

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(2) is not binding precedent of the Board.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. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
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Ex parte MARIKO MATSUMOTO  
\_\_\_\_\_

Appeal No. 96-1551  
Application 08/081,426<sup>1</sup>  
\_\_\_\_\_

ON BRIEF  
\_\_\_\_\_

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

HAIRSTON, Administrative Patent Judge.

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<sup>1</sup> Application for patent filed June 22, 1993.

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Application No. 08/081,426

DECISION ON APPEAL

This appeal involves claims 4 and 5. As indicated in the interview summary (paper number 13), the amendment (paper number 11) to claim 5 has been entered.

The disclosed invention relates to a mobile phone set that includes at least a base unit, a fixed transmitting station, and at least one handset. The base unit is in digital radio communication with the fixed transmitting station, and the base unit is in analog radio communication with the handset.

Claim 5 is the only independent claim on appeal, and it reads as follows:

5. A mobile phone set comprising:

a base unit and at least one handset, said base unit being for digital radio communication with a fixed transmitting station and for analog radio communication with said handset said base unit comprising:

a first receiving section for receiving a first modulated digital wave transmitted from the fixed transmitting station and for converting the first modulated wave to a first modulated digital signal;

a first demodulating section for demodulating said first modulated signal to create a first demodulated signal;

a first detecting section for detecting whether or not the first demodulated signal is of a signal to the base unit;

a first modulating section for modulating said demodulated signal to generate a second modulated analog signal for transmission to the handset;

a first radio transmitting section for converting the second

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modulated analog signal to a second modulated analog wave and for transmitting the second modulated analog wave to said handset;

a second receiving section for receiving a third modulated analog wave transmitted from said handset and for converting the third modulated analog wave to a third modulated analog signal;

a second demodulating section for demodulating said third modulated signal to create a second demodulated signal;

a second detecting section for detecting whether or not the second demodulated signal is of a signal of itself;

a controlling section for instructing radio transmission to said handset after receiving a detection signal from said first detecting section and for instructing radio transmission to said fixed transmitting station after receiving a detecting signal from said second detecting section;

a second modulating section for modulating the second demodulated signal from said second demodulating section to create a fourth modulated digital signal for transmission to said fixed transmitting station; and

a second radio transmitting section for converting the fourth modulated digital signal to a fourth modulated digital wave and for transmitting the fourth modulated digital wave to said fixed transmitting station.

The references relied on by the examiner are:

Mizikovsky	5,228,074	July 13, 1993 (filed Apr. 15, 1991)
Ito	5,276,686	Jan. 4, 1994 (filed Oct. 17, 1991)

Claims 4 and 5 stand rejected under 35 U.S.C. § 103 as being unpatentable over Ito in view of Mizikovsky.

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Reference is made to the brief and the answer for the respective positions of the appellant and the examiner.

OPINION

We have carefully considered the entire record before us, and we will reverse the obviousness rejection of claims 4 and 5.

The only contested limitation in the claims on appeal is "said base unit being for digital radio communication with a fixed transmitting station and for analog radio communication with said handset."

Appellant and the examiner both agree that in Ito communication between the base station (BSS) and the mobile base device (MSS) is effected digitally, and that communication between the mobile base device (MSS) and the portable device (PSS) is likewise "effected digitally" (Brief, page 4, and Answer, page 3).

The examiner states (Answer, page 3), that Mizikovsky, Figs. 1-2, teaches the dual mode cellular telephone wherein the portable unit (1) is in an analog radio communication with the base unit (5) and the base unit (5) is in a digital radio communication with a fixed station." According to the examiner (Answer, pages 3 and 4):

it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Ito telephone set by providing the teaching of the Mizikovsky dual mode telephone system thereto in order to have more flexibility so that the analog portable unit can communicate with the digital communication system.

Appellant argues (Brief, page 4) that:

Mizikovsky . . . does not disclose a system wherein the portable unit (1) communicates with the base unit (5) by means of wireless analog signals as set forth in applicant's claims. Instead, the portable unit (1) of Mizikovsky only communicates wirelessly with the fixed station. Communication between the portable unit (1) and base unit (5) of the Mizikovsky system, however, is via a multiconductor connector (42). . . . Thus, there is no communication between the portable unit (1) of Mizikovsky and its base unit (5) in the stand-alone mode; in order for the portable unit (1) to communicate with the base unit (5) there must be a physical connection between the two.

We agree. Mizikovsky expressly states (column 6, lines 28 through 30) that analog voice signals from portable unit 1 "are coupled via connector 42 to mobile unit 5." The use of the conductor 42 means that the analog signals are not "radio"<sup>2</sup> signals as set forth in the claims on appeal. Thus, we also agree with appellant (Brief, page 4) that "combining Ito and Mizikovsky would not result in applicant's unique system in which wireless communication is effected by means of analog signals between the base unit and the handset and digital signals are

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<sup>2</sup> Radio is a form of wireless electrical communication.

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used to communicate between the base unit and the cellular station." The obviousness rejection is reversed.

DECISION

The decision of the examiner rejecting claims 4 and 5 under 35 U.S.C. § 103 is reversed.

REVERSED

KENNETH W. HAIRSTON	)	
Administrative Patent Judge	)	
	)	
	)	
JERRY SMITH	)	BOARD OF PATENT
Administrative Patent Judge	)	APPEALS AND
	)	INTERFERENCES
	)	
	)	
JAMES T. CARMICHAEL	)	
Administrative Patent Judge	)	

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