

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(2) is not binding precedent of the Board.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. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DIETER BAAS

Appeal No. 95-4547
Application 08/097,697¹

ON BRIEF

Before KRASS, MARTIN, and FLEMING, Administrative Patent Judges.
KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of
claims 1 through 18, all of the claims pending in the application.

The invention is directed to an optical
recording/reproducing apparatus having servo compensation for
detected defects and external shocks. More particularly, tracking
control signals are continuously sampled at intervals around a

¹ Application for patent filed July 27, 1993. According
to appellant, this application is a National stage application under
35 U.S.C. § 371 of PCT/EP92/00229 filed February 4, 1992.

Appeal No. 95-4547
Application No. 08/097,697

compact disc and samples of the tracking control signal for at least the last 360 degrees of tracking are stored in memory. When a disturbance or defect is detected, the stored tracking signal is substituted for the real time tracking signal.

Independent claim 1 is reproduced as follows:

1. In a data recovery apparatus having a light beam which is focused onto a rotating recording medium by a regulation circuit and is guided along data tracks of the rotating recording medium by a tracking regulation circuit, where a regulating signal of a regulation circuit is stored in a memory and the regulating signal present in the memory is applied to an actuator of the regulation circuit for the duration of a disturbance, improvements comprising:

means for successively storing regulating signal values, at predetermined intervals, in memory for at least the last most prior one rotation of the rotating recording medium;

means for detecting mechanical shock incurred by the apparatus; and

means for substituting the regulating signal stored in memory for the regulating signal in response to detecting said mechanical shock.

The examiner relies on the following references:

Baba et al. (Baba)	4,703,468	Oct. 27, 1987
Ohtake et al. (Ohtake)	4,785,442	Nov. 15, 1988
Anderson et al. (Anderson)	5,241,443 (Effective filing date of Apr. 17, 1990)	Aug. 31, 1993

Claims 1 through 18 stand rejected under 35 U.S.C. § 103 as unpatentable over Ohtake in view of Anderson and Baba.

Appeal No. 95-4547
Application No. 08/097,697

Reference is made to the brief and answer for the respective positions of appellant and the examiner.

OPINION

At the outset, we note that while appellant chooses not to argue the rejection of claims 8 and 15 through 18 [brief, bottom of page 1], this may only be interpreted to mean that appellant is willing to let them stand or fall together with the claims argued. The examiner may not presume [answer, bottom of page 6] that appellant acquiesces with respect to the rejection of these claims.

We have carefully considered the evidence before us including, inter alia, the arguments of appellant and the examiner and we conclude therefrom that the examiner has failed to establish a prima facie case of obviousness with regard to the instant claimed subject matter. Accordingly, we will not sustain the rejection of claims 1 through 18 under 35 U.S.C. § 103 based on the evidence provided by the applied references and the examiner's rationale.

The examiner's position is that Ohtake teaches the claimed subject matter but for the storing of servo signals of at least the entire prior one rotation of the disc, means for detecting mechanical

Appeal No. 95-4547
Application No. 08/097,697

shock and means for detecting defects in the reproduced data signal using envelope detection and that Anderson teaches the generation of supplemental position error signal values from a plurality of locations around a rotation of a disk. Therefore, concludes the examiner, it would have been obvious

to have modified the servo control apparatus of Ohtake...such that the memory would hold servo signals from an entire rotation of the disk, as taught by Anderson...in order to achieve a high degree of accuracy in head positioning around an entire rotation of a disk during operation [answer, page 5].

The examiner further concludes that since Baba teaches a first and second detection means for detecting surface defects and external shock, respectively, that it would have been obvious

to have incorporated the data signal defect detection means and the external shock detection means as taught by Baba...into the apparatus taught by the combination of Ohtake...and Anderson...in order to provide a means for maintaining accurate tracking control when detection errors occur during data reproduction, due to surface defects of the disc, and when external shocks to the optical head are encountered, by providing additional control signals to the memory hold circuit of Ohtake...[answer, page 6].

Appeal No. 95-4547
Application No. 08/097,697

Although the examiner is not clear as to how, exactly, the dual detection means of Baba is to be incorporated into the device of Ohtake, even if we accepted this combination, it is still not clear how or why the artisan would have combined Anderson with Ohtake in the manner set forth by the examiner.

Anderson does not track non-defective discs but, rather, relative tracking errors are determined and stored for one revolution and a composite position error signal is generated that more accurately follows the data track centerline of the disc surface being addressed. We find nothing in Anderson that would have led the artisan to have modified the teaching of Ohtake in order to provide therein storage of regulating signal values, at predetermined intervals, "for at least the last most prior one rotation of the rotating recording medium," as claimed. As explained by appellant, at page 5 of the brief, Anderson stores one rotation of calibration signals but does not continuously update the calibration signals whereas instant claim 1 recites "successively [i.e., continuously] storing regulating signal values, at predetermined intervals, in memory for at least the last most prior one rotation of the rotating recording medium."

The examiner's rationale of combining Anderson with Ohtake "in order to achieve a high degree of accuracy in head

Appeal No. 95-4547
Application No. 08/097,697

positioning..." is not understood since it is not clear how holding servo signals for an entire rotation of a disc increases "accuracy in head positioning."

Further, while Baba does, indeed, provide for a mechanical shock detector, Baba does not suggest the substitution of stored tracking signals when shocks are detected. Rather, Baba increases servo loop gain upon detection of shocks. Therefore, it is not clear why the skilled artisan would have been led, from the teaching of Baba, to use a mechanical shock detector in the Ohtake device in such a manner as to cause the substitution of stored tracking signals for the real time tracking signals when a shock is detected.

Thus, viewing independent claim 1 as a whole and considering the teachings of the several references, the examiner has not, in our view, presented a cogent rationale for combining the references in a manner so as to result in the claimed subject matter. Accordingly, no prima facie case of obviousness of the claimed subject matter has been established and we will not sustain the rejection of claims 1 through 18 under 35 U.S.C. § 103.

The decision of the examiner is reversed.

REVERSED

Appeal No. 95-4547
Application No. 08/097,697

Errol A. Krass)	
Administrative Patent Judge)	
)	
)	
John C. Martin)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
Michael R. Fleming)	
Administrative Patent Judge)	

Appeal No. 95-4547
Application No. 08/097,697

Joseph S. Tripoli
Patent Operations
GE & RCA Licensing Management
Operation, Inc. - CN 5312
Princeton, NJ 08540-0028