

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 25

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TEPPEI YOKOTA

Appeal No. 1998-2605
Application 08/278,612

ON BRIEF

Before THOMAS, HAIRSTON and KRASS, Administrative Patent Judges. THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

Appellant has appealed to the Board from the examiner's final rejection of claims 1 through 27 and 29 through 33, which constitute all the claims in the application.

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Representative claim 1 is reproduced below:

1. A recording medium comprising:

a recording area in which either only audio data or an intermixture of audio data and video data are recorded;

a first management data area stored with first management data for permitting a recording or reproducing operation of the audio data for said recording area and inhibiting a reproducing or recording operation of the video data when only the audio data are to be recorded in or reproduced from said recording area; and

a second management data area stored with second management data for permitting a recording or reproducing operation of the intermixture of the audio data and the video data for said recording area when both of the audio data and the video data are to be recorded in or reproduced from said recording area.

The following references are relied on by the examiner:

d'Alayer de Costemore d'Arc	4,489,351	Dec. 18, 1984
Takahashi	5,166,804	Nov. 24, 1992
Kamijima	5,258,852	Nov. 2, 1993 (filed Dec. 10, 1991)
Choi	5,448,371	Sept. 5, 1995 (effective filing date Jan. 17, 1992)
Osada (Japanese Patent)	3-66272	Mar. 20, 1991
Sakai (UK Patent Application)	GB 2 225 147	May 23, 1990

Claims 1 through 27 and 29 through 33 stand rejected under 35 U.S.C. § 103. As a basic combination of references, the examiner relies upon the collective teachings and showings of Sakai and Takahashi as to claims 1 through 3, 23, 24 and 30 through 33. To this basic combination of references the

examiner

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add Osada as to claims 4 through 6; adds Osada and d'Alayer de Costemore d'Arc as to claims 7 through 11, 13, 14 and 16 through 21; adds Osada and d'Alayer de Costemore d'Arc, further in view of Choi, as to claims 12, 15 and 22; adds Choi as to claims 25 and 26 and adds Kamijima as to claims 27 and 29.

Rather than repeat the positions of the appellant and the examiner, reference is made to the briefs and the answer for the respective details thereof.

OPINION

We reverse all of the stated rejections of the examiner under 35 U.S.C. § 103.

In what may be considered the broadest independent claim on appeal, we reproduce the following portion of claim 30:

A first 'management data area recorded with first management data for permitting a reproducing or recording operation of the audio program and inhibiting

a reproducing or recording operation of the video program.

Each of the other independent claims 1, 4, 7, 14, 17, 23, 27 and 33 on appeal recites, in a generally more specific manner, this feature.

In considering the teachings and showings of Sakai and Takahashi as a part of the first stated rejection of the claims on appeal, that is, claims 1 through 3, 23, 24 and 30 through 33,

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the examiner asserts at pages 5 and 6 of the answer that Sakai teaches basically everything recited in representative claim 1 on

appeal but states it is not specifically disclosed that the first management data is used for inhibiting a reproducing or recording operation of the video data, whereas the examiner asserts that Takahashi teaches this feature.

This statement of the issue indirectly reflects an apparent misunderstanding of the issue presented on appeal. Each of the independent claims on appeal recites in some manner that the recording medium itself has recorded thereon a first management data portion permitting recording or reproduction of the audio information while, at the same time,

inhibiting recording or reproduction of the video information.
It is not merely that the first management data is used for
inhibiting a reproducing or recording operation of the video
data as stated by the examiner.

From our detailed study of Sakai and Takahashi we find
ourselves in agreement with the following position advanced by
appellant in the paragraph bridging pages 8 and 9 of the
principal brief on appeal:

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Sakai in view of Takahashi fail to teach or suggest recording any data in a TOC or elsewhere which would *either permit or inhibit recording* data of any kind and, more importantly, recording data in a management area which would *inhibit* a reproducing or recording of the video data when only the audio data are to be recorded in or reproduced from the recording area. Sakai's and Takahashi's control codes neither permit nor inhibit recording at all and only designate the type of segment which can be selected, by means of a switch, for exclusive reproduction. Sakai in view of Takahashi do not prevent an exclusively audio recording apparatus from mistakenly recording over a video only recorded section of the disc, as does the present invention.

In accordance with the teachings of the secondary reference to Takahashi, the respective audio only, video only, or audio and video reproduction modes are respectively determined by the switches 101 through 103 as a part of the keyboard 60 in Figure 1 as noted at column 2, lines 59 through 62 and column 4, lines 58 through 60. Again, from our study of Takahashi, we agree with appellant's views expressed in the paragraph bridging pages 4 and 5 of the reply brief as reproduced here:

Therefore, the system controller 40 of Takahashi does not use the stored track number to identify whether or not a "second management data" is present because (1) in Takahashi there are only one set of control codes for the audio data (whether or not it is associated with video data) and no additional control codes ("second management data") for the video data and (2) the inhibition of reproducing the video data is determined by the mode setting switches 101-103, not by

the stored track number of the video data corresponding to a reproduced audio track.

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Because the examiner's initially stated rejection of independent claims 1, 23, 30 and 33 is fundamentally flawed, the extension of this rejection by the use of additional references to reject the remaining independent claims 4, 7, 14, 17 and 27 must also fall. As such, rejection of their respective dependent claims is also reversed. Therefore, the decision of the examiner rejecting claims 1 through 27 and 29 through 33 under 35 U.S.C. § 103 is reversed.

REVERSED

	JAMES D. THOMAS)	
	Administrative Patent Judge)	
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)	BOARD OF
PATENT)	
	MICHAEL R. FLEMING)	APPEALS
	Administrative Patent Judge)	AND
)	
INTERFERENCES)	
)	
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	Administrative Patent Judge)	

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