

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 16

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KUNIHICO TOKURA, MASARU URYU,
and SEIJA MATSUURA

Appeal No. 1997-0498
Application No. 08/452,064¹

ON BRIEF

Before KIMLIN, JOHN D. SMITH and WARREN, Administrative Patent Judges.

KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

¹ Application for patent filed May 26, 1995. According to appellants, this application is a division of Application No. 07/902,772, filed June 23, 1992, now U.S. Patent No. 5,663,220, issued September 2, 1997; which is a continuation of Application No. 07/550,955, filed July 11, 1990, now abandoned.

Appeal No. 1997-0498
Application No. 08/452,064

This is an appeal from the final rejection of claims 7-9, 11 and 12, all the claims remaining in the present application. Claim 7 is illustrative:

7. A speaker diaphragm, comprising an acoustic vibrational material wherein the acoustic vibrational material comprises a fiber reinforcement material and an epoxy resin wherein 10 to 25 mole percent of the epoxy resin comprises a polybutadiene elastomer containing not less than 90 mole percent of 1,2-linked units, and wherein the polybutadiene elastomer has principal chain terminals, the terminals having functional groups selected from the group consisting of hydroxyl, carboxyl, thiol, acid anhydride, primary amine, secondary amine and tertiary amine, the polybutadiene elastomer being incorporated into the molecular chains of the epoxy resin.

The examiner relies upon the following references as evidence of obviousness:

Graham	4,002,599	Jan. 11, 1977
Browning et al. (Browning)	4,016,022	Apr. 05, 1977
Gounder et al. (Gounder)	4,340,715	Jul. 20, 1982
Gaku et al. (Gaku)	4,780,507	Oct. 25, 1988
Makihara et al. (Japanese '794) (Japanese Kokai patent publication)	55-115794	Sep. 05, 1979

The present application is a divisional application of U.S. Application No. 07/902,772, filed June 23, 1992 (parent application). An appeal was taken to this Board in the parent application, and in a decision dated January 31, 1997, the Board reversed the examiner's rejections under 35 U.S.C.

Appeal No. 1997-0498
Application No. 08/452,064

§ 112, first paragraph, and 35 U.S.C. § 103. A copy of the Board's opinion is attached to this decision.

Appeal No. 1997-0498
Application No. 08/452,064

Appealed claims 7-9, 11 and 12 stand rejected under 35 U.S.C. § 112, first paragraph.²

Appealed claims 7-9, 11 and 12 also stand rejected under 35 U.S.C. § 103 as being unpatentable over Graham, Gounder, Browning and Gaku in view of Japanese '794 and Gaku.³

For the reasons set forth in our opinion in the appeal of the parent application, we will not sustain either of the examiner's rejections. The issue presented in the examiner's rejection under 35 U.S.C. § 112, first paragraph, is identical to the one we considered in the parent application. As for the § 103 rejection, although Browning and Gaku were not applied in the § 103 rejection in the prior appeal, these additional references fail to remedy the basic deficiencies of the collective teachings of Graham, Gounder and Japanese '794

² In the Grounds of Rejection section of the Examiner's Answer, the examiner does not state a rejection under § 112, first paragraph. Only an objection to the specification under § 112, first paragraph, is mentioned. However, since section (13) of the Answer refers to a rejection under § 112, first paragraph, we will treat the examiner's objection as a rejection of the appealed claims.

³ Since the examiner's statement of the rejection lists Gaku as both a primary and secondary reference, we will review the propriety of the examiner's § 103 rejection over the collective teachings of the cited references.

Appeal No. 1997-0498
Application No. 08/452,064

which were articulated in the prior decision. Neither Browning nor Gaku are directed to an acoustic vibrational material, let alone the more specific speaker diaphragm of the presently claimed invention.

The examiner's decision rejecting the appealed claims is reversed.

REVERSED

EDWARD C. KIMLIN)	
Administrative Patent Judge)	
)	
)	
)	
)	
JOHN D. SMITH)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
)	
CHARLES F. WARREN)	
Administrative Patent Judge)	

ECK:clm

Appeal No. 1997-0498
Application No. 08/452,064

Limbach and Limbach
2001 Ferry Bldg.
San Francisco, CA 94111