

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte YOUNG-NAM OH and JAE-HOON HEO

Appeal No. 2003-2006
Application No. 09/556,978

HEARD: FEBRUARY 3, 2004

Before HAIRSTON, RUGGIERO, and BLANKENSHIP, Administrative Patent Judges.

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 3, 19, 23 and 24.

The disclosed invention relates to identification information in a first recording surface of a hybrid disc that indicates that the hybrid disc is a hybrid disc.

Claim 1 is illustrative of the claimed invention, and it reads as follows:

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1. A hybrid disc comprising:

a substrate;

a label printed surface formed on said substrate;

a first recording surface having identification information expressing a disc type, recorded in a predetermined recording area, said first recording surface being formed at a first interval below said label printed surface; and

a second recording surface formed at a second interval below said label printed surface;

wherein said second interval is longer than said first interval.

The reference relied on by the examiner is:

Tognazzini	5,959,946	Sep. 28, 1999
	(effective filing date Jun. 26, 1996)	

Claims 1 through 3, 19, 23 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the admitted prior art in view of Tognazzini.

Reference is made to the briefs (paper numbers 10 and 13) and the answer (paper number 12) for the respective positions of the appellants and the examiner.

OPINION

We have carefully considered the entire record before us, and we will reverse the obviousness rejection of claims 1 through 3, 19, 23 and 24.

According to the examiner (answer, page 5), the admitted prior art discloses all of the limitations of claims 1, 3, and 19 except for "ID information in a predetermined area indicating the type of disk that it is," and "Tognazzini discloses a type of hybrid disc wherein there is an area where information indicating the type of disc to [be] played is contained in a special area; col. 6, lines 33-38." Based upon the teachings of Tognazzini, the examiner concludes (answer, page 5) that:

It would have been obvious to a person of ordinary skill in the art at the time this invention was made to have provided the hybrid disc of the Admitted prior art, with an area identifying the type of disc, as taught by Tognazzini. The rationale is as follows: It would have been desirable to have informed the disc player as to which format was located on the disc. As Tognazzini teaches the desirability of having the ID information recorded in an area of the disc, one of ordinary skill would have been motivated by Tognazzini's teaching to have provided the Hybrid disc of the Admitted prior art with ID information thereby having provided means for facilitating the reproduction of discs in the player.

The disk disclosed by Tognazzini is a hybrid disk because it contains the additional read/write area 102, and not because it

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is a combined CD and DVD. The additional read/write area 102 is either on the top or the bottom of the single-layer CD (Figures 1A and 3). The examiner's contentions to the contrary notwithstanding, the read/write area 102 does not contain pre-recorded identification information expressing a disk type. The referenced portion of Tognazzini (i.e., column 6, lines 33 through 38) discusses control information kept in RAM 410B, and not control information in the read/write portion 102 (brief, page 4). The user of the disk in Tognazzini may write any type of information into the area 102 and thereafter read it, but the only source of record¹ that informs the user to place disk identifying information into this area is appellants' disclosed and claimed invention. We agree with appellants' argument (brief, page 4) that such teachings are not available to the examiner in an obviousness determination.

In summary, the obviousness rejection of claims 1 through 3, 19, 23 and 24 is reversed.

¹ At the oral hearing, appellants' counsel informed the Board that the broad claims on appeal may be impacted by the teachings of recently discovered U.S. Patent No. 5,526,328.

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DECISION

The decision of the examiner rejecting claims 1 through 3, 19, 23 and 24 under 35 U.S.C. § 103(a) is reversed.

REVERSED

KENNETH W. HAIRSTON)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
JOSEPH F. RUGGIERO)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
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HOWARD B. BLANKENSHIP)	
Administrative Patent Judge)	

KWH/hh

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STAAS & HALSEY, LLP
STE. 700
1201 NEW YORK AVE., N.W.
WASHINGTON, D.C. 20005