Paper No. 22

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte YOSHIYUKI ODAKA, MASAHIRO NISHIZAWA,
and TOSHIMASA ISHIGAKI

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Appeal No. 1999-0392
Application No. 08/548,759

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HEARD: February 7, 2002

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Before JERRY SMITH, DIXON, and SAADAT, **Administrative Patent Judges**.

DIXON, **Administrative Patent Judge**.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1-3, 8, 9, and 16-18. The examiner has indicated that claims 4-7, 11-14 and 19-22 are allowable over the prior art of record. Claims 10 and 15 have been canceled. The examiner indicated in the answer at page 9 that the rejection of claims 17 and 18 is withdrawn.

We REVERSE.

BACKGROUND

Appellants' invention relates to a color cathode-ray tube having non-glare means on the internal surface of the faceplate. An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

1. A color cathode-ray tube having a black matrix and a phosphor layer disposed with respect to an internal surface of a faceplate, wherein a light scattering film having light scattering characteristics providing a nonglare effect is formed by fixing a metal containing compound having a high index of refraction and a particle size of 0.1 μm to 2 μm on said internal surface of said faceplate for providing scattering reflection of external light, and said black matrix and said phosphor layer are formed on said light scattering film.

The prior art references of record relied upon[1] by the examiner in rejecting the appealed claims are:

Nishimura et al. (Nishimura)	5,141,461	Aug. 25, 1992
Kawamura et al. (Kawamura)	JP 03 250540	Nov. 08, 1991

Claims 1-3, 8, 9 and 16-18 stand rejected under 35 U.S.C. § 103 as being unpatentable over Nishimura in view of Kawamura.

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[1] The examiner lists the following references at page 3 of the answer, but does not list them in the statement of the rejection nor does the examiner discuss the relevance of them in the answer.

Wengert et al. (Wengert)	4,622,272	Nov. 11, 1986
Gibilini et al. (Gibilini)	5,101,136	Mar. 31, 1992
Iwasaki	5,177,400	Jan. 05, 1993

Therefore, we have not considered them in our decision.

Rather than reiterate the conflicting viewpoints advanced by the examiner and appellants regarding the above-noted rejections, we make reference to the examiner's answer (Paper No. 15, mailed Sep. 3, 1998) for the examiner's reasoning in support of the rejections, and to appellants' brief (Paper No. 13, filed Jun. 29, 1998) and reply brief (Paper No. 16, filed Nov. 3, 1998) for the appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by appellants and the examiner. As a consequence of our review, we make the determinations which follow.

Appellants argue in the summary of the invention section in the brief at page 7 that the "invention provides a light scattering reflection flim on the internal surface of the faceplate of the color cathode-ray tube, which light scattering film scatteringly reflects external light." Appellants argue that the examiner's position with respect to the combination of teachings is based upon hindsight. (See brief at page 9.) We agree with appellants. The examiner admits that Nishimura does not disclose a CRT having a light scattering film having metal particles in the claimed range, but the examiner relies on the teachings of Kawamura to teach the particle size. The examiner acknowledges that

Kawamura does not discuss that the film has a light scattering effect, but the examiner maintains that the film of Kawamura would intrinsically have a light scattering function. (See answer at pages 3-4.) We disagree with the examiner conclusion with respect to the scattering of the external light. Further, appellants argue that Kawamura does not scatter the external light. We agree with appellants. Appellants identify that Kawamura at pages 4-5 that the reflection preventive layer prevents external light from being reflected by the inner surface of the faceplate and Kawamura shows ray L in Figure 2 traversing into the CRT as ray L_4 and not being scattered. Therefore, we cannot agree with the examiner's conclusion with respect to the intrinsic scattering of the external light, and we cannot sustain the rejection of independent claim 1.

The examiner maintains the claimed structure is "structurally indistinguishable form [sic, from] the prior art structure." (See answer at page 7.) We assume that the examiner means the prior art structure of Kawamura since Nishimura does not teach the film on the internal faceplate of the CRT. Appellants argue that Kawamura does not disclose that the scattering of the external light on the internal surface of the faceplate citing pages 5 and 6 of Kawamura. (See reply brief at pages 3-8.) We agree with appellants analysis of the express teachings of Kawamura and find that the examiner has not provided a convincing

line of reasoning why the structure of Kawamura would intrinsically scatter the external light. Since the examiner has not shown that the combination of Nishimura and Kawamura would teach or fairly suggest the invention recited in independent claim 1, we will not sustain the rejection of claim 1 and its dependent claims 2, 3, 8, 9 and 16.

CONCLUSION

To summarize, the decision of the examiner to reject claim 1-3, 8, 9, 16 and 17 under 35 U.S.C. § 103 is reversed.

REVERSED

JERRY SMITH Administrative Patent Judge	)
JOSEPH L. DIXON Administrative Patent Judge	) BOARD OF PATENT) APPEALS) AND) INTERFERENCES
MAHSHID D. SAADAT Administrative Patent Judge	)

jld/vsh

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