

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 9

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte RAYMOND S. ALVEY and  
RONALD P. BROMBACH

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Appeal No. 96-0310  
Application 08/084,502<sup>1</sup>

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ON BRIEF

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Before HAIRSTON, KRASS and JERRY SMITH, Administrative Patent Judges.

JERRY SMITH, Administrative Patent Judge.

DECISION ON APPEAL

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<sup>1</sup> Application for patent filed July 1, 1993.

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This is a decision on the appeal under 35 U.S.C. § 134 from the examiner's rejection of claims 1-18, which constitute all the claims in the application. An amendment after final rejection was filed on August 12, 1994 and was entered by the examiner. This amendment resulted in the removal of a rejection of claim 8 under the second paragraph of 35 U.S.C. § 112.

The disclosed invention pertains to an apparatus and method for controlling the operation of an interior courtesy lamp of a motor vehicle. More particularly, the disclosed invention is designed to turn off a door ajar courtesy lamp when the speed of the vehicle exceeds a predetermined threshold.

Representative claim 1 is reproduced as follows:

1. A system for controlling the operation of an interior courtesy lamp of a motor vehicle, comprising:

position sensing means for generating a door ajar signal responsive to said door being ajar;

speed sensing means for generating a speed signal responsive to the speed of said vehicle; and

control means coupled to said position sensing means and to said speed sensing means for controlling the illumination of said interior courtesy lamp in response to said door ajar signal and said speed signal.

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The examiner relies on the following references:

Mullin	3,641,488	Feb. 08, 1972
Holst et al. (Holst)	5,265,468	Nov. 30, 1993
		(filed Feb. 27, 1992)

Claims 1-18 stand rejected under 35 U.S.C. § 103. As evidence of obviousness the examiner offers Holst in view of Mullin.

Rather than repeat the arguments of appellants or the examiner, we make reference to the brief 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 obviousness 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 brief 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 collective evidence relied upon and the

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level of skill in the particular art would have suggested to one of ordinary skill in the art the obviousness of the invention as set forth in claims 1-18. Accordingly, we affirm.

Appellants have nominally indicated that the claims do not stand or fall together [brief, page 2], but they have not specifically argued the limitations of each of the claims. The extent of appellants' arguments appears at the bottom of page 3 of the brief wherein it is baldly asserted that the prior art does not teach or suggest features of the claims with no analysis or discussion of obviousness whatsoever. Simply pointing out what a claim requires with no attempt to point out how the claims patentably distinguish over the prior art does not amount to a separate argument for patentability. See In re Nielson, 816 F.2d 1567, 1572, 2 USPQ2d 1525, 1528 (Fed. Cir. 1987). At the time appellants' brief was filed, 37 CFR § 1.192(6)(iv) required that "the argument shall specify the errors in the rejection and, if appropriate, the specific limitations in the rejected claims which are not described in the prior art relied on in the rejection, and shall explain how such limitations render the claimed subject matter

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unobvious over the prior art." Appellants' arguments fail to satisfy this requirement as a basis to have the claims considered separately for patentability. Since appellants are considered to have made no separate arguments for patentability, all claims will stand or fall together. Note In re King, 801 F.2d 1324, 1325, 231 USPQ 136, 137 (Fed. Cir. 1986); In re Sernaker, 702 F.2d 989, 991, 217 USPQ 1, 3 (Fed. Cir. 1983). Therefore, we will consider claim 1 as representative of all the claims on appeal.

At the outset, we note that claim 1 recites an invention which is much broader than the invention argued by the examiner and appellants. The brief and the answer consider the obviousness of turning off a courtesy lamp indicative of a door ajar condition when the speed of a vehicle exceeds some predetermined threshold. In our view, claim 1 is not directed to an invention of this narrow scope. Claim 1 merely recites controlling the illumination of a lamp in response to a door ajar signal and a speed signal. The manner in which the control is effected is not a feature of claim 1.

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Therefore, much of what appellants and the examiner argue is not material to the invention as recited in claim 1. We would agree with many of the points made by appellants if claim 1 were, in fact, directed to the invention which they argue. As noted above, however, claim 1 is not so directed. Accordingly, all of appellants' arguments directed to whether the prior art teaches extinguishing a dome light in response to a speed threshold are not commensurate in scope with the invention of claim 1.

Having made these initial observations, we direct our attention to the specific language of claim 1. Claim 1 recites generating a door ajar signal, generating a speed signal, and controlling a lamp in response to these signals. In our view, the recitations of claim 1 are broad enough to be met by a control system which controls a lamp in response to the presence of either or both of these signals because the claim does not specify any relationship between the signals and the subsequent control function.

Although the combination of Holst and Mullin suffers many of the deficiencies argued by appellants, we are of the view that the invention of claim 1 is basically suggested by

the teachings of Mullin alone. Mullin teaches a speed signal generator [19, 20] and a door ajar signal generator [45, 46] connected to a control means for energizing an alarm unit [10]. Although the speed signal generator is shown only in Figure 1 and the door ajar signal generator is shown only in Figure 2, Mullin suggests that the functions of Figure 1 which have not been modified are not repeated in Figure 2 [column 2, lines 65-67]. Thus, the embodiment of Figure 2 actually contains both the speed signal generator and the door ajar signal generator. These two signals are fed to a control means which controls the alarm unit in response to these two signals. As we pointed out above, the language of claim 1 is considered broad enough to include a control means connected to a speed sensing means and a door ajar sensing means as shown by Mullin.

To the extent that appellants argue that a courtesy lamp patentably distinguishes from the indicator light 45 or the alarm unit 10 of Mullin, we do not agree. Mullin suggests that lamp 45 could be either a dome light (courtesy lamp) or an indicator lamp [column 3, lines 15-16]. Thus, Mullin specifically recognizes that the illumination device could

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take the form of either a courtesy lamp or a warning lamp. We also see no patentable distinction in modifying the sound alarm of Mullin to be a courtesy lamp as claimed. A courtesy lamp functions to inform the operator of a vehicle condition in the same manner that a sound alarm does.

As we noted above, the examiner and appellants have addressed the obviousness of an invention which is not commensurate in scope with claim 1. We would have some difficulty accepting the examiner's analysis if claim 1 were properly directed to the disclosed and argued invention. Since the examiner and appellants have not properly considered the invention as defined by claim 1, our analysis necessarily differs somewhat from the rationale employed by the examiner in demonstrating obviousness. Notwithstanding our different reasoning discussed above, we still rely on the prior art applied by the examiner to support the obviousness of the invention as recited in claim 1. Thus, even though we sustain the examiner's rejection for different reasons than those advanced by the examiner, our position is still based upon the collective teachings of the references and does not constitute a new ground of rejection. In re Bush, 296 F.2d 491, 496, 131

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USPQ 263, 267 (CCPA 1961); In re Boyer, 363 F.2d 455, 458 n.2,  
150 USPQ 441, 442 n.2 (CCPA 1966).

Since we have determined that the invention as broadly recited in claim 1 is suggested by the teachings of the applied prior art, and since all the claims stand or fall together for reasons discussed above, we sustain the rejection of claims 1-18 as unpatentable under 35 U.S.C. § 103. Therefore, the decision of the examiner rejecting claims 1-18 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

KENNETH W. HAIRSTON )  
Administrative Patent Judge )  
ERROL A. KRASS ) BOARD OF PATENT

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Administrative Patent Judge	)	APPEALS AND
	)	
	)	INTERFERENCES
	)	
JERRY SMITH	)	
Administrative Patent Judge	)	

Mark L. Mollon  
Ford Motor Company  
Suite 911 - Parklane Towers East  
One Parklane Boulevard  
Dearborn, MI 48126