

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TRAVIS B. POSTON

Appeal No. 97-2881
Application No. 08/387,166¹

ON BRIEF

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

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 12.

The disclosed invention relates to an electrical shield for securing an exterior telephone service line and

¹ Application for patent filed February 13, 1995.

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interconnection box to a wall. The shield includes a pair of conductive layers supported on a substrate and separated by a non-conductive layer. The two conductive layers are adapted to be short circuited together in the event of an intrusion attempt thereby completing an electrical circuit to trigger an alarm.

Claim 1 is the only independent claim on appeal, and it reads as follows:

1. A passive electrical shield for securing an exterior telephone service line and interconnection box, without an armored casing, said shield comprising:

a non-conductive, non-armored substrate sized and configured to essentially fully enclose the telephone service line and interconnection box, said substrate being in the form of an enclosure having an opening at one front side thereof and its bottom;

a pair of conductive layers supported on said substrate and separated by a non-conductive layer;

terminal means for connecting said conductive layers to an alarm; and

means for securing said electrical shield to an exterior wall of a building with said front opening opposing said wall whereby said telephone service line and interconnection box are essentially fully encased therein; and wherein said conductive layers are adapted to be short circuited together in the event of an intrusion attempt thereby completing an electrical circuit whereby said alarm will be triggered.

The references relied on by the examiner are:

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Zuver 1959	2,879,725	Mar. 31,
Kothe 1972	3,633,194	Jan. 4,
Kraft 1994	5,315,654	May 24,

Claims 1, 4, 6 through 9 and 12 stand rejected under 35 U.S.C. § 103 as being unpatentable over Kraft in view of Kothe.

Claims 2, 3, 5, 10 and 11 stand rejected under 35 U.S.C. § 103 as being unpatentable over Kraft in view of Kothe and Zuver.

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 1 through 12.

Kraft² discloses armored covers 20 and 22 for protecting telephone wires 14 and 14' and a terminal block 18 on the exterior wall 12 of a building. The protective cover 22 is

² Kraft is discussed by appellant in the Background of the Invention (specification, pages 2 and 3).

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provided with a motion-sensitive alarm 40 that emits an audible sound when the protective cover is disturbed.

The examiner notes (Answer, page 6) that "Kraft **differs** from the claimed invention in the material used for the shield, such as the non-armored shield, and the method of activating the alarm, such as the relationship of the different layers and the alarm."

Kothe³ discloses a tamperproof barrier for wall structures of a safe 10 and a cable 21 (Figure 1). The barrier for the

³ Kothe discloses that it is known to construct barrier walls that cannot be penetrated without generating a warning signal (column 1, lines 7 through 11). According to Kothe (column 1, lines 11 through 17):

Certain of such prior-art barrier walls comprised two conducting surfaces with a thin layer of insulation between them. The conducting surfaces were connected across the terminals of a battery and any carelessly applied metal tool that pierced the wall would short the circuit between the two conducting surfaces and ring an electric alarm.

Such a short-circuit condition between two metal conducting layers 72 and 74 separated by an insulating layer 76 in a barrier wall of a safe is described in the applied reference to Zuver (Figure 3; and column 2, line 68 through column 3, line 2).

Neither Kothe nor Zuver discloses supporting the conductive layers on a non-conductive substrate in the form of an enclosure.

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safe includes an outer conductive wall 12, an inner conductive wall 13, and an insulating layer 14 that separates the two conductive layers. The barrier for the cable includes an outer conductor 24, an inner conductor 22, and an insulation layer 27 that separates the two conductors. A high potential is impressed between the two conducting surfaces in the safe and the cable so that any penetration or break in either insulation layer will result in a corona discharge (column 2, lines 51 through 56; and column 3, lines 37 through 42). The corona discharge is detected by an ionization detector which in turn activates an alarm.

Based upon the teachings of Kraft and Kothe, the examiner states (Answer, page 6) that:

Hence, it would have been obvious for one skilled in the art to modify Kraft's shield with the material as taught by Kothe, such that the alarm can be activated not only by the vibration from the shield, but also by other condition, such as fire and high temperature (col. 2, lines 7-075 [sic, 70 -75] in Kothe). It is also obvious to apply Kothe's shield in the environment of Kraft by modifying Kothe's shield with the structure of Kraft's shield as the environment is changed.

With respect to the teachings of Kraft, appellant argues (Brief, page 7) that "[a] clearer teaching away from the

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passive, non-armored substrate of the claimed invention could hardly be imagined." Appellant argues (Brief, page 8) that Kothe "is, in fact, a typical safe which relies on armored walls; it is totally remote from the non-armored shield characteristics of Applicant's claimed invention." Based upon the teachings of Kothe, appellant also argues (Brief, pages 9 and 10) that:

Absent Applicant's disclosure, there is no reason why one of skill in the art would have been motivated to combine this bulky, high voltage, corona discharge system with the structure of Kraft to protect an outdoor telephone box. To the contrary, the artisan would have been strongly motivated (by both safety and operability concerns) away from attempting to incorporate such a bulky, high voltage, high current system[s] in an exterior environment such as the armored telephone line protection system of Kraft. There is simply nothing in the prior art itself to suggest the desirability of the proposed combination.

We agree. Appellant has correctly concluded that "Kothe operates on different detection principals than the present invention and does not use the claimed non-conductive substrate" (Brief, page 11), and that "Kraft has no penetration detection of any kind whatsoever" (Brief, page 12). As indicated supra, Kothe uses a corona discharge detection system to trigger the alarm, and not a short circuit

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as argued by the examiner (Answer, page 6). Thus, even if we assume for the sake of argument that it would have been obvious to one of ordinary skill in the art to combine the teachings of Kraft and Kothe, the combined teachings would lack the claimed non-conductive substrate in the form of an enclosure, and the triggering of an alarm via a short circuit.

In view of the foregoing, the obviousness rejection of claims 1, 4, 6 through 9 and 12 based upon the teachings of Kraft and Kothe is reversed.

Zuver discloses a movement-sensitive switch 94 in an opened condition (Figure 2), and in a closed conditioned whereby an alarm is triggered when a safe is lifted from the floor (Figure 4). Although Zuver discloses two wall conductors 72 and 74 (Figure 3) that can be shorted together by a drill, the two conductors are not on a non-conductive substrate enclosure that is mounted on an exterior wall of a building.

The obviousness rejection of claims 2, 3, 5, 10 and 11 is reversed because the teachings of Zuver do not cure the noted shortcomings in the teachings of Kraft and Kothe.

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DECISION

The decision of the examiner rejecting claims 1 through
12 under 35 U.S.C. § 103 is reversed.

REVERSED

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

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DECISION: REVERSED
Send Reference(s): Yes No
or Translation (s)
Panel Change: Yes No
Index Sheet-2901 Rejection(s): 103

Prepared: August 16, 1999

Draft Final

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PALM / ACTS 2 / BOOK
DISK (FOIA) / REPORT