

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board

Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte ROBERT J. CROWLEY  
and DONALD N. HALFREN

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Appeal No. 2000-1518  
Application 08/604,105

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ON BRIEF

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Before THOMAS, HAIRSTON, and DIXON, Administrative Patent Judges.  
THOMAS, Administrative Patent Judge.

ON REQUEST FOR REHEARING

In a paper filed on November 8, 2002, appellants request that we reconsider our decision dated September 19, 2002, wherein we reversed the examiner's rejection of the claims on appeal

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The above-stated new ground of rejection set forth in our earlier opinion concluded that the appellants did not present any measure of possession of the capacitive coupling approach presently set forth in each claim on appeal. In the Request, appellants do not argue before us that the original assessment of the present specification was in error. Stated differently, appellants do not now assert that the present disclosure as filed in the form of the written description, the drawings and the originally filed claims, provided a basis for the presently disputed claimed capacitive coupling approach in each claim on appeal. The present specification as filed, in the initial lines of page 1 thereof, made reference to two prior patents issued to appellants, each of which was incorporated by reference into the present application.

Pages 2 and 3 of the Request makes specific reference to these two patents and particular portions within each of them, urging that these portions provide a basis for the capacitive coupling feature of the present claims on appeal. Because we agree with appellants' views expressed in the Request as to

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Based on appellants' positions in the Request, we maintain our position set forth in the new ground of rejection in our prior opinion as to claims 1-16. Appellants have persuaded us of no error with respect to our position in that rejection. More specifically, there are no statements in the written description (including the originally filed claims, the drawings and the specification itself) that the capacitive coupling approach set forth in claims 1-16 on appeal was otherwise contemplated or possessed by appellants as to this feature as presently claimed to apply to a component of furniture set forth in each of these rejected claims on appeal. This is fully explained in detail in the prior decision. Additionally, no statements in the written description of the present application are found by us of utilizing the capacitive coupling teachings of the two noted prior art patents incorporated by reference and applying them to the component of furniture embodiment disclosed herein that is presently claimed. The capacitive coupling approach as it applies to components of furniture was first entered into claimed subject matter in the amendment filed as Paper No. 4 received on

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issued on January 20, 1998. The term of this patent is stated on its face not to extend beyond the expiration of appellants' other referenced prior patent of 5,493,702 issued on February 20, 1996. We observe that the present application has a terminal disclaimer filed and recorded as Paper No. 8, bearing a mailing receipt date of October 2, 1998, in which a terminal disclaimer has been filed with respect to appellants' second-mentioned but earlier patent 5,493,702. Because the term of any patent that may issue from this application shall not extend beyond the expiration of patent 5,493,702, and because the term of appellants' other prior patent 5,711,014 shall not extend beyond the expiration of the same earlier patent 5,493,702, any patent that may issue from the present application would not extend beyond the expiration of appellants' second patent 5,711,014.

In view of the foregoing, our previous decision is hereby modified, and appellants' request is granted-in-part. Our previous rejection of claims 1-20 under the written description portion of 35 U.S.C. § 112, first paragraph, is hereby modified to the extent it is now determined to apply only to claims 1-16

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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).

MODIFIED, GRANTED-IN-PART

James D. Thomas	)	
Administrative Patent Judge	)	
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	)	
	)	
	)	
Kenneth W. Hairston	)	BOARD OF PATENT
Administrative Patent Judge	)	APPEALS AND
	)	INTERFERENCES
	)	
	)	
Joseph L. Dixon	)	
Administrative Patent Judge	)	