

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(2) is not binding precedent of the Board.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. 34

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte YASUYUKI YAMAMOTO
and YOSHIO OSAKABE

Appeal No. 96-1857
Application 08/340,435¹

ON BRIEF

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

KRASS, Administrative Patent Judge.

DECISION ON APPEAL

¹ Application for patent filed November 14, 1994.
According to appellants, this application is a continuation of
Application 07/704,046, filed May 22, 1991.

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This is a decision on appeal from the final rejection of claims 6, 7, 9 through 11 and 13 through 26, all of the claims pending in the application.

The invention is directed to an audio/visual apparatus controller wherein a timer which is part of one audio/visual component can be used to control different components even if the timer-containing component is not part of the desired operation.

Representative independent claim 6 is reproduced as follows:

6. An audio video apparatus controller comprising:

a central controller;

a plurality of audio video apparatus connected to said central controller through a common bus line;

a timer associated with only one of said audio video apparatus;

a remote controller having a plurality of keys to program said central controller with at least one desired operation, said remote controller providing said central controller with a start time and stop time, with at least one desired apparatus to be controlled, and with said at least one desired operation to be performed by said at least one desired apparatus;

wherein said central controller controls said at least one desired apparatus to perform said at least one desired operation at the start and stop times as determined by said timer; and

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means, under the control of said central controller, for routing audio and video signals between said plurality of audio video apparatus.

The examiner relies on the following references:

Ide et al. (Ide)	4,843,384	Jun. 27, 1989
Duffield et al. (Duffield)	4,959,720	Sep. 25, 1990 (filed Apr. 6, 1989)
Miyagawa et al. (Miyagawa)	4,989,081	Jan. 29, 1991 (filed Nov. 9, 1989)

Claims 6, 7, 9 through 11 and 13 through 26 stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner cites Miyagawa and Ide with regard to claims 6, 7, 9, 11, 13, 16 through 21 and 23 through 26, adding Duffield to this combination with regard to claims 10, 14, 15 and 22.

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

OPINION

We make reference to our previous decision in the parent application wherein we sustained the rejection of similar claims under 35 U.S.C. § 103 in view of the same references applied herein.

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We reverse.

Unlike the claims before us in the previous decision, wherein the claim language could reasonably be construed to include timers within a plurality of the audio visual components so long as at least one component contained a timer, the instant claims on appeal make it clear that there is a timer "associated with only one" of the components.

This, alone, would not be enough to distinguish over the prior art because even a sole VCR, having a timer and operating in conjunction with a television set, for example, may be construed to comprise a central controller (in the VCR), a plurality of audio video apparatus (TV and VCR) connected to the central controller through a common bus, a timer (in the VCR), and a remote controller (the remote controller of the VCR) for programming the central controller, wherein the controller controls at least one desired apparatus to perform a desired operation (setting the VCR to tape a TV program at a later time), in accordance with instant claim 6.

However, even such a broad interpretation as this would fall short of meeting the instant claimed subject matter

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because claim 6 also requires that there be a means under the control of the central controller for "routing audio and video signals between said plurality of audio video apparatus." The typical controller within a VCR would not control the routing of audio and video signals between other audio video apparatus. In any event, there is no evidence of record to this effect.

With regard to the rejection actually before us, we cannot sustain the rejection because, in our view, the examiner has not met the initial burden to establish a prima facie case of obviousness of the claimed subject matter.

The examiner recognized that Miyagawa did not teach an audio-visual component with a timer wherein timing signals are sent to a central controller in order to control selected audio video apparatus. Therefore, the examiner relied on Ide for the teaching of controlling the operation of audio video components at a predetermined time. It is unclear how the examiner is combining these teachings to arrive at the claimed subject matter but the examiner appears to rely on more than the mere teachings of the references because, at page 5 of the answer, the examiner contends that "it would be likely that

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there would be a device...in the tv, vcr or vtr with a timer for sending timing signals to a central controller for controlling the operation and interaction of the various electronic devices...at predetermined times as set by the operator."

Appellants challenged the examiner [brief - page 9] to provide a reference in order to support this allegation but the challenge remained unanswered by the examiner. Speculation on the part of the examiner cannot support a rejection under 35 U.S.C. § 103.

Even if the applied references were combinable, it is unclear how such a combination would result in the claimed subject matter. Ide is directed to the use of two timers [one in the remote controller and one in a central controller], one of which is given priority over the other, and Miyagawa is directed to a system wherein various audio video components may be monitored via television but there is no disclosure of employing a timer in any one component to control any other component. Therefore, it is unclear how the teachings of these references are to be combined in a manner to result in a

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single timer in one of the audio video components being used to control operations of another component. Even instant claim 6, the broadest claim on appeal, requires the central controller to control routing audio and video signals between the plurality of audio video apparatus, the central controller controlling at least one apparatus to perform a desired operation in accordance with the timer

associated with only one of the audio video apparatus. We find no suggestion of this claimed subject matter in the teaching of the applied references.

The reference to Duffield, applied in combination with Miyagawa and Ide against some dependent claims, does not provide for the deficiencies of the primary references.

The examiner's decision rejecting claims 6, 7, 9 through 11 and 13 through 26 under 35 U.S.C. § 103 is reversed.

REVERSED

James D. Thomas)
Administrative Patent Judge)

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	Errol A. Krass)	BOARD OF
PATENT)	
	Administrative Patent Judge)	APPEALS AND
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