

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 8

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JACK V. SMITH and JESSE M. CARTER

Appeal No. 1998-0625
Application No. 08/570,605

ON BRIEF

Before HAIRSTON, FLEMING, and GROSS, Administrative Patent Judges.

GROSS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 through 3, which are all of the claims pending in this application.

Appellants' invention relates to an emergency auto visual communication system which displays a message to an observer from the interior of a vehicle. Claim 1 is illustrative of the claimed invention, and it reads as follows:

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1. An emergency auto visual communication system for exhibiting from a vehicle to an observer, comprising

a computer with keyboard that controls and intercommunicates to an illuminated electronic display board;

the illuminated electronic display board removably attached to the inside of a rear, front, or side window of the vehicle, the illuminated electronic display board displaying a message that can be seen through the window upon actuation of a switch mounted within the communication system powered by D.C. current from the vehicle through its cigarette lighter socket and without the use of the vehicle braking system.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Hutchison	4,949,071	Aug.
14, 1990		
Fahs	5,132,666	Jul.
21, 1992		

Claims 1 and 2 stand rejected under 35 U.S.C. § 102 as being anticipated by Hutchison.

Claim 3 stands rejected under 35 U.S.C. § 103 as being unpatentable over Hutchison in view of Fahs.

Reference is made to the Examiner's Answer (Paper No. 7, mailed May 27, 1997) for the examiner's complete reasoning in support of the rejections, and to appellants' Brief (Paper No.

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6, filed February 27, 1997) for appellants' arguments thereagainst.

OPINION

We have carefully considered the claims, the applied prior art references, and the respective positions articulated by appellants and the examiner. As a consequence of our review, we

will reverse both the anticipation rejection of claims 1 and 2 and also the obviousness rejection of claim 3.

Appellants argue (Brief, page 4) that "Hutchison does not teach each of applicants' limitations, i.e., computer with keyboard and a display board removably attached to the inside of a vehicle window." (emphasis in original). Appellants contend (Brief, page 4) that "control unit 11 is not a computer with keyboard for inputting messages but merely a repository for prearranged statements." As to the second limitation, appellants (Brief, page 5) point to column 3, lines 59-61, column 4, lines 1-5, and Figures 3-4, as evidence that Hutchison is limited to a display device "either mounted

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on the rear shelf or hanging on the outside of a partially lowered window." (emphasis in original).

We disagree with appellants' interpretation of the noted passages for the second limitation. Hutchison describes (column 3, line 58-column 4, line 5) means for mounting the display on a shelf, for hanging the display from a side window, or "for suspending the display unit 12 from a number of suction fasteners 14b from a side window 'W' or the rear window 'R.'" Figure 4 shows the outside door handle of an automobile and the display unit shown in shadow. Thus, in Figure 4 the display unit is

hanging on the inside of the window. Appellants' claim requires that the display board be "removably attached to the inside of a rear, front, or side window of the vehicle" (emphasis added). Since Hutchison shows and discloses a display which can be attached to the rear window (via suction cups) or to the side window (via suction cups or a clip that hangs over the edge of the window), Hutchison meets the limitation of being removably attached to the inside of the vehicle window.

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However, as to whether Hutchison discloses a computer, we agree with appellants. A computer is a device which can calculate or manipulate data. Hutchison's control unit, on the other hand, has no such function. Hutchison's control unit is limited to selectively illuminating the display according to the actuated signal cartridge. Accordingly, Hutchison does not disclose a computer with a keyboard. Since Hutchison fails to meet every element of the claims, we cannot sustain the anticipation rejection of claims 1 and 2.

Regarding claim 3, the examiner has applied Fahs to the teachings of Hutchison to show the obviousness of using a DC/AC converter. Appellants have not argued the combinability of Hutchison and Fahs, but rather repeats the arguments for claims 1 and 2. Since the addition of a DC/AC converter does not overcome

the deficiency noted above, we will reverse the obviousness rejection of claim 3.

Under the provisions of 37 CFR § 1.196(b), we enter the following new ground of rejection against appellants' claims 1 through 3:

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Claims 1 through 3 are rejected under 35 U.S.C. § 103 as being unpatentable over Hutchison in view of Fahs.

Hutchison discloses (column 3, line 48-column 4, line 5) a visual communication device including a display screen of light emitting diodes which is removably attached to the inside of a rear or side window of a vehicle by suction fasteners (see discussion above) and which displays a message which can be seen through the window. The display is powered by the battery of the automobile through a cigarette lighter adapter and connector (column 5, lines 8-11). However, instead of a computer with a keyboard to control the display, Hutchison discloses a control unit with ON/OFF switch 27 and signal cartridges that are inserted into the rear of the unit for selection and actuation via a set of buttons. As explained above, the control unit of Hutchison does not constitute a computer.

Fahs discloses a vehicle mounted electronic display, the purpose of which is to display emergency information from the interior of the car. (See column 1, lines 40-56 and line 64-column 2, lines 2). Fahs' display screen is controlled by a

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processor (column 1, lines 67-68) and driver controlled programming device "for providing personalized data to the display screen" (column 2, lines 5-7). "To operate the electronic display system with an electronic message that can be scrolled, flashed, animated, etc., the program unit 118 is connected to CPU 106. Program unit 118 includes a keyboard The user enters one or messages into the CPU 106, via said keyboard" (column 4, lines 29-35). Thus, Fahs teaches using a computer with a keyboard to control the display screen so that the user can personalize messages and so that the messages can be scrolled, flashed, or animated. Therefore, it would have been obvious to the skilled artisan to substitute a computer with a keyboard for the program unit of Hutchison. Consequently, claims 1 and 2 would have been obvious over Hutchison in view of Fahs.

Regarding claim 3, Fahs teaches (column 3, line 62-column 4, line 7) that when the vehicle is stationary, power can be provided from an external power source. However, when the vehicle is moving, a dc/ac inverter is used to provide the necessary wattage from the vehicle battery to the CPU and

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display screens. Since Hutchison powers the display and control unit

using the vehicle battery (column 5, lines 8-11), it would have been obvious to include a dc/ac inverter for providing the necessary wattage. Accordingly, claim 3 would have been obvious over Hutchison in view of Fahs.

CONCLUSION

The decision of the examiner rejecting claims 1 and 2 under 35 U.S.C. § 102 is reversed. The decision of the examiner rejecting claim 3 under 35 U.S.C. § 103 is reversed. A new ground of rejection of claims 1 through 3 under 35 U.S.C. § 103 has been added pursuant to provisions of 37 CFR § 1.196(b).

This decision contains a new ground of rejection pursuant to 37 CFR § 1.196(b)(amended effective Dec. 1, 1997, by final rule notice, 62 Fed. Reg. 53131, 53197 (Oct. 10, 1997), 1203 Off. Gaz. Pat. Office 63, 122 (Oct. 21, 1997)). 37 CFR § 1.196(b) provides that, "[a] new ground of rejection shall not be considered final for purposes of judicial review."

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37 CFR § 1.196(b) also provides that the appellant,
WITHIN TWO MONTHS FROM THE DATE OF THE DECISION, must exercise
one of the following two options with respect to the new
ground of rejection to avoid termination of proceedings
(§ 1.197(c)) as to the rejected claims:

(1) Submit an appropriate amendment of the
claims so rejected or a showing of facts relating to
the claims so rejected, or both, and have the matter
reconsidered by the examiner, in which event the
application will be remanded to the examiner. . . .

(2) Request that the application be reheard
under § 1.197(b) by the Board of Patent Appeals and
Interferences upon the same record. . . .

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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).

REVERSED
37 CFR § 1.196(b)

KENNETH W. HAIRSTON)	
Administrative Patent Judge)	
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)	
)	BOARD OF PATENT
MICHAEL R. FLEMING)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
)	
)	
ANITA PELLMAN GROSS)	
Administrative Patent Judge)	

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