

The opinion in support of the decision being entered today was **not** written for publication in a law journal and is **not** binding precedent of the Board.

Paper No. 38

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TOSHIYASU HATTORI and MASATERU WATANABE

Appeal No. 1998-1655
Application No. 08/367,766

ON BRIEF

Before JERRY SMITH, BARRETT, and BARRY, Administrative Patent Judges.

BARRY, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the rejection of claims 1-4 and 8-29. We affirm-in-part.

BACKGROUND

The invention at issue in this appeal relates to optical disk drives. In an optical disk drive, an optical disk serving as a recording medium is encased in a cartridge to

protect it from dust. A deformed cartridge, however, may impede rotation of the disk.

The appellants' optical disk drive exerts a force against a loaded disk cartridge to reshape the cartridge so that any deformation thereof that would otherwise impede rotation of the associated disc is remedied. More specifically, a cartridge-encased disk is loaded into a holder of the drive for recording or reproduction. Upon loading, the holder sets the disk onto the spindle by lowering the cartridge. Support members then press the cartridge against the upper inner wall of the holder.

Claim 1, which is representative for our purposes, follows:

1. An apparatus for a disc type medium, comprising:

a cartridge holder for supporting a disc type medium;

support means including a reference surface for contacting a first main surface of said cartridge;

biasing means for urging the cartridge holder to contact a second main surface of said

cartridge so as to apply a pressing force to the second main surface of said cartridge;

driving means for rotating said disc type medium in said cartridge while said biasing means applies the pressing force to the second main surface;

wherein said biasing means applies the pressing force to hold and press together said first and second main surfaces relative to each other due to said pressing force;

and head means movable in the radial direction of said disc type medium for recording/reproducing information on/from said disc type medium while said disc type medium is rotated by said driving means.

The references relied on in rejecting the claims follow:

Takahara et al. (Takahara)	4,439,850	Mar. 27,
1984		
Yamada et al. (Yamada)	4,839,760	June 13,
1989.		

Claims 1-4, 8-11, 20, 21, and 23 stand rejected under 35 U.S.C. § 102(b) as anticipated by or under 35 U.S.C. § 103 as obvious over Yamada. Claims 12-16, 22, and 24-29 stand rejected under § 103 as obvious over Yamada. Claims 17-19

stand rejected under § 103 as obvious over Yamada in view of Takahara. Rather than repeat the arguments of the appellants or examiner in toto, we refer the reader to the briefs and answer for the respective details thereof.

OPINION

In deciding this appeal, we considered the subject matter on appeal and the rejection advanced by the examiner. Furthermore, we duly considered the arguments and evidence of the appellants and examiner. After considering the totality of the record, we are persuaded that the examiner did not err in rejecting claims 1, 2, 4, 11, 20, 24, and 25. We are also persuaded that he erred in rejecting claims 3, 8-10, 12-19, 21-23, and 26-29. Accordingly, we affirm-in-part.

We begin by noting the following principles from Rowe v. Dror, 112 F.3d 473, 478, 42 USPQ2d 1550, 1553 (Fed. Cir. 1997).

A prior art reference anticipates a claim only if the reference discloses, either expressly or inherently, every limitation of the claim. See Verdegaal Bros., Inc. v. Union Oil Co., 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

"[A]bsence from the reference of any claimed element negates anticipation." Kloster Speedsteel AB v. Crucible, Inc., 793 F.2d 1565, 1571, 230 USPQ 81, 84 (Fed. Cir. 1986).

We also note the following principles from In re Rijckaert, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993).

In rejecting claims under 35 U.S.C. Section 103, the examiner bears the initial burden of presenting a prima facie case of obviousness. In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992).... "A prima facie case of obviousness is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art." In re Bell, 991 F.2d 781, 782, 26 USPQ2d 1529, 1531 (Fed. Cir. 1993) (quoting In re Rinehart, 531 F.2d 1048, 1051, 189 USPQ 143, 147 (CCPA 1976)).

We next find that the references represent the level of ordinary skill in the art. See In re GPAC Inc., 57 F.3d 1573, 1579, 35 USPQ2d 1116, 1121 (Fed. Cir. 1995)(finding that the Board of Patent Appeals and Interference did not err in concluding that the level of ordinary skill was best determined by the references of record); In re Oelrich, 579 F.2d 86, 91,

198 USPQ 210, 214 (CCPA 1978) ("[T]he PTO usually must evaluate ... the level of ordinary skill solely on the cold words of the literature."). Of course, "[e]very patent application and reference relies to some extent upon knowledge of persons skilled in the art to complement that [which is] disclosed'"

In re Bode, 550 F.2d 656, 660, 193 USPQ 12, 16 (CCPA 1977) (quoting In re Wiggins, 488 F.2d 538, 543, 179 USPQ 421, 424 (CCPA 1973)). Those persons "must be presumed to know something" about the art "apart from what the references disclose."

In re Jacoby, 309 F.2d 513, 516, 135 USPQ 317, 319 (CCPA 1962). With the aforementioned principles and finding in mind, we consider the appellants' arguments and the examiner's responses regarding the following groups of claims:

- claims 1, 2, 11, and 20
- claim 3
- claim 4

- claims 8-10, 12-19, 21, 22, and 26-29
- claim 23
- claims 24 and 25.

Claims 1, 2, 11, and 20

When the appeal brief was filed, 37 C.F.R. § 1.192(c)(7) (1996) included the following provisions.

For each ground of rejection which appellant contests and which applies to a group of two or more claims, the Board shall select a single claim from the group and shall decide the appeal as to the ground of rejection on the basis of that claim alone unless a statement is included that the claims of the group do not stand or fall together and ... appellant explains why the claims of the group are believed to be separately patentable. Merely pointing out differences in what the claims cover is not an argument ... why the claims are separately patentable.

In general, claims that are not argued separately stand or fall together. In re Kaslow, 707 F.2d 1366, 1376, 217 USPQ 1089, 1096 (Fed. Cir. 1983). When the patentability of dependent claims in particular is not argued separately, the claims stand or fall with the claims from which they depend. In re King, 801 F.2d 1324, 1325, 231 USPQ 136, 137 (Fed. Cir. 1986); In re Sernaker, 702 F.2d 989, 991, 217 USPQ 1, 3 (Fed. Cir. 1983).

Here, the appellants neither allege that claims 1, 11, and 20 do not stand or fall together nor explain whether the claims are believed separately patentable. Therefore, claims 1, 11, and 20 stand or fall together as a group. We select claim 1 to represent the group.

The appellants argue, "[t]here is simply no teaching to press together the first and second main surfaces of the cartridge for any reason." (Appeal Br. at 11.) The examiner responds, "[t]he support means is shown to include at least 9, 9', 10, 10' (shown in FIGs. 3, 26) and the biasing means includes 51, 51' and another spring (not shown in FIG. 6, but discussed in col. 3, lines 42-47) which means is considered to facilitate a pressing force to hold and press together the first and second main surfaces of the cartridge." (Examiner's Answer at 7.)

"In the patentability context, claims are to be given their broadest reasonable interpretations. Moreover, limitations are not to be read into the claims from the specification."

In re Van Geuns, 988 F.2d 1181, 1184, 26 USPQ2d 1057, 1059
(Fed. Cir. 1993)(citing In re Zletz, 893 F.2d 319, 321, 13
USPQ2d 1320, 1322 (Fed. Cir. 1989)). Here, representative
claim 1 and

claim 2 specify in pertinent part the following limitations:

a first main surface of said cartridge;

biasing means for urging the cartridge holder to contact a second main surface of said cartridge so as to apply a pressing force to the second main surface of said cartridge;

wherein said biasing means applies the pressing force to hold and press together said first and second main surfaces relative to each other due to said pressing force

Giving the claims their broadest reasonable interpretation, the limitations recite pressing together the first and second main surfaces of a disk cartridge.

The prior art teaches the limitations. "'All of the disclosures in a reference must be evaluated for what they fairly teach one of ordinary skill in the art.' The use of patents as references is not limited to what the patentees describe as their own inventions or to the problems with which they are concerned. They are part of the literature of the art, relevant for all they contain." In re Lemelson, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)(quoting In re Boe, 355 F.2d 961, 965, 148 USPQ 507, 510 (1966)).

Here, Yamada teaches a disk cartridge comprising a shell and disk. Specifically, "FIG. 2 is a sectional view of a disk cartridge taken along A--A as shwon [sic] in FIG. 1. The refernce [sic] numeral **1** is a shell. Disk **2** is contained in shell **1** so that it can be rotated freely." Col. 2, ll. 65-68. The disk cartridge is held in a cartridge frame by pins, projections, and a spring that collectively touch the top and bottom surfaces of the cartridge. Specifically, "[p]ositioning pin **10** or **10'** is provided in chassis **12** so that a disk cartridge is held at the predetermined position. Projection **9** or **9'** is provided in frame **7** so that it directly contacts with a disk cartridge." Col. 3, ll. 21-25. "Thus the disk cartridge is positioned in contact with positioning pin **10** or **10'**, and the disk cartridge is pressed and fixed by projection provided in frame **7** which is pressed by a spring which is not illustrated" Id. at ll. 42-46.

The reference further teaches that the cartridge frame is pressed against a chassis. Specifically, as "frame **7** is resiliently pressed against chassis **12** as shown in Example 15,

the whole shell 1 is pressed downward by frame 7." When the cartridge frame is pressed against the chassis, persons skilled in the art would understand that the pins, projections, and spring transfer the resulting pressure to the top and bottom surfaces of the loaded disk cartridge. Consequently, the top and bottom surfaces are pressed together indirectly by the pressure.

Because Yamada discloses pressing the cartridge frame against the chassis, we are persuaded that the reference teaches the limitations of "a first main surface of said cartridge; biasing means for urging the cartridge holder to contact a second main surface of said cartridge so as to apply a pressing force to the second main surface of said cartridge; wherein said biasing means applies the pressing force to hold and press together said first and second main surfaces relative to each other due to said pressing force"

Therefore, we affirm the rejection of claims 1, 2, 11, and 20 as anticipated by Yamada.

"[A] disclosure that anticipates under Section 102 also renders the claim invalid under Section 103, for 'anticipation is the epitome of obviousness.'" Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 1548, 220 USPQ 193, 198 (Fed. Cir. 1983) (quoting In re Fracalossi, 681 F.2d 792, 215 USPQ 569 (CCPA 1982)). Obviousness follows ipso facto, moreover, from an anticipatory reference. RCA Corp. v. Applied Digital Data Sys., Inc., 730 F.2d 1440, 1446, 221 USPQ 385, 390 (Fed. Cir. 1984).

Here, because Yamada anticipates the invention of claims 1, 2, 11, and 20, the claims are ipso facto obvious over Yamada. Therefore, we affirm the rejection of claims 1, 2, 11, and 20 as obvious over Yamada. We next address claim 3.

Claim 3

The appellants argue, "Yamada fails to teach the coaction of a movable member and a spring member to hold the cartridge. Instead, Yamada teaches that the cartridge **holder** is held between a fixed chassis and a loading frame." (Appeal Br. at 9.) The examiner responds, "[e]lements 9, 9' are clearly

movable relative to frame 8 (see FIGs. 3 and 26 in succession). The frame (holder) 7 moves down to press both surfaces of the cartridge." (Examiner's Answer at 8.)

Claim 3 specifies in pertinent part the following limitations: "a movable member with which said first main surface of said cartridge is brought into contact and a spring member for pressing said movable member against the first main surface, so that, due to force exerted by said spring member, said cartridge is held and pressed between said movable member and an inner wall surface of said holder means which serves as said reference surface." Accordingly, the limitations require pressing a movable member against the first main surface of the disk cartridge.

The examiner fails to show a teaching or suggestion of the limitations in the prior art. Contrary to the examiner's allegation, projections 9 and 9' are not movable. Figures 3 and 26 of Yamada show the projections as fixed to the cartridge frame 7.

Because the projections are fixed, we are not persuaded that Yamada discloses or would have suggested the limitations of "a movable member with which said first main surface of said cartridge is brought into contact and a spring member for pressing said movable member against the first main surface, so that, due to force exerted by said spring member, said cartridge is held and pressed between said movable member and an inner wall surface of said holder means which serves as said reference surface."¹ Therefore, we reverse the rejection of claim 3 as anticipated by or as obvious over Yamada. We next address claim 4.

Claim 4

The appellants argue, "Yamada show two pins 10, 10'" (Appeal Br. at 9.) The examiner responds, "Yamada et al's positioning pins 10, 10' include four *surfaces* for contacting

¹We see no inconsistency between this conclusion and the rule that the U.S. Patent and Trademark Office (PTO) should give claims their broadest reasonable interpretation during prosecution. "The operative word is reasonable: the PTO has no such obligation regarding unreasonable interpretations." Genentech, Inc. v. Wellcome Found. Ltd., 29 F.3d 1555, 1564 n.22, 31 USPQ2d 1161, 1168 n.22 (Fed. Cir. 1994).

the first main surface of the cartridge." (Examiner's Answer at 8.)

"`[T]he main purpose of the examination, to which every application is subjected, is to try to make sure that what each claim defines is patentable. [T]he name of the game is the claim'" In re Hiniker Co., 150 F.3d 1362, 1369, 47 USPQ2d 1523, 1529 (Fed. Cir. 1998) (quoting Giles S. Rich, The Extent of the Protection and Interpretation of Claims--American Perspectives, 21 Int'l Rev. Indus. Prop. & Copyright L. 497, 499, 501 (1990)). Claim 4 specifies in pertinent part the following limitations: "said support means includes four reference surfaces for contacting said first main surface of said cartridge." Giving the claim its broadest reasonable interpretation, the limitations recite at least four surfaces for contacting the first main surface of the disk cartridge.

Figures 3 and 26 of Yamada show that the tip of each of the positioning pins 10 and 10' features at least three surfaces. More specifically, the Figures depict a flat

surface and two angular surfaces for each tip. Because Yamada discloses at least three surfaces for each of the two positioning pins, we are persuaded that reference teaches the limitations of "said support means includes four reference surfaces for contacting said first main surface of said cartridge." Therefore, we affirm the rejection of claim 4 as anticipated by Yamada. Because Yamada anticipates the invention of claim 4, the claim is ipso facto obvious over the reference. Therefore, we affirm the rejection of claim 4 as obvious over Yamada. We next address claims 8-10, 12-19, 21, 22, and 26-29.

Claims 8-10, 12-19, 21, 22, and 26-29

The appellants argue, "[t]he claims do recite that sufficient pressing force to deform at least one of the first or second surfaces (or similar language) is required by the invention, but neither Yamada et al nor any of the other references of record teach deformation." (Reply Br. at 6-7.) The examiner responds, "Yamada et al must necessarily apply *some* pressing force, which would enable the disc inside to rotate. Since different forces would be needed for more or less 'deformation', and the claims do not set forth these forces, the Examiner maintains that Yamada et al is still properly applied." (Examiner's Answer at 9.)

Claims 8-10, 21, and 26 specify in pertinent part the following limitations: "pressing a second main surface of said cartridge toward said first main surface with sufficient pressing force to undeform at least one of the first and second main surfaces." Similarly, claims 12-19, 22, 27, and 28 specify in pertinent part the following limitations: "a first main surface of the cartridge is pressed against the first support member and a second main surface of the

cartridge is pressed against an inner wall surface of the second wall of the cartridge holder to undeform the cartridge to prevent the cartridge from interfering with rotation of the disc type medium by the drive means." Also similarly, claim 29 specifies in pertinent part the following limitations: "said biasing means applies the pressing force sufficiently to undeform at least one of the first and second main surfaces to ensure operating clearance between the disc-type medium and the cartridge while the disc-type medium is rotated by said driving means." Accordingly, claims 8-10, 12-19, 21, 22, and 26-29 require sufficient pressing force to undeform the first or second main surface of the disk cartridge.

The examiner fails to show a teaching or suggestion of the limitations in the prior art. "The Patent Office has the initial duty of supplying the factual basis for its rejection. It may not ... resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in its factual basis."

In re Warner, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967), cert. denied 389 U.S. 1057 (1998). "In relying upon

the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." Ex parte Levy, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Int. 1990) (citing In re King, 801 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986); W.L. Gore & Assocs. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983); In re Oelrich, 666 F.2d 578, 212 USPQ 323 (CCPA 1981); In re Wilding, 535 F.2d 631, 190 USPQ 59 (CCPA 1976); Hansgirg v. Kemmer, 102 F.2d 212, 40 USPQ 665 (CCPA 1939)).

Here, although Yamada teaches pressing the cartridge frame against the chassis, the examiner fails to provide a factual basis or technical reasoning to reasonably support a determination that the resultant pressing force is sufficient to undeform the first or second main surface. To the contrary, it is possible that deformation of a disk cartridge would prevent the frame from being pressed against the

chassis. The examiner fails to allege, let alone show, that Takahara cures these deficiencies.

Because no factual basis or technical reasoning to reasonably support a determination that the resultant pressing force is sufficient to undeform the first or second main surface is provided, we are not persuaded that references teach or would have suggested the claimed limitations of "pressing a second main surface of said cartridge toward said first main surface with sufficient pressing force to undeform at least one of the first and second main surfaces"; "a first main surface of the cartridge is pressed against the first support member and a second main surface of the cartridge is pressed against an inner wall surface of the second wall of the cartridge holder to a deform the cartridge to prevent the cartridge from interfering with rotation of the disc type medium by the drive means"; or "said biasing means applies the pressing force sufficiently to undeform at least one of the first and second main surfaces to ensure operating clearance between the disc-type medium and the cartridge while the disc-type medium is rotated by said driving means." Therefore, we

reverse the rejection of claims 8-10, 21, and 23 as anticipated by or as obvious over Yamada; claims 12-16, 22, and 24-29 as obvious over Yamada; and claims 17-19 as obvious over Yamada in view of Takahara. We next address claim 23.

Claim 23

The appellants argue, "[c]laim 23 requires that the cartridge holder have a [sic] inner wall surface that is planar and sufficiently extensive to contact a major portion of the second main surface under the pressing force applied by the biasing means.... Yamada, on the other hand, shows contact at the specific points represented by projections 9, 9', on the corresponding surface." (Appeal Br. at 9-10.) The examiner responds, "in FIG. 15, frame (holder 7) contacts a 'major portion' of the second main surface of the cartridge 1." (Examiner's Answer at 4.)

Claim 23 specifies in pertinent part the following limitations: "said cartridge holder has an inner wall surface that is planar and sufficiently extensive to contact a major portion of the second main surface under the pressing force

...." Accordingly, the limitations require contacting the second main surface of the disk cartridge with a planar, inner wall surface of a cartridge holder.

The examiner fails to show a teaching of the limitations in the prior art. Although Yamada teaches holding a disk cartridge in a frame, the cartridge does not touch a planar, inner wall surface of the frame. To the contrary, the disk cartridge contacts pins, projections, and a spring that touch the top and bottom surfaces of the cartridge. Because Yamada teaches contacting the disk cartridge with pins, projections, and a spring, we are not persuaded that the reference discloses the claimed limitations of "said cartridge holder ha[ving] an inner wall surface that is planar and sufficiently extensive to contact a major portion of the second main surface under the pressing force" Therefore, we reverse the rejection of claim 23 as anticipated by Yamada.

The examiner also fails to show a suggestion of the limitations in the prior art. "Obviousness may not be established using hindsight or in view of the teachings or

suggestions of the inventor." Para-Ordnance Mfg., 73 F.3d at 1087, 37 USPQ2d at 1239 (citing W.L. Gore & Assocs., Inc., 721 F.2d at 1551, 1553, 220 USPQ at 311, 312-13 (Fed. Cir. 1983)). "It is impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious." In re Fritch, 972 F.2d 1260, 1266, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992) (citing In re Gordon, 733 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984)). "[T]he question is whether there is something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.'" In re Beattie, 974 F.2d 1309, 1311-12, 24 USPQ2d 1040, 1042 (Fed. Cir. 1992) (quoting Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co., 730 F.2d 1452, 1462, 221 USPQ 481, 488 (Fed. Cir. 1984)).

Here, Yamada discloses over a dozen embodiments/examples of a read/write apparatus. To reject the limitations of claim 1, the examiner relies on the embodiment/example shown in Figure 26 of the reference, which "shows Example 15." Col. 7,

1. 53. To reject the limitations of claim 23, however, the examiner relies on a different embodiment/example from Yamada, viz., "Embodiment 6 in FIG. 15" Col. 5, ll. 65-66.

Figure 15 of the reference does depict contacting the top surface of the shell 1 of the disk cartridge with a planar, inner wall surface of the frame 7. The examiner fails to identify any suggestion, however, to combine the showing of Figure 15 with the teaching of Figure 26. Because the examiner omits a line of reasoning that explains why such a combination would have been desirable, we are not persuaded that the prior art would have suggested combining the teachings of Figures 15 and 26. Therefore, we reverse the rejection of claim 23 as obvious over Yamada. We next, and last, address claims 24 and 25.

Claims 24 and 25

The appellants argue, "there is no teaching in the prior art applicable to optical disc technology" (Appeal Br. at 15.) The examiner responds, "[i]t would have been obvious to one of ordinary skill in the art at the time the invention

was made to have utilized such a holder configuration of Yamada et al in an optical disk environment. The rationale is as follows: one of ordinary skill would have recognized the advantages of the teachings in Yamada et al to have utilized such a holder configuration in an optical disk drive as cleaning and securely positioning the disk cartridge in an apparatus are well known design goals." (Examiner's Answer at 6.)

Claim 24 specifies in pertinent part the following limitations: "the cartridge is an optical disc cartridge, and the disc type medium is an optical disc." Similarly, claim 25 specifies in pertinent part the following limitations: "said head means includes an optical recording/reproducing transducer." Giving the limitations their broadest reasonable interpretation, claims 24 and 25 recite an optical disk drive.

The appellants do not challenge the examiner's taking of official notice that "'floppy' optical discs are also conventional." (Examiner's Answer at 10.) To the contrary,

they admit that it was known in the art to use an optical disk drive with an optical disk for mass storage and high speed retrieval of data. Specifically, the appellants admit, "it is known to use ... an optical disc drive in which data such as documents and images can be stored in a mass storage disc type recording medium and retrieved at high speed." (Spec. at 1.)

Yamada, in turn, teaches a disk cleaning mechanism to remove dust from a disk. Col. 1, ll. 7-17. Persons skilled in the art would have known that cleaning a disk enhances the storage of data to and retrieval of data from the disk. We are persuaded that the reference's teaching of cleaning a disk would have suggested the desirability, and thus the obviousness, of combining Yamada's teaching of disk cleaning with known optical disk drive technology. Therefore, we affirm the rejection of claims 24 and 25 as obvious over Yamada.

Our affirmances are based only on the arguments made in the briefs. Arguments not made therein are not before us, are not at issue, and are considered waived.

CONCLUSION

In summary, the rejection of claims 1, 2, 4, 11, and 20 under 35 U.S.C. § 102(b) as anticipated by Yamada is affirmed. The rejection of claims 1, 2, 4, 11, 20, 24, and 25 under 35 U.S.C. § 103 as obvious over Yamada is also affirmed.

The rejection of claims 3, 8-10, 21, and 23 under § 102(b) as anticipated by or under § 103 as obvious over Yamada is reversed. The rejection of claims 12-16, 22, and 24-29 under § 103 as obvious over Yamada is also reversed. In addition, the rejection of claims 17-19 under § 103 as obvious over Yamada in view of Takahara is reversed.

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

AFFIRMED-IN-PART

JERRY SMITH)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
LEE E. BARRETT)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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