

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(2) is not binding precedent of the Board.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. 21

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte DEAN D. PETERSON

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Appeal No. 97-1440  
Application 08/187,838<sup>1</sup>

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ON BRIEF

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Before COHEN, MEISTER and FRANKFORT, Administrative Patent Judges.

FRANKFORT, Administrative Patent Judge.

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<sup>1</sup> Application for patent filed January 28, 1994.

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DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 through 3, 6, 9, 10, 13, 15 through 17 and 19. Dependent claim 18 has been objected to, but has also been indicated to be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. Claims 20 through 23 stand allowed. Claims 5, 8, 14, 24 and 25, the only other claims remaining in the application, have been withdrawn from further consideration under 37 CFR § 1.142(b). Claims 4, 7, 11 and 12 have been canceled.

Appellant's invention relates to an identification bracelet of the type traditionally used in areas such as hospital patient admissions, where appropriate and/or desired information relative to the patient must be printed on the bracelet. A copy of representative claims 1, 6, 13 and 15 on appeal appears in the Appendix to appellant's brief (Paper No. 16).

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

De Woskin	4,314,415	Feb. 9, 1982
Ohno et al. (Ohno)	0,552,656	July 28, 1993

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(European Patent Application)  
Claims 1 through 3, 6, 9, 10, 15 through 17 and 19  
stand rejected under 35 U.S.C. § 102(a) as being anticipated by  
Ohno.

Claim 13 stands rejected under 35 U.S.C. § 103 as being  
unpatentable over Ohno in view of De Woskin.

Rather than attempt to reiterate the examiner's full  
commentary with regard to the above-noted rejections and the  
conflicting viewpoints advanced by the examiner and appellant  
regarding the rejections, we make reference to the examiner's  
answer (Paper No. 17, mailed December 5, 1996) for the examiner's  
reasoning in support of the rejections, and to appellant's brief  
(Paper No. 16, filed November 21, 1996) for appellant's arguments  
thereagainst.

#### OPINION

In reaching our decision in this appeal, we have given  
careful consideration to appellant's specification and claims, to  
the applied prior art references, and to the respective positions  
articulated by appellant and the examiner. As a consequence of

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our review, we have made the determination that neither of the examiner's rejections will be sustained. Our reasoning in support of this determination follows.

Looking first at the examiner's rejection under § 102(a), we note that independent claims 1 and 6 define the identification bracelet therein as having a body portion formed from a plurality of coextensive laminates that are "relatively permanently bonded to each other over a majority of said body portion." These claims also recite an "adhesive closure means" which is said to include a "moveable cover means integrally formed from, and constituting a portion of, one or more of said laminates" (claim 1) or a "movable cover" (claim 6). The movable cover portions of the bracelet laminates are selectively movable from an initial position covering an adhesive means on the bracelet to a subsequent position exposing the adhesive means so that a first end portion of the bracelet may be attached to a second end portion of the bracelet in an operative relationship with a person or object to be identified. The terminology requiring the laminates of the bracelet to be "relatively permanently bonded" to each other except at the location of the cover means also appears in independent claim 15.

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On page 8 of the brief, appellant seeks to distinguish the identification bracelet of claims 1, 6 and 15 on appeal from the identification tag of Ohno by pointing out that the release paper (C), seen in Figures 1, 4 and 5 of Ohno as providing the entire lower laminate of the body portion of the luggage tag therein, "does not have any portion permanently secured to the tag at any location" (emphasis in original). Appellant contends that the release paper (C) is not permanently bonded to the tag of Ohno because, if it were, Ohno would be inoperative. The examiner contends (answer, page 4) that the release paper (C) of Ohno is considered to be "relatively permanently" bonded to the confronting laminate therein because the terminology "relatively permanently" is understood to mean "not absolutely permanently" or more permanent relative to something else.

It is an essential prerequisite that the scope and content of the claimed subject matter be fully understood prior to the application of prior art thereto. Accordingly, we direct our attention to appellant's independent claims 1, 6 and 15 to derive an understanding of the scope and content thereof. More particularly, we look to the specification, claims and arguments

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presented by appellant in an effort to understand the language "relatively permanently bonded" as used in those claims.

On pages 4 and 5 of the specification, appellant describes a prior art identification bracelet that was made of paper and included a removable, coated backing paper (i.e., a release paper as in Ohno). Like the release paper in Ohno, it is noted that the backing paper of such prior art was the same width and length as the primary layer of the bracelet so as to cover all of the adhesive on the bracelet and prevent it from adhering to the patient or object being identified. It is also indicated that the backing paper "typically" included a movable or removable cover portion, which was moved to expose a corresponding underlying area of adhesive, so that the bracelet could be secured, for example, around the wrist of a patient by having the exposed adhesive pressed against the other end of the bracelet after such bracelet was placed in a loop around the patient's wrist. One of the drawbacks of such an identification bracelet was indicated to be the fact that "none of the backing paper is bonded to the primary paper layer of the bracelet" (specification, page 5). It is further specifically noted that

[w]hile this lack of bonding is necessary at the locus of the cover portion to permit that portion to be moved to expose the underlying area of adhesive, it can cause problems with respect to the remaining non-cover-portion of the backing paper layer. For example, any or all of the remaining backing paper layer may

be inadvertently removed while applying the bracelet to a person. The remaining portions of the backing layer may even be intentionally and/or surreptitiously removed subsequent to its proper application, such as by the patient or other wearer, such as a child or event-attendee fiddling with the bracelet. Even without removal of the non-cover portion of the backing paper, the adhesive can become soft especially, for example, when the bracelet has been warmed by the wearer's normal wrist temperature; in this soft condition, the adhesive can ooze from between the primary paper layer and the remaining backing paper onto the sides of the bracelet.

Any of the foregoing situations expose the adhesive in an undesirable manner and cause the bracelet to undesirably, messily and/or uncomfortably adhere to the wearer or object to be identified.

As indicated on page 6 of the specification, an object of appellant's invention is to provide an improved identification bracelet which can be utilized in "on-demand," on site printing situations. The preferred embodiment of the invention is then

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described as having a body portion formed from a plurality of laminates that are "relatively permanently bonded" to each other over a majority of the body portion, and as including adhesive closure means for attaching the first end of the bracelet to the second end thereof in an operative relationship with a person or an object to be identified. The adhesive closure means of the

bracelet is then described as including a movable cover means integrally formed from, and constituting a portion of, one or more of the laminates. The cover means is said to be provided with a non-adhesive coating means such as a non-bonding coating layer thereon, which layer confronts the adhesive means on the bracelet prior to movement of the cover means away from the adhesive means when desired. The non-adhesive, non-bonding coating layer is said to help

insure that the cover will indeed remain moveable from the adhesive, even after the remaining portions of the laminates and adhesive have been permanently bonded together (specification, page 7).

Throughout the prosecution of this application appellant has maintained that the release layer (C) of Ohno is not a bracelet laminate permanently bonded to any of the parts

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thereof, since the release layer is specifically designed to be readily removable from the adhesive on the Ohno device, and that by contrast, the appellant's invention is directed to an underlying laminate that is relatively permanently bonded to the confronting laminate, except at the location of the cover portion.

When we look to the totality of the disclosure and to appellant's arguments in this case, we are of the opinion that the only fair and reasonable interpretation of the claim language "relatively permanently bonded" as used in independent claims 1, 6 and 15 on appeal is that -- relative to the movable cover portion that is integrally formed with the lower laminate, the remainder of the lower laminate of the claimed bracelet is permanently bonded to the adjacent laminates over the majority of the body portion of the bracelet so as not to be removable therefrom.

Returning now to the examiner's prior art rejection under 35 U.S.C. § 102(a) of appealed claims 1 through 3, 6, 9,

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10, 15 through 17 and 19, it is apparent to us that, for the reasons advanced by appellant in the brief, the identification tag of Ohno with its removable release layer (C) extending over the entire lower side of the tag is not an anticipation of the identification bracelet defined in appellant's above enumerated claims on appeal. Although it is intended that only the cover portion of the release layer (C) at (3a) be removed to expose the adhesive (B) as seen in Figure 5 of Ohno, it is nonetheless true that the remainder of the release layer (C) of the baggage tag (3), and on the other parts of the tag (4) and (5) of Ohno, is removable from the adjacent laminates which make up the body portion of the tag therein and is therefore clearly not a laminate of an identification tag or bracelet which is permanently bonded to the adjacent coextensive laminates of the bracelet over a majority of the body portion as required in appellant's claims on appeal. Accordingly, the rejection of claims 1 through 3, 6, 9, 10, 15 through 17 and 19 under 35 U.S.C. § 102(a) will not be sustained.

Independent claim 13 on appeal expressly requires the body portion of the multiplicity of bracelets therein to be

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formed from coextensive laminates "permanently bonded together on at least the major areas of said laminates," with the bracelets including adhesive closure means integrally formed with said laminates, and with said bracelets having a substantially uniform thickness along the length thereof. For the same reasons as indicated above, we again note that the release layer (C) of Ohno is not one of the coextensive laminates of the identification tag or bracelet therein which is "permanently bonded together" as required in this claim. The examiner's reliance on De Woskin for a teaching of identification devices formed in a roll (e.g., Fig. 14), does nothing to account for the above-noted deficiency in Ohno. Thus, it follows that the examiner's rejection of claim 13 under 35 U.S.C. § 103 will also not be sustained.

Based on the foregoing, the decision of the examiner rejecting claims 1 through 3, 6, 9, 10, 15 through 17 and 19 under 35 U.S.C. § 102(a) as anticipated by Ohno, and claim 13 under 35 U.S.C. § 103 as being unpatentable over Ohno in view of De Woskin, is reversed.

REVERSED

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IRWIN CHARLES COHEN )  
Administrative Patent Judge )  
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JAMES M. MEISTER )  
Administrative Patent Judge )  
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