

May 2, 1967

Mr. Isaac S. Blonder
Blonder-Tongue Laboratories Inc.
9 Alling Street
Newark 2, New Jersey

Re: Univ. Illinois v. Blonder-Tongue Labs.

Dear Ike:

The enclosed are charts that JFD proposes to use at the trial in connection with supposed anticipation of your invention by prior art and supposed non-infringement by their structures.

Why don't you glance these over and when we get together, hopefully next week, we will go into them in more detail.

At present, the judge does not think he will get to our case before May 15, 1967, and maybe not then.

Very truly yours,

RINES AND RINES

RHR:H

By _____

Enclosures

May 2, 1967

VIA AIR MAIL

John Rex Allen, Esq.
Hofgren, Wegner, Allen, Stelman & McCord
20 North Wacker Drive
Chicago, Illinois 60606

Re: University of Illinois v. Blonder-Tongue et al

Dear Dick:

In reply to your letters of April 27th and 28th, we probably answered the earlier letter in our telephone conversation with regard to the later letter, we would like to have a copy of Report TR52 and a copy of the other publications listed in the JFD notice.

Very truly yours,

RINES AND RINES

RHR:H

By _____

LAW OFFICES

HOFGREN, WEGNER, ALLEN, STELLMAN & McCORD

20 NORTH WACKER DRIVE

CHICAGO 60606

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AXEL A. HOFGREN
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J. R. STAPLETON

WILLIAM R. McNAIR
JOHN P. MILNAMOW
DILLIS V. ALLEN
W. A. VAN SANTEN, JR.
JOHN R. HOFFMAN

May 1, 1967 *EM*

Mr. Robert H. Rines
Rines and Rines
No. Ten Post Office Square
Boston, Mass. 02109

Re: University of Illinois v. Blonder-Tongue et al

Dear Mr. Rines:

At the hearing this morning Judge Hoffman set the trial of our case over until May 16. Just prior to that he had a hearing on the antitrust case that precedes us and the trial of which he reset for May 15 advising counsel that it might not be reached on that date or for some time thereafter.

This antitrust case is the one I referred to previously. There is no hope of settlement. If it goes on trial it will take somewhere between a week and five weeks, and we will maintain our place behind it. It is therefore most unlikely that we will get on trial before June even if the antitrust case does start on the 15th.

Additionally, there are criminal cases on Judge Hoffman's docket which will take precedence over the antitrust case as it is a civil suit and there is therefore the possibility that our case won't go to trial until fall.

All we can do is keep in touch with the cases ahead of us and from time to time will let you know what the situation is.

Sincerely,



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MAY 2 - 1967

RINES AND RINES
NO. TEN POST OFFICE SQUARE, BOSTON

JRA:DB

LAW OFFICES

HOFGREN, WEGNER, ALLEN, STELLMAN & McCORD

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WILLIAM R. McNAIR
JOHN P. MILNAMOW
DILLIS V. ALLEN
W. A. VAN SANTEN, JR.
JOHN R. HOFFMAN

April 28, 1967 *Ent.*

Mr. Robert H. Rines
Rines and Rines
No. Ten Post Office Square
Boston, Massachusetts 02109

Dear Bob:

I didn't find anything particularly startling in the Foundation's or JFD's trial briefs. There are a couple of places where JFD gets a little sloppy and refers to the development of the log periodic "principle" by the University.

With regard to the Blonder patent, JFD is placing a great deal of reliance on technical report TR 52. Do you have a copy of this? We do not. I am sure I can get a copy from Pete Mann if they have an extra or at least borrow one so that it can be duplicated. Do you have copies of the other publications listed in the notices from JFD? If you would like me to get them, let me know.

Very truly yours,

Dick

Richard S. Phillips

RSP:iag

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MAY 1 1967
RINES AND RINES
NO. TEN POST OFFICE SQUARE, BOSTON

LAW OFFICES

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JOHN R. HOFFMAN

April 27, 1967 *Ent*

Mr. Robert H. Rines
Rines and Rines
No. Ten Post Office Square
Boston, Massachusetts 02109

Dear Bob:

Pete Mann called with regard to their possible use of Ron Grant as a witness at the trial. The sole purpose of his testimony will be to identify some documentary records of performance tests of Blonder-Tongue antennas. Grant supervised the tests which were made at the JFD lab in Champaign. Someone else, probably Mayes, will testify regarding the meaning of the results. Pete wonders if you will accept the test results without Grant's testimony. He says that Mayes can testify with regard to the equipment and procedures which were used, but that he did not direct these specific tests.

I am picking up today the depositions and trial testimony of Lawler and Marjorie Johnson and possibly a copy of a Collins technical report. Do you want me to send you copies of all of it or should I merely hold it until we get together?

Very truly yours,



Richard S. Phillips

RSP:lag

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MAY 1 1967

RINES AND RINES
NO. TEN POST OFFICE SQUARE, BOSTON

En

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

THE UNIVERSITY OF ILLINOIS FOUNDATION,

Plaintiff and
Counterclaim Defendant,

- v -

BLONDER-TONGUE LABORATORIES, INC.,

Defendant and
Counterclaimant,

- v -

JFD ELECTRONICS CORPORATION,

Counterclaim Defendant.

Civil Action

No. 66 C 567

S T I P U L A T I O N

For the purpose of this suit, it is stipulated that:

1. Soft copies of patents, or reproductions thereof, reproductions of publications and of documents may be introduced in evidence in lieu of the originals, with the understanding that the originals, if available to one of the parties, will be produced for inspection upon request.

2. Dated documents and records will be presumed to have been made on the date thereof and publications will

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NO. TEN POST OFFICE SQUARE, BOSTON

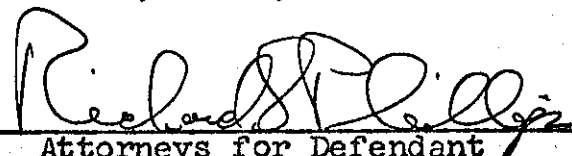
be presumed to have been published on the date thereof, unless the contrary be shown.

HOFGREN, WEGNER, ALLEN, STELLMAN & McCORD

Chicago, Illinois

April 21, 1967

By



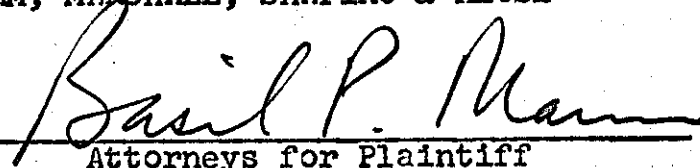
Attorneys for Defendant
and Counterclaimant
20 North Wacker Drive
Chicago, Illinois 60606

MERRIAM, MARSHALL, SHAPIRO & KLOSE

Chicago, Illinois

April 24, 1967

By



Attorneys for Plaintiff
and Counterclaim Defendant
30 West Monroe Street
Chicago, Illinois 60603

SILVERMAN & CASS

Chicago, Illinois

April 26, 1967

By



Attorneys for Counterclaim Defendant
105 West Adams Street
Chicago, Illinois 60603

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WILLIAM R. McNAIR
JOHN P. MILNAMOW
DILLIS V. ALLEN
W. A. VAN SANTEN, JR.
JOHN R. HOFFMAN

April 28, 1967 *Ent.*

Mr. Robert H. Rines
Rines and Rines
No. Ten Post Office Square
Boston, Massachusetts 02109

Dear Bob:

* I enclose copies of the JFD charts in full color,
as they will be presented in court. We received only one
colored set but I thought it would be of more use to you
than to me.

Very truly yours,



Richard S. Phillips

RSP:iag

* Enclosures

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MAY 1 1967
RINES AND RINES
NO. TEN POST OFFICE SQUARE, BOSTON

McNENNY, FARRINGTON, PEARNE & GORDON
920 MIDLAND BUILDING
CLEVELAND, OHIO 44115

April 27, 1967

Richard S. Phillips, Esq.
Hofgren, Wegner, Allen, Stellman & McCord
20 North Wacker Drive
Chicago, Illinois 60606

Re: UIF v. BT v. JFD

Dear Dick:

Many thanks for your letter of April 25th and the enclosed copy of the trial brief on behalf of Blonder-Tongue. I am pleased with the content and impressed with the crispness of its presentation.

Sincerely,



JFP:jmc

cc: Robert H. Rines, Esq.

RECEIVED

APR 29 1967

RINES AND RINES
NO. TEN PDS. CLEVELAND, OHIO

C
O
P
Y

McNENNY, FARRINGTON, PEARNE & GORDON

ATTORNEYS AT LAW

920 MIDLAND BUILDING

CLEVELAND, OHIO 44115

F. O. RICHEY (1878-1964)

HAROLD F. McNENNY
DONALD W. FARRINGTON
JOHN F. PEARNE
CHARLES B. GORDON
WILLIAM A. GAIL
RICHARD H. DICKINSON, JR.
THOMAS P. SCHILLER

LYNN L. AUGSPURGER
STANLEY R. MILLER

TELEPHONE
(216) 623-1040
CABLE ADDRESS
RICHEY

PATENT AND
TRADEMARK LAW

LLOYD L. EVANS
OF COUNSEL

April 25, 1967

Suit

RECEIVED

APR 27 1967

RINES AND RINES
NO. TEN POST OFFICE SQUARE, BOSTON

Robert H. Rines, Esq.
Rines & Rines
10 Post Office Square
Boston, Massachusetts

Re: The Finney Company v. JFD Electronics
Corporation et al., Civil Action Nos.
65 C 220 and 65 C 671 (Consol.)

Dear Bob:

Thank you for your longhand note from Miami acknowledging receipt of an advance copy of our Motion for Summary Judgment and supporting memorandum. Since sending you that material, we have slightly revised the motion itself and considerably revised the supporting memorandum. Both were filed in Court yesterday, together with the various exhibits referred to therein.

After discussing the above with Dick Phillips by telephone this morning, I am sending you herewith the following:

1. Revised Motion for Summary Judgment
2. Revised memorandum in support of the motion
3. Motion Exhibits PX-H, PX-I, PX-1A, PX-3, PX-12, and PX-27.

I previously sent you copies of PX-C, PX-D, PX-F, PX-G, PX-15, PX-34, and PX-35. I am not sending you copies of the patents in suit that are attacked by the motion

April 25, 1967

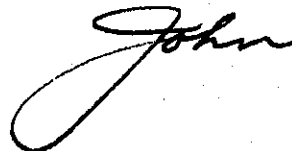
or the three prior art patents referred to in the motion (PX-A, PX-B, PX-31, PX-32, and PX-33). I am also not duplicating or sending to you copies of the printed University of Illinois reports or file histories of the patents in suit that are attacked by the motion (PX-4, PX-5, PX-17, PX-29, PX-30, and PX-36), or a copy of the IRE Transactions article constituting a file wrapper reference against Isbell (PX-28), on the assumption that you have copies of those documents. I also am not sending you a copy of the Lawler deposition (PX-E) or of the testimony of Johnson and Lawler in the Winegard suit (PX-DD and PX-EE) which Dick Phillips will reproduce by borrowing the copies from Winegard's Chicago counsel, Keith Kulie.

The Stipulation, PX-C, on substantive matters and the additional Stipulation on formal matters included in the Appendix at the end of our memorandum in support of our motion were both executed by counsel for all three parties to our suit.

I hope that by now I have supplied you with everything in my possession that may be useful to you in your suit. If not, please let me know.

If possible, I would like to arrange to sit as an observer at the trial of your suit, so that I may benefit as much as possible if and when our own suit should come to trial. To the extent that any questions arise in the course of your trial on which I might be of any further help, or on which I might have any useful evidentiary material, I would want you to feel free to call on me. So I can make my plans accordingly, I would greatly appreciate being advised by you or Dick as soon as a definite or prospective trial date has been set. In the meantime, if you believe I might have anything helpful in connection with your preparation for trial, please let me know and we can arrange to get together again for that purpose.

Sincerely,



JFP:jh

Enclosures

cc: Richard S. Phillips, Esq.

LAW OFFICES

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JOHN R. HOFFMAN

April 25, 1967

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APR 26 1967

RINES AND RINES
NO. TEN POST OFFICE SQUARE, BOSTON

Mr. Robert H. Rines
Rines and Rines
No. Ten Post Office Square
Boston, Massachusetts 02109

RE: UIF v. BT v. JFD

Dear Bob:

* I enclose a copy of the trial brief as it was
filed. Jack and I made only a few minor changes in it.
I sent a copy to John Pearne.

Very truly yours,

Richard S. Phillips

Richard S. Phillips

RSP:iag

* Enclosure

LAW OFFICES

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April 25, 1967

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APR 26 1967

RINES AND RINES
NO. TEN POST OFFICE SQUARE, BOSTON

Mr. Robert H. Rines
Rines and Rines
No. Ten Post Office Square
Boston, Massachusetts 02109

RE: UIF v. BT v. JFD

Dear Bob:

* I enclose copies of the trial briefs for the Foundation and JFD, together with some charts from JFD. I have not yet had an opportunity to read them, but will comment later.

Very truly yours,

Richard S. Phillips

RSP:iag

* Enclosures

LAW OFFICES

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WILLIAM R. McNAIR
JOHN P. MILNAMOW
DILLIS V. ALLEN
W. A. VAN SANTEN, JR.
JOHN R. HOFFMAN

April 24, 1967

VIA AIR MAIL

Mr. Robert H. Rines
Flamingo Lodge
Evergreen National Park, Florida

Dear Bob:

Pete Mann has asked that we advise him as soon as possible which of the many pieces of prior art identified in the list of exhibits you intend to rely on at the trial. Can you cut the list down a bit?

Very truly yours,

Richard S. Phillips

RSP:iag

cc: Mr. R. H. Rines, Boston

RECEIVED

APR 26 1967

RINES AND RINES
NO. TEN POST OFFICE BOSTON, MASS.

LAW OFFICES

HOFGREN, WEGNER, ALLEN, STELLMAN & MCCORD

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WILLIAM R. MCNAIR
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DILLIS V. ALLEN
W. A. VAN SANTEN, JR.
JOHN R. HOFFMAN

April 24, 1967

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APR 25 1967

RINES AND RINES
NO. TEN POST OFFICE BOSTONMr. Robert H. Rines
Flamingo Lodge
Everglades National Park
FloridaRe: UIF v. BT v. JFD

Dear Mr. Rines:

This morning we appeared before Judge Hoffman while Pete Mann presented his motion with regard to the order of trial. Judge Hoffman was initially reluctant to sign the order but, after Pete assured him that this was not intended in any way to limit the Judge's discretion in the matter, he signed it. I then advised him of the Iowa case and he thanked me for it but said that he might be interested in reading the decision of the Judge but would obviously not be bound by it and therefore the trial would go on as planned. I then told him about the cases before Judge Lynch and, inasmuch as the motion for summary judgment hasn't as yet been filed, I saw no point in even mentioning it, particularly as the Judge quickly interposed with the comment that this would not affect the trial date.

We had previously checked with the clerk with regard to the likelihood of our going on trial. He gave us the same information as is contained in the attached letter from Mike Cass about which I told you last Friday and a copy of which has been sent to your Boston office.

In addition to the information contained in this letter, we find that the criminal case in which the Syndicate is involved was started last week, will continue through this week and may go partly or all the way through next week. This will probably mean that the cases that are set for trial this week will go ahead of us on the list so we just have no idea of where we are. Pete Mann and I will go in and see Judge Hoffman's clerk on Thursday and at that time will take down a list of all

Mr. Robert H. Rines
April 24, 1967
Page No. 2

the cases that are ahead of us and will split up these cases in order to discuss with the lawyers involved whether or not they will go to trial, how long the trial will last, etc.

In other words, by Thursday we should have a pretty general idea as to when we are going to trial. It seems most likely that we won't go to trial on May 1st or during that week. However, there is no point at this time in asking for a new date as the Judge just won't hear us until the situation is better known. As a matter of fact, somebody tried it this morning and got nowhere.

Please let me know where you will be on Thursday so I can communicate with you.

Yours very truly,

HOFGREN, WEGNER, ALLEN, STELLMAN & McCORD

John Rex Allen

JRA:DB
Enc.

cc: Rines and Rines
Boston, Mass.

P.S. The draft of your brief just arrived. Dick and I are working on it.

LAW OFFICES

HOFGREN, WEGNER, ALLEN, STELLMAN & McCORD

20 NORTH WACKER DRIVE
CHICAGO 60606

April 21, 1967

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W. A. VAN SANTEN, JR.
JOHN R. HOFFMAN

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APR 24 1967

RINES AND RINES
NO. TEN POST OFFICE BOSTON

Mr. Basil P. Mann
Merriam, Marshall, Shapiro & Klose
30 West Monroe Street
Chicago, Illinois 60603

RE: UIF v. BT v. JFD

Dear Pete:

* I am returning herewith two executed copies of the stipulation regarding the COLOR RANGER 10 and GOLDEN DART antennas.

Very truly yours,

Richard S. Phillips

RSP:iag

* Enclosures

cc: Mr. Robert H. Rines (*)

LAW OFFICES

Silverman & Cass

PATENTS · TRADEMARKS · COPYRIGHTS

105 W. ADAMS STREET · CHICAGO, ILLINOIS, U. S. A. 60603

I. IRVING SILVERMAN
MYRON C. CASS
SIDNEY N. FOX
GERALD R. HIBNICK, IND. BAR

TELEPHONE 726-6006
AREA CODE 312
CABLE: SILCAS

April 20, 1967

Our Ref. 6-418

Jerome M. Berliner, Esq.
Ostrolenk, Faber, Gerb & Soffen
Ten East Fortieth Street
New York, New York 10016

Entd

Re: UIF v. B-T v. JFD
No. 66 C 567

Dear Jerry:

I ascertained from Judge Hoffman's Clerk that as of today there are four cases ahead of us on the list of cases to which we were assigned and that there are eight cases remaining from the previous list to which we were added. These latter eight cases will be called during the coming week so that by Thursday, we should have a better idea where we stand for trial.

I further ascertained that there are two criminal cases set for trial on May 1st. There is a judicial conference scheduled for May 8th and 9th so there will be no convening of the Court on those days.

As of this time, it does not appear that we will be called for trial on May 1st. Judge Hoffman's Clerk told me, however, that he will try to give us a more definite time approximation by Thursday, April 27th.

Best regards,

SILVERMAN & CASS

Mike Cass

MCC/gm

cc: Basil P. Mann, Esq.
Richard S. Phillips, Esq. ✓

Verail copy to R.S.P. 4/21/67

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNIVERSITY OF ILLINOIS FOUNDATION,)
Plaintiff and)
Counterclaim Defendant,)

v.)

BLONDER-TONGUE LABORATORIES, INC.,)
Defendant and)
Counterclaimant,)

v.)

JFD ELECTRONICS CORPORATION,)
Counterclaim Defendant.)

Civil Action No.

66 C 567

STIPULATION

IT IS HEREBY STIPULATED AND AGREED by and be-
tween plaintiff and defendant Blonder-Tongue, by their
undersigned counsel, that:

1. For purposes of this lawsuit, the Blonder-
Tongue antenna identified as "Color Ranger-10" shall be
considered representative of Blonder-Tongue's series of
"Color Ranger" antennas consisting of Models Color Ranger-3,
Color Ranger-5, Color Ranger-7, Color Ranger-10 and Color-
Ranger-15. The Court's decision of infringement or non-
infringement by Color Ranger-10 shall apply also to the
other models of the Color Ranger series without individual
consideration of these other models.

2. Similarly, defendant Blonder-Tongue's "Golden Dart" outdoor antenna shall be considered to represent also the indoor "Golden Arrow" antenna. The Court's decision of infringement or noninfringement applicable to the "Golden Dart" shall apply also to the "Golden Arrow" without individual consideration of the latter antenna.

HOFGREN, WEGNER, ALLEN, STELLMAN
& McCORD

Richard S. Allen

Attorneys for Defendant
Blonder-Tongue Laboratories, Inc.

April 21, 1967

MERRIAM, MARSHALL, SHAPIRO & KLOSE

Basil P. Mann

Attorneys for Plaintiff
University of Illinois Foundation

April 20, 1967

PROOF OF SERVICE

A copy of the foregoing "STIPULATION" was mailed this ____ day of _____, 1967 to Silverman & Cass, 105 West Adams Street, Chicago, Illinois, Attorneys for Counterclaim Defendant JFD Electronics Corporation.

One of the Attorneys for The
University of Illinois Foundation

Eud

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

THE UNIVERSITY OF ILLINOIS FOUNDATION,)

Plaintiff and
Counterclaim Defendant,)

v.)

BLONDER-TONGUE LABORATORIES, INC.)

Defendant and
Counterclaimant,)

v.)

JFD ELECTRONICS CORPORATION,)

Counterclaim Defendant.)

CIVIL ACTION NO.

66 C 567

NOTICE OF MOTION

- TO:
- (1) HOFGREN, WEGNER, ALLEN, STELLMAN & McCORD
20 North Wacker Drive
Chicago, Illinois 60606
Attorneys for Blonder-Tongue Laboratories,
Inc. and
 - (2) SILVERMAN & CASS
105 West Adams Street
Chicago, Illinois 60603
Attorneys for JFD Electronics Corporation

PLEASE TAKE NOTICE that plaintiff will appear be-
fore the Honorable Julius J. Hoffman, United States District
Judge, or before any other Judge who may be sitting in his
stead, on Monday, April 24, 1967, at 10 a.m., to present the

attached "Motion for Order Setting Sequence of Proof at Trial".

MERRIAM, MARSHALL, SHAPIRO & KLOSE

By

Basil P. Mann
A Member of the Firm
Attorneys for Plaintiff
30 West Monroe Street
Chicago, Illinois 60603
Area Code 312 - 346-5750

DATE: _____

ACKNOWLEDGMENT OF SERVICE

Receipt of a copy of the foregoing "Notice of Motion" and the attached "Motion for Order Setting Sequence of Proof at Trial" is hereby acknowledged this ___ day of April, 1967.

HOFGREN, WEGNER, ALLEN, STELLMAN & McCORD

By

Attorneys for Defendant and Counterclaimant

ACKNOWLEDGMENT OF SERVICE

Receipt of a copy of the foregoing "Notice of Motion" and the attached "Motion for Order Setting Sequence of Proof at Trial" is hereby acknowledged this ___ day of April, 1967.

SILVERMAN & CASS

By

Attorneys for Counterclaim Defendant

Exd.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

THE UNIVERSITY OF ILLINOIS FOUNDATION,)
)
) Plaintiff and)
) Counterclaim Defendant,)
)
) v.)
)
) BLONDER-TONGUE LABORATORIES, INC.)
)
) Defendant and)
) Counterclaimant,)
)
) v.)
)
) JFD ELECTRONICS CORPORATION,)
)
) Counterclaim Defendant.)

CIVIL ACTION NO.
66 C 567

MOTION FOR ORDER SETTING SEQUENCE
OF PROOF AT TRIAL

In the interest of facilitating the conduct of the trial and possibly reducing its length, plaintiff moves for a pretrial order establishing the sequence in which proof on the several issues is to be presented at the trial.

This case presents several different issues raised by the complaint and by defendant Blonder-Tongue's counterclaim, which may be summarized as follows:

1. The Complaint raises the issue of the validity and infringement by defendant Blonder-Tongue of patents 3,210,767 and Re. 25,740 owned by plaintiff.

2. The Counterclaim by Blonder-Tongue raises the issues of:

(a) Unfair competition and anti-trust violation by counterclaim defendant JFD Electronics Corporation and plaintiff.

(b) Validity and infringement by counterclaim defendant JFD and plaintiff of patent 3,259,904 owned by defendant Blonder-Tongue.

The several issues set forth above are only incidentally related, if at all, and consideration of each of them on an individual basis is both feasible and likely to facilitate the orderly conduct of the trial. The facts relative to each of the issues are easily separable. In addition, only a few of the prospective witnesses are expected to testify on more than one of the issues. The use of the sequence in the order of proof which is set out in the proposed Order attached hereto, not only would permit the evidence pertinent to each issue to be presented as a unit, thereby facilitating the Court's consideration thereof, but also would permit a more orderly scheduling of the witnesses to be called.

Respectfully submitted,

MERRIAM, MARSHALL, SHAPIRO & KLOSE

By

Basil P. Mann
A Member of the Firm
Attorneys for Plaintiff
30 West Monroe Street
Chicago, Illinois 60603

Chicago, Illinois
April , 1967

Entol

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

THE UNIVERSITY OF ILLINOIS FOUNDATION,)

Plaintiff and
Counterclaim Defendant,)

v.)

BLONDER-TONGUE LABORATORIES, INC.)

Defendant and
Counterclaimant,)

v.)

JFD ELECTRONICS CORPORATION,)

Counterclaim Defendant.)

CIVIL ACTION NO.

66 C 567

ORDER SETTING SEQUENCE OF
PROOF AT TRIAL

This matter having come before the Court on the motion of plaintiff and the Court having considered the same, in the interest of facilitating the conduct of the trial, IT IS HEREBY ORDERED that the order of proof at the trial will be as follows:

1. Plaintiff's proof on background of invention and infringement by defendant Blonder-Tongue of patents 3,210,767 and Re. 25,740.

2. Defendant Blonder-Tongue's proof on invalidity and non-infringement of patents 3,210,767 and Re. 25,740.

3. Rebuttal by plaintiff.
4. Defendant Blonder-Tongue's proof on the issues raised in its counterclaim:
 - (a) Unfair competition and anti-trust violation by counterclaim defendant JFD and plaintiff.
 - (b) Infringement by counterclaim defendant JFD and plaintiff of patent 3,259,904.
5. Proof by plaintiff and counterclaim defendant JFD on issues of:
 - (a) Unfair competition and anti-trust violation.
 - (b) Invalidity and non-infringement of patent 3,259,904.
6. Rebuttal by defendant Blonder-Tongue.

The above sequence shall be adhered to as far as is reasonably feasible, but it is not to be construed as requiring witnesses to make several appearances merely in order to maintain the specified order of presentation.

ENTERED:

United States District Court Judge

Date:

JULIUS E. FOSTER
COUNSELLOR AT LAW
5 LEXINGTON AVENUE
NEW YORK, N. Y. 10017

TELEPHONE
(212) [REDACTED]
889-4608

M E S S A G E

R E P L Y

TO

RHR
V of All v B-V

DATE

DATE

April 17 - 67

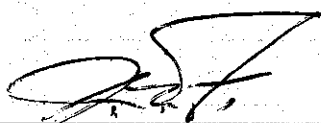
Enclosed:

Stk of Facts
rec'd from Berlin
for sign by R.H.R.

RECEIVED
APR 18 1967
RINES AND RINES
NO. TEN POST OFFICE SQUARE, BOSTON

Taken Care of
in NY

SIGNED



SIGNED

RINES AND RINES

ATTORNEYS AT LAW

NO. TEN POST OFFICE SQUARE
BOSTON, MASSACHUSETTS 02109

DAVID RINES
ROBERT H. RINES

February 24, 1967

OSTROLENK, FABER, GERB & SOFFEN			
✓ SEEN BY		O RETURN TO	
	S.O.	S.G.F. CABLE SENIR	
	B.G.	TELEPHONE HUBBARD 2-3289	
		M.S.S.	
DUE DATE	FEB 24 1967		OK TO FILE
	M.S.P.	S.H.W.	
	J.M.B.	L.W.	
	S.J.F.	M.S.G.	
	S.D.	R.C.F.	

Jerome M. Berliner, Esq.
Ostrolenk, Faber, Gerb & Soffen
Ten East Fortieth Street
New York, New York 10016

Re: UIF v. B-T v. JFD -66-C-567

Dear Jerry:

We are prepared to assist you in avoiding the necessity of taking testimony in the specific matters and statements contained in the second and third paragraphs of your letter of February 20, 1967, and are willing to stipulate to the authenticity of Ex. J-53 and to the statements that you say Mr. Field would testify to, contained in the third paragraph of your letter. It should be clearly understood, however, that we are not agreeing to any facts or details other than the specific statements above-referred to.

Very truly yours,

RINES AND RINES

RHR:H

cc: R. Phillips, Esq.

By Robert H. Rines
X.

IS ELEMENT
FOUND IN OLD
LPV-VU &
LPV-TV?

YES

YES

YES

YES

YES

YES

YES

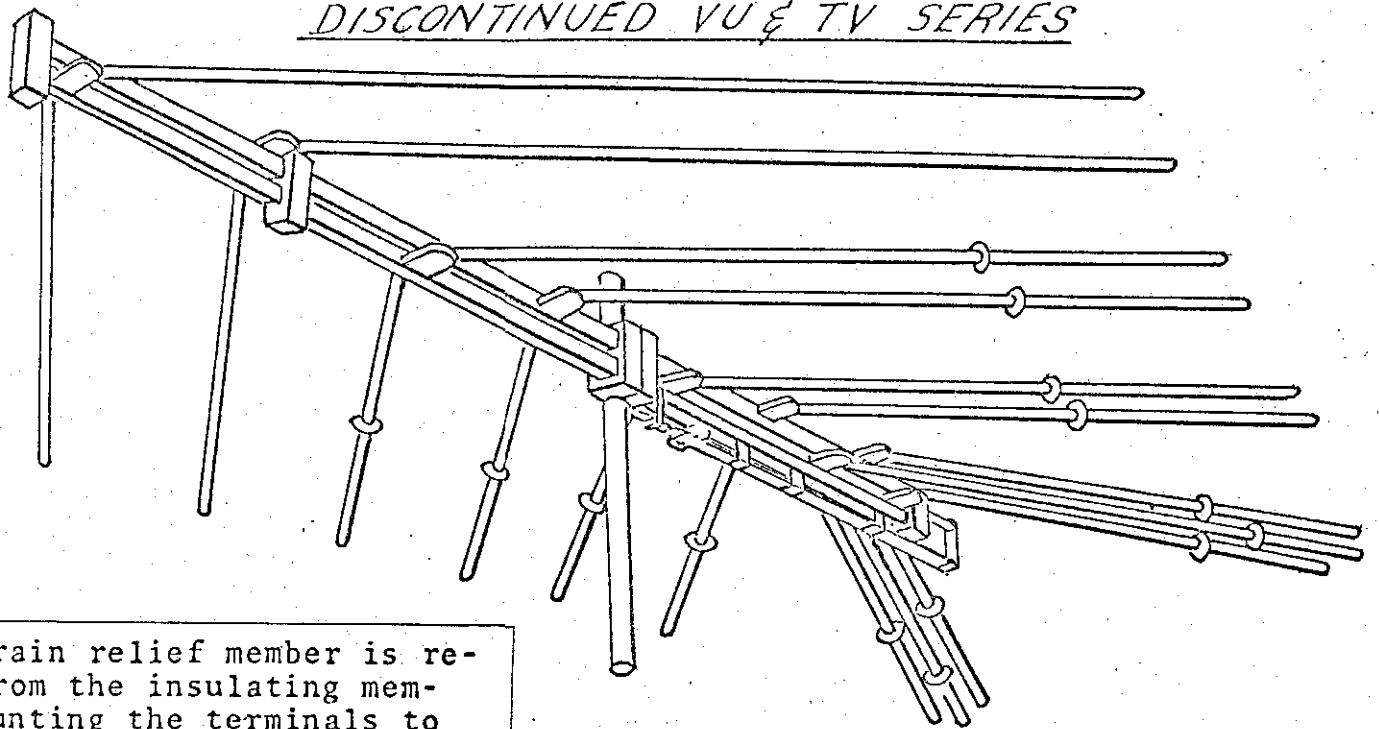
NO

YES

NO

YES

DISCONTINUED VU & TV SERIES

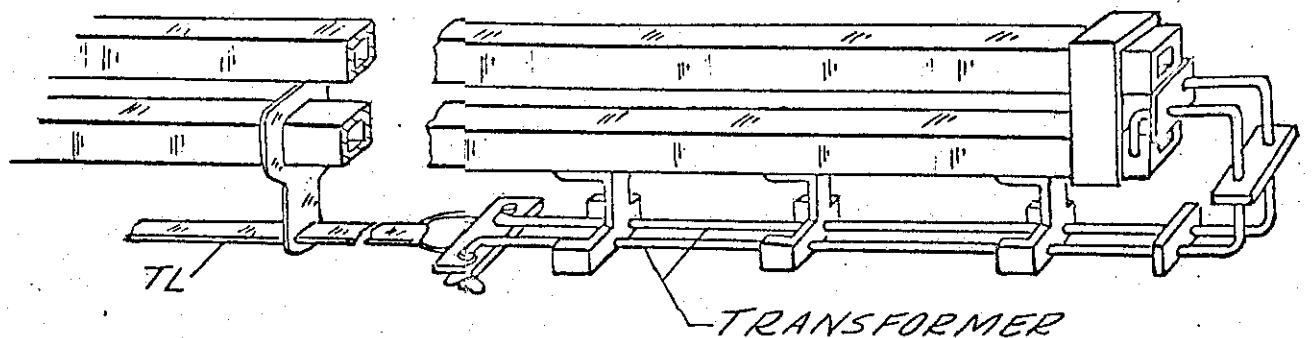


LPV-VU9

The strain relief member is remote from the insulating member mounting the terminals to which the transmission line connects. Hence, the strain relief and insulating members are no more connected together than each member of the antenna is "connected" to every other member by virtue of the fact that the antenna is a mechanical assembly of parts. Note that the Blonder et al strain relief 2' is integral with insulator 2 while in the JFD antenna the strain relief member is spaced from the member mounting the transmission line connecting terminals.

Further, the conductors forming an impedance matching transformer bring the transmission line connecting terminals to a point remote from "said one end of the conductors" and the strain relief for the transmission line connected to these terminals is even more remote from "said one end" than are these terminals.

There is no rigid insulating means other than claim element 5 in the region where the antenna mounts to the mast.



IS ELEMENT
FOUND IN
NEW LPV-TV?

YES

YES

YES

YES

YES

YES

YES

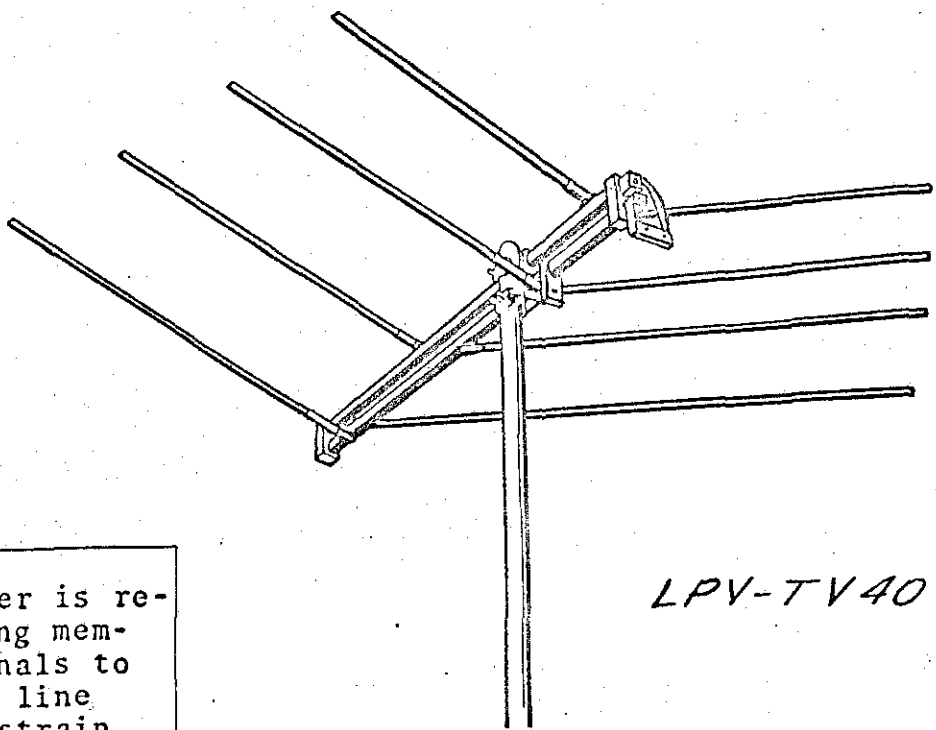
NO

YES

NO

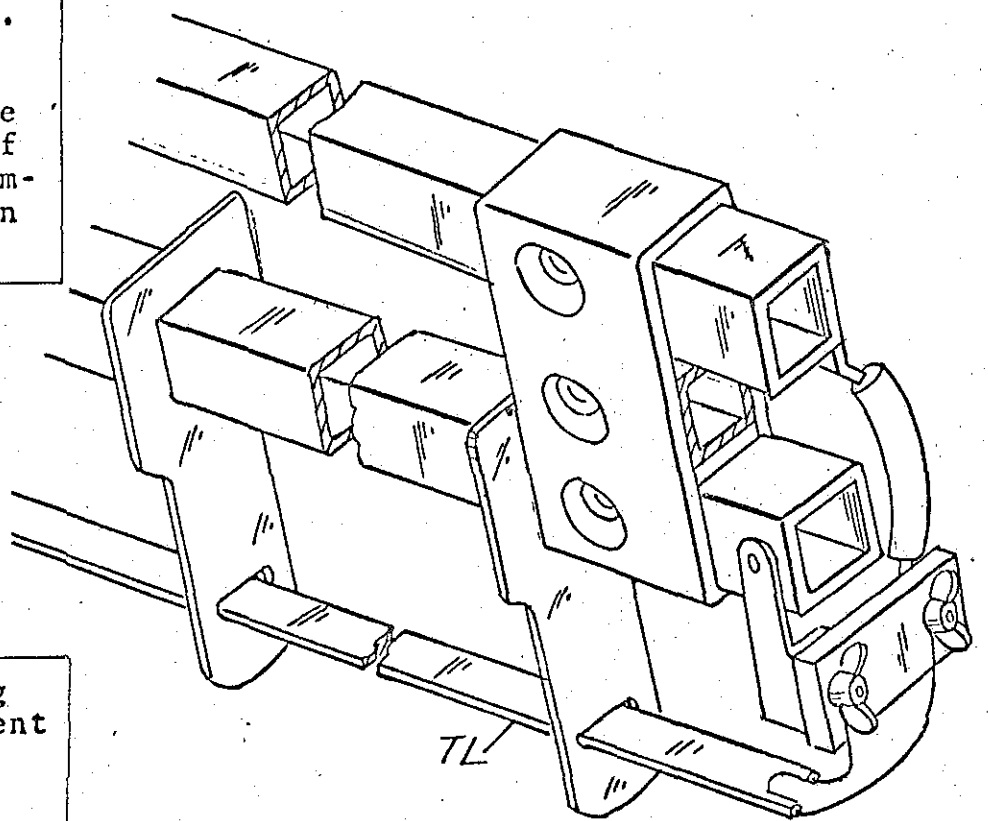
YES

CURRENT TV SERIES



LPV-TV 40

The strain relief member is remote from the insulating member mounting the terminals to which the transmission line connects. Hence, the strain relief and insulating members are no more connected together than each member of the antenna is "connected" to every other member by virtue of the fact that the antenna is a mechanical assembly of parts. Note that the Blonder et al strain relief 2' is integral with insulator 2 while in the JFD antenna the strain relief member is spaced from the member mounting the transmission line connecting terminals.



There is no rigid insulating means other than claim element 5 in the region where the antenna mounts to the mast.

IS ELEMENT
FOUND IN NEW
LPV-VU?

YES

YES

YES

YES

YES

YES

YES

NO

YES

NO

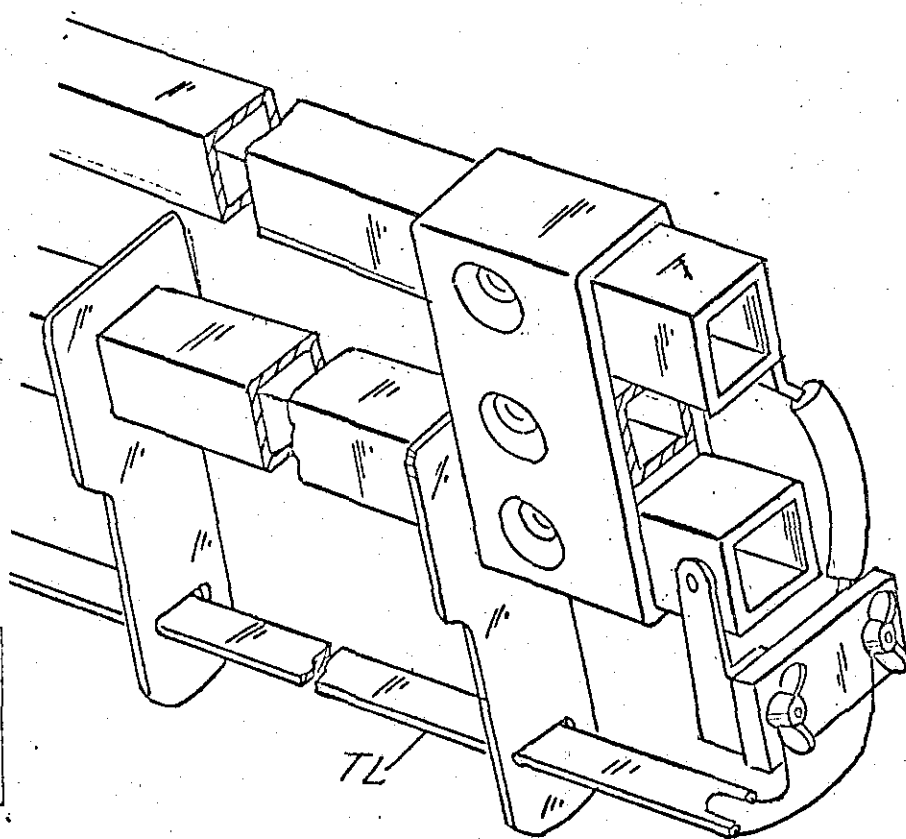
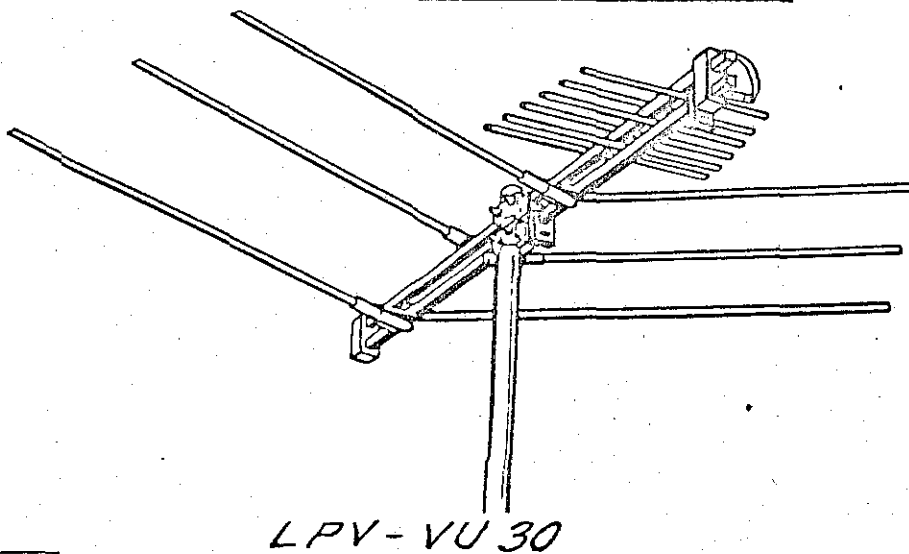
NO

The strain relief member is remote from the insulating member mounting the terminals to which the transmission line connects. Hence, the strain relief and insulating members are no more connected together than each member of the antenna is "connected" to every other member by virtue of the fact that the antenna is a mechanical assembly of parts. Note that the Blonder et al strain relief 2' is integral with insulator 2 while in the JFD antenna the strain relief member is spaced from the member mounting the transmission line connecting terminals.

There is no rigid insulating means other than claim element 5 in the region where the antenna mounts to the mast.

The spacing (center-to-center) between many of the successive points in the region of the teeth perpendicular to the longitudinal conductors is less than the spacing (center-to-center) between the longitudinal conductors.

CURRENT VU SERIES



JFD CHART 2C

IS ELEMENT
FOUND IN
LPV-CL?

YES

YES

YES

YES

YES

YES

YES

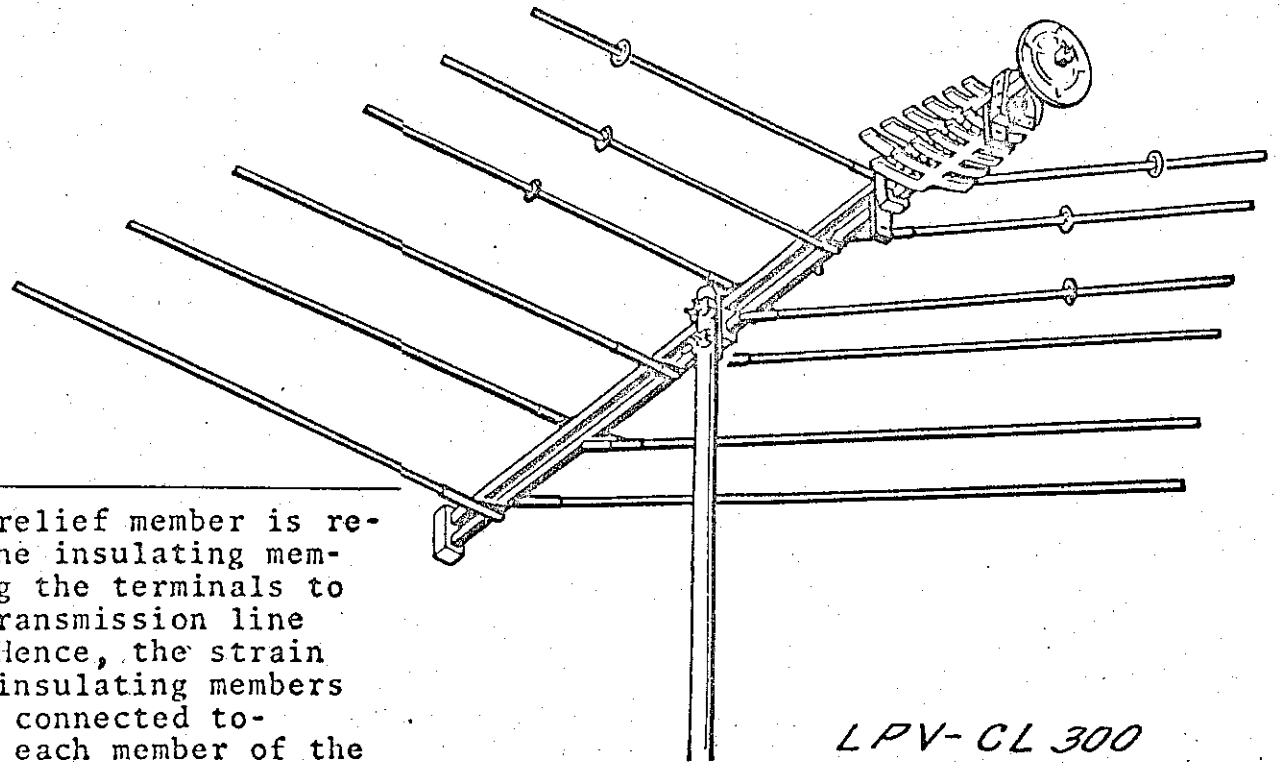
NO

YES

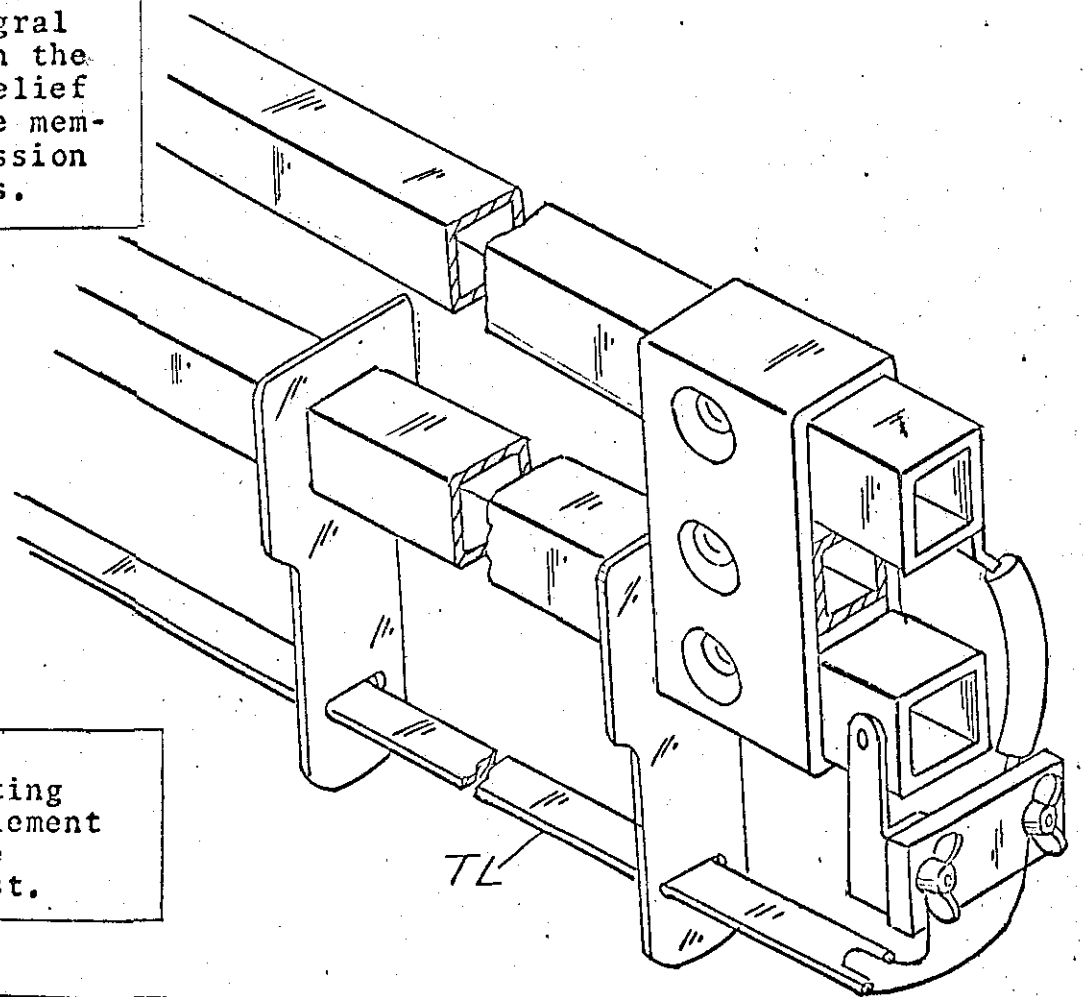
NO

NO

CL SERIES



The strain relief member is remote from the insulating member mounting the terminals to which the transmission line connects. Hence, the strain relief and insulating members are no more connected together than each member of the antenna is "connected" to every other member by virtue of the fact that the antenna is a mechanical assembly of parts. Note that the Blonder et al strain relief 2' is integral with insulator 2 while in the JFD antenna the strain relief member is spaced from the member mounting the transmission line connecting terminals.



There is no rigid insulating means other than claim element 5 in the region where the antenna mounts to the mast.

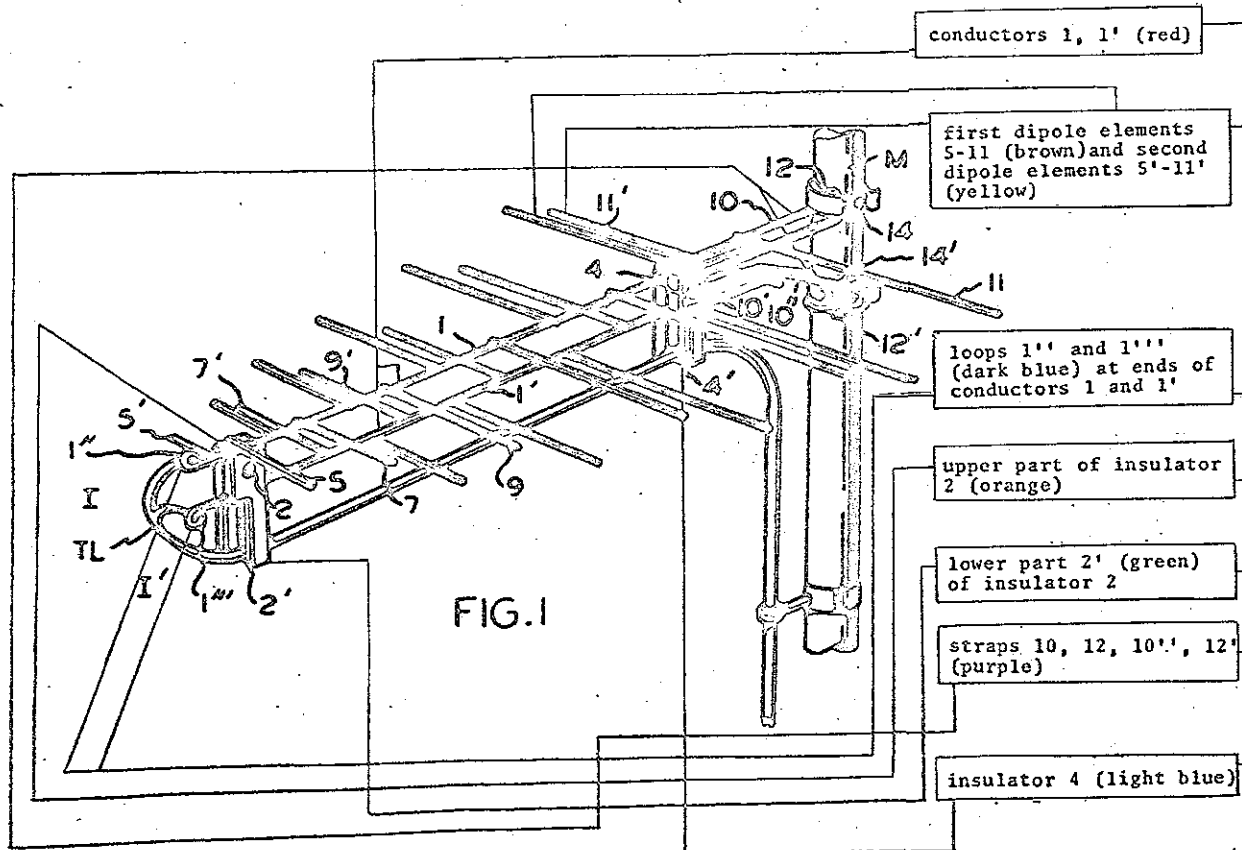
The vertical distance (center-to-center) between the longitudinal conductors is $2 \frac{3}{4}$ inches while the spacing (center-to-center) between the successive points in the region of the sheet metal teeth is less than $1 \frac{3}{4}$ inches.

JFD CHART 2B

July 5, 1966

I. S. BLONDER ET AL 3,259,904
 ANTENNA HAVING COMBINED SUPPORT AND LEAD-IN
 Filed Nov. 21, 1963

CHART SHOWING WHEREIN ELEMENTS OF CLAIM 5
 OF BLONDER ET AL PATENT 3,259,904
 ARE NOT FOUND IN JFD STRUCTURES



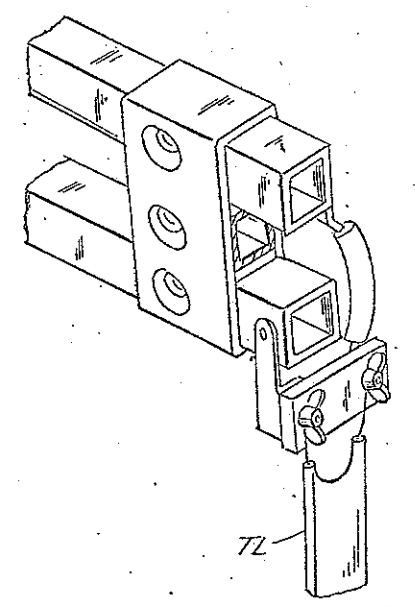
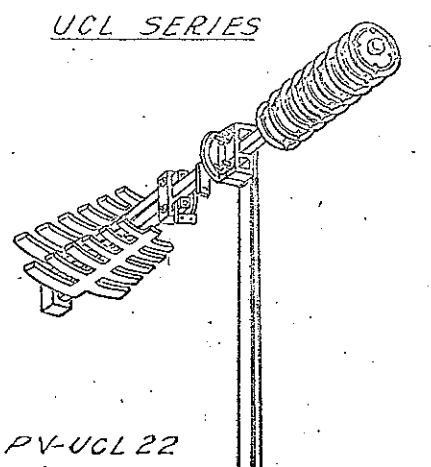
ELEMENT NO	ELEMENTS OF CLAIM 5 BLONDER ET AL PATENT 3,259,904	IS ELEMENT FOUND IN LPV-UCL?
INTRO	An antenna for operation over a predetermined frequency band, having, in combination,	YES
1	a pair or rigid longitudinal conductors held spaced a predetermined vertical distance apart in a vertical plane,	YES
2	first and second pluralities of dipole elements lying in corresponding first and second vertically spaced horizontal planes containing the respective conductors,	YES
2A	the dipole elements extending from opposite sides of and transversely at an angle to each conductor at successive points therealong with dipole elements connected to one conductor extending in opposite direction to the corresponding dipole elements of the other conductor,	YES
2B	the length of the dipole elements successively increasing from one end of the conductors towards the other end thereof,	YES
3	means for connecting a parallel-wire transmission line to the said one end of the conductors,	YES
4	rigid insulating means securing the said connecting means mechanically in spaced-apart relation	YES
4A	and connected with means for supporting the transmission line near the said one end,	NO
5	and means for mounting the antenna at a region of the said conductors remote from the said one end,	NO
6	further rigid insulating means being provided for securing the said longitudinal conductors mechanically in rigid spaced-apart relation near the said region,	NO
7	the said vertical distance being less than the distance between the said successive points and less than the wavelengths of the said band.	NO

The strain relief member is remote from the insulating member mounting the terminals to which the transmission line connects. Hence, the strain relief and insulating members are no more connected together than each member of the antenna is "connected" to every other member by virtue of the fact that the antenna is a mechanical assembly of parts. Note that the Blonder et al strain relief 2' is integral with insulator 2 while in the JFD antenna the strain relief member is spaced from the member mounting the transmission line connecting terminals.

No, for Models LPV-UCL 18, 22, 26 since each is mounted adjacent to the transmission line connecting points.

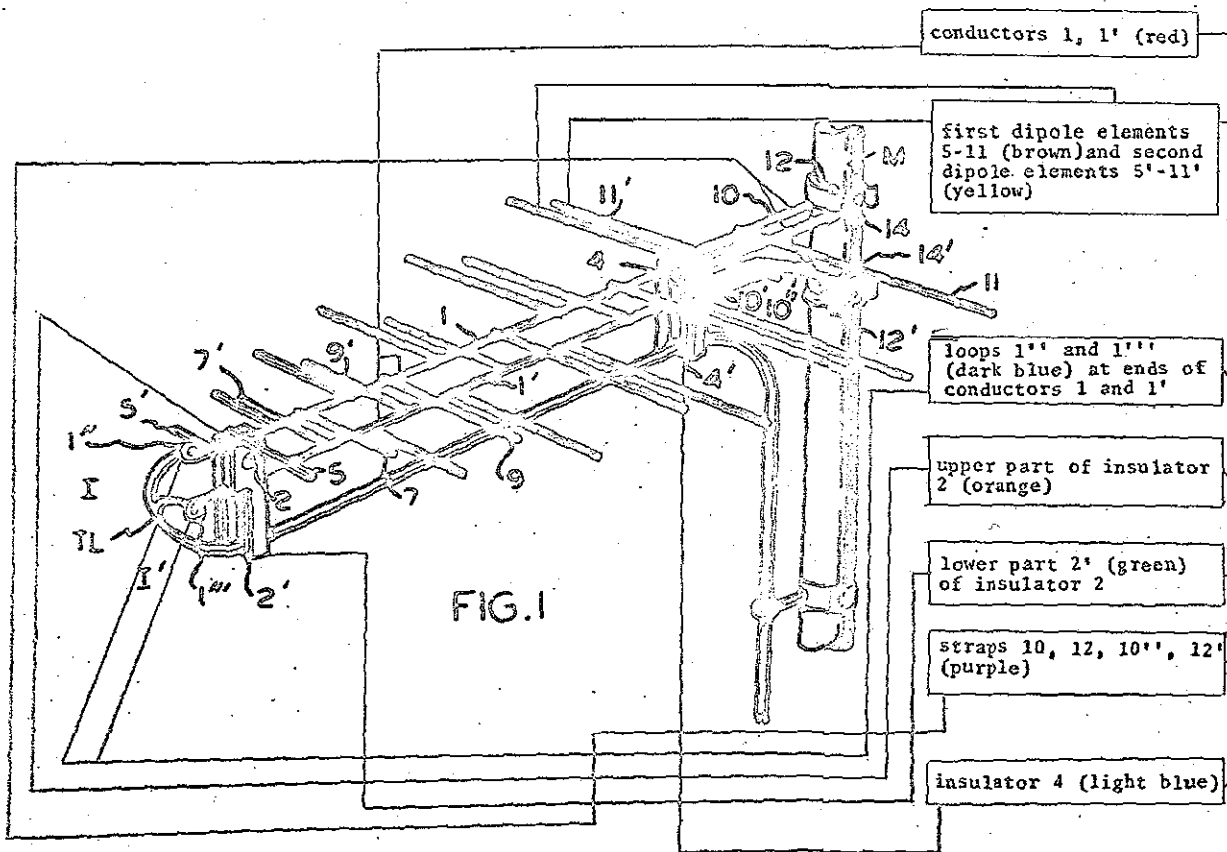
Detailed explanation depends upon the interpretation given by B-T.

The vertical distance (center-to-center) between the longitudinal conductors is 2 3/4 inches while in each instance the spacing (center-to-center) between successive points is less than 1 3/4 inches.

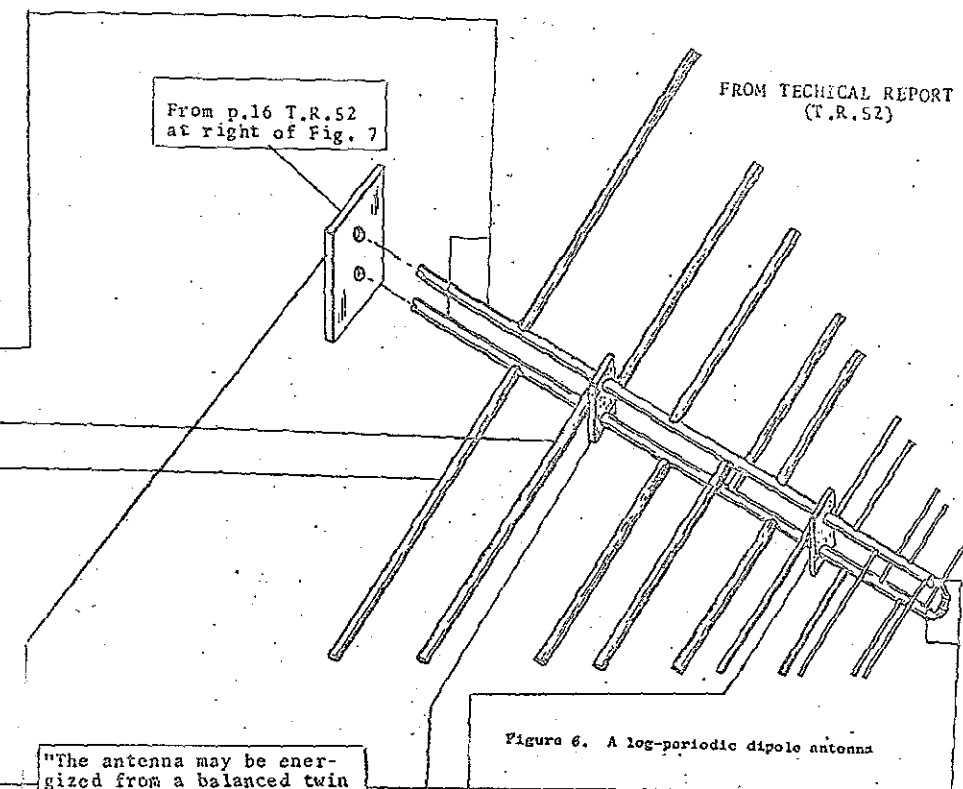


JFD CHARTS 2A-2E

JFD CHART 2A

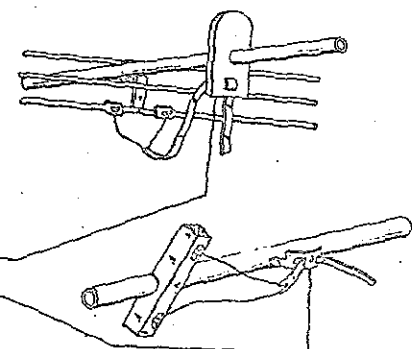


ELEMENT NO.	ANTICIPATION OF CLAIM 5 BY PRIOR ART (PARTICULARLY TECHNICAL REPORT 52)	IS ELEMENT FOUND IN T.R. 52?
INTRO	An antenna for operation over a predetermined frequency band, having, in combination,	YES
1	a pair or rigid longitudinal conductors held spaced a predetermined vertical distance apart in a vertical plane,	YES
2	first and second pluralities of dipole elements lying in corresponding first and second vertically spaced horizontal planes containing the respective conductors,	YES
2A	the dipole elements extending from opposite sides of and transversely at an angle to each conductor at successive points therealong with dipole elements connected to one conductor extending in opposite direction to the corresponding dipole elements of the other conductor,	YES
2B	the length of the dipole elements successively increasing from one end of the conductors towards the other end thereof,	YES
3	means for connecting a parallel-wire transmission line to the said one end of the conductors,	YES
4	rigid insulating means securing the said connecting means mechanically in spaced-apart relation	YES
4A	and connected with means for supporting the transmission line near the said one end,	NO, BUT
5	and means for mounting the antenna at a region of the said conductors remote from the said one end,	YES
6	further rigid insulating means being provided for securing the said longitudinal conductors mechanically in rigid spaced-apart relation near the said region,	YES
7	the said vertical distance being less than the distance between the said successive points and less than the wavelengths of the said band.	YES



"The antenna may be energized from a balanced twin wire connected at the junction of the feeder and smallest element. Alternatively, a coaxial line-- as shown in Figure 6 may be used.-- P. 18 T.R. 52.

it is obvious to provide an antenna with a strain relief member at any convenient location to support a transmission line where the latter electrically connects to an antenna as taught by the prior art as exemplified by:
 -- Line Lok
 -- Strain Relief on Zip Antenna



JFD CHART 1

~~Pearce~~
~~2/10/67~~

3/30/67

Internal report of U/2 - by Des Champ -
referred to 1/2 bicoloring Isbell insect
referred to report or April publication -

Ex 27 - Maps dep. -

Collins ^{publication.} - May 14, 1958 -
337, # 2

Research Project Report +
Eng Exp Station.
U/11.
6/12/59

→ Document 5336 ^{#7} - probably University

last line - p 29 report.

March 27, 1967

Mr. Basil P. Mann
Merriam, Marshall, Shapiro & Klose
30 West Monroe Street
Chicago, Illinois 60603

Mr. Myron C. Cass
Silverman & Cass
105 West Adams Street
Chicago, Illinois 60603

Gentlemen:

* In accordance with the pre-trial order, I enclose
a list of exhibits and a list of witnesses which Blonder-
Tongue presently contemplates presenting at the trial. If
any changes should be necessary, you will be informed
promptly.

Very truly yours,

Richard S. Phillips

RSP:iag

* Enclosures

cc: Mr. Robert H. Rines

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

THE UNIVERSITY OF ILLINOIS FOUNDATION,

Plaintiff and
Counterclaim Defendant,

- v -

BLONDER-TONGUE LABORATORIES, INC.,

Defendant and
Counterclaimant,

- v -

JFD ELECTRONICS CORPORATION,

Counterclaim Defendant.

CIVIL ACTION

NO. 66 C 567

EXHIBITS WHICH MAY BE OFFERED BY
BLONDER-TONGUE LABORATORIES, INC. AT TRIAL

Isbell Patent 3,210,767: its file wrapper, ~~XXXXXXXXXXXXXXXXXXXX~~
contents and cited
references

Mayes et al Patent 3,108,280: Its file wrapper,
contents and cited
references

Mayes et al Patent Re.25,470: its file wrapper,
contents and cited
references

Blonder Patent 3,259,904: its file wrapper,
contents and cited
references

U. S. PATENTS:

Kandoian	2,429,629	(8)
Wolff	2,433,804	(9)
Peterson	2,375,580	(10)
Katzin	2,192,532	(5)
Carter	2,149,726	(4)
Schwartz	2,817,085	(14)
Weiss	2,726,390	(13)
White	2,615,005	(12) (10037)
Kolster	2,580,798	(1)
Rowland	2,538,915	(16)
Carter	2,258,407	(6)
Godley	2,083,260	(2)
Carter	1,974,387	(2)
Koomans	1,964,189	(1)

FOREIGN PATENT:

German 729,912 January 5, 1943

PUBLICATIONS:

University of Illinois, Antenna Laboratory
Technical Report 52

Publication of Collins Radio Company entitled
Logarithmically Periodic Antennas
by duHamel and Ore, dated Mar. 31, 1958,
CTR-198

Radio Engineers Handbook, First Edition, Terman,
published by McGraw-Hill Book Company,
1943, pages 788, 807, 808

DEPOSITIONS OF THE FOLLOWING AND THE EXHIBITS IDENTIFIED THEREIN:

Hjalmar Johnson	Oct. 26, 1966
James ^W Colvin	Oct. 26, 1966
Isaac S. Blonder	Oct. ^{24, 25, 28} 1966
Paul E. Mayes	Oct. 27, 1966 and Dec. 14, 1966
Ronald D. Grant	Dec. 15, 1966
Edward Finkel	Nov. 1, 1966
Jerome ^N Balash	Feb. 17, 1967
Harry Gilbert	Feb. 7, 1967
Richard B. Helhoski	Feb. 17, 1967
Jerome I. Cohn	Feb. 17, 1967

Plaintiff's First, Second and Third Interrogatories and the Answers Thereto

Blonder-Tongue Interrogatories and the Answers Thereto

Transcript of Testimony, ^{and exhibits} Interrogatories and Answers, and Depositions and Exhibits^{thereto} in ^{University of Illinois}

Foundation v Wiegand, P. C. S. D. Iowa (Des Moines) Doc. 3-695-D

DOCUMENTS PRODUCED BY UNIVERSITY OF ILLINOIS FOUNDATION:

Paul E. Mayes Computation Book, November 15, 1960, Pages 1-26
Isbell disclosure documents (5254-5257)
Mayes and Carrel disclosure document (5287-5290)
Mayes request for Foundation support (5316)
Foundation action on request (A00389)
Foundation minutes reJFD license (A00382-A00386)
Proposed JFD ads (A00390-A00413)
Correspondence relating to JFD advertising (A00357-A00381)
Release of Mayes and Carrel invention from University of
Illinois to University of Illinois Foundation (5302)
JFD correspondence with Foundation regarding Blonder-Tongue
infringement (A00414-A00421)

DOCUMENTS PRODUCED BY JFD:

JFD Research and Development Laboratory progress reports
re UHF log periodic dipole antenna, January 18, 1963 through
March 9, 1963 (00250-00257)
Progress report, April 13, 1963
JFD-Mayes agreement (00258-00263)

LAW OFFICES
Silverman & Cass

PATENTS · TRADEMARKS · COPYRIGHTS

105 W. ADAMS STREET · CHICAGO, ILLINOIS, U. S. A. 60603

I. IRVING SILVERMAN
MYRON C. CASS
SIDNEY N. FOX
GERALD R. HIBNICK, IND. BAR

TELEPHONE 725-6006
AREA CODE 312
CABLE: SILCAS

February 2, 1967

Our Ref. 6-418

Richard S. Phillips, Esq.
Hofgren, Brady, Wegner, Allen,
Stellman & McCord
20 North Wacker Drive
Chicago, Illinois 60606

RECEIVED
FEB 3 1967
HOFGREN, WEGNER, ALLEN,
STELLMAN & McCORD

Re: UIF v. BT v. JFD - Civil Action No. 66 C 567

Dear Dick:

Continued search for materials which you requested has located blueprints of JFD antennas and parts therefor which are proposed to be used in attacking validity of the B-T patent in suit. With respect to the enclosed JFD drawings 52720, 52730 and 50451, I am advised that the drawings were made after each of the mechanical components illustrated had been designed and the tools built. Obviously, this would be long after the research and development work was done with respect to the components. I am advised that these assembly drawings would have been made sometime between nine months to one year after the original development of the project.

Per our agreement, dimensions of the antenna elements have been removed.

With respect to the enclosed JFD drawings 11881-0101 and 01201140, there is shown a strain relief member used since the middle of 1962 and is still in use on JFD antenna model 10Y1013G illustrated.

Very truly yours,
SILVERMAN & CASS

Myron C. Cass
Myron C. Cass

MCC/gm
Encl.
cc: Basil P. Mann, Esq.

Mann -

3/27/67

Does he have all -

Color Ranger ³ have several elements
only 3 on list. 2187-1G

- Don't have ^{invasion} for Ranger 15 -

Don't object to ~~XXXX~~ 1st two PS

handle others on piece meal basis -

38-41 - Inst sheet CFR 10

42 v. Ranger in sl.

47 How Fair to Daily -
News release

48 - BT employment agreement

51, 52 - JFD ad 4/9/60

53 - Memo. M + K + M + R → R

54 - Balash → Gilbert (Woods)

55 - 14 - 1941 -

56 14 1941 -

Witnesses to be called
by Blaine Tongue Feb 20

1. Isaac S. Blonder - fact witness ^{concerning} on Blaine patent
copy; Western Corp & in Chicago Wash

2. Dr. Lan Jen Chu - Antenna expert

The following witnesses may be called if available.

3. Marjorie A. Johnson - fact witness ^{concerning} publication
of B/R #2 -

4. Harry Gilbert - fact witness concerning B/R #2

Stan W. Sacramento - - -

"Skip" Womack, Sacramento Electronic Supply,
Sacramento Calif. -

Adolph Friedman, Main Line Cleveland

3/21 - 4/1
Pine... of County

Witness

Isaac S. Blouder - ~~Isaac~~ Blouder, Pa.
employee of, us for Comp. &
Butler -

Dr. Lan Jen Chu - Antenna expert

of real ~~to~~ DuHamel - fact witness - prior o.t.

of real Mary Gilbert - U.C. + K.C. + ...

" Rich. Kalhoski " "

" Jerry Cohen " "

" ~~Sacramento~~ U.C. " "

" ~~other~~ ...

" Margaret A. Johnson - 3-10-50 21-50 Rock Island -
- fact witness -

Interrog - hold

Isbell -

Carrill -

If ...
"

List of Exhibits which may be offered
by BT at Trial

Isbell patent — ; file wrapper & contents
Mayer et al — " " & refs
Blouder et al — " ; contents & refs

U.S. patents:

- Koussourian patent - 2,429,629
- Wolff - 2,433,804
- Petersen - 2,375,580
- Kotzlin - 2,192,532
- Carton - 2,147,726

add -

Deposition of _____ and which ident. Heroin

- Hjalmer Johnson - 10/26/66
- James Colvin - "
- Paul E. Mayer - 10/27/66 & 12/14/66
- Ronald D. Grant - 12/15/66

Jerome Belash -

John Pearce -

3/22/67

Isbill -

DoHemel - planar - pasley &

3071, 168

Isbill - " bent together

3079, 60²

DoHemel & Ore - revised form w/ lens

Schwarz

2817085

Weiss

2,726,390 - fold + red

W. Pitts

26,15005

eq -
bow tie -

Kolster

2580,798

slip as duplicate

Rowland

2538,915

- 05. eq 8 ca

dupl.

Peterson

2375580

Carter

2258407

dupl.

Katzin

2192,532

Godley

2083,260

71919-21

Carter

1974387

¹⁰⁰ V Depol.

Koornans

1964189

Foreign patents -

German

729,912 - Ausgegeben 11/5/43

Publications

TR. 52 ∇

Callous process

logarithmically periodic
by De Honc & One

Statement on approximating trigonometric
teeth & arcs.

31 Mar. 1958. -

CTR - 198

Rolo Engineer's Handbook Tenues - 1st Ed.
1943

V Depol

pgs. 788 + 807-808. -

Prepare stipulation re soft copies -
magazine articles, etc. -

Sand Pearce Mayer Dgs -

Copies of Court records
Inventories, transcripts, etc. -



Every document.

Some party - Some document - Not necessary to
put in deposition or test transcript.



1) All depositions & exhibits - ✓

2) All documents - we have supplied
they have supplied

3) Transcript of testimony & exhibits from
Winegard Scientist -
step & admission of record

4) Patent -
2,083,260 -

Do Hand - file 6

Report # 2 - etc
to come from
Rivers
Publications

check w/
Pearne re
most patent
on

Pearne
Do H.
25 bills
cancel

Wagner & contents
File history - 3 - U/I F. jr -

All interrogatories - toll way -

Blonder Case

Patent

Early Blonder antenna

JFD antenna - all models -

" Laser antenna (Frank Grant copy)

Unfair Comp.

Deposition

Eds -

Corresp. - VLF & JFD

Dep

Gidley

Wickhoke

Cohen

Balash

- QST - Robert F. Heslin

Julius Foster

212-889-4608

LAW OFFICES

HOFGREN, WEGNER, ALLEN, STELLMAN & McCORD

20 NORTH WACKER DRIVE
CHICAGO 60606

TELEPHONE
FINANCIAL 6-1630
AREA CODE 312

AXEL A. HOFGREN
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W. E. RECKTENWALD
J. R. STAPLETON

WILLIAM R. McNAIR
JOHN P. MILNAMOW
DILLIS V. ALLEN
W. A. VAN SANTEN, JR.
JOHN R. HOFFMAN

March 27, 1967

Mr. Robert H. Rines
Rines and Rines
No. Ten Post Office Square
Boston, Massachusetts 02109


Dear Bob:

* I enclose a copy of a draft of a stipulation regarding patent copies, publications and the like which I suggested to Cass and Mann. Cass says he may have a couple of things he would like to add to it. I am waiting for further word from him.

Mann would rather not stipulate to the blanket admission of all materials from other cases. He would rather consider specific items on a piecemeal basis. He said he knows of nothing in another case to which they would object. He also said that as far as he knows, the witnesses from the Winegard suit can be made available.

Do you want to select specific testimony or other records from the Winegard suit?

Very truly yours,



Richard S. Phillips

RSP:iag

* Enclosure

RECEIVED

MAR 29 1967

RINES AND RINES
NO. TEN POST OFFICE SQUARE, BOSTON

LAW OFFICES

HOFGREN, WEGNER, ALLEN, STELLMAN & McCORD

20 NORTH WACKER DRIVE
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J. R. STAPLETON

WILLIAM R. McNAIR
JOHN P. MILNAMOW
DILLIS V. ALLEN
W. A. VAN SANTEN, JR.
JOHN R. HOFFMAN

March 28, 1967

Mr. Robert H. Rines
Rines and Rines
No. Ten Post Office Square
Boston, Massachusetts 02109

RE: UIF v. BT v. JFD

Dear Bob:

* I enclose a copy of the list of exhibits from
the Foundation. I see nothing objectionable.

Very truly yours,

Diehl

Richard S. Phillips

RSP:iag

* Enclosure

RECEIVED

MAR 30 1967

RINES AND RINES
NO. TEN POST OFFICE SQUARE, BOSTON

LAW OFFICES

CHARLES J. MERRIAM
WILLIAM A. MARSHALL
JEROME B. KLOSE
NORMAN M. SHAPIRO
BASIL P. MANN
CLYDE V. ERWIN, JR.
ALVIN D. SHULMAN
EDWARD M. O'TOOLE
ALLEN H. GERSTEIN
OWEN J. MURRAY
DONALD E. EGAN
NATE F. SCARPELLI

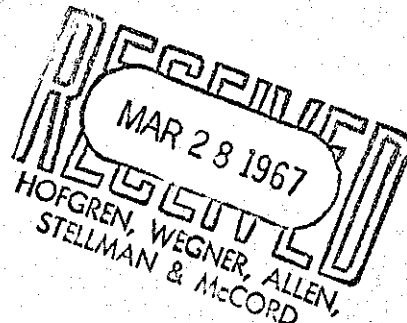
MERRIAM, MARSHALL, SHAPIRO & KLOSE

THIRTY WEST MONROE STREET
CHICAGO, ILLINOIS 60603

TELEPHONE
FINANCIAL 6-5750

March 27, 1967

Mr. Richard S. Phillips
Hofgren, Wegner, Allen,
Stellman & McCord
20 North Wacker Drive
Chicago, Illinois 60606



Re: University of Illinois Foundation
v. Blonder-Tongue Laboratories, Inc.
v. JFD Electronics Corporation
Civil Action No. 66 C 567

Dear Mr. Phillips:

In accordance with the Court's order concerning identification of exhibits, this will identify the documents that plaintiff will use as its exhibits in the subject action.

Blonder-Tongue Advertisements and Instruction Sheets

1. "First antennas to deliver uniform, peak performance on all UHF channels"; B-T advertisement No. 3520-87; 2 pages, B-T document Nos. 1 and 7.
2. "New look in true log-periodic design"; B-T advertisement No. 52; B-T document Nos. 2-5; 4 pages.
3. "First antenna that delivers uniform, peak performance on all UHF channels"; B-T advertisement No. YC-2015; B-T document No. 6; 1 page.
4. "Blonder-Tongue Channel 14 to 83 TV Antenna - Golden Dart Technical Specifications"; B-T document No. 8; 1 page.
5. "Blonder-Tongue Color Ranger - 10 Instructions"; B-T document Nos. 38-41; 4 pages.

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Mr. Richard S. Phillips
March 27, 1967
Page 2

Blonder-Tongue Reports

1. Report of 8/16/65 prepared by "G.Z."; Project No. 1407; B-T document Nos. 212-214; 3 pages.
2. Report of 8/26/65 prepared by "G.Z."; Project No. 1476; B-T document Nos. 215-216; 2 pages.

Blonder-Tongue Blueprints

1. Drawing No. C-2330-B; Boom - (3) Element.
2. Drawing No. C-2186-A; Boom - (5) Element.
3. Drawing No. C-2185-B; Boom - (10) Element.
4. Drawing No. C-2863-C; Boom - (15) Element
Main Left.
5. Drawing No. C-2865-A; Boom - (15) Support.
6. Drawing No. C-2864-B; Boom Assembly - Main
Right.
7. Drawing No. C-2868-B; Boom Assembly Color
Ranger 15.
8. Drawing No. C-2866-A; Boom - (15) Element
Director.
9. Drawing No. C-1756-C; Separator, UHF.
10. Drawing No. C-2187-1G; Elements (tubing).
11. Drawing No. C-2187-2A; Elements (tubing).

Diagrams of Blonder-Tongue Antennas Prepared by Plaintiff

The following drawings were prepared by plaintiff to show the lengths and spacings of the accused Blonder-Tongue Antennas based on data from B-T documents.

Mr. Richard S. Phillips
March 27, 1967
Page 2

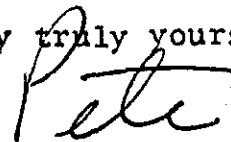
1. Golden Dart
2. Golden Arrow
3. Color Ranger 3
4. Color Ranger 5
5. Color Ranger 7
6. Color Ranger 10
7. Color Ranger 15

Performance Tests

The following documents were prepared by plaintiff to show the performance characteristics, including radiation patterns, gain measurements and voltage standing wave ratios (VSWR) for the accused Blonder-Tongue antennas, as follows:

1. Golden Dart
2. Golden Arrow
3. Color Ranger 3
4. Color Ranger 5
5. Color Ranger 7
6. Color Ranger 10
7. Color Ranger 15

Very truly yours,



Basil P. Mann

BPM/cjh

McNENNY, FARRINGTON, PEARNE & GORDON
920 MIDLAND BUILDING
CLEVELAND, OHIO 44115

RECEIVED

MAR 30 1967

RINES AND RINES
NO. TEN POST OFFICE SQUARE, BOSTON

March 29, 1967

Basil P. Mann, Esq.
Merriam, Marshall, Shapiro & Klose
30 West Monroe Street
Chicago, Illinois 60603

Re: The Finney Company v. JFD Electronics
Corporation and The University of Illinois
Foundation - Civil Action Nos. 65 C 220
and 65 C 671 (Consolidated)

Dear Pete:

For your advance information, I am enclosing herewith a copy of a motion for summary judgment in the above-captioned suit. Plaintiff proposes to file this motion, together with a memorandum in support of the motion and supporting documents on or before a target date of April 15, 1967.

My purpose in sending you an advance copy of that motion is twofold. First, it occurred to me that you and counsel for Blonder-Tongue, parties to Civil Action No. 66 C 567 set for trial before Judge Hoffman on May 1, 1967, might wish to seek postponement of that trial pending decision of The Finney Company motion, particularly in view of the fact that a decision is also being awaited in your suit against Winegard in the Southern District of Iowa on the Isbell patent and the fact that a decision on The Finney Company motion against the Isbell and Mayes et al. patents should, effectively, either dispose of your suit against Blonder-Tongue (to the extent the motion may be granted) or simplify the issues in that suit (to the extent that the motion may

C

O

P

Y

Basil P. Mann, Esq.

-2-

March 29, 1967

be denied). Obviously, this involves an issue between you, counsel for Blonder-Tongue, and Judge Hoffman, but it seemed appropriate, under the circumstances, that you and counsel for Blonder-Tongue be informed of The Finney Company motion as far as possible in advance of the trial date set in your suit against Blonder-Tongue.

My second purpose for giving you advance notice of The Finney Company motion is to seek your cooperation in establishing, for the purposes of the motion and defendants' response, the authenticity of various documents and, perhaps, some of the pertinent facts, where such documents and facts clearly involve no genuine issue between the parties. To the extent that we can cooperate in this regard, the work of both parties in preparing their briefs, establishing the authenticity of documents they will rely upon, and preparing affidavits to establish undisputed facts should be reduced considerably to our mutual advantage and to the advantage of the Court.

Accordingly, I shall greatly appreciate hearing from you as quickly as possible regarding the desirability of cooperating in the manner suggested in the preceding paragraph.

Sincerely,



JFP:jh
Enclosure

cc: Richard S. Phillips

bcc: Walther E. Wyss, Esq.
Robert H. Rines, Esq.
Mr. L. H. Finneburgh, Jr.

LAW OFFICES

HOFGREN, WEGNER, ALLEN, STELLMAN & McCORD

20 NORTH WACKER DRIVE
CHICAGO 60606

TELEPHONE
FINANCIAL 6-1630
AREA CODE 312

AXEL A. HOFGREN
ERNEST A. WEGNER
JOHN REX ALLEN
WILLIAM J. STELLMAN
JOHN B. McCORD
BRADFORD WILES
JAMES C. WOOD
STANLEY C. DALTON
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W. E. RECKTENWALD
J. R. STAPLETON
WILLIAM R. McNAIR
JOHN P. MILNAMOW
DILLIS V. ALLEN
W. A. VAN SANTEN, JR.
JOHN R. HOFFMAN
A. R. OSTRAUSKAS

March 30, 1967

Mr. Robert H. Rines
Rines and Rines
No. Ten Post Office Square
Boston, Massachusetts 02109

Dear Bob:

* I enclose a revised notice from the Foundation
including their list of witnesses.

Very truly yours,

Dick

Richard S. Phillips

RSP:iag

* Enclosure

RECEIVED
APR - 1 1967
RINES AND RINES
NO. TEN POST OFFICE SQUARE, BOSTON

LAW OFFICES

HOFGREN, WEGNER, ALLEN, STELLMAN & McCORD

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WILLIAM R. McNAIR
JOHN P. MILNAMOW
DILLIS V. ALLEN
W. A. VAN SANTEN, JR.
JOHN R. HOFFMAN

April 4, 1967

Mr. Robert H. Rines
Rines and Rines
No. Ten Post Office Square
Boston, Massachusetts 02109

Dear Bob:

You have a copy of John Pearne's letter of March 29. I talked with John after he had discussed this with Pete Mann. The Foundation does not wish to seek postponement of your trial and does not intend to bring the Winegard suit or the Finney motion, when filed, to Judge Hoffman's attention.

John tells me you have no objection to seeking postponement of the trial. I don't know what Judge Hoffman may do with this one, but we can bring it to his attention, probably by way of a motion to postpone the trial. I don't think this should be done, however, until Finney's motion has been filed.

Please let me know your thoughts on this.

Jack and I are looking forward to receiving a draft of your trial brief.

Very truly yours,

Rich

Richard S. Phillips

RSP:lag

RECEIVED

APR - 6 1967

RINES AND RINES
NO. TEN POST OFFICE SQUARE, BOSTON

LAW OFFICES

HOFGREN, WEGNER, ALLEN, STELLMAN & McCORD

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CHICAGO 60606

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J. R. STAPLETON

WILLIAM R. McNAIR
JOHN P. MILNAMOW
DILLIS V. ALLEN
W. A. VAN SANTEN, JR.
JOHN R. HOFFMAN

April 7, 1967

Mr. Basil P. Mann
Merriam, Marshall, Shapiro & Klose
30 West Monroe Street
Chicago, Illinois 60603

RE: UIF v. BT v. JFD

Dear Pete:

I have talked with Bob Rines. He is willing to stipulate that the element length and spacing of the Blonder-Tongue antennas conform with a log periodic formula if the stipulation also makes it clear that such an element relationship was not invented by Isbell, Mayes or Carrel. If this is agreeable with you, would you like to draft the stipulation?

Bob will be at the Blonder-Tongue plant next week and will let us know after he has been there whether your suggestion regarding representative antennas is satisfactory.

Very truly yours,

Richard S. Phillips

RSP:iag

bcc: Mr. Robert H. Rines ✓

RECEIVED

APR 10 1967

RINES AND RINES
NO. TEN POST OFFICE BOSTON

LAW OFFICES

HOFGREN, WEGNER, ALLEN, STELLMAN & McCORD

20 NORTH WACKER DRIVE

CHICAGO 60606

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AREA CODE 312

AXEL A. HOFGREN
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WILLIAM R. McNAIR
JOHN P. MILNAMOW
DILLIS V. ALLEN
W. A. VAN SANTEN, JR.
JOHN R. HOFFMAN

April 4, 1967

*APR HR
4/10/67*

Mr. Robert H. Rines
Rines and Rines
No. Ten Post Office Square
Boston, Massachusetts 02109

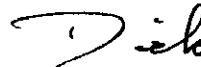
Dear Bob:

I am writing as I have been unable to reach you by phone.

Pete Mann has asked whether you will stipulate that certain of the Blonder-Tongue antennas are representative of the entire line. He suggests that the Ranger 10 and the Golden Dart be used for the purpose of discussion during trial; and that the question of infringement of all the antennas be determined on the basis of these two models.

We also discussed the possibility of a stipulation that the length and spacing of the Blonder-Tongue antenna elements conforms with the log periodic formula. It is my understanding that this is true and that the question of infringement turns on the meaning of "co-planar". Please call me on this as soon as possible.

Very truly yours,



Richard S. Phillips

rsp/iag

cc: Mr. Basil P. Mann

RECEIVED

APR - 6 1967

RINES AND RINES
NO. TEN POST OFFICE SQUARE, BOSTON

March 23, 1967

Jerome M. Berliner, Esq.
Ostrolenk, Faber, Gerb & Soffen
Ten East Fortieth Street
New York, New York 10016

Re: JFD 3.233, UIF v. B-T v. JFD - 66-C-567

Dear Mr. Berliner:

This will acknowledge receipt of your letter of March 20, 1967 with enclosures in Mr. Robert H. Rines' absence from the office.

This matter will be brought to his attention on his return to the office after April 1, 1967.

Very truly yours,

RINES AND RINES

By _____

MGH

OSTROLENK, FABER, GERB & SOFFEN

ATTORNEYS AT LAW

TEN EAST FORTIETH STREET
NEW YORK, N. Y. 10016

SAMUEL OSTROLENK
SIDNEY G. FABER
BERNARD GERB
MARVIN C. SOFFEN
SAMUEL H. WEINER
JEROME M. BERLINER
LOUIS WEINSTEIN
MARC S. GROSS
STEWART J. FRIED

MICHAEL S. PINELES
(ILL. & PA. BARS ONLY)
ROBERT C. FABER

PATENT CAUSES

AREA CODE 212
MURRAY HILL 5-8470

CABLE ADDRESS
"OSTROFABER" NEW YORK

March 20, 1967

Handwritten initials in a circle

Robert H. Rines, Esq.
Rines and Rines
No. Ten Post Office Square
Boston, Massachusetts

Re: JFD 3.223 - UIF v. B-T v. JFD
66-C-567

Dear Bob:

Robert Heslin has advised me that a portion of the testimony given by him on February 14, 1967 was in error. More particularly, he advised me that the equation in Exhibit J-57 is incorrect and sent me a letter dated March 13, 1967 (copy enclosed) containing the correct equation.

For the sake of having an accurate record, I feel that this error should be indicated, and I propose that this be done by stipulation to the effect that the enclosed affidavit (after execution by Robert Heslin) be admissible as evidence at the trial of this Action with the same force and effect as the transcript of Mr. Heslin's deposition.

I look forward to receiving an early reply from you concerning the above, as well as a reply concerning the Stipulation of Facts sent to you on February 28, 1967.

Sincerely,

OSTROLENK, FABER, GERB & SOFFEN

Handwritten signature of Jerome M. Berliner
Jerome M. Berliner

JMB:cg

Enclosures

RECEIVED
MAR 21 1967
RINES AND RINES
NO. TEN POST OFFICE SQUARE, BOSTON

281 Thornell Road
 Pittsford, New York
 March 13, 1967

Ostrolenk, Faber, Gerb & Soffen
 10 East 40th Street
 New York, New York

Attention: Mr. Jerome Berliner

Dear Mr. Berliner

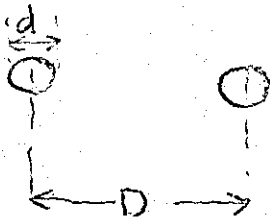
The correct equation appears on page 589 of the following publication:

Reference Data for Radio Engineers
 Fourth Edition
 International Telephone and Telegraph Corporation.

The correct equation is as follows:

$$Z_0 \approx 276 \log_{10} \frac{2D}{d}$$

where:



Very truly yours,

Robert Heslin
 Robert Heslin

RH/man

OSTROLENK, FABER, GERB & SOFFEN			
✓ SEEN BY			
	S.O.	S.O.S.	
	B.S.	M.C.S.	
BUE DATE	MAR 13 1967		OK FILE
	M.S.P.	F.W.	
	S.D.	R.C.F.	

RECEIVED
 MAR 21 1967
 RINES AND RINES
 NO. TEN POST OFFICE SQUARE, BOSTON

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

THE UNIVERSITY OF ILLINOIS FOUNDATION,

Plaintiff and
Counterclaim Defendant,

v.

BLONDER-TONGUE LABORATORIES, INC.,

Defendant and
Counterclaimant,

Civil Action

No. 66 C 567

v.

JFD ELECTRONICS CORPORATION,

Counterclaim Defendant.

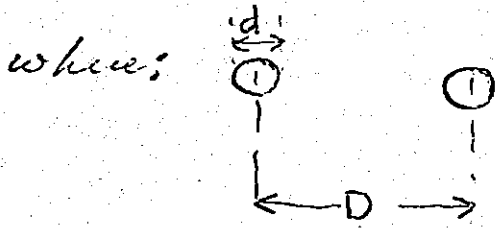
AFFIDAVIT OF ROBERT F. HESLIN

STATE OF NEW YORK)
)SS:
COUNTY OF)

Being duly sworn, ROBERT F. HESLIN, deposes and says that at the time your deponent reviewed the transcript of oral testimony given by him on February 14, 1967, in connection with the above identified litigation, your deponent became aware that he had not correctly stated the equation that appears on line 12, page 20 of the aforesaid transcript and in Exhibit J-57 marked for identification during the taking of your deponent's deposition on February 14, 1967.

The correct equation appears on page 589 of the publication Reference Data For Radio Engineers, Fourth Edition (International Telephone and Telegraph Corporation). The correct equation is as follows:

$$Z_0 \approx 276 \log_{10} \frac{2D}{d}$$



Sworn to before me this
day of _____, 1967.

Robert F. Heslin

NOTARY PUBLIC

March 30, 1967

Mr. Richard S. Phillips
Hofgren, Wegner, Allen, Stelman & McCord
20 North Wacker Drive
Chicago, Illinois 60606

Dear Dick:

The drawings you were sent show more than one antenna.
That is probably why he was confused.

If he will look at the drawings in more detail, he will find
he has been bent everything.

Sincerely,

BLONDER-TONGUE LABORATORIES, INC.

Isaac S. Blonder
Chairman of the Board

ISB:dd

CC: Mr. Robert H. Rines

RECEIVED
APR - 3 1967
RINES AND RINES
NO. TEN POST OFFICE SQUARE, BOSTON

LAW OFFICES

HOFGREN, WEGNER, ALLEN, STELLMAN & McCORD

20 NORTH WACKER DRIVE
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J. R. STAPLETON

WILLIAM R. McNAIR
JOHN P. MILNAMOW
DILLIS V. ALLEN
W. A. VAN SANTEN, JR.
JOHN R. HOFFMAN

April 18, 1967

VIA AIR MAIL

Mr. Robert H. Rines
Rines and Rines
No. Ten Post Office Square
Boston, Massachusetts 02109

RE: UIF v. BT v. JFD

Dear Bob:

I have talked with Marjorie Johnson. She will be quite willing to testify in the Blonder-Tongue suit if you wish, either by way of deposition ahead of time or at the trial. Apparently her time is reasonably free so that she could come to Chicago whenever the case actually goes to trial. In the Winegard suit she received her expenses plus \$10.00 an hour for the time she spent conferring with attorneys and on the witness stand. She expects to receive the same in any of the other cases in which she testifies. Her telephone number in Rock Island, Illinois, is Area Code 309 786-7347.

Very truly yours,



Richard S. Phillips

RSP:iag

RECEIVED

APR 20 1967

RINES AND RINES
NO. TEN POST OFFICE SQUARE, BOSTON

LAW OFFICES

HOFGREN. WEGNER. ALLEN. STELLMAN & McCORD

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J. R. STAPLETON

WILLIAM R. McNAIR
JOHN P. MILNAMOW
DILLIS V. ALLEN
W. A. VAN SANTEN, JR.
JOHN R. HOFFMAN

April 10, 1967

*Read to RSP
over 4/11/67*

Mr. Robert H. Rines
Rines and Rines
No. Ten Post Office Square
Boston, Massachusetts 02109

Dear Bob:

I had a call from Pete Mann in reply to the letter I wrote him after you called last Friday. He is not sure he can work out stipulation language regarding the Isbell invention which will satisfy both you and him. I suggested that he call you directly to discuss it. He did not go into detail but indicated that they take the position Isbell's contribution was the application of the log periodic principal to an antenna with dipole elements.

He is more interested in learning which antenna models can be considered as representative. He intends to have some charts and diagrams made and would like to turn the material over to his draftsman. Please call Jack or me (I will be out of town Tuesday) when you have checked this with Ike.

Very truly yours,

Dick

Richard S. Phillips

RSP:iag

cc: Mr. Robert H. Rines
(c/o Mr. I. S. Blonder)

RECEIVED

APR 11 1967

RINES AND RINES
NO. TEN POST OFFICE SQUARE, BOSTON

cc to [unclear]
3/17/67

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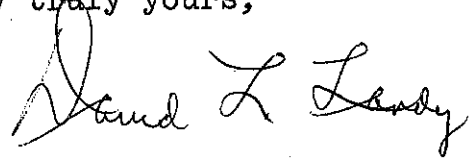
Re: The Anderson Company and Productive
Inventions, Inc. vs. Sears, Roebuck
and Co. and The Zaiger Corporation
Our File No. 65-326

Robert H. Rines, Esq.
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Dear Mr. Rines:

At the request of John R. Allen, Esq., of Hofgren,
Wegner, Allen, Stellman & McCord, I am pleased to enclose
photostat copy of Plaintiffs' Trial Brief on Complaint and
copy of Plaintiffs' Trial Brief on Counterclaim in the above
matter.

Very truly yours,



DLL:C
Encl.
cc: John R. Allen, Esq.

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RINES AND RINES
NO. TEN POST OFFICE SQUARE, BOSTON

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

THE ANDERSON COMPANY,
a corporation, and
PRODUCTIVE INVENTIONS, INC.,
a corporation,

Plaintiffs,

v.

CIVIL ACTION NO. 56 C 463

SEARS, ROEBUCK AND CO.,
a corporation, and
THE ZAIGER CORPORATION,
a corporation,

Defendants.

PLAINTIFFS' TRIAL BRIEF ON COMPLAINT

This is a patent infringement action in which plaintiffs complain of the manufacture and sale of certain windshield wiper blades for automotive vehicles as infringing Anderson patent 2,596,063, issued May 6, 1952, as a result of an application for patent filed December 13, 1945, (for Windshield Wiper Blade Linkage Assembly). A copy of the patent is attached.

THE PARTIES

Plaintiff, The Anderson Company, is an Indiana corporation having a place of business in Gary, Indiana. Plaintiff, Productive Inventions, Inc., was an Indiana corporation and held legal title to the patent in suit at the time of filing the Complaint and has since been merged into The Anderson Company. Leave to amend the pleadings in this respect will be requested.

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RINES AND RINES
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Defendant, Sears, Roebuck and Co., is a New York corporation having its principal place of business in Chicago, Illinois, and has sold the infringing Wiper Blades in the Northern District of Illinois. Defendant, The Zaiger Corporation, is a Massachusetts corporation having its principal place of business in Lyon, Massachusetts. The Zaiger Corporation manufactured the accused Wiper Blades sold by Sears and has waived venue to defend the charge of infringement.

A counterclaim filed by The Zaiger Corporation alleges infringement by The Anderson Company of patent 2,709,825 on "Clip for Wiper Blades". A discussion of the counterclaim appears in another brief filed contemporaneously with this brief.

THE PROBLEM OF WIPING CURVED WINDSHIELDS

A windshield wiper moving over a curved glass windshield is required to change its shape constantly to conform to the wiped surface. Directly in front of the driver, the glass is generally straight. The glass is curved differently on opposite sides of the straight front part. The wiper must flex through a cycle of shapes continually changing through varying degrees of curvature to straight and then to curved again for each pass it makes over the windshield. At the same time, the wiping edge should ^{reach into} search-out any valleys or depressions and curve over any high areas while faithfully following the varying contour of glass surface.

The auto industry had been working with the problem of wiping curved windshields since early in the 1930's and patents purporting to show blades for ^{wipers} curved windshields were issued as early as the 1920's. Chrysler Corporation had attempted to provide a curved windshield on its "Air Flow" models in 1933 and 1934. Generally, from that time on, the auto industry has been interested in curved glass windshields. ^{which without success in 1944} A satisfactory wiper was still being sought when Anderson made his invention. 7 X

The application for Anderson's patent was filed on December 13, 1945. Prior to this time, ^{all} commercial windshield wiper blades had a rubber squeegee held in a rigid channel-shaped metal holder. A driving arm was attached to the rigid channel in order to press the blade against the glass and carry the squeegee in a back and forth movement over the windshield. (These blades worked well on flat glass only if the glass had no substantial irregularities or curvature, which was rarely the case.) X

THE INVENTION OF ANDERSON PATENT NO. 2,595,063

Anderson's invention departed radically from the prior art. The invention contributed to the art, for the first time, a universal wiper blade which wiped equally well all portions of the windshield in the art of its

sweep. Whether operating on flat glass, or one distorted out of flatness, or on curved glass, the performance of this invention surpasses the performance of any previous blade, *and in one to date, has produced a blade that can equal the performance credited by infringing the patent.*

Anderson employed a flexible blade assembly to which pressure was applied at several spaced points to conform the flexible blade to the curvature or irregularities of the surface being wiped. The patent claims clearly define the structure of the invention. Claim 6 of the patent is one of the typical claims charged to be infringed and was drawn by the Patent Office for the purpose of interference proceedings between Anderson and an application owned by Trico Products Corporation of Buffalo, New York. Claim 6 was awarded Anderson following the contested interference and appeals to the Patent Office Board of Appeals and the Court of Customs and Patent Appeals (193 F. 2nd. 1020).

One structure for carrying out the invention is described in claim 6 of the patent in suit. It includes a rubber wiping blade or squeegee which is flexible and a resilient metal backing strip ~~(sometimes called "flexor")~~ which confines flexure of the blade to a plane generally perpendicular to the glass. The combination of the rubber and backing strip makes a blade assembly which *when combined with the proper pressure application means* can be carried back and forth across the windshield while it *continually flexing* ~~changes~~ to conform to the changing curvature of the wind-

shield glass. The flexible, resilient backing strip also provides means for distributing pressure over the entire wiping edge of the rubber.

The structure further includes mechanism for applying constant proportional amounts of the concentrated pressure of the wiper carrying arm to spaced points along the flexible blade. The pressure applying mechanism includes a primary yoke which distributes the arm pressure to a pair of secondary yokes attached to the ends of the primary. The secondary yokes, in turn, have their ends connected to the backing strip at spaced points. There are, thus, four (4) points to which pressure from the wiping arm is distributed to the flexible blade structure.

The yokes are pivoted together so that they can move relatively to each other, maintaining a constant proportion of the arm pressure on the points of connection to the blade as the blade flexes. The pressure is applied to the backing strip which distributes the pressure over the entire wiping edge of the rubber. The entire wiping edge is always urged toward the glass which accounts for the superior wipe obtained with the Anderson blade on so-called flat glass that has irregularities. This structure was new, different and had a profound effect upon the wiper blade industry which has abandoned practically all other structures for wiping curved windshields and has adopted the Anderson invention.

ANDERSON INTRODUCED THE INVENTION TO THE
INDUSTRY AND IT WAS A SUCCESS

Late in 1945 and early in 1946, handmade samples of the new Anderson blade were delivered to members of the automotive industry. Ford Motor Company, Chrysler, General Motors, Stewart-Harnor and several others received blade samples at this time. On October 24, 1946, Mr. Anderson gave an address before the American Society of Body Engineers in Detroit, Michigan, explaining the structure of the invention and using slides illustrating the structure of the new blades. Illustrated copies of the speech were available to all those present and were widely distributed to those present and to others in the industry. *Three employees attended the meeting and secured copies of the speech. Trice had obtained a sample blade early in 1946*

The Anderson Company placed its blade on sale, commercially, late in 1946. (The blade was advertised to a small extent, but this advertising failed to produce sales.) We will show that the tremendous commercial success that followed was due solely to the inherent quality of the blade. Even though there were substantially no curved windshields in 1946-47, *and no real ones* more than a million blades were sold for wiping flat windshields because of the superior results obtained and in spite of the fact that the blades cost twice as much as other replacement blades then on the market. *Anderson must p.*

Hudson was first to mass produce an automobile with a curved windshield and this automobile came on the market late in 1947. In 1948, a small number of General Motors cars had curved windshields. A gradual change of the automobile bodies resulted in the adoption of curved windshields in later years. In 1952, Ford generally adopted curved windshields and a year later, Chrysler also produced automobiles with curved windshields. The Anderson Company sales of its new blade gradually increased as the number of cars with curved windshields increased so that in 1956, over nine million of blades were sold. The competitors of Anderson also selling blades for curved glass windshields all use the Anderson invention so that today, all the blades used to wipe curved windshields embody the Anderson invention. *Example*

The initial sales of Anderson's new blade were for use on flat glass windshields since there were no curved glass windshields on cars then in use. Actually, flat glass is not absolutely flat. As produced, flat glass has hills and valleys and additional warping of the glass occurs when the glass is installed in its frame. The Anderson blade proved superior for wiping flat glass and several million of the blades were sold for use on flat glass as a result of this superiority.

ZAIGER TAKES THE ANDERSON INVENTION

In 1946, The Zaiger Corporation, then known as Lyon Products Company, brought out its first commercial wiper blade for wiping curved glass surfaces. Israel Nesson, an employee of Lyon Products, testified in pre-trial deposition that the commercial Zaiger blade required six months to "develop". The Anderson Commercial blade was known to Nesson before he "developed" the accused blade for Zaiger. The blade complained of embodies all the important features of the Anderson patent. Long before this "development" took place, Mr. Anderson had published to the world the essence of his invention in the address given in Detroit in October of 1946 and had sold millions of blades. The Zaiger blades complained of herein are substantially copies of Anderson's invention.

THE ISSUE OF VALIDITY

The Answer to the Complaint sets up the usual defense of invalidity of the patent in suit over certain prior art patents. Every one of the patents listed in the Answer was before the Patent Office during the prosecution of the application, during the interference and during the appeal to the Board of Appeals and Court of Customs and Patent Appeals. The presumption of validity of a patent is greatly strengthened when the principal art relied upon has been considered and rejected by the Patent Office. Hunt vs. Armour C.A. 7 - 185 F. 2d 722, 726; Loyt Corporation vs. Health-Box, Inc., C.A. 7 - 191 F. 2d 855, 857.

The majority of the patents set up in the Answer show blades having straight rigid channel holders for the squeegee and are entirely unsatisfactory for wiping curved glass windshields. Horton patent 2,303,694 shows a blade having two rigid channels end to end on a continuous squeegee. Such blades can only wipe curved glass within the flexing of the rubber since the rigid channels cannot flex. The only blades sold for use on curved glass prior to Anderson's 1946 Clearflex blade, were the Horton blade and a blade having two overlapping rigid sections attached to a single yoke. The latter left an undesirable streak at the overlap.

The blades shown in some of the other patents are described as intended for use on curved glass; however, none of these blades have ever gone into commercial use. Among these are foreign patents which also state that the blades described are for use on curved glass, however, the description is speculative as to any definite structure for carrying out the aims of the patentee. The anticipatory value of foreign patents has been limited to what is clearly and definitely expressed in them. Nordberg Mfg. Co. v. Woolery Machine Co., C.A. 7, 79 F.2d 685.

ZAIGER'S ALLEGED PRIOR USE

In pre-trial depositions*, an alleged 1941 prior use by Zaiger was referred to and a single blade was offered in evidence exemplary of that use. The alleged blade does

* These depositions were originally taken in connection with the suit (discussed later) against Waco Products which was tried in 1956 before Judge Morgan of the Western District of New York, most of which by stipulation will be in the record of the present case.

not have the invention of the Anderson patent. It does not have a flexible resilient backing strip, but has rigid sections hinged together. It does not operate in the manner taught by the Anderson invention and in further an unsatisfactory blade for wiping curved windshields.

There are no contemporary documents of any kind to substantiate the date of the existence of the alleged prior blade. Oral testimony of events that allegedly took place many years ago is the sole support for the alleged prior use. The burden of proof of the alleged prior use is, of course, on the defendant. Holler Mfg. Co. vs. Men Products, Inc., D. C.N.D. Ill. 1957, 135 Fed. Supp. 121. The degree of proof required to establish a prior public use is that which carries conviction beyond a reasonable doubt. H. Muller Mfg. Co. vs. Glauher, C.A. 7, 184 Fed. 609.

The following circumstances clearly rebut the oral testimony as to the alleged prior use.

1. Zaiger did not file a patent application until 1948 describing the alleged blade although in 1941 he filed other patent applications on other inventions at the time the alleged blade is supposed to have existed.

2. Not a single written report of tests of the blade are in existence, but there are reports of other Zaiger blades tested at that time.

3. Stulshaber is supposed to have requested the blade to be made. There is no evidence of any kind,

oral or written, that Studebaker even received one of the blades, although a report of another blade that would not wipe satisfactorily was sent to Studebaker in 1941.

4. Blades were supposed to have been presented to Stewart-Warner for testing. Mr. Whitted, in charge of testing for Stewart-Warner, testified that he had never seen one of the blades but did see other blades made by Zaiger at that time. The Stewart-Warner salesman who testified that he had the alleged blade on his car for tests admittedly made no report of the tests.

5. Zaiger is supposed to have personally delivered the blades in Detroit but his office manager testified that Zaiger made but one trip into Detroit in 1941, and documentary exhibits show conclusively that this was in connection with another blade and before the alleged prior use blade was supposed to have been made.

6. The blade was alleged to have been tested on a number of cars, none of which had a windshield large enough to accommodate it.

7. In 1948, Zaiger produced his first commercial blade for curved windshields and he claims that it was nothing more than a refinement of his own prior use; however, he and his engineer Nesson stated that it took six months to "develop" this commercial blade. In 1948 they filed a patent application swearing on oath that the blade had not been in public use or on sale for more than one year prior thereto. This application was not before Judge Morgan at the trial because its existence was

discovered accidentally only long after the evidence was closed in the Buffalo case.

We will further show that the blade to be offered in evidence is spurious because it could not have been made as testified to by Mr. Neeson who claimed to have made the blade. Pairs of notches on opposite sides of the blade are shaped alike and spaced apart equally lengthwise of the blade negating the possibility that they could have been formed separately as Neeson claims. The burrs on the metal indicate a hand saw was used rather than a power saw as claimed. These and other facts will prove the Zaiger blade exhibit spurious.

In summary, Zaiger's alleged prior use fails for three reasons:

1. The alleged blade does not have the invention of the Anderson patent.
2. Prior existence of the blade before the date of Anderson's invention is not shown beyond reasonable doubt and is clearly rebutted by other known facts.
3. The Zaiger blade exhibit is spurious.

Furthermore, Zaiger's alleged prior blade, even if it existed, fails as a prior use because it did not enrich the art. It was at best an abandoned experiment, not understood or practiced nor persisted in so as to become an established fact accessible to the public. It did not contribute in any way to the sum of knowledge. Failing in these respects, there is no anticipating prior public use.

Carlar vs. Alder, 10 How. 477, 13 L. Ed. 504; Metallizing Engineering Co. vs. Newen Bearings and Auto Parts Co., 153 F. (2nd) 516; Diamond Patent Co. vs. S. E. Carr 217 Fed. 400, 402.

THE ISSUE OF INFRINGEMENT

Charts will be presented to show how typical claims 6, 8 and 12 of the Anderson patent read on the patent disclosure and the accused wiper blades. A copy of the chart on claim 6 is attached. The accused structures clearly correspond to the claim language without need of interpretation or the use of the doctrine of equivalents. We do not believe that there is a genuine issue as to infringement of the Anderson patent claims.

PRIOR LITIGATION OF PATENT IN SUIT

A prior action was brought by plaintiffs herein in the District Court for the Western District of New York against Trico Products Company for infringement of the Anderson patent in suit. The evidence was received by Judge Morgan at trial sessions ending in October, 1935. A decision dated January 17, 1936 held the patent in suit invalid "based solely on the Zaiger blade." An appeal to the Court of Appeals for the Second Circuit is being prosecuted by plaintiff. A substantial amount of evidence discovered since the trial of the Buffalo case will be presented to this Court. Sears has sold within the Northern District of Illinois windshield wiper blades manufactured by Trico Products Company. We are not seeking a

determination by this Court with respect to Trico
Manufactured Blades.

CONCLUSION

The patent in suit discloses a great invention. The wiper blade of the patent in suit is the first blade that successfully wiped a curved windshield. In fact, it is the only blade that has yet been developed for this purpose. Its commercial success has been phenomenal. Its construction was closely copied by the only other manufacturers in the field shortly after it appeared on the market. There is no question as to infringement. The prior art fails to disclose the invention and the alleged public prior use defense is wholly without merit. The patent should be held to be valid and infringed.

Respectfully submitted,

SCHROEDER, HOFGREN, BRADY & WEGNER

By _____

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

THE ANDERSON COMPANY,
a corporation, and
PRODUCTIVE INVENTIONS, INC.,
a corporation,

Plaintiffs,

v.

SEARS, ROEBUCK AND CO.,
a corporation, and
THE ZAIGER CORPORATION,
a corporation,

Defendants.

CIVIL ACTION NO. 56 C 463

PLAINTIFFS' TRIAL BRIEF
ON COUNTERCLAIM

The present counterclaim for infringement of Nesson Patent No. 2,709,825 was asserted against The Anderson Company by The Zaiger Corporation in its amended answer filed May 18, 1956. The amended answer was preceded by the original answer filed April 30, 1956, and by Defendant's motion to stay proceedings which was

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denied by Judge Barnes in an order dated May 8, 1956.

Preliminary

The Nesson patent relates to a connecting structure for joining a windshield wiper blade to the end of a wiper arm which carries the blade back and forth over the windshield. The connecting structure is called a connector or clip, and it is ordinarily secured to the middle of the backside of a wiper blade. The general form of connector structure is dictated by the structure of the terminal end of the wiper arm to which it is to be joined.

In the past thirty years, wiper arm manufacturers supplying the original equipment requirements of automobile manufacturers have provided wiper arms with many different types of terminal end portions. Oftentimes, cars manufactured in a single model year have been equipped with wiper arms having two or three types of terminal ends. Blade manufacturers who sell replacement blades through service stations

and other retail outlets must provide blades with connectors which will accommodate the types of wiper arm terminal ends currently in use. During the 1930's, blade manufacturers recognized that replacement blade inventories of retail outlets could be drastically cut by providing a single connector which could accommodate the various types of arms then in use.

This was the start of the so-called "universal connector", of which the structure of the Nessara patent is an example. Generally such multi-purpose connectors merely incorporated in one structure the latching means for two or more of the original equipment connectors. Sometimes the connectors were formed so that they could directly take several types of arm ends. It was also common to provide adapters which would fit upon the arm end to permit its use with the connector provided. Through the years, as car manufacturers made changes in wiper arms, the universal connectors and their adapter elements in the replacement market had to be changed to receive the new types of wiper arms.

When the present suit was filed, the four most prevalent types of arm ends were the spoon, cross-bar, hook and slotted terminal, their names being descriptive of their structural shape. The spoon arm has a narrow dished end with a terminal lug. Each of the other three arms are channel-shaped to make a close fit with opposite sides of a connector.

but have differing structures for effecting latching with the connector. The cross-bar arm has a round bar joining the opposite channel sides; the hook arm has a U-shaped hook extending forwardly of the channel; and the slotted arm has a slot disposed in the web joining the channel sides.

THE STRUCTURE OF HESSON PATENT 2,700,885
FILED NOVEMBER 8, 1951 AND ISSUED JUNE 1, 1955

Hesson's patent is directed specifically to a universal connector which will take varying types of wiper arm ends. It stresses that such connectors formerly have required special adapters or attachments for certain arm ends, but that the present connector can be used with any standard wiper arm "without the nuisance of adding adapters". However, Hesson's structure needs a removable adapter to take the slotted terminal arm end.

The patent shows two forms of connectors. Each form will take the cross-bar, hook, slotted terminal and hook types of wiper arm ends. The first form was made commercially and is shown in Figs. 1 through 8 of the patent and includes a specially formed leaf spring 42 which is anchored in the connector at 40. The spring extends along the bottom of the connector, and then curves upwardly and rearwardly so that its upper end portion rests upon the outside 23. A similar leaf spring (shown in Patent 2,643,410)

was employed in a universal connector commercially produced more than one year before the patent in suit was filed. This connector would take the above four types of arm ends.

Referring to Fig. 3*, to insert the spoon-type arm end 29, the spring end 47 is depressed by the arm end to permit the enlarged end of the spoon to pass beneath the stationary latch member 30. When the pressure of the arm end on the spring is released, the spring urges the spoon arm end upwardly against the latch member. This type of connector for a spoon-type arm end was utilized when the spoon arm was introduced on cars in 1946, and is shown in Patents 2,618,805 and 2,643,410.

Also in Fig. 3, a second part of the leaf spring, i.e. the spring bow portion 45, is shown directly contacting the adapter 37, called a hook plate, to hold it in place at the top of the connector. The hook plate is necessary to attach the slotted terminal end-type of wiper arm (see Fig. 7) which was used as original equipment on cars before World War II. Adapter elements similar to the hook plate 37 are shown in Abdolnour 2,539,219 and Anderson 2,632,910 for attaching the slotted terminal arm end to a universal or multi-purpose connector.

Fig. 5 shows a third portion (shoulder 44) of the leaf spring directly engaging a cross-bar type of arm end to

* Reproduced on page 9 of this brief. A copy of the patent is also attached hereto as is a book of the prior art patents.

secures it to the connector. To engage or to remove the cross-bar, the spring shoulder is moved to the left out from under the finger 35. In Patent 2,543,410 a similar spring shoulder secures this type of arm end to a connector. Patents 2,432,889 and 2,632,919 show the use of a spring actuated roller or bolt to secure the cross-bar type of arm end to a connector, and Defendant, the Anderson Company, has commercially used this type of structure for over ten years. (Also see Patent 2,613,410).

Figure 6 of the Messon patent discloses a hook-type arm end secured beneath a cross strap 36 of the connector. The leaf spring 42 performs no function when this arm is used. The hook-type arm was used as original equipment on cars before World War II and was attached to blade connectors at that time in the manner shown in the patent in suit and in Figure 6 of Patent 2,543,410.

In the modified structure (never made commercially) disclosed in Figs. 9 through 14 of the Messon patent, the cross-bar, slotted terminal and hook types of wiper arms are attached to the connector in the same manner as described above, only the structure for latching the spoon-type arm end being different. In the first embodiment it will be recalled that a portion of the leaf spring urged the spoon end upwardly against a stationary latch member. As seen in Fig. 10 of the modified structure, the spoon arm end is

inserted in the connector beneath a movable latch 68 which is urged against the spoon end by the spring portion 73 of the leaf spring. In order to disconnect the spoon end, a retractor element (Fig. 14) is provided to raise the latch 68 (Fig. 11) and allow the spoon end to be withdrawn.

Various means for disconnecting an arm end from a connector have been used by Anderson since the early 1940's, for example, see Smead 2,432,509, Anderson 2,432,603 and Anderson 2,632,907. In each of these references, a latch member is urged toward locking position by a spring or resilient member, and a finger portion is provided for manually moving the latch member out of locking position.

Three characteristics of the Hesson structure are quite apparent. First, contact by different parts of the leaf spring with the two arm ends of the adapter element effects the latching. Second, there is no reaction between the three latching portions of the leaf spring 42, i.e., only one portion of the leaf spring functions at a time, and its operation is independent of the operation of the other two spring portions. Third, the structure is simply a composite of well-known connecting devices in the wiper field incorporated into a unitary structure to perform the same functions as when used alone.

THE CLAIMS IN ISSUE

claims 7, 8, 9 and 10 of the Hesson patent, which are relied upon here, were added to the Hesson patent application on November 22, 1934. At that time, one of the Anderson connectors which is alleged to infringe had been on the market since September 21, 1934.

Briefly, the connector of claim 9 is adapted to connect a wiper blade to any ends of the slotted spoon or cross-bar types. A spring (integral leaf spring 42) is "constructed and arranged" so that one part locks the cross-bar in aligned slots and a second part locks the spoon under a latch member.

Claim 7 calls for a connector which will take the hook arm or the slotted terminal arm in addition to the two arms above, the hook arm end being engageable under a metal strap at the top of the connector. The cross-bar and the spoon are attached by the spring as described above. In order to accommodate the slotted terminal arm, a removable adapter (called a "hook plate") is used. The spring is "constructed and arranged" to provide a third part for securing the adapter to the connector.

Claim 8 is dependant upon claim 7, and claim 10 upon claim 9. Each qualifies its parent claim by calling for a movable latch member held in locking position by the

spring, and for manual means to move the latch member to un-
locking position. As pointed out in the preceding section,
such a structure was in commercial use and well-known in
the wiper art long before the Nesson patent was filed. The
first sheet of drawings of the counterclaim patent is repro-
duced below.

THE CLAIMS ARE

A. Zaiger's Admi

Zaiger Corporation s
more than one year before the
patent was filed. This comes
ends as the counterclaim pate
patent 2,643,410. Defendant
patent was commercially sold
counterclaim patent was file

June 7, 1955

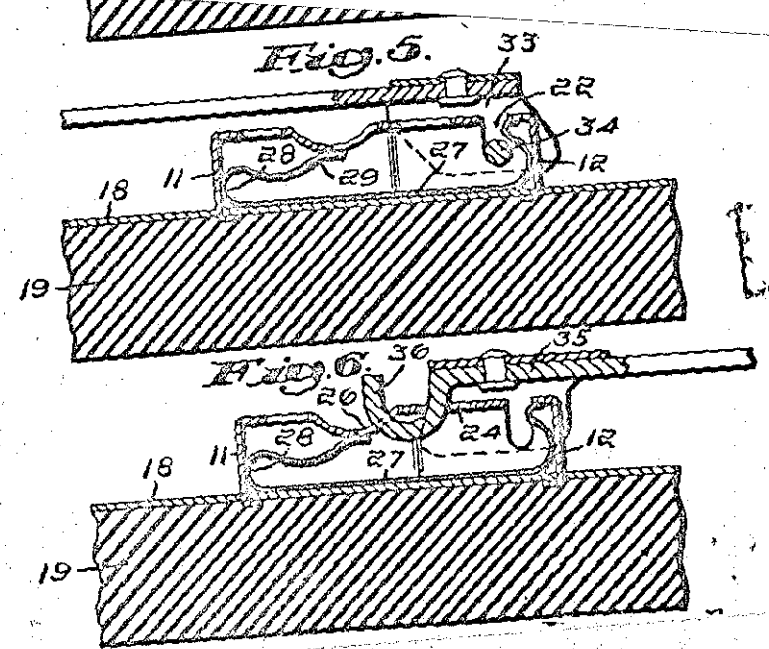
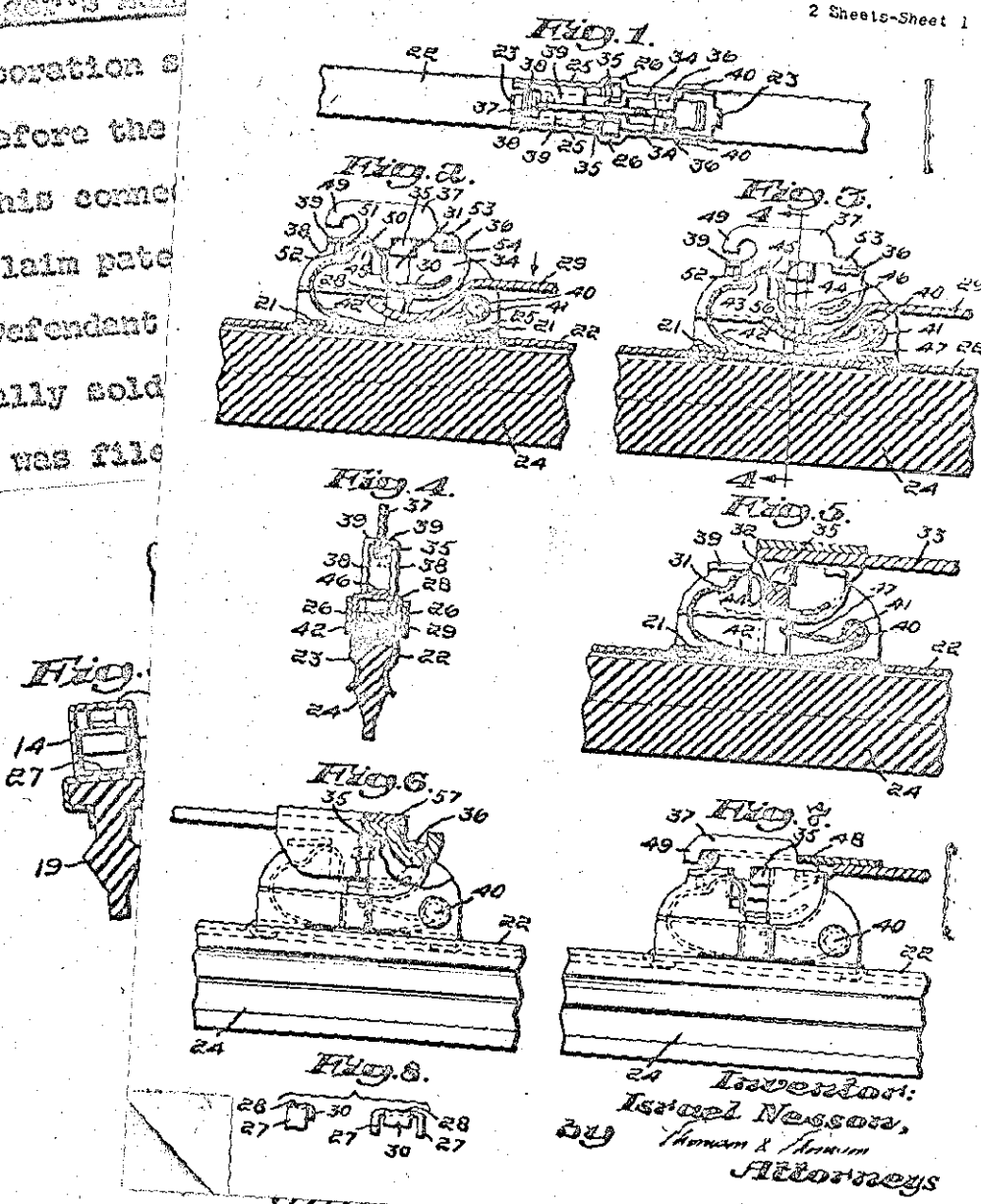
I. NESSON

CLIP FOR WIPER BLADES

2,709,825

Filed Dec. 8, 1951

2 Sheets-Sheet 1



Claim 9 reads element for element on this Zaiger prior use connector and is therefore invalid. The comparison of elements is as follows:

Claim 9

A wiper blade having a clip adapted for connecting the blade to wiper arms having ends of the studied spoon type or cross-bar type, the clip comprising:

spaced, elongate substantially parallel sides and longitudinally spaced top portions,

the space between said top portions being adapted to receive the cross-bar type of arm end,

a latch member disposed between said sides and having a depending finger adapted to be engaged by the stud of a spoon type arm end inserted between the clip sides beneath the latch member,

and means comprising a spring disposed in said clip and being connected and arranged to lock the cross-bar type end in said space and to lock the spoon type end under said latch member.

Responsive Elements in Above Structure

Fig. 4 shows the spoon arm end; Fig. 5 shows the cross-bar arm end.

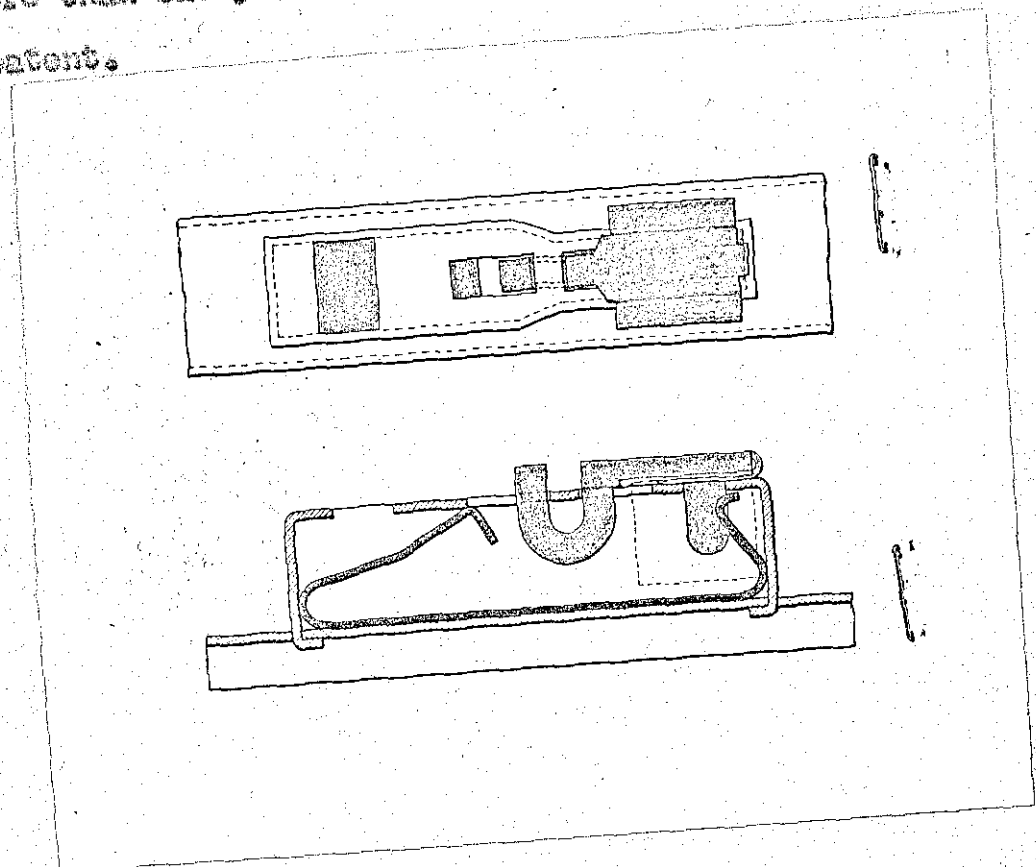
Fig. 3 shows the parallel sides 14 and 15; the longitudinally spaced top portions are shown most clearly in Fig. 1 and Fig. 2.

Numeral 22 in Fig. 5

In Fig. 4, the depending latch 25 engages the stud 22 of the spoon arm end 21

The leaf spring 27 (colored red) which has a spring portion 29 for locking the spoon arm under the latch 25, and a spring portion 30 for locking the cross-bar arm end in the space 22

The connector shown in the following drawing was also admittedly made and commercially sold by the Zeiger Corporation more than one year before the filing of the counterclaim patent.



This connector has an integral leaf spring (colored red) and takes the same four arm ends as the connector structure of claim 7. Both connectors directly take the spoon arm, the cross-bar arm and the hook arm in the same way, and both use adapter elements to accommodate the slotted terminal arm.

In the above drawing, the adapter element (colored green) fits upon the slotted terminal arm end and converts it to a hook arm. The hook of the adapter fits beneath a cross strap, and the resilient adapter sides frictionally engage the side walls of the connector to attach the arm end.

Except for the type of adapter used and its manner of attachment, Claim 7 read directly upon the structure shown above. The claim calls for "a hook plate removably secured to the clip and adapted to engage the slotted terminal type of arm end", and specifies that a spring be disposed in the clip "to hold said hook plate on the clip". Such hook plates were known in the art, but were held to the connector by a spring-pressed bolt or rocker member (see Anderson 2,632,916). Hanson's mere change from the hook adapter to another well-known adapter held on the connector by a spring did not involve invention, and Claim 7 is invalid.

Claims 8 and 10, which are dependent upon parent claims 7 and 9 respectively, each specify a movable latch member held in latching position by a spring, and manual means for moving the latch member to unlatching position. The structure added by these claims was well-known in the wiper art, for example, see Anderson 2,432,693 and Anderson 2,632,907. The addition of this structure to either of Seliger's prior use connectors produces no new or surprising result and clearly does not amount to invention.

Even assuming the particular structure added in claims 8 and 10 to be a novel improvement, both claims are still invalid because Hanson attempted to claim the alleged improvement in combination with old elements which

performed no new function in his claimed combination. This was precisely the type of claim struck down by the Supreme Court in Lincoln Engineering Co. v. Stewart-Warner Corp., 303 U.S. 515, 519, 532, where the court remarked:

"As we said of Gullberg in the Rogers Case, having hit upon this improvement he did not patent it as such but attempted to claim it in combination with other old elements which performed no new function in his claimed combination. The patent is therefore void as claiming more than the applicant invented. The mere aggregation of a number of old parts or elements which, in the aggregation, perform or produce no new or different function or operation than that theretofore performed or produced by them, is not patentable invention. And the improvement of one part of an old combination gives no right to claim that improvement in combination with other old parts which perform no new function in the combination."

* * *

"We conclude that Butler's effort, by the use of a combination claim, to extend the monopoly of his invention of an improved form of chuck or coupler to old parts or elements having no new function when operated in connection with the coupler renders the claim void."

B. The Claimed Structures are Non-Patentable Aggregations

The connector structure of the Messon patent is a classic example of aggregation. Each type of wire arm end is attached by a different portion of the connector, and none of the portions mutually cooperate to effect latching or attaching of an arm end. Each portion performs only its well-known function. For example, three separate parts of the integral, C-shaped, leaf spring respectively secure the cross-bar arm, the open arm and the hook plate to the connector. When one spring part is being used, the other two parts perform no function. The hook arm is attached by merely hooking its end beneath a cross strap of the connector, and the leaf spring is not used at all. The total performance of the Messon connector is merely a summation of the individual functions of each of the four separate connector portions.

Courts have uniformly held that structures which are mere aggregations are unpatentable. They have generally classified aggregative structures in either of two categories. The first category is sometimes defined by the term "pure aggregation" and consists of structures exhibiting no cooperation or reaction in the performance of their functions. Individual elements of each structure separately and independently perform their functions, and no elements interact to mutually contribute to a single result. The ultimate performance of the entire structure is clearly reflected by the aggregation

of the individual performances of the structure's elements so that no new or surprising result flows from the assembly of the elements into a unitary structure. The structure of Messer's patent clearly falls within this category.

A familiar illustration of the first type of aggregation is found in Ingham v. De Witt, 92 U.S. 377 (1876), the so-called pencil and eraser case. Here the patentee claimed a pencil composed of a wooden sheath and a lead core, one end of the sheath being enlarged and recessed to receive an eraser. In holding the claims to be aggregative and void, the Court said:

"This combination consists only of the application of a piece of rubber to one end of the same piece of wood which makes a lead-pencil. It is as if a patent should be granted for an article, or a manufacture, as the patentee prefers to term it, consisting of a stick twelve inches long, on one end of which is an ordinary hammer, and on the other end is a screwdriver or a tack-driver, or, what you will see in use in every retail shop, a lead-pencil, on one end of which is a steel pen. It is the case of a garden rake, on the handle end of which should be placed a hoe, or on the other side of the same end of which should be placed a hoe. In all these cases there might be the advantage of carrying about one instrument instead of two, or of avoiding the liability to loss or misplacing of separate tools. The instruments placed upon the same rod might be more convenient for use than when used separately. Each, however, continues to perform its own duty, and nothing else. No effect is produced, no result follows, from the joint use of the two."

* * *

"The combination, to be patentable, must produce a different force or effect, or result in the combined forces or processes, from that given by their separate parts. There must be a new result produced by their union; if not so, it is only an aggregation of separate elements."

Pirestone Tire and Rubber Company v. Sieberling,

257, Fed. 74 C.C.A. 5, 1918 was a similar case. The patented structure related to a turnst lathe which mounted four peripherally spaced tools each of which performed separate and successive operations upon a tire casing. In finding the patent invalid on aggregation, the court remarked at Page 81,

"From the standpoint of an interdependent combination, the situation is the same as if these four tools had been lying upon a work-bench by the side of the operator and he had successively selected the ones he desired."

* * *

"...but the trouble here is more vital. State's spinning tool has no operating connection whatever with the remainder of the mechanism. Each part performs its own work in its own way, and no new result flows from bringing the two into juxtaposition."

In the second type of aggregation (sometimes referred to as "Exhausted Combination") a structure is formed from elements which exhibit cooperation to produce a unitary result; however, the elements coast in a known way, and the result produced is not new. More specifically, elements which are individually old in the art are assembled in a unitary structure so that they mutually cooperate, but collectively perform only their well-known functions and nothing more. Their combined result is not new, and no surprising result is effected from their interaction.

This type of aggregation was considered in Richards v. Chase Elevator Co., 156 U.S. 299 (1895). The device in question shifted grain from a railway car to a hopper scale by an elevating mechanism, and then discharged the grain through a spout in the hopper scale to a second car. The Court held the combination claimed to be aggregative and invalid, saying at Page 302,

"Unless the combination accomplishes some new result, the mere multiplicity of elements does not make it patentable. So long as each element performs some old and well-known function, the result is not a patentable combination, but an aggregation of elements. Indeed, the multiplicity of elements may go on indefinitely without creating a patentable combination, unless by their collocation a new result be produced."

See also Halle v. Van Hornes, 87 U.S. 353, 368 (1873); Dawson Company v. The U.S. Dairies, 142 F. Supp. 385 (1955), D.Ct. N.D. Ill., E.D.

Under either of the above tests of aggregation, the claimed connector of the Neeson patent is invalid. Neeson incorporated four well-known connecting structures from the prior art in a single connector where each performed only its well-known function in attaching an arm end. The connecting structures do not cooperate or coact with each other in the performance of their functions. Each acts as it always has, and placing them in juxtaposition produces no new or surprising result. As the court remarked in Reichendoffer v. Faber, supra, at Page 347,

"The law requires more than a change of form, or juxtaposition of parts, or of the external arrangement of things, or of the order in which they are used, to give patentability."

Nesman's claimed structure is totally lacking in invention. However, even assuming that invention is present, Anderson's accused structures do not infringe because they do not have an essential element called for in each of Nesman's claims.

In Electric Signal Co. v. Hill Signal Co., 114 U.S. 87, 95 (1884), the Supreme Court said:

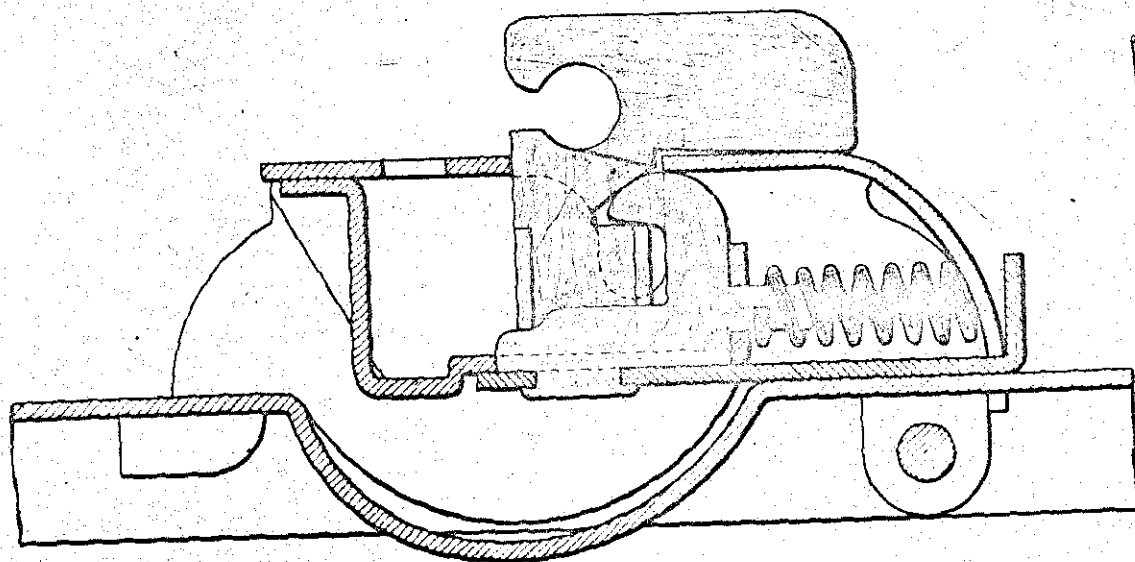
"The thing patented is the particular means devised by the inventor by which that result is attained, leaving it open to any other inventor to accomplish the same result by other means. To constitute identity of invention, and therefore infringement, not only must the result attained be the same, but in case the means used for its attainment is a combination of known elements, the elements combined in both cases must be the same, and combined in the same way, so that each element shall perform the same function, provided, however, that the differences alleged are not merely colorable, according to the rule forbidding the use of known equivalents."

Both claims 7 and 8 specify "means comprising a spring disposed in said clip and being constructed and arranged to retain the cross-bar type and in said space, to hold said hook plate on the clip, and to lock said spoon type and within the clip." Claims 9 and 10 each call for "means comprising a spring disposed in said clip and being constructed and arranged to lock the cross-bar type and in said space and to lock the spoon type and under said latch member."

The specification shows that the claimed spring is the integral leaf spring #2. It points out that this spring was bent to form three portions; that one of the portions

directly contacts and holds the spoon arm end in the clip; that a second portion directly engages and holds the cross-bar arm end in the clip and that a third portion directly engages and holds a hook plate on the clip. In other words, the specification points out the particular construction and arrangement of the leaf spring, and the claims each include the described construction and arrangement of the spring.

A typical form of Anso structure which is alleged to infringe is shown below. A consideration of the structure of only one of the alleged infringing devices is sufficient to make non-infringement blatantly clear.



In the foregoing photograph, the connector structure has a slidable bolt (colored purple) which is urged to the left by a coil spring (colored red). This general structure, shown in Saultki Patent 2,432,609 owned by the Anderson Company, was commercially used as early as 1944. The coil spring is completely conventional. It has no particular "construction or arrangement" to effect latching as specified in each of the claims in suit, and there is no direct contact between the spring and the arm ends as in the structure of the patent.

The structure of The Anderson Company's accused connector closely follows the teachings of its earlier connector constructions, and does not depart from Reason's disclosure. The latching in the Anderson structure is effected by the bolt, not by three separate parts of a leaf spring. With the cross-bar type of arm, the upper finger on the bolt holds the cross-bar in a pair of aligned slots. The finger also holds the hook plate on the connector in the manner shown in Anderson Patent 2,632,910. The spoon arm end fits within the connector in the chamber beneath the bolt, and the left end of the bolt restricts the connector opening so that the spoon cannot be pulled out. The hook arm end fits under the cross strap at the top of the connector in the manner commonly employed for the past fifteen years.

Neason's claimed leaf spring is clearly not present in the accused structure. Furthermore, the latching structures of the two connectors are completely different. The patent discloses two forms of connectors each having a leaf spring with three separate portions which, functioning separately and independently of each other, individually latch three arm ends to the connector. The leaf spring of each form directly engages two arm ends during latching, and in one form, it contacts a third arm. In the accused structure a slidable bolt engages and latches the arm ends to the connector. Anderson's coil spring is completely conventional, and it never contacts any of the arm ends during latching.

The claims do not read on the accused device and there is no identity of invention between the patented structure and the accused device.

CONCLUSION

Claims 7, 8, 9 and 10 of the Neason patent are invalid because they read on, or are not patentable over, structures in the prior art and are directed to non-patentable aggregations. Since each of the claims contains an essential element not found in the Anderson accused structures, the claims are also not infringed.

Respectfully submitted,
SCHROEDER, HOFGREN, BRADY & WEGNER

By John Rex Allen

OF COUNSEL:

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OSTROLENK, FABER, GERB & SOFFEN

Robert H. Rines, Esq.

February 20, 1967

Page #2

Kindly advise me of your intentions with respect to the above requests.

Very truly yours,

OSTROLENK, FABER, GERB & SOFFEN


Jerome M. Berliner

JMB:cg

Enclosures

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WILLIAM R. McNAIR
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W. A. VAN SANTEN, JR.
JOHN R. HOFFMAN

February 6, 1967 *Ent*

RECEIVED

FEB - 9 1967

RINES AND RINES
NO. TEN POST OFFICE SQUARE, BOSTON

Mr. Robert H. Rines
Rines and Rines
No. Ten Post Office Square
Boston, Massachusetts 02109

RE: UIF v. BT v. JFD

Dear Bob:

* I enclose a copy of a letter from Cass together
with copies of JFD drawings which purportedly show twin
boom antennas early in 1964. There is also a part drawing
for a strain relief member.

I am sending a set of the drawings to Ike also so
that he can bring them along if he attends Finkle's deposi-
tion on Wednesday.

* I also enclose another notice of prior art from
JFD.

Very truly yours,

Dick

Richard S. Phillips

RSP:iag

* Enclosures

cc: Mr. I. S. Blonder (with enclosures)

LAW OFFICES

Silverman & Cass

PATENTS · TRADEMARKS · COPYRIGHTS

105 W. ADAMS STREET · CHICAGO, ILLINOIS, U. S. A. 60603

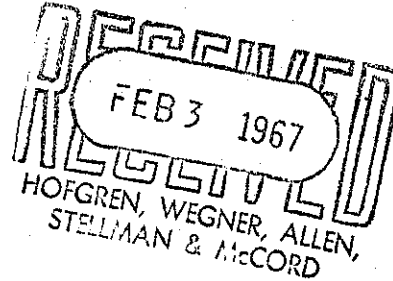
I. IRVING SILVERMAN
MYRON C. CASS
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TELEPHONE 726-6006
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CABLE: SILCAS

February 2, 1967

Our Ref. 6-418

Richard S. Phillips, Esq.
Hofgren, Brady, Wegner, Allen,
Stellman & McCord
20 North Wacker Drive
Chicago, Illinois 60606



Re: UIF v. BT v. JFD - Civil Action No. 66 C 567

Dear Dick:

Continued search for materials which you requested has located blueprints of JFD antennas and parts therefor which are proposed to be used in attacking validity of the B-T patent in suit. With respect to the enclosed JFD drawings 52720, 52730 and 50451, I am advised that the drawings were made after each of the mechanical components illustrated had been designed and the tools built. Obviously, this would be long after the research and development work was done with respect to the components. I am advised that these assembly drawings would have been made sometime between nine months to one year after the original development of the project.

Per our agreement, dimensions of the antenna elements have been removed.

With respect to the enclosed JFD drawings 11881-0101 and 01201140, there is shown a strain relief member used since the middle of 1962 and is still in use on JFD antenna model 10Y1013G illustrated.

Very truly yours,

SILVERMAN & CASS

Myron C. Cass
Myron C. Cass

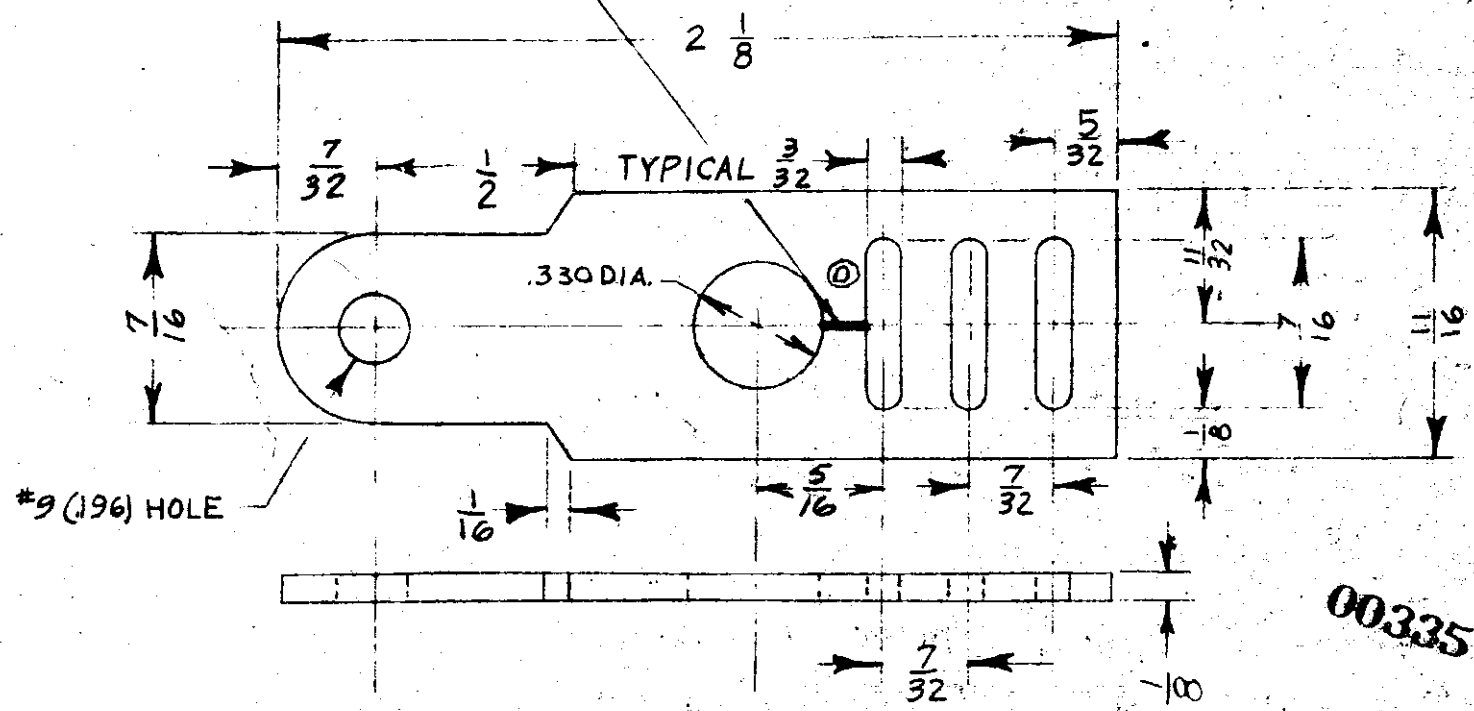
MCC/gm

Encl.

cc: Basil P. Mann, Esq.

REV.	DESCRIPTION	DATE	APP.
A	FINISH WAS NATURAL	1-23-63	
B	ADDED .330 DIA. HOLE	11-6-63	
C	$\frac{1}{8}$ THK. MAT'L. WAS $\frac{1}{16}$ THK.		
D	ADDED SPLIT	5-11-66	

SPLIT FROM .330 DIA.
HOLE TO NEXT SLOT



ITEM NO.	NO. REQ'D	PART NO.	DESCRIPTION	MATERIAL	SPECIFICATION	NOTE
SCALE:	2 X SIZE	TOLERANCES UNLESS OTHERWISE SPECIFIED FRACTIONAL $\pm \frac{1}{64}$ DECIMAL $\pm .005$ ANGULAR $\pm 1/2^\circ$	TWIN LEAD STRAIN RELIEF ZIP ANT.	POLYETHYLENE		DATE OF PRINTING
NO. REQ'D PER ASSEMBLY:						JAN 20 1963
MATERIAL:						NEXT ASSEMBLY
HEAT TREAT:						DRAWING NO.
FINISH:	BLACK					11831-0101
			DRAWN G. SMAGALA 7-18-62	CHECKED [Signature] 7-18-62	ENG. APP.	PROD. APP.
			IFD ELECTRONICS CORP. BROOKLYN, N. Y.			

McNENNY, FARRINGTON, PEARNE & GORDON

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April 17, 1967

F. O. RICHEY (1878-1964)

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PATENT AND
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APR 18 1967

RINES AND RINES
NO. TEN POST OFFICE SQUARE, BOSTON

Robert H. Rines, Esq.
Rines & Rines
10 Post Office Square
Boston, Massachusetts

Dear Bob:

Re: The Finney Company v. JFD Electronics
Corporation et al., Civil Action Nos.
65 C 220 and 65 C 671 (Consol.)

Enclosed herewith is a slightly revised version of our Motion for Summary Judgment compared to the advance copy sent to you earlier. Also enclosed herewith (not entirely in final form) is a copy of our memorandum in support of our Motion for Summary Judgment, together with a copy of the more important exhibits referred to which I assumed you might not have in your files. I have not yet prepared any part of the table of contents that will include a list of the exhibits, among other things.

I wish to call your attention particularly to the stipulation, PX-C. This stipulation has been approved by Pete Mann and is presently being circulated for execution by all of the parties. In view of the attitude taken heretofore by Faber regarding the patent aspects of the suit, I expect no problem in securing execution of that stipulation by him, as well as by Mann.

The reason for my use of capital letters to identify some exhibits and numerals to identify others is the likelihood that the exhibits identified by capital letters may never

Robert H. Rines, Esq.

-2-

April 17, 1967

be used as exhibits at the trial or will be introduced as exhibits by the opposition, whereas those identified by numerals would seem most likely to be introduced by us as exhibits at the trial (if there is one), and those through PX-27 have already been identified by their exhibit numbers in our depositions.

If you can look over the enclosed material quickly and give me your comments by telephone, I may be able to profit from those comments in finally revising the memorandum and still get the motion and memorandum filed by the end of this week. In any event, and whether or not you decide to move for a separate trial of the issue of "unclean hands" I would hope that the enclosed material might be of some assistance to you in the handling of your own case.

I shall, of course, be intensely interested in whatever develops regarding a trial date for your case and what issues will be tried.

Sincerely,



JFP:jh
Enclosures

cc: Richard S. Phillips, Esq.
Walther E. Wyss, Esq.