

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(2) is not binding precedent of the Board.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. 25

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte YASUHIRO YAMASHINA
and TAKUYA ARAI

Appeal No. 95-1635
Application 07/928,703¹

ON BRIEF

Before KRASS, JERRY SMITH, and TORCZON, Administrative Patent Judges.

KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1 through 7, 9 through 12 and 15 through 30, all of the claims pending in the application. Claims 8, 13 and 14 have been canceled.

¹ Application for patent filed August 13, 1992.

The invention pertains to a lens-fitted photographic lens unit, the nature of which is adequately described by reference to representative claims 1 and 3, reproduced as follows:

1. In a lens-fitted photographic film unit comprising:

a main body having a film take-up chamber and a film supply chamber on opposite horizontal sides of an exposure chamber and photograph taking means on a front side of said exposure chamber; a photographic film cassette accommodated in said film take-up chamber, a photographic film in a roll being disposed in said film supply chamber with a trailing end of said photographic film secured to a spool in said photographic film cassette; a rear cover for covering said main body from the rear so as to shield said photographic film from external light; and a front cover for covering said main body from front [sic]; the improvement wherein one of said covers has a grip projection to serve as a grip and a flat portion recessed with respect to said grip projection, and an outer cover of cardboard which is fitted on said lens-fitted photographic film unit so as to expose said grip projection and which has four flat sides interconnected by right-angle bend lines that are parallel to each other and that lie flat against four flat sides of said film unit, said outer cover having information printed thereon.

3. A lens-fitted photographic film unit as recited in claim 1, wherein said film supply chamber is smaller than said film take-up chamber and an outside surface of said film take-up chamber protrudes relative to an outside surface of said film supply chamber.

The examiner relies on the following references:

Maeno et al. (Maeno)	4,666,274	May 19, 1987
Miki et al. (Miki)	5,081,482	Jan. 14, 1992
Ohmura et al. (Ohmura)	Re.34,168	Jan. 26, 1993 (filed Apr. 12, 1991)

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Claim 26 stands rejected under 35 U.S.C. § 102(e) as anticipated by Miki. The remainder of the claims stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner cites Ohmura, Miki and Maeno with regard to claims 1 through 7, 9 through 12, 15 through 25 and 30, relying only on Miki and Ohmura with regard to claims 27 through 29.

Reference is made to the brief and answer for the respective positions of appellants and the examiner.

OPINION

We reverse.

Turning first to the rejection of independent claims 1 and 15, it is the examiner's position that Ohmura discloses all aspects of the claimed invention but for the grip projection. The examiner relies on Miki and Maeno to provide for this deficiency, pointing to the grip projections shown in Figure 1 of each of these secondary references, and concludes that it would have been obvious to provide for such a grip projection in Ohmura's device.

While it may be arguable whether it would have been obvious, without a direct suggestion to do so, to employ a grip projection

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in cameras such as shown by Miki and Maeno in a lens-fitted photographic lens unit, which might be characterized as a single-use, or "disposable" camera, as disclosed by Ohmura, Ohmura already shows a "grip projection," as claimed, in the film transporting knob 7 in Figure 2. After all, claims 1 and 15 do not require the grip projection to be in the front of the camera. Therefore, it is our view that Miki and Maeno are not required for such a teaching.

However, more importantly, claims 1 and 15 require that the claimed outer cover, cardboard in claim 1 and plastic in claim 15, has "four flat sides interconnected by right-angle bend lines that are parallel to each other and that lie flat against four flat sides of said film unit..." Clearly, neither Miki nor Maeno discloses or suggests such an outer cover in any way, shape or form. Only Ohmura discloses an outer cover (because Ohmura is the only applied reference directed to lens-fitted photographic lens units) in Figures 8 and 10. However, even though Ohmura discloses that the cover may be made of cardboard or plastic and may have information printed thereon (column 1, lines 51-53), we find no disclosure or suggestion therein that this cover has "four flat sides interconnected by right-angle bend lines that are parallel to each other and that lie flat against four flat

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sides of said film unit..." The examiner does not adequately address this claim limitation in the statement of the rejection or in the rationale therefor. In fact, the only place the examiner addresses the limitation at all is in the response to appellants' arguments, at page 8 of the answer. However, even there, the examiner merely refers to Ohmura's Figures 8 and 10 and states, without support or further explanation, that Ohmura's outer cover "does meet Applicant's [sic, Applicants'] claim of having 'four flat sides interconnected by right-angle bend lines that are parallel to each other and that lie flat against four flat sides of said film unit'." We are unconvinced. While Ohmura explains (column 4, lines 18-22) that in the plastic embodiment, the various sections of the cover may be "fitted or welded in a well-known manner, such as by ultrasonic welding," there is no indication in this embodiment, and no specific disclosure of the cardboard embodiment, that Ohmura contemplates any bend lines that are parallel to each other and which interconnect four flat sides which lie flat against four flat sides of the film unit. While Ohmura's cover may, in fact, be made in such a way, we have no evidence of that in this record

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and without some suggestion of the claimed "four flat sides...",
an obviousness rejection under 35 U.S.C. § 103 cannot be
sustained.

Since we have not sustained the rejection of independent
claims 1 and 15 under 35 U.S.C. § 103, we also will not sustain
the rejection of claims 2 through 7, 9 through 12 and 16 through
25 under 35 U.S.C. § 103, based on the same references.

Turning now to independent claim 26, we also will not
sustain the rejection of this claim under 35 U.S.C. § 102(e) as
anticipated by Miki.

While we note, again that the claim requires an improvement
in "a lens-fitted photographic film unit" while Miki is not
directed to such a unit, appellants do not appear to argue this
limitation and we do not base our decision thereon.

Claim 26 does, however, require that the film take-up
chamber has "a front section constituted by an arcuate wall, of
which an inside surface extends forwardly beyond a flat forwardly
open surface portion of said front cover." While Miki's Figure 1
does, indeed, disclose a grip projection located in front of the
film take-up chamber and a relatively flat portion located in
front of an exposure chamber and film supply chamber, there is
absolutely no disclosure of the shape of the take-up chamber or

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an inside surface thereof. While we can be fairly certain that the take-up chamber is fashioned to accept an appropriate film cartridge, e.g., cylindrically shaped 35mm film canister, there is no indication within the four corners of Miki's disclosure of what a front section of the take-up chamber would look like. Any contention by the examiner that such a front section would constitute an "arcuate wall" having an "inside surface" which extends forwardly beyond a flat forwardly open surface portion of the front cover can only be based on speculation. Such speculation has no place in formulating a proper rejection under 35 U.S.C. § 102.

Accordingly, we will not sustain the rejection of claim 26 under 35 U.S.C. § 102(e).

At page 11 of the answer, the examiner attempts to counter appellants' arguments by showing that Figure 3 of Ohmura somehow shows the claimed "arcuate wall" and "inside surface..." First, we do not agree with the examiner's argument because there is nothing in Ohmura suggesting the claimed "inside surface..." Moreover, we would note that, with regard to claim 26, this claim is rejected under 35 U.S.C. § 102(e) as anticipated by Miki. Ohmura forms no part of this rejection. Therefore, it is

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puzzling as to why the examiner refers to this reference in attempting to counter appellants' argument with regard to claim 26.

Since there is no teaching of the claimed "arcuate wall" having the required "inside surface," as claimed, in either one of Maeno or Ohmura, we also will not sustain the rejection of claims 27 through 30, which depend from claim 26, under 35 U.S.C. § 103.

We also note that while we need not reach the limitations of claims 3, 4, 17 and 18, because we have reversed the rejection with regard to their parent claims, it is clear that none of the applied references suggests, in any way, that the film supply chamber and the film take-up chamber differ in size from each other. Thus, even though the examiner may be correct in the assessment that a supply chamber and a take-up chamber may, alternatively, act as the other in a rewind mode and in a picture-taking mode, the claims still require that the supply chamber be smaller than the take-up chamber. Therefore, no matter what mode we are concerned with, one of the chambers must be smaller than the other chamber and there is no indication in any of the applied references that this is the case.

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The examiner's decision, rejecting claims 1 through 7, 9 through 12, 15 through 25 and 27 through 30 under 35 U.S.C. § 103 and claim 26 under 35 U.S.C. § 102(e), is reversed.

REVERSED

Errol A. Krass)	
Administrative Patent Judge)	
)	
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Jerry Smith)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
Richard Torczon)	
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