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Briscoe, Kurt G. Norris McLaughlin & Marcus, PA 875 Third Avenue, 8th Floor New York, NY 10022			SHAH, SAMIR	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

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BEFORE THE PATENT TRIAL  
AND APPEAL BOARD

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*Ex parte* MARC HUSEMANN and REINHARD STORBECK

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Appeal 2012-001533  
Application 11/917,295  
Technology Center 1700

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Before BRADLEY R. GARRIS, RICHARD TORCZON, and  
BEVERLY A. FRANKLIN, *Administrative Patent Judges*.

FRANKLIN, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134 from the Examiner's rejection of claims 1-12. We have jurisdiction under 35 U.S.C. § 6.

### STATEMENT OF THE CASE

Claim 1 is representative of the subject matter on appeal and is set forth below:

1. A pressure-sensitive adhesive tape

having a top side and a bottom side, having light-reflecting properties on the top side and light-absorbing properties on the bottom side,

additionally having a carrier film having a top side and a bottom side,

the pressure-sensitive adhesive tape being furnished on both sides of the carrier film with an outer pressure-sensitive adhesive layer,

wherein

at least one metallicly reflecting layer for effecting light reflection, and at least one black-colored pressure-sensitive adhesive layer for effecting light absorption, are each provided between the outer pressure-sensitive adhesive layers, and at least the outer pressure-sensitive adhesive layer on the top side is transparent.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Ho	5,468,532	Nov. 21, 1995
Yamakami	2004/0028895 A1	Feb. 12, 2004
Kishioka	2005/0202238 A1	Sept. 15, 2005
Miyano	EP 1386950 A1	Feb. 4, 2004

## THE REJECTIONS

1. Claims 1-4, 6-7, and 9-12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Miyano in view of Kishioka.
2. Claims 5 and 8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Miyano in view of Kishioka and further view of Yamakami.

## ISSUE

Did the Examiner err in determining that Miyano in view of Kishioka suggests the claimed subject matter, and in particular, the aspect of claim 1 pertaining to a transparent outer pressure-sensitive layer on a black pressure-sensitive adhesive?

We answer this question in the negative and AFFIRM.

## ANALYSIS

As an initial matter, Appellants have not presented separate arguments for all of the rejected claims. Rather, Appellants' arguments are principally directed to independent claim 1. Any claim not separately argued will stand or fall with its respective independent claim. *See* 37 C.F.R. § 41.37(c)(1)(vii).

We adopt the Examiner's findings pertinent to the issues raised by Appellants. We therefore incorporate the Examiner's position as set forth in the Answer. We add the following for emphasis only.

It is the Examiner's position that Miyano teaches the claimed subject matter but fails to disclose a transparent pressure-sensitive layer (PSA layer)

wherein the transparent pressure-sensitive adhesive layer is the outer pressure-sensitive adhesive layer on a black colored pressure-sensitive adhesive layer. Ans. 4-5. The Examiner's relies upon Kishioka for disclosing a transparent double-sided pressure-sensitive adhesive tape wherein the outer PSA layer is transparent (paragraphs 0008 and 0011). The Examiner concludes that it would have been obvious to have used the transparent pressure sensitive adhesive of Kishioka on the tape of Miyano to protect the colored pressure-sensitive adhesive layer. *Id.* at 5. The Examiner further explains his position by reiterating the finding made in the Final Office Action that it was known in the prior art (as evidenced by Ho used as a teaching reference) to use a transparent layer over a colored layer to provide it with mar resistance.<sup>1</sup> Therefore, it is the Examiner's position that one would have used a transparent layer, including a transparent PSA layer, over the colored adhesive layer in Miyano, to protect it from marring. *Id.* at 7.

Appellants argue that the use of a transparent PSA over the black PSA layer of Miyano is redundant. That is, Appellants argue that there is nothing gained by providing a further transparent layer, except to protect the black PSA that is, itself, already a protective layer. Br. 9. Reply Br. 1-3. However, this line of argument is unpersuasive because it does not address the Examiner's position (as discussed, *supra*) that it would have been obvious to protect the black PSA layer from marring by covering it with a transparent PSA. Also, Miyano discloses that the black layer has a function (preventing light leakage, para. [0003]), indicating that the black layer has a

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<sup>1</sup> Appellants acknowledge the Examiner's reliance on the Ho reference, and do not argue that such reliance is procedurally improper (Reply Br. 2-3).

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function beyond mere protection, warranting the cost of also giving it protection. Appellants then refer to pages 25-29 of their Specification and state that the data therein shows, unexpectedly, the complete absence of pinholes and good light-absorbing and light-reflecting properties.

Appellants argue that the applied art does not teach such advantages. Br. 10.

We agree with the Examiner that this data is not convincing of unobviousness for the reasons stated by the Examiner on page 9 of the Answer.

In view of the above, we affirm Rejection 1. We also affirm Rejection 2 based upon the same reasons in view of Appellants' similar arguments set forth on page 10 of the Brief.

#### CONCLUSIONS OF LAW AND DECISION

Each rejection is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1).

AFFIRMED

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