

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

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Paper No. 28

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte HIROTOSHI FUJISAWA

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Appeal No. 96-1036  
Application 07/979,627<sup>1</sup>

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ON BRIEF

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

BARRETT, Administrative Patent Judge.

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<sup>1</sup> Application for patent filed November 19, 1992, entitled (as amended) "Disc Cartridge With Clearance Groove," which claims the foreign filing priority benefit under 35 U.S.C. § 119 of Japanese Application 3-338026, filed November 28, 1991.

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DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's refusal to allow claims 1-5.

We reverse.

BACKGROUND

The disclosed invention is directed to a disc cartridge that provides additional clearance for a shutter opening means when the disc cartridge is positioned for recording and/or reproducing within a recording and/or reproducing apparatus.

Claim 1 is reproduced below.

1. A disc cartridge comprising:

a cartridge main body accommodating a disc and having at least one aperture for radially exposing a portion of the disc;

a shutter member movably mounted on the cartridge main body for opening or closing the aperture;

a groove formed in the cartridge main body along the direction of movement of the shutter member parallel to the direction of insertion of the cartridge main body into a recording and/or reproducing apparatus, the groove receiving a shutter opening means of the recording and/or reproducing apparatus adapted for opening the shutter member; and

means for increasing a clearance between the groove and the shutter opening means when the shutter member is moved to open the aperture.



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No. 24) (pages referred to as "2dRBr\_\_") for a statement of appellant's position.

OPINION

The examiner finds that figure 3 of Saito discloses a gap 28 for receiving a shutter opening flange 64 and a groove 20 which is wider than the gap 28 (3dSEA4-5). Appellant argues that "Saito's FIG. 3 is in error and that, although reference label 20 is shown on FIG. 3, a groove corresponding to reference label 20 is not depicted in FIG. 3" (RBr2). Appellant argues (RBr4-5) that the alternate latch embodiment of figure 13B correctly shows the groove 20 and that Saito describes at column 9, lines 12-17, that parts in figure 13B which are the same as parts previously described are identified by the same reference numeral.

We are persuaded by appellant's explanation and agree that figure 3 has an obvious drawing error and should show a groove 20 as shown in figure 13B which is the same width as the gap 28. Saito does not disclose that groove 20 is wider than gap 28, nor is there any reason for the groove 20 to be wider than the gap 28. Accordingly, Saito does not

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anticipate claims 1-5. The rejection of claims 1-5 is reversed.

The examiner argues that figure 13B shows a different embodiment than figure 3 and, therefore, figure 13B does not indicate that figure 3 of Saito is in error (3dSEA7). Appellant argues that "the mere presence of differences [between figure 3 and figure 13B] does not mean that the grooves must be different" (2dRBr6). We find that figure 13B correctly shows the groove 20. The embodiment of figures 13A and 13B differs from the embodiment of figures 2 and 3 only in that the keeper 210 is struck from a web portion 17 of shutter 14' (instead of using an inwardly bent end defining the keeper 21a as in figures 2 and 3) and the latch 22' pivots on a pivot pin 23' and is biased by a spring 24'b (instead of using a resilient one-piece latch 22 as in figures 2 and 3) (col. 9, lines 26-36). The different structure of the latch and keeper does not change the shape or width of the groove 20.

The examiner argues that "the lines shown in the drawing are not precluded from illustrated [sic] two

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boundaries: the groove and the steps" (3dSEA7). We agree  
with appellant's treatment of this argument at 2dRBr6-7.

CONCLUSION

The rejection of claims 1-5 is reversed.

REVERSED

	JERRY SMITH	)	
	Administrative Patent Judge	)	
		)	
		)	
		)	BOARD OF
PATENT		)	
	LEE E. BARRETT	)	APPEALS
	Administrative Patent Judge	)	AND
		)	INTERFERENCES
		)	
		)	
	RICHARD TORCZON	)	
	Administrative Patent Judge	)	

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