

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

This opinion (1) was not written for publication and (2) is not binding precedent of the Board.

Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LOUIS A. VANDERWILT

Appeal No. 95-0421
Application 07/880,702

ON BRIEF

Before MARTIN, JERRY SMITH, and TORCZON, Administrative Patent Judges.

TORCZON, Administrative Patent Judge.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Applicant appeals under 35 U.S.C. § 134 from the final rejection of claims 1-10 under 35 U.S.C. § 103. No other claims are pending. We reverse.

FINDINGS OF FACT

We have reviewed the record in its entirety in light of the arguments of Applicant and the examiner. Our decision presumes familiarity with the entire record. A preponderance of the evidence of record supports each of the following fact findings.

Appeal No. 95-0421
Application 07/880,702

A. The nature of the case

1. The subject matter of the invention is an automatic control system for a sand classifying tank. (Paper 1 at 8.) The classified sand in the tank is selectively removed and rebled to meet various product specifications. (Paper 1 at 2-4.) The sand is selectively removed using valves that open into separate product flumes for a controlled amount of time. (Paper 1 at 3.) One object of the invention is to speed up the initialization routine for the valve timers. (Paper 1 at 8-9.)

2. All of the independent claims are written in Jepson format. Representative claim 1 sets forth the improvement over the prior art as follows:

starting a set-up time counter that will determine how long the incoming feed will be monitored during operation of the tank;

counting and storing in a data storage means total valve-open time for at least one valve at each station from the time the timer initialization routine begins until the time the set-up time counter reaches the set-up duration limit;

loading the valve-open time data into the computing means;

in the computing means, sorting the valve-open time data to identify the most active station, normalizing all other station valve-open times to the time of the most active station, multiplying the normalized valve-open times at each station by the base minimum timer setting to produce initialized minimum timer settings, multiplying the initialized minimum timer settings by the standard maximum-to-minimum timer

Appeal No. 95-0421
Application 07/880,702

ratio to produce initialized maximum timer settings; and

re-setting the maximum and minimum timers of each station to the initialized maximum and minimum timer settings for that station.

3. The examiner finally rejected claims 1-10 under 35 U.S.C. § 103. No other claims are pending. (Paper 5 at 1.)

In making the rejection, the examiner relied on the following references:

McCauley	3,913,788	21 Oct. 1975
Keeney	4,199,080	22 Apr. 1980

4. The references, read as a whole, do not teach or suggest the claimed acts or structures for initializing timers in a classification tank. Specifically, the references do not teach sorting valve-open time data to identify a most active station and normalizing all other station valve-open times to obtain initialized minimum and maximum timer settings for each station. The examiner has relied on the level of skill in the art to provide the missing suggestion (e.g., Paper 12 at 6-7), but has not explained why the artisan would have been motivated to modify the references to obtain the claimed invention. The teaching in McCauley that (1.63-66) the prior art Cochran system uses maximum and minimum timers and the teaching in Keeney that the maximum and minimum timer values are "predetermined" (6:53-54) or

Appeal No. 95-0421
Application 07/880,702

"assumed" (8:30-34) fall short of teaching the claimed acts and structures.

Appeal No. 95-0421
Application 07/880,702

CONCLUSIONS OF LAW

The cited references, considered as a whole, would not have rendered the claimed subject matter as a whole obvious at the time the invention was made to a person having ordinary skill in the art.

DECISION

The rejection of claims 1-10 is reversed.

REVERSED

JOHN C. MARTIN)	
Administrative Patent Judge)	
)	
)	
)	
)	BOARD OF PATENT
JERRY SMITH)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
)	
)	
RICHARD TORCZON)	
Administrative Patent Judge)	

Appeal No. 95-0421
Application 07/880,702

Kinzer, Plyer, Dorn,
McEachran & Jambor
55 East Monroe Street
Chicago, Illinois 60603