

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

Paper No. 30

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL ROBERT LEMELIN, DALE HIETT JACKSON,
MARK BERNARD DUMAIS and JOHN SHERIDAN RICHARDS

Appeal No. 2004-0104
Application No. 09/052,472

ON BRIEF

Before KIMLIN, WARREN and JEFFREY T. SMITH, Administrative Patent Judges.

KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-11 and 13-15. Claim 1 is illustrative:

1. A printing unit for a web-fed rotary printing press for alternatively printing only a first web in a perfecting mode and for printing the first web and a second web in a non-perfecting mode, wherein the first and second webs travel through the printing unit from an upstream end to a downstream end thereof, the printing unit comprising:

a first impression cylinder having

at least a first and a second blanket cylinder arranged around at least a portion of a periphery of the first impression cylinder,

at least a first and second plate cylinder, the first plate cylinder being associated with the first blanket cylinder, and the second plate cylinder being associated with the second blanket cylinder,

a first direct imaging device for applying a first image to the first plate cylinder,

a second direct imaging device for applying a second image to the second plate cylinder,

means for cooperatively activating and deactivating the first and second plate cylinders and the first and second direct imaging devices,

said means adapted to activate the first direct imaging device to apply the first image to the first plate cylinder while the second plate cylinder is in a printing position, and said means further adapted to activate the second direct imaging device to apply the second image to the second plate cylinder while the first plate cylinder is in a printing position; and

a second impression cylinder located adjacent to the first impression cylinder, the second impression cylinder having a plurality of third blanket cylinders and a corresponding plurality of third plate cylinders arranged around at least a portion of a periphery of the second impression cylinder,

wherein, in the perfecting mode, the first web is passed over the first impression cylinder to be printed on a first side thereof and is then passed through a gap between the first and second impression cylinders to the second impression cylinder to be printed on a second side thereof, and wherein, in the non-perfecting mode, the first web is passed over the first impression cylinder and the second web is passed over the second impression cylinder, and

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wherein the first and second impression cylinders are driven by separate motors.

The examiner relies upon the following references as evidence of obviousness:

Landis et al. (Landis)	4,240,346	Dec. 23, 1980
Wirz	5,479,856	Jan. 02, 1996
Pensavecchia	5,660,108	Aug. 26, 1997
Firma (German patent)	411,312	Oct. 06, 1921
Stokes (German patent)	407,369	Dec. 19, 1924

Appellants' claimed invention is directed to a printing unit for a web-fed rotary printing press that can alternatively print in either the perfecting mode or the non-perfecting mode. The perfecting mode entails printing on both sides of a single web whereas the non-perfecting mode involves printing on a first web and on the second side of a second web. The presently claimed printing unit comprises, inter alia, a first impression cylinder having a plurality of satellite cylinders comprising blanket and plate cylinders and direct imaging devices for applying images to the plate cylinders. The claimed printing unit also comprises means for cooperatively activating and deactivating the plurality of plate cylinders and direct imaging devices such that a first direct imaging device is activated to apply a first image to a first plate cylinder while a second plate cylinder is in a

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printing position. The first plate cylinder is not in a printing position when receiving an image from the first direct imaging device. Appellants describe the benefits of the claimed unit as follows:

Among the advantages of the present invention, the disclosed press reduces elongation or fan out of the web which is usually caused by dampening liquids in prior art printing presses having printing units for applying different colors separated from each other. Therefore, printing quality is improved. The present invention also allows a make-ready operation to be performed on the blanket and/or plate cylinders associated with one of the first and second impression cylinders, while, at the same time, the other one of the first and second impression cylinders can be used for printing the web in a non-perfecting mode.

Appealed claims 1-11 stand rejected under 35 U.S.C. § 103 as being unpatentable over Firma or Stokes in view of Pensavecchia and Landis. Claims 13-15 stand rejected under 35 U.S.C. § 103 over the stated combination of references further in view of Wirz.

We have carefully reviewed the respective positions advanced by appellant and the examiner. In so doing, we find ourselves in agreement with appellants that the examiner has failed to establish a prima facie case of obviousness for the claimed subject matter. Accordingly, we will not sustain the examiner's rejections.

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The examiner has factually determined that Stokes and Firma teach similar printing units and, therefore, for simplicity, only Firma is discussed in the Examiner's Answer. While Firma teaches a printing unit that comprises a number of the claimed features, the examiner acknowledges that:

Firma does not teach first and second imaging devices, means for activating and deactivating the first and second imaging devices and plate cylinders by activating the first imaging device while the second plate cylinder is in a printing position and activating the second imaging device while the first plate cylinder is in a printing position, and separate electric motors for the first and second impression cylinders.

(Page 3 of Answer, last sentence). Pensavecchia discloses a printing unit comprising a plurality of imaging devices and appellants do not dispute the examiner's conclusion that it would have been obvious for one of ordinary skill in the art to incorporate the imaging devices of Pensavecchia into the printing unit of Firma. However, while Pensavecchia discloses means for activating and deactivating the imaging devices and their plate cylinders, the examiner recognizes that "Pensavecchia does not explicitly teach activating the first imaging device *while* the second plate cylinder is in a printing position and activating the second imaging device *while* the first plate cylinder is in a printing position" (page 4 of Answer, first paragraph, last

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sentence). For this teaching, the examiner relies upon Landis for teaching the desirability of applying an image to a first plate cylinder while a second plate cylinder is in a printing position and subsequently activating and imaging the second plate cylinder while the first plate cylinder is in a printing position (page 4 of Answer, second paragraph).

The flaw in the examiner's position, as explained by appellants, is that Landis does not teach "throwing-off a single plate cylinder of a single printing unit while another is printing in the same printing unit but rather disclose throwing-off a complete printing unit which means that both blanket cylinders are separated from the web and that the web is thus not printed on either side" (sentence bridging pages 3 and 4 of Reply Brief). Appellants correctly state that the printing press of Landis "includes a plurality of printing units and that during a printing run some of the printing units are in a printing mode while others are thrown-off" (page 3 of Reply Brief, last paragraph). Stated otherwise, "[n]owhere do Landis et al. disclose, or even suggest, the timing of throwing-off individual elements within a given printing unit" (page 4 of Reply Brief, second paragraph, emphasis added).

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While apparently appreciating this deficiency in Landis, the examiner takes the position that "[i]t is true that this inherently throws off the second blanket cylinder but the physical arrangement of Landis et al. does not alter the logical combination of Firma and Pensavecchia as detailed above" (page 7 of Answer, last sentence). However, while we appreciate and commend the examiner's effort in formulating a logical rationale for combining the teachings of the applied prior art in support of his conclusion of obviousness, we are, nonetheless, in agreement with appellants that the examiner's logic is not based on the teachings of the references but on what could have been accomplished by one of ordinary skill in the art. This, of course, is not the proper test for determining obviousness within the meaning of § 103. In our view, the examiner has improperly relied upon appellants' specification to determine what could have been done by one of ordinary skill in the art based on the technology available to him/her that is disclosed in the applied references.

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In conclusion, based on the foregoing, the examiner's
decision rejecting the appealed claims is reversed.

REVERSED

EDWARD C. KIMLIN)	
Administrative Patent Judge)	
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CHARLES F. WARREN)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
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JEFFREY T. SMITH)	
Administrative Patent Judge)	

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