

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 8

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WILLIAM D. DROTNING

Appeal No. 2000-0730
Application 08/761,098¹

ON BRIEF

Before KRASS, BARRETT, and DIXON, Administrative Patent Judges.

BARRETT, Administrative Patent Judge.

DECISION ON APPEAL

¹ Application for patent filed December 5, 1996, entitled "Apparatus For Controlling System State Based On Unique Identifiers."

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This is a decision on appeal under 35 U.S.C. § 134 from the final rejection of claims 1-19.

We reverse.

BACKGROUND

The invention relates to a lockout apparatus which allows workers to assert and release control over the transition of a system from one state to another using tokens, for example, preventing a system from transitioning from a halted to energized state while people are within a potentially hazardous space.

Claim 1 is reproduced below.

1. An apparatus for allowing a plurality of users to assert and release control of the transition of a system from a first state to a second state, comprising:

a) token means for reading tokens, where each token is uniquely controlled by one user while such user is asserting control of the system, and

b) lockout means for preventing the transition of the system from the first state to the second state until a selected pattern of tokens has been read by the token means.

No prior art is relied upon in the rejection.

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Claims 1-19 stand rejected under 35 U.S.C. § 112, first paragraph, as not enabled.

We refer to the first Office action (Paper No. 2), the final rejection (Paper No. 4), and the examiner's answer (Paper No. 7) (pages referred to as "EA__") for a statement of the Examiner's rejection, and to the appeal brief (Paper No. 6) for a statement of Appellant's arguments thereagainst.

OPINION

We completely agree with Appellant's arguments and with the declaration under 37 CFR § 1.132 by Pablo Garcia, Jr.

Claim 1 recites a combination of a "token means for reading tokens" and a "lockout means." The "tokens" and "token means" are disclosed to be conventional devices (specification, p. 4, lines 9-27); e.g., the tokens can be magnetic strips on employee identification badges or credit cards, and the token means can be a suitable magnetic strip reader such as those used in commercial transactions including credit card scanners (specification, p. 4, lines 11-14). A patent need not teach, and preferably omits, what is well known in the art. Paperless Accounting, Inc. v. Bay Area

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Rapid Transit System, 804 F.2d 659, 664, 231 USPQ 649, 652 (Fed. Cir. 1986). The application need not disclose the details of well known prior art devices for reading tokens. There can be no reasonable doubt that the "token means for reading tokens" was enabled to one of ordinary skill in the art.

The "lockout means" is disclosed to be a state machine or controller that remembers the tokens read and that can prevent transition of the system from one state to another (e.g., machine OFF to ON by controlling the power in figure 1) until a selected pattern of tokens has been read, e.g., until all tokens used to assert control have been used to release control (specification, p. 3, line 18 to p. 2, 4, line 3; p. 5, lines 1-15; figures 1, 3a, and 3b). The implementation of such a state machine in computer software and the use of a computer to control the state of a machine, such as to control power to the machine, is considered to be well within the level of ordinary skill of one in the relevant art of computer programming and control.

The Examiner, referring to the specification at p. 4, lines 21-27, asserts (EA5):

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The appellant has provided no cogent enabling disclosure of a lockout structure or for a card or "token" reader which reads a "selected pattern of tokens" (claim 1), interactively, or for interfacing with a "Robot", a "lift" or other controlled system. The claims merely mimic the vague disclosure.

The Examiner, referring to the specification at p. 4, lines 4-19, asserts (EA6):

The glaring and crucial omission [sic] from this vague, disjointed reference to the prior art is an inclusion of specific explanation or documentation or a submission or an I.D.S. which indicates that the application disclosure or the prior art provides the recognition and solution of reading patterns of [sic] "tokens" or cards for controlling "space", "machine" or entry/exit to provide a basis for obvious enablement.

The U.S. Patent and Trademark Office must support a rejection for lack of enablement with reasons.

In re Marzocchi, 439 F.2d 220, 223-24, 169 USPQ 367, 369-70 (CCPA 1971). The Examiner fails to provide reasons why one of ordinary skill in the art would not have been able to implement token means for reading tokens or the flowchart for the lockout means without undue experimentation, but merely makes conclusory allegations that the disclosure is not enabling. To the extent the Examiner somehow implies that the specification does not show structural details, we note that functional blocks, such as the controller 130 in figure 1

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which performs the lockout function to prevent power to the robot 101, may satisfy the enablement requirement of 35 U.S.C. § 112, first paragraph, and are commonplace in the electrical arts. See In re Donohue, 550 F.2d 1269, 1271, 193 USPQ 136, 137 (CCPA 1977) ("Employment of block diagrams and descriptions of their functions is not fatal under 35 U.S.C. § 112, first paragraph, providing the represented structure is conventional and can be determined without undue experimentation."). The functions of these blocks are described in the specification (e.g., p. 3, lines 23-26; p. 5, lines 1-15 in connection with figures 3a and 3b). The Examiner fails to provide any specific reasons why one of ordinary skill in the art would have been unable to implement these functions, as described and claimed, using conventional structure and programming techniques, without undue experimentation. In addition, the Examiner has failed to list any deficiencies in the declaration of Mr. Garcia; thus, this evidence of enablement stands unrebutted. The Examiner has

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manifestly failed to establish a prima facie case of
nonenablement. The rejection of claims 1-19 is reversed.

REVERSED

ERROL A. KRASS)	
Administrative Patent Judge)	
)	
)	
)	
)	BOARD OF PATENT
LEE E. BARRETT)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
)	
)	
JOSEPH L. DIXON)	
Administrative Patent Judge)	

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