

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MARK T. FONDRK

Appeal No. 95-2751
Application No. 07/885,107¹

ON BRIEF

Before HAIRSTON, KRASS, and BARRETT, Administrative Patent Judges.

KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1 through 8, all of the claims in the application.

¹Application for patent filed May 18, 1992.

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The invention is directed to a cathode ray tube funnel, best illustrated by reference to representative independent claim 1, reproduced as follows:

1. A cathode ray tube (CRT) funnel having walls ending in a substantially rectangular seal area for joining to CRT front panel, the funnel characterized in that corner areas of the funnel walls in said seal area are substantially thinner than the funnel walls in the non-corner areas of the rectangular seal area, thereby providing a more compliant funnel corner when the funnel is joined to the front panel.

The examiner relies on the following references:

Pfleeger et al. (Pfleeger)	3,161,314	Dec. 15,
1964		
Dougherty et al. (Dougherty)	4,686,416	Aug.
11, 1987		

Claims 1 and 5 through 8² stand rejected under 35 U.S.C. 102(b) as anticipated by Pfleeger. Claims 2 through 4 stand rejected under 35 U.S.C. 103 as unpatentable over Pfleeger in view of Dougherty.

²The statement of rejection indicates that it is claims 1 and 5 through 9 which are rejected but since only claims 1 through 8 appear in the application, the recitation of a claim "9" is an apparent typographical error.

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Reference is made to the brief and answer for the respective positions of appellant and the examiner.

OPINION

We reverse.

Turning first to the rejection of claims 1 and 5 through 8 under 35 U.S.C. 102(b), anticipation requires that each element of the claim in issue be found, either expressly described or under principles of inherency, in a single prior art reference. Kalman v. Kimberly Clark Corp., 713 F.2d 760, 218 USPQ 781 (Fed. Cir. 1983).

We do not find, in Pfleeger, the presence of corner areas of the funnel walls in a seal area that are "substantially thinner" than the funnel walls in the non-corner areas of the rectangular seal area. The examiner points to sections of columns 1 and 2 of Pfleeger for such a teaching. However, our analysis of the cited portions of the reference indicates only that the yoke portion of the CRT

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envelope forming the transition between the neck and the main body of the funnel is circular in its external section and semi-rectangular in its internal section. This is the portion through which line 2-2 is placed in Pfleeger's Figure 1, the cross-section being seen in Figure 2.

While Pfleeger concentrates on the cross-section of the yoke, we find nothing therein related to the area in which the funnel meets the panel. More specifically, there is nothing in Pfleeger which discloses, or even suggests, that the funnel has corner areas in the seal area (i.e., that area where the funnel meets the front panel) that are thinner than the funnel walls in non-corner areas, as claimed.

Contrary to the examiner's position, at page 4 of the answer, we find nothing in Pfleeger suggesting that the cross-section of the yoke, shown in Figure 2, "continues to the faceplate."

Since each and every claimed element is not taught by Pfleeger, we will not sustain the rejection of claims 1 and 5 through 8 under 35 U.S.C. 102(b).

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Turning now to the rejection of claims 2 through 4 under 35 U.S.C. 103, the examiner contends that since Dougherty discloses a CRT having a flat face plate with a tensed shadow mask mounted on it, and a funnel with areas of thinner portions where the indexing elements are located, it would have been obvious, "as a matter of choice in design" [answer-page 3] to have Pfleeger accept the faceplate of Dougherty.

We agree with appellant that the indexing elements of Dougherty identified by the examiner are not located in the corners and would have no substantial effect on the stress during thermal processing, which is the focus of the instant invention. Further, since the examiner relies, in this rejection, on the mischaracterization of the Pfleeger reference, as noted supra with regard to the rejection under 35 U.S.C. 102(b), the rejection under 35 U.S.C. 103 is tainted.

The examiner's response [answer-page 5] is to attack the criticality of having the thinner areas only in the corners. The examiner then appears to accept that the thinner areas in

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Dougherty are, indeed, not in the corners, as required by the instant claims, but holds that to "shift the location of the thinner areas to the corners would be well within the skill of one versed in the CRT art" [answer-page 5]. We find the examiner's position to be unreasonable. The location of the thinner areas in the corners is clearly critical to the instant claimed invention. As described in the disclosure [see, for example, the abstract], the "corner walls of the CRT funnel are made with thinner walls to provide an increased compliance of the normally very rigid corners of the funnel-to-panel seal area." Thus, there is a specific, disclosed, purpose for having thinner areas in the corners, as claimed, and the examiner has not set forth any cogent reasoning as to why the skilled artisan would have modified the prior art to provide for such.

The examiner's decision rejecting claims 1 and 5 through 8 under 35 U.S.C. 102(b) and claims 2 through 4 under 35 U.S.C. 103 is reversed.

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No period for taking any subsequent action in connection
with this appeal may be extended under 37 CFR § 1.136(a).

REVERSED

KENNETH W. HAIRSTON)	
Administrative Patent Judge)	
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)	
)	
)	BOARD OF PATENT
ERROL A. KRASS)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
)	
LEE E. BARRETT)	
Administrative Patent Judge)	

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