

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 12

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JACK G. TROUNG and THOMAS E. WOOD

Appeal No. 1997-3548
Application No. 08/457,200

ON BRIEF

Before KIMLIN, PAK and KRATZ, Administrative Patent Judges.

KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 33-44, all the claims remaining in the present application.

Claim 33 is illustrative:

33. A magnetic recording medium comprising a magnetizable layer formed on a nonmagnetizable support, wherein the magnetizable layer comprises 50 to 95 percent by

Appeal No. 1997-3548
Application No. 08/457,200

weight coated composite particles dispersed in a polymeric binder, said coated composite particles comprising

a) a magnetizable core; and

b) a continuous, amorphous, aluminum hydrous oxide coating formed on the magnetizable core, wherein said coating has an average thickness in the range from about 0.5 to about 5 nanometers.

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

Homola et al. (Homola '918)	4,280,918	Jul. 28, 1981
Homola et al. (Homola '156)	4,438,156	Mar. 20, 1984
Fukke et al. (Fukke)	4,789,581	Dec. 06, 1988

Stanka Kratochvil and Egon Matijevec (Kratochvil), "Preparation and Properties of Coated, Uniform, Inorganic Colloidal Particles: 1, Aluminum (Hydrous) Oxide on Hematite, Chromia, and Titania," 2 Advanced Ceramic Materials no. 4, 798-803 (1987)

Appellants' claimed invention is directed to a magnetic recording medium comprising a magnetizable layer made up of composite particles dispersed in a polymeric binder. The composite particles comprise a magnetizable core and a continuous, amorphous, aluminum hydrous oxide coating on the core.

Appealed claims 33-44 stand rejected under 35 U.S.C. § 103 as being unpatentable over Fukke in view of Homola '918, Homola '156 and Kratochvil.

Appeal No. 1997-3548
Application No. 08/457,200

Upon careful consideration of the opposing arguments presented on appeal, we agree with appellants that the prior art cited by the examiner fails to establish a prima facie case of obviousness for the claimed subject matter. Accordingly, we will not sustain the examiner's rejection.

The examiner acknowledges that Fukke, the primary reference, does not disclose the use of coated composite particles, and that the Homola patents, the secondary references, while teaching the use of a coating of colloidal particles on magnetic particles, teach the use of a silica coating rather than the presently claimed aluminum hydrous oxide coating. To remedy the deficiency of the combined teachings of Fukke and the Homola patents, the examiner relies upon the disclosure of Kratochvil regarding the coating of magnetizable particles with aluminum hydrous oxide.

The flaw in the examiner's reasoning is that there is no teaching or suggestion in Kratochvil that the disclosed coated particles may be used in a magnetic recording medium. While the examiner cites Sang et al. (Patent No. 5,039,559), which is referenced at page 3 of appellants' specification, for teaching the equivalency of silicon oxide and aluminum oxide

Appeal No. 1997-3548
Application No. 08/457,200

coatings, the examiner has not established that the silicon oxide and aluminum oxide coatings are equivalent for the purpose of utilizing them in a polymeric binder which is a component of a magnetic recording medium. It is the examiner's burden to demonstrate the purposes for which silicon oxide and aluminum oxide coatings are equivalent, and why one of ordinary skill in the art would have recognized that the claimed aluminum oxide coating is an equivalent for the silicon oxide coating of the Homola patents which are a component of a magnetic recording medium.

In conclusion, based on the foregoing, the examiner's decision rejecting the appealed claims is reversed.

REVERSED

EDWARD C. KIMLIN)	
Administrative Patent Judge)	
)	
)	
)	
)	
)	
CHUNG K. PAK)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
)	
PETER F. KRATZ)	

Appeal No. 1997-3548
Application No. 08/457,200

Administrative Patent Judge)

ECK:clm

Appeal No. 1997-3548
Application No. 08/457,200

3M Office of Intellectual Property
Counsel
P.O. Box 33427
St. Paul, MN 55133-3427