

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

Paper No. 26

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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**Ex parte** YOSHITOMO OSAWA, YOICHIRO SAKO, AKIRA KURIHARA  
and ISAO KAWASHIMA

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Appeal No. 2000-0225  
Application 08/677,543

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ON BRIEF

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Before HAIRSTON, BARRETT, and FLEMING, **Administrative Patent Judges.**

FLEMING, **Administrative Patent Judge.**

**DECISION ON APPEAL**

This is a decision on appeal from the final rejection of claims 19 through 21. Claims 12 through 18 have been allowed and claims 1 through 11 have been canceled.

The claimed invention is directed to a recording medium having a first recording area for recording key storage information and second recording area for recording an enciphered signal.

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Independent claim 19 is reproduced as follows:

19. A recording medium, comprising:

a first recording area for recording key storage information; and

a second recording area for recording an enciphered signal which has been obtained by processing an input signal by a number of signal processing means to be recorded to said second recording area, each of the signal processing means enciphering user data represented by said input signal and at least one of the signal processing means enciphering said user data by using encryption key information to generate said enciphered signal representing said user data, said key storage information containing location information of said encryption key information being used by signal reproducing apparatus to decipher said enciphered signal, said location information specifying whether said encryption key information has been recorded to said recording medium or whether said encryption key information has been stored to a storage other than said recording medium, said key storage information further containing attribute information for specifying which of the signal processing means has enciphered said user data.

The Examiner does not rely on any references.

Claims 19 through 21 stand rejected under 35 U.S.C. § 101 as being non-statutory subject matter.

Rather than reiterate the arguments of Appellants and the Examiner, reference is made to the briefs<sup>1</sup> and answer for the respective details thereof.

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<sup>1</sup> Appellants filed an appeal brief on March 9, 1999. Appellants filed a reply brief on July 15, 1999. The Examiner mailed an office communication on October 2, 2000 stating that the reply had been entered and considered.

**OPINION**

After careful consideration of the record before us, we will not sustain the 35 U.S.C. § 101 rejection of claims 19 through 21.

In the reply brief, Appellants argue that the claims are directed to a computer readable data storage medium on which is encoded functional data, key storage information and an enciphered signal. Appellants argue that this is clearly an article of manufacture and it is of statutory subject matter. Appellant argue that the Examiner has erred in characterizing the claims as merely non-functional descriptive material.

The Examiner argues that the Appellants' claimed invention is non-functional descriptive matter which is non-statutory under § 101. The Examiner argues that the claims do not recite a data structure or computer program, but only how the data is stored in a recording area. See page 4 of the Examiner's answer.

In **In re Lowry**, 32 F.3d 1579, 1583, 32 USPQ2d 1031, 1034-35 (Fed. Cir. 1994), our reviewing court held that a claim setting forth a computer readable medium encoded with a data structure defining structural and functional interrelationship between the data structure and the media which permits the data structures functionality to be realized is statutory. Furthermore, we note

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that in **In re Lowry**, the court noted that Lowry does not seek to patent the data model in the abstract, but seeks to patent a data structure that imposes a physical organization of data that supports specific data manipulation functions. See, **In re Lowry**, at 1034. We note that Appellant's claim 19 recites "[a] recording, comprising . . .". Appellant's claim 19 further recites "a first recording area for recording key storage information." Claim 19 further recites that "a second recording area for recording an enciphered signal . . . ." Thus, the claim is directed to a recording medium comprising areas in which functional data is storage to support specific data manipulation functions in that the arrangement supports retrieval of data in order that facilitates enciphering recorded information to prevent copying.

Therefore, we find that Appellant has set forth an article of manufacture and thereby meets the requirements of 35 U.S.C. § 101.

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**CONCLUSION**

We have not sustained the rejection of claims 19 through 21  
under 35 U.S.C. § 101.

The Examiner's decision is reversed.

**REVERSED**

MICHAEL R. FLEMING	)	
Administrative Patent Judge	)	
	)	
	)	
	)	
	)	BOARD OF PATENT
KENNETH W. HAIRSTON	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
	)	
	)	
LEE E. BARRETT	)	
Administrative Patent Judge	)	

MRF:pgg  
LEE & HAYES

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