

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 16

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* ROBERT G. SCHWARTZ, ALLEN A. CROWE, JAMES S. EMMETT,  
FETNEH ESKANDARI, MARTIN F. PALANGE, MARK E. SIMCIK,  
ROBERT SWANBERY, ROBERT J. JAPENGA, JOSEPH L. LEHMAN,  
WILLIAM A. WEIRSMAN and GEORGE P. RAHGO

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Appeal No. 1998-0646  
Application No. 08/485,269

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HEARD: April 20, 2000

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Before FLEMING, DIXON, and FRAHM, **Administrative Patent Judges.**  
DIXON, **Administrative Patent Judge.**

**DECISION ON APPEAL**

This is a decision on appeal from the examiner's final rejection of claims 201-212, which are all of the claims pending in this application.

We REVERSE.

## **BACKGROUND**

The appellants' invention relates to an electronic postage scale system and method. The system stores transaction data in memory and periodically transmits the stored data to a remote computer. The remote computer also transmits updated rate information to the scale on a periodic basis. An understanding of the invention can be derived from a reading of exemplary claim 201, which is reproduced below.

201. An electronic shipping scale system, comprising:

a display having a screen;

a weight evaluator for providing a data signal representing the weight of an item;

a plurality of data entry keys;

a plurality of function keys;

a memory for storing data, including data relating to shipping rates and data relating to transaction records;

a processor operating under a program and responsive to said weight data signal, said data entry keys, said function keys and said shipping rate data for computing shipping cost, and for providing display data; and

means for periodically communicating with a remote computer to transmit said data relating to transaction records from said memory to said remote computer, and to receive data relating to shipping rates from said remote computer and for storing said received data in said memory for storing data.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

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Wright et al. (Wright)	4,900,904	Feb. 13, 1990
Hikita et al. (Hikita)	4,901,237	Feb. 13, 1990

Claims 201-212 stand rejected under 35 U.S.C. § 103 as being unpatentable over Wright in view of Hikita.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejection, we make reference to the examiner's answer (Paper No. 11, mailed Dec. 18, 1997) for the examiner's reasoning in support of the rejections, and to the appellants' brief (Paper No. 10, filed Dec. 1, 1997) for the appellants' arguments thereagainst.

### **OPINION**

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by the appellants and the examiner. As a consequence of our review, we make the determinations which follow.

Appellants' basic argument throughout the brief is that Hikita does not teach storing the "means for periodically communicating<sup>1</sup> with a remote computer to transmit said data relating to transaction records from said memory to said remote computer,

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<sup>1</sup> We have reviewed the specification and find no express recitation that the communication is periodic, but the examiner has not raised the issue so we make no further comment.

and to receive data relating to shipping rates from said remote computer and for storing said received data in said memory for storing data” and that Wright does not maintain data in the internal memory of the scale system including “data relating to shipping rates and data relating to transaction records.” We agree with appellants that Wright does not teach or suggest the storage of shipping rates in an internal memory of the scale. Wright merely teaches the storage of the rates on the memory card or input of the shipping rate by the user. Wright further does not teach or suggest maintaining transaction records in the internal memory as set forth in the language of claim 201. Wright teaches that the record of the transaction or debit is sent to the user card where it is recorded to debit the value of the postage used for the package.

Appellants argue the “transaction records” of the claimed invention are different from the transaction records on the user card of Wright wherein they are related to individual shipping transactions which “might include information such as the package’s weight, size and shipping destination, the day and time of shipping, the cost and type of shipping and the customer for whom the package was shipped.” (See brief at page 26.) Appellants’ representative was questioned at the hearing concerning the support of the above interpretation of the “transaction record.” Appellants’ representative repeatedly referenced only page 48 of appellants’ specification of support of the storage of the

transaction data and asserted that it differed from that taught or suggested by Wright. The specification referenced states that “[f]urthermore, in one of the disclosed embodiments, data is transported from system 10 to a similar system using an IC card. It may also be desirable to download data such as accounting files from system 10 through a communications network to a remote computer which, for example, handles the billing.” Alone, we find this disclosure insufficient to define transaction records as accounting data, but upon further review of the specification as filed, there are a number of discrete statements throughout the specification at pages 4, 9, 20, 25, 27-28, 39 and 40 concerning the storage and updating of the shipping rates stored in the internal memory and the printing and storage of current transaction records in the accounting information files (see Fig. 9) of a nature which would be usable for accounting and billing purposes. Therefore, we interpret the “transaction records” in view of the disclosed meaning of the term in the specification. The teachings and suggestions of Wright do not teach or suggest maintaining transaction records, for accounting purposes as disclosed in the instant specification, in the internal memory of the scale system. Similarly, Hikita does not teach or suggest the storage of shipping rates or transaction records in the internal memory as recited in the language of claim 201.

The examiner argues that “[s]imply giving data a different label, such as ‘transaction records’ or ‘shipping rates’ does not alter the data in any way. The

examiner takes official notice that in any digital machine, all data consists of a string of binary numbers, irregardless of how the data is transmitted, stored or displayed. . . . one of ordinary skill in the art would have modified the operating system program of Hikita . . . .”

(See answer at page 5.) We disagree with the examiner's sweeping statements concerning the storage and proposed modification of the prior art to Hikita. First, the examiner is correct with respect to the binary nature of digital data, but the examiner neglects to address the functionality of the data which is stored. The function and use of the data are the issues which must be addressed and not its digital representation. Second, the examiner states that the skilled artisan would have modified the “operating system”. We do not agree that the artisan would have changed the operating system. The skilled artisan may have been motivated to modify the application program to some degree, but the examiner’s statement proposes that a skilled artisan can modify any computer to anything the user may need. **Id.** We disagree with the examiner absent a motivation or line of reasoning within the prior art.

The examiner maintains that it would have been obvious to one of ordinary skill in the art at the time of the invention to “periodically send sales records and to periodically receive price data, as taught by Hikita.” (See final rejection at page 2 and incorporated into the brief at page 4.) We disagree with the examiner that Hikita teaches or suggests the storage of “transaction records” as claimed. The totals as

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taught by Hikita would not have suggested the accounting data maintained in the present invention. Therefore, we will not sustain the rejection of claim 201 and its dependent claims 202-204. Claims 205 and 209 contain the same limitations as claim 201. Therefore, we will not sustain the rejection of claims 205 and 209 and their dependent claims.

**CONCLUSION**

To summarize, the decision of the examiner to reject claims 201-212 under 35 U.S.C. § 103 is reversed.

**REVERSED**

MICHAEL R. FLEMING	)	
Administrative Patent Judge	)	
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	)	
	)	BOARD OF PATENT
JOSEPH L. DIXON	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
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ERIC FRAHM	)	
Administrative Patent Judge	)	

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