

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(2) is not binding precedent of the Board.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 YOSHIKI TSUJIHASHI,
HISASHI MATSUMOTO and
KAZUHIRO YAMAZAKI

Appeal No. 95-4452
Application 08/094,925¹

ON BRIEF

Before URYNOWICZ, THOMAS and FLEMING, Administrative Patent
Judges.

THOMAS, Administrative Patent Judge.

ON REQUEST FOR REHEARING

¹ Application for patent filed July 22, 1993. According to appellants,
this application is a continuation of Application 07/730,679, filed July 16,
1991.

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This is a decision on rehearing of our original decision of November 17, 1998, wherein we reversed rejections of the claims on appeal under 35 U.S.C. §§ 102 and 103 and instituted a rejection of all claims on appeal under the second paragraph of 35 U.S.C. § 112. Appellants' request for reconsideration of January 19, 1999 is therefore considered a request for rehearing of that rejection.

Appellants only specifically request reconsideration of our rejection of claims 14 through 16. In light of the positions set forth in this request for rehearing, including appellants' correlation of the subject matter of claims 14 through 16 to the disclosed invention, the rejection is hereby withdrawn only as to these claims. As such, we hereby remand this application for the examiner's consideration of whether or not to institute new art rejections of claims 14 through 16 on the same, additional or different prior art in accordance with our discussion set forth in the middle of page 6 of our original opinion.

Inasmuch as appellants' request for rehearing does not ask for a rehearing or reconsideration of our rejection of claims 2 through 9 and 11, appellants have therefore impliedly

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withdrawn from appeal these claims or otherwise impliedly cancelled them. Since they have not been formally withdrawn from appeal or formally cancelled, the rejection of them under 35 U.S.C. § 112, second paragraph, remains.

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In view of the foregoing, our previous decision is hereby modified, appellants' request is granted-in-part and the application is remanded to the examiner only for consideration of the disposition of claims 14 through 16.

GRANTED-IN-PART AND REMANDED

	STANLEY M. URYNOWICZ, JR.)	
	Administrative Patent Judge)	
)	
)	
)	
	JAMES D. THOMAS)	BOARD OF
PATENT)	
	Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
	MICHAEL R. FLEMING)	
	Administrative Patent Judge)	

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