

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 34

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MARK T. JOHNSON, FREDDY ROOZEBOOM,
and MARTINUS H.W.M. VAN DELDEN

Appeal No. 1998-0593
Application 08/491,511¹

ON BRIEF

Before McKELVEY, Senior Administrative Patent Judge,
SCHAFFER and LEE, Administrative Patent Judges.

LEE, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's rejection of claims 2-12. Claim 1 has been canceled. No claim has been allowed.

References relied on by the Examiner

Kugimiya	JP 56-22207	May 15, 1981
Watanabe	4,285,894	Aug. 25, 1981
Matsuzawa 1989	4,841,400	Jun. 20,

¹ Application for patent filed June 16, 1995.

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The Rejection on Appeal

Claims 2, 11 and 12 stand finally rejected under 35 U.S.C. § 102(b) as being anticipated by Kugimiya.

Claims 3-6 stand finally rejected under 35 U.S.C. § 103 as being unpatentable over Kugimiya.

Claims 7-10 stand finally rejected under 35 U.S.C. § 103 as being unpatentable over Kugimiya, Watanabe, and Matsuzawa.

The Invention

The invention is directed to a magnetic head for recording, erasing, and/or reading information from a magnetic carrier. The two independent claims, claims 11 and 12, are reproduced below:

11. A magnetic head comprising at least one core portion of polycrystalline MnZn ferroferrite material, said material having an average grain size ranging between 0.2 and 3.0 micrometers in order to substantially reduce output noise signals.

12. A magnetic head comprising at least one core portion of polycrystalline MnZn ferroferrite material, said material having an average grain size ranging between 0.2 and 3.0 micrometers so that the rubbing noise level is less than the electronic noise level.

Opinion

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A reversal of the examiner's rejection(s) should not be construed as an affirmative indication that the appellants' claims are patentable over prior art. We address only the positions and rationale as set forth by the examiner and on which the examiner's rejection of the claims on appeal is based.

The anticipation rejection of claims 2, 11 and 12 is based on the examiner's erroneous view that prior art disclosing a broad range which encompasses a narrower range claimed by the appellants anticipates the appellants' claims. Prior art disclosing an average grain size less than or equal to 15 micrometers does not anticipate the claimed average grain size in the range from 0.2 to 3.0 micrometers or from 0.5 to 2.0 micrometers. Accordingly, the rejection of claims 2, 11 and 12 as being anticipated by Kugimiya cannot be sustained.

The examiner's obviousness rejections of dependent claims 3-6 and 7-10 are premised and dependent on the anticipation rejection of independent claims 11 and 12. The deficiencies of Kugimiya is not made up by the examiner's application of

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and on Watanabe and Matsuzawa. Accordingly, the obviousness rejections of claims 3-6 and 7-10 also cannot be sustained.

Conclusion

The rejection of claims 2, 11 and 12 under 35 U.S.C. § 102(b) as being anticipated by Kugimiya is reversed.

The rejection of claims 3-6 under 35 U.S.C. § 103 as being unpatentable over Kugimiya is reversed.

The rejection of claims 7-10 under 35 U.S.C. § 103 as being unpatentable over Kugimiya, Watanabe, and Matsuzawa is reversed.

REVERSED

FRED E. McKELVEY, Senior)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
RICHARD E. SCHAFER)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
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JAMESON LEE
Administrative Patent Judge

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