

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 13

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte FRANK A. CERMINARA, JOEL A. ROSSBACH, JOHN A. WARGO  
and RAYMOND H. LEGATTI

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Appeal No. 97-0289  
Application No. 08/111,332<sup>1</sup>

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ON BRIEF

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Before HAIRSTON, KRASS and FLEMING, Administrative Patent Judges.

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 8. In an Amendment After Final (paper number 6), claims 5 and 6 were amended, and claim 4 was canceled. Accordingly, claims 1 through 3 and 5 through 8 remain before us on appeal.

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<sup>1</sup> Application for patent filed August 24, 1993.

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The disclosed invention relates to a modular leakage current detector and interrupter.

Claim 7 is illustrative of the claimed invention, and it reads as follows:

7. A modular leakage current detector and interrupter comprising:

a sense module for detecting ground fault currents in excess of a given value, the sense module including circuitry to provide an interrupt signal,

a circuit interrupt module mounted remote from the sense module and interconnected to the sense module to disconnect power to the machine upon receipt of the interrupt signal, and

a test and control module mounted remote from the sense module, the test and control module providing a fault signal to periodically test the operability of the modular leakage current detector and interrupter.

The references relied on by the examiner are:

Gryctko et al. (Gryctko)	3,812,400	May
21, 1974		
Morris et al. (Morris)	4,686,600	Aug. 11,
1987		

Claims 1 through 3 and 5 through 8 stand rejected under 35 U.S.C. § 103 as being unpatentable over Gryctko in view of Morris.

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

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OPINION

We have carefully considered the entire record before us,  
and we will sustain the obviousness rejection of claims 7 and  
8,

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and reverse the obviousness rejection of claims 1 through 3, 5 and 6.

Gryctko discloses (Figure 13) a modular leakage current detector and interrupter that includes a sense module 17 for detecting ground fault currents in load 35, and a circuit interrupt module 16 that is responsive to an interrupt signal from elements 41 and 39 of the sense module to disconnect the line current to the load. A power supply is located in the sense module 17, and a shunt trip coil 40 is located in the circuit interrupt module 16. For a remote test and control module, the examiner turns to Morris which discloses (Figure 2) a modular ground fault circuit breaker that includes a push to test button 26 and test spring 29. A ground fault can be simulated by pressing the test button 26.

According to the examiner (Answer, pages 3 and 4), "[i]t would have been obvious to one of ordinary skill in the art to combine the teachings of Morris into the teaching of Gryctko because the use of fault simulating test arrangements is old and well known in the art, with the use of modular components understood not to change the function of a ground fault interrupter." We agree with the examiner that a test

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arrangement for ground fault interrupters is "old and well known in the art" (Answer, pages 3 and 4), and that "[a] person of ordinary skill

. . . would be able to apply the remote concept to the prior art with ease due to the fact that both teachings use modular elements" (Answer, page 5). Appellants' arguments (Brief, pages 4 through 6) concerning remote interconnections and remote testing do not convince us of the nonobviousness of the invention set forth in claims 7 and 8. Thus, the 35 U.S.C. § 103 rejection of claims 7 and 8 is sustained.

Claims 1 through 3 and 6 differ from claim 7 on appeal in that they claim a power supply that includes a rectifier/filter and a regulator. The examiner concludes (Answer, page 4) that:

Ground faults are known to have a very small current magnitude that can only be detected and removed by active circuits with powered elements. Such circuits are well known to get their power from the line to be protected and use simple regulators to power the DC sense amplifier integrated circuit.

The examiner's conclusions may be true, but we have no evidence in the record to support such conclusions.

"Allegations concerning specific 'knowledge' of the prior art,

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which might 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). The 35 U.S.C. § 103 rejection of claims 1 through 3 and 6 is reversed because appellants correctly argue (Brief, page 6) that the applied references do not teach a power supply with a rectifier/filter and a regulator.

The 35 U.S.C. § 103 rejection of claim 5 is reversed because the examiner never addressed the ground fault current range recited therein.

#### DECISION

The decision of the examiner rejecting claims 1 through 3 and 5 through 8 under 35 U.S.C. § 103 is affirmed as to claims 7 and 8, and is reversed as to claims 1 through 3, 5 and 6. Accordingly, the decision of the examiner is affirmed-in-part.

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

AFFIRMED-IN-PART

KENNETH W. HAIRSTON	)	
Administrative Patent Judge	)	
	)	
	)	
	)	
	)	BOARD OF PATENT
ERROL A. KRASS	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
	)	
	)	
MICHAEL R. FLEMING	)	
Administrative Patent Judge	)	

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KWH/jrg

**JENINE GILLIS**

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Serial No. 08/111,332

Judge HAIRSTON

Judge KRASS

Judge FLEMING

Received: 04 Sep 98

Typed: 08 Sep 98

DECISION: AFFIRMED-IN-

PART

Send Reference(s): Yes No  
or Translation(s)

Panel Change: Yes No

3-Person Conf. Yes No

Remanded: Yes No

Brief or Heard

Group Art Unit: 2836

Index Sheet-2901 Rejection(s): \_\_\_\_\_

Acts 2: \_\_\_\_\_

Palm: \_\_\_\_\_

Mailed: Updated Monthly Disk (FOIA): \_\_\_\_\_

Updated Monthly Report: \_\_\_\_\_

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