

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 13

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT M. DICKERSON, RICHARD J. SCHNEIDER,
JOSEPH W. COLE and LINN A. MCKAY

Appeal No. 1999-1722
Application No. 08/729,602¹

ON BRIEF

Before CALVERT, COHEN, and FRANKFORT, Administrative Patent Judges.

CALVERT, Administrative Patent Judge.

DECISION ON APPEAL

¹ Application for patent filed October 11, 1996.

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This is an appeal from the final rejection of claims 1 to 26, all the claims in the application.

The claims on appeal are drawn to a gaming machine (claims 1 to 18 and 20 to 26) and a method of reducing fills in a gaming machine (claim 19). They are reproduced in the appendix of appellants' brief.

The references applied in the final rejection are:

Wahlberg	3,397,763	Aug. 20, 1968
Harlick	4,636,951	Jan. 13, 1987
Dabrowski (Dabrowski '728)	5,544,728	Aug. 13, 1996
Dabrowksi (Dabrowski '696)	5,635,696	Jun. 3, 1997
		(filed Jun. 22, 1993)
Legras et al. (Legras)	5,676,231	Oct. 14, 1997
		(filed Jan. 11, 1996)
Gauselmann	3,727,927	Mar. 2, 1989 ²
(German Application)		

The appealed claims stand finally rejected under 35 U.S.C.

§ 103(a) as unpatentable over the following combinations of references:

(1) Claims 1 to 12 and 20 to 25, Legras in view of Wahlberg;

² A copy of a translation of this document, prepared by the PTO, is enclosed herewith.

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(2) Claims 13 to 16, Legras in view of Wahlberg and
Gauselmann;

(3) Claim 17, Legras in view of Wahlberg, Gauselmann and
Harlick;

(4) Claim 18, Legras in view of Wahlberg, Gauselmann, Harlick
and Dabrowski '696;

(5) Claim 19, Dabrowski '728 in view of Wahlberg;

(6) Claim 26, Legras in view of Wahlberg and Dabrowski '728.³

³ From the examiner's statement of this rejection in the answer (page 6), it appears that he intended to apply Dabrowski '696 rather than '728, and we have considered the rejection on that basis.

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Rejection (1)

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

Legras et al disclose a video poker machine which requires making decisions based upon the display and comparing the outcome with a payable and dispensing an award based upon the outcome of the game and all the other features of the applicants' claimed invention except the means to dispense bills. Wahlberg shows a device that accepts coins and bills and dispenses both coins and bills so that the machine is not quickly depleted of coins. It would have been obvious to one of ordinary skill in the art in view of the showing and teaching of Wahlberg to provide the device of Legras et al with means to dispense bills so the coins are not as quickly depleted.

After fully considering the record in light of the arguments presented in appellants' brief and reply brief, and in the examiner's answer, we conclude that rejection (1) is not well taken. Legras discloses a gaming machine in which bills are accepted through slot 24 and stored in box 48. Although Legras discloses, as the examiner points out, that if the indicia on the reels line up in a predetermined pattern, "the player is paid a jackpot" (col. 4, lines 51 and 52), the Legras patent does not disclose that the machine accepts coins, nor does it disclose that there is any payout in bills

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or coins, i.e., there is no disclosure that bills or coins (if accepted) are dispensed. We therefore surmise that any payout from the Legras machine would be in the form of credits.

Wahlberg discloses a vending machine in which not only payment may be made by bills and/or coins, but also change can be returned in the form of bills and/or coins; this use of the deposited money to provide change gives the advantage of saving the replenishing of the money supply in the machine (col. 1, lines 38 to 43). We do not agree with the examiner, however, that it would have been obvious to apply this teaching of Wahlberg to the Legras gaming machine. In the first place, as discussed above, there is no disclosure of dispensing any currency, bills or coins, from the Legras machine, so that the advantage disclosed by Wahlberg of dispensing bills and coins, rather than just coins, would not apply to Legras. Moreover, in the Wahlberg machine, each denomination of bill (one, five and ten dollars) must be deposited in a separate slot 15 (see Fig. 1 and col. 6, lines 11 to 15). We do not consider that one of ordinary skill would have found it obvious to incorporate such an arrangement in the Legras apparatus, considering that Legras only

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discloses a single bill acceptance slot 24 and no means for separating bills of different denominations.

Accordingly, we conclude that the subject matter recited in independent claims 1, 20 and 21, as well as dependent claims 2 to 12 and 22 to 25, is patentable over the combination of Legras and Wahlberg.

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Rejections (2), (3), (4) and (6)

The additional references applied in these rejections do not supply the above-discussed deficiencies in the combination of Legras and Wahlberg. Rejections (2), (3), (4) and (6) therefore will not be sustained.

Rejection (5)

In this rejection, the examiner applies Wahlberg in essentially the same manner as in rejection (1), supra. Dabrowski '728 discloses a bill validating unit which can be retrofitted into a coin-accepting gaming machine. Contrary to appellants' argument on page 27 of the brief, the retrofitted machine can accept both coins and bills; see the first three lines of claim 2 of Dabrowski '728. Nevertheless, although the Dabrowski '728 machine does dispense coins, the retrofitted bill accepting assembly is a relatively simple unit, so that the conversion can be done on location (col. 2, lines 64 to 66).

Even assuming that it would have been obvious from Wahlberg's disclosure of a vending machine which gives change in bills and/or coins to modify a gaming machine to pay off in bills and/or coins, and further assuming that one of ordinary skill

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could determine how to incorporate the bill-dispensing apparatus of Wahlberg into the Dabrowski '728 machine, it appears that this would involve a substantial reconstruction of the Dabrowski '728 machine and would be contrary to Dabrowski's purpose of providing a relatively simple bill-accepting unit which can be easily retrofitted into a coin-accepting machine. We therefore do not consider that Wahlberg's disclosure of a somewhat complex apparatus which can dispense change in the form of bills as well as coins would have suggested to one of ordinary skill that the Dabrowski '728 machine be modified by incorporating the apparatus disclosed by Wahlberg so that it could dispense both bills and coins.

Accordingly, rejection (5) will not be sustained.

Conclusion

The examiner's decision to reject claims 1 to 26 is reversed.

REVERSED

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IAN A. CALVERT)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
IRWIN CHARLES COHEN)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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CHARLES E. FRANKFORT)	
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REVERSED

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