

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte ROBERT E. DAVENPORT

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Appeal No. 1998-1871  
Application No. 08/383,112<sup>1</sup>

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ON BRIEF

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Before CALVERT, NASE, and CRAWFORD, Administrative Patent Judges.

NASE, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 through 8, which are all of the claims pending in this application.

We REVERSE.

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<sup>1</sup> Application for patent filed February 3, 1995.

BACKGROUND

The appellant's invention relates to a semiconductor processing apparatus capable of degassing a semiconductor substrate in a vacuum chamber and also rotationally aligning the substrate in the vacuum chamber. An understanding of the invention can be derived from a reading of exemplary claims 1, 7 and 8, which appear in the appendix to the appellant's brief.

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

Tezuka 1988	4,771,730	Sep. 20,
Perlov 1995 <sup>2</sup>	5,421,893	June 6,
Komiyama et al. (Komiyama)	60-117714 <sup>3</sup> (Japan)	June 25, 1985
Matsuda	61-142743 <sup>4</sup>	June 30, 1986

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<sup>2</sup> Effective filing date February 26, 1993.

<sup>3</sup> In determining the teachings of Komiyama, we will rely on the translation provided by the appellant (see Paper No. 8, filed September 16, 1996).

<sup>4</sup> In determining the teachings of Matsuda, we will rely on  
(continued...)

(Japan)

Suzuki et al.  
(Suzuki)

4-204313<sup>5</sup>  
(Japan)

July 24, 1992

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<sup>4</sup>(...continued)  
the translation provided by the appellant (see Paper No. 8,  
filed September 16, 1996).

<sup>5</sup> In determining the teachings of Suzuki, we will rely on  
the translation provided by the appellant (see Paper No. 18,  
filed March 15, 1999).

Claims 1 through 4, 6 and 8 stand rejected under 35 U.S.C.

§ 103 as being unpatentable over Matsuda in view of Tezuka, Komiyama and Suzuki.

Claims 5 and 7 stand rejected under 35 U.S.C. § 103 as being unpatentable over Matsuda in view of Tezuka, Komiyama, Suzuki and Perlov.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejections, we make reference to the examiner's answer (Paper No. 15, mailed August 6, 1997) for the examiner's complete reasoning in support of the rejections, and to the appellant's brief (Paper No. 14, filed May 12, 1997) and reply brief (Paper No. 16, filed September 23, 1997) for the appellant's arguments thereagainst.

#### OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellant's specification and

claims, to the applied prior art references, and to the respective positions articulated by the appellant and the examiner. Upon evaluation of all the evidence before us, it is our conclusion that the evidence adduced by the examiner is insufficient to establish a prima facie case of obviousness with respect to the claims under appeal. Accordingly, we will not sustain the examiner's rejection of claims 1 through 8 under 35 U.S.C. § 103. Our reasoning for this determination follows.

In rejecting claims under 35 U.S.C. § 103, the examiner bears the initial burden of presenting a prima facie case of obviousness. See In re Rijckaert, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993). A prima facie case of obviousness is established by presenting evidence that the reference teachings would appear to be sufficient for one of ordinary skill in the relevant art having the references before him to arrive at the claimed invention. See In re Lintner, 9 F.2d 1013, 1016, 173 USPQ 560, 562 (CCPA 1972). Furthermore, the conclusion that the claimed subject matter is

prima facie obvious must be supported by evidence, as shown by some objective teaching in the prior art or by knowledge generally available to one of ordinary skill in the art that would have led that individual to combine the relevant teachings of the references to arrive at the claimed invention. See In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988).

The appellant argues that the applied prior art does not suggest the claimed subject matter. We agree.

All the claims under appeal require a heater capable of sufficiently heating a semiconductor substrate in a vacuum chamber to degas the substrate.<sup>6</sup> However, this limitation is not suggested by the applied prior art. In that regard, while Matsuda does teach suction stage 3 having heating and cooling elements 4 therein, Matsuda does not teach or suggest using his suction stage 3 to heat a semiconductor substrate to degas the substrate. We have reviewed the other applied prior art

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<sup>6</sup> See element c) of claims 1, 7 and 8 (the independent claims on appeal).

references (i.e., Tezuka, Komiyama, Suzuki and Perlov) but find nothing therein which would have suggested a heater capable of sufficiently heating a semiconductor substrate in a vacuum chamber to degas the substrate as set forth in the claims under appeal.

Since all the limitations of the claims under appeal are not suggested by the applied prior art, the decision of the examiner to reject claims 1 through 8 under 35 U.S.C. § 103 is reversed.

CONCLUSION

To summarize, the decision of the examiner to reject claims 1 through 8 under 35 U.S.C. § 103 is reversed.

REVERSED

IAN A. CALVERT	)	
Administrative Patent Judge	)	
	)	
	)	
	)	
	)	BOARD OF PATENT
JEFFREY V. NASE	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
	)	
	)	
MURRIEL E. CRAWFORD	)	
Administrative Patent Judge	)	

Appeal No. 1998-1871  
Application No. 08/383,112

Page 9

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APPEAL NO. 1998-1871 - JUDGE NASE  
APPLICATION NO. 08/383,112

APJ NASE

APJ CRAWFORD

APJ CALVERT

DECISION: **REVERSED**

Prepared By: Gloria Henderson

**DRAFT TYPED:** 01 Apr 99

**FINAL TYPED:**