

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(2) is not binding precedent of the Board.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. 22

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MARK G. MCGONIGAL AND
ADELBERT M. GILLEN

Appeal No. 96-3264
Application 08/361,163¹

ON BRIEF

Before THOMAS, HAIRSTON, and KRASS, Administrative Patent
Judges.

¹ Application for patent filed December 21, 1994.
According to applicants, the application is a continuation of
Application 07/889,426, filed May 28, 1992, abandoned; which
is a continuation-in-part of Application 07/628,623, filed
December 19, 1990, abandoned.

Appeal No. 96-3264
Application No. 08/361,163

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 7 through 11 and 17 through 26. In an Amendment After Final (paper number 18), claim 22 was amended.

The disclosed invention relates to a method and apparatus for locating a remote control device that is used to control an appliance.

Claim 22 is illustrative of the claimed invention, and it reads as follows:

22. In an appliance having a wireless remote control device, the remote control device being capable of controlling the appliance, the appliance having a source of power, the remote control device having a separate source of power, the appliance including a transmitter, the transmitter being actuated by a switch, the transmitter being capable of emitting a signal, the remote control device including a receiver capable of receiving the signal emitted by the transmitter, the receiver being connected to an alarm device, wherein the alarm device generates an alarm when the switch is actuated,

the improvement wherein:

the receiver has a power source,

the receiver has an output which is connected to a first input of an OR gate, the output of the receiver also being connected to the alarm device,

Appeal No. 96-3264
Application No. 08/361,163

a pulse generator is connected to a second input of the OR gate, and

the OR gate has an output connected to an electronic switch which, when closed, connects the power source to the receiver.

The references relied on by the examiner are:

Oka	63-314994	Dec. 22, 1988
(Japanese Patent Publication) ²		
Livingstone et al. (Livingstone)	WO91/17634	Nov. 14,
1991		
(PCT Application)		

Claims 7 through 11 and 17 through 26 stand rejected under 35 U.S.C. § 103 as being unpatentable over Oka in view of Livingstone and common knowledge.

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

OPINION

We have carefully considered the entire record before us, and we will reverse the 35 U.S.C. § 103 rejection of claims 7 through 11 and 17 through 26.

The examiner's rejection is as follows (Answer, pages 3 and 4):

² A copy of the translation of this reference is attached.

Appeal No. 96-3264
Application No. 08/361,163

Oka . . . discloses an appliance having a wireless remote control device, where the remote control device is capable of controlling the appliance (see Fig. 1). The appliance has a source of power and the remote control device has a separate source of power (Fig. 1). The Appliance includes a transmitter (unit 4) which is actuated by a manually depressed switch (unit 5). The transmitter 4 emits a signal which is received by the receiver 3. The receiver inherently includes a suitable alarm device which generates an alarm in response to a received signal. The Oka reference does not have the remote control device including means for intermittently connecting the power source to the receiver.

The Livingstone reference discloses on p. 1, lines 12-23, the use of a receiver which includes means for intermittently connecting the power source to the receiver for the purpose of conserving power so that the power source (battery) which powers the receiver has an extended life.

Since Oka and Livingstone are both from the same field of endeavor, the purpose disclosed by Livingstone regarding the intermittent application of power to the receiver would have been recognized in the pertinent art of Oka.

Appellants and the examiner agree that "[i]t would have been obvious at the time the invention was made to a person having ordinary skill in the art to intermittently apply power to the receiver as taught by Livingstone in the device of Oka for the purpose of conserving power so that the power source (battery) which powers the receiver has an extended life"

Appeal No. 96-3264
Application No. 08/361,163

(Brief, page 9; Answer, page 4).

With respect to the claimed receiver circuitry for intermittently connecting the power source to the receiver, the examiner concludes (Answer, pages 4 and 5) that:

Although the claimed circuitry for the intermittent connecting means is not shown by Livingstone, it is old and well known in the art of remote controlled devices as an obvious design choice to construct the claimed intermittent connecting means. For example, the use of a second (or auxiliary) power source to operate the pulse generator independently of the receiver power source is an obvious matter of choice in design only as evidenced by the applicant's lack of use of a second (or auxiliary) power source in claim 22.

Further, the relevant OR gate, pulse generator, and receiver connections as well as the presence of an R-C circuit are old and well known in the art of detection of remote controlled signals and further, the claimed commonly-used elements in the circuit are not connected/structured in any way that would display any new or unexpected result from the connections used in prior detection circuits. For example, the receiver 100, diode 104, and R-C circuit as shown in Fig. 6 are typical of the old and well known AM detector circuit. Further, it is commonly known that R-C circuitry has been used as a peak detection circuit (see applicant's specification - p. 13, lines 10-12).

There is not a scintilla of evidence in the record to support any of the examiner's conclusions. "Allegations concerning specific 'knowledge' of the prior art, which might

Appeal No. 96-3264
Application No. 08/361,163

be peculiar to a particular art should . . . be supported and the appellant similarly given the opportunity to make a challenge." In re Pardo, 684 F.2d 912, 917, 214 USPQ 673, 677 (CCPA 1982). In light of appellants' arguments (Brief, pages 7 through 12) that the cited prior art neither teaches nor would have suggested to one of ordinary skill in the art the specifically claimed connections of the receiver, the R-C circuit, and the pulse generator to the inputs of the OR gate, we will reverse the obviousness rejection of claims 7 through 11 and 17 through 22. The obviousness rejection of claims 23 through 26 is likewise reversed because the applied references lack the circuitry to accomplish the steps recited in these claims.

DECISION

The decision of the examiner rejecting claims 7 through 11 and 17 through 26 under 35 U.S.C. § 103 is reversed.

REVERSED

Appeal No. 96-3264
Application No. 08/361,163

JAMES D. THOMAS)
Administrative Patent Judge)
)
)
)
)
KENNETH W. HAIRSTON)
Administrative Patent Judge)
)
)
)
ERROL A. KRASS)
Administrative Patent Judge)

BOARD OF PATENT
APPEALS AND
INTERFERENCES

Appeal No. 96-3264
Application No. 08/361,163

Allen J. Jacobson
Attorney at Law
13310 Summit Square Center
Route 413 & Double Woods Road
Langhorne, Penna. 19047