

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This opinion (1) was not written for publication and (2) is not binding precedent of the Board.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. 59

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte OLE K. NILSSEN

Appeal No. 95-3616
Application 07/839,065

ON BRIEF

Before HAIRSTON, MARTIN, and TORCZON, Administrative Patent Judges.

TORCZON, Administrative Patent Judge.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

FINDINGS OF FACT

We have reviewed the record in its entirety in light of the arguments of Appellant 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.

A. The nature of the case

1. This is an appeal under 35 U.S.C. § 134 from the final rejection of claims 62, 63, and 66-73. (Paper 51 at 1.) The examiner also rejected claim 64 in the answer. (Paper 54 at 1

& 4.) Claims 45 and 61 have been allowed. The examiner objects to the form of claim 65. No other claims are pending.

2. Appellant filed the subject application on 19 February 1992. He claims the benefit under 35 U.S.C. § 120 of United States patent application 07/158,104 ('104 application) filed 16 February 1988, now abandoned; U.S. patent application 06/541,489 ('489 application), filed 13 October 1983, now abandoned; and U.S. patent application 06/342,107, filed 25 January 1982, now abandoned.

B. The subject matter of the invention

3. The application is entitled "Electronic ballast for fluorescent lamps". (Paper 1 at 1.) The ballast has a transistor inverter connected in parallel to a rectifier and center-tapped, series-connected filter capacitors. The lamp circuit connects the capacitors to the inverter via an inductor. A fluorescent lamp is connected in parallel with a capacitor, which is connected in parallel with a resistor. (Paper 1 at 2; Fig. 1.) Claim 66, reproduced below, is representative of the claims on appeal.

66. An arrangement comprising:

a DC source operative to provide a DC voltage at a set of DC terminals;

a ballast circuit connected with the DC terminals; the ballast circuit having a pair of ballast terminals which, when connected to a proper load circuit, will supply a load current to this load circuit; the ballast circuit being further

the examiner's position that no current passes through the ballast circuit. Genuit teaches that the ballast circuit must be initiated by momentary contact with the voltage source **13** through a 15 k Ω resistor. We also find, however, that Genuit does not teach a resistor or capacitor as part of the lamp circuit.

7. Appellant has neither contested the level of skill in the art nor presented evidence of secondary considerations for us to consider on this appeal.

CONCLUSIONS OF LAW

A. Claims 63 and 67 are indefinite

1. The examiner rejected claims 63 and 67 because the phrase "the capacitor" in those claims lacks any antecedent basis. The Appellant has not responded to this rejection.² We see no fault in the rejection. Consequently, we affirm the rejection of these claims *pro forma*.³

² Coincidentally, claims 63 and 67 are missing from the appendix of appealed claims filed with Appellant's brief.

³ We note also that claim 69 appears to be missing a word. We understand the claim to read, in part, as follows:

. . . the ballast circuit being further characterized by providing the AC voltage only after having received a trigger signal . . .

(Paper 50 at 4, underlined word added.) We encourage Appellant to amend the claim to clarify its meaning.

B. Claims 62-64 and 66-73 are unpatentable for obviousness

2. Appellant has argued all claims⁴ but claim 64 as one group. (Paper at 2.) All of the claims in the group require a resistor, a resistive path, or resistance means associated with the lamp circuit assembly except claim 69, which requires a capacitor associated with the lamp circuit assembly. The difference is not important since the examiner's rationale requires a resistor in parallel with a capacitor. (Paper 54 at 7.) Genuit's lamp circuit contains neither a resistor nor a capacitor, so it is not clear why a person having ordinary skill in the art would have been motivated to add a capacitor or resistor, respectively, to the lamp circuit. Appellant correctly notes (Paper 53 at 4) that simply because standard circuit components could have been added does not mean that it would have been obvious to do so. In re Gordon, 733 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984).

3. Claim 64 depends from claim 62 and the examiner has rejected both over the same reference. Since we reverse the

⁴ Appellant neither includes claim 63 as part of the group nor argues it separately. Since we have affirmed a section 112 rejection against claim 63, for simplicity's sake we will assume Appellant intended claim 63 to stand or fall with its parent, claim 62, for the purposes of the obviousness determination. Nevertheless, Appellant and the examiner should take care to ensure that the argued groups account for all rejected claims. Otherwise, we may conclude that Appellant did not intend to appeal any claims not argued.

rejection of claim 62, we reverse the rejection of claim 64 *pro forma*.

DECISION

The examiner's rejection of claims 63 and 67 under section 112 is affirmed. The examiner's rejection of claims 62-64 and 66-73 under section 103 is reversed.

AFFIRMED-IN PART

KENNETH W. HAIRSTON)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
JOHN C. MARTIN)	APPEALS
Administrative Patent Judge)	AND
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RICHARD TORCZON)	
Administrative Patent Judge)	

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Ole K. Nilssen
200 North Harrison
Algonquin, IL 60102