

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 31

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte YOSHIBUMI MATSUDA, MASAOKI FUTAMOTO,  
YOSHINORI MIYAMURA, TOKUHO TAKAGAKI,  
HISASHI TAKANO, FUMIO KUGIYA, TAKESHI  
NAKAO, KYO AKAGI, MIKIO SUZUKI,  
HIROTSUGU FUKUOKA and TAKAYUKI MUNEMOTO

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Appeal No. 94-3857  
Application 07/740,708<sup>1</sup>

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HEARD: July 17, 1997

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Before GARRIS, GRON and PAK, Administrative Patent Judges.

GARRIS, Administrative Patent Judge.

**DECISION ON APPEAL**

This is an decision on an appeal from the final rejection of claims 1, 3 through 12, 21 and 27<sup>2</sup> through 29. The only other claims remaining in the application, which are claims 13 through

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<sup>1</sup> Application for patent filed August 6, 1991.

<sup>2</sup> We observe the following informality which is deserving of correction. On the last line of claim 27, "magnetic substrate" plainly should read -- nonmagnetic substrate--.

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20 and 22, stand withdrawn from further consideration by the examiner as being directed to a nonelected invention.

The subject matter on appeal relates to a magnetic recording medium which has at least two magnetic layers on a nonmagnetic substrate characterized in that both saturation induction and coercive force in the easy axes direction decrease from a surface of the magnetic recording medium to the nonmagnetic substrate. This appealed subject matter is adequately illustrated by independent claim 1 which reads as follows:

1. A magnetic recording medium which has at least two magnetic layers of thin film formed on a nonmagnetic substrate directly or via an underlayer, characterized in that easy axes of the at least two magnetic layers are oriented in the same direction, and both saturation induction and coercive force in the easy axis direction decrease from a surface of the magnetic recording medium to the nonmagnetic substrate.

The following references are relied upon by the examiner as evidence of obviousness:

Robinson	4,677,032	Jun. 30, 1987
Kawashima et al. (Kawashima)	4,966,821	Oct. 30, 1990
Diepers et al. (Diepers) (Translation copy attached)	38 05 787 A1	Sep. 7, 1989

All of the claims on appeal are rejected under 35 USC § 103 as being unpatentable over Robinson taken in view of

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Kawashima and Diepers.

We refer to the Brief and Reply Brief and to the Answer for a complete exposition of the respective viewpoints expressed by the appellants and the examiner concerning the above noted rejection.

We cannot sustain this rejection. As properly argued by the appellants in their Briefs, the applied prior art contains no teaching or suggestion concerning the desirability of or a methodology for decreasing both saturation induction and coercive force in the easy axes direction from a surface of the magnetic recording medium to the nonmagnetic substrate which is a requirement of all the appealed claims. Further, none of the applied references nor the nonapplied Sugita patent referred to on page 6 of the Answer reasonably supports the examiner's inherency position. See Ex parte Skinner, 2 USPQ2d 1788, 1789 (Bd.Pat.App. & Int. (1986) (examiner must provide evidence or scientific reasoning to establish the reasonableness of his belief that functional limitation is inherent characteristic of prior art). Further details regarding these deficiencies of the examiner's rejection may be found in the appellants' Briefs of record.

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The decision of the examiner is reversed.

**REVERSED**

	)	
BRADLEY R. GARRIS	)	
Administrative Patent Judge	)	
	)	
	)	
	)	BOARD OF PATENT
TEDDY S. GRON	)	
Administrative Patent Judge	)	APPEALS AND
	)	
	)	INTERFERENCES
	)	
CHUNG K. PAK	)	
Administrative Patent Judge	)	

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