

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 37

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte KYOICHI YAMAMOTO

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Appeal No. 2002-0582  
Application No. 09/083,936

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ORDER REMANDING TO EXAMINER

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An Information Disclosure Statement (IDS) was filed March 13, 2002 (Paper No. 36) and has been matched with this application at the Board of Patent Appeals and Interferences. The IDS needs to be considered by the Primary Examiner with respect to compliance with the criteria set forth in 37 CFR §§ 1.97 and 1.98. A communication notifying appellant of the Primary Examiner's decision is required.

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In addition, on August 22, 2000, appellant filed a Notice of Appeal (Paper No. 26) "from the final Office Action dated May 4, 2000." The Final Office Action (Paper No. 22) stated that "claims 1-12 is/are pending in the application. Of the above, claim(s) 1-5, 10, and 11 is/are withdrawn from consideration" and that "[c]laims 6-9 and 12 is/are rejected." Page 2 of the Supplemental Appeal Brief filed August 20, 2001 (Paper No. 33) also stated that "[c]laims 1-12 are pending in the application. Claims 1-5, 10 and 11 have been withdrawn from consideration" and that "[c]laims 6-9 and 12, as finally rejected and appealed, are set forth in the Appendix." The "Grounds of Rejection" section located on pages 3-5 of the Examiner's Answer mailed June 20, 2001 (Paper No. 32) stated:

Claims 6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kakizoe et al. [US 4596909] in view of Mune [US 3773992]; and

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kakizoe et al. in view of Mune as applied to claim 6 above, and further in view of Manthe et al. [US 5756951].

It should be noted that the Examiner's Answer mailed June 20, 2001 does not appear to discuss the rejection of claim 9. Appropriate correction is required.

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Accordingly, it is

ORDERED that the application is remanded to the  
Examiner:

1. for consideration of the IDS filed March 13, 2002  
(Paper No. 36) and appropriate notification to appellant;
2. for a determination regarding the status of  
claim 9; and
3. for such further action as may be appropriate.

It is important that the Board of Patent Appeals and  
Interferences be informed promptly of any action affecting the  
status of the appeal (i.e., abandonment, issue, reopening  
prosecution).

BOARD OF PATENT APPEALS  
AND INTERFERENCES

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