

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(2) is not binding precedent of the Board.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. 30

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SHUJI TAKESHITA

Appeal No. 1996-2094
Application 08/302,805¹

HEARD: Nov. 16, 1999

Before JOHN D. SMITH, GARRIS, and LIEBERMAN, Administrative
Patent Judges.

LIEBERMAN, Administrative Patent Judge.

DECISION ON APPEAL

¹ Application for patent filed September 7, 1994.
According to appellant, this application is a continuation of
Application 08/142,110, filed October 28, 1993; which is a
continuation of Application 07/832,348, filed February 7,
1992.

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This is an appeal under 35 U.S.C. § 134 from the examiner's refusal to allow claims 1 through 4 which are all the claims remaining in the application. Claims 5 through 7 were canceled in an amendment received March 30, 1993.

THE INVENTION

The invention is directed to a multilayer thin film circuit substrate in which a conductor layer forming at least one signal transmission path, each having an upper surface and a periphery, is substantially surrounded by a first insulator layer covering substantially all of the upper surface and the periphery of each signal transmission path. The first insulator layer is surrounded by a second insulator layer. The dielectric constant of the second insulator layer is larger than the dielectric constant of the first insulator layer. Furthermore, the second insulator layer has more adhesiveness than the first insulator layer.

THE CLAIM

Claim 1 is illustrative of appellants' invention and is reproduced below.

1. A multilayer conductor thin film circuit substrate, comprising:

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a conductor layer forming at least one signal transmission path, each having an upper surface and a periphery;

a first insulator layer, having a first dielectric constant, selectively formed at each signal path covering substantially all of the upper surface and the periphery of each signal transmission path; and

a second insulator layer, having a second dielectric constant larger than the first dielectric constant and more adhesiveness than said first insulator layer, surrounding said first insulator layer.

THE REJECTION

Claims 1 through 4 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which appellant regards as the invention.

OPINION

We have carefully considered all of the argument advanced by appellant and the examiner. We agree with the appellant that the aforementioned rejection is not well founded. Accordingly, we will not sustain that rejection.

The legal standard for definiteness under the second paragraph of 35 U.S.C. § 112 is whether a claim reasonably apprises those of ordinary skill in the art of its scope. In re Warmerdam, 33 F.3d 1354, 1361, 31 USPQ2d 1754, 1759 (Fed.

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Cir. 1994). The first inquiry is to determine whether the claims set out and circumscribe a particular area with a reasonable degree of precision and particularity.

The examiner's position is that the phrases, "larger than," and "more adhesiveness" is indefinite and meaningless. See the Final Rejection mailed July 18, 1995, page 2.

However, breadth itself "is not indefiniteness." In re Gardner, 427 F.2d 786, 788, 166 USPQ 138, 140 (CCPA 1970).

The definiteness of the language employed must be analyzed not in a vacuum, but in light of the teachings of the particular application. See In re Moore, 439 F.2d 1232, 1235, 169 USPQ 236, 238 (CCPA 1971). Applying the analysis set forth above, appellants' specification, discloses two distinct insulator materials. A first dielectric constant insulator layer **2** is exemplified by a substantial number of materials which have dielectric constants of 1.89 through 2.2, values which are lower than the usual, widely used polyimides. A second polyimide insulator layer **3**, has a dielectric constant of 3.3 which is "larger than" the first dielectric constant. See specification, page 1, lines 21-29, page 7, lines 10-12, Figure 11 and page 7, line 35 through page 8, line 9.

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As to the term, "more adhesiveness," appellants' specification correlates low adhesiveness with low dielectric constant insulators and good adhesiveness with insulators having dielectric constants "larger than" the first dielectric constant, i.e., polyimide. See specification, pages 1, lines 21-34 and page 2, lines 2-31, and page 3, lines 37 to page 4, line 4. Based upon the above consideration, we conclude that one of ordinary skill in the art reading the claims in light of the specification would be possessed with a reasonable degree of certainty as to the subject matter encompassed within the claims. Accordingly, the examiner has failed to establish with respect to the phrases, "larger than," and "more adhesiveness," that one of ordinary skill in the art would not be apprised of the scope of the claims containing these phrases.

Based on the above analysis, the rejection under § 112 is not sustained.

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DECISION

The rejection of claims 1 through 4 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which appellant regards as the invention is reversed.

The decision of the examiner is reversed.

REVERSED

John D. Smith)
Administrative Patent Judge)
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PATENT	Bradley R. Garris) BOARD OF
	Administrative Patent Judge) APPEALS AND
) INTERFERENCES
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	Paul Lieberman)
	Administrative Patent Judge)

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Richard A. Gollhofer
STAAS & HALSEY
700 11th Street N.W.
Washington DC 20001