

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KATSUHIRO KOHDA and HISASHI YAMAZAKI

Appeal No. 1997-0871
Application No. 08/469,761

HEARD: June 7, 2000

Before JOHN D. SMITH, GARRIS, and LIEBERMAN, Administrative Patent Judges.

LIEBERMAN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134 from the examiner's refusal to allow claims 10, 15 and 16 which are all the claims pending in the application.

THE INVENTION

The invention is directed to a radiation image storage panel having a phosphor layer directly coated with a crosslinked copolymer of a fluoroolfin and vinyl ether.

THE CLAIMS

Claims 10 is illustrative of appellants' invention and is reproduced below.

10. A radiation image storage panel which comprises a stimuable phosphor layer and a protective film directly coated on the phosphor layer, wherein the protective film comprises a crosslinked copolymer derived from a fluoroolfin and vinyl ether.

THE REFERENCES OF RECORD

As evidence of obviousness, the examiner relies upon the following references.

Hermes	3,775,171	Nov. 27, 1973
Takayanagi et al.	4,861,667	Aug. 29, 1989
Kohda et al.	4,939,018	July 3, 1990

THE REJECTION

Claims 10, 15 and 16 stand rejected under 35 U.S.C. § 103 as being unpatentable over Kohda in view of Hermes and Takayanagi.

OPINION

We have carefully considered all of the arguments advanced by appellant and the examiner and agree with the appellant that the aforementioned rejections under 35 U.S.C. § 103 are not well founded. Accordingly, we do not sustain the examiner's rejections.

As an initial matter, appellants respectfully request that claims 10, 15 and 16 be considered together. See Brief, page 3. Accordingly, we select claim 10, the sole independent claim as representative of appellants invention and limit our consideration thereto. 37 CFR 1.192(c)(7)(1995).

"[T]he examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a *prima facie* case of unpatentability." See *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). It is the examiner's position that, "[i]t would have been obvious to one having ordinary skill in the art to substitute the coating composition of Kohda et al. with that of the secondary references because the secondary references suggest superior coating properties." See Answer, pages 3 and 4. We disagree.

We find that the reference to Kohda discloses a radiation image storage panel having a phosphor layer and a protective film superposed thereon. See column 1, lines 1-12. We find the protective film is exemplified by polytetrafluoroethylene and polytrifluoroethylene. See column 10, lines 32-37. The film is fixed onto the

phosphor layer by an appropriate adhesive layer. See column 10, lines 38-42. However, the protective film is not the copolymer of the claimed subject matter. Neither is it crosslinked nor coated directly on the phosphor layer as required by the claimed subject matter.

We find that Hermes discloses a crosslinkable copolymer of a silyl vinyl ether, a fluoroolefin and other vinyl ethers used to coat glass among other substrates. See column 2, lines 9-16 and column 7, lines 14-23 and column 1, lines 64-65. We further find that Hermes discloses that the coating composition will adhere to all solid substrates. See column 6, line 62 to column 7, line 13. However, there is no suggestion or teaching to use the coating composition on a phosphor layer in place of those disclosed by Kohda.

Takayanagi discloses a curable coating composition having fluoroolefin units. See Abstract. The patentee discloses a coating composition that is superior in durability as compared to a usual coating composition wherein an acrylic resin is utilized. See column 1, lines 5-10. Copolymers with vinyl ethers are disclosed. See column 2, lines 46-47. The coating composition replaces previous coating compositions which require a primer. See column 1, lines 40-46. It moreover provides excellent adhesion to inorganic substrates. See column 1, lines 52-55 and column 7, lines 21-27. However, as with Hermes, there is no suggestion or teaching to use the coating composition on a phosphor layer in place of those set forth in Kohda.

Based upon the above analysis and findings, we conclude that there is an insufficient nexus between the coating composition of Kohda and those of Hermes and Takayanagi to provide adequate motivation to substitute their coating compositions for those of Kohda.

The examiner must show reasons that the skilled artisan confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed. We determine that there is no reason, suggestion, or motivation to combine the references in the manner proposed by the examiner. Accordingly, the examiner has not established a *prima facie* case of obviousness. See *In re Rouffet*, 149 F.3d 1350, 1357, 47 USPQ2d 1453, 1458 (Fed. Cir. 1998). The rejection of the examiner is not sustained.

DECISION

The rejection of claims 10, 15 and 16 under 35 U.S.C. § 103 as being unpatentable over Kohda in view of Hermes and Takayanagi is reversed.

The decision of the examiner is reversed.

REVERSED

JOHN D. SMITH
Administrative Patent Judge

BRADLEY R. GARRIS
Administrative Patent Judge

PAUL LIEBERMAN
Administrative Patent Judge

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