

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte TERRANCE R. ROGELSTAD

Appeal No. 2000-2136
Application No. 08/713,882

ON BRIEF

Before McQUADE, NASE, and BAHR, Administrative Patent Judges.
NASE, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 to 34, which are all of the claims pending in this application.

We REVERSE.

BACKGROUND

The appellant's invention relates generally to cooldown chambers for use in integrated circuit fabrication processes (specification, p. 1). A copy of the claims under appeal is set forth in the appendix to the appellant's brief.

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

Weinberg	5,002,010	Mar. 26, 1991
Tepman et al. (Tepman)	5,186,718	Feb. 16, 1993

Claims 1 to 34 stand rejected under 35 U.S.C. § 103 as being unpatentable over Weinberg and Tepman.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejection, we make reference to the answer (Paper No. 12, mailed May 4, 2000) for the examiner's complete reasoning in support of the rejection, and to the brief (Paper No. 11, filed March 13, 2000) and reply brief (Paper No. 13, filed July 10, 2000) for the appellant's arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellant's specification and claims, to the applied prior art references, and to the respective positions articulated by the appellant and the examiner. Upon evaluation of all the evidence before us, it is our conclusion that the evidence adduced by the examiner is insufficient to establish a prima facie case of obviousness with respect to the claims under appeal. Accordingly, we will not sustain the examiner's rejection of claims 1 to 34 under 35 U.S.C. § 103. Our reasoning for this determination follows.

In rejecting claims under 35 U.S.C. § 103, the examiner bears the initial burden of presenting a prima facie case of obviousness. See In re Rijckaert, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993). A prima facie case of obviousness is established by presenting evidence that would have led one of ordinary skill in the art to combine the relevant teachings of the references to arrive at the claimed invention. See In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988) and In re Lintner, 458 F.2d 1013, 1016, 173 USPQ 560, 562 (CCPA 1972).

The appellant argues that the applied prior art does not suggest the claimed subject matter. We agree.

All the claims under appeal require a cooldown chamber having a first cooling member coupled to an inside wall of an enclosure; a second cooling member coupled to a pedestal for receiving a substrate thereon, wherein the second cooling member can be selectively positioned adjacent the first cooling member to form a cooling region therebetween; and a gas source for providing gas to the cooling region. However, these limitations are not suggested by the applied prior art. In that regard, while Weinberg does teach a cooldown chamber having a first member (22) coupled to an inside wall of an enclosure; a cooling member (24) coupled to a pedestal (40) for receiving a substrate (16) thereon, wherein the cooling member can be selectively positioned adjacent the first member to form a cooling region (30) therebetween; and a gas source (64) for providing gas to the cooling region, Weinberg does not teach or suggest that the first member be a cooling member. To supply this omission in the teachings of the applied prior art, the examiner made determinations (answer, pages 3 and 7-12) that Weinberg's first member (22) is inherently a cooling member. We do not agree. We find ourselves in agreement with the appellant's position (brief, pages 4-6; reply brief, pages 1-2) that Weinberg's first member (22) is not a cooling member. In our view, Weinberg's member (24) is a cooling member since it includes water jacket (70) therein through which a coolant may be pumped. Similarly, it is our opinion that Weinberg's member (22) is not a cooling member since it does not include any

structure therein to provide cooling (e.g., a jacket through which a coolant may be pumped).¹

For the reasons set forth above, the decision of the examiner to reject claims 1 to 34 under 35 U.S.C. § 103 is reversed.

¹ We have reviewed the patent to Tepman applied in the rejection but find nothing therein which makes up for the deficiencies of Weinberg discussed above.

CONCLUSION

To summarize, the decision of the examiner to reject claims 1 to 34 under 35 U.S.C. § 103 is reversed.

REVERSED

JOHN P. McQUADE
Administrative Patent Judge

JEFFREY V. NASE
Administrative Patent Judge

JENNIFER D. BAHR
Administrative Patent Judge

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