

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today
(1) was not written for publication in a law journal and
(2) is not binding precedent of the Board.

Paper No. 16

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT J. CROCKETT

Appeal No. 96-1465
Application 08/115,299¹

ON BRIEF

Before JERRY SMITH, BARRETT, and FLEMING, Administrative
Patent Judges.

JERRY SMITH, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134

¹ Application for patent filed September 01, 1993

Appeal No. 96-1465
Application No. 08/115,299

from the examiner's rejection of claims 1-5 and 19-21, which constitute all the claims remaining in the application.

The disclosed invention pertains to a display assembly which is positioned within the interior of a computer housing. The display assembly is located adjacent to a printed circuit board having electrical components mounted thereon. A metallic protective base is secured between the printed circuit board and the display device such that no portion of the rear surface of the display device is directly exposed to the electrical components mounted on the printed circuit board.

Representative claim 1 is reproduced as follows:

1. A display assembly which is positionable substantially adjacent to a printed circuit board within an interior of a computer housing, with the printed circuit board having electrical components mounted thereon, comprising:

a display device positionable within the interior of the computer housing, said display device having a rear surface; and

a metallic protective base, secured between the printed circuit board and said display device for supporting the rear surface of said display device, wherein said protective base covers the entire rear surface of the display device so that no portion of the rear surface of said display device is directly exposed to electrical components mounted on the printed circuit board.

Appeal No. 96-1465
Application No. 08/115,299

The examiner relies on the following references:

Lehmann et al. (Lehmann)	4,241,380	Dec. 23, 1980
Momose (Japanese Kokai)	2-264,994	Oct. 29, 1990
Fukuda (Japanese Kokai)	3-211,587	Sep. 17, 1991

Claims 1-5 and 19-21 stand rejected under 35 U.S.C.

§ 103 as being unpatentable over "Fukuda in view of Momose and Lehmann" [answer, page 3]. Although this is the only statement of the rejection, the explanation of the rejection indicates that the claims are unpatentable over Fukuda taken alone or over Fukuda in view of either Momose or Lehmann [Id. at pages 3-6].

Rather than repeat the arguments of appellant or the examiner, we make reference to the briefs and the answer for the respective details thereof.

OPINION

We have carefully considered the subject matter on appeal, the rejection advanced by the examiner and the evidence of obviousness relied upon by the examiner as support for the rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, the appellant's arguments set forth in the briefs along with the examiner's

Appeal No. 96-1465
Application No. 08/115,299

rationale in support of the rejection and arguments in rebuttal set forth in the examiner's answer.

It is our view, after consideration of the record before us, that the evidence relied upon and the level of skill in the particular art would not have suggested to one of ordinary skill in the art the obviousness of the invention as set forth in claims 1-5 and 19-21. Accordingly, we reverse.

Appellant has indicated that for purposes of this appeal the claims will all stand or fall together as a single group [brief, page 3]. Consistent with this indication appellant has made no separate arguments with respect to any of the claims on appeal. Accordingly, all the claims before us will stand or fall together. Note In re King, 801 F.2d 1324, 1325, 231 USPQ 136, 137 (Fed. Cir. 1986); In re Sernaker, 702 F.2d 989, 991, 217 USPQ 1, 3 (Fed. Cir. 1983). Accordingly, we will only consider the rejection against independent claim 1 as representative of all the claims on appeal.

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the examiner to establish a factual basis to

Appeal No. 96-1465
Application No. 08/115,299

support the legal conclusion of obviousness. See In re Fine, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the examiner is expected to make the factual determinations set forth in Graham v. John Deere Co., 383 U.S. 1, 17, 148 USPQ 459, 467 (CCPA 1966), and to provide a reason why one having ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. Such reason must stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir.), cert. denied, 488 U.S. 825 (1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985), cert. denied, 475 U.S. 1017 (1986); ACS Hosp. Sys., Inc. v. Montefiore Hosp., 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). These showings by the examiner are an essential part of complying with the burden of presenting a prima facie case of obviousness. Note In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992).

Appeal No. 96-1465
Application No. 08/115,299

With respect to the rejection of claim 1 on Fukuda taken alone, the rejection concentrates on the fact that no portion of the rear surface of the display device in Fukuda is directly exposed to electrical components mounted on the printed circuit board because of the reflector board 2b [answer, pages 3-4]. The rejection, however, makes no mention of the claim limitation that the protective base is metallic. Appellant correctly argues that there is no suggestion in Fukuda that the reflector board is made from a metallic material [reply brief, page 4]. The examiner simply concludes that the invention of claim 1 would have been obvious to the artisan without addressing the metallic limitation. Since appellant argues the nonobviousness of this metallic limitation, and since the examiner offers no analysis regarding the obviousness of this limitation, we are constrained to hold that, on this record, the examiner has failed to establish a prima facie case of the obviousness of claim 1 based on the teachings of Fukuda alone.

Appellant also argues that the reflector board 2b in Fukuda is part of the display device so that it cannot be considered to be a protective base between the printed circuit

Appeal No. 96-1465
Application No. 08/115,299

board and the display device [Id. at pages 3-4]. The examiner also fails to respond to this argument which provides additional support for the position that the examiner has not established a prima facie case of obviousness for the invention of claim 1.

With respect to the additional teachings of Momose, the examiner points to the metallic frame in Momose and its described advantages of securing, integrating and protecting the various components of the Momose display device [answer, page 5]. We fail to see how the metallic frame of Momose would have led the artisan to modify Fukuda so that the protective base in Fukuda would be metallic and would completely cover the rear surface of the display device in the manner recited in claim 1. Appellant has pointed out deficiencies in this rejection in the reply brief, and the examiner has again simply ignored the arguments. Thus, we are also constrained to hold that, on this record, the rejection of claim 1 based on the collective teachings of Fukuda and Momose cannot be sustained.

With respect to the additional teachings of Lehmann, the examiner points to Lehmann's teaching of separating

Appeal No. 96-1465
Application No. 08/115,299

electrical components with a metallic plate to prevent heat interference between the circuits. The examiner asserts that it would have been obvious to the artisan to separate the printed circuit board and display device of Fukuda with a metallic plate as taught by Lehmann. Appellant argues that Lehmann is directed to high heat producing components and would not prove helpful in Fukuda's liquid crystal display device. We agree with appellant. We can find no motivation for the artisan to apply Lehmann's high heat dissipation techniques to Fukuda's liquid crystal display assembly. The only basis for applying Lehmann's teachings to the Fukuda device comes from an improper attempt to reconstruct the invention in hindsight.

In conclusion, the record in this case does not support a rejection of claim 1 under 35 U.S.C. § 103 based on the teachings of Fukuda, Momose and Lehmann, taken singly or in any combination.

Therefore, we do not sustain the rejection of claims 1-5 and 19-21 under 35 U.S.C. § 103, and the decision of the examiner rejecting these claims is reversed.

Appeal No. 96-1465
Application No. 08/115,299

REVERSED

JERRY SMITH)
Administrative Patent Judge)
)
)
) BOARD OF PATENT
LEE BARRETT)
Administrative Patent Judge) APPEALS AND
)
) INTERFERENCES
)
MICHAEL R. FLEMING)
Administrative Patent Judge)

JS/dym

Appeal No. 96-1465
Application No. 08/115,299

Paul J. Maginot
Intellectual Property Section
Law Department
NCR Corporation, World Headquarters
Dayton, OH 45479