

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 15

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LI-DER CHENG and YI-RONG LEE

Appeal No. 2002-0930
Application 09/291,828

ON BRIEF

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

FRANKFORT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's refusal to allow claims 1 through 4 as amended subsequent to the final rejection in a paper filed July 16, 2001 (Paper No. 11). Claims

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subject matter on appeal and a copy of that claim may be found in the Appendix to appellants' brief.

The sole prior art reference relied upon by the examiner in rejecting the appealed claims is:

Cheng et al. (Cheng '402) 5,737,402 Apr. 7, 1998

Claims 1 through 4 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cheng '402.

Rather than reiterate the examiner's commentary with regard to the above-noted rejection and the conflicting viewpoints advanced by the examiner and appellants regarding the rejection, we make reference to the examiner's answer (Paper No. 14, mailed August 10, 2001) for the reasoning in support of the rejection, and to appellants' brief (Paper No. 13, filed July 27, 2001) for the arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to appellants' specification and claims, to the applied prior art references, and to the respective positions

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asserted two different rationales to support the rejection of independent claim 1, a first based on Figure 2 of Cheng '402, wherein the examiner urges that there is an intermediate link (which has no numerical reference) shown in Figure 2 coupled to and extending between driven link (2) and driving link (3) thereof, and a second rationale based on Figure 5 of Cheng '402, wherein Prior Art Figure 5 is said to show an intermediate link (C3) having opposite ends pivoted to driving link (C4) and driven link (C2). According to the examiner (answer, page 5), it would have been obvious to one of ordinary skill in the art at the time of appellants' invention "to incorporate the intermediate link as shown in Fig. 2 and Fig. 5 in order for the support [sic] the driven link and the driving link and to cause the rotation movement."

The examiner additionally points out on page 5 of the answer that it should be noted that Cheng '402 "addressed the intermediate link element of prior art (see col. 1 line 25-29)." On page 6 of the answer, the examiner makes note of each of Prior

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pivoted at two opposite end of the driven link and driving link."¹

After careful consideration, we must agree with appellants' arguments (brief, pages 3-4) that Cheng '402 does not teach, suggest or show an intermediate link in Figure 2 thereof, and that the mere fact that some form of intermediate link was known in the prior art (as exemplified by Figure 5 of Cheng '402) provides no basis whatsoever for incorporating any such intermediate link in the simplified coin release mechanism shown in Figures 1 and 2 of Cheng '402. Like appellants, it is our view that the mechanisms of Prior Art Figures 3-5 in the applied patent are so different from that seen in Figures 1 and 2 thereof that it would be illogical for a person of ordinary skill in the art to attempt a modification as urged by the examiner, especially since the patentees expressly indicate that an objective of their invention is to make a payphone coin release mechanism which is simplified as compared to the conventional structures so as to reduce manufacturing costs, and integrated

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into a single unit so as to increase the efficiency of manufacturing and assembly (col. 2, lines 17-24).

Like appellants, it is our opinion that there is no basis in the Cheng '402 reference which would have been suggestive of the totally reconstructive combination proposed by the examiner, and that the only suggestion for such a modification comes from hindsight derived from appellants' own disclosure. Accordingly, it is our determination that the examiner's rejection of independent claim 1 under 35 U.S.C. § 103(a) as being unpatentable over Cheng '402 will not be sustained.

Claims 2 through 4 each depend directly from claim 1 and include all the limitations thereof. Thus, it follows from the foregoing that the examiner's rejection of dependent claims 2 through 4 under 35 U.S.C. § 103(a) as being unpatentable over Cheng '402 will likewise not be sustained.

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The decision of the examiner rejecting claims 1 through 4 of
the present application under 35 U.S.C. § 103(a) is reversed.

REVERSED

IRWIN CHARLES COHEN)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
CHARLES E. FRANKFORT)	
Administrative Patent Judge)	APPEALS AND
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)	INTERFERENCES
)	
JOHN P. McQUADE)	
Administrative Patent Judge)	

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