

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 20

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte VERN D. SHIPMAN

Appeal No. 1998-2351
Application 08/393,113

ON BRIEF

Before WARREN, OWENS and WALTZ, *Administrative Patent Judges*.
OWENS, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the examiner's final rejection of claims 1, 2, 4-8, 10-18, 21 and 22, which are all of the claims remaining in the application.

THE INVENTION

The appellant's claimed invention is directed toward a method for producing a smooth supporting surface for a data bearing film and toward an apparatus which includes such a

surface. Claim 1, directed toward the method, is illustrative:

1. A method for preparing a substrate member having a film layer that can be modified to define bumps or pits corresponding with true or complement logic digital data values comprising the steps of:

providing a substrate member for supporting a data film layer;

forming a recess in the surface of the substrate for receiving a quantity of viscous material;

supplying a quantity of viscous material into the recess;

causing said viscous material to harden in a layer having a substantially flat, smooth support surface for supporting a data film layer; and,

depositing a data film layer onto the smooth support surface of the hardened layer in a thickness sufficient such that when the data film layer is exposed to a data recording step at least one of data bumps or pits can be formed on or in said data film layer.

THE REFERENCES

McHugh 1888	390,611	Oct. 2,
Egleson 1928	1,691,708	Nov. 13,
West 1934	1,983,720	Dec. 11,
de Graaf et al. (de Graaf) 1993	5,188,863	Feb. 23,

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THE REJECTIONS

Claims 1, 2, 4-8, 10-18, 21 and 22 stand rejected under 35 U.S.C. § 103 as being unpatentable over de Graaf in view of Egleson, West or McHugh.

OPINION

We reverse the aforementioned rejections.

de Graaf discloses an apparatus and a method for making an optical recording medium having an optically transparent, dimensionally stable substrate, a solid polymeric layer having optically readable information embossed therein, and a light reflective layer overlying the information layer (col. 3, lines 9-13). Between the substrate and the information layer can be a smooth layer of an adherent material which provides further surface uniformity (col. 4, lines 40-44). The solid polymeric layer having optically readable information embossed therein can be formed from a hardenable material, which can be photohardenable, and is applied to the substrate or, if present, a smooth layer thereon, by any conventional method such as spin coating, roller coating, spray coating, doctor knife coating, bar coating, curtain coating, or lamination (col. 12, lines 40-48; col. 16, lines 60-66; col. 17, lines 9-13). de Graaf does not disclose the requirements in the appellant's method claims of forming a recess or cavity in the surface of the substrate and forming a smooth layer therein by

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supplying hardenable viscous or

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liquid material into the recess or cavity and causing the viscous or liquid material to harden into the smooth layer, and does not disclose the requirement in the appellant's apparatus claims of the substrate member including a shallow recess having such a layer therein.

Egleson discloses a method for making an ornamental floor covering by embossing a configuration upon linoleum, forming a multiplicity of light-reflecting surfaces within the embossed areas, and then filling the embossed portions with a transparent coating, thereby providing a floor surface which is free of all depressions or indentations (page 1, lines 2-3 and 15-23; page 2, lines 41-48).

West discloses ornamental opaque glass made by using a process similar to sand blasting to form pits or recesses in portions of an opaque glass sheet, and placing coloring material in the regions having the pits or recesses (page 1, left column, lines 1-2; page 1, left column, line 23 - page 1, right column, line 8).

McHugh discloses a process for forming an inlay in a surface by engraving or stamping a pattern or design in the surface, filling with a plastic material the cavities formed

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by the engraving or stamping, using an instrument such as a putty knife or piece of soft pine to render the surface of the plastic material level with the surface of the article, cleaning the surface, and coating the surface with a material such as varnish or shellac (page 1, lines 29-50).

The examiner argues that "it would have been obvious for one having ordinary skill in the coating art at the time the invention was made to the [sic] substitute the filled recesses of the secondary references for the filled imperfections (recesses) of the primary reference since the secondary references teach filled recesses to be known in the art for providing various reflective patterns and hard surfaces for additional layers" (answer, page 4). This argument clearly is without merit. Accordingly, we reverse the examiner's rejection.

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DECISION

The rejections of claims 1, 2, 4-8, 10-18, 21 and 22 under 35 U.S.C. § 103 over de Graaf in view of Egleson, West or McHugh are reversed.

REVERSED

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CHARLES F. WARREN)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
TERRY J. OWENS))
Administrative Patent Judge)	APPEALS AND
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THOMAS A. WALTZ)	
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