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EXAMINER
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FOSTER, JIMMY G

ART UNIT	PAPER NUMBER
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3993

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08/31/2012

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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**MAILED****AUG 31 2012**

**Transmittal of Communication to Third Party Requester** **CENTRAL REEXAMINATION UNIT**  
**Inter Partes Reexamination**

REEXAMINATION CONTROL NO. : 95002040  
PATENT NO. : 7584899  
TECHNOLOGY CENTER : 3999  
ART UNIT : 3993

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified Reexamination proceeding. 37 CFR 1.903.

Prior to the filing of a Notice of Appeal, each time the patent owner responds to this communication, the third party requester of the inter partes reexamination may once file written comments within a period of 30 days from the date of service of the patent owner's response. This 30-day time period is statutory (35 U.S.C. 314(b)(2)), and, as such, it cannot be extended. See also 37 CFR 1.947.

If an ex parte reexamination has been merged with the inter partes reexamination, no responsive submission by any ex parte third party requester is permitted.

All correspondence relating to this inter partes reexamination proceeding should be directed to the Central Reexamination Unit at the mail, FAX, or hand-carry addresses given at the end of the communication enclosed with this transmittal.

PTOL-2070(Rev.07-04)

<b>OFFICE ACTION IN INTER PARTES REEXAMINATION</b>	Control No.	Patent Under Reexamination
	95/002,040	7584899
	Examiner	Art Unit
	JIMMY G. FOSTER	3993

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address. --

Responsive to the communication(s) filed by:

Patent Owner on \_\_\_\_\_

Third Party(ies) on \_\_\_\_\_

**RESPONSE TIMES ARE SET TO EXPIRE AS FOLLOWS:**

*For Patent Owner's Response:*

2 MONTH(S) from the mailing date of this action. 37 CFR 1.945. EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.956.

*For Third Party Requester's Comments on the Patent Owner Response:*

30 DAYS from the date of service of any patent owner's response. 37 CFR 1.947. NO EXTENSIONS OF TIME ARE PERMITTED. 35 U.S.C. 314(b)(2).

**All correspondence** relating to this inter partes reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of this Office action.

This action is not an Action Closing Prosecution under 37 CFR 1.949, nor is it a Right of Appeal Notice under 37 CFR 1.953.

**PART I. THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

1.  Notice of References Cited by Examiner, PTO-892
2.  Information Disclosure Citation, PTO/SB/08
3.  \_\_\_\_\_

**PART II. SUMMARY OF ACTION:**

- 1a.  Claims 1-24 are subject to reexamination.
- 1b.  Claims \_\_\_\_\_ are not subject to reexamination.
2.  Claims \_\_\_\_\_ have been canceled.
3.  Claims \_\_\_\_\_ are confirmed. [Unamended patent claims]
4.  Claims \_\_\_\_\_ are patentable. [Amended or new claims]
5.  Claims 1-24 are rejected.
6.  Claims \_\_\_\_\_ are objected to.
7.  The drawings filed on \_\_\_\_\_  are acceptable  are not acceptable.
8.  The drawing correction request filed on \_\_\_\_\_ is:  approved.  disapproved.
9.  Acknowledgment is made of the claim for priority under 35 U.S.C. 119 (a)-(d). The certified copy has:
  - been received.  not been received.  been filed in Application/Control No \_\_\_\_\_.
10.  Other \_\_\_\_\_

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This is a first Office action on the merits, which is accompanied by an Order granting inter partes reexamination.

### ***Examination***

#### **I. Claims 1-11, 13, 14, 17-19 and 22**

##### Rejection

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this, Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-11, 13, 14, 17-19 and 22 rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over published European Patent Application No. 1 065 079 A2 to Applicant Volkswagen Aktiengesellschaft (Volkswagen).

A detailed explanation in support of rejecting the claims over Volkswagen is provided in the Request (see Sections IV.D.1, pp 8-9 and IV.D.2, pp 9-14, 16, 19-23 and 25-27), which detailed explanation is being adopted herein by reference in its entirety. However, to the extent that a question might could be raised regarding whether one of the limitations (as indicated

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below) is met by Volkswagen, the proposed rejection for anticipation presented by Requester is modified by the Examiner to be a rejection alternatively based on 35 U.S.C § 102 or 35 U.S.C. § 103(a).

Volkswagen discloses an HVAC controller (an operating element for a vehicle heating or air conditioning; paragraph [0007]). The controller includes a housing (the operating element 1) having a front face (see Fig. 1) having a central region (at display unit 3), and includes a display (LCD display; see paragraph [0007]) in the central region. The controller further includes a movable interface member/ring (2), disposed around the central region of the front face and forming part of the front face (see Fig. 1).

Volkswagen's movable interface member/ring (2) is rotatable (see paragraph [0009], second sentence) and therefore generally functions as a rotary knob (note background art discussions in paragraphs [0002] and [0003]). The movable interface member/ring (2) of Volkswagen is asserted by the Examiner to meet the claim limitation recited in claim 1 (and in the other independent claims) calling for the movable interface member to be adapted to move relative to the central region of the of the front face, because a person of ordinary skill upon reading the Volkswagen reference would infer therefrom that the ring (2) of the operating element (1) rotates but the display unit (3) does not. This is because the display unit (3) is never described as rotating or moving (see paragraphs [0006] – [0009] and the ref. claims 1-8), yet the ring is often referenced as a rotatable ring (see first sentence of paragraph [0007]; first two sentences and next-to-last sentence of paragraph [0009]). This aspect of the description regarding the ring and display unit is even maintained in a common sentence that refers to both the ring and display unit (see first sentence of paragraph [0009]). Although admittedly the operating element (1) is described as a “rotatable operating element,” the reference states that the rotatable operating element is embodied by the ring (see first sentence of paragraph [0007]; claim 2), and the rotating operating element is recited as having the display unit arranged inside (see Abstract; paragraph [0006]; claim 1). Thus, one of ordinary skill in the art would understand from reading Volkswagen that its ring (2) rotates relative to the display unit (3).

There is a separate additional basis on which Volkswagen should be considered to meet the language of claim 1 requiring that the movable interface be adapted to move relative to the central region of the front face. Although the term “relative” often refers to “comparison” or

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“contrast,” it is broad enough, by definition, to refer instead to “relevance” or “relationship.” The relevance or relationship between Volkswagen’s display unit (3) and the movement of the ring (2) includes the location of the display unit inside of the ring (see paragraph [0006]). Therefore, the claimed limitation “the movable interfaces member adapted to move relative to the central region” is broad enough to be met by the ring (2) of Volkswagen whether or not the display unit (3) is attached in a manner to rotate along with the ring.

Alternatively, it would have been obvious to one of ordinary skill in the art in view of Volkswagen, and particularly in view of the fact that the ring (2) of Volkswagen is often described as rotating but the display unit (3) is never described as rotating (as pointed out above), to have considered this fact as constituting an implied suggestion by the reference, and thereby to have made Volkswagen’s operating element with the display unit being non-rotating and the ring being rotating. Such obviousness would have been supported by the readily obvious benefit from the modification of avoiding having to read a display image (see Fig. 1: “24°”) either sideways or upside down after the ring has been rotated.

Additionally, the motion of the movable member (ring 2) in Volkswagen will cause a value of a second parameter to be displayed (by display unit 3), replacing the display of a value of a first parameter. Regarding this feature, the value of a first parameter, regarding actual temperature, which had initially been displayed (see paragraph [0007], second sentence), is replaced by a desired target value of a second parameter (i.e., the set temperature) set by the ring when the ring is rotated (see paragraph [0009]). The set/target value flashes until the actual value attains the target value. In other words, current/actual temperature (a first parameter) is replaced by the flashing setting temperature when the ring is rotated. However, when the current temperature eventually increases or reduces to become the same value as the setting, as in association with a heating or cooling system (see paragraph [0007]), the value shown by the display unit stops flashing and thus represents the current temperature (see paragraph [0009]).

Accordingly claim 1 is alternatively anticipated by, or rendered obvious over, Volkswagen.

Regarding claim 2, the ring (2) of Volkswagen, by the nature of being a ring, is annular in shape. Moreover, it extends around the central region of the front face (see Fig. 1).

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Regarding claim 3, the ring (2) of Volkswagen is rotatable about the display, because it is rotatable and extends about the display unit (3).

Regarding claim 4, the rotatable ring (2) of Volkswagen is the bi-directional (see paragraph [0009], second sentence; claim 3) and thus movable clockwise and counter-clockwise.

Regarding claim 5, the rotation of ring (2) of Volkswagen modifies the set point/target value shown in the display (see paragraph [0009], second sentence).

Regarding claim 6, the first parameter is the actual temperature in Volkswagen. Rotation of the ring (2) modifies the set point/target value shown in the display, which is the second parameter (see paragraph [0007]; second through fifth sentences of paragraph [0009]).

Regarding claim 7, the rotation of the ring (2) is said by the reference to set the desired target value, which is viewed on the display (see paragraph [0009], second sentence). Therefore, continued movement of Volkswagen's ring (2) from initial set value causes the value of the target temperature to be changed from the initial value.

Regarding claim 8, the Examiner is in agreement with the position of Requester (see Request, p 13) in considering that the ring of Volkswagen is necessarily removable under the broadest reasonable interpretation. The ring (2) and the display unit (3) of Volkswagen, as pointed out in the Request, are described in the reference in a manner indicating that they define separate parts, which further indicates that could be disassembled from each other. In support of this, the Examiner adds that Volkswagen discloses the display unit (3) as being "arranged" in the ring (see paragraph [0007]), which is sufficient to imply that the ring and display unit are assembled with respect to each other, further indicating (as pointed out by Requester) that they could be disassembled and meaning that the ring could be removed from the display unit.

Alternatively, the disclosure of assembly of the separate elements by Volkswagen wherein one element is arranged in another, without the reference additionally describing some

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permanent manner of joining them, is sufficient to indicate to one of ordinary skill in the art that the elements likely have an ability to be disassembled, making them capable of being disassembled from each other. Therefore, removability of the ring from the display unit would have been obvious from the manner in which Volkswagen describes its invention.

Regarding claim 9, Volkswagen describes that stop positions are allocated to the ring (2) (see paragraph [0009], third sentence), which is considered to meet the limitation calling for detents.

Regarding claim 10, rotation of the ring (2) in Volkswagen selects a value of the target/set temperature parameter, as opposed to the actual temperature parameter which was been previously displayed.

Regarding claim 11, rotation of the ring (2) of Volkswagen changes the target value, which is a value of one of the two parameters (i.e., the target/set temperature, and the actual temperature).

Regarding claim 13, the display unit (3) of Volkswagen is arranged in the ring (2) of the movable operating element (1) (see paragraph [0007]). Thus, the central region of the front face (display unit 3) of the controller (rotatable operating element (1)) extends into the hole (ring opening) of the movable interface member (2).

Regarding claim 14, the ring (2) of Volkswagen defines also a user interface because a user rotates the ring to set the target temperature value (see paragraph [0009]).

Regarding claim 17, the display unit (3) of Volkswagen provides information regarding set temperature to the person rotating the ring, as the image values are caused to be changed by ring rotation (see paragraph [0009]), meaning that the display unit functions as a user interface.

Regarding the limitations of claim 18 not found in claim 1 and thus not already addressed above, Volkswagen meets those limitations. Volkswagen discloses that the display unit (3) is preferably embodied as an LCD (i.e., liquid quartz display) (see paragraph [0007]). Additionally, the ring



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(2) of Volkswagen is annular shaped (see Fig. 1). Additionally, rotation of the ring (2) adjusts the value of the *set temperature* parameter, which is displayed on the LCD (3) (see paragraph [0009]).

Regarding the limitations of claim 19 not found in claim 1 and thus not already addressed above with respect to claim 1, Volkswagen meets those limitation. More specifically, Volkswagen discloses that the display unit (3) is preferably embodied as an LCD (i.e., liquid quartz display) (see paragraph [0007]). Additionally, the display unit displays an operating parameter (i.e., the set temperature or the actual value temperature; see paragraph [0009]). Additionally, rotation is the movement described by Volkswagen with respect to the ring (2) (already addressed above regarding claim 1) is rotation (id).

Regarding the recited limitation calling for the rotation of the rotatable element to select one or more parameters for display on the liquid crystal display, Volkswagen's rotation of its ring (2) meets that limitation. The ring's rotation in essence selects the *set temperature* parameter, which flashes as it is displayed until the actual temperature attains the set temperature (id).

Volkswagen additionally meets the limitation set forth in claim 22 and not found in claim 1 or 19. More specifically, an adjustment of the *set temperature* (desired value) operating parameter and display of the value thereof on the LCD display unit (3) is caused by rotation of the ring (2) in Volkswagen (see paragraph [0009]).

Accordingly claims 2-11, 13, 14, 17-19 and 22 are also alternatively anticipated by, or rendered obvious over, Volkswagen.

## II. Claim 12

Rejection

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Claim 12 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Volkswagen in view of U.S. Patent No. 4,702,155 to Hildebrand.

A detailed explanation in support of rejecting claim 12 is provided in the Request (see Sections IV.D.2, pp 15-16), which is adopted herein by reference in its entirety. Volkswagen has been explained above in relation to the limitations set forth in parent claim 1. Regarding the additional limitation recited in claim 12, calling for the movable interface member to be formed of rigid thermoplastic, such a material is known in the knob controller art, such as for controlling the cabin atmosphere in a vehicle. For example, the reference of Hildebrand teaches “advantageously” making the components of a ventilation system, which include a control knob (8) (see col. 3, lines 12-14), of thermoplastic, such as ABS copolymers (see col. 3, lines 25-32). Art recognized suitability of a particular material for an intended purpose is sufficient to constitute a valid basis for supporting a conclusion of obviousness regarding the making components in the art of such a material (see MPEP 2144.07). Accordingly, it would have been obvious in view of Hildebrand’s showing of making cabin controls of rigid thermoplastic, to have made the ring (2) of Volkswagen likewise of the known material.

### III. Claims 15, 16, 20, 21, 23 and 24

#### Rejection

Claims 15, 16, 20, 21, 23 and 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Volkswagen in view of U.S. Patent Application Publication No. 2002/0118182 to Luther Weindorf.

A detailed explanation in support of rejecting claims 15, 16, 20, 21, 23 and 24 is provided in the Request (see Sections IV.D.2, pp 16-19, 23-25 and 27-29), which detailed basis is being adopted herein by reference in its entirety. Volkswagen has been explained above in relation to the limitations set forth in parent claims 1, 19 and 22. It is to be further noted that the perimeter

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of the display unit (3) of Volkswagen is disposed within the inner circumference of the ring (2) (see Fig. 1). It is also noted that the operating element is disclosed by Volkswagen to be used in a motor vehicle (see paragraph [0001]).

The reference of Luther Weindorf teaches providing an LCD display as a backlit display unit. The backlit function promotes viewing a displayed image when in a location of non-optimal ambient light, such as found in a vehicle's cabin (see paragraphs [0005]-[0010]). Luther Weindorf also teaches providing the perimeter (i.e., a bezel) of a such display unit (see Figs. 1, 2) with a control button/user interface (112) to adjust various characteristics of the display, including that of brightness (see paragraph [0028]). Accordingly, in order to facilitate a better viewing the display of the display unit 3 of Volkswagen, such as when in dim conditions, it would have been obvious in view of Luther Weindorf to have modified the display unit to be backlit. Moreover, regarding claims 15, 16, 20, 21, 23 and 24, in order to facilitate manual adjustment of the brightness of the lighting of the display, it further would have been obvious in view of Luther Weindorf to have provided an adjustment button (i.e., a user interface) at a perimeter (e.g., at a bezel) of the display unit (in Volkswagen) and therefore in the central region of the front face within the ring (2).

Further regarding claims 21 and 24, the claim term "activating" is broad enough to reasonably include the definition "making more active." The teaching of Luther Weindorf teaches using a brightness button both for decreasing and increasing display lighting brightness as an adjustment of the display lighting. An increase to a display lighting's brightness equates to making the brightness more active. Accordingly, it further would have been obvious in view of Luther Weindorf to have provided as part of the function of the button in the modification of Volkswagen, an ability to activate (i.e., make more active) the brightness of the back-lighting of the display.

#### IV. Claims 1, 3, 4, 6 and 9

Rejection

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Claims 1, 3, 4, 6 and 9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over published PCT International Application WO 03/066366 A1 to Fournier in view of Volkswagen.

A detailed explanation in support of rejecting claims 4, 6 and 9 over the art combination is provided in the Request (see Sections IV.E.2, pp 34-38), which is adopted herein by reference in its entirety. Because claims 4, 6 and 9 ultimately depend from claim 1 and claim 4 depends from intermediate claim 3, claims 1 and 3 are being included in this rejection.

The Fournier reference concerns an HVAC controller including a display (see Fig. 1). The central region of the front face of the controller housing, i.e., the hand-operated control member button (1), includes a translucent part (20) which acts as the screen for a display device. The controller is useful for operating a heating or air conditioning system (see last paragraph of p 1; Abstract).

Additionally the controller housing includes a movable interface member, defined by an annular part (10) that extends around the central region. It is important to note, on the other hand, that the entire button (1) rotates (see p 4, second paragraph, last sentence), meaning that the central region of the front face rotates along with the outer annular part (10). To the extent that is claimed, however, a rotation of the annular part of Fournier may be considered to be *relative* to the central region of the front face, because the rotation of the annular part is *related* or *relevant* (which are definitions of “relative”) to the central region, for example by rotating therewith or about the axis (R) thereof.

Regarding the display associated with the controller, Fournier further discloses that images which are projected from a display device (33, 34) are projected through a lens (16) in the button onto the rear surface of a treated translucent screen/wall (14), shown located at the central region of the front face of the button (see Fig. 2). Therefore, the *display* (i.e., that which is viewed) of Fournier may reasonably be considered located in the central region of the front face of the controller housing (i.e., button (1)).

However, Fournier fails to disclose or meet the limitation recited that calls for motion of the movable interface member to cause the value of a second parameter to be displayed and replace the value of a first parameter. Although the lighted image of the display projected to the translucent part (20) of Fournier for display thereon apparently involves two information

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parameters, i.e., (1) a set temperature parameter (caused by knob rotation) and (2) an outside air-intake-vent control parameter, there is no disclosure in Fournier of replacing one parameter with another when the knob (1), including the annular part (10), is moved.

The Volkswagen reference, however, as substantially pointed out by Third Party Requester (see, for example, Request, pp 35-36), teaches switching *to* a set point (“desired target”) parameter reading of cabin temperature *from* an actual reading of the cabin temperature by rotating a movable interface member (ring 2) (see Volkswagen, paragraphs [0007], [0009]). Such an operating element is used regarding heating or air conditioning in a vehicle. Thus, Volkswagen teaches one of ordinary skill in the art that a heating or air conditioning control may be provided in a manner such that the movement (i.e., rotation) of a movable interface member thereof will function to cause the value of a second parameter (i.e., the target/set temperature) to be displayed, thereby replacing the displayed value of a first parameter (i.e., the actual temperature). From such a teaching it would have been obvious to one of ordinary skill in the art to have provided Fournier’s knob (1) and display system (20, 16, 33, 34) in a manner wherein knob rotation produces a result defined by replacing an initially displayed value of the actual cabin temperature (a first parameter) with a displayed value of assigned/set cabin temperature.

Accordingly claim 1 is unpatentable over Fournier in view of Volkswagen.

Regarding claim 3, Fournier’s button 1 is rotary (see page 3, lines 7-8), and Volkswagen teaches a rotatable ring (2) (see paragraph [0009]). Therefore, such a feature would have been obvious in the art combination.

Regarding claim 4, the bi-directional rotatable ring (2) of Volkswagen is movable both clockwise and counter-clockwise (see paragraph [0009], second sentence; reference claim 3). From this teaching it further would have been obvious to one of ordinary skill in the art to have made the annular part (10) of Fournier movable both clockwise and counter-clockwise, for both increasing and decreasing the setting temperature.

Regarding claim 6, Volkswagen’s applied teaching in the art combination includes that of rotation of a movable interface (2) for modifying the set point/target value temperature shown in the display, which is the second parameter (see second through fifth sentences of paragraph [0009]). As pointed out above, the display of a value of the second parameter replaces a value of

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a first parameter (i.e., the actual temperature parameter). When making modification to Fournier in view of Volkswagen, it thus would have been obvious to include such a feature.

Regarding claim 9, Volkswagen additionally teaches making a movable interface member (2) movable over a plurality of detents (allocated stop positions; see paragraph [0009], third sentence) for making it easier to set the desired target value. It further would have been obvious in view of this teaching to have made the movement interaction of the button (1) of Fournier to include allocated stop positions/detents which make the adjustment of the assigned temperature (the desired target temperature value) easier when moving the button.

Accordingly dependent claims 3, 4, 6 and 9 are also unpatentable over Fournier in view of Volkswagen.

### ***Conclusion***

All correspondence relating to this *inter partes* reexamination proceeding should be directed:

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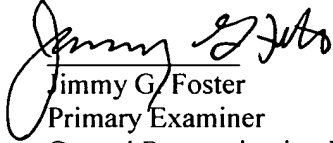
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directly into the official file for the reexamination proceeding, which offers parties the opportunity to review the content of their submissions after the "soft scanning" process is complete.

Any inquiry concerning this communication or earlier communications from the examiner, or as to the status of this proceeding, should be directed to the Central Reexamination Unit at telephone number (571) 272-7705.

signed



Jimmy G. Foster  
Primary Examiner  
Central Reexamination Unit 3993

Conf.:

