

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 15

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOSEPHUS H. EGGEN, JOANNE H. D. M. WESTERINK
and REINDER HAAKMA

Appeal No. 95-3129
Application 07/949,290¹

ON BRIEF

Before McCANDLISH, *Senior Administrative Patent Judge*, COHEN and STAAB, *Administrative Patent Judges*.

STAAB, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on an appeal from the final rejection of claims 1-15, all the claims currently pending in the application.

Appellants' invention pertains to an apparatus for reading and playing back information stored on a removable information-

¹ Application for patent filed September 22, 1992.

Appeal No. 95-3129
Application 07/949,290

carrying medium, wherein the apparatus provides for time-wise bar display of said information. An understanding of the invention can be derived from a reading of exemplary claim 1, a copy of which appears in the appendix to appellants' brief.

The references of record relied upon by the examiner in support of the rejections are:

Utsugi et al. (Utsugi)	5,010,437	Apr. 23, 1991
Tomoda et al. (Tomoda) (European Patent Application)	0 306 909	Mar. 15, 1989

Claims 1-7, 10, 11 and 13-15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Tomoda.

Claims 8, 9 and 12 stand rejected under 35 U.S.C. § 103 as being unpatentable over Tomoda in view of Utsugi.

The full text of the examiner's rejections and response to the argument presented by appellants appears in the answer (Paper No. 13). The complete statement of appellants' argument can be found in the Brief (Paper No. 12).

Tomoda pertains to a compact disc player having a display for displaying the information contained on the disc in a form representative of how one would desire the information to be recorded on a tape by a tape recorder attached to the Tomoda device. To this end, the Tomoda device includes, see Figure 3, a display 24 comprising an "A plane indicator" representative of

Appeal No. 95-3129
Application 07/949,290

information to be recorded on the "A side" of the tape and a "B plane indicator" representative of information to be recorded on the "B side" of the tape. Each plane indicator includes a set of indicia corresponding to fifteen tracks of the disc, a series of seven-segment display units for displaying track and time information, and several groups of discrete vertical hash marks (presumably in the form of LEDs or the like). The "A plane indicator" and the "B plane indicator" are separated by what appears to be a horizontal number line starting at 0 (zero) and going to fifty (50) indicative of the minutes of playing time of each side of the tape. The manner in which Tomoda's display 24 displays information is not described in detail. As we understand it, as the edit keys 25b-25e are used to add tracks to the play list for recording on either the "A side" or the "B side" of the tape, the discrete vertical hash marks for the corresponding plane indicator change their appearance from a first state to a second state to indicate the cumulative time of the edited play list for that tape side.

Claim 1, the sole independent claim on appeal, calls for, *inter alia*, a visual display means for displaying the information of the removable information-carrying medium as a bar, and sub-bar display means for displaying within said bar, sub-sequences

Appeal No. 95-3129
Application 07/949,290

of the information. The sub-bar display means is such that the sub-sequences are displayed "each as an identifiable and discrete sub-bar having . . . a length which is proportional to a length of the represented sub-sequence" and such that there are "visible separation indications between each of the sub-bar display means."

It is well established patent law that for a reference to be properly anticipatory, each and every element of the rejected claim must be found either expressly described or under the principles of inherency in the applied reference. *See, inter alia, RCA Corp. v. Applied Digital Data Sys., Inc.*, 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). We have searched the disclosure of Tomoda in vain for any disclosure that the display means of Tomoda's disc player displays the sub-sequences (i.e., tracks) of the disc as identifiable and discrete sub-bars having a length proportional to the length thereof and with visible separation indications between each of the tracks, as called for in independent claim 1. Finding no such disclosure, the standing § 102 rejection of claims 1-7, 10, 11 and 13-15 based on Tomoda cannot be sustained.

As to the standing § 103 rejection of claims 8, 9 and 12 as being unpatentable over Tomoda in view of Utsugi, we have also

Appeal No. 95-3129
Application 07/949,290

carefully considered the Utsugi reference additionally relied upon by the examiner but find nothing therein which makes up for the above-noted deficiencies of Tomoda. Accordingly, the § 103 rejection of claims 8, 9 and 12 also cannot be sustained.

The decision of the examiner is reversed.

REVERSED

HARRISON E. McCANDLISH)	
Senior Administrative Patent Judge)	
)	
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)	
IRWIN CHARLES COHEN)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
LAWRENCE J. STAAB)	
Administrative Patent Judge)	

Appeal No. 95-3129
Application 07/949,290

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