the sensing of facial features is also carried out at time intervals when the vehicle is being driven. The stored image information is stored in coded form in an end-user key unit. For a prescribed plurality of subsequent vehicle starts, at least one component of the device can be kept in an enabled state after the above-noted correspondence operation.

Claim 3 is illustrative of the claimed invention, and it reads as follows:

3. Device for protecting a motor vehicle against use by third parties comprising:

at least one vehicle component whose operation is necessary to drive said vehicle, which vehicle component can be adjusted by means of a driving authorization signal, from a disabled state in which the starting of the vehicle is

disabled, into an enabling state in which the starting of the vehicle is enabled; and

a memory containing desired image information comprising facial area image information for persons authorized to operate the motor vehicle;

an image comparison system for detecting facial features of the driver by means of an image recording camera, comparing the acquired image information with the stored desired image information, for generating a driving authorization signal only when correspondence is detected; wherein

the sensed part of the body is a facial area of the driver;

the image comparison system is an object detection system comprising an image recording camera having an output thereof connected to an image processing unit for an object-detecting comparison of image information;

the image recording camera is positioned in the vehicle directed at a facial area of the driver when the latter is in position in the driver's seat;

detection of facial areas of a driver is carried out at time intervals when the vehicle is being driven;

the object-detecting image processing unit compares the successively input items of actual image information with one another; and

the object detection system interrupts generation of the driving authorization signal when there is complete correspondence between said successively input items of actual image information.

The references relied on by the examiner are:

Ishikawa et al. (Ishikawa) 4,625,329 Nov. 25, 1986

Ando	5,008,946	Apr. 16, 1991
Hasegawa et al. (Hasegawa)	5,091,856	Feb. 25, 1992
Tamada et al. (Tamada)	5,124,920	Jun. 23, 1992

Claims 2 through 10 and 12 stand rejected under 35 U.S.C. § 103 as being unpatentable over Ando in view of Tamada, Ishikawa and Hasegawa.

Reference is made to the Final rejection, the Brief and the Answer for the respective positions of the appellant and the examiner.

OPINION

The obviousness rejection of claims 2 through 10 and 12 is reversed.

In Ando, the vehicle driver uses eye and mouth movements to control vehicle components such as the radio, the air conditioner, and cruise control (Figure 1a). A CCD camera 3 (Figure 1b) observes the eye and mouth movements of the driver of the vehicle, and the images therefrom are compared to a reference stored in memory (column 5, lines 15 through 59; column 6, lines 26 through 61). Appellant argues that Ando is not concerned with enabling or disabling the starting of the

vehicle based upon recognition of facial features of the driver of the vehicle (Brief, page 10).

Tamada uses an electronic license device 10 (Figures 1 and 2; column 3, lines 18 through 22) that stores the address, the name, the birth date, the license number, and the code number of the owner in memory 15. When the license device 10 is inserted into the readout section 22, and the code number of the owner is entered via keyboard 23, the readout section 22 reads out the license data stored in the memory 15, and a comparison is made between the information in memory 15 and the information L1 previously stored in RAM 24B (column 3, line 65 through column 4, line 14). If there is agreement between the license data and the previously stored information, then the engine can be started by the driver. Tamada is silent concerning the use of facial information to control the starting of the vehicle.

We agree with the examiner that Tamada is concerned with vehicle security (Final rejection, page 4), but we do not agree with the examiner that it would have been obvious to the skilled artisan to apply such security teachings in Ando. After all, the vehicle controls 20 through 30 in Ando (Figure

1a) that are controlled by facial feature recognition have nothing to do with the security of the vehicle. Ando uses the facial feature recognition control system purely for the convenience of the driver of the vehicle (column 1, lines 42 through 63).

Ishikawa discloses a position analyzer for a driver of a vehicle that derives positional information on a 3-dimensional coordinate system in order to constantly adapt vehicle accessories (e.g., the rearview mirror, the air conditioning, the headrest, and the steering wheel) to the varying positions of the driver (column 1, lines 35 through 64). A CCD is used in an image sensor 8 of the position analyzer (column 2, lines 45 through 54). Ishikawa does not use facial features to control the accessories, and Ishikawa is not concerned with controlling the starting of the vehicle for vehicle security purposes. Hasegawa discloses the use of an encoded ID card that is needed to control the vehicle starter (Abstract). Hasegawa is silent concerning the use of facial feature recognition in connection with the encoded ID card. Based upon the teachings of Ishikawa and Hasegawa, we agree with appellant’s argument that “neither of these references

remedies the deficiencies of Ando" (Brief, page 12).

In summary, we find that the examiner has used impermissible hindsight in the obviousness rejection of the claimed invention.

DECISION

The decision of the examiner rejecting claims 2 through 10 and 12 under 35 U.S.C. § 103 is reversed.

REVERSED

JAMES D. THOMAS Administrative Patent Judge	)
KENNETH W. HAIRSTON Administrative Patent Judge	) BOARD OF PATENT) APPEALS AND) INTERFERENCES
STUART S. LEVY Administrative Patent Judge	)

KWH:hh

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