

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. 24

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* DENNY K. MIU  
and  
WEILONG TANG

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Appeal No. 2002-0388  
Application No. 08/937,859

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ON BRIEF

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Before WARREN, TIMM, and MOORE, *Administrative Patent Judges*.

TIMM, *Administrative Patent Judge*.

***DECISION ON APPEAL***

This appeal involves claims 1-12 which are all the claims pending in the application. We have jurisdiction over the appeal under 35 U.S.C. § 134.

***THE CLAIMED SUBJECT MATTER***

Claim 1 is illustrative of the subject matter on appeal:

1. A pressure sensor comprising:
  - a semiconductor frame having an opening;
  - a flexible membrane which extends over the semiconductor frame and over the opening of the semiconductor frame; and
  - a first strain gage resistor formed over a portion of the membrane which extends over the opening of the semiconductor frame.

***THE EVIDENCE***

As evidence of unpatentability, the Examiner relies upon the following prior art references:

|                      |           |               |                                      |
|----------------------|-----------|---------------|--------------------------------------|
| Rud, Jr et al. (Rud) | 4,777,826 | Oct. 18, 1988 |                                      |
| Kurtz et al. (Kurtz) | 5,891,751 |               | Apr. 6, 1999<br>(filed Sep. 9, 1996) |

***THE REJECTION***

Claims 1-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Rud, Kurtz, and Kotaki (Answer at pp. 3-4).

***OPINION***

We reverse for the following reasons.

The key issue in this appeal is one of claim interpretation; namely, the interpretation of “frame having an opening.” The Examiner has identified the correct legal principle to use to interpret the claim: Claims are to be given the broadest reasonable interpretation consistent with the specification during the examination of a patent application since the applicant may then amend the claims. *In re Prater*, 415 F.2d 1393, 1404, 162 USPQ 541, 550 (CCPA 1969). The problem lies in the reasonableness of the Examiner’s interpretation and its consistency with what is described in the specification.

When interpreting a claim, its words are generally given their ordinary and accustomed meaning, unless it appears from the specification that they were used differently by the inventor. *In re Paulsen*, 30 F.3d 1475, 1480, 31 USPQ2d 1671, 1674 (Fed. Cir. 1994). Appellants’ use of the words “frame” and “opening” are consistent with the ordinary meaning of these words as connoting an open case or structure made for admitting, enclosing, or supporting something (e.g., a window frame).<sup>1</sup> In such a structure, the opening extends all the way through to create a hole or aperture.

The Examiner relies upon Rud as describing a “frame having an opening” and a membrane over the frame and opening. According to the Examiner, Figure 3A of Rud depicts a

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<sup>1</sup>See Webster’s Ninth New Collegiate Dictionary 489 and 826 (1986). Copy provided with the decision.

“flexible membrane” 3 extending over “opening” 51 of a semiconductor “frame” 6 (Answer at pp. 5-6). Rud calls these structures an insulating layer 3, cavity 51, and substrate 6, respectively. Substrate 6 of Rud is not, in the ordinary sense, a “frame having an opening.” Cavity 51 does not extend all the way through substrate 6 of Rud such that there is a “frame” with an “opening” as required by the claim. The “membrane” 3 of Rudd, therefore, does not extend over a “frame” and “the opening of the ... frame” as further required by claim 1.

The rejection, therefore, falls short because no finding fact establishes that the combination of prior art suggests the structure of claim 1, the independent claim. We conclude that the Examiner has not established a *prima facie* case of obviousness with respect to the subject matter of claims 1-12.

### ***CONCLUSION***

To summarize, the decision of the Examiner to reject claims 1-12 under 35 U.S.C. § 103(a) is reversed.

REVERSED

|                             |   |                 |
|-----------------------------|---|-----------------|
| CHARLES F. WARREN           | ) |                 |
| Administrative Patent Judge | ) |                 |
|                             | ) |                 |
|                             | ) |                 |
|                             | ) |                 |
|                             | ) | BOARD OF PATENT |
| CATHERINE TIMM              | ) | APPEALS         |
| Administrative Patent Judge | ) | AND             |
|                             | ) | INTERFERENCES   |
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|                             | ) |                 |
|                             | ) |                 |
| JAMES T. MOORE              | ) |                 |
| Administrative Patent Judge | ) |                 |

CT/jrg

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