

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 11

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte WEI H. CHENG

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Appeal No. 1999-0284  
Application No. 08/721,666<sup>1</sup>

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ON BRIEF

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Before NASE, CRAWFORD, and BAHR, Administrative Patent Judges.  
NASE, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the refusal of the examiner to allow claims 1 and 9, as amended subsequent to the final rejection. These claims constitute all of the claims pending in this application.

We REVERSE.

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<sup>1</sup> Application for patent filed September 27, 1996.

BACKGROUND

The appellant's invention relates to a semiconductor wafer carrier fork cover. An understanding of the invention can be derived from a reading of exemplary claim 1, which appears in the appendix to the appellant's brief.

The prior art reference of record relied upon by the examiner in rejecting the appealed claims is:

Harada et al. (Harada)	5,217,340	June 8, 1993
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Claims 1 and 9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Harada.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejection, we make reference to the examiner's answer (Paper No. 10, mailed May 8, 1998) for the examiner's complete reasoning in support of the rejection, and to the appellant's brief (Paper No. 9, filed March 16, 1998) for the appellant's arguments thereagainst.

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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 reference, and to the respective positions articulated by the appellant and the examiner. As a consequence of our review, we make the determinations which follow.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Verdegaal Bros. Inc. v. Union Oil Co., 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir.), cert. denied, 484 U.S. 827 (1987). The inquiry as to whether a reference anticipates a claim must focus on what subject matter is encompassed by the claim and what subject matter is described by the reference. As set forth by the court in Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984), it is only necessary for the claims to "'read on' something disclosed in the reference,

i.e., all limitations of the claim are found in the reference, or 'fully met' by it."

The examiner's position (answer, p. 3) is that claims 1 and 9 are clearly anticipated by Figure 3 of Harada.<sup>2</sup> Specifically, the examiner states that

the cover shown in Fig. 3 of Harada et al will shield the forks of Harada et al as the cover shown in Fig. 3 is large enough to do so. The cover of Harada et al includes an extension, an upper covering unit, and a lower covering unit.

The appellant argues (brief, pp. 6-8) that Harada's cover (the unnumbered element at the top of Figure 3) lacks the claimed lower support unit and upper covering unit. We agree. In that regard, Harada fails to disclose the following two elements recited in claims 1 and 9: (1) a lower support unit which is "rectangular in shape and has three sidewalls, two top flanges, and a first open side;" and (2) an upper covering unit which is "rectangular in shape and has three sidewalls

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<sup>2</sup> The examiner has not done an element-by-element comparison between the claimed subject matter and the disclosure of Harada.

connected to the two top flanges [of the lower support unit] to form the integral attachment, a second open side, and a top covering plate."

Since all the limitations of claims 1 and 9 are not disclosed in Harada for the reasons stated above, the decision of the examiner to reject claims 1 and 9 under 35 U.S.C. § 102(b) is reversed.

CONCLUSION

To summarize, the decision of the examiner to reject claims 1 and 9 under 35 U.S.C. § 102(b) is reversed.

REVERSED

JEFFREY V. NASE	)	
Administrative Patent Judge	)	
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	)	
	)	BOARD OF PATENT
MURRIEL E. CRAWFORD	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
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	)	
JENNIFER D. BAHR	)	
Administrative Patent Judge	)	

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APPEAL NO. 1999-0284 - JUDGE NASE  
APPLICATION NO. 08/721,666

APJ NASE

APJ CRAWFORD

APJ BAHR

DECISION: **REVERSED**

Prepared By: Gloria Henderson

**DRAFT TYPED:** 11 Jun 99

**FINAL TYPED:**