

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(2) is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte YASUHIRO NEMOTO,
KAZUO SAKAI, YOSHIYUKI TANAKA,
and KYUICHIRO NAGAI

Appeal No. 96-1893
Application 08/073,416¹

HEARD: APRIL 5, 1999

Before BARRETT, FLEMING and HECKER, **Administrative Patent
Judges.**

HECKER, **Administrative Patent Judge.**

DECISION ON APPEAL

This is a decision on appeal from the final rejection of
claims 2 through 6 and 8 through 23. Claims 1 and 7 have been

¹ Application for patent filed June 9, 1993.

anceled.

Appellants' invention relates to a magnetic tape recorder with a slide chassis and a main chassis. More particularly, as described on page 5 *et seq.* of the specification, Figure 1 shows a main chassis 6 and a slide chassis 7 with many through holes to decrease the weight. Such a lightweight slide chassis is easily subjected to deformations (see arrows 402 and 403 in Figure 6) during times when the pinch roller 41 (Figures 2 and 4) is pressed securely against the capstan shaft 4. To avoid deformation, a positioning assistance member 82 (as shown in Figures 10 and 11) is arranged on the main chassis 6 to cooperate with a positioning member 8 to limit the distance between the main chassis 6 and the slide chassis 7 due to the force of the pinch roller 41 against the capstan shaft 4.

Representative independent claim 12 is reproduced as follows:

12. A magnetic recorder in which magnetic signals are transmitted between a magnetic head device and a magnetic tape, comprising:

a capstan shaft for driving the magnetic tape when the magnetic tape is pressed against the capstan shaft, so that

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the magnetic tape runs on the magnetic head device,

a pinch roller for pressing the magnetic tape against the capstan shaft,

a main chassis on which the magnetic head and the capstan shaft are mounted,

a slide chassis on which the magnetic tape and the pinch roller are mounted, the slide chassis being movable relative to the main chassis in a feed path between a first position in which the magnetic tape is wound on the magnetic head device for transferring the magnetic signals therebetween, and a second position in which the magnetic tape is separated apart from the magnetic head device, and

positioning means adapted to be connected to both the main chassis and the slide chassis to restrain in positional relationship between the main chassis and the slide chassis in at least one direction when the magnetic tape is pressed against the capstan shaft by the pinch roller, and which is separated from at least one of the main chassis and the slide chassis in the at least one direction at least a part of the feed path when the magnetic tape is prevented from being pressed against the capstan shaft by the pinch roller, and

wherein the positioning means is connected to both the main chassis and the slide chassis to restrain the change in positional relationship between the main chassis and the slide chassis in the at least one direction when a force of the pinch roller pressing the magnetic tape against the capstan is more than a predetermined degree.

The reference relied on by the Examiner is as follows:

Tsuchida et al. (Tsuchida) 5,025,332 June 18, 1991

Claim 23 stands rejected under 35 U.S.C. § 112, second

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paragraph as being indefinite. Claims 2 through 6 and 8 through 22 stand rejected under 35 U.S.C. § 102 as being anticipated by Tsuchida.

Rather than repeat the arguments of Appellants or the Examiner, we make reference to the brief and the answer for the respective details thereof.

OPINION

After a careful review of the evidence before us, we agree with the Appellants that claims 2 through 6, 8, 9, 10 and 12 through 21 are not anticipated under 35 U.S.C. § 102 by Tsuchida. However, we agree with the Examiner with respect to claims 11 and 22 under 35 U.S.C. § 102. Regarding claim 23², we agree with the Examiner that the language is indefinite, and since Appellants have not presented opposing arguments, we

² Appellants' proposed amendment to claim 23 on July 17, 1995 (Paper No. 16) was denied entry as indicated by the Examiner in an Advisory Action mailed October 16, 1995 (Paper No. 17).

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will sustain this rejection *pro forma*.

It is axiomatic that anticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim. *See In re King*, 801 F.2d 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1986) and *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458, 221 USPQ 481,

485 (Fed. Cir. 1984). "Anticipation is established only when a single prior art reference discloses, expressly or under principles of inherency, each and every element of a claimed invention." *RCA Corp. v. Applied Digital Data Sys., Inc.*, 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984), *cert. dismissed*, 468 U.S. 1228 (1984), *citing Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983).

Appellants argue on page 8 of the brief that in their invention, "an engagement through the positioning means between the main chassis and the slide chassis is controlled in dependence upon a contact between the pinch roller and the

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capstan shaft through the magnetic tape, i.e., to restrain the change in positional relationship caused by a force of the pinch roller pressing the magnetic tape against the capstan more than

a predetermined degree." This limitation is recited in claim 12 (last paragraph) as "wherein the positioning means is connected to both the main chassis and the slide chassis to restrain the change in positional relationship between the main chassis and the slide chassis in the at least one direction *when a force of the pinch roller pressing the magnetic tape against the capstan is more than a predetermined degree*" (emphasis added). In contrast, Appellants argue, Tsuchida teaches engagement through the positioning means (Figure 4, element 121 with 122) is "only obtained at the end of the feed path regardless of whether or not the magnetic tape is pressed against the capstan shaft by the pinch roller." (Brief at page 9).

The Examiner maintains "that Tsuchida et al clearly shows in Figure 4 the positioning means is connected to both of the main chassis and the slide chassis to restrain the

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change in positional relationship between the main chassis and the slide chassis in the at least one direction." (answer at page 11). The Examiner further states that although it is true that Tsuchida achieves engagement whether or not the magnetic tape is pressed against the capstan shaft by the pinch roller, **when the tape is held by such a force**, it also restrains a change in positional relationship (answer at page 13).

While we appreciate the Examiner's theory of pinch roller force to restrain a change in positional relationship between the main and slide chassis, a thorough review of Tsuchida shows no support for this theory. Figures 20 and 21 show that sliding movement between the main and slide chassis is accomplished by

worm gear 35 and rack 36, and completion of loading is detected by sensor switch 130 (note also column 9, lines 1-12). Once loading is terminated, worm gear 35 in conjunction with rack 36 would restrain any change in the positional relationship. Since Tsuchida is silent as to the pinch roller

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force contributing to the restraint, we cannot assume such to meet Appellants' claim limitation. We, therefore, will not sustain the rejection of claim 12. Likewise, the rejection of claims 2 through 6, 8 through 10 and 13 through 20 will not be sustained since they depend from claim 12 and thereby contain the same limitation.

Regarding independent claim 21, we note the limitation "wherein the positioning means is prevented from restraining another change in positional relationship between the main chassis and the slide chassis in both directions opposite to each other along the feed path when the positioning means is connected to both the main chassis and the slide chassis" (emphasis added).

The Examiner's position is that "the positioning means of Tsuchida et al prevents movement to the right in Figure 4 (but not to the left) when the positioning means is connected to both the main chassis and the slide chassis. Therefore, it does not restrain, or it is prevented from restraining, a change in

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positional relationship between the main chassis and the slide chassis in both directions (i.e. since it only restrains in one direction) opposite to each other along the feed path when the positioning means is connected to both the main chassis and the slide chassis" (supplemental answer, page 5).

The Examiner's position *supra*, confirms that Tsuchida does not teach the claimed limitation of the positioning means allowing a positional change "in **both directions** opposite to each other along the feed path..." (i.e., allowing movement to the left and to the right as claimed. We do not agree with the Examiner that allowing movement in **one** of the **both directions** (as taught in Tsuchida) is a proper reading of the claim language. Therefore, we will not sustain the rejection of claim 21.

With respect to independent claim 11, Appellants argue a difference in power consumption between their invention and Tsuchida (reply brief, middle of page 2). We agree with the Examiner that power consumption is not recited in claim 11. Appellants further urge that Tsuchida's positioning member is connected to both the main and slide chassis **before** the

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magnetic tape is pressed against the capstan shaft by the pinch roller,
as opposed to their invention wherein the connection is made **substantially simultaneously** when the magnetic tape is pressed against the capstan shaft by the pinch roller (reply brief at pages 1 and 2).

The end of claim 11 recites the following language:
"wherein the positioning means is connected to both the main chassis and the slide chassis to restrain the change in positional relationship between the main chassis and the slide chassis in the at least one direction **substantially simultaneously when** (emphasis added) the magnetic tape is pressed against the capstan shaft by the pinch roller." The Examiner reads the "simultaneously" language as the claimed positional relationship **existing** "at the same time (i.e., simultaneously)", as opposed to **happening** at the same time. We find this claim interpretation to be a fair reading of the language and met by Tsuchida as depicted in Figure 7. Claim 22, dependent from claim 11, is also met by Tsuchida in that

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the "increase in distance" between the main and slide chassis can be read as either horizontal or vertical distance therebetween. We, therefore, sustain the rejection of claims 11 and 22.

In view of the foregoing, the decision of the Examiner rejecting claims 2 through 6, 8 through 10, and 12 through 21 under 35 U.S.C. § 102 is reversed; however, the decision of the Examiner rejecting claims 11 and 22 under 35 U.S.C. § 102 is affirmed; and the decision of the Examiner rejecting claim 23 under 35 U.S.C. § 112 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED-IN-PART

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