

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MASATOSHI UENO
and SHINJI MIYAMORI

Appeal No. 1997-2941
Application 08/165,318¹

HEARD: May 2, 2000

Before BARRETT, FLEMING, and DIXON, Administrative Patent Judges.

BARRETT, Administrative Patent Judge.

DECISION ON APPEAL

¹ Application for patent filed December 13, 1993, entitled "Movie Film Having Two Digital Audio Data Recording Areas Along Its Longitudinal Direction."

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This is a decision on appeal under 35 U.S.C. § 134 from the final rejection of claims 1, 7, 9, and 11. The amendments after final rejection filed January 29, 1996, (Paper No. 12) and May 16, 1996, (Paper No. 15) have been entered.

We reverse.

BACKGROUND

The invention is fairly described in Appellants' Summary of the Invention (Brief, pages 4-6).

Claim 1 is reproduced below.

1. A movie film for recording image reproduction data and audio reproduction data, said movie film comprising:

a frame image information recording area arranged along a longitudinal direction in the form of frames; and

at least two digital audio data recording areas arranged at different positions in a direction orthogonal to the longitudinal direction, wherein said audio reproduction data is recorded in a digital format with a predetermined relationship in one of said at least two digital audio data recording areas and the same audio reproduction data is recorded in the same digital format in another of said at least two digital audio data recording areas, wherein said audio reproduction data recorded in said digital audio data recording areas is constituted by a plurality of channels and each channel includes a parameter by which said audio reproduction data is encoded, the encoded data, and a doubly written parameter the same as said parameter, wherein said doubly written parameter is recorded in a digital audio data recording area which is different from the digital audio

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data recording area in which said parameter and said encoded data are recorded.

The Examiner relies on the following prior art references:

Fujiwara et al. (Fujiwara)	5,115,240	May 19, 1992
Kohut et al. (Kohut)	5,327,182	July 5, 1994
		(filed June 10, 1992)

Claims 1, 7, 9 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Kohut or, in the alternative, under 35 U.S.C. § 103 as being unpatentable over Kohut and Fujiwara.

Claim 11 stands rejected under 35 U.S.C. § 103 as being unpatentable over Fujiwara and Kohut.

We refer to the Final Rejection (Paper No. 6) (pages referred to as "FR__"), the Examiner's Answer (Paper No. 17) (pages referred to as "EA__"), and the Supplemental Examiner's Answer (Paper No. 20) (pages referred to as "SEA__") for a statement of the Examiner's position and to the Brief (Paper No. 14) (pages referred to as "Br__") and the Reply Brief (Paper No. 19) (pages referred to as "RBr__") for Appellants' arguments thereagainst.

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OPINION

The claims are grouped to stand or fall together (Br6).
Claim 1 is analyzed as representative.

The issue is whether the limitation of "a doubly written parameter ... [which] is recorded in a digital audio data recording area which is different from the digital audio data recording area in which said parameter and said encoded data are recorded" is anticipated by Kohut or rendered obvious by the combination of Kohut and Fujiwara.

The teachings of Kohut and Fujiwara are fairly summarized by Appellants (Br7-10).

35 U.S.C. § 102(e)

The Examiner relies on Table 1 (col. 6) of Kohut (EA5): "Each channel of 'A' includes a 'parameter' readable as the 16-bit digital audio data, and each channel of 'C' also including the 16-bit digital audio data, same as channel 'A' or as claimed 'a doubly written parameter.'" The Examiner also states (EA8): "Given the broad language of the claims, in particular, the fact that Appellant does not limit or define the term 'parameter' in any way, this so-called claimed

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'parameter' is readable on the 16-bit digital audio data encoding of Kohut et al."

Appellants argue (RBr5) that claim 1 recites (1) a parameter by which audio reproduction data is encoded, (2) the encoded data, and (3) a doubly written parameter the same as the parameter. Therefore, a "parameter" is defined as being utilized to encode audio data. Furthermore, it is argued (RBr5), the 16-bit digital audio data in Kohut is not the same as the claimed parameter, encoded data, and doubly written parameter.

The Examiner responds that a channel of soundtrack "A" corresponds to the parameter, encoded data, and doubly written parameter, and the doubly written parameter is recorded on a channel of soundtrack "C" (SEA3).

We agree with Appellants. A "parameter" is defined as being utilized to encode audio data and is different from the audio data itself. Kohut says nothing about an encoding parameter, much less having a redundant, doubly written parameter, much less recording these two parameters in different recording areas. Therefore, the finding of anticipation is clearly erroneous. The Examiner's reasoning

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with respect to Table 1 and the various channels is not understood. The eight channels all carry different data intended for different speakers (Table 1, col. 6; figure 7). It is not known why the Examiner considers the data in two channels to be the same (FR3, first full para.) since they carry different data. There is no reason to believe that the "Right/Center" channel in area "A" carries identical information to the "Left/Center" channel in area "C." Nevertheless, even if the data was the same, the claim requires the parameter to be doubly written in different recording areas, not the data, and, again, Kohut does not disclose redundant encoding parameters or recording redundant encoding parameters in different digital audio data recording areas. Accordingly, the Examiner has failed to establish a prima facie case of anticipation. The anticipation rejection of claims 1, 7, and 9 is reversed.

35 U.S.C. § 103

The Examiner states that Kohut discloses the claimed subject matter except, perhaps, "a parameter by which said audio reproduction data is encoded," but that this limitation is "clearly disclosed by Fujiwara" (EA9). The Examiner

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apparently bases this finding on the fact that Appellants cited Fujiwara as relevant to the SDDS and ATRAC system and the assumption that Fujiwara must, therefore, have a parameter (EA8-9).

Appellants note that they did not acknowledge that the system and method of encoding audio reproduction data with the disclosed "parameter" is taught by Fujiwara (RBr3-4).

Appellants argue that the Examiner fails to indicate exactly where the parameter or parameters are disclosed in Fujiwara, despite Appellants' previous assertions that Fujiwara does not disclose a parameter and a doubly written parameter (RBr8).

We agree with Appellants that their submission of Fujiwara does not in any way constitute a representation that Fujiwara discloses a "parameter" and a "doubly written parameter." We have reviewed Fujiwara and find that it does not disclose or suggest the parameter and doubly written parameter. Thus, the Examiner errs in relying on Fujiwara for these limitations.

The specification admits that in the SDDS (Sony Dynamic Digital Sound) system, each channel comprises an encoding parameter, an encoded and compressed audio data recording

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portion, and a doubly written parameter (specification, page 8). The specification further admits that the ATRAC (adaptive transform acoustic coding) system was utilized for the compression of digital audio data recorded on the digital audio data recording portion in the SDDS recording system (specification, pages 9-11) and that the most important coding parameters are doubly written in the ATRAC system (specification, page 13). It is not known why the Examiner did not rely on this admitted prior art (APA). Nevertheless, the APA indicates that there is still a problem in that when the parameter and doubly written parameter are recorded in the same recording area, both parameters can be destroyed by a scratch and the information needed for decoding and decompressing the data is lost. The invention and claimed subject matter is directed to recording the doubly written parameter in a different digital audio data recording area than the parameter. This limitation is not shown or suggested by either Kohut or Fujiwara. Accordingly, the Examiner has failed to establish a prima facie case of obviousness. The rejections of claims 1, 7, 9, and 11 over the combination of Kohut and Fujiwara are reversed.

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CONCLUSION

The rejections of claims 1, 7, 9, and 11 are reversed.

REVERSED

LEE E. BARRETT)	
Administrative	Patent Judge)
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)	BOARD OF PATENT
MICHAEL R. FLEMING)	APPEALS
Administrative Patent Judge)	AND
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JOSEPH L. DIXON)	
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