

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(2) is not binding precedent of the Board.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. 15

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte STEPHEN P. WILLIAMS and TIMOTHY A. RIENER

Appeal No. 1998-2562
Application No. 08/567,403

ON BRIEF

Before JERRY SMITH, BARRETT and RUGGIERO, Administrative
Patent Judges

JERRY SMITH, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134 from the examiner's rejection of claims 13 and 17-26, which constitute all the claims remaining in the application.

The disclosed invention pertains to an improved head gimbal assembly (HGA) for use in a disk drive system.

Representative claim 13 is reproduced as follows:

13. An improved HGA, head gimbal assembly, for reading and writing information with respect to a relatively moving disk in a disk drive having a rotary actuator including an actuator arm and having electronic componentry, the HGA comprising:

a baseplate for mounting the HGA to the actuator arm;

a spring section fixed to the baseplate;

a cantilevered conductive load beam having a distal end and a proximal end, the proximal end being fixed to the spring section and the distal end including a load button;

a generally planar nonconductive dielectric film including a main body section, a distal end and a proximal end, the main body section being attached to the load beam, the distal end including a gimbal, and the proximal end including an elongate connector structure for interconnection with the electronic componentry;

conductor structure embedded within the dielectric film, the conductor structure extending from the elongate connector structure through the main body section and having a terminating end at the gimbal;

a generally planar tongue defined within the gimbal, the tongue being pivotably supported by the gimbal, the tongue being formed from the nonconductive dielectric film and the tongue having a wire bonding pad at an end thereof for electrically interconnecting to the terminating end of the embedded conductor structure and the tongue including a ground opening, and

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reviewed and taken into consideration, in reaching our decision, the appellants' arguments set forth in the brief along with the examiner's rationale in support of the rejections and arguments in rebuttal set forth in the examiner's answer.

It is our view, after consideration of the record before us, that Bennin does not support either of the rejections set forth by the examiner. Accordingly, we reverse.

We consider first the rejection of claims 13, 17, 18 and 23 under 35 U.S.C. § 102(e) as being anticipated by the disclosure of Bennin. These claims stand or fall together as a single group [brief, page 4]. Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.); cert. dismissed, 468 U.S. 1228 (1984); W.L. Gore and Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983), cert.

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denied, 469 U.S. 851 (1984).

With respect to representative, independent claim 13, the examiner has indicated how he reads this claim on the disclosure of Bennin [answer, pages 4-5]. Appellants argue that the entire gimbal interconnect structure of Bennin is a conductive material, whereas the claimed invention has a flexure structure which

includes a nonconductive dielectric film with an embedded conductor structure which extends only to the gimbal structure. Appellants also argue that the claimed tongue of the claimed gimbal is implemented out of this nonconductive dielectric film and that Bennin does not show such a gimbal structure [brief, pages 4-5]. The examiner responds that the invention as broadly recited in independent claim 13 is fully met by the disclosure of Bennin [answer, pages 7-9].

We agree with the position argued by appellants. Although we agree with the examiner that Bennin does disclose a nonconductive dielectric film having a conductor structure embedded therein as recited in claim 13, we agree with

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appellants that Bennin does not disclose the structure of the tongue as recited in claim 13. Claim 13 recites that the tongue is formed from the nonconductive dielectric film [note element 32, Figures 5, 6 and 10]. We interpret this language to mean that the tongue is integrally formed from the planar nonconductive dielectric film which is previously recited in claim 13. The examiner refers to slider pad 39 of Bennin [Figure 2], and the examiner notes that this slider pad can be made of a nonconductive

material [Bennin, column 9, line 65 to column 10, line 3]. Although we agree with the examiner that the slider pad 39 of Bennin can be made of a nonconductive material, there is no disclosure in Bennin that this nonconductive material should be formed from the material forming the nonconductive dielectric film as recited in claim 13. The slider pad 39 of Bennin is shown to be a completely separate piece from the material embedding the conductive traces in Bennin.

Thus, we agree with appellants that Bennin fails to disclose every feature recited in the claimed invention as

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required under 35 U.S.C. § 102. Therefore, we do not sustain the examiner's rejection of claims 13, 17, 18 and 23 as being anticipated by the disclosure of Bennin.

We now consider the rejection of claims 19-22 and 24-26 under 35 U.S.C. § 103 as being unpatentable over the teachings of Bennin taken alone. This rejection fundamentally relies on the examiner's interpretation of Bennin as discussed above with respect to the rejection under 35 U.S.C. § 102. Since the anticipation rejection was based on an improper finding that Bennin disclosed the tongue as recited in claim 13, this

rejection under 35 U.S.C. § 103 never addresses the obviousness of the differences between the claimed tongue and the tongues as taught by Bennin. Therefore, the examiner has failed to establish a prima facie case of the obviousness of these claims. Accordingly, we do not sustain the examiner's rejection of claims 19-22 and 24-26 based on the teachings of Bennin taken alone.

In summary, we have not sustained either of the examiner's rejections of the claims on appeal. Therefore, the

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decision of the examiner rejecting claims 13 and 17-26 is
reversed.

REVERSED

JERRY SMITH)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
LEE E. BARRETT)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
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JOSEPH F. RUGGIERO)	
Administrative Patent Judge)	

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DAVID B. HARRISON
CORPORATE PATENT COUNSEL
QUANTUM CORPORATION
500 MCCARTHY BLVD.
MILPITAS, CA 95035