Paper No. 28

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte JURGEN HAAF and DIETER TRUMPFHELLER

Appeal No. 2003-1827
Application No. 09/589,016

HEARD: DECEMBER 10, 2003

Before ABRAMS, FRANKFORT and BAHR, Administrative Patent Judges.

BAHR, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 2-6, which are all of the claims pending in this application.

We REVERSE.

BACKGROUND

The appellants' invention relates to a device for opening a lid of a trunk of a motor vehicle, wherein an actuating element mounted in the trunk emits a beam to actuate a closing system operable to lock and unlock the lid. Further understanding of the invention can be obtained from a reading of representative claim 6, which is reproduced in the opinion section of this decision.

The examiner relied upon the following prior art references in rejecting the appealed claims:

Jahrsetz et al. (Jahrsetz)	5,736,793	Apr. 7, 1998
Gager et al. (Gager)	6,222,442	Apr. 24, 2001

The following is the sole rejection before us for review.

Claims 2-6 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gager in view of Jahrsetz.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejection, we make reference to the answer (Paper No. 23) for the examiner's complete reasoning in support of the rejection and to the brief (Paper No. 22) for the appellants' arguments thereagainst.

OPINION

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

respective positions articulated by the appellants and the examiner. For the reasons which follow, we cannot sustain the rejection.

Claim 6, the sole independent claim on appeal, reads as follows:

> 6. A device for opening a lid of a trunk of a motor vehicle comprising:
> an actuating element operatively arranged in the trunk and capable of emitting a beam when actuated, and
> a remotely operable closing system operatively arranged on the motor vehicle and operable to lock and unlock the lid, the remotely operable closing system being capable of receiving a beam corresponding to the beam emitted from the actuating element and unlocking the lid,
> wherein, when the actuating element is actuated, the beam is emitted therefrom and received by the remotely operable closing system which unlocks the lid.

Gager discloses a vehicle trunk emergency release and warning system having a presence detector 40 located in the trunk of the vehicle for sensing the presence of a person in the trunk and an internal manual latch release 70 for the trunk lid. When the presence detector detects a person in the trunk compartment, it may actuate an alarm to alert the driver of that fact, cause the latch release 70 to be illuminated or automatically activate the trunk compartment lid release 90. As recognized by the examiner, Gager differs from the invention recited in claim 6 in that it lacks an actuating element operatively arranged in the trunk and capable of emitting a beam when actuated. While either the presence detector 40 or the latch release 70 may actuate a lid release, neither is disclosed as being capable of emitting a beam.

Jahrsetz discloses a control system comprising a plurality of actuators 7, such as switches or buttons, located within the vehicle for actuating electrically-operated components such as window and door locks, a theft alarm and, where appropriate, a trunk lock 13. These actuators 7 are electrically connected to the components through a control unit 2. Alternatively or in addition to the hard-wired actuators 7, a remote actuating device can be provided in the form of a remote transmitter 8 which can activate a receiver 9 connected to the control unit 2. The control system can comprise a transponder interrogation transceiver 14 which is accessible and can be effective from outside the vehicle and can be mechanically actuated by means of a transponder 15. The vehicle locks 4 and trunk closure 13 are opened by electric motors.

In rejecting the claims, the examiner has taken the position that it would have been obvious in view of the combined teachings of Gager and Jahrsetz to provide a trunk escape actuator in the trunk, as taught by Gager, with a remote closing system as taught by Jahrsetz in order to retrofit the trunk release system of Gager in a vehicle having a remote keyless entry system (answer, pages 4-5).

We find no suggestion in the combined teachings of the applied references to provide a beam-emitting type of actuating element operatively arranged in the trunk as called for in claim 6. Neither Gager nor Jahrsetz teaches or suggests provision of this type of actuating element in the trunk. The only beam-emitting actuator disclosed in either reference is the remote transmitter 8 (transceiver 14) which is effective from

outside the vehicle. All other actuators 7 taught by Jahrsetz, including the actuator for the trunk closure, appear to be hard-wired electrically to the central control unit 2 rather than being wireless actuators which emit a beam.

While Jahrsetz evidences that wireless beam-emitting actuators were generally known in the motor vehicle art at the time of appellants' invention, neither Gager nor Jahrsetz provides any suggestion for locating such an actuator in the trunk of the vehicle in place of the hard-wired electrical actuators (buttons or switches 7 of Jahrsetz) and the manual release latch 70 of Gager. The examiner cites as motivation easy retrofitting of Gager's trunk release device in a vehicle with a remote keyless entry system. Jahrsetz, the only remote keyless entry system cited by the examiner, however, utilizes component controls, such as trunk release controls which are actuated by hard-wired switches or buttons located inside the vehicle, with the only remote transceiver element being disclosed as accessible and effective outside the vehicle, not inside the vehicle or trunk compartment. Thus, the applied prior art provides no suggestion to locate a beam-emitting actuator in the trunk.

In light of the above, we cannot sustain the examiner's rejection of independent claim 6 or claims 2-5 which depend from claim 6.

CONCLUSION

To summarize, the decision of the examiner to reject claims 2-6 under 35 U.S.C. § 103(a) is reversed.

REVERSED

NEAL E. ABRAMS Administrative Patent Judge	)
CHARLES E. FRANKFORT Administrative Patent Judge	) BOARD OF PATENT) APPEALS) AND) INTERFERENCES
JENNIFER D. BAHR Administrative Patent Judge	)

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