

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(2) is not binding precedent of the Board.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. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BERNHARD MATTES, SIEGFRIED MALICKI
LOTHAR HAAS and HANS-DIETER SCHMID

Appeal No. 1998-2445
Application 08/604,228¹

ON BRIEF

Before HAIRSTON, BARRETT and LALL, Administrative Patent
Judges.

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims

¹ Application for patent filed February 22, 1996

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4 through 6 and 15 through 23². In an Amendment After Final (paper number 16), claims 4 and 20 were canceled.

Accordingly, claims 5, 6, 12, 15 through 19 and 21 through 23 remain before us on appeal.

The disclosed invention relates to a sensor arrangement for determination of at least one of a position and an acceleration of a movable body.

Claims 15 and 22 are illustrative of the claimed invention, and they read as follows:

15. A sensor arrangement for determination of at least one of a position and an acceleration of a moveable body, comprising a housing fixedly connectable with the moveable body; an inertia body accommodated in said housing; a detector arranged in said housing for detecting a horizontal displacement of said inertia body, said housing having a base plate on which said detector is arranged so that determination of a vertical displacement of said interim body is also performed, said inertia body being composed substantially of a ferromagnetic material, said housing being composed of a non-ferromagnetic material, said detector being provided with an electrical oscillating circuit with electromagnetic field lines which are at least partially influenceable by a position of said ferromagnetic inertia body.

22. A sensor arrangement for determination of at least one of a position and an acceleration of a moveable body, comprising a housing fixedly connectable with the moveable

² Appellants recognized (Brief, page 2) that claim 12 was omitted from the statement of the rejection in the final rejection.

body; an inertia body accommodated in said housing; a detector arranged in said housing for detecting a horizontal displacement of said inertia body, said housing having a base plate on which said detector is arranged so that determination of a vertical displacement of said inertia body is also performed, said inertia body having a shape and a mass selected so that for at least one of a lateral tilting and a vertical lifting of said inertia body the following values are predetermined:

- an inclination angle of the moveable body is at least equal 55°
- an omni-directional acceleration in a horizontal plane is at least equal 1.4 g,
- a vertical acceleration is at least equal 0.4 g wherein g is acceleration due to gravity.

The examiner did not rely on any references in rejecting the claims on appeal.

Claims 5, 6, 12, 15 through 19 and 21 through 23 stand rejected under the first paragraph of 35 U.S.C. § 112 for lack of enablement³.

³ The rejection is only directed to lack of enablement in the final rejection. Thereafter, the examiner mixes lack of enablement (Answer, pages 4 and 5) with lack of written description (Answer, page 5). The examiner is reminded that a lack of enablement rejection under the first paragraph of 35 U.S.C. § 112 is separate and distinct from a lack of written description rejection under the same statutory provision. In re Wilder, 736 F.2d 1516, 1520, 222 USPQ 369, 372 (Fed. Cir. 1984). For this reason, any gratuitous comments concerning lack of written description will be ignored for purposes of this appeal.

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Reference is made to the brief (paper number 15) and the answer for the respective positions of the appellants and the examiner.

OPINION

The lack of enablement rejection is reversed for lack of a reasonable basis for rejecting the claims on appeal.

In short, the examiner provides a list of sensor elements that allegedly "has not been disclosed" (Answer, page 4). A review of appellants' summary of the invention (Brief, pages 3 through 8) clearly suggests otherwise. We agree with appellants' statement (Brief, page 8) that the same discussion of the invention can be found on pages 9 through 13 of the specification. The relationship between the spring 5, the ferromagnetic inertia body 3 and the receiving element 2 is thoroughly explained throughout the noted portion of the specification. In Figure 2 of the drawing, the inertia body 3 is tilted against the side of receiving element 2 by activation of magnetic coil 7 (specification, page 10). "Since the ferromagnetic inertia body 3 is moved back farther from the coil of the detector 10, a change of the damping of the electrical oscillation circuit (compare FIG. 4) of the

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detector occurs" (specification, page 10). There is "no movement of the spring" (Answer, page 4) in Figure 2 because this is strictly a test mode. In Figure 5, the spring 5, the receiving element 2 and the inertia body 3 have all undergone movement because of vertical acceleration of the sensor arrangement. Figure 7 illustrates an over rolling of the sensor arrangement.

The examiner's request for additional software and hardware details of the "central evaluation unit" is not reasonable since the appellants are not claiming any specific type of evaluation unit, and the examiner has not explained why the skilled artisan would have to resort to undue experimentation to arrive at an evaluation unit that takes advantage of the noted "a change of the damping of the electrical oscillation circuit" 10 (Figure 4).

In summary, the lack of enablement rejection is reversed because the scope of the claims on appeal bears a reasonable correlation to the scope of enablement provided by the specification. Genentech, Inc. v Novo Nordisk A/S, 108 F.3d 1361, 1365, 42 USPQ2d 1001, 1004 (Fed. Cir.), cert. denied, 118 S. Ct. 397 (1997).

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DECISION

The decision of the examiner rejecting claims 5, 6, 12, 15 through 19 and 21 through 23 under the first paragraph of 35 U.S.C. § 112 is reversed.

REVERSED

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KENNETH W. HAIRSTON))
Administrative Patent Judge)	
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)	
)	BOARD OF PATENT
LEE E. BARRETT))
Administrative Patent Judge)	APPEALS AND
)	
)	INTERFERENCES
)	
PARSHOTAM S. LALL)	
Administrative Patent Judge)	

KWH:hh

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