

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(2) is not binding precedent of the Board.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. 13

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte GAROLD B. GASKILL

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Appeal No. 97-2879  
Application 08/507,181<sup>1</sup>

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ON BRIEF

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Before HAIRSTON, BARRETT, and FLEMING, Administrative Patent Judges.

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 16

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<sup>1</sup> Application for patent filed July 26, 1995. According to applicant, the application is a continuation of Application 08/149,993, filed November 10, 1993, now Patent No. 5,440,559, issued August 8, 1995.

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and 18.

The disclosed invention relates to a system in which a terminal and a wristwatch communicate via electromagnetic radiation having a wavelength shorter than radio waves. The terminal periodically transmits a hailing message. If the wristwatch receives the hailing message, then it transmits its identification number to the terminal. The terminal will then transmit messages addressed to the responding wristwatch.

Claim 16 is illustrative of the claimed invention, and it reads as follows:

16. A system comprising in combination:  
  
a terminal which broadcast hailing messages, said hailing messages being broadcast repeatedly at a first periodic rate utilizing electromagnetic radiation having a wave length shorter than radio waves, and  
  
a receiver comprising a periodically operative, wrist mounted, battery operated device,  
  
said receiver having a wristwatch form factor and an identification number,  
  
said receiver having means for receiving said hailing messages and means for transmitting to said terminal said identification number in response to the receipt of a hailing message,  
  
said means for transmitting utilizing electromagnetic energy having a wave length shorter than radio waves for said transmission,

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said terminal including means for storing messages addressed to said receiver, and means for transmitting said messages to said receiver in response to the receipt of said identification number.

The references relied on by the examiner are:

Kawasaki et al. 1988	4,736,461	Apr. 5,
Blonder 1993	5,239,521	Aug. 24,
Stoller 1993	5,266,942	Nov. 30,

(filed Aug. 21,  
1991)

Claims 16 and 18 stand rejected under 35 U.S.C. § 103 as being unpatentable over Kawasaki in view of Blonder and Stoller.

Reference is made to the brief and the answer for the respective positions of the appellant and the examiner.

#### OPINION

The obviousness rejection of claims 16 and 18 is reversed.

In Kawasaki, a portable unit (Figure 4) transmits an acknowledgment signal in response to a call signal from a base station (Figure 2). All communication between the portable unit and the base station is via radio signals. According to

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Kawasaki, the portable unit can be a cordless telephone carried by a person (column 1, lines 14 through 19).

Blonder discloses a wrist-mounted telephone 2 with a speaker 20 and a microphone 22 that is exposed when the speaker is pivoted into an operable position (Figures 1 and 2). The wrist-mounted telephone normally operates at radio frequencies, but Blonder states that "the device is equally useful with infrared" (column 4, lines 14 through 17).

Appellant has not challenged the examiner's conclusion (Answer, page 7) that:

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute infrared transmission for radio frequency and to provide a wristwatch form factor for the portable telephone set in Kawasaki since Blonder explicitly teaches the substitution and the use of the wristwatch form for a portable telephone set.

The examiner admits (Answer, page 7) that "Kawasaki does not teach the transmission of the receiver's identification number within the acknowledgment signal transmitted in response to the hailing message." For such a missing teaching, the examiner turns to Stoller. According to the examiner (Answer, page 7):

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Stoller teaches a prior art transmission technique in a broadcast environment such as in a portable cordless telephone (column 1, lines 39-41), wherein the transmitter of the portable unit transmits an identification number which must be validated at the receiving end in order to determine whether to grant access (column 2, lines 35-50). Stoller's purpose is to provide a security system for a broadcast environment (column 1, lines 6-8).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Stoller's use of identification numbers into the portable unit transmissions of Kawasaki in order to provide security in Kawasaki's broadcast environment that includes cordless telephone (column 1, lines 14-15).

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In response, appellant argues (Brief, page 4) that:

The Stoller reference shows a security system for detecting eavesdropping. The examiner indicates that Stoller teaches a portable unit which transmits an identification number which must be validated at the receiving unit in order to determine whether access will be granted. The key difference is that in Stoller's system, the operator of the portable unit initiates the transmission of the identification number. In the applicant's system, the terminal sends out a hailing message and the transmission of the identification number is made by the portable unit in response to the hailing message from the terminal. This results in an entirely different type of operation.

We agree. The obviousness rejection of claims 16 and 18 is reversed because the transmitter in Stoller "initiates the transmission of the identification number" without a hailing message from the receiving unit (Brief, page 4).

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DECISION

The decision of the examiner rejecting claims 16 and 18  
under 35 U.S.C. § 103 is reversed.

REVERSED

KENNETH W. HAIRSTON	)	
Administrative Patent Judge	)	
	)	
	)	
	)	BOARD OF PATENT
LEE E. BARRETT	)	APPEALS AND
Administrative Patent Judge	)	INTERFERENCES
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MICHAEL R. FLEMING	)	
Administrative Patent Judge	)	

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Elmer Galbi  
SEIKO COMMUNICATIONS SYSTEMS INC.  
1625 NW Amber Glen Court #140  
Beaverton, OR 97006