

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LAMBERTUS J.W. VAN LOON

Appeal No. 1997-2298
Application 08/329,113

ON BRIEF

Before BARRETT, FLEMING and RUGGIERO, Administrative Patent Judges.

RUGGIERO, Administrative Patent Judge.

ON REQUEST FOR REHEARING

Appellant requests that we reconsider that part of our decision of March 28, 2000 wherein we sustained the rejection of claims 6 and 8 under 35 U.S.C. § 102(b).

In our previous decision, we determined that the Examiner was correct in concluding that all of the limitations of

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claims 6 and 8 were disclosed by the Hings reference. Appellant now argues that our original decision failed to consider all of the arguments in the Appeal Brief. In particular, Appellant asserts that our decision did not address what is now asserted as the most fundamental distinction between Hings and the claimed invention, i.e. the requirement that the first and second conductors "form a single loop describing an umbrella-shaped section lying substantially in a plane."

We have reconsidered our decision of March 28, 2000 in light of Appellant's comments in the Request for Rehearing, and we find no error therein. We, therefore, decline to make any changes in our prior decision for the reasons which follow.

Appellant has amplified his original arguments in the Appeal Brief related to the single loop requirements of appealed claims 6 and 8 by now asserting (Request, page 2):

[T]he conductors in the Hings antennas form multiple circular loops rather than a single loop describing an umbrella-shaped section lying substantially in a plane.

We find no error, however, in our finding (Decision, page

4) that the Examiner's analysis of Figure 7 of Hings correctly leads to the conclusion that the two conductors 67 and 68 are connected to form an umbrella-shaped single loop. We remain of the view that the end result of the connection of the opposite ends of Hings' mirror symmetrical conductors, at the connection point 90 and at the antenna base, is the formation of a single umbrella-shaped loop. The fact that the constituent conductors (i.e. 67, 68) which form this single loop may themselves be formed with multiple turns or loops as argued by Appellant is of no moment. Aside from the quarter wavelength limitation, there is nothing in the language of appealed claims 6 and 8 which limits the structure of the first and second conductors and, accordingly, nothing which would preclude the multiple turn structure of Hings' individual conductors.

Similarly, we find no error in our determination of the correctness of the Examiner's conclusion that Hings' umbrella-shaped single loop lies substantially in a plane. Contrary to Appellant's contention (Request, page 2), it is our view that the Examiner's interpretation of the term "planar" is not

inconsistent with Appellant's use of the term in the specification. Appellant's specification at page 3 describes a looped antenna lying in a single x,z plane. This plane, however, is defined by a dimension extending in the perpendicular y direction, i.e. a dimension determined by the thickness of the antenna material used. Hings' antenna conductors also are described as lying in a plane (col. 3, lines 51-53 and col. 12, line 31), the dimensions of which are determined by the diameter of the coil turns. Absent any limitations in the claims directed to specific dimensions, or at least relative axial dimensions, of the recited plane, we remain of the opinion that the Examiner, in giving the broadest reasonable interpretation to the claim language, was correct in concluding that Hings' conductors describe an umbrella-shaped loop "lying substantially in a plane." The Examiner is required to give examined claims their broadest reasonable interpretation consistent with the specification, and "limitations appearing in the specification are not to be read into the claims." In re Etter, 756 F.2d 852, 858, 225 USPQ 1, 5 (Fed. Cir.), cert. denied, 474 U.S. 828 (1985).

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We have granted Appellant's request to the extent that we have reconsidered our decision of March 28, 2000, but we deny the request with respect to making any changes therein.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

REHEARING/DENIED

LEE E. BARRETT)
Administrative Patent Judge)
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) BOARD OF PATENT
MICHAEL R. FLEMING) APPEALS
Administrative Patent Judge) AND
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INTERFERENCES)
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JOSEPH F. RUGGIERO)
Administrative Patent Judge)

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