

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(2) is not binding precedent of the Board.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

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte ROBERT L. DONOFRIO  
AND ANDRE VADER VOORT

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Appeal No. 95-0647  
Application 08/026,246<sup>1</sup>

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ON BRIEF

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Before HAIRSTON, KRASS, and FLEMING, Administrative Patent  
Judges.

HAIRSTON, Administrative Patent Judge.

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<sup>1</sup> Application for patent filed March 4, 1993. According to applicants, the application is a continuation of Application 07/459,915, filed January 2, 1990, now abandoned.

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DECISION ON APPEAL

This is an appeal from the final rejection of claims 1, 2, 5, 8 through 11 and 13. In an Amendment After Final (paper number 20), claims 1 and 8 were amended. As indicated in the Advisory Action (paper number 21), the amendment had the effect of overcoming the rejection under the first paragraph of 35 U.S.C. § 112.<sup>2</sup>

The disclosed invention relates to a monochrome cathode ray tube (CRT) for a projection television.

Claim 1 is illustrative of the claimed invention, and it reads as follows:

1. A monochrome cathode ray tube for projection television comprising in an evacuated envelope a display screen on a convexly curved inner surface of a display window in the wall of the envelope, the display screen comprising a layer of a luminescent material, characterized in that means for attenuating at least the wavelengths of radiation corresponding to the luminescent output of the tube area uniformly distributed in the display window so as to attenuate all wave lengths of said radiation by about the same amount, said amount being such as to result in a transmission of the display window in the range of about 70 to 90 percent thereby

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<sup>2</sup> We assume that the rejection under the second paragraph of 35 U.S.C. § 112 was likewise overcome by the amendment because the indefiniteness rejection was not repeated in the Answer.

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to improve the luminance uniformity of the display.

The references relied on by the examiner are:

Maple	4,132,919	Jan.
2, 1979		
Daiku	4,376,829	Mar.
15, 1983		
Hodges	4,755,868	July
5, 1988		

Claims 1, 5, 8, 10 and 13 stand rejected under 35 U.S.C. § 103 as being unpatentable over Hodges in view of Daiku.

Claims 2, 9 and 11 stand rejected under 35 U.S.C. § 103 as being unpatentable over Hodges in view of Daiku and Maple.

Reference is made to the final rejection, the briefs and the answer for the respective positions of the appellants and the examiner.

#### OPINION

We have carefully considered the entire record before us, and we will reverse the obviousness rejection of claims 1, 2, 5, 8 through 11 and 13.

As indicated supra, this application is a continuation of Application 07/459,915, filed January 2, 1990. In Appeal Number 93-0598 in the parent application, the Board affirmed

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the prior art rejections of the claims based upon the teachings and suggestions found in Hodges. According to the Board (Opinion, page 6), "[t]he glass of Hodges [sic, Hodges'] CRT corresponds to the 'means for attenuating' recited in claim 1," and the "[t]he

glass of the CRTs of Hodges necessarily and inherently meets the attenuation limitations of claim 1."

Claim 1 on appeal differs from claim 1 in the parent application by the addition of the phrase "so as to attenuate all wave lengths of said radiation by about the same amount, said amount being such as to result in a transmission of the display window in the range of about 70 to 90 percent" before the "thereby" clause. The examiner is of the opinion (Final Rejection, page 4) that:

9. Hodges discloses everything as applicants have claimed except for the attenuating means.

10. Daiku discloses a glass composition for a monochromatic CRT which attenuated particular wavelengths to enhance contrast.

11. It would have been obvious to one having ordinary skill in the art to use the glass of Daiku for the CRT's of Hodges in order to enhance the contrast. . . . It is the Examiner's opinion that there is at least one substance in the glass of Hodges or Daiku that will attenuate all the visible wavelengths by the same amount.

12. While applicants may argue that there is no showing of uniform distribution on the display window of a substance for attenuating all wavelengths of visible radiation, it is the Examiner's opinion that in the process of making the glass, all of the substances to make the glass would be uniformly distributed, otherwise the glass could have weak areas.

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We agree with the examiner's conclusions set forth in paragraphs 9 and 10. The conclusion in paragraph 11 that "[i]t would have been obvious to one having ordinary skill in the art to use the glass of Daiku for the CRT's of Hodges in order to enhance the contrast" is perfectly reasonable. With respect to the examiner's opinion in paragraph 11 that "there is at least one substance in the glass of Hodges or Daiku that will attenuate all the visible wavelengths by the same amount," we note that the examiner's knowledge of such "substance" has not been shared with either the appellants or the Board. Our review of the teachings of both Hodges and Daiku does not reveal such a "substance."

The Examiner's opinion in paragraph 12 that "in the process of making the glass, all of the substances to make the glass would be uniformly distributed, otherwise the glass could have weak areas" lacks evidential support.

In view of the foregoing, we agree with the appellants (Brief, page 6) that "there is no teaching or suggestion in the Hodges patent of providing the uniform distribution in the display window of a means for attenuating all the wavelengths of radiation produced by a CRT by about the same amount, an

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amount resulting in the transmission of the display window at a range of 70 to 90%," and "[t]he Daiku patent is not considered to fill in the essential gaps of the teaching of the Hodges patent." The 35 U.S.C. § 103 rejection of claims 1, 5, 8, 10 and 13 is reversed.

The 35 U.S.C. § 103 rejection of claims 2, 9 and 11 is reversed because Maple does not cure the noted shortcomings in the teachings of Hodges and Daiku.

DECISION

The decision of the examiner rejecting claims 1, 2, 5, 8 through 11 and 13 under 35 U.S.C. § 103 is reversed.

REVERSED

KENNETH W. HAIRSTON	)	
Administrative Patent Judge	)	
	)	
	)	
	)	BOARD OF PATENT
ERROL A. KRASS	)	APPEALS AND
Administrative Patent Judge	)	INTERFERENCES
	)	
	)	
MICHAEL R. FLEMING	)	
Administrative Patent Judge	)	

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