

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. 23

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SUNG-WOO KO

Appeal No. 2001-2370
Application No. 09/109,403

HEARD: January 14, 2003

Before THOMAS, BARRY, and LEVY, Administrative Patent Judges.
LEVY, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1, 3, 5-10, and 14.

BACKGROUND

Appellant's invention relates to a shadow mask for a flat cathode ray tube. An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced as follows:

1. A shadow mask for a flat cathode ray tube, which has a plurality of pores for discriminating electron beams emitted from

electron guns by colors, and a vibration attenuation device disposed in a space between the pores, the shadow mask being provided with at least one reference portion for determining the position at which the vibration attenuation device is installed, wherein the reference portion differs in shape or size from the pores of the shadow mask.

The prior art reference of record relied upon by the examiner in rejecting the appealed claims is:

Seo¹ KR 94-11640 Dec. 22, 1994

Claims 1, 3, 5-10 and 14 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Seo.

Rather than reiterate the conflicting viewpoints advanced by the examiner and appellant regarding the above-noted rejection, we make reference to the answer (Paper No. 19, mailed May 22, 2001) for the examiner's complete reasoning in support of the rejection, and to the brief (Paper No. 18, filed March 30, 2001) for appellant's arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to appellant's specification and claims, to

¹ We rely upon the translation provided by the USPTO, a copy of which is attached to this decision. Although the translation refers to the inventor as "So," we observe that the document appears to be the same document referred to as "Seo" by appellant and the examiner.

the applied prior art reference, and to the respective positions articulated by appellant and the examiner. As a consequence of our review, we make the determinations which follow.

To support a rejection of a claim under 35 U.S.C. § 102(b), it must be shown that each element of the claim is found, either expressly described or under principles of inherency, in a single prior art reference. See Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984).

Each of independent claims 1, 3, and 5-9 recite that "the shadow mask being provided with at least one reference portion." Independent claim 10 similarly recites "wherein the shadow mask further includes at least one reference portion."

Appellant asserts (brief, page 3) that "the shadow mask according to the Appellant's's claimed invention allows accurate positioning of the damper wire on the shadow mask by referring to a reference portion indicated on the shadow mask itself when mounting the damper wire to the shadow mask." Appellant argues (brief, page 4) that Seo "does not teach, explicitly or inherently, a 'reference portion.'"

The examiner's position (answer, pages 5 and 6) is that the reference portion in Seo is the point where wires 21 are

mounted/fastened on the edges or frame of shadow mask 7 (figure 6), and that (answer, page 6) "[t]herefore, unless the Appellant defines, in claims 1 and 10, 'the shadow mask having reference portion' to be anything more specific, the examiner can reasonable define any point of shadow mask, ie edge or frame, to be reference portion of shadow mask."

We find that Seo (page 5) is directed to a shadow mask vibration damping device for a flat color CRT, in which shadow mask support wires are fixed so they pass between the shadow masks apertures, thereby preventing the support wires from blocking the apertures. Although Seo does not specifically disclose the use of reference portions, we agree with the examiner (answer, page 6) to the extent that as broadly claimed, any point of the shadow mask can be defined as a portion of the shadow mask. However, it is at this point that we part company with the examiner. As noted by appellant (brief, page 4) Seo discloses that wire 21 is fixed to the back of the support frame 8. Because the examiner (answer, page 3) relies upon the "point where wires 21 are mounted" (See also pages 5 and 6) as the reference portion, we find that the reference portion, as advanced by the examiner, is on frame 8. However, each of the independent claims require the reference portion to be on the

shadow mask, not the frame or rail to which the shadow mask is attached. We observe that both appellant's specification (page 5) and Seo (page 5) define the shadow mask and frame as separate elements. Because the "point where wires 21 are mounted" is on the frame and not on the shadow mask of Seo, we find that Seo does not anticipate the claims before us on appeal, which require that the reference points be on the shadow mask.

In addition, each of claims 1, 3, and 5-9 recite that "the shadow mask being provided with at least one reference portion for determining the position at which the vibration attenuation device is installed." Because Seo uses oblique lines at an angle of inclination θ or at right angles to the horizontal axis to position the wires (figures (3A) and 6(A), and page 6) we do not agree with the examiner that the point where the wires are connected to be reference portions "for determining the position at which the vibration attenuation device is installed" as recited in independent claims 1, 3, and 5-9." Accordingly, we cannot sustain the anticipation rejection of the claims as advanced by the examiner. We therefore reverse the rejection of claims 1, 3, 5-10 and 14 under 35 U.S.C. § 102(b).

CONCLUSION

To summarize, the decision of the examiner to reject claims 1, 3, 5-10, and 14 under 35 U.S.C. § 102(b) is reversed.

REVERSED

JAMES D. THOMAS)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
LANCE LEONARD BARRY)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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STUART S. LEVY)	
Administrative Patent Judge)	

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