

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

Paper No. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROYAL JENNER and CHAD A. FOLLMAR

Appeal No. 1999-1638
Application No. 08/721,395

HEARD: APRIL 10, 2001

Before THOMAS, LALL, and BLANKENSHIP, Administrative Patent Judges.

BLANKENSHIP, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1-15, which are all the claims in the application.

We reverse.

BACKGROUND

The invention is directed to an electrical connector having conductors arranged to achieve reduction in crosstalk. Representative claim 1 is reproduced below.

1. An electrical connector comprising:

a dielectric housing; and

a plurality of conductors situated within the housing having a generally flat blade portion disposed at an output end of the housing, an intermediate portion and an insulation displacement contact (IDC) portion for receiving an individual wire, wherein the intermediate portions of adjacent conductors are alternately situated substantially in a lower or an upper plane and are alternately of a shorter or a longer length.

The examiner relies on the following references:

Davis et al. (Davis)	5,123,859	Jun. 23, 1992
Baker, III et al. (Baker)	5,226,835	Jul. 13, 1993

Claims 1-15 stand rejected under 35 U.S.C. § 103 as being unpatentable over Baker and Davis.

We refer to the Final Rejection (Paper No. 6) and the Examiner's Answer (Paper No. 11) for a statement of the examiner's position and to the Brief (Paper No. 9) for appellants' position with respect to the claims which stand rejected.

OPINION

The Baker reference, which we note is discussed on pages 1 and 2 of appellants' specification, discloses an arrangement of conductors in an electrical connector for

reducing crosstalk. As shown in Baker's Figure 3, and described at column 4, line 45 through column 5, line 24, conductor pairs are crossed over to substantially reduce crosstalk between each other. Contact blades 321 are shown to be flat blade portions, connecting with the crossed-over intermediate portions of the conductors, which in turn are connected with insulation displacement contact (IDC) portions for receiving individual wires.

The instant rejection, set forth on pages 3 and 4 of the Answer, combines the teachings of Davis with those of Baker. In particular, Davis is relied upon as disclosing an electrical connector having conductors 36 (Fig. 1) "staggered longitudinally in the conductor housing and having shorter or longer lengths with the intermediate portions alternately situated." (Answer, page 4.)

We disagree with appellants' position, as set out in the Brief, that Baker requires using conductors which are identical to each other. Column 5, lines 13-23 of Baker teaches that "identical" conductors are the preferred embodiment, but explicitly suggests that two different conductors may be used if one should wish to "further minimize the crosstalk." We conclude, however, for the other reasons advanced on pages 7 and 8 of appellants' Brief, that a prima facie case of unpatentability has not been established.

The rejection states that the combination is suggested "in order to avoid interference within the connector housing when the conductors are connected to the wires." (Answer, page 4.) There is nothing pointed out in either reference, however, to serve as a

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basis for the suggestion, nor any other factual finding offered as a foundation for the suggestion. The Davis reference does not disclose that staggering the length of the conductors, as shown in Figure 1, is for the purpose of decreasing crosstalk or other electrical noise. We agree with appellants with respect to the lack of suggestion for applying the staggered lengths of conductors in the disclosed stackable, gender changer connector of Davis to a patch plug as disclosed by Baker.

The allocation of burdens requires that the USPTO produce the factual basis for its rejection of an application under 35 U.S.C. §§ 102 and 103. In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984) (citing In re Warner, 379 F.2d 1011, 1016, 154 USPQ 173, 177 (CCPA 1967)). The one who bears the initial burden of presenting a prima facie case of unpatentability is the examiner. In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). Since the examiner has not pointed out where the suggestion for the proposed combination lies, and we do not find any suggestion for the combination in the evidence before us, the rejection appears to be based on a hindsight reconstruction of appellants' invention.

Each of independent claims 1, 7, and 13 contains limitations directed to conductors having different lengths. Since it has not been shown that the subject matter as a whole of any of the independent claims would have been obvious to the artisan, we do not sustain the rejection of claims 1-15.

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CONCLUSION

The rejection of claims 1-15 is reversed.

REVERSED

JAMES D. THOMAS
Administrative Patent Judge

PARSHOTAM S. LALL
Administrative Patent Judge

HOWARD B. BLANKENSHIP
Administrative Patent Judge

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