

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 22

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT SCHUESSLER

Appeal No. 96-3286
Application 08/197,594¹

HEARD: June 8, 1998

Before THOMAS, HAIRSTON and BARRETT, Administrative Patent Judges.

THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

Appellant has appealed to the Board from the examiner's rejection of claims 1, 2 and 5 to 11, the examiner having

¹ Application for patent filed February 17, 1994.

objected to claims 3 and 4 as being allowable if written in independent form.

Representative claim 1 is reproduced below:

1. Device for determining a toll for a vehicle travelling over a road section, comprising:

vehicle-carried means for determining the position of the vehicle, and

a vehicle-carried road storage device in which data of at least one toll-chargeable road network are electronically stored, said road storage device also having stored therein road toll parameters associated with said toll chargeable road network, an individual road toll parameter being associated with a particular road section of the road network and representing a proportional road toll due for the use of this section, and

a vehicle-carried computer unit connected to the road storage device and the means for determining the position, the computer unit determining the toll due for the use of the route sections travelled by the vehicle, based at least on data from the means for determining the position, and road network and toll parameter data from the road storage device.

The following references are relied on by the examiner:

Cardullo et al. (Cardullo)	3,713,148	Jan. 23, 1973
Tanaka et al. (Tanaka) (German Offenlegungsschrift)	DE 4033527	Apr. 25, 1991 ²
Hirata	DE 4130367	Mar. 19, 1992 ²

² Our understanding of this reference is based upon a translation provided by the Scientific and Technical Information Center of the Patent and Trademark Office. A copy of the translation is enclosed with this decision.

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(German Offenlegungsschrift)

Siegle et al. (Siegle) DE 4039887 Jun. 17, 1992²
(German Offenlegungsschrift)

Claims 1, 2 and 5 to 11 stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner has relied upon appellant's admitted prior art as set forth between page 1, line 26 and page 2, line 7, as well as between page 2, line 27 and page 3, line 8 of the specification as filed, further in view of Cardullo. Although the examiner does not specifically make mention in the statement of the rejection of each of the three German Patent Documents, each of them is specifically discussed in the aforementioned portions of the specification the examiner relies upon as admitted prior art by appellant. However, each is listed at page 2 of the Answer.

Rather than repeat the positions of the appellant and the examiner, reference is made to the Brief and the Answer for the respective details thereof.

Opinion

Generally, for one of the two reasons set forth by appellant in the Brief as to independent claim 1 on appeal, we will reverse

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the rejection of all claims on appeal. As to independent claim 1, at oral hearing and at pages 8 through 11 of the Brief, appellant argues two features of claim 1 are not taught or suggested in the references relied upon. The first feature is that portion of the vehicle-carried road storage device that indicates this device stores road toll parameters associated with said toll chargeable road network and individual toll parameters being associated with a particular road section of the road network and representing a proportional road toll due for the use of this section. The second feature of claim 1 argued is that the references do not individually or collectively teach the use of such road toll parameter data in order to calculate the amount of the toll that is due in the vehicle-carried computer unit clause of claim 1 on appeal. With this second general assessment of appellant, we fully agree.

Neither Tanaka nor Hirata relates to tolls in any manner. Both in some manner relate to vehicle position detection. Cardullo's transponder is taught to be useable in an automatic automotive vehicle highway toll system as expressed at column 3, lines 40 through 59 and more specifically at column 7 of his patent. No data other than toll dollar amounts may be entered

into Cardullo's memory, the data of which may be updated by the normal usage and teachings of that system.

On the other hand, Siegle is the most comprehensive of any of the references relied upon as relating to the subject matter of independent claim 1. Its teachings and suggestions are also much more comprehensive than the general correct assessment made at the bottom of page 1 through the top of page 2 of the specification as filed as relied upon by the examiner in the statement of the rejection. Map and trip information may be transferred from the beacon to the vehicle unit. Note generally translation page 6 and the bottom of page 9. In addition, other information such as traffic conditions, traffic jams, detours, etc. may be transferred. Furthermore, the beacon may also send data including hotel, railroad station, bank, service station, and other data even data to colorize various roads including the travelled routes as noted at the bottom of translation page 12 and the top of translation page 16. The discussion that follows through page 17 indicates the normal operation of the toll system portion of Siegle's disclosure. Based on the expansive types of data that may be transferred to the memory in the vehicle unit from the beacon, we find it would have been obvious to have transferred toll information for a route to be travelled of the

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type set forth in the vehicle-carried road storage device clause of claim 1 on appeal.

Notwithstanding these considerations, we recognize there is no explicit teaching of transferring this toll data in the disclosure of Siegle. More significantly, however, we find no teaching or suggestion in Siegle and/or any of the other references relied upon for an on board vehicle-carried computer unit to compute a road toll based upon sectionalized and

corresponding toll information as set forth in the vehicle-carried computer unit clause of independent claim 1 on appeal. In both Cardullo and Siegle, the only two references relating to tolls relied upon by the examiner, both references receive from a fixed station a toll amount demanded, which may be withdrawn from the toll card storing a fixed amount of toll charges as in Siegle and the toll dollar amount that may be withdrawn from the memory in Cardullo. Siegle's vehicle unit's control is a microcomputer, but specific road tolls are computed in Cardullo and Siegle only externally of the on board vehicle unit. Cardullo has no means for determining vehicle position although Siegle's vehicle unit does. In any event, there is no teaching or suggestion that on

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board sensed vehicle position also would be utilized by any on board vehicle-carried computer unit to determine the toll based upon the route section travelled from internally stored data as required by the last clause of independent claim 1 on appeal.

In view of the foregoing, we reverse the rejection under 35 U.S.C. § 103 of independent claim 1 on appeal. As such, we must also reverse the outstanding rejection of dependent claims 2 and 5 to 11 on appeal. Therefore, the decision of the examiner rejecting claims 1, 2 and 5 to 11 under 35 U.S.C. § 103 is reversed.

REVERSED

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Administrative Patent Judge)	
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)	BOARD OF PATENT
KENNETH W. HAIRSTON)	
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