

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 29

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHEL FALLAH

Appeal No. 96-1774
Application 07/822,207¹

ON BRIEF

Before KRASS, TORCZON, and CARMICHAEL, *Administrative Patent Judges*.

CARMICHAEL, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the final rejection of Claims 9, 10, 15, and 16. The other claims remaining in the application, Claims 11-14, have been objected to as being dependent upon a rejected base claim, but allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. We reverse.

¹ Application for patent filed January 17, 1992.

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Appellants' Claim 9 is reproduced as follows:

9. A system of personalized communication between a post and moving bodies which come into the vicinity of the post, wherein said system uses an exchange protocol that begins by means of a signal transmission initializer on said post which provides for a transmission of an initializing signal from said post, which said initializing signal is common to the different moving bodies that arrive in the vicinity of the post and said exchange protocol continues by means of an identification signal transmission means on each of said moving bodies which provides for the transmission of an identification signal by each moving body which is sent to said post, said transmission of an identification signal by one first moving body occurring at the end of a duration related to a duration value of an intrinsic code associated with said first moving body, said duration beginning in said moving body from the receipt of the initializing signal, said identification signal comprising a data corresponding to said duration value.

The Examiner's Answer lists the following prior art:

Johansson	5,150,114	Sep. 22, 1992 (filed Nov. 6, 1990)
Carsten et al. (Carsten)	3,898,619	Aug. 5, 1975

OPINION

The invention

The disclosed invention is a system of personalized communication between a post (such as a toll booth) and moving bodies (such as vehicles travelling a toll road). The invention is concerned with transmitting identification signals from the moving bodies to the post.

The post initiates communication with an initialization signal at a certain time. Each moving body has an intrinsic code with a duration value associated with it. The moving body responds to the initialization signal with a transmission occurring at the end of a duration related to the duration value. The transmission is of an identification signal.

The identification signal comprises a datum corresponding to the duration value. In a preferred embodiment, the identification signal is a specific character used to define the duration. Specification at 3, lines 9-19. A character may be digital, alphabetical, or alphanumerical, for example. Specification at 3, lines 23-29. The moving body could send the first character of its intrinsic code or it could send another type of identification signal that is appropriate to it. Specification at 10, lines 2-5.

The Johansson reference

The Johansson reference also discloses a system of personalized communication between a post (such as a toll booth) and moving bodies (such as vehicles travelling a toll road).

As with Appellant, Johansson's post initiates communication with an initialization signal at a certain time. Each moving body has an intrinsic code with a duration value associated with it. The moving body responds to the initialization signal with a transmission occurring at the end of a duration related to the duration value.

In Johansson the moving body's transmission conveys identifying information only in its timing. That is, the transmissions of all the moving bodies differ only in that they occur after different durations following the initialization signal.

The Carsten reference

The Carsten reference also discloses a system of personalized communication between a post (such as a toll booth) and moving bodies (such as vehicles travelling a toll road).

As with Appellant and Johansson, Carsten's post initiates communication with an initialization signal. Carsten's moving bodies respond with a coded signal which is unique to a

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particular responder. Unlike Johansson, Carsten's moving bodies do not respond after different durations.

The rejection

Claims 9, 10, 15, and 16 stand rejected under 35 U.S.C. § 103 as unpatentable over Johansson and Carsten. The claims all require that the identification signal transmitted by the moving body comprise data corresponding to the delay in responding to the initialization signal.

The examiner interprets "data" broadly to include the delay itself. Such an interpretation would render the independent claims anticipated by Johansson. Appellants argue that the content, not the timing, of the signal must contain the data corresponding to the delay. We agree with Appellants.

In the claimed invention, the identification signal comprises (is made up of at least) data corresponding to the duration value. In Johansson, the signal transmitted at the end of the duration is not made up of any data. Every signal is the same, differing only in the timing.

This is a significant difference between Johansson and the claimed subject matter. We discern no suggestion in the prior art to modify Johansson by including corresponding data in the signal that is transmitted at the end of the variable duration.

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The examiner says that it would have been obvious because the artisan seeking to implement Johansson would have found it necessary to implement an identification method in order to distinguish different transponders in the system. Examiner's Answer at 3. We disagree. Johansson already distinguishes the transponders in the system with the timing. The examiner offers no reason why an artisan would modify Johansson's system, which already distinguishes different transponders according to variable delays, by transmitting at the end of the delay redundant data corresponding to the delay rather than transmitting no data at all.

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Therefore, the rejection of Claims 9, 10, 15, and 16 is reversed.

REVERSED

ERROL A. KRASS)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
RICHARD L. TORCZON)	
Administrative Patent Judge)	APPEALS AND
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)	INTERFERENCES
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)	
JAMES T. CARMICHAEL)	
Administrative Patent Judge)	

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Vincent J. Sunderdick
Crystal Square Five - Fourth Floor
1755 Jefferson Davis Highway
Arlington, VA 22202