

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KEITH S. KOEGEL and EARL C. MYERS, JR.

Appeal No. 2001-0460
Application No. 09/030,032

ON BRIEF

Before THOMAS, FLEMING, and BARRY, Administrative Patent Judges.
THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

Appellants have appealed to the Board from the examiner's final rejection of claims 1-38.

Representative claim 1 is reproduced below:

1. A backer plate for a flexible film circuit strip, comprising:

a member having a body section with a film non-adjacent surface and with a film-adjacent surface, said body section extending forwardly to a leading edge; and

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said member including side walls extending vertically from said film-adjacent surface along side edges thereof to define a film-receiving nest,

whereby an end portion of said flexible film circuit strip is receivable into said film-receiving nest to be adhered to said film-adjacent surface to define an assembly insertable into a receiving cavity of a receptacle connector.

The following references are relied on by the examiner:

Jerominek	3,737,833	Jun. 5, 1973
Rehbogen, Jr. et al. (Rehbogen)	4,367,006	Jan. 4, 1983
Antes	4,770,645	Sep. 13, 1988

Claims 1-38 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 1-16 and 19-36 stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner relies upon Rehbogen in view of Jerominek, further in view of Antes.

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

OPINION

We reverse both stated rejections of the claims on appeal.

As to the initial rejection of the claims under the second paragraph of 35 U.S.C. § 112, the examiner questions the use of the language "film adjacent surface" and "film non-adjacent surface." This language appears in some form in each claim on appeal.

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In reversing this rejection, as appellants make clear in the brief and reply brief, the examiner has appeared to misconstrue the subject matter of the claims on appeal in viewing the claimed flexible film circuit strip as having an adjacent and non-adjacent surface. According to the subject matter of the disclosed and claimed invention, it is the backer plate "member" which has been recited to have these features. The film-adjacent surface has been identified and labeled in Figures 2 and 3 as surface 52. Correspondingly, the film-remote or film non-adjacent surface has been labeled in Figure 3 as surface 66. Both surfaces are shown but not necessarily labeled in most of the Figures 1-12. Even a brief study of the disclosed invention yields a clear understanding, particularly to an artisan, of the nature and meaning of the two stated surfaces in each of the claims on appeal. Therefore, the rejection of claims 1-38 under the second paragraph of 35 U.S.C. § 112 is reversed.

We also reverse the stated rejection of claims 1-16 and 19-36 under 35 U.S.C. § 103. The examiner relies upon Rehbogen for the basic teachings of the use of a flexible ribbon cable 8 which is interconnectable to a connector 2 which in turn is mounted on printed circuit board 14 as generally shown in Figures 1-4. As we understand the examiner's reasoning, this reference is not

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cited to provide a basis for the claimed backer plate "member," and our review indicates that such is not taught or contemplated in this reference.

On the other hand, the examiner appears to rely upon Jerominek for the teachings of the backer plate "member" in the body of representative independent claim 1 on appeal. In both the statement of the rejection portion and the responsive arguments portion of the answer, the examiner appears to correlate the flat non-conductive member/wafer 4 as comprising the claimed backer plate. The examiner also makes reference to the non-conductive housing 2 as a basis for some features of the backer plate as well.

The claimed backer plate member requires that it include side walls extending vertically along the side edges thereof to define a film-receiving nest. Element 4 in Figures 2 and 4 of Jerominek clearly does not have side walls itself which extend vertically to define a film-receiving nest. A separately stated element, a non-conductive housing 2, is stated by the examiner to comprise the side walls and the film-receiving nest. Although we agree with this interpretation of the internal structure of the non-conductive housing 2 as best depicted in Figure 2 of Jerominek, these required features are not part of the flat non-

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conductive member/wafer 4 argued by the examiner to comprise the claimed backer plate member.

Similarly, the whereby clause requires that the flexible film circuit itself be received into the nest as stated in the previous clause of representative claim 1 on appeal. Although we have indicated there is such a region or nest within the non-conductive housing 2 as shown in Figure 2, it forms no part of the flat non-conductive member/wafer 4 according to Jerominek's teachings. Although we find it reasonable within 35 U.S.C. § 103 for the artisan to have inserted the male connector 101 of Jerominek into the connector 2 of Rehbogen instead of into the female connector 102 in Figure 1 of Jerominek, because of the noted deficiencies with respect to Jerominek, the subject matter of representative independent claim 1 on appeal clearly would not have been met even if the two stated references were properly combinable within 35 U.S.C. § 103.

A similar conclusion is reached with respect to the additional teachings and suggestions provided by Antes. It is not clear to us from the examiner's reasoning in the answer as a whole what purpose the examiner relies upon Antes. It appears to us, however, that the examiner is analogizing the multi-wire retainer 10 as in some way comprising the claimed backer plate

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member. Even if we similarly do so, the multi-wire retainer 10 is not contemplated in this reference to be adhered to a film-adjacent surface to define an assembly that is insertable into a receiving cavity of a receptacle connector. The entire assembly of Antes is not contemplated to be insertable in any way related to a receptacle connector. The multi-wire retainer 10 of Antes is shown to be fixedly attached to the printed circuit board 56 without the use of an intermediate connector. Thus, even if we consider, for the sake of argument, that it would have been obvious to combine the collective teachings and showings of all three references relied upon by the examiner, the subject matter of representative independent claim 1 on appeal would not have been met.

The subject matter of representative independent claim 1 on appeal is the basis of corresponding additional limitations provided within each of the remaining independent claims 19, 23 and 30 on appeal. It is thus apparent that the rejections of these independent claims cannot be sustained. Because we have not sustained the rejection of any independent claims 1, 19, 23 and 30 on appeal under 35 U.S.C. § 103, the separate rejection of each of their respective dependent claims must also be reversed.

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In view of the foregoing, the decision of the examiner rejecting all claims on appeal under the second paragraph of 35 U.S.C. § 112 is reversed. Similarly, the separately stated rejection of most of the claims on appeal under 35 U.S.C. § 103 is also reversed. Therefore, the decision of the examiner 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
)	
)	
Lance Leonard Barry)	
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JDT/tdl

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