

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 43

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MASATAKE HAYASHI

Appeal No. 1996-2437
Application No. 08/121,255

ON BRIEF

Before HAIRSTON, LALL, and GROSS, Administrative Patent Judges.

GROSS, Administrative Patent Judge.

REQUEST FOR REHEARING

In a decision dated November 8, 1999, the decision of the examiner rejecting claims 1 through 12 and 18 through 20 under 35 U.S.C. § 103 was affirmed.

Appellant argues (Request, page 2) that the Board misinterpreted the phrase "continuous space." Appellant (Request, pages 2 and 3) points to portions of the specification to show how "continuous space" should be interpreted. As we explained in our decision of November 8, 1999, although the claims are to be read in light of the specification, we will not read limitations from the specification into the claims. See E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co., 849 F.2d

Appeal No. 1996-2437
Application No. 08/121,255

1430, 1433, 7 USPQ2d 1129, 1132 (Fed. Cir. 1988); In re Prater, 415 F.2d 1393, 1404, 162 USPQ 541, 550 (CCPA 1969). "Claims are to be given the broadest reasonable interpretation." In re Pearson, 494 F.2d 1399, 1404, 181 USPQ 641, 645 (CCPA 1974).

Appellant contends (Request, page 3) that the recitation in claims 1 and 8 that at least two second electrodes are arranged so that the corresponding discharge regions form a continuous space means that "at least two sets of second electrodes are spaced close enough to each other that the two parallel discharge regions formed about the two sets of second electrodes overlap, thus forming one continuous space over the lengths of the two sets of second electrodes." Although we agree that a continuous space "over the lengths of the two sets of second electrodes" would require more than passages connecting adjacent units, the claims only recite that the space for at least two units is continuous, which broadly interpreted means connected. Appellant's interpretation reads limitations from the specification into the claims.

Similarly, appellant asserts (Request, page 3) that claims 5 and 18 recite that the discharge region "forms a continuous space over all of the second electrodes," and that claim 19 recites that the discharge region "forms a continuous space over a plurality of second electrodes," but the claims do not require

Appeal No. 1996-2437
Application No. 08/121,255

that the space be continuous over all or plural of the electrodes. The claim language merely requires that the discharge region "of all the scanning units" or "for a plurality of scanning units" is formed as a continuous space, which broadly interpreted means that the discharge regions for all of the scanning units are interconnected.

Appellant argues (Request, page 3) that "it was inappropriate for the Board to interpret the 'continuous space' of the discharge region or the space between at least one of the sets of scanning units to be separated by a barrier. This interpretation is not consistent with the text of the claims." However, the text of the claims does not preclude barriers. The text of the claims merely requires that the regions be interconnected or, rather, that there be passages through the barriers, which Buzak has. Appellant's claims merely require a continuous space, not a continuous space over the lengths of the electrodes. Therefore, our affirmation of the rejection over Buzak, with Ngo being cumulative, is proper.

Accordingly, appellants' request has been granted to the extent that our decision has been reconsidered, but such request is denied with respect to making any modifications to the decision.

Appeal No. 1996-2437
Application No. 08/121,255

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

REHEARING
DENIED

| | | |
|-----------------------------|---|-----------------|
| KENNETH W. HAIRSTON |) | |
| Administrative Patent Judge |) | |
| |) | |
| |) | |
| |) | |
| |) | BOARD OF PATENT |
| PARSHOTAM S. LALL |) | APPEALS |
| Administrative Patent Judge |) | AND |
| |) | INTERFERENCES |
| |) | |
| |) | |
| |) | |
| ANITA PELLMAN GROSS |) | |
| Administrative Patent Judge |) | |

apg/vsh

Appeal No. 1996-2437
Application No. 08/121,255

HILL, STEADMAN & SIMPSON
A PROFESSIONAL CORPORATION
85TH FLOOR SEARS TOWER
CHICAGO, IL 60606