

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte JOHANNES-JORG RUEGER and ALEXANDER HOCK

Appeal No. 2005-1017
Application No. 09/824,167

ON BRIEF

Before THOMAS, CRAWFORD, and DIXON, Administrative Patent Judges.
CRAWFORD, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 to 17 and 19 to 38, which are all of the claims pending in this application. Claim 18 has been canceled.

We reverse.

BACKGROUND

The appellants' invention relates to an apparatus or method for charging a piezoelectric element which provides that a certain time delay or a predefined time can be defined such that when a certain event occurs (i.e. the current reaches a predetermined value) the charge or discharge of the piezoelectric element remains off or on for a predefined time period (specification, p. 25). A copy of the claims under appeal is set forth in the appendix to the appellants' brief.

The prior art reference

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

EP 0 871 230 A1

Reineke et al.

Oct. 14, 1998

The rejections

Claims 1 to 6, 8 to 17 and 19 to 38 stand rejected under 35 U.S.C. § 102 as being anticipated by Reineke.

Claim 7 stands rejected under 35 U.S.C. § 103 as being unpatentable over Reineke.¹

¹ The examiner has withdrawn the rejection of claims 1 to 17 and 19 to 38 under 35 U.S.C. § 112, second paragraph.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejections, we make reference to the answer (mailed July 30, 2003) for the examiner's complete reasoning in support of the rejections, and to the brief (filed June 11, 2003) and reply brief (filed October 3, 2003) for the appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by the appellants and the examiner. As a consequence of our review, we make the determinations which follow.

We turn first to the examiner's rejection of claims 1 to 6, 8 to 17 and 19 to 38 under 35 U.S.C. 102(b) as being anticipated by Reineke. We initially note that 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).

The examiner is of the view that Reineke discloses each and every element of claim 1. The examiner states:

Note that this references shows the exact same figures 1-10 and also note that the figures in the disclosure are noted as being those of the present invention. For example see the description of fig. 1 on p. 11, in which it is noted that the circuit is used "for charging and discharging a piezoelectric element using the method according to the present invention". Consequently the structure claims are met by this reference in so far as the claims are intended to refer to structures and operations shown in figures 1-10 [final rejection at page 4].

Appellants argue that Reineke does not disclose that a current is regulated as a function of time characteristic and an event characteristic to achieve an effective low average current. In appellants' view, Reineke does not disclose regulating current in any way.

We agree with the appellants that even though Reineke's figures are identical to the figures in the present invention, there is no disclosure in Reineke of regulating the current as a function of time characteristic and event characteristic. Therefore, we will not sustain the rejection of claim 1.

We will likewise not sustain the rejection as it is directed to claims 2 to 6, 8 to 17 and 19 to 38 because each of the claims requires that the current is regulated as a function of time characteristic and event characteristic.

We turn next to the examiner's rejection of claim 7 under 35 U.S.C. § 103 as being unpatentable over Reineke.

Claim 7 is dependent on claim 1 and therefore requires that the current be regulated as a function of time characteristic and event characteristic. Reineke does not disclose this feature of claim 7 nor is there any suggestion in the Reineke reference that the apparatus therein disclosed should be modified to include this feature. Therefore, we will not sustain the rejection of claim 7.

The decision of the examiner is reversed.

REVERSED

JAMES D. THOMAS)	
Administrative Patent Judge)	
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MURRIEL E. CRAWFORD)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS
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JOSEPH L. DIXON)	
Administrative Patent Judge)	

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