

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 24

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte SANFORD COBB, JR. and JOHN F. DREYER

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Appeal No. 96-1839  
Application No. 08/024,610<sup>1</sup>

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HEARD: September 13, 1999

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Before JERRY SMITH, LALL, and DIXON, Administrative Patent Judges.  
DIXON, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the Examiner's final rejection of claims 1 and 3-11, which are all of the claims pending in this application.

We REVERSE.

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<sup>1</sup> Application for patent filed March 1, 1993.

### BACKGROUND

The appellants' invention relates to an electroluminescent display with brightness enhancement. An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

1. A backlit display comprising:

a case having an optical window and an axis;

an electroluminescent panel in said case;

a structured surface material between said electroluminescent panel and said optical window, said structured surface material having the property that light entering it while making an angle in a first predetermined group of angles with said axis will be reflected and light entering it while making an angle in a second predetermined group of angles with said axis will be refracted such that the majority of the light in said second group of angles will form an output wedge that is narrow[er] than said output wedge's associated input wedge, said angles in said second group of angles being greater than said angles in said first group of angles; and

a light gating means between said structured surface material and said optical window.

The prior art references of record relied upon by the Examiner in rejecting the appealed claims are:

Ukrainsky	4,748,546	May 31, 1988
Abileah	5,262,880	Nov. 16, 1993 (Filed Aug. 06, 1992)
McCartney, Jr. et al (McCartney)	5,280,371	Jan. 18, 1994 (Filed Jul. 09, 1992)

Claims 1, 3-6 and 8-11 stand rejected under 35 U.S.C. § 103 as being unpatentable over Abileah in view of Ukrainsky. Claims 1 and 3-7 stand rejected under 35 U.S.C. § 103 as being unpatentable over Abileah in view of Ukrainsky and McCartney.

Rather than reiterate the conflicting viewpoints advanced by the Examiner and the appellants regarding the above-noted rejections, we make reference to the Examiner's answer (Paper No. 21, mailed Jan. 24, 1996) for the Examiner's complete reasoning in support of the rejections, and to the appellants' brief (Paper No. 20, mailed Dec. 13, 1995) 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.

Appellants argue that the claim limitation of the electroluminescent panel (as a back light) is not met by the fluorescent lights taught in the prior art references applied against the claims. (See brief at page 10.) We agree with appellants. The Examiner relies upon the argument that the fluorescent light is an electroluminescent light source. We disagree with the Examiner. After a review of the specification, the declaration by

Mr. Kalweit and numerous definitions presented by the Examiner and appellants, it is clear that the term “electroluminescent” has a different definition than “fluorescent.” The specification discusses an electroluminescent display and electroluminescent light source (Background of the Invention at page 1.) From the discussion in the specification, it would be unreasonable to interpret electroluminescent to be the same as fluorescent or vice versa. It is clear that the claim sets forth a limitation regarding the electroluminescent panel which is not taught by the prior art applied against the claims.

Appellants further argue that it would not have been obvious to make a backlit display using an electroluminescent panel in light of the teachings of the use of fluorescent light in the prior art. (See brief at pages 10-11.) We make no finding regarding whether it would have been obvious to substitute an electroluminescent panel as back light in a display device for the fluorescent light taught by the three prior art references<sup>2</sup> since the Examiner has not presented an argument thereto in the Examiner’s answer.

Since we find that the fluorescent light as taught in the prior art references is not an electroluminescent light source, then the “fluorescent” tube light and potting material cannot meet the limitation of the “electroluminescent” panel as set forth in claim I.

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<sup>2</sup> With respect to McCartney, the patent is silent to the light source, but the McCartney article filed on Mar. 7, 1994 by appellants discusses fluorescent lamps as conventional for backlighting.

CONCLUSION

To summarize, the decision of the Examiner to reject claim 1 and 3-11 under 35 U.S.C. § 103 is reversed.

REVERSED

JERRY SMITH	)	
Administrative Patent Judge	)	
	)	
	)	
	)	
	)	BOARD OF PATENT
PARSHOTAM S. LALL	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
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	)	
JOSEPH L. DIXON	)	
Administrative Patent Judge	)	

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