

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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

Appeal No. 2001-1610
Application No. 09/028,449

HEARD: October 09, 2002

Before HAIRSTON, GROSS, and BLANKENSHIP, Administrative Patent Judges.

GROSS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 2 through 32, which are all of the claims pending in this application.

Appellant's invention relates to an image forming apparatus, or printer, with an improved feed mechanism. Claim 26 is illustrative of the claimed invention, and it reads as follows:

26. An image forming apparatus, comprising:

a sensitive body on which a toner image is formed;

a transfer device, disposed opposite to the sensitive body, that transfers the toner image to a sheet;

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a transfer device cover which covers the transfer device, the cover including a downstream portion on which the sheet is fed from the transfer device; and

a plurality of first guide members disposed at the downstream portion of the transfer device cover.

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

Tsuchiya et al. (Tsuchiya)	5,477,314	Dec. 19, 1995
Asada et al. (Asada)	5,584,475	Dec. 17, 1996

Claims 2 through 32 stand rejected under 35 U.S.C. § 103 as being unpatentable over Asada in view of Tsuchiya.

Reference is made to the Examiner's Answer (Paper No. 14, mailed September 12, 2000) for the examiner's complete reasoning in support of the rejections, and to appellant's Brief (Paper No. 13, filed June 26, 2000) and Reply Brief (Paper No. 16, filed November 13, 2000) for appellant's arguments thereagainst.

OPINION

We have carefully considered the claims, the applied prior art references, and the respective positions articulated by appellant and the examiner. As a consequence of our review, we will reverse the obviousness rejection of claims 2 through 32.

We turn first to independent claim 26, which appears to be the broadest claim. Claim 26 requires, in pertinent part, first guide members "disposed at the downstream portion of the transfer device cover." The examiner (Answer, pages 3-4) refers to the

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element above Asada's transfer roller 8 as the cover and the tip of that element as a guide member. The examiner, however, recognizes (Answer, page 4) that Asada fails to teach a plurality of guide members and, thus, turns to Tsuchiya. Tsuchiya, according to the examiner (Answer, page 4), teaches plural guide members at element 38. The examiner concludes (Answer, page 4) that it would have been obvious to use plural guide members in Asada's device because it "would have allowed the sheet separated from the surface of the sensitive body to be conveyed smoothly and reliably along a path," one of the objectives of Tsuchiya's invention.

As pointed out by appellant (Brief, page 14), Tsuchiya teaches (column 8, lines 48-50) that the purpose of ribs 38 is to allow the paper to convey smoothly "without coming into contact with the grounding plate member 30 through the openings 40." Asada has no such grounding plate member nor openings through which the paper would come in contact with the grounding plate member on or around the cover to the transfer roller. Therefore, we find no motivation in the references to combine the ribs of Tsuchiya with the transfer device cover in Asada. Consequently, we cannot affirm the rejection of claim 26 nor of its dependents, claims 2 through 15, 27, and 28.

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Claim 29 also recites plural guide members, but "at the case adjacent to the outlet," wherein the case "accommodates the photosensitive member and the transfer member." For the claimed case, the examiner relies upon "the case surrounded by the letter 28, 10, 21, 22, 13, 6, 4 of fig. 1" which he admits (Answer, page 7) fails to include plural guide members. Again the examiner turns to the disclosure of Tsuchiya. Similar to above, Asada fails to include a grounding plate member and openings through which the paper would come in contact with the grounding plate member at the claimed location (which for claim 29 would be at the case adjacent the outlet). Therefore, we cannot sustain the rejection of claim 29 nor of its dependents, claims 30 through 32.

Lastly, independent claim 16 requires two sets of guide members with one set being offset from the other set. The examiner relies upon Asada's cover above element 8 for one guiding device and the upper cover surface 13 of the entry port for the second guiding device. Again the examiner (Answer, page 11) admits that Asada fails to disclose plural guide members for each guiding device and, thus, turns to Tsuchiya. As stated *supra*, we find no motivation in the references to combine the ribs of Tsuchiya with Asada's transfer device cover (which the examiner relies upon for the first guiding device). We find the

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same problem with the examiner's proposed modification of cover surface 13, the alleged second guiding device. With no teaching of plural guide members for each of the guiding devices, the references clearly cannot teach or suggest the offset between the first and second guiding devices. Therefore, the examiner has failed to meet each and every element of and, thus, to establish a *prima facie* case of obviousness for claim 16 and its dependents, claims 17 through 25. Consequently, we cannot sustain the rejection of claims 16 through 25.

CONCLUSION

The decision of the examiner rejecting claims 2 through 32 under 35 U.S.C. § 103 is reversed.

REVERSED

KENNETH W. HAIRSTON)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
ANITA PELLMAN GROSS)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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HOWARD B. BLANKENSHIP)	
Administrative Patent Judge)	

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