

Filed 12/3/65

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION
KOLEHMÄINEN, RATHBURN & WYSS
NORTH WACKER DRIVE
CHICAGO 6, ILLINOIS

THE FINNEY COMPANY, a partnership,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NOS.
)	
JFD ELECTRONICS CORPORATION, a corporation,)	65 C 220
)	
and)	and
)	
THE UNIVERSITY OF ILLINOIS FOUNDATION, a non-profit corporation,)	65 C 671
)	(Cons.)
Defendants.)	

ANSWERS BY PLAINTIFF, THE FINNEY COMPANY
TO ADDITIONAL INTERROGATORIES UNDER RULE 33
FILED BY DEFENDANT,
THE UNIVERSITY OF ILLINOIS FOUNDATION

INTERROGATORY 19

19. Referring to paragraph 12 of Plaintiff's Second Amended Complaint:

- (a) Identify all publications (including the publisher and date of publication) and all patents (including the patent number, year of publication, and country in which the patent was granted), known

to plaintiff, which describe the invention disclosed in Patent No. 3,210,767 in suit, and which, in the case of publications, were published more than one year prior to the effective filing dates of said patent in suit or which, in the case of patents, were filed in the United States before the invention by the patentee of said patent in suit;

(b) As to each patent and each publication identified in subparagraph (a) of this interrogatory, identify the specific pages, the specific passages therein, and the specific figures thereof, if any, which describe or concern the subject matter of the invention disclosed and claimed in Patent No. 3,210,767 in suit.

ANSWER (By John F. Pearne)

Plaintiff, The Finney Company, is unable at this time to answer this interrogatory in a meaningful manner for all three of the numbered reasons given in the introductory statement of PLAINTIFF'S RESPONSE TO INTERROGATORIES TO PLAINTIFFS, THE FINNEY COMPANY, ET AL., UNDER RULE 33 (served by mail September 27, 1965).

INTERROGATORY 20

20. Referring to paragraph 13 of Plaintiff's Second Amended Complaint:

(a) Specify, with respect to Patent No. 3,210,767 in suit, the prior art on which plaintiff relies to establish its contention that the differences between said prior art and the invention described and claimed in said patent in suit would have been obvious to one skilled in the art at the time the invention was made;

(b) List and identify all documents, other than those specified in subparagraph (a) of this interrogatory, which are pertinent to said contention;

(c) Indicate the location of each document listed in answer to subparagraphs (a) and (b) of this interrogatory;

(d) List the names and addresses of all persons having custody and/or control of each document referred to in answer to subparagraphs (a) and (b) of this interrogatory;

(e) Specify the name and address of each person, known to plaintiff, who has knowledge which bears on said contention.

ANSWER (By John F. Pearne)

Plaintiff, The Finney Company, is unable at this time to answer this interrogatory in a meaningful manner for all three of the numbered reasons given in the introductory statement of PLAINTIFF'S RESPONSE TO INTERROGATORIES TO PLAINTIFFS, THE FINNEY COMPANY, ET AL., UNDER RULE 33 (served by mail September 27, 1965).

INTERROGATORY 21

21. Referring to paragraph 14 of Plaintiff's Second Amended Complaint:

As to each claim of Patent No. 3,210,767 in suit, state specifically in what respect, if any, said claim fails to particularly point out and distinctly claim the subject matter sought to be patented.

ANSWER (By John F. Pearne)

All claims except claim 9 (directly, or by reference in the case of the dependent claims) recite "A broad band*** antenna," or "An antenna system for wide-band use," without clearly indicating how "broad" or "wide" a "band" is contemplated.

All of claims 1-12 fail to specify how many dipoles must be present in the "array," or "set," or "aerial system," or "antenna system," or any relationship between the minimum number of dipoles required and any particular frequency range to be covered thereby in order to provide an acceptable degree of independence of frequency in the operation of the antenna, i.e., in order to achieve the objectives of the alleged invention set forth in the patent.

All claims fail to specify or point out, in any manner, any relationship between the magnitude of the spacing of any pair of successive dipoles and the lengths of half-waves to

which those dipoles are respectively resonant as half wave elements. When those two values are equal or nearly equal, the antenna will not operate as disclosed on such a wavelength and the objectives of the invention will not be achieved.

Claims 1, 2, and 6-8, define the significance of the constant T in the second of the two formulae by which each of those claims is limited (directly, or by reference in the case of the dependent claims) only as "having the significance previously assigned," leaving it uncertain whether it was intended to mean that its value is the same in magnitude as the constant T in the first of those formulae, which is what the specification discloses (col. 1), or was intended to permit the values of those constants to be different as long as both were "constant" and "less than one," which the specification in no way discloses as being acceptable or even suggests as being operative to achieve any of the results attributed to the alleged invention.

Claims 1-6, 8-11, 13 and 14 define the value of the constant T or the "constant scale factor" or the specified logarithmic relationship in such broad terms that, in this respect, they fail to define what is disclosed in the specification as being essential to the alleged invention and to achieving any of the results attributed thereto.

Claims 10 and 13 define the spacing between dipoles as "generally decreasing," which term has no understandable meaning, and there is no basis in the specification for the use of that term from which its meaning might be determined.

Claim 14 defines the dipole length and spacing relationships and claim 15 defines the dipole spacing relationships in terms of a "cell" concept for which there is no explanation or basis in the original application as filed or in the specification of the patent as granted (Cf. Patent Office Rule 75(d)), and such definitions of the length and spacing relationships are inconsistent with the requirements of the invention as disclosed in the specification.

INTERROGATORY 22

22. Referring to paragraph 15 of Plaintiff's Second Amended Complaint:

As to each claim of Patent No. 3,210,767 in suit, state specifically in what respect said claim covers more than is disclosed in the patent and more than the patentee had a right to claim.

ANSWER (By John F. Pearne)

In each respect in which each claim of said patent fails properly to define the subject matter sought to be patented, as detailed above in answer to Interrogatory 21, the claim embraces or is ambiguously susceptible to a

construction embracing more than the alleged invention as disclosed in the patent and, therefore, more than the patentee had a right to claim.

INTERROGATORY 23

23. Has plaintiff, since September 22, 1964, manufactured for sale or sold any antennas, intended for radio or television reception, characterized by having six or more straight (i.e., not folded) electrical dipole elements arranged in pairs to form a set of three or more substantially parallel straight or V-shaped dipoles of progressively changing lengths, the inner ends of the pair of elements forming the dipoles being connected by a pair of feeders which are electrically transposed between connections, each dipole element in a pair being connected to a different one of said pair of feeders?

ANSWER (By Lewis H. Finneburgh, Jr.)

Yes.

INTERROGATORY 28

28. Was a person named Steven Biro ever employed by The Finney Company or The Finney Manufacturing Company?

ANSWER (By Lewis H. Finneburgh, Jr.)

Yes, by Finney Manufacturing Company.

INTERROGATORY 29

29. If the answer to Interrogatory No. 28 is in the affirmative:

- (a) Give the dates of the beginning and end of the period of said Biro's employment;
- (b) State said Biro's duties during this period;
- (c) Identify all documents, including but not limited to, notebooks, drawings, diagrams, reports, and test results, prepared in whole or in part by said Biro which refer or relate in any manner to any antenna coming within the scope defined in Interrogatory No. 23, above, regardless of whether or not said antenna was ever produced commercially by plaintiff.

ANSWER (By Lewis H. Finneburgh, Jr.)

- (a) From January 28, 1958, to July 26, 1963.
- (b) Steve Biro was employed as a test and design engineer, and his duties primarily involved:
 - (1) Making comparative performance tests of antennas of the plaintiffs and antennas of its various competitors.
 - (2) Making performance tests of models and prototypes of new antenna designs proposed by engineers of the plaintiffs for evaluating such designs, for establishing optimum design parameters, and for comparing the performance of such designs with prior standard or commercial antennas.

(3) Making performance tests of models and prototypes of special antennas of standard basic designs of the plaintiffs for establishing optimum design parameters, and adjusting the design parameters to produce desired performance characteristics.

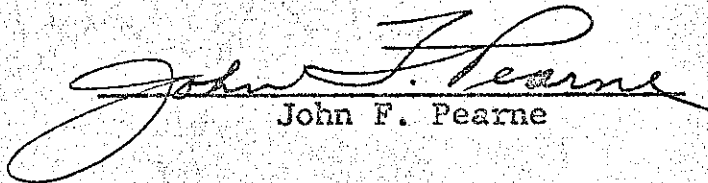
(4) Miscellaneous electrical and performance testing of antennas and antenna components.

(c) The only documents prepared in whole or in part by said Biro and which refer or relate in any manner to any antenna within the scope defined in interrogatory 23, which plaintiffs have been able to locate after a diligent search through all of their engineering records in which any such documents seemed likely to be found, consisted of sheets containing informal, diagrammatic diagrams or sketches of antenna designs to be tested and sheets of test data therefor, many of which sheets are undated and bear no identifying title and all of which are contained in a single folder labeled "MULTIPLE DRIVE ENDFIRE ANTENNAS," said folder also containing similar sheets of diagrams or sketches and test data apparently not prepared in whole or in part by said Biro.* The nature of

* None of the documents identified as having been prepared in whole or in part by said Biro pertain to any antenna ever manufactured by any of the plaintiffs for sale or for any purpose other than testing and evaluation; and none of the diagrams or data contained in any of those documents was used in establishing any design parameter of any antenna ever manufactured by any of the plaintiffs for sale.

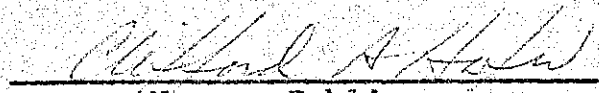
said documents is such that they are readily identifiable as a group only by identification of the file folder in which they are contained and filed in the engineering files of Finney Manufacturing Company. No notebooks, formal drawings, or reports of the character specified and which were prepared in whole or in part by said Biro have been found in the course of the aforementioned search or, to the best of the knowledge and belief of the undersigned, ever existed unless prepared without the knowledge of the undersigned and either discarded by said Biro or retained by him since the termination of his employment by Finney Manufacturing Company.


Lewis H. Finneburgh, Jr.


John F. Pearne

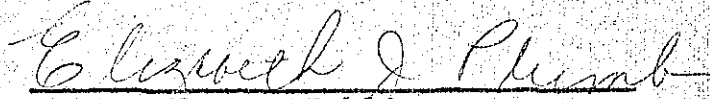
STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

Lewis H. Finneburgh, Jr., who signed the foregoing answers to interrogatories, being duly sworn by me, deposed and said that the answers given by him are true to the best of his knowledge and belief.


Notary Public
CLIFFORD A. HAFER, Notary Public
My Commission Expires June 21, 1970

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

John F. Pearne, who signed the foregoing answers to interrogatories, being duly sworn by me, deposed and said that the answers given by him are true to the best of his knowledge and belief.

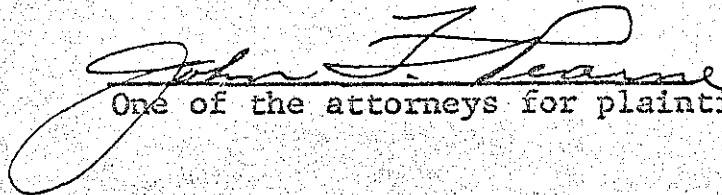

Notary Public

CERTIFICATE OF SERVICE

A copy of the foregoing "ANSWERS OF PLAINTIFF, THE FINNEY COMPANY, TO ADDITIONAL INTERROGATORIES UNDER RULE 33 FILED BY DEFENDANT, THE UNIVERSITY OF ILLINOIS FOUNDATION" was mailed this 2nd day of December, 1965, postage prepaid, to each of the following:

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