

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 9

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RICHARD LAROSA

Appeal No. 96-3665
Application 08/285,330¹

ON BRIEF

Before THOMAS, CARMICHAEL and GROSS, Administrative Patent Judges.

CARMICHAEL, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of Claims 1-7, 10, 12-15, and 17-23, which constitute all the claims remaining in the application.

¹ Application for patent filed August 3, 1994.

Claim 1 reads as follows:

1. An improved surface acoustic wave device having an operating center frequency wavelength λ comprising:

a substrate;

a pair of transducers having a plurality of substantially parallel fingers with each finger having a predetermined width and spacing from one another corresponding to λ , with said transducers being attached to said substrate;

a grounded grating having a plurality of substantially parallel fingers with each finger having a predetermined finger width and spacing from one another corresponding to the finger width and spacing of said transducers, said grating being attached to said substrate between said transducers at a distance approximately $\lambda/2$ from each transducer and such that said fingers of said grating are substantially parallel to said fingers of said transducers, and such that the number of fingers of said grating corresponds to the number of finger of said transducers, wherein said grating cancels a substantial portion of spurious reflections produced by said transducers.

The examiner's Answer cites the following prior art:

Hickernell et al. (Hickernell)	5,434,466	July 18, 1995 (filed May 31, 1994)
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OPINION

The claims stand rejected under 35 U.S.C. § 102 as anticipated by Hickernell.

Claim 1

According to the examiner, Hickernell discloses a surface acoustic wave device having all of the properties recited in Claim 1, including a gap width of 0.5 wavelengths. Examiner's Answer at 2-3.

Appellant concedes that Hickernell's exemplary gap width is 0.5 wavelengths, but argues that

appellant's invention is intended for devices having fingers of certain widths and separation not shown in Hickernell. Appeal Brief at 7. However, Claim 1 does not include any such limitation. Claims undergoing examination are given their broadest reasonable interpretation consistent with the specification, and limitations appearing in the specification are not to be read into the claims. *In re Etter*, 756 F.2d 852, 858, 225 USPQ 1, 5 (Fed. Cir. 1985) (in banc).

Appellant states that Hickernell is not concerned with canceling a substantial portion of spurious reflections produced by the transducers. Appeal Brief at 5. To the contrary, Hickernell is concerned with such cancellation. Column 1, lines 29-40 and 55-59; column 3, lines 43-51. Moreover, since Hickernell teaches the recited structure said by appellant to result in the cancellation, we assume that Hickernell's device inherently possesses the recited property.

Appellant argues that Hickernell's inclusion of wave guide elements into the gap prevents achievement of appellant's objectives. Appeal Brief at 6. Appellant provides no support for that argument. Moreover, some of appellant's objectives are not recited. Moreover still, Hickernell teaches that the wave guides are optional. In other words, while Hickernell teaches a device having waveguides, Hickernell also teaches a device without waveguides.

Appellant's remaining arguments (e.g. that Hickernell teaches away from the claimed gap width) appear to be directed to an obviousness standard, not anticipation.

Claim 17

Claim 17 is similar to Claim 1, but recites that the gap is “an integer multiple” of approximately one-half the wavelength. Since Hickernell discloses a gap equal to one-half the wavelength (a multiple of one), Hickernell discloses the claimed invention as discussed above.

Claims 2-7, 10, 12-15, and 18-23

Claims 2-7, 10, 12-15, and 18-23 stand or fall with Claims 1 and 17 because appellants have presented no arguments for separate patentability under 37 CFR § 1.192. Thus, the rejection of these claims will be sustained.

CONCLUSION

The rejection of Claims 1-7, 10, 12-15, and 17-23 as anticipated by Hickernell is sustained.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR 1.136(a).

AFFIRMED

JAMES D. THOMAS)
Administrative Patent Judge)
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JAMES T. CARMICHAEL) BOARD OF PATENT
Administrative Patent Judge) APPEALS AND
) INTERFERENCES

Appeal No. 96-3665
Application 08/285330

ANITA PELLMAN GROSS
Administrative Patent Judge

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